CFATF
GAFIC
CARIBBEAN FINANCIAL ACTION TASK FORCE

Eighth Follow-Up Report

The Bahamas

November 27, 2015

THE BAHAMAS: EIGHTH FOLLOW-UP REPORT: UPDATE AND FULL ANALYSIS

I. INTRODUCTION

1. The third round Mutual Evaluation Report of The Bahamas was adopted by the CFATF Council of Ministers in November 2007, in Costa Rica. The Bahamas' first follow-up report was due to be tabled at the May 2009 Plenary in Trinidad and Tobago. However, due to the late receipt of comments and a high volume of additional legislation, the report was not presented. The Bahamas Authorities did however, make a presentation of the improvements that had been made at that time to its AML/CFT framework. At the October 2009 Plenary in Curacao, The Bahamas' follow-up report (FUR) was presented to the Council of Ministers, at which time The Bahamas was placed in regular (one year) follow-up and required to report back to the November 2010 Plenary. The Bahamas' 3rd FUR was presented at the November 2010 Plenary and Plenary agreed to leave The Bahamas in regular (one year) follow-up and to report back in November 2011 (4th FUR). The Bahamas has remained in regular (one year) follow-up and reported in November 2012 (5th FUR), November 2013 (6th FUR) and November 2014 (7th FUR). The 7th FUR recommended that The Bahamas remain on regular (one year) follow-up and be required to report back to the November 2015 Plenary. The FUR noted however that since the November 2014 Plenary had agreed that all CFATF Member countries have not exited the follow-up process should do so by November 2015, it was hoped that The Bahamas would make the necessary legislative changes that would allow for an application to exit follow-up. Further, The Bahamas is scheduled to have its onsite 4th round mutual evaluation during the period November 30-December 11, 2015. Based on the decision by the November 2014 Plenary, countries that are within six (6) months of their onsite could request that Plenary agree to have their outstanding 3rd round mutual evaluation issues dealt with in their 4th round assessment. The Bahamas opted not to make this request at the May 2015 Plenary preferring to address its primary outstanding deficiency and exit the 3rd round follow-up process before its 4th round assessment.

2. This report is based on the follow-up removal procedure as stated in the 3rd round CFATF Mutual Evaluation Procedures (amended to 2012) and as further explained by the decision of the Miami Plenary (May 2014)[1]. The report contains a detailed description of the measures taken by The Bahamas to address deficiencies in their Core and Key Recommendations that were rated partially compliant (PC) or non-compliant (NC) in the mutual evaluation report. A brief description and analysis of the non-Core and Key recommendations rated PC/NC is also being presented.

3. The Bahamas was rated PC or NC on the following Recommendations:

Core Recommendations[2] rated partially compliant (PC)
R.1 (Criminalisation of money laundering) R. 5 (Customer due diligence) R. 10 (Record Keeping) R.13 (Suspicious transaction reports)
Key Recommendation[3] rated PC
R. 23 (Regulation, Supervision and Monitoring)

[1] See. CFATF-plen-XXXIX-aiii-annex-i-updated.
[2] The FATF Core Recommendations are: R.1, R.5, R. 10, R. 13 and SR. II and SR. IV.
[3] The FATF Key Recommendations are R. 3, R. 4, R. 23, R. 26, R.35, R.36, R. 40, SR. I, SR. III and SR. V.

R. 35 (Conventions)
SR. I (Implementation of UN Instruments)
SR. III (Freeze and confiscate terrorist assets)
Other Recommendations rated PC
R.6 (Politically exposed persons) R. 8 (New technologies and non-face-to-face business) R.9 (Third parties and introducers) 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. 24 (DNFBPs regulation, supervision and monitoring) R.29 (Supervisors) R. 30 (Resources, integrity and training) R.32 (Statistics)
Other Recommendations rated non-compliant (NC)
R. 7 (Correspondent banking) R. 19 (Other forms of reporting) SR. VII (Wire transfers)

4. The review of The Bahamas' progress towards exiting the follow-up process is a desk-based review and as such is not as detailed and thorough as a mutual evaluation report. The analysis focuses on the Recommendations that were rated PC/NC and as such only part of the AML/CFT system is being reviewed. The analysis consists of looking at the main laws, regulations, guidelines and other materials to verify technical compliance with the FATF Recommendations. The level of effectiveness is taken into account through consideration of data provided by The Bahamas. The conclusions in this report do not prejudge the results of any future assessments as they are based on information that was not verified through an onsite process.

II. MAIN CONCLUSIONS AND RECOMMENDATIONS TO THE PLENARY

Core Recommendations:

5. ***Recommendation 1:*** With regard to the deficiencies (deficiency in section 42(2) of the Proceeds of Crime Act (POCA), lack of a Precursor Chemical Statute, implementation of the Palermo Convention and predicate offences for ML do not include racketeering and human trafficking), the Authorities subsequently repealed section 42(2) of the POCA through the enactment of the Proceeds of Crime (Amendment) Act, 2007 (Act No. 14 of 2007); enacted the Precursor Chemical Act, 2007 on January 16th, 2007 (brought into force on April 23rd 2007); amended the Penal Code, the Firearms Act, the Justice Protection Act, the Prevention of Bribery Act and the Anti-Terrorism Act, which dealt with the deficiencies re the Palermo Convention and introduced an offence that would cover racketeering and. Enacted the Trafficking in Persons (Prevention and Suppression) Act, 2008. R.1 has been addressed and has been brought to a level comparable at a minimum to an LC.

6. ***Recommendation 5***: The amendments to the Financial Transactions Reporting Act (FTRA), the Financial Transaction (Wire Transfers) Regulations, 2009 (FT(WT)R), the Financial Intelligence Unit Act (FIUA), the Financial Transaction Reporting Regulations (FTRR), addressed most of the Examiners' deficiencies along with revisions to the Central Bank of The Bahamas AML/CFT Guidelines and the establishment of additional Compliance Commission Codes of Practice and Guidelines so that R. 5 has been brought to a level that is comparable at a minimum to and LC.

7. ***Recommendation 10***: The deficiencies were addressed by an amendment to section 27 of the FTRA, which dealt with the issue of retention of records once financial institutions are dissolved or liquidated. The Bahamas also amended the definition of termination of an account in its AML/CFT Guidelines and the CC Codes of Practice. These measures brought R. 10 up to a level comparable at a minimum to an LC.

8. ***Recommendation 13***: The deficiency indicated by the Examiners related to the statistics on STRs which suggested that only the banking sector had effectively implemented suspicious transaction reporting measures. The Bahamas FIU and CC addressed the deficiency by increasing the amount of STR training to the non-banking sectors. The Recommendation was therefore raised to a level comparable at a minimum to an LC.

Key Recommendations:

9. ***Recommendation 23***: In addressing the deficiencies, The Bahamas made amendments to the Central Bank of The Bahamas Act, (CBBA) (Act No 2 of 2008) and the Bank and Trusts Companies Regulation Act, (Act No. 1 of 2008). The Securities Commission (now the Securities of The Bahamas) (SCB) also amended its Guidelines to provide for simplified due diligence. These measures brought R. 23 to a level comparable at a minimum to an LC.

10. ***Recommendation 35***: The amendment to section 42(2) of the POCA noted above at R. 1 also addressed a deficiency for R. 35. Additionally, The Bahamas amended the Anti-Terrorism Act (ATA) and ratified the Palermo Convention on 26th September 2008, which brought this Recommendation to a level comparable at a minimum to an LC.

11. ***Special Recommendation I***: Amendments to the ATA addressed the deficiencies noted with regard to the extension of the Conventions and Protocols in the Terrorist Financing Convection, the implantation of the requirements of UNSCR 1267 and 1373 and the prohibition of the movement of aircraft owned or operated by the Taliban and brought this Recommendation to a level comparable at a minimum to an LC.

12. ***Special Recommendation III***: In order to address the deficiencies noted by the Examiners, the ATA was amended. Additionally, a Special Anti-Terrorism Unit was established in 2007. These measures brought SR. III to a level comparable at a minimum to an LC.

Other Recommendations:

13. The Bahamas has also made progress in addressing the deficiencies in its non-core and key Recommendations that were rated PC/NC to the extent that the remaining outstanding Recommendations are all at a substantial level of compliance, and the deficiencies in R. 12 being fully met. The Bahamas' application for removal from the follow-up process is based on its compliance

with the Core and Key Recommendations that were rated PC/NC. Accordingly, this report will not provide a detailed analysis of the other Recommendations. A brief overview of the progress made with these other Recommendations is included in section VI of this report for information purposes only.

CONCLUSIONS:

14. This report provides an analysis of The Bahamas' Core and Key Recommendations that were rated PC/NC in its 2007 Mutual Evaluation Report. The analysis indicates that The Bahamas has addressed the deficiencies noted in the Core and Key Recommendations rated PC/NC (R. 1, 5, 10, 13, 23, 35, SR. I and III) to a level that is comparable to at least an LC. It is therefore recommended to Plenary that The Bahamas should be allowed to exit the third round follow-up process.

III. OVERVIEW OF THE BAHAMAS' PROGRESS

Overview of the main changes since the adoption of the Mutual Evaluation Report (MER)

15. Since the adoption of The Bahamas' MER in 2007, The Bahamas has focused on enacting, amending and implementing several pieces of legislation that would strengthen its AML/CFT framework and address the deficiencies noted by the Examiners. Additionally, The Bahamas has also developed and amended its Guidelines and Compliance Codes, ratified the United Nations Convention against Transnational Organized Crime (the Palermo Convention), established a Special Anti-Terrorism Unit, and appointed a National Anti-Money Laundering Coordinator for the National Anti-Money Laundering Task Force. In the area of supervision, The Central Bank continues to conduct onsite inspections and training by the FIU and CC continues. The Bahamas has also been able to increase resources at the SCB.

The Legal and Regulatory Framework

16. The Bahamas' AML/CFT legal and regulatory framework is based on several pieces of legislation (including regulations) that have been enacted by its Parliament. Guidelines have been issued and revised by the relevant supervisory authorities. These laws and guidance will be discussed in detail in section IV of the report.

IV. DETAILED ANALYSIS OF COMPLIANCE WITH THE CORE RECOMMENDATIONS

RECOMMENDATION 1 – PC

R.1 (Deficiency 1): POCA section 42(2) has a deficiency with respect to compliance with the requirements of the Vienna Convention and the Palermo Convention.

17. The Examiners found that section 42(2) of the POCA seemed to allow a person accused of acquiring, using or possessing property that he/she knew or had reasonable grounds to suspect was the proceeds of crime to use as a defence that the property was obtained for adequate consideration. The Examiners concluded that this meant that an accused person could escape conviction for knowingly using the proceeds of crime once he/she can prove that it was obtained for a fair consideration. The Authorities

noted that the measure was to be used by persons who did not have the knowledge or suspicion that the property was the proceeds of crime. There was also no judicial interpretation of the section at the time and so it was concluded by the Examiners that the section had to be given its literal interpretation and effect. (See. MER para. 132). The Bahamas addressed the deficiency by repealing section 42(2) of the POCA.

