



Fourth Follow-Up Report

The Bahamas

November 11, 2011

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THE BAHAMAS: FOURTH FOLLOW-UP REPORT

I. Introduction

1. This report represents The Bahamas' fourth follow-up report and is an analysis of The Bahamas' report back to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The third round Mutual Evaluation Report of the Bahamas was adopted by the CFATF Council of Ministers in November 2007 in Costa Rica. At the Plenary/Council Meeting in the Curacao, Netherlands Antilles, (October 2009), The Bahamas was asked to report on its progress at the November 2011 Plenary/Council Meeting. Based on the review of actions taken by The Bahamas to meet the recommendations made by the Examiners a recommendation would be made as to whether The Bahamas would remain in expedited follow-up or be placed in regular follow-up.
2. The Bahamas received ratings of PC or NC on eight (8) of the sixteen (16) Core and Key Recommendations as follows:

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

3. With regard to the other non- core or key Recommendations, The Bahamas was rated partially compliant or non-compliant, as indicated below.

Partially Compliant (PC)	Non-Compliant (NC)
R. 6 Politically exposed persons	R. 7 (Correspondent banking)
R. 8 (New technologies and non-face-to-face business)	R. 19 (Other forms of reporting)
R. 9 (Third parties and introducers)	SR. VII (Wire transfer rules)
R. 11 (Unusual transactions)	
R. 12 (DNFBPs – R. ,6,8-11)	
R. 15 (Internal controls, compliance & audit)	
R. 16 (DNFBPs R. 13-15 and 21)	
R. 17 (Sanctions)	
R. 21 (Special attention for higher risk countries)	
R. 22 (Foreign branches & subsidiaries)	
R. 15 (Internal controls, compliance & audit)	
R. 24 (DNFBPs regulation, supervision and monitoring)	
R. 29 (Supervisors)	
R. 30 (Resources, integrity and training)	
R. 32 (Statistics)	

SR. VIII (Non-profit organisations)	
SR. IX (Cash courriers)	

4. The following table is indented to assist in providing an insight into the level of risk in the main financial sectors in The Bahamas.

Size and integration of the jurisdiction's financial sector

		Total Banks & Trust Companies (as at December, 2010)	Other Credit Institutions*	Securities		Insurance	TOTAL
				Securities Firms	Investment Funds		
Number of Institutions	Total #	113 ¹	10	115	753	178	1169
Assets	US\$ (in billions)	571.3 ²	0.249	AUM = \$42.6 AUC = 17.4 ³	N/A ⁴	2.6 billion	634.1
Deposits	Total: US\$ (in billions)	522.0 ⁵	0.223	N/A	N/A	Not Applicable	522.2
	% Non-resident	98% ^{6,7}	N/A	N/A	N/A	Not Applicable	
International Links	% Foreign-owned:	94	N/A	95% ⁸	21% ⁹	21% ¹⁰	
	#Subsidiaries abroad	17 ¹¹	N/A	Not collected	N/A	0	

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

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

II. Summary of progress made by the Bahamas

5. Since the third follow-up report, The Bahamas has enacted the Securities Industry Act, 2011. However both the Act and the Securities Industry Regulations will not come into

¹ The figure provided comprises public banks and bank and trust licensees, 8 of which are domestic banks. The figure excludes the restricted banks (5).

² Approximately \$83.4 billion represent domestic banks' foreign assets.

³ AUM = Assets under Management. AUC = Assets under Custody. 57/115 (50%) entities provided AUM data. 29/115 (25%) entities provided AUC data.

⁴ Information available by end of year

⁵ Approximately \$43.7 billion represent domestic banks' US\$ deposits

⁶ Estimate due to uncertainty of US\$ deposits attributed to residents.

⁸ 109/115 are non-Bahamian owned

⁹ 158/753 are non-Bahamian owned

¹⁰ The number of insurance institutions does not reflect the market share. (Approximately 90% of the market is controlled by domestic insurers; and approximately 70 % of the general insurance market is reinsured abroad).

¹¹ Included in this figure are 4 overseas branches.

force until November 1st 2011 and until then the recommendations that are affected by them will remain outstanding. Additionally, the Central Bank of The Bahamas' (CBB) AML/CFT Guidelines was revised in March 2011 and has allowed compliance with several of the Examiners' recommendations. The Securities Commission of The Bahamas (SCB) adopted the CBB's AML/CFT Guidelines. The revised guidelines for Cooperatives have been prepared and are currently under review. With regard to enhancing systems, the CBB reorganized its Bank Supervision Department and the Office of the Director of Public Prosecutions established two new Units to assist with the management of cases and witnesses.

Core Recommendations¹²

Recommendation 1

6. With regard to the implementation of the provision of the Palermo Convention, the Authorities have stated that the Office of the Attorney General is in the process of drafting the necessary legislative amendments (in particular the Penal Code) that would allow for the criminalization of participation in an organized criminal group as required by the Palermo Convention and extend the existing measures to cover this type of offence. The Authorities have noted that In regard to the Palermo Convention, only the Trafficking in Persons (Prevention and Suppression) Act, 2008 which addresses the issue of human smuggling and trafficking in persons for the purpose of labour and sexual exploitation has been enacted on 10th December, 2008. The Authorities have also noted that the Convention and the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms; their parts and components and ammunition have not yet been brought into force in The Bahamas. However, there is currently a Bill before Parliament that prohibits the unlawful importation of firearms and ammunition. The Bill is expected to be passed this month. In addition, sections 22 and 28 of the Firearms Act prohibit the unlawful manufacture, sale or transfer of a firearm or ammunition. The definition of a firearm, as per section 2 of the Firearms Act, includes its components parts. The aforementioned are all in accordance with the Protocol in respect of firearms and ammunition. The implementation of the Convention as required by the Examiners has therefore not been achieved and remains the only outstanding requirement for R. 1.

Recommendation 5

7. Other than the recommendation that The Bahamian Authorities has indicated (See. Second FUR Matrix footnote) that they would not undertake since the ML risk was negligible, the only other outstanding recommendation pertains to the documentation of the basis for the application of reduced or simplified CDD measures for the designated customers and financial institutions that are not yet covered, should be required to consider making an STR where it is unable to comply with CDD measures. The revision of the CBB's AML/CFT Guidelines in March 2011 addressed the Examiners recommendation pertaining to the documentation of the basis for reduced CDD (See. Paragraph 138 of the AML/CFT Guidelines) and the consideration of making an STR.

¹² Recommendations that have been met through the execution of the Examiners' recommendations are not included in this follow-up report

The latter recommendation made by the Examiners is still partially outstanding because Cooperatives are not yet covered by this provision.

Recommendations 13

8. The Bahamian Authorities continue to provide AML/CFT training sessions to ensure that there is effective reporting by all financial institutions. Accordingly, in March 2010, the FIU and the CC held a joint AML/CFT training session for over 100 internal auditors. Further, in July 2011 the CC and the FIU participated in a training session that was sponsored by the Bahamas Association of Compliance Officers (BACO). The reporting of suspicious was among the subjects covered. The Authorities have noted their commitment to continue the joint CC and FIU AML/CFT training sessions. As noted in the previous FUR the Examiners' recommendation has been met and continues to be met.

Key Recommendations

Recommendation 23

9. As noted in the previous FUR, outstanding issues pertain to the inclusion of information on beneficial ownership for FCSP licensee applicants; the definition of fit and proper criteria for EIA registrants; the exemption of investment funds and the ability of the Director of Societies to ensure that licensees and registrants comply with the FTRA. With regard to the inclusion of information on beneficial shareholders who have a significant or controlling interest providing such information on the application for FCSP licences, Authorities have noted that this information is currently required from applicants. Specifically, Section 4 (1) of the FCSPA, 2000 provides that an "application for a licence under this Act shall be made to the Inspector in the form specified in the Schedule." The attached schedule in turn provides for names, addresses, nationalities on behalf of shareholders and beneficial owners of the company, as well as partners (in the case of a partnership). Item 11 provides a list of items required to be submitted on behalf of the stated parties. Part III (Transferability of Shares and Changes in Directors) and Section 10 (1) of the FCSPA, 2000 provides that "no shares in a company or partnership licensed under this Act shall be issued, transferred or otherwise disposed of without the prior written approval of the Inspector." The issue with regard to defining 'fit and proper' criteria for EIA registrants is dealt with at Section 4(3) of the External Insurance Act. At present, the investment funds issue has been dealt with through and amendment of the SCB Guidelines. The Guidelines have now clarified that Regulation 5A(e) of the Financial Transactions Reporting Regulations (FTRR Chapter 368) allows for 'reduced or simplified due diligence' and is not an absolute exemption from CDD requirements. More specifically, the Guidelines now provide that with regard to investment funds, simplified or reduced CDD permits a waiver of any requirement for documentary evidence that is otherwise stipulated under Regs. 3, 4, and 5 of the FTRR. It has also been noted that the Commission has reviewed its legislation and determined that there is no need to make any legislative amendments. The Examiners' recommendation that the Director of Societies should include responsibility for ensuring that licensees and registrants comply with the FTRA has not been complied with.

Recommendation 35

10. There has been no change from the previous Report. The recommendation with regard to criminalization of participation in an organized criminal group remains outstanding. However, as noted above at R. 1 the Office of the Attorney General is in the process of drafting the necessary legislative amendments to deal with this issue.

Special Recommendation III

11. As noted in the third FUR, no further action has been taken by The Bahamian Authorities. They have noted that no additional amendments have been made to the ATA with regard to compliance with the UNSCRs and the language at Section 9(7) of the ATA. As noted in the previous report the issue pertaining to the freezing and confiscation of terrorist assets is still not met by the amendment to Section 17 of the Anti-Terrorism Act.

Other Recommendations

Recommendation 15

12. With the revision of the CBB AML/CFT Guidelines in March 2011, almost all of the Examiners' recommendations have been met for this Recommendation. The revised Guidelines (See. Paragraph 26) have addressed the issue of timely access to CDD information by both the compliance and appropriate staff. It should be noted that under The Bahamas' system the timely access is also applicable to the MLRO. The CBB AML/CFT Guidelines (Paragraph 22) also address the issue of an adequately resourced audit function for testing compliance. Similar provisions are also contained in the CC's Codes. The Codes specifically require constituents to conduct a self audit at least once per year. The CC has noted that resources for the audit function would have to be based on a number of factors including the size of the DNFBP and the volume of financial services businesses it is engaged in. With regard to screening procedures to ensure high standards when hiring employees, the Authorities have noted that the ICB has assumed responsibility for onsite inspections and training as of March 31st, 2011 and in that regard have developed industry specific Guidelines to address the issue of onsite inspections and training relative to its licensees. There are still however, no provisions with regard to an adequately resourced independent audit function for cooperatives. Once the issue with regard to cooperatives has been addressed, all of the Examiners' recommendations would have been fully met.

Recommendation 16

13. The Examiners' recommendation with regard to Rec. 16 has been fully met since the outstanding issues in Rec. 15 above that would have applied to DNFBPs have all been met.