R.1 (Deficiency 2): Lack of a precursor chemical statute.

18. In reviewing compliance with essential criterion 1.1, the Examiners found that with regard to Article 3(1)(c)(ii) of the Vienna Convention the listings of precursor chemicals in section 11 of the Dangerous Drugs Act (DDA) could not be reconciled with Table 1 of the Vienna Convention. The Examiners also noted that at the time of the assessment, there was precursor chemical legislation before the Upper Chamber of Parliament that dealt with the precursor chemical listing. The Bahamas passed the Precursor Chemical Act, 2007 (Act No. 2 of 2007), on January 16th 2007 and it was brought into force on April 23rd 2007. The deficiency has been addressed.

R.1 (Deficiency 3): The predicate offences for money laundering do not cover two (2) out of the twenty (20) FATF's Designated Category of Offences, specifically Racketeering and Human Trafficking.

19. In order to address this deficiency, The Bahamas enacted the Trafficking in Persons (Prevention and Suppression) Act, 2008, which addresses the issue of human trafficking and trafficking in persons for the purpose of labour and sexual exploitation on December 10th 2008. With regard to the offence of racketeering, the Penal Code (Amendment) Act, 2014 provides at section 90B for the offence of participating in an organized criminal group. As required by the Palermo Convention, the organized criminal group must is defined as a group of three or more persons where any or all members of the group have engaged in indicatable offences under the Code or offences under the Dangerous Drugs Act (section 90B(1)(b)). Section 90B(2) provides the Court with certain objectives that should be considered to determine whether a person participates or actively contributes to an organized criminal group. The deficiency has been addressed.

RECOMMENDATION 1 - OVERALL CONCLUSION

20. The Bahamas through the enactment of the Precursor Chemicals Act, 2007, the Trafficking in Persons (Prevention and Suppression) Act, 2008 and amendments to the POCA and Penal Code have addressed the deficiencies noted for R. 1. Recommendation 1 now meets a level of compliance that is comparable at a minimum to an LC.

RECOMMENDATION 5 – PC

R.5 (Deficiency 1): The legislative requirements for occasional transactions are limited to transactions involving cash and do not cover all occasional transactions.

21. The Financial Transactions Reporting (Amendment) Act, 2008 amended the definition of 'occasional transactions' at section 2 to mean '*one off transactions, including but not limited to cash, that is carried out by a person otherwise than through a facility in respect of which that person is a facility holder.*' Accordingly, occasional transactions was expanded beyond just cash transactions, but to cover all cash transactions. The measure full addresses the deficiency.

R.5 (Deficiency 2): No requirement for financial institutions to undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR. VII.

22. The Bahamas addressed this deficiency through the enactment of the Financial Transaction Reporting (Wire Transfers) Regulations, 2009 (FTR(WT)R). Regulation 3 of the FTR(WT)R requires the identification of the payer's identity in accordance with section 11 of the FTRA. Additionally, Regulation 4 requires that each wire transfer be accompanied by the name of the Payer, the account number of the payer and the address or birth date and place of birth of the payer. Where there is no account number, then regulation 4(b) requires the use of a unique identifier or transaction number. The deficiency has been fully addressed.

R.5 (Deficiency 3): 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.

23. The Financial Transactions Reporting (Amendment) Regulations, 2009 at regulation 4(1)(b) and (c) requires financial institutions with regard to legal persons to obtain as part of the verification process the resolution of the Board of Directors of the authority to open an account and the information conferring authority on the person who will operate the account. Sub-regulation (c) requires financial institutions to obtain documentary evidence with regard to the person who has been identified as operating the account. There are similar measures at regulation 5(1)(c) and (d) with regard to partnerships or other unincorporated businesses. With regard to legal arrangements, at regulation 6(2) of the FTRR as amended 2009, financial institutions are required to verify identities in relation to trusts and take reasonable measures to determine the identity of the person exercising control over the trust. The measures specified in the Regulations meet the deficiency.

R.5 (Deficiency 4): No requirement for financial institutions to take reasonable measures to determine that natural persons who ultimately own or control legal persons or legal arrangements.

24. Financial institutions are required to verify beneficial owners pursuant to regulation 7A of the FTRR as amended 2003. It should be noted however that in the case of corporate entities, the obligation to verify the identity of the beneficial owner is limited to those having a controlling interest in the corporate entity. Additionally, regulation 4 of the FTRR as amended 2009 specifies that financial institutions must verify the names and addresses of the beneficial owners of a corporate entity in accordance with regulation 7A, while regulation 5(1)(a) requires the verification of all partners or beneficial owners in accordance with regulation 3. Regulation 3 specifies the types of information that is required for verification. The deficiency has been addressed.

R.5 (Deficiency 5): All requirements for verification of the legal status of a legal person or legal arrangements are discretionary.

25. As a result of the 2009 amendment to the FTRR, the requirements for verification of a legal person or legal arrangements have been mandated pursuant to regulations 4(1), 5(1) and 6(2). The noted regulations specify the basic CDD information that must be obtained for verification of identity.

(Certificates of incorporation or partnership agreement as relevant, authorization for opening and operating accounts on behalf of the legal entity, information on the person who exercises effective control over a trust). There are also other information that may be obtained by financial institutions. Based on the aforementioned, the deficiency has been fully addressed.

R.5 (Deficiency 6): 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.

26. Pursuant to regulation 4(3) and 6(2) of the FTRR as amended 2009, financial institutions are required to understand the ownership and control structure of legal persons and legal arrangements. The amendment makes the requirement applicable to all institutions defined as financial institutions pursuant to section 3 of the FTRA, which includes amongst others DNFBPs. This requirement sufficiently deals with the deficiency identified by the Examiners.

R.5 (Deficiency 7): 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.

27. The requirement for financial institutions to ensure that documents, data or information collected under the CDD process is kept up-to-date for institutions other than banks and trust companies is contained in the CC Codes of Practice. The requirements can be found at section 16 and 15 of the Codes for Lawyers and Real Estate Agents respectively. Additionally, section 15 of the Handbook and Code of Practice for Financial and Corporate and Service Providers and section 14 of the Handbook and Code of Practice for Credit Unions. The deficiency has been adequately addressed.

R.5 (Deficiency 8): 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.

28. The requirement for enhanced due diligence for higher risk categories of customer was extended in the CC's Codes of Practice for credit unions (para. 15.5.6), accountants (para. 13.3.4-6), lawyers (para. 13.3.4-6), real estate brokers (para. 12.3.4-6), financial and corporate service providers (para. 12.4.6) (except those that only offer corporate registry services) The CC has the authority to issue AML Codes of Practice to financial institutions falling under its purview pursuant to section 47 of the FTRA, which gives the Codes its enforceable status. Amendments to the FIUA, FI(TR)R and FSCPA have made provisions for criminal sanctions and penalties for breaches of the Codes of Practice. The Bahamas have not instituted any sanctions to date. There are also measures for enhanced due diligence for the securities and insurance industry. In all instances, there is a requirement to perform enhanced due diligence whenever there is knowledge or suspicion of illegal activity. The Codes require a risk categorization exercise and provide guidance as to what types of situations or customers can be considered as high risk. The deficiency has been satisfied.

R.5 (Deficiency 9): No requirement for a financial institution to consider making a STR if it is unable to comply with CDD measures.

29. Paragraph 44 of the CBB's Guidelines on the Prevention of Money Laundering and Countering the Financing of Terrorism (2013) provides that where the identify of a customer provides inadequate evidence of identity, then consideration has to be given as to whether to proceed with the transaction, take other steps to identify identity and file a STR to the FIU. The Handbook for Credit Unions also states that credit unions should be able to file an STR when unable to comply with CDD measures. The deficiency has been adequately addressed.

R.5 (Deficiency 10): The exemption for life 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.

30. The Examiners noted at paragraph 456 of the MER that 'the exemption of insurance policies with annual premiums of $2,500 is in excess of the suggested $1,000 limit for life insurance.' The Bahamas Authorities have maintained that the ML risk on $2,500 is negligible and therefore no action will be taken. This recommendation while not met has been satisfactorily explained by the Authorities as to the rationale for not changing the amount of the exemption.

R.5 (Deficiency 11): Bahamian dollar facilities below $15,000 are exempt from full CDD measures.

31. The Bahamas addressed this deficiency through amendments to regulations 3 and 5A of the FTRR. The amendment to regulation 5A makes it subject to section 10A of the FTRA, and expressly requires financial institutions to verify customer identity if there is a suspicion of money laundering or terrorist financing in the case of a Bahamian dollar transaction below $15,000. The deficiency has been addressed.

RECOMMENDATION 5 - OVERALL CONCLUSION

32. Amendments to the Penal Code, FTRA, FTRR and the revision and completion of the CC's Codes of Practice have addressed the outstanding deficiencies noted by the Examiners at least to a level comparable at a minimum with an LC.

RECOMMENDATION 10 – PC

R.10 (Deficiency 1): 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.

33. Pursuant to section 27(2) of the FTRA as amended 2008, the liquidator is required to maintain for the balance of the proscribed period remaining at the date of dissolution such records that would have been required to be kept by the financial institution but for the liquidation. The requirement is applicable to all legal persons and makes no distinction between corporate financial institutions or financial institutions that are partnerships. Based on the aforementioned, the deficiency has been fully addressed.

R.10 (Deficiency 2): Inclusion of the commencement of proceedings to recover debts payable on insolvency as a definition of termination of an account.

34. As noted at paragraph 601 of the MER by the Examiners, the inclusion of the commencement to recover debts payable on insolvency limits the five (5) year retention period. The Bahamas has removed this provision from all the AML/CFT Guidelines and Codes of Practice. The deficiency has been addressed.

RECOMMENDATION 10 - OVERALL CONCLUSION

35. The amendment of the FTRA and the removal of the limitation on the retention period with regard to commencement of proceedings has addressed the recommendations made by the Examiners at least to a level comparable with an LC.

RECOMMENDATION 13 – PC

R.13 (Deficiency 1): Statistics on STRs suggest that only the banking sector has effectively implemented suspicious transaction reporting measures.

36. This deficiency was based on a review of statistics that were provided by The Bahamas for the period 2001-2004 showing the number of STRs that were filed by reporting entities (See. Para 308 of the MER). The Examiners were of the view that the figures for the non-banking sectors, which represented nine percent (9%) of the total STRs submitted to the FIU over the period raised the issue as to whether there was effective implementation of STR measures by those sectors (See. Para 641 of the MER). The Bahamas addressed the deficiency by increasing the amount of training that was being provided to the non-bank sector with regard to suspicious transaction reporting. Over the years since the evaluation, training on this subject has been provided by the Financial Intelligence Unit and the Compliance Commission. See. Attached annex 1. The deficiency has been addressed.

RECOMMENDATION 13 - OVERALL CONCLUSION

37. The measures to address this deficiency have been ongoing as can be seen from the figures provided at Annex 1. Accordingly, R. 13 has been addressed at least to a level comparable with an LC.