Recommendation 17

14. In the previous FUR, the draft status of the Securities Industries Act (SIA) and the Securities Industries Regulations (SIR), hampered compliance with the majority of the Examiners' recommendations for Rec. 17. Currently, the SIA was enacted on May 19, 2011 and both the SIA and the SIR will be brought into force on November 1, 2011. The new EIA (See. Section 12) and Insurance Act (See. Section 8) provide for more extensive

administrative powers of enforcement against directors, licensees and senior officers for failure to comply with AML/CFT requirements. The 'Minister' who has powers to cancel registrations under the EIA has been defined in the statute. With regard to ladders of supervisory intervention, the ICB is presently developing its ladders of supervisory intervention. This matter has not been dealt with for Cooperatives. The Authorities in the 2ND FUR noted an alternative¹³ for dealing with non-compliance with the FTRA and its Regulations. The Authorities have not provided any information as to how their alternative expansion of the administrative penalties has progressed.

Recommendation 19

15. The Group of Financial Services Regulators has prepared a report on the issue of a fixed threshold currency reporting system. The report has been submitted to the Ministry of Finance for review. The relevant documentation will be sent to the Secretariat once the review has been completed.

Recommendation 21

16. As noted in the previous FURs, the Examiners' recommendations have been substantially met. The only recommendation that has an outstanding issue is the one pertaining to having the written findings of the examinations of transactions with persons from or in countries who do not or insufficiently apply the FATF Recommendations and that have no apparent or visible lawful purpose available to assist competent authorities. It is noted that entities regulated by the CBB and the SC are in compliance with this measure. At present, there is still no similar provision for constituents of the CC. However the Authorities have noted that the Code of Practice for Accountants will be amended to insert Section 17.6.2.1 which will provide that "Accounting firms are required to produce and maintain written findings of the examinations of transactions with persons from or in countries who do not or insufficiently apply the FATF Recommendations and that have no apparent visible lawful purpose. Such written findings should be available to assist competent authorities." A similar provision will be replicated in all the other CC's industry specific codes.

Recommendation 24

17. The Examiners' recommendations with regard to R. 24 remain outstanding, with the exception of the consideration of including in the SRO codes of ethics/conduct, the need for members who are designated as financial institutions to conform to the requirements of the FTRA, which was considered, but decided to be not necessary.

Recommendations 29

18. As noted above, the Securities Industry Act, 2011 was enacted on May 19th 2011. Both the Securities Industry Act, 2011 and the Securities Industry Regulations, 2011 will be brought into force on November 1, 2011. The SIA and the SIR will allow full

¹³ In the second FUR, The Bahamas noted that the recommendation to cancel the licensees' registration under the IA and the EIA might be impractical as cancellation of registration would lead to the automatic cancellation of all life contracts. ORIC suggested an alternative which was to expand the administrative penalties available to it.

compliance with the outstanding issues when they enter into force. At this time however, the Examiners' recommendations in that regard remain outstanding. With regard to inspections, the Authorities have noted that in 2010, the CBB reorganized its Bank Supervision Department to support the implementation of an enhanced Risk-Based Supervision Framework (RBSF). This framework places greater emphasis on the most material risk issues affecting the licensees. The Bahamas invested considerable resources in the development of the Examination Unit to ensure alignment of the on-site examination assessments with the enhanced RBSF. This included a significant number of new staff for the on-site examination process. These initiatives have resulted in a relatively smaller number of on-site examinations being undertaken in 2010 as compared to 2009 (2010 – twenty-six (26); 2009 – forty-four (44)). The Authorities have noted that to date in 2011 there have been twenty-two (22) completed on-site examinations and one (1) is in progress.

Recommendation 30

19. The outstanding issue for this Recommendation pertains to the Examiners' recommendation that greater autonomy be given to the IFCSP. In this regard, the Authorities have noted that the SCB and the CC has begun the process of transferring inspections of FCSP's to the SCB who is the Inspector. This exercise should further enhance the autonomy of the Inspector as the Inspector now has full responsibility for all aspects of oversight of FCSPs. The current status of this Project according to The Bahamas Authorities is that as of the third quarter in 2011, the CC transferred responsibility for the examination of FCSPs to the Securities Commission. The intent is for the procedures to remain the same for the balance of 2011, with examinations being performed by approved auditors, and random exams, follow ups and special exams being undertaken by the Securities Commission. The industry has been informed of this decision. With regard to the Office of the DPP, the Authorities have noted that a Criminal Case Management Unit has been formed. This Unit is responsible for getting files/cases ready for the presentation of evidence in Court. The Unit also 'weeds out' cases that should not proceed. Additionally, a Witness Care Unit has been formed. It is responsible for the 'maintenance' of witnesses and/or victims within the criminal justice system. Maintenance includes the provision of material information; counselling; improving the level of witnesses' interest in cases and their confidence in the system and other matters. It has also been noted by the Authorities that the current budget provides for an addition of nine (9) attorneys-at-law and there is an ongoing recruitment drive of both junior and senior attorneys. In this regard, eight (8) attorneys-at-law within the Royal Bahamas Police Force have been deployed to the Office of the DPP and seven (7) attorneys have also recently joined the Department of Public Prosecution.

Recommendation 32

20. The Examiners' recommendation with regard to the reporting of international wire transfer transactions and the collection, recording and analysis of the information obtained is still outstanding. The Office of the Attorney General (OAG) and the Police are also members of the National Task Force on Money Laundering along with the FIU and Customs who were previously noted. The Task Force continues to meet periodically to agree on the steps which need to be taken to comply with the Examiners' outstanding recommendations and to monitor progress made with respect to its action plans.

Special Recommendation VIII

21. The Examiners' recommendations with regard to SR. VIII remain outstanding. The Authorities have not provided any additional information with regard to the status of this Recommendation.

Special Recommendation IX

22. The report of the GFSR is still under review by the Ministry of Finance. There has also been no additional update with regard to the border entry form for incoming passengers. Accordingly, the Examiners' recommendations with regard to SR. IX are still outstanding.

III. Conclusion

23. The amendment of the Central Bank's AML/CFT Guidelines and the enactment of the SIA; with both the SIA and SIR soon to be in force in November 2011 means that Recs. 17 and 29 will be almost fully complied with. The only outstanding Core recommendations are still Recs. 1 and 5 as they pertain to the implementation of the Palermo Convention and the applicability of certain CDD provisions to Cooperatives respectively. With regard to the Key recommendations Recs. 23, 35 and SR. III are still outstanding. Other outstanding recommendations include Recommendations 15, 16, 17, 19, 21, 24, 29, 30, 32, SR. VIII and SR. IX. There have been no additions to the Recommendations that were previously outstanding and that are now fully complied with based on the Examiners' recommendations. (Recs. 10, 13, SR.I, 6, 7, 8, 9, 11, 12, 22 and SR. VII.). The Bahamas should also take some action with regard to a system for the reporting of statistics on international wire transfers and the Examiners' recommendations with regard to non-profit organizations.
24. Based on the aforementioned, it is recommended that The Bahamas be placed on regular follow- up and be required to report back to the Plenary at the November Plenary meeting in 2012.

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
The Bahamas (November Plenary/Council Meeting)**

Time FATF 40+9	Rat -ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by The Bahamas
Legal systems				
1. ML offense	PC	<p>POCA section 42(2) has a deficiency with respect to compliance with the requirements of the Vienna Convention and the Palermo Convention.</p> <p>Lack of a precursor chemical statute;</p> <p>The predicate offences for money laundering do not cover two (2) out of the twenty (20) FATF's Designated Categories of Offences, specifically Racketeering and Human Trafficking.</p>	<ul style="list-style-type: none"> Section 42(2) of the POCA should be amended to cure the deficiency noted at paragraph 132 of this Report. The Draft Precursor Chemical legislation is not yet in place and should be enacted to bring the legislation in compliance with the requirements of the Vienna Convention. The Bahamas should proceed to implement the provisions of the Palermo Convention. The Bahamas should proceed to enact laws to deal with Migrant Smuggling and Human Trafficking to ensure compliance with the FATF list of Designated Categories of offences. 	<p>By the Proceeds of Crime (Amendment) Act, 2007 (Act No. 14 of 2007) section 42(2) of the POCA has been repealed to cure the deficiency noted at paragraph 132 of the Report.</p> <p>The Precursor Chemicals Act, 2007 (Act No. 2 of 2007) was passed on the 16th of January, 2007 and brought into force on the 23rd April, 2007.</p> <p>The Bahamas has ratified the United Nations Convention against Transnational Organized Crime (the Palermo Convention) on 26th September, 2008; the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime on the 26th September, 2008; and has acceded to the Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention Against Transnational Organized Crime on the 26th September, 2008. The Convention and the Protocols will enter into force for The Bahamas on the 25th December, 2008. Trafficking in Persons (Prevention and Suppression) Act, 2008 which addresses the issue of human smuggling and trafficking in persons for among other reasons, the purpose of labour and sexual exploitation was enacted on 10th December, 2008.</p> <p>The Office of the Attorney-General is in the process of drafting necessary amendments to legislation, in particular the Penal Code to criminalize participation in an organized criminal group as required by the Palermo Convention and extend the existing measures to cover this type of offence.</p>

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Time FATF 40+9	Rat -ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by The Bahamas
				<p>•The Convention and the Protocol Against the Smuggling of Migrants by Land, Sea and Air and the Protocol Against the Illicit Manufacturing of and Trafficking in Firearms. Their Parts and Components and Ammunition, have not yet been brought into force in The Bahamas.</p>
2. ML offense–mental element and corporate liability	C	The Recommendation is fully observed		
3. Confiscation and provisional measures	C	The Recommendation is fully observed	<ul style="list-style-type: none"> The Examiners considered the provisions of section 33(5) of the DDA, which permits the Minister of Finance to deal with forfeited property upon application by a person who indicates a moral claim. Whilst the Examiners consider that The Bahamas Government does retain a wide discretion to deal with property that has vested in the Crown, the Examiners considered that the terms of the DDA section 33 could be amended to make it clear that the Minister should only exercise the discretion in circumstances where the Minister is satisfied that the applicant was not involved in the criminal activity or any other criminal activity. The provisions of the section may also have to be reconciled with the provisions of the POCA section 52, which establishes the Confiscated Assets Fund. 	No action taken.
Preventive measures				
4. Secrecy laws consistent with the Recommendations	LC	<p>The SC is not generally empowered to access information records or documents for purposes other than investigations under section 33 of the SIA.</p> <p>The CBB cannot share information with the IFCSP or the CC.</p>	<ul style="list-style-type: none"> The Authorities should move quickly to enact the legislation that will correct the deficiencies that exist with regard to the ability of the regulatory bodies to share information on a domestic basis as pointed out. The new SIA should be finalized as soon as possible to allow the SC powers to compel 	<p>Amendments were passed to Regulators' governing statutes in 2007 that enable domestic regulators to share information.</p> <p>This matter was addressed in amendments to the SIA which became effective January, 2007. The SIAA,</p>

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			<p>information, and to share information with the FIU and the SIR should be amended to grant the SC powers to access bank accounts without a court order.</p> <ul style="list-style-type: none"> • The requirement for a policyholder to consent to the Registrar of Insurance accessing his account information should be removed from the EIA. • Information exchange with domestic and foreign regulatory authorities should be formalized with the inclusion of information exchange provisions in the COSA, in line with other domestic Statutes. Section 74 of the COSA should be reviewed; and the Society, its officers, members, agents or employees should be required to provide the Inspector with wide access to accounts, securities or other documents required to allow the Inspector to perform his duties. The Director should reserve the right to inspect a Society on the basis of all applications received from members. 	<p>2007 gives SC general powers to compel information, and to share information with any regulatory authority in The Bahamas. Further, the Securities Industry (Amendment) Regulations, 2009 revokes regulation 134 of the SIR, which provides that any request by the Commission to a registered firm or registered or licensed individual for reports, testimony or production of documents regarding banks accounts of the firm or of the individual shall be pursuant to a court order.</p> <p>This requirement has been removed from the External Insurance Act.</p> <p>A provision for information exchange has been provided for in the draft Cooperative Societies Regulations in regulation 21(3) which provides “Every society shall comply with the Anti-Money Laundering legislative framework including the Proceeds of Crime Act, the Anti-Terrorism Act, and the Financial Intelligence Unit Act.” Sections 88 and 89 of the COSA give the Director of Societies the power to access accounts and other documents. (Note that the reference to Section 74 of COSA is incorrect.) . The draft regulations are under review by the government.</p>

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
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Time FATF 40+9	Rat -ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by The Bahamas
5. Customer due diligence	PC	<p>The legislative requirements for occasional transactions are limited to transactions involving cash and do not cover all occasional transactions.</p> <p>No requirement for financial institutions to undertake CDD due diligence measures when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII.</p> <p>No requirement for financial institutions to verify that any person purporting to act on behalf of legal persons or legal arrangements is so authorised, and identify and verify the identity of that person.</p> <p>No requirement for financial institutions to take reasonable measures to determine the natural persons who ultimately own or control legal persons or legal arrangements.</p> <p>All requirements for verification of the legal status of a legal person or legal arrangements are discretionary.</p> <p>The requirement for financial institutions to understand the ownership and control structure of legal persons or legal arrangements is enforceable only on banks and trust companies.</p> <p>The requirement for financial institutions to ensure that documents, data or information collected under the CDD process is kept up-to-date is only enforceable on banks and trust companies.</p> <p>The requirement for financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction is enforceable only on banks and trust companies.</p> <p>No requirement for a financial institution to consider making a STR if it is unable to comply with CDD measures.</p>	<ul style="list-style-type: none"> Legislation should be enacted or amended to require that financial institutions undertake: CDD measures when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII; verify that any person purporting to act on behalf of legal persons or legal arrangements is so authorised and identify and verify the identity of that person; take reasonable measures to determine the natural persons that ultimately own or control legal persons or legal arrangements. The legislative requirement for occasional transactions should be amended to cover all occasional transactions that exceed \$15,000 in value. 	<p>The Financial Transaction Reporting (Wire Transfers) Regulations 2009, which came into effect on the 12 January, 2009, addresses the outstanding wire transfer CDD requirement under Rec. 5 and SR VII.</p> <p>The Financial Transactions Reporting Regulations were amended in 2009 to, inter alia, establish minimum mandatory requirements for financial institutions to:</p> <ul style="list-style-type: none"> verify the identity of : <ul style="list-style-type: none"> persons acting on behalf of corporate entities (Regulation 4(1) (b) and (c)); persons acting on behalf of partnerships or other unincorporated businesses (Regulation 5(1) (c) and (d)); and settlers and persons exercising effective control over a trust (Regulation 6(2)). require financial institutions to verify the identity of the beneficial owners of corporate entities (Regulations 4(1)(e)), partners or beneficial owners of partnerships and unincorporated business (Regulation 5(1)(a)); <p>This obligation is found in Regulation 7 of the FTRR and again is enforceable through the mechanism created under Regulation 8 of the FI(TR)R. Specifically in relation to 5.5.2 (b), these requirements are set out in the CC's Codes. Any failure to follow the direction set out in the Codes is dealt with under the sanctions regime established under Regulation 8 of the FI(TR)R. This is also covered in the Codes.</p> <p>This issue has been addressed by an amendment to the FTRA.</p>

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		<p>The exemption for insurance from full CDD measures is not limited to life insurance policies with an annual premium of no more than \$1,000 or a single premium of no more than \$2,500.</p> <p>Bahamian dollar facilities below \$15,000 are exempt from full CDD measures.</p>	<ul style="list-style-type: none"> • The basis for the application of any reduced or simplified CDD measures for designated customers should be formally documented by the Authorities. • Regulations 4 and 5 of the FTRR concerning the verification of the identity of legal persons should be amended to require minimum mandatory requirements as in Regulation 3 rather than permitting discretion for all requirements. • The requirement for financial institutions to understand the ownership and control structure of legal persons or legal arrangements should be enforceable on all financial institutions. • Financial institutions should be required to ensure that documents, data or information collected under the CDD process are kept up- 	<p>This requirement is addressed in the CC's Codes. This has been the basis of continuous training since January 2004 and has been incorporated into updated CC Codes of Practice. Constituents of the CC are required to submit their methodology and procedures in relation to this along with their on-site examination, so that the appropriateness of risk categorization can be assessed. This instruction is contained on the on-site examination form. The CBB's AML/CFT Guidelines were revised in March, 2011m to specifically include this requirement at paragraph 138.</p> <p>See responses above with respect to amendment of the FTRR.</p> <p>This obligation is found in Regulation 7A of the FTRR and again is enforceable through the mechanism created under Regulation 8 of the FI(TR)R. Specifically in relation to 5.5.2 (b), these requirements are set out in section 14.3 of the CC's Codes for the accounting profession. Similar provisions appear in all of the CC's other industry-specific Codes. Any failure to follow the direction set out in the Codes is dealt with under the sanctions regime established under Regulation 8 of the FI(TR)R. This is also covered in the Codes.</p> <p>Amendments to the FTRA, FIUA and FI(TR)R, which were brought into force in January 2009, imposed penalties for non-compliance with financial sector AML/CFT guidelines including the Compliance Commission's Codes of Practice.</p> <p>This is mandated by Regulation 9 of the FTRR. It is</p>

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			<p>to-date.</p> <ul style="list-style-type: none"> The requirement for financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction should be enforceable on all financial institutions. The exemption for insurance should be limited to life insurance policies with an annual premium of no more than \$1,000 or a single premium of no more than \$2,500. Bahamian dollar facilities below \$15,000 should not be exempted from full CDD measures. 	<p>also covered under the CC Codes (in section 16.4 of the Codes for the accounting profession). Similar provisions appear in all of the other industry-specific Codes.</p> <p>This is also addressed in the CBB AML/CFT Guidelines at paragraph 42.</p> <p>This requirement is met through the implementation of the amendments to the FTRA and the FTRR, which were passed in 2003 and have been incorporated in CC's updated Codes (in section 13.3.4-6 of the Codes for the accounting profession). Similar provisions appear in all of the other industry-specific Codes. These amendments introduced a risk based approach for CDD which includes enhanced due diligence for high risk clients/ products and simplified due diligence for low risk clients/ products. This is applied to all constituents of the CC, and communicated during all training sessions.</p> <p>With respect to FATF rec. 5, ICB has a MOU with CC to address AML/CFT on-site inspections and training relative to its licensees (Life Insurers). However, ICB is in process of updating its industry specific Guidelines to address this.</p> <p>No action to be taken as the money laundering risk on \$2,500 is negligible.</p> <p>This issue has been addressed by amendments to Regulations 3 and 5A of the FTRR. Regulation 5A of the FTRR has been amended to make it subject to Section 10A of the FTRA, expressly requiring financial institutions to verify customer identity if there is a suspicion of money laundering or terrorist financing in</p>

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			<ul style="list-style-type: none"> All financial institutions except those already covered should be required to consider making a STR if it is unable to comply with CDD measures. 	<p>the case of Bahamian dollar transactions below \$15,000.</p> <p>This matter was addressed in the CC's updated Codes, (in section 14.8.1(iii) of the Codes for the accounting profession). Similar provisions appear in all of the other industry-specific Codes.</p> <p>The CBB's AML/CFT Guidelines were revised in March, 2011 to address this point (see paragraph 44).</p> <p>•Revised draft Guidelines for Cooperatives have been prepared and are under review.</p>

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6. Politically exposed persons	PC	<p>Enforceable requirements concerning PEPs are applicable only to banks and trust companies at present.</p> <p>No requirement for senior management approval to continue a relationship with a customer who is subsequently found to be a PEP or who subsequently becomes a PEP.</p>	<ul style="list-style-type: none"> The requirements concerning PEPs detailed in the CBB AML/CFT Guidelines should be imposed on all other financial institutions. Senior management approval should be required to continue a relationship with a customer who is subsequently found to be a PEP or who subsequently becomes a PEP. 	<p>The SC's Guidelines have been made enforceable by the amendments to SIA the FIUA and the FI(TR)R. Therefore the issues raised with respect to FATF rec. 6 have now been addressed.</p> <p>These requirements are addressed in the CBB's AML/CFT Guidelines revised in 2009.</p> <p>As a part of its on-site examination process, the CC examines whether all necessary procedures relative to PEPs are being adhered to by its constituent financial institutions. Requirements for PEPs have also been incorporated into the CC's training material. The relevant provisions are found in Section 13.3.4-5 of Sub-Part VI of the Codes for the accounting profession under the subject 'High Risk Characteristics'. Similar provisions appear in all of the other industry-specific Codes for DNFBPs regulated by the CC, including the legal profession, the real estate industry and financial and corporate service providers. Through an arrangement, the CC supervises FCSPs for AML/CFT purposes, on behalf of the IFCSP.</p> <p>Amendments of the FTRA, FIUA and FI(TR)R, which were brought into force in January 2009, have imposed penalties for non-compliance with financial sector AML/CFT guidelines including the CC's Codes.</p> <p>The relevant provision which addresses this requirement is found in Section 13.3.4-6 (b)(2) of Sub-Part VI of the Codes for the accounting profession. Similar provisions appear in all of the other industry-specific Codes, for DNFBPs regulated by the CC, including the legal profession, the real estate industry and financial and corporate service providers. Due to the diversity of the group supervised by the CC, the requirement in the Codes allows for flexibility depending on the size and complexity of the DNFBP.</p>
7. Correspondent banking	NC	<p>No requirement to determine the reputation of a respondent and the quality of supervision.</p> <p>Assessment of a respondent AML/CFT controls is</p>	<ul style="list-style-type: none"> Financial institutions should be required to gather sufficient information about a respondent institution to understand fully the 	<p>These requirements were addressed in the 2009 revisions to the CBB's AML/CFT Guidelines.</p> <p>The SC's Guidelines have been made enforceable by</p>