V. DETAILED ANALYSIS OF COMPLIANCE WITH THE KEY RECOMMENDATIONS

RECOMMENDATION 23 – PC

R. 23 (Deficiency 1): 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.

38. In an effort to address this noted deficiency, The Bahamas significantly increased the staff level at the Securities Commission of The Bahamas (SCB formerly SC) from thirty-eight (38) employees in 2006 to approximately seventy (70) employees in June 2014. Provisions were made in the budget for the Office of the Attorney General to add eighteen (18) new attorneys and there has been an ongoing drive to recruit both senior and junior attorneys. The CC has increased its staff compliment from six (6) persons in 2006 to eight (8) persons as of October 2015 when one examiner and two other staff were

hired. The staff hired as an examiner is an attorney and this has been done with the expectation that the CC will increase its enforcement capabilities. The Insurance Commission has a total staff compliment of twenty-eight (28). The deficiency has been fully addressed.

R. 23 (Deficiency 2): The SC (now the SCB) does not have a system whereby exemption of investment funds is granted on the basis of a proven CDD by promoters.

39. In addressing this deficiency, The SCB first decided to review the extent to which the exemption was being used undertook to review the exemption to determine whether a system whereby the exemption of investment funds is granted on the basis of proven CDD by promoters would be appropriate. The SCB therefore looked at the initial rationale behind the exemption. It was submitted that due to the fluid nature of shareholders in the fund, the pace at which shares are subscribed and redeemed and the fact that the shareholder is an investor rather than a facility holder, the approach to verifying the identity of a shareholder of an investment fund must necessarily be different if the business is to be sustained. Also benchmarking results revealed that similar exemption exist in other well regulated Jurisdictions. Following the preliminary review and analysis, the issue was dealt with through an amendment of the SCB Guidelines. The Guidelines have now clarified that Regulation 5A(e) of the FTRR 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 deficiency has been satisfactorily addressed.

R. 23 (Deficiency 3): Licensees and registrants under the Registrar of Insurance (now the ICB) (with respect to the EIA) and the IFCSP[4] are not subject to adequate fit and proper tests.

40. Section 4(3) of the External Insurance Act (EIA), provides the fit and proper requirements that must be met by licensees under the Act. The section requires the Commission to consider whether the person has been charged with any offence involving dishonesty whether in The Bahamas or elsewhere; whether the person is a bankrupt; whether the person is able to exercise competence, diligence and good judgement in fulfilling his responsibilities to the insurance business. The Commission will also review the person's employment history and whether there have been any business practices appearing to be deceitful or oppressive or otherwise improper in the conduct of business. In accordance with section 4(3)(ii), the Commission shall also consider whether there has been a contravention of any laws aimed at protecting the public against financial loss through dishonesty, incompetence or malpractice by persons who provide insurance investment. The noted deficiency has been adequately addressed.

RECOMMENDATION 23 - OVERALL CONCLUSION

41. The Bahamas has taken both legislative and administrative measures to address the deficiencies that were identified by the Examiners. Based on the measures provided in the SCB Guidelines and the EIA, R. 23 has been addressed at least to a level that is comparable with LC.

RECOMMENDATION 35 – PC

[4] Inspector Finance and Corporate Service Providers

R. 35 (Deficiency 1): Section 42(2) of the POCA does not comply with the Vienna Convention requirements.

42. This deficiency is identical to R. 1-Deficiency 1 as it pertains to compliance with the Vienna Convention. The deficiency is considered to be addressed by the repeal of section 42(2) of the POCA. Accordingly, R. 35 – Deficiency 1 has been fully addressed.

R. 35 (Deficiency 2): The ATA does not extend to all Conventions and Protocols named in the Terrorist Financing Convention.

43. The Anti-Terrorism (Amendment) Act, 2008 (Statutory Instrument No. 52 of 2008) amended the First Schedule to the Anti-Terrorism Act to incorporate all of the Conventions and Protocols referred to in the annex to the Terrorist Financing Convention. Accordingly, the deficiency has been fully met.

R. 35 (Deficiency 3): The Palermo Convention has not been ratified.

44. The Bahamas ratified the United Nations Convention against Transnational Organized Crime (the Palermo Convention) on September 28th 2008. The deficiency has been fully addressed.

R. 35 (Deficiency 4): Section 9(4) does not constitute appropriate grounds for refusing a request for freezing from a foreign State under the ATA.

45. Section 9(4) of the ATA required that where a request emanates from another jurisdiction, it must be proven that that State has reciprocal arrangements to facilitate an arrangement for freezing from The Bahamas. The Examiners were of the view that the reciprocity requirement was not consistent with the requirements of UNSCR 1373 for the freezing of assets in response to a request from a foreign jurisdiction. The Bahamas through a 2008 amendment to section 9 the ATA removed the reciprocity requirement. The deficiency has been fully met.

RECOMMENDATION 35 - OVERALL CONCLUSION

46. Amendments to the POCA and the ATA fully addressed the technical deficiencies that were noted by the Examiners. The ratification of the Palermo Convention was also an important aspect of compliance with the Examiners' recommendations. R. 35 has been addressed at least to a level that is comparable with LC.

SPECIAL RECOMMENDATION I – PC

SR. I (Deficiency 1): The ATA does not extend to all Conventions and Protocols named in the Terrorist Financing Convention.

47. This deficiency is identical to R. 35-Deficiency 2 as it pertains to the extension of all Conventions and Protocols named in the Terrorist Financing Convention, which was dealt with by the 2008 amendment to the ATA. Accordingly, SR I – Deficiency 1 has been fully addressed.

SR. I (Deficiency 2): 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.

48. The Examiners found that with regard to UNSCR 1267, the ATA did not designate an entity as a terrorist entity solely upon the designation being issued by the UN Security Council Committee and that with regard to UNSCR 1373, the Authorities could not in all circumstances effect the freezing of terrorist funds without delay and that the requirement of the precondition of reciprocity for effecting freezing of assets may not constitute 'the greatest measure of assistance.' Pursuant to section 4 of the ATA, the Attorney General based on a listing by the UN Security Council and the Attorney General has reasonable grounds to believe that the entity has knowingly committed or participated in a terrorism offence or is knowingly acting on behalf or in association with a listed entity, a Judge may order that the entity be listed and the listing will be made public within seven (7) days. Pursuant to section 9 of the ATA, the funds of a listed entity may be frozen. The maximum period for freezing is eighteen (18) months. While the measure as section 4 as presented, allow for the freezing of funds or assets of terrorists, the application of the measures still do not meet the requirements for UNSCR 1267 and 1373. The Bahamas Authorities through the Anti-Terrorism (Amendment) Act, 2015 amended section 4 so that the requirements for listings under UNSCR 1267 and 1373 have been separated, with both requiring an ex parte application to the Court by the Attorney General. Pursuant to section 4(4)(i) of the ATA, a Judge need only rely on an affidavit noting that the entity is included on list of entities designated as terrorist entities by the United Nations Security Council (UNSC). With regard to UNSCR 1373 listings, an affidavit needs to be presented showing that the Attorney General has reasonable grounds to believe that the entity has knowingly committed or participated in the commission of a terrorism offence or is knowingly acting on behalf of, at the direction of, or in association with, and entity referred to in the list issued by the UNSC. The freezing of funds or assets of terrorist is as noted above. The deficiency has been satisfactorily addressed.

SR. I (Deficiency 3): The ATA does not deal with the prohibition on the movement of aircraft owned, leased or operated by the Taliban.

49. This requirement is contained in paragraph 4 of the UNSCR 1267. Pursuant to the International Obligations (Economic and Ancillary Measures)(Afghanistan) Order, 2001 prohibits the direct or indirect supply, sale or transfer of arms, related materials of all types including weapons and ammunition military vehicles and equipment, paramilitary equipment and spare parts to the territory of Afghanistan under Taliban control. With regard to the movement of aircraft, section 3(1) of the Order prohibits aircraft to take off form, land or fly over The Bahamas if that aircraft is destined to land or has taken off from Afghanistan. The Order also prohibits the provision of technical advice, chemical acetic anhydride and financial services to the territory of Afghanistan under Taliban control. This Order sufficiently addresses the issue of movement of aircraft with a link to the Taliban by prohibiting aircraft to take off, land or fly over The Bahamas under the circumstances noted above. While there is no direct prohibition in the Order for aircraft owned, leased or operated by the Taliban, it is felt that the Order provides enough to sufficiently address the noted deficiency.

SPECIAL RECOMMENDATION I - OVERALL CONCLUSION

50. With regard to SR. I, both deficiencies have been addressed. The extension of the Conventions and Protocols named in the Terrorist Financing Convention has occurred. (See. Pages 212-218 of the MER). With regard to measures to address the listing and freezing of assets under UNSCR 1267 and UNSCR 1373, the recently enacted (November 4, 2015) Anti-Terrorism (Amendment) Act, 2015 rectified the deficiency in the processes for listing for each of the UNSCRs. With regard to the issue of the prohibition of the movement of aircraft leased, owned or operated by the Taliban, the Order mentioned above is aimed at addressing Taliban activities in Afghanistan and accordingly addresses

the deficiency to a satisfactory level of compliance. SR. I has been addressed at least to a level that is comparable with LC.

SPECIAL RECOMMENDATION III – PC

SR. III (Deficiency 1): The ATA does not address UNSCR 1267 adequately as freezing cannot take place solely upon a designation by the UN Security Council without delay.

51. As indicated in the discussion above on SR. I this deficiency has been addressed by the enactment of the Anti-Terrorism (Amendment) Act, 2015. Pursuant to section 4 of the ATA as amended, listing and freezing of assets can occur for UNSCR 1267 once the Attorney General makes an ex parte application to the Court as discussed above. The deficiency has been partially addressed.

SR. III (Deficiency 2): The reciprocal requirements for the granting of an application for a freezing order to a foreign jurisdiction could inhibit the granting of such requests.

52. This deficiency is identical to R. 35-Deficiency 4 with regard to the reciprocity requirement that was contained at section 9(4) of the ATA at the time of the evaluation. As noted above the section was removed by the 2008 amendment to the ATA. Accordingly, SR III – Deficiency 2 has been fully met.

SR. III (Deficiency 3): The International Obligations (Economic and Ancillary Measures) Act is a pre-existing measure that was not designed to meet the combatting of the financing of terrorism and the related UNSCRs.

53. In an attempt to address this deficiency, The Bahamas has made several amendments to the ATA that address the issue of TF. Measures with regard to the UNSCRs are currently being addressed in an amendment of section 4 of the ATA, which is being debated before the House of Assembly as noted before. The deficiency has been partially addressed.

SPECIAL RECOMMENDATION III - OVERALL CONCLUSION

54. The deficiencies for SR. III have been partially addressed as it pertains to measures to address compliance with UNSCRs 1267 and 1373 thorough the amendment of section 4 of the ATA as noted in the discussion above. The issue of reciprocity has been fully addressed through the 2008 amendment of the ATA. SR. III has been addressed at least to a level that is comparable with an LC.