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		<p>limited to identification procedures.</p> <p>No provision to obtain senior management approval before establishing new correspondent relationships.</p> <p>No provision to document respective AML/CFT responsibilities in correspondent relationships.</p> <p>No requirement for financial institutions with correspondent relationships involving “payable-through accounts” to be satisfied that the respondent financial institution has performed all normal CDD obligations on its customers that have access to the accounts.</p> <p>No requirement for the financial institution to be satisfied that the respondent institution can provide reliable customer identification data upon request.</p>	<p>nature of the respondent’s business, the reputation of the institution and the quality of supervision.</p> <ul style="list-style-type: none"> Financial institutions should assess the respondent institution’s AML/CFT controls and ascertain their adequacy and effectiveness. Financial institutions should be required to obtain approval from senior management before establishing new correspondent relationships. Financial institutions should document respective AML/CFT responsibilities in correspondent banking relationships. Financial institution with correspondent relationships involving “payable-through accounts” should be required to be satisfied that the respondent financial institution has performed all normal CDD obligations on its customers that have access to the accounts and that the respondent institution can provide reliable customer identification data upon request. 	<p>the amendments to SIA the FIUA and the FITRR. Further, by the SC’s adoption of the CBB Guidelines, this issue has been addressed in respect of SC constituents.</p>

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8. New technologies & non face-to-face business	PC	<p>No provision for financial institutions to have in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes.</p> <p>Legislative provision for non-face to face transactions does not include ongoing due diligence.</p> <p>Requirements in the CBB AML/CFT Guidelines extend specifically to non-resident customers and are only enforceable for banks and trust companies.</p>	<ul style="list-style-type: none"> Financial institutions should have in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes. Requirements for policies and procedures to address specific risks associated with non-face to face business relationships and transactions should include ongoing due diligence and should be enforceable on all financial institutions. 	<p>These requirements have been met by the 2009 amendments to the CBB's AML/CFT Guidelines.</p> <p>The CC's Codes for accountants includes this requirement in section 13.3.4-5 (b) of Part VI. This requirement is replicated in the CC's other Codes.</p> <p>The CC's Codes for the accounting profession has been amended at Section 13.3.4-5 (a)(ii) of Sub-Part VI to strengthen the provisions for effective CDD procedures when dealing with non-face-to-face customers. There is a similar provision in all of the CC's other industry-specific Codes.</p>
9. Third parties and introducers	PC	<p>No requirement for all financial institutions relying on a third party to immediately obtain from the third party the necessary information concerning elements of the CDD process covering identification and verification of customers and beneficial owners and purpose and intended nature of the business relationship.</p> <p>Only banks and trust companies are required to obtain identification documentation from third parties.</p> <p>No provision requiring financial institutions 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.</p> <p>The ultimate responsibility for customer identification and verification when relying on third parties is only enforceable on banks and trust companies.</p>	<ul style="list-style-type: none"> All financial institutions relying on a third party should be required to immediately obtain from the third party the necessary information concerning elements of the CDD process covering identification and verification of customers and beneficial owners and purpose and intended nature of the business relationship. The present requirement for banks and trust companies to obtain copies of all documentation from third parties should be extended to all financial institutions. Financial institutions should be required to satisfy themselves that the third party is regulated and supervised (in accordance with Recommendations 23, 24 and 29) and has measures in place to comply with the CDD requirements set out in Recommendations 5 and 10. 	<p>These requirements have been met by the 2009 amendments to the CBB's AML/CFT Guidelines.</p> <p>The SC's Guidelines have been made enforceable by the amendments to SIA the FIUA and the FITRR. Further, by the SC's adoption of the CBB Guidelines, this issue has been addressed in respect of SC constituents.</p> <p>This is provided for in section 11 of the FTRA and section 15.3.3- 1 of the CC's Codes for accountants. Similar provisions exist in all of the other industry-specific Codes. Also see paras. 542, 544, 546 and 549 of the MER, amongst others).</p> <p>This is provided for in section 11 of the FTRA and the CC's Codes (see paras. 542, 544, 546 and 549 of the MER, amongst others).</p> <p>This is provided for in section 11 of the FTRA and the CC's Codes (see paras. 542, 544, 546 and 549 of the MER, amongst others).</p> <p>The CC contends that the Methodology does not indicate that this requirement is a 'basic obligation' that should be in law or regulation. However, it should</p>

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			<ul style="list-style-type: none"> All financial institutions relying on third parties should be ultimately responsible for customer identification and verification. 	<p>be noted that the types of reliable introductions permissible under <u>section 11 of FTRA</u> only cover regulated institutions in First Schedule Countries.</p> <p>This is provided for in section 11 of the FTRA and the CC's Codes (see paras. 542, 544, 546 and 549 of the MER, amongst others).</p> <p>Paragraph 546 of the MER acknowledges that Section 15.1 of the CC's Codes for accountants stipulates that the primary duty to verify identity using best evidence and means rests with the financial institution. Similar provisions appear in the CC's other Codes. Any failure to follow the direction set out in the Codes is dealt with under the sanctions regime established under Regulation 8 of the FI(TR)R.</p>
10. Record keeping	PC	<p>Termination of the obligation to retain transaction records when corporate financial institutions are liquidated and finally dissolved or where financial institutions that are partnerships have been dissolved.</p> <p>Inclusion of the commencement of proceedings to recover debts payable on insolvency as a definition of termination of an account.</p>	<ul style="list-style-type: none"> The legislative provision for the cessation of the obligation to retain transaction records when corporate financial institutions are liquidated and finally dissolved or where financial institutions that were partnerships have been dissolved should be repealed. The inclusion of the commencement of proceedings to recover debts payable on insolvency as a definition of termination of an account should be eliminated. 	<p>The FTRA has been amended at section 27 to address these issues.</p> <p>This requirement is found in the CC's Codes for the accounting profession at Section 17.7 of Sub-Part VII (Record Keeping Procedures). Similar provisions are found in the other industry-specific Codes. Through an arrangement, the CC supervises FCSPs for AML purposes, on behalf of the IFCS.</p> <p>This provision will be removed from AML/CFT Guidelines and Codes.</p>
11. Unusual transactions	PC	<p>The monitoring requirement focussing on significant changes and inconsistencies in patterns of transactions is only enforceable on banks and trust companies.</p> <p>Financial institutions are not required to examine as far as possible the background and purpose of complex, unusual large transactions and to set their findings in writing.</p>	<ul style="list-style-type: none"> All financial institutions except those already covered should be required to pay special attention to all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose. 	<p>These requirements are addressed in the CBB's AML/CFT Guidelines as revised in 2009.</p> <p>ICB has a MOU with CC to address AML/CFT on-site inspection and training relative to its licensees (Life Insurers). The ICB is in the process of updating its industry specific Guidelines to address this.</p>

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		Financial institutions are not required to keep such findings available for competent authorities and auditors for at least five (5) years.	<ul style="list-style-type: none"> Financial institutions should be required to examine as far as possible the background and purpose of such transactions (i.e. all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose) and set forth findings in writing. Financial institutions should be required to keep such findings (i.e. for all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose) available for competent authorities and auditors for at least five (5) years. 	<p>These requirements are covered in regulation 9 of the FTRR which deals with continuous monitoring, and which is applicable to all financial institutions as defined in the FTRA.</p> <p>The SC's Guidelines have been made enforceable by the amendments to SIA the FIUA and the FITRR. Further, by the SC's adoption of the CBB Guidelines, this issue has been addressed in respect of SC constituents.</p> <p>These provisions appear in the CC Codes for accountants at Section 16.3 of Sub-Part VI (Client Identification / Verification (KYC) Procedures). The requirements are replicated in the CC's other industry-specific Codes.</p> <p>Financial institutions supervised by the CC are required keep such findings for at least five (5) years. This is found in section 16.3 of the Codes for the accounting profession. Similar provisions appear in all of the other industry-specific Codes.</p>

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12. DNFBP–R.5, 6, 8-11	PC	Dealers in precious metals and dealers in precious stones are not included as DNFBPs under the AML/CFT framework. Deficiencies identified for all financial institutions for Recommendation 5, 6, 8-11, in sections 3.2.3, 3.3.3, 3.5.3, 3.6.3 of this Report are also applicable to DNFBPs. Requirements of Recommendations 5,6, and 8-11 which are stipulated in the Codes of Practice are not enforceable on DNFBPs.	<ul style="list-style-type: none"> Dealers in precious metals and dealers in precious stones should be included as DNFBPs in the AML/CFT framework. Ensure that the recommendations formulated for Recommendations 5, 6, 8-11, in Sections 3.2.2, 3.3.2, 3.5.2, 3.6.2 of this Report are also applied to the DNFBPs. The Codes of Practice should be binding with sanctions for non-compliance. 	Dealers in precious metals and precious stones are basically in business in this jurisdiction to sell to cruise line passengers coming off cruise ships. They make up a small portion of the DNFB sector (amounting for only 0.32% or B\$8 million of imports in 2005). Thus, The Bahamas has not yet conducted a statistical survey on them. Hence with respect to Rec. 12, no action has been taken, as this sector presents negligible risk in the Bahamian context. Amendments to the FTRA and the FI(TR)R in 2008 and 2009 respectively, impose penalties for non-compliance with financial sector AML/CFT guidelines, and may be used to enforce compliance with the CC's Codes of Practice.
13. Suspicious transaction reporting	PC	Statistics on STRs suggest that only the banking sector has effectively implemented suspicious transaction reporting measures.	<ul style="list-style-type: none"> Measures should be taken to ensure that there is effective reporting by all financial institutions. 	The FIU has increased the amount of training provided for the non-banking sector, in relation to suspicious transaction reporting. Between 2006 and 2009 over two thousand persons from various sectors of the financial services industry were given AML/CFT training. In March 2010, the FIU and the CC held joint AML/CFT training sessions for over one hundred Internal Auditors. In July 2011, the CC & the FIU participated in a training session sponsored by the Bahamas Association of Compliance Officers which covered, among other subjects, suspicious transactions reporting. The CC and the FIU are committed to continuing these joint training sessions.
14. Protection & no tipping-off	C	This Recommendation is fully observed.		
15. Internal controls, compliance & audit	PC	Access to information which may be of assistance in making a STR is not extended to both the compliance officer and other appropriate staff.	<ul style="list-style-type: none"> Timely access to CDD information, transaction records and other relevant information should be extended to include both the compliance officer and other 	The CBB AML/CFT Guidelines were revised in March, 2011 to address this issue (see paragraph 26). The CC provides clarification in its Codes for

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		<p>Requirement for the establishment and maintenance of internal procedures, policies and controls with regard to the detection of unusual and suspicious transactions is only enforceable on banks and trust companies.</p> <p>There is no requirement for the maintenance of an adequately resourced and independent audit function to test compliance with procedures, policies and controls.</p> <p>There is no requirement for all financial institutions to put in place screening procedures to ensure high standards when hiring employees.</p>	<p>appropriate staff.</p> <ul style="list-style-type: none"> Requirements in the CBB AML/CFT Guidelines to establish and maintain internal procedures, policies and controls including the detection of unusual and suspicious transactions should be enforced on all financial institutions. Financial institutions should be required to maintain an adequately resourced and independent audit function to test compliance (including sample testing) with procedures, policies and controls. Financial institutions should be required to put in place screening procedures to ensure high standards when hiring employees. 	<p>accountants where, in addition to the MLRO, Compliance Officers and other appropriate officers will have access to information. This requirement is found at Section 12.5 and 18.6 of the Codes for the accounting profession. Similar provisions appear in all of the CC's other industry-specific Codes.</p> <ul style="list-style-type: none"> The SCB has adopted the CBB's AML/CFT Guidelines. Revised draft Guidelines for Cooperatives have been prepared and are under review. <p>The obligation to deal with the detection of unusual transactions appears in Regulations 3-6 of the FI(TR)R (Internal Reporting Procedures). These have been further expanded on in Part C of the CC's Codes for accountants, at Sections 18.7 and 16.3. Similar requirements exist in the CC's other industry-specific Codes. Further, amendments to the FTRA, which were brought into force in January 2009, impose penalties that may be used to enforce the CC's Codes of Practice.</p> <p>The CBB's AML/CFT Guidelines address this issue. In practice, Cooperatives external auditors report on compliance with AML/CFT requirements.</p> <p>Section 12 of the CC's Codes for accountants requires a self audit at least once per year. There is a similar requirement in the CC's other Codes. Resources would have to be based on a number of factors including the size of the DNFBP, and the volume of financial services business it is engaged in. The requirement for self audits will continue to form a part of the CC's training materials for its constituents.</p> <p>The CBB's AML/CFT Guidelines were amended in 2009 to address this issue.</p>

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				<p>The ICB assumed responsibility for AML/CFT on-site inspections and training as of March 31st, 2011. ICB has developed industry specific Guidelines to address on-site inspections and training relative to its licensees.</p> <p>ICB has a MOU with CC to address AML/CFT on-site inspection and training relative to its licensees (Life Insurers). The ICB is in the process of updating its formed a part of the CC's Codes. This requirement is found in Section 19.2 of Part IX of the Codes for the accounting profession. Similar requirements may be found in all of the CC's other industry-specific codes.</p>
16. DNFBP–R.13-15 & 21	PC	<p>Deficiencies identified for all financial institutions for Recommendations 13, 15, and 21 in Sections 3.7.3, 3.8.3, and 3.6.3 of this Report are also applicable to DNFBPs</p> <p>Ineffective implementation of suspicious transaction reporting requirements.</p>	<ul style="list-style-type: none"> The Bahamas should ensure that recommendations formulated for Recommendations 13, 15 and 21 in Sections 3.7.2; 3.8.2 and 3.6.2 of this Report are also applied to DNFBPs. 	<p>Amendments to the FTRA, FI(TR)R and the CC's Codes have brought The Bahamas into almost full compliance with this recommendation</p> <p>Constituents of the CC, designated as financial institutions by Section 3 of the FTRA do comply with Recommendations 13, 15 and 21 in Sections 3.7.2; 3.8.2 and 3.6.2 of this Report.</p> <p>Constituents of the CC are obliged to comply with:</p> <ul style="list-style-type: none"> The Suspicious Transaction Reporting requirements of Part III of the FTRA The suspicious transactions reporting policies and procedure of the Financial Intelligence (Transaction Reporting) Regulations; and The obligations of the Proceeds of Crime Act, 2000. <p>The CC has a vigorous training programme where all of its constituents are apprised of their AML/ CFT statutory obligations. In addition to training, constituents are required to stipulate the numbers of STRs filed with the FIU, as part of the examination procedure.</p>
17. Sanctions	PC	The supervisory authorities for financial corporate service providers, insurance and cooperatives have limited sanctions against natural or legal persons.	<ul style="list-style-type: none"> The SC should have powers of sanction against a licensee or registrant who fails to comply with a directive. In addition, the 	The Securities Industry Act, 2011 (SIA) was enacted on May 19, 2011 and it is intended that the Securities Industry Regulations will be brought into force on November 1, 2011, when it is intended that

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		The supervisory authorities for financial corporate service providers, insurance and cooperatives have no powers to sanction directors and senior managers of their licensees under their relevant Statutes.	<p>process of applying sanctions requires simplification.</p> <ul style="list-style-type: none"> The IFCSP, Director of Societies and Registrar of Insurance should be granted more extensive administrative powers of enforcement against licensees, directors and senior officers for failure to comply with AML/CFT requirements. This is particularly relevant given the limited powers of the CC to compel registrants to comply with directives. The “Minister”, who has powers to cancel registrations under the EIA, should be defined in that Statute. Non-compliance with the FTRA and accompanying regulations should be a consideration for cancelling a registration under the IA and EIA. The IFCSP, ICB and Director of Societies should introduce ladders of supervisory intervention that are broad and proportionate. 	<p>the Act will also be brought into force.</p> <p>A provision extending the Director of Societies power over AML/CFT matters has been addressed in the new Cooperative Societies Regulations - regulation 21(3) “Every society shall comply with the Anti-Money Laundering legislative framework including the Proceeds of Crime Act, the Anti-Terrorism Act, and the Financial Intelligence Unit Act.” The draft regulations are under review.</p> <p>Section 18A of the FCSPA as amended by the FCSPA (Amendment) Act 2008, increases the powers of the IFCSP.</p> <p>This matter has been addressed in amendments to the FCSPs Act, which were brought into force in January 2009, and provide robust powers for the IFCSP. The new External Insurance Act, Chapter 348, provides for such powers. See Section 12 of the Act. The new Insurance Act, Chapter 347, provides for such powers. See Section 8 of the Act.</p> <p>Amendments to the Financial and Corporate Service Providers Act, which provide ladders of supervisory intervention, were brought into force in January 2009.</p> <p>The ICB is presently developing its ladders of supervisory intervention to be broad in scope.</p> <p>Following adoption of the new Cooperative Societies Regulations with the provision for AML/CFT matters (S21(3)), the existing AML Guidelines for Cooperatives would be revised to further address ladders of supervisory interventions.</p>

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18. Shell banks	C	This Recommendation is fully observed.		
19. Other forms of reporting	NC	No evidence that the Bahamas has considered the feasibility and utility of implementing a fixed threshold currency reporting system.		The Group of Financial Services Regulators has prepared a report and submitted the same to the Ministry of Finance for review.
20. Other NFBP & secure transaction techniques	C	This Recommendation is fully observed.		
21. Special attention for higher risk countries	PC	<p>The only requirement for special attention to business relationships is generally for those with high risk countries and it is only applicable to banks and trust companies.</p> <p>Effective measures to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries have only been implemented by the CC for its registrants.</p> <p>No requirement for written findings of the examinations of transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations that have no apparent economic or visible lawful purpose to be available for competent authorities.</p>	<ul style="list-style-type: none"> Financial institutions should be required to give special attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries, which do not or insufficiently apply the FATF Recommendations. Effective measures should be in place to ensure that not only the registrants of the CC but all other financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries. 	<p>Paragraphs 141(d), 166 and 167 of the CBB AML/CFT Guidelines amended in 2009 require Licensees to give particular attention to the business relations and transactions with persons from or in countries and jurisdictions known to have inadequate AML/CFT measures.</p> <p>The Guidelines also require written findings of the examination of unusual activity to be kept (see paragraphs 223 and 224).</p> <p>The SC's Guidelines have been made enforceable by the amendments to SIA the FIUA and the FITRR. Further, by the SC's adoption of the CBB Guidelines, this issue has been addressed in respect of SC constituents.</p> <p>This requirement is covered in Section 9 of the FTRR which deals with continuous monitoring, and which is applicable to all financial institutions as defined in the FTRA. If the stated purposes have been declared upfront then any transaction which operates outside of the ordinary specification of account purpose and activity, is required to be noted.</p> <p>This requirement is found in section 13.3.4-5 of Sub-Part VI (Client Identification / Verification (KYC) Procedures) in the CC's Codes for accountants. Similar requirements may be found in the CC's other industry-specific Codes.</p> <p>The CBB AML/CFT Guidelines amended in 2009 address this issue.</p>

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			<ul style="list-style-type: none"> Written findings of the examinations of transactions with persons from or in countries, which do not or insufficiently apply the FATF Recommendations that have no apparent economic or visible lawful purpose should be available to assist competent authorities. 	<p>With respect to FATF rec. 21, ICB has a MOU with CC to address AML/CFT on-site inspection and training relative to its licensees (Life Insurers). The ICB is in the process of updating its industry specific Guidelines to address this.</p> <p>The ICB assumed responsibility for AML/CFT on-site inspections and training as of March 31st, 2011. with respect to FATF rec.21, ICB has developed industry specific Guidelines to address on-site inspections and training relative to its licensees.</p> <p>The CC Code for accountants addresses this requirement at Part VI, section 16.3 (Monitoring of Facilities), with similar provisions being replicated in the CC's other Codes. Additionally, this requirement forms a part of the CC's training and education campaigns. Any failure to follow the direction set out in the Codes is dealt with under the sanctions regime established under Regulation 8 of the FI(TR)R.</p> <p>Paragraph 167 of the amended CBB AML/CFT Guidelines require Licensees to investigate the background and purpose of transactions to and from countries that insufficiently apply FATF recommendations or where the transactions appear to have no economic or visible lawful purpose and to document their findings. This has been implemented through the CC's Codes and during its training and education campaigns. Any failure to follow the direction set out in the Codes is dealt with under the sanctions regime established under Regulation 8 of the FI(TR)R.</p>

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22. Foreign branches & subsidiaries	PC	The majority of the requirements of the Recommendation are only applicable to banks and trust companies.	<ul style="list-style-type: none"> Ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and the FATF Recommendations to the extent that local (i.e. host country) laws and regulations permit. Pay particular attention that AML/CFT standards consistent with FATF Recommendations are observed with respect to their branches and subsidiaries in countries, which do not sufficiently apply the FATF Recommendations. Where AML/CFT requirements of home and host countries differ, branches and subsidiaries in host countries should be required to apply the higher standard to the extent that local (i.e. host country) laws and regulations permit. Inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local (i.e. host country) laws, regulations or other measures. 	<p>SC has adopted the CBB's AML/CFT Guidelines which addresses issues raised with respect to FATF rec. 22.</p> <p>The CC has incorporated these requirements in section 12.4.1 of Part C (Internal AML/CFT Procedures) of its Codes for accountants. Similar provisions appear in all of the CC's other industry-specific Codes.</p>
23. Regulation, supervision and monitoring	PC	<p>Inadequacies in staffing resources, with the exception of the CBB, of competent authorities impact on the capacity to adequately regulate and supervise all financial institutions.</p> <p>The SC does not have a system whereby exemption of investment funds is granted on the basis of a proven CDD by promoters.</p> <p>Licenses and registrants under the Registrar of Insurance (with respect to the EIA) and the IFCSP are not subject to adequate fit and proper tests.</p>	<ul style="list-style-type: none"> The SC should implement a system whereby exemption of investment funds is granted on the basis of proven CDD by promoters. As licensing and supervisory authority, the functions of the Director of Societies should include responsibility for ensuring that licensees and registrants comply with the FTRA. This would facilitate enforcement action for non-compliance with AML/CFT requirements. 	<p>SCB Guidelines have been amended to clarify that regulation 5A (e) of the Financial Transactions Reporting Regulation (Chapter 368) ("FTRR"), allows for "reduced or simplified due diligence" and not an absolute exemption from due diligence requirements. The Guidelines now provide that in respect of investment funds, simplified or reduced due diligence permits a waiver of any requirement for documentary evidence that is otherwise stipulated in the identification procedures in regulations 3, 4 and 5 of the FTRR.</p> <p>The Commission has reviewed its legislation and has determined that there is no need to make any legislative amendment.</p>