VI. OVERVIEW OF MEASURES TAKEN IN RELATION TO OTHER RECOMMENDATIONS RATED PC/NC

55. The Bahamas has taken the following measures to address the other Recommendations that were rated PC/NC. The information in this section is presented for information purposes only and is not to be taken into consideration for Jamaica's application to exit the follow-up process.

PREVENTATIVE MEASURES - FINANCIAL INSTITUTIONS

Recommendations 6, 8, 9, 11, 15, 17, 21, 22, 29, 30 and 32 were all rated PC; 7, 19 and SR.VII were rated NC.

56. The Bahamas achieved compliance with R. 6, 8 and 9 through amendments and developments of the CBB'S AML/CFT Guidelines, the SCB Guidelines and the CC's AML/CFT Codes of Practice. It should be noted that there was an issue of enforceability of the measures contained in the SCB Guidelines and the Codes of Practice. This issue was addressed by amendments to the FTRA (No. 36 of 2008), the Financial and Corporate Service Providers Act ((No. 35 of 2008) (FCSPA), the Financial Intelligence (Transactions Reporting) Regulations (S.I. No. 15 of 2009) (FI(TR)R) and the Financial Intelligence Unit Act (No. 37 of 2008) (FIUA). With regard to R. 11, the deficiencies were addressed by the CBB, SCB and Insurance Commission of The Bahamas (ICB) guidelines. The CC's Codes also addressed the issues noted by the Examiners. The issues focused on the lack of a requirement for monitoring significant changes and inconsistencies in patterns of transactions; no requirement to examine as far back as possible the purpose of complex unusual large transactions and to place the findings in writing and to keep the findings for a period of at least five (5) years.

57. With regard to R. 15, the issue of timely access to information with regard to making a STR; lack of a requirement for an adequately resourced auditing function; lack of a requirement for screening procedures for new hires and no requirement to have internal screening procedures for unusual and suspicious transactions for all financial institutions were the deficiencies noted. They were addressed by amendments to the CC's Codes, and the CBB AML/CFT Guidelines. Measures in the Insurance Act (IA) (section 207(1)) and External Insurance Act (EIA) (sections 24(5)(c) and 45(2)(e) also addressed the issue of independent audits. The Code of Practice for credit unions was also completed and addressed the requirement for adequately resourced and independent audit functions. The deficiencies for R. 17 have been substantially met with the issue of the introduction of ladders of supervisory intervention with regard to the Director of Societies being the only outstanding deficiency. The deficiency is expected to be addressed by the enactment of The Bahamas Co-operative Credit Unions Bill, which will require the CBB's Inspector to carry out inspections of credit unions for the purpose of ensuring that credit unions are complying with the requirements of the FTRA and other AML/CFT legislation. With regard to R. 21, the deficiencies were fully addressed by amendments to the CBB, SCB guidelines and the CC Codes. The requirements on cooperatives, which remained outstanding until the 6th FUR were addressed by the Code of Practice for credit unions. R. 22 deficiencies were addressed by the removal of the impediments to the enforceability of the SCB's Guidelines and measures in the CC Codes of Practice. Additionally, the ICB conducts offsite analysis and onsite inspections of its licensees that fall within the category of foreign branches and subsidiaries. (See. Section 207 of the IA and section 45 of the EIA).

58. The deficiencies for R. 29 have been substantially complied with through the enactment of the EIA, 2009 (sections 41(1)(b) and 42(1)(d)) and the IA (sections 70 and 71(1)(d)). The only outstanding issue is the amendment needed for the Investment Funds Act, 2003 (IFA) to address the issue of the ability to take action without a hearing. Compliance with R. 30 has been ongoing due to the nature of the recommendation in that it deals with resources. The Bahamas has fully complied with the requirements deemed necessary by the Examiners through the increase of the staff compliment of the SCB to the extent that in 2014 there were seventy (70) staff from thirty-eight (38) in January 2006. The CC recently hired three (3) additional staff in October 2015 and the Insurance Commission has a staff compliment of twenty-eight (28) persons. (See. Discussions at R. 23 above). Through a process of integration of regulators, the CC has determined there was no need to increase its staff compliment (E.g. the appointment of the SCB as the Inspector for FCSPAs in January 2008). A Criminal Case

Management Unit was established by the DPP through the Office of the Attorney General (OAG). A Witness Care Unit was also formed. During the period since the assessment, the financial budget for the OAG was increased to allow for the hiring of at least eighteen (18) attorneys. Most recently, a National Anti-Money Laundering Coordinator has been appointed by The Bahamas government. R. 32 deficiencies are still outstanding as they pertain to the reporting of international wire transfer transactions and the collection, recording and analysis of the information. The other deficiencies noted by the Examiners were sufficiently addressed.

59. With regard to R. 7, the noted deficiencies were addressed by the amendments to the CBB AML/CFT Guidelines in 2009; paras. 149-158 (see. Current Guidelines of September 23, 2013). The adoption by the SCB of the CBB's AML/CFT Guidelines and the subsequent passage of the Securities Industry Act, 2011 (SIA) and the subsequent enforceability of the SCB's Guidelines also assisted with the deficiencies being met. The provision by The Bahamas of a report on the issue of a fixed threshold currency reporting system satisfied compliance with R. 19, where it was necessary for the jurisdiction to show that the issue had been given consideration. Lastly, SR. VII requirements were met by the enactment of the Financial Transaction Reporting (Wire Transfers) Regulations, 2008.

DNFBPs AND OTHER NON-FINANCIAL BUSINESSES

Recommendations 12, 16, and 24 were all rated PC.

60. For R. 12, the amendments to the FTRA and the FITRR facilitated compliance with the Recommendation. Additionally, the measure of compliance already noted above for R. 5, 6, and 8-11 to the extent that they were relevant to DNFBPs also resulted in compliance. A 2014 amendment to the FTRA addressed dealers in precious metals and dealers in precious stones by making those sectors part of the definition of 'financial institutions' and thereby being subject to AML/CFT regulation and supervision. There is full compliance with R. 16 through the compliance with deficiencies noted in R. 13, 15 and 21. With regard to R. 24, the issue that The Bahamas Real Estate Association (BREA) should institute an annual declaration for brokers was addressed by the CC who made a requirement that all real estate brokers who do not accept funds to 'settle' real estate transactions must supply an annual written declaration to that effect. However, the other deficiencies noted by the Examiners have not been substantially addressed.

MUTUAL LEGAL ASSISTANCE

61. The relevant Recommendations under this heading were either dealt with above in the Report (R. 32, 35 and SR.I) or rated 'C' or 'LC' (R. 31, 36, 37, 38, 39, 40 and SR. V).

ANNEX

Training Provided by the FIU

	DATES	NAMES OF ORGANIZAIONS	NUMBER OF PARTICIPANTS
	November 7, 2014	C. Yvette McCartney-Meredith	5
	November 11, 2014	Insurance Commissioner (Industry Training)	21
	November 12, 2014	State Bank of India	6
	November 18, 2014	Pictet Bank & Trust Limited	87
	November 19, 2014	Andbank	11
	November 20, 2014	IPG Family Office Limited	10
	December 3, 2014	Grand Bahamas Development Company	28
	December 10, 2014	SYZ & Co. Bank & Trust Limited	12
	December 10, 2014	BAC Bahamas Bank Limited	4
	December 11, 2014	Callenders & Co.	33
	January 9, 2015	Equity Bank & Trust Bahamas Limited	4
	February 17, 2015	Bostwick and Bostwick	2
	March 10,12,16 &17, 2015	Commonwealth Bank	83
	April 14, 2015	GW & Partners L.P.	2
	April 14, 2015	Claymore Corporate Services and Binnacle Advisors	12
	April 21, 2015	Insurance Institute of The Bahamas	47
	April 24, 2015	Morgan and Morgan Bahamas Limited	6
	April 27, 2015	Higgs and Johnson	52
	June 16, 2015	Harry B. Sands, Lobosky & Company	18
	June 17, 2015	Argus Advisors	3
	July 22, 2015	Biscayne Capital Limited	4
	July 24, 2015	Amber Trust	12
	August 21, 2015	C. Yvette McCartney-Meredith	6

	August 27, 2015	Summit Insurance and Insurance Management	28
	September 3, 2015	Insurance Management, Grand Bahama	27
	September 22, 2015	Clairmont Trust Company Limited	9
	September 24, 2015	Price Water House Coopers	41
	October 8, 2015	Genesis Fund Services	15
		Total:	588

ATF 40+9	Rating	Recommended Actions	Actions Undertaken by The Bahamas
Legal systems			
ML offense	PC	• 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.	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. The Precursor Chemicals Act, 2007 (Act No. 2 of 2007) was passed on the 16th January, 2007 and brought into force on the 23rd April, 2007. 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~~ has entered 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. The Bahamas has made amendments to the following legislation in order to implement the Palermo Convention into the domestic legislative framework: the Penal Code, the Firearms Act, the Justice Protection Act, the Prevention of Bribery Act and the Anti-Terrorism Act. The Firearms (Amendment) Act (No. 10 of 2014) introduces offences relating to the illicit manufacture and trafficking in firearms, their parts, components and ammunition and provides for an offence relating to the export of firearms. Section 3B of the Act provides for the offence of exportation of firearms and ammunition without a licence. This offence carries a penalty in the range of ten to fifteen years. Section 21A of the Act introduces a new offence of transnational transfer of unmarked or improperly marked firearms. This hybrid offence is subject to a ten to fifteen year penalty range. The principal Act is further amended by the insertion of a new section 30A- "Prohibited high powered weapon." Section 30A provides that where a person without the express permission of the Licensing Authority, illicitly manufactures, sells, transfers, purchases, exports, imports, transits, acquires or possesses any high powered firearm as specified in the Fourth Schedule, commits an offence and is liable on conviction to a term of imprisonment in the range of twenty-five years to life imprisonment. The Justice Protection (Amendment) Act (No. 2 of 2014) brings The Bahamas in line with its international obligations to suppress organized crime and to provide for justice and witness protection under the Palermo Convention. Section 4 creates the offence of obstruction of justice which augments the previous offence of "insult of a person or on account on his having appeared as a witness or attorney-at-law in a judicial proceeding or before a member of a disciplined force to give information." Section 4 provides that any person who threatens, intimidates, or restrains; uses physical force, interferes in the giving of true testimony or production