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			<ul style="list-style-type: none"> • The Registrar of Insurance¹⁴ should be authorized by law to make arrangements with a person to assist with the execution of his functions. • Registered insurers under Part II of the IA should be required on an ongoing basis to seek the Registrar's¹⁵ prior approval for changes of directors and partners and beneficial share ownership over the ten percent (10%) threshold. In addition, the Registrar should be informed of changes in managers and officers of registered insurers and incorporated agencies. • Applications for FCSP licences should include information on beneficial shareholders of a significant or controlling interest so as to facilitate due diligence. • Fit and proper criteria should be defined by the Registrar of Insurance for EIA registrants; and strengthened in the case of the IFCSP. • The Bahamas is encouraged to finalize the revisions to the licensing and registration regime for stand-alone MVT service providers so as to strengthen their licensing and ongoing supervision, including monitoring of natural and legal persons. 	<p>A provision for compliance with FTRA has been provided for in the new Cooperative Societies Regulations Section 21(2) "A society shall not accept shares or deposits in any transaction, above the limit set by the Financial Transactions Reporting Act, from a member or non-member without an accepted declaration of the source of funds." The draft regulations are under review.</p> <p>The Insurance Act, Chapter, 347 provides for such powers in paragraph 20 of the First Schedule of the Act.</p> <p>The new Insurance Act, Chapter 347, requires registered insurers to obtain the Commission's approval where there is a change in directors and partners and beneficial ownership.</p> <p>Such information on the beneficial shareholders of a significant or controlling interest is currently required of applicants for FCSP licences.</p> <p>Section 4 (3) of the External Insurance Act, Chapter 348 addresses this issue.</p> <p>Amendments to the Banks and Trust Companies Regulation Act, (Act No. 1 of 2008) Central Bank of the Bahamas Act (Act No. 2 of 2008) to formally place stand-alone money transmission business under the</p>

¹⁴ The Registrar of Insurance is now referred to as the ICB.

¹⁵ The Registrar is now referred to as the Superintendent.

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				supervision of the Central Bank were brought into force on 2nd May, 2008 and supporting regulations were brought into effect on 6th May, 2008.

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24. DNFBP - regulation, supervision and monitoring	PC	<p>Non-compliance with the FTRA does not constitute grounds for revocation of a licence under the LGA.</p> <p>Sanctions and enforcement action under the LGA are neither proportionate nor dissuasive.</p> <p>There is no formal ongoing system to obtain information on changes to beneficial owners of casinos to prevent criminals from holding or becoming the beneficial owner of a significant or controlling interest.</p>	<ul style="list-style-type: none"> Non-compliance with the FTRA should constitute grounds for revocation of a licence under the LGA. Sanctions and enforcement action under the LGA should be proportionate and dissuasive. Consideration should be given to including in SRO codes of ethics/conduct, the need for members who are designated as financial institutions to conform to the requirements of the FTRA. The BREA should institute an annual declaration for brokers who do not accept client funds. 	<p>All casino licences now include a provision that non-compliance with the FTRA will constitute grounds for the revocation of such licences under the LGA; such a provision has also been included in a draft of proposed amendments to the LGA.</p> <p>Included in the package of proposed amendments to the LGA are increases in fines.</p> <p>All financial institutions that would be part of an SRO are presently subject to direct supervision by the CC for AML/CFT purposes, by virtue of being designated as 'financial institutions' by the FTRA. Codes of Practice have been issued by the CC, to provide guidance to all of its constituent financial institutions, on implementing and meeting obligations imposed by the FTRA. Codes of Ethics/Conduct developed by governing bodies would simply reinforce requirements already managed by the CC, as AML supervisor.</p> <p>As part of its AML oversight of the real estate industry in The Bahamas, the CC receives an annual (revised) list of all licensed real estate brokers from the Bahamas Real Estate Association (BREA). Immediately upon receipt of this document, the CC makes contact with each real estate broker to determine whether he provides the services prescribed in section 3(1)(g) of the FTRA i.e. "receives funds in the course of his business for the purpose of settling a real estate transaction". Where the broker provides such services, he is obliged to submit to AML on-site examinations (OSEs) by the CC. If the broker does not provide the prescribed services, he is required to provide a written declaration stating that such is the case. Although such a broker will not be required to submit to an OSE, this does not preclude him from the CC's random OSE process which occurs throughout each year.</p> <p>The Compliance Commission maintains that this is an</p>

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				adequate means of oversight and to require anything further is excessive and onerous and exceeds the spirit of Recommendation 24.

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25. Guidelines & Feedback	LC	No information on current typologies is presented in the FIU's annual report.	<ul style="list-style-type: none"> The FIU Guidelines for casino operators should be updated to preserve relevance to the existing legal and regulatory framework. The revised Codes of Practice for DNFBPs should be finalized as soon as possible. 	<p>The FIU issued its Suspicious Transactions Guidelines Relating To The Prevention of Money Laundering and The Financing of Terrorism on 19th March 2007. The Guidelines replaced the Guidelines, which were issued by the FIU in November 2001. The March 2007 Guidelines indeed have a much narrower focus (i.e., relating exclusively to Suspicious Transactions and Suspicious Transactions Reporting) than the 2001 Guidelines and are consistent with the FIU's mandate as detailed in the Financial Intelligence Unit Act 2000.</p> <p>The CC's industry-specific Codes for DNFBP's came into force on July 30th, 2009.</p>
Institutional and other measures				
26. The FIU	C	This Recommendation is fully observed.	<ul style="list-style-type: none"> The FIU may wish to consider issuing a narrower set of guidelines, relating to suspicious transactions and Suspicious Transaction Reporting that can be included in the Guidelines issued by the various sub-sectors of the financial services industry. 	The FIU issued its Suspicious Transactions Guidelines Relating To The Prevention of Money Laundering and The Financing of Terrorism on 19 th March 2007. The Guidelines replaced the Guidelines, which were issued by the FIU in November 2001. The March 2007 Guidelines indeed have a much narrower focus (i.e., relating exclusively to Suspicious Transactions and Suspicious Transactions Reporting) than the 2001 Guidelines and are consistent with the FIU's mandate as detailed in the Financial Intelligence Unit Act, 2000.
27. Law enforcement authorities	C	This Recommendation is fully observed.		
28. Powers of competent authorities	C	This Recommendation is fully observed.		
29. Supervisors	PC	<p>The powers to access and compel information by the SC and the Director of Societies are inadequate. The powers of the Registrar of Insurance to compel information under the EIA are also deficient.</p> <p>The SC's powers of enforcement and sanction under the SIA are inadequate.</p>	<ul style="list-style-type: none"> The exemption at section 29(7) of the SIA should be removed to ensure that all financial institutions are at a minimum registered with the SC. The SC should have powers under the SIA similar to those at section 49(2) of the IFA, 	<p>The Securities Industry Act, 2011 (SIA) was enacted in May 19th, 2011 and it is intended that the Securities Industry Regulations will be brought into force on November 1st, 2011, when it is intended that the Act will also be brought into force.</p> <p>As to ensuring that all financial institutions</p>

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		The CC's ongoing AML/CFT supervision lacks an offsite programme.	<p>which allow for the appointment of an auditor to assist in examinations.</p> <ul style="list-style-type: none"> The ICB should be granted powers to conduct inspections without cause, with respect to the IA, and to appoint an auditor to assist in the execution of his functions. The CC should formulate an offsite inspection programme to augment the onsite process. This could be of particular benefit when the CC moves away from annual onsite inspection cycles. In addition, the CC should develop procedures and criteria to trigger formal notification of substantive authorities when powers of enforcement and sanction need to be implemented. The SIA should include provisions for access by the SC to information, and imposition of an obligation on licensees and registrants to provide the SC with any information required to fulfil its mandate. The Director of Societies and the Registrar of Insurance (with respect to the EIA) should have general powers to compel production of records and other information, as deemed necessary. The CBB and the CC should continue their efforts to all licensees/registrants. The issuance of rules by the SC should be fully explored to facilitate enforcement of the 	<p>conducting securities activities are subject to regulation by the Commission see Section 7 and Schedule 1 of the SIA, 2011.</p> <p>As to the ability to appoint an auditor to assist in examinations see, Section 45(2).</p> <p>The ability to allow for action without a hearing is provided for at Part XV of the SIA, 2011 which also captures registrants and licensees under the IFA.</p> <p>The SIR has been finalized and will be enacted concurrently with the SIA.</p> <p>The issue of enforceability has been addressed by Section 2 of the Securities Industry (Amendment) Act, 2008 and Section 62 A of the IFA, 2003. In addition, amendments to the FTIRA, FIUA, FTRR and the FCSPA have also addressed the enforceability issue.</p> <p>This is a feature of the new Insurance Act, which was brought into force in July 2009. However, the current Insurance Act grants such powers under sections 38 and 40 respectively. Sections 88 & 89 of COSA provides for inspection and investigation. Section 80 & 81 of draft Regs amplifies provisions in the Act.</p> <p>The new Insurance Act, Chapter 347, gives the Commission powers to deal with these issues. For example, see Section 8 (2) (e) of the Insurance Act, Chapter 347.</p> <p>The CC commenced its off-site examination programme effective 1st August, 2008. The off-site examination process is covered in Section 9.5 of Sub-Part IV (Supervisory Framework of the Commission) of the CC's Codes for accountants. There is a similar provision in the CC's other industry-specific Codes. There is a legislative framework and procedure in place for the CC to make formal notification to regulatory bodies when powers of</p>

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			<p>guidelines; and both the SIA and the IFA amended to allow for action without a hearing.</p>	<p>enforcement and sanctions are to be carried out.</p> <p>The Cooperative Societies Act, 2005 Part VI S(10) (a); S175(1) and S177(1) addresses the power of the Director of Societies to compel reporting.</p> <p>Section 43 of the new External Insurance Act, Chapter 348, gives the Commission powers to obtain information.</p> <p>In 2010, CBB reorganized its Bank Supervision Department to support the full implementation of an enhanced Risk-Based Supervision Framework (RBSF), which delivers greater focus on the most material risk issues affecting licensees. Considerable resources were focused on developing the Examination Unit, to ensure the alignment of the on-site examination assessments with the enhanced RBSF and integration of a significant number of new staff into the on-site examination process. Because of these initiatives, and the on-site examiners' involvement with the risk assessment framework, a relatively smaller number of on-site examinations were undertaken in 2010. In 2010, twenty-six (26) on-site examinations were completed compared to forty-four (44) in 2009. To date in 2011, twenty-two (22) on-site examinations have been completed and one (1) is in progress.</p> <p>These guidelines have been made enforceable by amendments to the FIU Act, and the regulations there under, which were brought into force in January 2009.</p> <p>The SC Guidelines have been amended and amendments to the FTRA, FIUA, FTRR and the FCSPA have addressed the enforceability issue. The ability to allow for action without a hearing is</p>

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				provided for at Part XV of the draft SIA. The draft SIA & SIR have been issued to the industry for public consultation.