			of evidence in any judicial proceeding etc. has obstructed justice and is guilty of an offence. The offence carries a penalty of five to ten years imprisonment, a charge which is both summary and indictable. The Second Schedule to the principal Act now includes the additional offences of participation in an organized criminal group, obstruction of justice, anti-gang offences, and trafficking in persons. The Penal Code (Amendment) Act (No. 15 of 2014) brings this Code in line with The Bahamas' international obligations to suppress crime under the Palermo Convention and nationally, to discourage membership in criminal gangs. Subsection (1) of section 86 has been amended and now includes the words, "organizes, directs after the word "procures" A new section 90A (Gang Membership) and 90B (Participation in an organized criminal group) have been included in the Code. Section 90A provides that a person who is a member of an unlawful gang or participates in or contributes to the activities of an unlawful gang, where any or all of the members of the gang engage in or have, within the preceding three years, engaged in committing indictable offences, commits an offence and is liable on conviction to a fine of five hundred thousand dollars and to imprisonment for twenty years. Section 420 of the Penal Code, which deals with Article 25 obligations under the Palermo Convention, has been amended to increase the penalty from four years imprisonment to ten years imprisonment. Section 420 of the Penal Code provides that any person who "uses any violence with the intent to deter any person from acting in any manner as a judge, magistrate, juror, witness, counsel, agent, prosecutor or party in any legal proceeding or enquiry or from acting in execution of his duty as a magistrate or peace officer, or in any judicial or official capacity, or from having recourse to any court or public officer, or on account of his having so acted or had recourse" is guilty of an offence. The Prevention of Bribery (Amendment) Act, 2014 (No. 3 of 2014) introduces the new offence of bribing a foreign public official. Section 3 of the Act now makes it an offence for a person, "without lawful authority or reasonable excuse, to offer an advantage of any kind to a foreign public official to obtain or retain an advantage in the course of business as an inducement to or reward for or otherwise on account of that foreign public official- (a) as consideration for an act or omission by the official in connection with the performance of the official duties or functions; (b) to induce the official to use his position to influence any acts or decisions of the foreign state or public international Organisations or public body for which the official performs duties or functions....." **The Firearms (Amendment) Act, 2014 implements the Convention against Transnational Organized Crime and makes** **Provisions for the offence of illicit manufacturing and trafficking and export of firearms.** **As it relates to the offence of racketeering, section 90B of the Penal Code (Amendment) Act, 2014 makes provisions for the offence of participating in an organized criminal group. Section 2 defines "organized criminal group" as a structured group of three or more persons or legal entity, existing for a period of time and acting in concert, with the intention of committing a serious offence, in order to obtain, directly or indirectly a financial benefit. Section 90B is wide enough to cover the offence of racketeering.** **As it relates to the prohibition on the movement of aircraft owned, leased or operated by the Taliban, please see attached, International Obligations (Economic and Ancillary Measures) (Afghanistan) Order, 2001.**
2. ML offense– mental element and corporate liability	C		
3. Confiscation and	C	▲The Examiners considered the provisions of	No action taken.

provisional measures		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.	
Preventive measures			
4. Secrecy laws consistent with the Recommendations	LC	▪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 SCB powers to compel information, and to share information with the FIU and the SIR should be amended to grant the SCB powers to access bank accounts without a court order. ▪The requirement for a policyholder to consent to the Insurance Commission of The Bahamas (ICB) 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	Amendments were passed to Regulators' governing statutes in 2007 that enable domestic regulators to share information. The provisions under the Securities Industry Act, 1999 ("SIA, 1999") and the Securities Industry Regulations, 2000 ("SIR, 2000") have been repealed and replaced with the passage of the Securities Industry Act, 2011 ("SIA, 2011") and the Securities Industry Regulations, 2012 (SIR, 2012") which were brought into force on December 30, 2011 and January 9, 2012, respectively. The Commission's general authority to access information, records or documents is set out at Part IV of the SIA, 2011. The Commission's authority to access and share information with domestic and foreign regulatory authorities is provided at Part III of the SIA, 2011. This requirement has been removed from the External Insurance Act, Chapter 348. **The Bahamas Co-operative Credit Unions, Act, 2015 (BCCUA) came into force on June 1st, 2015 and provides that the Central Bank of The Bahamas is the supervisor and regulator of credit unions. The Central Bank of The Bahamas (Amendment) Act, 2015 (the CBBAA) also came into force on June 1st, 2015 and empowers the Central Bank to share information relating to credit unions, with other domestic regulatory authorities (see new definition of "financial institution" in section 2 of the CBBAA and section 38(9) of the principal Act) and with foreign regulatory authorities (see section 38(3) – (7) of the principal Act.** **Section 88(1) of the BCCUA empowers the Inspector of Banks and Trust Companies to conduct investigations into the constitution, operations and financial position of a credit union pursuant to inter**

			duties. The Director should reserve the right to inspect a Society on the basis of all applications received from members.	**alia the application of a majority of members of the Board or one third of the members of the credit union present and voting. Section 88(2)(b) of the BCCUA authorizes the Inspector to conduct on-site examinations and off-site supervision of credit unions. The Inspector is authorized at all reasonable times to have access to the books, accounts, vouchers and documents of the credit union or any document relating to the cash or securities belonging to the credit union, including documents stored in electronic form (see section 88(3)(a) of the BCCUA).**
5. Customer due diligence	PC		▪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 authorized 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. ▪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-to-	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. The Financial Transactions Reporting Regulations were amended in 2009 to, inter alia, establish minimum mandatory requirements for financial institutions to: • verify the identity of : - 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 - settlors 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)); 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 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. This issue has been addressed by an amendment to the FTRA. This requirement is addressed in section 13.3.4-4(a) of the CC's Codes for accountants and replicated in all other industry-specific 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, 2011~~m~~ to specifically include this requirement at paragraph 138. See responses above with respect to amendment of the FTRR.

		date. •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. •All financial institutions except those already covered should be required to consider making a STR if it is unable to comply with CDD measures.	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. 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 CC's Codes. This is mandated by Regulation 9 of the FTRR. It is 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 Codes. This is also addressed in the CBB AML/CFT Guidelines at paragraph 45. 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 section 13.3.4-6 of the CC's 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. No action to be taken as the money laundering risk on $2,500 is negligible. 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 the case of Bahamian dollar transactions below $15,000. This matter was addressed in section 14.8.1 of the Codes for the accounting profession~~).~~ Similar provisions appear in all of the other industry-specific Codes. The CBB's AML/CFT Guidelines were revised in March, 2011 to address this point (see paragraph 44). **To ensure that there is 'no' ambiguity as to the enforceability of the Commission's AML/CFT Rules specific to the securities sector. Draft Rules have been finalized and approved by the Commission's Board to be promulgated, have been signed off and approved by the Office of the Attorney-General and Ministry of Finance are awaiting only formal execution and promulgation to be given legal effect.**

			The AML/CFT Handbook and Code of Practice for Credit Unions were finalized in October, 2013 (the Code of Practice). The Codes of Practice require credit unions to consider making an STR if unable to comply with CDD measures. See paragraph 16.4.3-3 of the Credit Union's Code of Practice. CC's Codes of Practice require financial institutions falling under its supervision to keep information collected under the CDD process to be kept up-to-date. The requirement is found in Section 16, paragraph 16.4 of the Codes for accountants and lawyers and in Section 15, paragraph 15.4 of the Codes for real estate brokers. Section 47(2) of the FTRA and Regulation 8 of the FI(TR)R institutes sanctions and penalties for failure to comply with the provisions of the Codes. To date no sanctions instituted. This requirement is met by section 6 (4) FTRA, 2000 and section 15 of the FCSP handbook and further by the amendment to Regulation 9 (1) of the FTR(A)R 2003 which requires financial institutions to re-verify the identity of the customers. These provisions apply to all constituents registered with the SCB. The CBB's AML/CFT Guidelines were revised in March, 2011 to address this deficiency (see paragraph 44). The AML/CFT Handbook and Code of Practice for Credit Unions were finalized in October, 2013 (the Code of Practice). The Codes of Practice require credit unions to consider making an STR if unable to comply with CDD measures. See paragraph 16.4.3-3 of the Credit Union's Code of Practice. Please see attached copy of section 10A of the FTRA as requested.
6. Politically exposed persons	PC	▪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.	By the SCB's adoption of the CBB Guidelines, the issues raised with respect to FATF rec. 6 have now been addressed in the SCB's Guidelines. With the passage of the SIA, 2011, a rule is being developed to clarify the enforceability of the SCB's Guidelines. These requirements are addressed in the CBB's AML/CFT Guidelines revised in 2009. The AML/CFT Handbook and Code of Practice for Credit Unions addresses the treatment of PEPS in section 15.5.6 – 15.5.7. 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. 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. 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. 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.
7. Correspondent	NC	▪Financial institutions should be required to	These requirements were addressed in the 2009 revisions to the CBB's AML/CFT Guidelines.

banking			gather sufficient information about a respondent institution to understand fully the nature of the respondent's business, the reputation of the institution and the quality of supervision. •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.	By the SCB's adoption of the CBB Guidelines, this issue has been addressed in respect of SCB's constituents. With the passage of the SIA, 2011, a rule is being developed to clarify the enforceability of the SCB's Guidelines. **To ensure that there is 'no' ambiguity as to the enforceability of the Commission's AML/CFT Rules specific to the securities sector. Draft Rules have been finalized and approved by the Commission's Board to be promulgated, have been signed off and approved by the Office of the Attorney-General and Ministry of Finance are awaiting only formal execution and promulgation to be given legal effect.**
8. New technologies & non face-to-face business	PC		•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.	These requirements have been met by the 2009 amendments to the CBB's AML/CFT Guidelines. 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. 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.
9. Third parties and introducers	PC		•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	These requirements have been met by the 2009 amendments to the CBB's AML/CFT Guidelines. By the SCB's adoption of the CBB Guidelines, this issue has been addressed in respect of SCB constituents. With the passage of the SIA, 2011, a rule is being developed to clarify the enforceability of the SCB's Guidelines. **To ensure that there is 'no' ambiguity as to the enforceability of the Commission's AML/CFT Rules specific to the securities sector. Draft Rules have been finalized and approved by the Commission's**

			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. • All financial institutions relying on third parties should be ultimately responsible for customer identification and verification.	**Board to be promulgated, have been signed off and approved by the Office of the Attorney-General and Ministry of Finance are awaiting only formal execution and promulgation to be given legal effect.** This is provided for in section 11 of the FTRA and section **15** 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). This is provided for in section 11 of the FTRA and section 15 of the CC's Code of Practice for accountants (see paras. 542, 544, 546 and 549 of the MER, amongst others). 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.
10. Record keeping	PC		•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.	The FTRA has been amended at section 27 to address these issues. 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. This provision has been removed from AML/CFT Guidelines and in all of the CC's Codes.
11. Unusual transactions	PC		•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. •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.	These requirements are addressed in the CBB's AML/CFT Guidelines as revised in 2009. The ICB conducts AML/CFT on-site inspections and training relative to its licensees on an annual basis. ICB issued industry specific Guidelines to address this issue. These requirements are covered in regulation 9 of the FTRR and section 16.3 of the CC's Codes for accountants and deals with continuous monitoring, and which is applicable to all financial institutions as defined in the FTRA. By the SCB's adoption of the CBB Guidelines, this issue has been addressed in respect of SCB Constituents. With the passage of the SIA, 2011, a rule is being developed to clarify the enforceability of the SCB's Guidelines. **To ensure that there is 'no' ambiguity as to the enforceability of the Commission's AML/CFT Rules specific to the securities sector. Draft Rules have been finalized and approved by the Commission's Board to be promulgated, have been signed off and approved by the Office of the Attorney-General and Ministry of Finance are awaiting only formal execution and promulgation to be given legal effect.** 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.