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30. Resources, integrity and training	PC	<p>Inordinate length of time to bring matters to trial.</p> <p>There are insufficient resources overseeing AML/CFT with regard to financial institutions.</p> <p>There is insufficient operational independence and autonomy of the Registrar of Insurance and the Inspector, FCSP.</p>	<ul style="list-style-type: none"> The SC and CC should consider revising their staff complement to meet the demands of their constituency base. The ICB and to a lesser extent, IFCSs should be granted more operational autonomy under their respective Statutes. Every effort should be made to reduce the length of time between arrest and a matter coming to trial which can in some instances in the Supreme Court be as long as six years. The 'Swift Justice' project is a good start and its effectiveness should be reviewed and measured on an ongoing basis to ensure all necessary measures are being taken to speed up the administration of justice. 	<ul style="list-style-type: none"> The SC staff complement at the beginning of Jan. 2006 was 38 employees. As at 1st July, 2010 the staff complement has grown to 57 employees, this is an increase of 50% from January 2006. At November 2009, the SC staff complement was 54 employees, at presently 57 employees this is an increase of 9.5%. In view of the proposed integration of the regulators, the Compliance Commission has restricted the in-take of staff in this interim period to the levels required to meet the regulatory objectives. This includes collaborating with local SRO's (The Bahamas Bar Association, the Bahamas Institute of Chartered Accountants, BREAA and others) representing DNFBP's with a view to the eventual appointment of these SRO's by Ministerial Order as the primary AML regulator of the professionals. As part of this strategy the Compliance Commission has recruited a qualified attorney and is in process of recruiting another examiner and an administrator. The Department of Public Prosecution has undertaken a review in respect of all outstanding cases on its calendar to determine their evidential and constitutional status, so that those cases which have a reasonable prospect of successful prosecution remain listed as outstanding. This review process is designed to complement a new Supreme Court procedural requirement, issued by the Chief Justice, in the form of a Practice Direction that all outstanding cases be brought up for review annually and dates set for their prosecution. The review is ongoing.

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			<ul style="list-style-type: none"> The DPP should seek to recruit additional staff especially at the senior level in order to strengthen the Department's capability. 	<ul style="list-style-type: none"> Additionally, the Department of Public Prosecution is liaising closely with the Royal Bahamas Police force from the time a crime is reported and/or the arrest of the accused in order to increase efficiency in the administration of justice. The Department of Public Prosecutions (DPP) has formed a Criminal Case Management Unit that is responsible for getting files/ cases ready for ultimate presentation of evidence in court. The Unit also weeds out cases that duly ought not to proceed. A Witness Care Unit has also been formed. This Unit is responsible for the 'maintenance' of witnesses and/or victims within the criminal justice system. Maintenance includes the provision of material information; counselling; improving the level of witnesses' interest in cases and their confidence in the said system; and several other actions. The DPP advertised for additional attorneys in 2008 and there has been a moderate increase in the staff complement. The current financial budget has made provision for the addition of nine attorneys-at-law. There is an ongoing recruitment drive in respect of attorneys at both the junior and senior levels. In addition, eight attorneys-at-law within the Royal Bahamas Police Force have been deployed to the DPP. The new Insurance Act, Chapter 347, gave the Commission operational independence and the powers of the Insurance Commission were expanded. In relation to the IFCSP, greater autonomy will be achieved once the provisions to amalgamate the regulators have been passed. The

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				consolidation exercise is still in progress and the revised date for this exercise is first quarter 2011???
31. National cooperation	C	This Recommendation is fully observed.		
32. Statistics	PC	<p>There has been no evidence on which effective implementation can be measured as the police have not received information regarding terrorism or terrorism financing.</p> <p>There has been no evidence on which the effectiveness of the freezing actions with regard to terrorism or terrorist financing can be measured as the police have not received information regarding those matters.</p> <p>The legal framework requiring the reporting of international wire transfers is not in place therefore no statistics are available.</p> <p>Statistics regarding the cross border transportation of cash or negotiable instruments are not maintained, as the legislative framework is not in place requiring such a declaration in the first instance.</p> <p>There is no system in place requiring the reporting of STRs based on domestic or foreign currency transactions above a certain threshold.</p> <p>Statistical information from the SC in support of AML/CFT effectiveness is not maintained.</p> <p>No evidence of review of AML/CFT systems by the Task Force. .</p>	<ul style="list-style-type: none"> It is recommended that a legislative framework be put in place requiring the reporting of international wire transfers transactions, and the collection, recording and analysis of the information obtained. The SC should maintain statistics on FTRA focused examinations, and sanctions applied for non-compliance with AML/CFT requirements. The legislative reforms that have been proposed should be pursued as a matter of urgency in particular those that will expand the CBB's powers to share information. It may also be useful for the Authorities to consider flexible approaches in terms of information sharing. In addition, the legislative amendments that will enhance co-operation powers of regulators will also be very useful in ensuring that resources are properly allocated. The Government of the Bahamas should establish some form of 'umbrella' group or committee that can review and make recommendations on AML/CFT matters. These recommendations would be at the policy level and from a strategic perspective using the statistics generated to assist in the decision making process. 	<ul style="list-style-type: none"> With regard to the maintenance of statistics by the SC on FTRA focused examinations, the SC's routine onsite examination programme covers testing for compliance with the FTRA, FTRR and FI(TR)R. The information is captured in a departmental statistical report that was implemented in December 2006. The statistical report, as part of a departmental procedure, is updated after the completion of every examination. The statistical report includes the deficiencies noted on each examination that would include the FTRA, FTRR and FI(TR)R. The report can be manipulated and/or other reports created to give specific statistics on any type of deficiency identified. Amendments have been passed by Parliament and came into force on January 2, 2007. Also addressed in amendments made to the SIA and the IFA in 2007. Under the leadership of the Minister of State for Finance, the National Task Force on AML/CFT was convened last year and held an initial high level meeting. The membership of the Task Force includes the heads of all financial services regulators, the head of the FIU, the OAG, the Police and Customs Departments.
33. Legal persons–beneficial owners	LC	No requirement to determine the natural persons who ultimately control legal persons.	<ul style="list-style-type: none"> There should be a legal requirement for financial institutions to take reasonable measures to determine the natural persons that ultimately own or control legal persons. 	<p>These matters are addressed in amendments to the FTRR, which were brought into force in January 2009.</p> <p>In the package of proposed amendments to the</p>

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				Lotteries and Gaming Act, provision is being made for the Gaming Board to be notified within thirty (30) days of any change in the beneficial ownership of a casino licensee so as to ensure that the new beneficial owner or owners satisfy the fit and proper test; a Standard Audit Programme has been put in place in order to obtain information on changes to beneficial owners of casinos to prevent criminals from holding or being the beneficial owners of a significant or controlling interest
34. Legal arrangements – beneficial owners	LC	<p>The ability to obtain and access information on the beneficial ownership and control of legal arrangements for which lawyers provide trust services was hindered by the legal challenge.</p> <p>No requirement to determine the natural persons who ultimately control legal arrangements.</p>	<ul style="list-style-type: none"> A new legislative framework for private trust companies was being proposed and this should be enacted as soon as practicable to further strengthen oversight of all legal arrangements. There should be a legal requirement for financial institutions to take reasonable measures to determine the natural persons that ultimately own or control legal arrangements. 	<p>Legislation and Regulations came into force in December 2006 and January 2007, respectively. Guidelines to the industry were issued in January 2007 and the administrative arrangements to process applications have been set up in the Central Bank.</p> <p>Amendments have been made to the Financial Transactions Reporting Regulations which, inter alia, establish minimum mandatory requirements for financial institutions to verify the identity of the ultimate beneficial owners of corporate entities (Regulations 4(1)(e)), partners or beneficial owners of partnerships and unincorporated business (Regulation 5(1)(a)) and to require financial institutions to take reasonable measures to determine the identity of the natural persons that own or control legal persons or legal arrangements.</p>
International Cooperation				
35. Conventions	PC	<p>Section 42(2) of the POCA does not comply with the Vienna Convention requirements.</p> <p>The ATA does not extend to all Conventions and Protocols named in the Terrorist Financing Convention.</p> <p>The Palermo Convention has not been ratified.</p> <p>Section 9(4) does not constitute appropriate grounds for refusing a request for freezing from a foreign State</p>	<ul style="list-style-type: none"> The procedures for mutual legal assistance issued by the ILCU should be further improved to deal with the treatment of potential requests for information relating to suspected terrorism offences. The GFSR should include in its procedures manual the procedures that will apply in these cases, and particularly in cases of applications for freezing under the ATA. 	<p>The Procedures Manual now contains the procedure for requests for information relating to suspected terrorism offences</p> <p>The Anti-Terrorism (Amendment to First Schedule) Order, 2008 (Statutory Instrument No. 52 of 2008) amends the First Schedule to the Anti-Terrorism Act to incorporate all of the Conventions referred to in the Annex to the Terrorist Financing Convention.</p> <p>The Anti-Terrorism (Amendment) Act, 2008 (Act No.</p>

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		under the ATA.	<ul style="list-style-type: none"> • The Bahamas has not ratified the Palermo Convention and should move to do. • The Bahamas should also move to criminalize a person's participation in an organized criminal group as required by the Convention and to extend the existing measures to cover this type of offence. 	<p>24 of 2008) amends section 9 of the Anti-Terrorism Act by removing the requirement for reciprocity in section 9 (4) of the ATA in cases where a foreign state makes an application for a freezing order.</p> <p>The Bahamas ratified the United Nations Convention against Transnational Organized Crime(the Palermo Convention) on 26th September, 2008.</p>