			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. Insurance companies supervised by the ICB are required to keep transaction records for at least five (5) years. This requirement is found in Part VII of the AML/CFT Guidelines.
12. DNFBP–R.5, 6, 8-11	PC	▪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.	The Bahamas will commence a thorough survey of this sector by year-end to fully ascertain the extent to which there may be any money laundering or terrorism financing risk. The recommendations formulated for financial institutions have been applied to DNFBPs. **The corresponding** obligations are outlined in the Commission's industry-specific Codes for all financial institutions supervised by the Commission. 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. The Financial Transactions Reporting (Amendment) Act, 2014 (Act No. 27 of 2014) provides that persons whose business consists of either "(i) buying for the purpose of trade sale, exchange, or otherwise dealing in any previously owned precious metals or precious stones, whether altering the same after acquisition or not; or (ii) lending of money on the security of previously owned precious metals or precious stones of which the person takes possession, but not ownership, in expectation of profit, gain or reward" are now deemed financial institutions and therefore subject to the obligations of financial institutions under the Act.
13. Suspicious transaction reporting	PC	▪ 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 2010 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 some of whom were Money Laundering Reporting Officers. 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. The Financial Intelligence Unit continues to provide AML/CFT training to financial institutions, both banking and non-banking as mandated by law. Between 2010 and September 2012, in addition to the AML/CFT training which was provided to over one hundred Internal Auditors, training was also provided to a money remittance/transfer company, over one hundred and seventy casino employees, employees of management companies and over forty real estate employees. Additionally the Financial Intelligence Unit trained over seventy Attorneys and their support staff in AML/CFT. A team of officers from the Financial Intelligence Unit is presently preparing to travel to the nation's second city Freeport, Grand Bahama, where training will be provided to the staff of a major insurance company. This training will also be offered to the insurance company's head office in New Providence. Between 2010 and September 2012 the FIU has trained one thousand, six hundred and fifty-six persons in AML/CFT. The Financial Intelligence Unit continues to work with the Compliance Commission of The Bahamas and other regulators and stake holders to ensure that it fulfills its commitment in the fight against money laundering and terrorism financing.

			The CC also held an AML training session for forty-four persons from several cooperatives in June 2012 during which the reporting of suspicious transactions was one of the main topics. For the period between November 2012 and August 2013, the FIU continues to provide AML/CFT training to the banking and non-banking sector. During this period the FIU have trained approximately eight hundred and seventy-five (875) persons. This number consists of persons from seven (7) trust companies, two (2) law firms, one (1) casino, six (6) investment/management companies, one (1) insurance company and one (1) commercial bank. Additionally the FIU participated in BACO (Bahamas Association of Compliance Officers) 8th Annual Northern Bahamas Conference and presented on the topic of suspicious transaction reporting. This conference included approximately thirty-five (35) compliance officers from the northern region of The Bahamas. The FIU also conducted a presentation on understanding the role of the FIU and determining what is a suspicious transaction to over fifty (50) accountants from various sectors, at the Compliance Commission's AML Workshop for Accountants. Further in this effort the FIU also agreed to conduct a seminar with the Cooperative Society. The participants in the seminar were conclusive of Board Members, senior managers and their staff, and supervisory staff. Finally the FIU was also a part of the Financial and Corporate Services Industry Briefing for its licensees where the FIU presented on Understanding AML and CFT. With such efforts the FIU is broadening its training scope with the hopes of educating persons in the banking and non-banking sector. To date the FIU has seen an increase in the number of STRs received and as of August 2013 the FIU has received one hundred and ninety-six (196) STRs, which number surpasses the number of STRs received for the year 2012. The FIU is working diligently to continue its training efforts to ensure that both the banking and non-banking sector receive equal training in order to assist institutions in implementing and maintaining effective suspicious transaction reporting regimes. **For the period September 2013 to July 2014 the FIU has continued with its mandate to provide AML/CFT training to all financial institutions that make a request for such training. During the stated period the FIU has trained 653 persons from 26 institutions. These institutions comprise banks and trust companies, law firms, commercial banks, corporate service providers and investment companies. In an effort to reach the wider public the FIU republished two of its Public Notices, advising the public at large that, (1) the FIU will facilitate, upon request, AML/CFT training at no cost to financial institutions and (2) that every financial institution has an obligation to report suspicious transactions to the FIU. Consequent to the publication of these notices the FIU has participated in an industry training seminar for MLROs of commercial banks, provided training for the first time ever to a major power company in Grand Bahama and major jewelry store chain. Additionally in a spirit of cooperation the FIU assisted the Gaming Board of The Bahamas by providing training on suspicious activity to its staff members. It is anticipated that the number of institutions trained in both the banking and non-banking sector will increase for 2014 as requests are steadily being submitted for training. With such efforts the FIU is showing its commitment to ensuring that both sectors receive adequate training to facilitate the implementation of an effective AML/CFT regime.** The FIU continues to carry out its training mandate to ensure that individuals from the non-banking and banking sectors are receiving adequate annual AML/CFT training. From July 2014 to December 2014 the FIU provided training for 19 institutions, which accounted for 601 persons trained. Accumulatively for the year 2014 the FIU provided training for 1031 persons from 41 financial institutions in both the banking and non-banking sector. The year 2014 was a record year for the FIU in relation to training as there was a substantial increase in the number of persons trained. The FIU will continue to advise persons in the banking and non-banking sector of the obligation to annually provide training for its employees. The FIU will also continue providing such training based on need and when requested by financial institutions.

			Please see table outlining training done by the FIU annexed to the Report.
14. Protection & no tipping-off	C		
15. Internal controls, compliance & audit	PC	▪Timely access to CDD information, transaction records and other relevant information should be extended to include both the compliance officer and other appropriate staff. ▪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.	The CBB AML/CFT Guidelines were revised in March, 2011 to address this issue (see paragraph 26). The CC provides clarification in section 18.7.4 of its Codes for accountants where in addition to the MLRO, Compliance Officers and other appropriate officers will have access to information. Similar provisions appear in all of the CC's other industry-specific Codes. • With the SCBs adoption of the CBB Guidelines, this issue has been addressed in respect of SCB constituents. • Revised draft Guidelines for Cooperatives **which address this issue** have been finalized and issued to the credit unión sector. The AML/CFT Handbook and Code of Practice for Credit Unions incorporates the requirements for internal controls, compliance and audit in sections 13.1.1, 14, 19.5, 20 and 21. **To ensure that there is 'no' ambiguity as to the enforceability of the Commission's AML/CFT Rules specific to the securities sector. Draft Rules have been finalized and approved by the Commission's Board to be promulgated, have been signed off and approved by the Office of the Attorney-General and Ministry of Finance are awaiting only formal execution and promulgation to be given legal effect.** 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. The CBB's AML/CFT Guidelines address this issue (see paragraph 22). In practice, Cooperatives external auditors report on compliance with AML/CFT requirements. Section 12.3 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. The CBB's AML/CFT Guidelines were amended in 2009 to address this issue. This requirement is covered in the Insurance Act, Chapter 347. See Section 207 of the Act. It is also covered in the External Insurance Act, Chapter 348. See Section 45 of the Act. ICB issued industry specific Guidelines to address this issue. This requirement is also addressed in Part II of the **CBB's** Guidelines. Sections 19.1 & 19.2 of the CC's Code include a requirement for screening procedures when hiring new employees.
16. DNFBP–R.13-15 & 21	PC	▪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.	Amendments to the FTRA, FI(TR)R and the CC's Codes have brought The Bahamas into full compliance with this recommendation Constituents of the CC, designated as financial institutions by Section 3 of the FTRA are required to comply with Recommendations 13, 15 and 21 in Sections 3.7.2; 3.8.2 and 3.6.2 of this Report.

			Constituents of the CC are obliged to comply with: • 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. 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 in-house as well, as part of their on-site examination exercise
17. Sanctions	PC	• The SC should have powers of sanction against a licensee or registrant who fails to comply with a directive. In addition, the process of applying sanctions requires simplification. • The IFCSP, Director of Societies and the ICB 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.	The provisions under the SIA, 1999 and the SIR, 2000 have been repealed and replaced with the passage of the SIA, 2011 and the SIR, 2012 which were brought into force on December 30, 2011 and January 9, 2012, respectively. The Commission's enforcement power to sanction a licensee or registrant who fails to comply with a directive is set out at Part XV of the SIA, 2011. The SIA 2011[5] and the SIR 2012 were both brought into force on the dates noted in the paragraph above. The Securities Commission of The Bahamas ("SCB" enforcement powers to sanction a licence or registrant who fails to comply with a directive of the Commission is set out at Part XV sections 132 to 141 of the SIA, 2011. A review of the relevant sections show a wide range of powers, which are all based on the protection of the 'public interest'. The sanctions are applicable to 'persons', which by definition at Section 4 of the SIA includes 'an individual, company, partnership, party, trust, fund, association and any other organized or incorporated group of persons, and the personal or other legal representative of any person to whom the context can apply'. The Examiners' recommendations have been met with regard to sanctioning powers of the SCB Section 88(2)(b) of the BUCCA authorizes the Inspector of Banks and Trust Companies to conduct on-site examinations and off-site supervision of the business affairs of each credit union for the purpose of satisfying himself that the provisions of, inter alia, the FTRA and the ATA or any other relevant Act are being complied with. Failure or refusal to comply with a request of the Inspector of Banks and Trust Companies or delaying or obstructing of his duties, and knowingly or intentionally supplying false or misleading information is an offence punishable on summary conviction by a maximum fine of two thousand dollars or imprisonment for a maximum term of one year, or to both such fine and imprisonment (section 88(b)). The Bank is revising its existing guidance on its ladder of supervisory intervention to include credit unions. Section 18A of the FCSPA as amended by the FCSPA (Amendment) Act 2008, increases the powers of the IFCSP. 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 External Insurance Act, Chapter 348, provides for the Commission to exercise such powers. The power to cancel registration is defined by the Statute. See Section 12 of the Act. The Insurance Act, Chapter 347 provides for such powers to cancel registration for non-compliance with the FTRA and accompanying regulations, and it governs all licensees. See Section 8 of the Act. Amendments to the Financial and Corporate Service Providers Act, which provide ladders of supervisory Intervention, were brought into force in January 2009.

5 The SIA 2011 replaced the Securities Industry Act, 1999 and the SIR 2012 replaced the Securities Industry Regulation 2000.

			The ICB has implemented its ladders of supervisory intervention guide which includes the imposition of administrative penalties. **Following the enactment of The Bahamas Co-operative Credit Unions Bill, 2014, the existing AML Guidelines for co-operative credit unions will be revised to further address ladders of supervisory intervention**
18. Shell banks	C		
19. Other forms of reporting	NC		The Group of Financial Services Regulators has prepared a report, the contents of which are under active consideration. **The report was forwarded to the CFATF and The Bahamas is now deemed to have complied with this recommendation (see The Bahamas 5th FUR, paragraph 14).**
20. Other NFBP & secure transaction techniques	C		
21. Special attention for higher risk countries	PC	▪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. ▪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.	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. The CBB Guidelines also require written findings of the examination of unusual activity to be kept (see paragraphs 209, 223 and 224). By the SCB's adoption of the CBB Guidelines, this issue has been addressed in respect of SCB's constituents. With the passage of the SIA, 2011, a rule is being developed to clarify the enforceability of the SCB's Guidelines. **To ensure that there is 'no' ambiguity as to the enforceability of the Commission's AML/CFT Rules specific to the securities sector. Draft Rules have been finalized and approved by the Commission's Board to be promulgated, have been signed off and approved by the Office of the Attorney-General and Ministry of Finance are awaiting only formal execution and promulgation to be given legal effect.** This requirement is covered in section 12.4 for financial institutions supervised by the CC. 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. The CBB AML/CFT Guidelines amended in 2009 address this issue. The ICB conducts AML/CFT on-site inspections and training relative to its licensees. With respect to FATF Rec. 19, ICB has developed industry specific Guidelines to address on-site inspections and training relative to its licensees. See Section 13 of Part V Client Identification/Verification Procedures of the ICB's Guidelines. The CC Code for accountants addresses this requirement at Part VI, section 17.6.2.1 (Recordkeeping Procedures), 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. 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.
22. Foreign branches & subsidiaries	PC	●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.	SCB has adopted the CBB's AML/CFT Guidelines which addresses issues raised with respect to FATF Rec. 22. **To ensure that there is 'no' ambiguity as to the enforceability of the Commission's AML/CFT Rules specific to the securities sector. Draft Rules have been finalized and approved by the Commission's Board to be promulgated, have been signed off and approved by the Office of the Attorney-General and Ministry of Finance are awaiting only formal execution and promulgation to be given legal effect.** The CC has addressed all of the stated 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. **The ICB conducts off-site analysis and onsite inspections relative to its Licensees which fall into the categories of foreign branches and subsidiaries. (Also see section 207, Insurance Act, Ch. 347 and section 45, External Insurance Act, Ch. 348.)** See the comment immediately above. See the comment immediately above. See the comment immediately above.
23. Regulation, supervision and monitoring	PC	●The SCB should implement a system whereby exemption of investment funds is granted on the basis of proven CDD by promoters.	The issue regarding staffing resources of the SCB is addressed at Recommendation 30. 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. The SCB has reviewed its legislation and has determined that there is no need to make any legislative amendment. **To ensure that there is 'no' ambiguity as to the enforceability of the Commission's AML/CFT Rules specific to the securities sector. Draft Rules have been finalized and approved by the Commission's Board to be promulgated, have been signed off and approved by the Office of the Attorney-General and Ministry of Finance are awaiting only formal execution and promulgation to be given legal effect.**

		●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. ●The ICB 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 on-going basis to seek the Registrar's Superintendent [6] 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 ICB 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 on-going supervision, including monitoring of natural and legal persons.	Section 88(2)(b) of the BUCCA authorizes the Inspector of Banks and Trust Companies to conduct on-site examinations and off-site supervision of the business affairs of each credit union for the purpose of satisfying himself that the provisions of, inter alia, the FTRA and the ATA or any other relevant Act are being complied with. The Insurance Act, Chapter, 347 provides for such powers in paragraph 20 of the First Schedule of the Act. Paragraph 20 authorizes the Commission to appoint officers and employees as the Commission considers necessary to assist with the execution of its functions. The 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 over ten percent (10%). Such information on the beneficial shareholders of a significant or controlling interest is currently required of applicants for FCSP licences. Section 4 (3) of the External Insurance Act, Chapter 348 defines fit and proper criteria. 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 supervision of the Central Bank were brought into force on 2nd May, 2008 and supporting regulations were brought into effect on 6th May, 2008. **As it relates to recruitment of staff, as of October 2015, the CC has recruited an additional examiner and two (2) other persons, increasing its staff complement from five persons in 2006 to eight (8) persons currently. The additional examiner is an attorney hired to work specifically on increasing the CC's enforcement capability. Further, we are presently reviewing all the processes and procedures in order to increase efficiency. These initiatives include, enabling online registration, exam submissions, upgrading the CC website and data base for gathering and analysing statistical information.** **The Insurance Commission has a staff complement of twenty-eight (28) persons.**
24. DNFBP - regulation, supervision and	PC	●Non-compliance with the FTRA should constitute grounds for revocation of a licence	The Lotteries and Gaming Act has been repealed and replaced by the enactment of the Gaming Act, 2014 (No. 40 of 2014). Further, non-compliance with the Financial Transactions Reporting Act constitutes grounds

[6] The Registrar is now referred to as the Superintendent. The Registrar of Insurance is now referred to as the Insurance Commission of The Bahamas.

monitoring		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.	for revocation of a licence as per section 37(1)(c)[7] of the Gaming Act, 2014 The Gaming Act, 2014 has provided for sanctions that are intended to be proportionate to the offence committed. Part VII of the Gaming Act, 2014; particularly sections 75-76 of the said Act, sets forth the various penalties which may be imposed by the court for offences committed in contravention of the Act, Rules, and Regulations. Thus the increase in penalties as per the Gaming Act, 2014 is intended to dissuade persons from committing an offence under the Act. 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. 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 **T**he Bahamas Real Estate Association (BREA). **Annual Declarations will be implemented by the Commission in conjunction with BREA.**
25. Guidelines & Feedback	LC	•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.	The FIU issued its Suspicious Transactions Guidelines Relating To The Prevention of Money Laundering and ~~T~~The Financing of Terrorism on 19th March 2007. The Guidelines replaced those issued by the FIU in November 2001. The March 2007 Guidelines indeed has a much narrower focus (i.e., relating exclusively to Suspicious Transactions and Suspicious Transactions Reporting) than the previous Guidelines and is consistent with the FIU's mandate as detailed in the Financial Intelligence Unit Act 2000. The FIU in 2013 initiated the process of revising the Suspicious Transaction and Reporting Guidelines for the FIU with the intention that the new guidelines would replace the guidelines produced in 2007. The guidelines as revised were sent to the relevant parties for consultation pursuant to s. 16 FIUA. Comments were received from the relevant parties during the consultation period and presently being considered by the FIU. Consequently, the revised guidelines are in draft form and a work in progress. The FIU intends that the guidelines will be finalized in 2016, sent out for final consultation with the expectation that it is released by late quarter of 2016. The CC's industry-specific Codes for DNFBP's came into force at first in 2002 and ~~has~~ have undergone revisions/amendments ~~throughout~~ over the years as deemed necessary
Institutional and other measures			
26. The FIU	C	•The FIU may wish to consider issuing a narrower set of guidelines, relating to suspicious	The FIU has duly considered the recommendation.

[7] 37.(1) The Board may at any time suspend for such period as the Board may determine or revoke in whole or in part any license from such date as the Board may determine, if— (c) the license holder has failed to comply with any provision of this Act, the Financial Transactions Reporting Act (Ch. 368), the Financial Transactions Reporting Regulations (Ch. 368), the Proceeds of Crime Act (Ch. 93) or any condition of the license and has not complied with such provision or condition within such period as the Board may allow after delivery of a written notice by the Board to the license holder requiring such failure to be remedied within a specified period.

			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 in 2013 initiated the process of revising the Suspicious Transaction and Reporting Guidelines for the FIU with the intention that the new guidelines would replace the guidelines produced in 2007. The guidelines as revised were sent to the relevant parties for consultation pursuant to s. 16 FIUA. Comments were received from the relevant parties during the consultation period and presently being considered by the FIU. Consequently, the revised guidelines are in draft form and a work in progress. The FIU intends that the guidelines will be finalized in 2016, sent out for final consultation with the expectation that it is released by late quarter of 2016.
27. Law enforcement authorities	C			
28. Powers of competent authorities	C			
29. Supervisors	PC		●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 SCB (now the SCB). ●The SCB (now the SCB) should have powers under the SIA similar to those at section 49(2) of the IFA, which allow for the appointment of an auditor to assist in examinations ●The SIA should include provisions for access by the SCB to information and imposition of an obligation on licensees and registrants to provide the SCB with any information required to fulfil its mandate. ●The issuance of rules by the SCB should be fully explored to facilitate enforcement of the guidelines; and both the SIA and the IFA amended to allow for action without a hearing. ●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	The provisions under the SIA, 1999 and the SIR, 2000 have been repealed and replaced with the passage of the SIA, 2011 and SIR, 2012 which were brought into force on December 30, 2011 and January 9, 2012, respectively. The Commission's general authority to access information, records or documents is set out at Part IV, sections 41 – 57 of the SIA, 2011. A review of the cited sections shows a comprehensive access to information, with section 43 providing powers to obtain information for investigation; section 46-power to require reports; section 50- provision of information re transactions; section 52-information about documents not in a person's possession; section 55- legal privilege with regard to document requests and section 57- offence of obstruction of investigations and inspections. The Examiners' recommendation has been met with regard to the powers of the SCB to access and compel information. The Commission's authority to access and share information with domestic and foreign regulatory authorities is provided at Part III, sections 34-40 of the SIA, 2011. Pursuant to section 58 of the SIA, 'no person shall carry on business as a marketplace or clearing facility in or from The Bahamas unless registered…' This meets the Examiners' recommendation that all financial institutions are at a minimum registered with the SCB; taking note of the fact that the provision addresses the activity and not the financial institution per se. The ability to allow for action without a hearing is provided for at Part XV of the SIA, 2011 which also captures registrants and licences under the IFA. It is important to note that provisions of the SIA, 2011 that apply generally to the Commission and to the supervision of the securities and capital markets in The Bahamas also applies to investment funds and their related parties[8]. These would include all of the provisions in Parts II [the Commission], III [Assistance to other Regulators], IV [Investigation and Inspections] and XV [Enforcement] of the SIA, 2011. In addition, most of Part XVII [General Provisions] and certain parts of Part XII [Market Misconduct] of the SIA, 2011 also apply to investment funds and other related parties.

[8] Paragraph 1 (e) of Part I of the First Schedule to the SIA, 2011 provides for investment and fund activities, including 'equity interest of investment funds' in the definition of securities in Part I of the First Schedule to the SIA.

			implemented. • The SIA should include provisions for access by the SCB to information, and imposition of an obligation on licensees and registrants to provide the SCB with any information required to fulfil its mandate. • The Director of Societies and the ICB (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 Central Bank of The Bahamas (Amendment) Act, 2015 (the CBBAA) came into force on June 1st, 2015 and empowers the Central Bank to require a credit union, by notice in writing, to provide the Bank with information or documents in such form and within such time as may be specified by the Bank, where such information or documents are in the opinion of the bank, necessary to enable the Bank to carry out its functions under the Central Bank of The Bahamas Act or any other law. The 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. ICB issued specific industry Guidelines relative to its licensees. Part XV of the SIA, 2011 has clarified the SCB's enforcement powers, Disciplinary Proceedings Rules have been developed and approved by the Board of the SCB and are under review by the OAG and the MOF. 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 procedures in place for the CC to make formal notification to regulatory bodies when powers of enforcement and sanctions are to be carried out. 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 This issue will be addressed through the enactment of The Bahamas Co-operative Credit Unions Bill, 2014 and through consequential amendments to the Central Bank of The Bahamas Act authorizing the Central Bank to regulate and supervise credit unions and to compel credit unions to provide the Central Bank with information which could, if necessary, be shared with overseas regulatory authorities Section 43 of the External Insurance Act, Chapter 348, gives the Commission powers to obtain information. 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 2014, nineteen (19) on-site examinations have been completed and two (2) are in progress. The SCB Guidelines have been amended and amendments to the FTRA, FIUA, FTRR and the FCSPA have addressed the enforceability issue. With the passage of the SIA, 2011, a rule is being developed to clarify the enforceability of the SC's Guidelines. The ability to allow for action without a hearing is provided for at Part XV of the SIA.