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36. Mutual legal assistance (MLA)	C	This Recommendation is fully observed.	<ul style="list-style-type: none"> With regard to Recommendation 36, the ILCU should incorporate into their manual of procedures relating to mutual legal assistance matters, guidance with regard to the procedures that will be applicable when a request is made for freezing pursuant to section 9 of the ATA. This would be useful in providing a legal interpretation as to the effect of section 17 of the ATA and section 6 of the MLA(CM)A. The Authorities may wish to clarify in the law, the effect of section 3(1) of the ML(CM)A. 	<p>The Anti-Terrorism (Amendment) Act, 2008 (Act No. 24 of 2008) amends section 17 of the Anti-Terrorism Act to delete the reference to section 6 of the MLA (CM)A and substitute in its place section 6 of the CJ(IC)A.</p> <p>It is our view that section 3 (1) of the ML(CM)A is clear. Section 3(1) of the ML(CM)A states that the ML(CM)A shall prevail if there is an inconsistency between the ML(CM)A and any other written law. Section 3(1) further states that the only laws that the ML(CM)A will not prevail over are an Act prohibiting the disclosure of information or prohibiting its disclosure under certain conditions.</p>
37. Dual criminality	C	This Recommendation is fully observed.		
38. MLA on confiscation and freezing	LC	Freezing assistance under the ATA is limited on the grounds of reciprocity.		The Anti-Terrorism (Amendment) Act, 2008 (Act No. 24 of 2008) amends section 9 of the Anti-Terrorism Act by removing the requirement for reciprocity in section 9 (4) of the ATA in cases where a foreign state makes an application for a freezing order.
39. Extradition	C	The Recommendation is fully observed		
40. Other forms of co-operation.	LC	<p>The Registrar of Insurance does not have powers to compel production of information under the EIA.</p> <p>The SC does not have powers to conduct inquiries on behalf of foreign counterparts.</p>	<ul style="list-style-type: none"> The Registrar of Insurance and the Director of Societies should be granted powers to compel production of information under the EIA and COSA, respectively in order to effectively facilitate international cooperation. The SC should have power similar to the CBB to access records of its licensees and registrants. All regulatory authorities should have the power to conduct inquiries on behalf of foreign counterparts. 	<p>The Cooperative Societies Act, 2005 Part VI s(10) (a); s175(1) and s177(1) addresses the power of the Director of Societies to compel reporting.</p> <p>Section 43 of the External Insurance Act, Chapter 348, gives the Commission powers to obtain information.</p> <p>This matter is addressed in amendments made to the Securities Industry Act and the Investment Funds Act in 2007.</p> <p>This matter is addressed in amendments made to the Securities Industry Act and the Investment Funds Act in 2007.</p>

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9 Special Recommendations				
SR.I Implement UN instruments	PC	<p>The ATA does not extend to all Conventions and Protocols named in the Terrorist Financing Convention.</p> <p>The ATA does not fully implement the requirements of UNSCRs 1267 and 1373 particularly as they relate to the freezing of the funds or assets of terrorists.</p> <p>The ATA does not deal with the prohibition on the movement of aircraft owned leased or operated by the Taliban.</p>	<ul style="list-style-type: none"> The ATA should be extended to criminalize conduct referred to in the Conventions and Protocols that are named in the Terrorist Financing Convention but that are currently not named in the ATA. 	The Anti-Terrorism (Amendment to First Schedule) Order, 2008 (Statutory Instrument No. 52 of 2008) amends the First Schedule to the Anti-Terrorism Act to incorporate all of the Conventions referred to in the Annex to the Terrorist Financing Convention.
SR.II Criminalize terrorist financing	LC	<p>The offence of terrorist financing under the ATA does not extend to all of the offences listed in the Annex to the UN Convention on the Financing of Terrorism.</p> <p>The FT offence does not cover all the types of conduct set out in Art. 2(5) of the Terrorist Financing Convention specifically Art. 2(5)(c).</p>	<ul style="list-style-type: none"> The special unit to deal with terrorism within the Royal Bahamas Police Force should be established. The Examiners considered that the ATA did provide for the criminalization of the financing of terrorism; however the fact that the scope of the crime of terrorism did not cover all of the conduct referred to in the Annex to the Terrorist Financing Convention constituted a serious shortfall that the Authorities should move to rectify. The Bahamas should ensure that the offences of terrorism financing under the ATA extends to all of the offences specified in Article 2(5) of the Terrorist Financing Convention. 	<p>The Special Anti-Terrorism Unit was established on 7th August, 2007 and is led by a Detective Assistant.</p> <p>The Anti-Terrorism (Amendment to First Schedule) Order, 2008 (Statutory Instrument No. 52 of 2008) amends the First Schedule to the Anti-Terrorism Act to incorporate all of the Conventions referred to in the Annex to the Terrorist Financing Convention.</p> <p>See response immediately above.</p>
SR.III Freeze and confiscate terrorist assets	PC	<p>The ATA does not address UNSCR 1267 adequately as freezing cannot take place solely upon a designation by the UN Security Council without delay.</p> <p>The reciprocal requirements for the granting of an application for a freezing order to a foreign jurisdiction could inhibit the granting of such requests.</p>	<ul style="list-style-type: none"> SR. III (E.C. III.2) requires that countries should have procedures to examine and give effect to actions initiated in other countries provided that there are reasonable grounds or a reasonable basis to freeze funds. Section 9(4) introduces different criteria in relation to freezing terrorist funds and an amendment 	The Anti-Terrorism (Amendment) Act, 2008 (Act No. 24 of 2008) amends section 9 of the Anti-Terrorism Act by removing the requirement for reciprocity in section 9 (4) of the ATA in cases where a foreign state makes an application for a freezing order.

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		The International Obligations (Economic and Ancillary Measures) Act is a pre-existing measure that was not designed to meet the combating of the financing of terrorism and the related UNSCRs.	<p>should be considered.</p> <ul style="list-style-type: none"> The authorities should provide clarity, whether in the law or in the policies outlined by the Attorney General's Office as to the effect of section 17 of the ATA and section 6 of the MLA(CM)A, and consequently the basis upon which requests made under the ATA by foreign States would be addressed. It is the view of the Examiners that the International Obligations (Economic and Ancillary Measures) Act would have been a pre-existing measure, with a particular focus on applying international economic sanctions against Nation States. It would not meet the focus of SR III as being a preventative measure that is necessary and unique in the context of stopping flows or the use of funds or other assets to terrorist groups. It is therefore recommended that the ATA should be amended to achieve compliance with the UNSCRs. The Special Anti-Terrorism Unit should be established within the Royal Bahamas Police Force. The language at section 9(7) of the ATA should be clarified to establish whether the period of 18 months is an absolute outer limit for freezing and the Authorities may wish to consider whether this is appropriate given the length of time that an offence under the ATA may take to reach to trial. 	<p>The Anti-Terrorism (Amendment) Act, 2008 amends section 17 of the Anti-Terrorism Act to delete the reference to section 6 of the MLA (CM)A and substitute in its place section 6 of the CJ(IC)A.</p> <p>No further amendments have been made to the ATA.</p> <p>The Special Anti-Terrorism Unit was established on 7th August, 2007 and is led by a Detective Assistant.</p> <p>No further amendments have been made to the ATA.</p>

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SR.IV Suspicious transaction reporting	C	This Recommendation is fully observed.		
SR.V International cooperation	LC	The reciprocity requirement could hinder international cooperation. The SC does not have powers to conduct inquiries on behalf of foreign counterparts.	<ul style="list-style-type: none"> The legislation for the SC should be fast tracked to allow for stronger information gathering powers. The SC may also wish to establish MOUs for the sharing of information with overseas counterparts. 	The SC submitted an application to the IOSCO MOU, on May 23, 2008. At the IOSCO 2009 conference it was announced that the SC was eligible to sign Appendix B of the MOU. The SC has taken the steps necessary to finalise this process and is presently awaiting a response from IOSCO.
SR.VI AML requirements for money and value transfer services	LC	No requirement for money value transfer service operators to maintain a current list of their agents which must be made available to the designated authority.	<ul style="list-style-type: none"> MVT service operators should be required to maintain a current list of their agents, which must be made available to the designated authority. The Bahamas should implement the amendments to the legal framework as soon as possible to bring about full compliance with SR VI. 	The Banks and Trust Companies (Money Transmission Business) Regulations, 2008 [S.I. No. 30 of 2008] requires persons acting as Money Transmission Agents on behalf of a Money Transmission Service Provider to register with CBB.
SR.VII Wire transfer rules	NC	There are no measures in place to cover domestic, cross-border and non-routine wire transfers. There are no requirements for intermediary and beneficial financial institutions handling wire transfers. There are no measures in place to effectively monitor compliance with the requirements of SR VII.	<ul style="list-style-type: none"> With regard to SR VII, The Bahamas is compliant with only the first criterion of the recommendation. See. Paragraph 662. It is recommended that the review of The Bahamas' legislative and regulatory provision take consideration of all requirements of the recommendation and appropriate legislation be enacted as soon as possible. 	The Financial Transaction Reporting (Wire Transfers) Regulation 2009, which gave effect to FATF SRVII, was brought into effect on the 12 January, 2009.
SR.VIII Nonprofit organizations	PC	No information was available for the Examiner's to gauge the size and risk of NPO activity. No evidence of review of the adequacy of laws and regulations that relate to NPOs. Specific guidance with regard to NPOs is enforceable only on banks and trust companies. Only friendly societies and foundations (by virtue of their secretaries) are included as financial institutions under the FTRA.	<ul style="list-style-type: none"> The Authorities should review the adequacy of the laws that relate to NPOs. The requirements concerning NPOs in the CBB AML/CFT Guidelines should be enforceable on all financial institutions. The Authorities should consider some of the additional measures in the Best Practices Paper to Special Recommendation VIII to ensure that funds or other assets collected by or transferred through NPOs are not diverted to support the activities of terrorists or terrorist organisations. 	The GFSR has, in response to a request from the Ministry of Finance, established a subcommittee to review this recommendation. The subcommittee has completed its review of existing laws and policies relative to the non-profit sector, obtained data on the size and composition of the sector and conducted a benchmark of other jurisdictions' regulation of the sector. The subcommittee is preparing a draft report for the GFSR's review, on measures required to enhance the supervision of the sector. Upon completion, the report will be submitted to the Ministry of Finance for the Government's consideration.

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SR.IX Cash Couriers	PC	<p>The legal framework requiring the declaration of cross border transportation of cash or negotiable instruments is only applicable to travellers to the USA.</p> <p>The detection method used by the Authorities appears to have deficiencies as outlined by the Courts.</p> <p>Customs forms should clearly outline the obligations for the traveller to disclose the value of the sums being carried above a certain amount.</p>	<ul style="list-style-type: none"> • The Government of The Bahamas should implement a more rigorous system of cross border disclosure and declaration, which meets the requirements of Special Recommendation IX. This can be achieved by way of an amendment to current legislation or enacting new legislation to address this issue. • A system should be implemented to collect, collate and analyze declarations of cross border transportation of cash or negotiable instruments. Ideally this could be achieved by means of a computerized system, which would allow authorities, possibly the FIU, to have ready access to the information and the ability to spot trends or make a query against a specific target. • Customs forms should clearly outline the obligations for the traveller to disclose the value of the sums being carried above a certain amount. 	<ul style="list-style-type: none"> • The report of the GFSR is under review by the Ministry of Finance. • The border entry form that must be completed by incoming passengers is presently being revised. It is proposed that the revised form will make provision for declarations of cash being carried over \$10,000.