			This recommendation has now been fully complied with.
30. Resources, integrity and training	PC	• 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 on-going basis to ensure all necessary measures are being taken to speed up the administration of justice. • The DPP should seek to recruit additional staff especially at the senior level in order to strengthen the Criminal Division's capability.	The SCB's staff complement at the beginning of Jan. 2006 was 38 employees. As at 1st July, 2012 the staff complement has grown to 57 employees, 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, BREA 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. Additionally, in April 2011 the CC transferred AML oversight of financial and corporate service providers (FCSPs) to the Inspector of FCSPs. Similarly, in April 2011 the CC transferred AML oversight of the insurance sector to the ICB. Hence, the present staff complement of the CC is adequate. The staff complement of the SCB as at June 2014 was approximately 70 employees. Mr. Stephen Thompson, Inspector of the Compliance Commission, has been recently appointed as the National Anti-Money Laundering Coordinator by The Bahamas Government. Mr. Thompson has been an integral part of the National Anti-Money Laundering Task Force and has served within the financial services regulatory framework since 2001 and is fully aware of the local, regional and international AML/CFT initiatives. He has also participated in the work of CFATF and FATF and served as assessor for the CFATF on two occasions. He will be responsible for among other things, monitoring The Bahamas' level of compliance with regional and international AML/CFT standards, ensuring adequate preparation of The Bahamas for all regional and international AML/CFT assessments, and creating and maintaining a robust AML/CFT public relations and training programme. The DPP through the OAG has undertaken a review in respect of all outstanding cases on its calendar to determine their 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 on-going. Additionally, the DPP through the OAG 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 DPP through the OAG 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 current financial budget has made provision for the addition of eighteen attorneys-at-law for the Office of the Attorney-General. There is an on-going 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 OAG Criminal Division. Subsequently an additional eight (8) attorneys have recently joined the OAG on the criminal side. The complement of staff has been maintained and there is an intention to further supplement. The Insurance Act, Chapter 347, gave the Commission operational independence and the powers of the ICB

			were expanded. On 1 January, 2008 the SCB was appointed IFCSP and became responsible for administration of the FCSPA of 2000. In relation to the IFCSP, greater autonomy was achieved upon the appointment of the SCB, as the responsibility for the administration of the FCSPA no longer rests with a government agency. The 2008 amendments to the FCSPA, which was brought into effect on February 12, 2009, among other things, empowers the Inspector as regulator to issue rules, guidelines and directives (section 11 of the FCSPA) and grants the Inspector wide powers to impose sanctions, including fines, on offending institutions (section 18 A). Moreover, any further issues related to autonomy can be addressed once a complete review of the provisions of the FCSPA has been concluded. The review exercise is still in progress. Based on the affirmation the Examiners' recommendation in this regard has been met and recommendation 30 has now been fully complied with.
31. National cooperation	C		
32. Statistics	PC	▪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.	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 were made to the CBA and the BTCRA which came into force on 2nd January, 2007 in relation to information sharing. Amendments in this regard were also made to the SIA 1999 and the IFA in 2007. The amendments to the SIA 1999 are incorporated in the current SIA, 2011. Under the leadership of the Minister of State for Finance, the National Task Force on AML/CFT was convened in 2009. 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. The work of the Task Force continues under new leadership of the Attorney-General, the Minister of Financial Services and the Minister of State for Finance and meets each month.
33. Legal persons–beneficial owners	LC	▪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.	These matters are addressed in amendments to the FTRR, which were brought into force in January 2009. The Gaming Act, 2014, section 51 indicates that all persons who propose to procure a financial interest of 5 per centum or more in any license holder; must submit to the Board and application for approval and a certificate of suitability to hold such interest. As a result, no person can acquire a significant financial interest in any gaming license holder without having received the prior approval of the Board.

34. Legal arrangements – beneficial owners	LC	▪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.	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. 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.
International Cooperation			
35. Conventions	PC	▪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. ▪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.	The Procedures Manual now contains the procedure for requests for information relating to suspected terrorism offences 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. 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. The Bahamas ratified the United Nations Convention against Transnational Organized Crime (the Palermo Convention) on 26th September, 2008. ~~A review of the Penal Code is scheduled to take place shortly.~~(Please see comments at Recommendation 1).
36. Mutual legal assistance (MLA)	C	▪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.	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. 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.
37. Dual criminality	C		
38. MLA on confiscation and freezing	LC		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		

40. Other forms of co-operation.	LC	▪The ICB 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.	Sections 41(c) and 43 of the External Insurance Act, Chapter 348, gives the Commission powers to obtain information. The Commission also has the power to cooperate with foreign counterparts under Section 47. The Central Bank of The Bahamas (Amendment) Act, 2015 (the CBBAA) came into force on June 1st, 2015 and empowers the Central Bank to require a credit union, by notice in writing, to provide the Bank with information or documents in such form and within such time as may be specified by the Bank, where such information or documents are, in the opinion of the Bank, necessary to enable the Bank to carry out its functions under the Central Bank of The Bahamas Act or any other law. The CBBAA's revised definition of "financial institution" together with the provisions of section 38(3) – (7) of the principal Act, empower the Central Bank to share information relating to credit unions, with foreign regulatory authorities . The provisions under the SIA, 1999 and the SIR, 2000 have been repealed and replaced with the passage of the SIA, 2011 and SIR, 2012 which were brought into force on December 30, 2011 and January 9, 2012, respectively. The SCB's general authority to access information, records or documents is set out at Part IV of the SIA, 2011. The SCB's authority to access and share information with domestic and foreign regulatory authorities is provided at Part III of the SIA, 2011.
9 Special Recommendations			
SR.I Implement UN instruments	PC	▪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. **The ATA (Amendment), 2015 has been passed and brought into force on 4 November, 2015.**
SR.II Criminalize terrorist financing	LC	▪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.	The Special Anti-Terrorism Unit was established on 7th August, 2007 and is led by a Detective Assistant. 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. See response above.
SR.III Freeze and confiscate terrorist assets	PC	▪SR. III (E.C. III.2) requires that countries should have procedures to examine and give effect to actions initiated in other countries	**The amendment to section 4 of the ATA which addresses the requirement for UNSCR 1267 for the listing of entities and application for a freezing order is currently being debated in the House of Assembly.** The Anti-Terrorism (Amendment) Act, 2008 (Act No. 24 of 2008) amends section 9 of the Anti-Terrorism

			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 should be considered. • 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(6) 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.	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. 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. The Anti-Terrorism (Amendment) Act, (No. 1 of 2014), section 2 inserts the pertinent definition of the Palermo Convention into the Act. Section 3 of the Act now includes reference to a "terrorist entity". Section 3 is further amended to make it an offence for a terrorist entity acting with a common purpose in or outside of The Bahamas to commit the offence of terrorism, participate as an accomplice in the offence of terrorism or the financing of terrorism or contribute to the commission of the offence of terrorism or the financing of terrorism by a group of persons acting with a common purpose. Where on the commission and conviction of such offences, death ensues, the penalty for such acts are death or imprisonment for life. Section 9 (6) of the Act now extends the maximum period (i.e. from eighteen months to two years) in which the Court shall grant a freezing order. The Special Anti-Terrorism Unit was established on 7th August, 2007 and is led by a Detective Assistant. **The ATA (Amendment), 2015 has been passed and brought into force on 4 November, 2015.**
SR.IV Suspicious transaction reporting	C			
SR.V International cooperation	LC		• The legislation for the SCB should be fast tracked to allow for stronger information gathering powers. The SCB may also wish to establish MOUs for the sharing of information with overseas counterparts.	The SCB 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 finalize this process and on June 14, 2012 submitted a re-application to become a Signatory A to the IOSCO MMOU. The SCB signed on Appendix A of the IOSCO MMOU in December 2012.
SR.VI AML requirements for money and value transfer services	LC		• 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	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.

		amendments to the legal framework as soon as possible to bring about full compliance with SR VI.	
SR.VII Wire transfer rules	NC	▪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 Non-profit organizations	PC	▪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.	**A GFSR report containing recommendations for enhancing AML/CFT compliance of the non-profit sector and oversight of that sector was forwarded to Cabinet, which invited AG to cause a further comprehensive review and assessment of the recommendations and report back to Cabinet with legislation.** **The Companies (Non-Profit Organisations) Regulations, S. I. 47 of 2014 was passed in Parliament on 6th August, 2014.**
SR.IX Cash Couriers	PC	▪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.	The Ministry of Finance has accepted the GFSR's recommendations on measures for the implementation of SR IX and has requested that the GFSR provide draft legislation to give effect to its recommendations. A Legal Sub-committee of the GFSR has commenced work on preparing the draft legislation. 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. **A GFSR report on legislative requirements necessary to facilitate compliance with SR IX was forwarded to Cabinet, which invited AG to cause a further comprehensive review and assessment of the recommendations and report back to Cabinet with legislation.** **The Travellers Currency Declaration Act, 2015 was passed in Parliament on 7 August, 2015. The Act provides for a written declaration system for all travellers carrying cash or negotiable instruments of a value equivalent to BS$10,000 or more and an oral declaration system for all travelers. Section 3 of the Act provides that every person entering or leaving The Bahamas with cash or negotiable instruments of a value equivalent to BS$ 10,000 or more is mandated to declare the same to the proper officer; answer any questions the officer may put to him in respect of his baggage and anything contained therein and, if required by the officer, produce the baggage and any such thing for examination. Section 4 of the Act states that where a proper officer has reasonable grounds to suspect that any person entering or leaving The Bahamas has in his possession cash or negotiable instruments of a value equivalent to BS$10,000 or more that he has failed to declare, the officer may exercise his discretion and powers conferred pursuant to the Customs Management Act, 2011.**

			Section 5 of the Act provides that any person who makes a false declaration or incorrect in any material particular; fails to declare as required by the Act; where required by the Act, refuses to answer any question that is lawfully put to him by the proper officer, or makes any statement which is false or incorrect in any material particular in reply; fails to produce baggage or anything for examination commits an offence and is liable to summary conviction. The penalty for which is a fine not exceeding $2,000 or to imprisonment to a term not exceeding two years or to both fine and imprisonment. **The FIU presently has access to the Customs Department database. Selected managers in the FIU have been trained to use the system which allows the FIU to have access to all information stored in the database.**