

FINAL



Fifth Follow-Up Report

The Bahamas

October 12, 2012

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THE BAHAMAS: FIFTH FOLLOW-UP REPORT

I. Introduction

1. This report represents The Bahamas' fifth follow-up report and is an analysis of The Bahamas' report back to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The third round Mutual Evaluation Report of the Bahamas was adopted by the CFATF Council of Ministers in November 2007 in Costa Rica. At the Plenary/Council Meeting in the Venezuela, (November 2011), The Bahamas was asked to report on its progress at November 2012 Plenary/Council Meeting. Based on the review of actions taken by The Bahamas to meet the recommendations made by the Examiners a recommendation would be made as to whether The Bahamas would remain in regular follow-up.
2. The Bahamas received ratings of PC or NC on eight (8) of the sixteen (16) Core and Key Recommendations as follows:

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

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

Partially Compliant (PC)

- 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. 15 (Internal controls, compliance & audit)
- R. 24 (DNFBPs regulation, supervision and monitoring)
- R. 29 (Supervisors)
- R. 30 (Resources, integrity and training)
- R. 32 (Statistics)
- SR. VIII (Non-profit organisations)
- SR. IX (Cash courriers)

Non-Compliant (NC)

- R. 7 (Correspondent banking)
- R. 19 (Other forms of reporting)
- SR. VII (Wire transfer rules)

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

Size and integration of the jurisdiction's financial sector

		Total Banks & Trust Companies (as at December, 2011)	Other Credit Institutions*	Securities (as at December, 2011)	Insurance	TOTAL
Number of institutions	Total #	113 ¹	10	843 ²	36 ³	1002
Assets	US\$ (in billions)	630.8 ⁴	0.274	AUM = \$45.6B ⁵ AUC = 5.3B ⁶	1.97 billion	683.94
Deposits	Total: US\$ (in billions)	536.1 ⁷	0.068	n/a	n/a	536.17
	% Non-resident	98% ⁸	n/a	n/a	n/a	
International Links	% Foreign-owned:	94%	n/a	88% ⁹	80% ¹⁰	
	#Subsidiaries abroad	17 ¹¹	n/a	Not collected	0	

II. Summary of progress made by The Bahamas

5. Since the fourth follow-up report, The Bahamas has enacted 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.

Core Recommendations¹²

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

² Out of this figure, 713 represent investment funds.

³ Following re-registration under the Insurance Act in 2011 a number of companies mainly branches chose not to re-register. These Companies were inactive and had not written business in The Bahamas for more than five (5) years. Most of these companies did not have outstanding liabilities in The Bahamas. In addition to the 36 insurance companies, there are 91 intermediaries.

⁴ Approximately \$83.4 billion represent domestic banks' foreign assets. This figure does not include investment funds which assets amount to \$86.8B.

⁵ 59/130 (45%) entities provided AUM (Assets under Management) data.

⁶ 45/130 (35%) entities provided AUC (Assets under Custody) data.

⁷ Approximately \$43.7 billion represent domestic banks' US\$ deposits.

⁸ Estimate due to uncertainty of US\$ deposits attributed to residents.

⁹ 114/130 are non-Bahamian owned. This figure does not comprise investment funds; 15% of which are foreign owned (104/713).

¹⁰ Out of the 36 insurance companies, twenty-two (22) of them are local insurers and fourteen (14) are external insurers. Of the 22 local insurers who can write Bahamian risk, 15 of these are foreign owned. However, the Bahamian owned insurers account for about 77% of the local market. There are 14 insurers who only write international risk and these are all foreign owned entities, including captive insurers.

¹¹ Included in this figure are 4 overseas branches.

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

Recommendation 1

6. With regard to the Examiners' recommendation pertaining to the implementation of the provisions of the Palermo Convention, the Authorities have indicated that the Office of the Attorney-General has drafted a Cabinet Paper on the implementation of the provisions of the Palermo Convention into Bahamian legislative framework. The Examiners' recommendation is still outstanding.

Recommendation 5

7. Based on the analysis from the previous follow-up report, the only outstanding recommendation deals with the documentation of the basis for the application of reduced or simplified CDD measures for the designated customers and financial institutions that are not yet covered, and the requirement to consider making an STR where it is unable to comply with CDD measures as it pertains to cooperatives. The Authorities have noted that cooperatives fall within the AML supervisory scope of the Compliance Commission (CC) and are accordingly obliged to comply with the requirements of the CC's Code of Practice for the accounting profession. While it is agreed that cooperatives fall under the purview of the CC, it is not accepted that the Code of Practice for the accounting profession is applicable to cooperatives and accordingly, the recommendations remain partially met to the extent that there are not similar written provisions that are applicable to cooperatives. The Department of Co-operative Development is finalizing its Code of Practice for cooperatives which replicates those produced by the CC and comprises all of the applicable requirements of Recommendation 5. This document should be completed by the end of October, 2012.

Recommendations 13

8. 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.

Key Recommendations

Recommendation 23

9. With regard to the Examiners' recommendation that the Director of Societies should include responsibility for ensuring that licensees and registrants comply with the FTRA, the Authorities have noted that pursuant to Section 3(c) of the FTRA, cooperatives are defined as financial institutions and are therefore required to comply with all the AML/CFT provisions of the FTRA under the supervision of the CC. The Authorities as noted above contend that the Code of Practice for accountants satisfies the request for cooperatives. The Code of Practice for Cooperatives as noted above should be completed by October 2012. Accordingly, the Examiners' recommendation remains outstanding to the extent that there is no written Code of Practice for cooperatives.

Recommendation 35

10. There has still been no change from the previous Report with regard to compliance with this Core Recommendation.

Special Recommendation III

11. There has still been no change from the previous Report with regard to compliance with this Core Recommendation since no further amendments have been made to the Anti-Terrorism Act (ATA). Accordingly, all of the Examiners' recommendations as they pertain to the ATA remain outstanding.

Other Recommendations

Recommendation 15

12. The status of this Recommendation remains unchanged. The Authorities still note that the Code of Practice for the accounting profession is being incorporated in the Code of Practice for the cooperatives. Please see discussion above on R. 5 at paragraph 7. Accordingly, the Examiners' recommendations with regard to an adequately resourced and independent audit function are still outstanding as it pertains to cooperatives.

Recommendation 17

13. The Authorities have noted that the SIA 2011¹³ and the SIR 2012 which were both brought into force on the dates noted above in paragraph 5. The Securities Commission of The Bahamas' ("SCB" also referenced in the document as "SC") 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 SC (now the SCB). With regard to ladders of supervisory intervention, the Authorities have indicated that the ICB is in the process of developing its ladders of supervisory intervention. With

¹³ The SIA 2011 replaced the Securities Industry Act, 1999 and the SIR 2012 replaced the Securities Industry Regulation 2000.

regard to cooperatives which had not been dealt with in the previous report, the Authorities have noted that amendment to the Cooperative Societies Act, 2005 will address the issue of enhancement of the administrative powers against Societies, their board of directors and officers for failure to comply with AML/CFT requirements. The amendments shall be incorporated in the proposed new regulations for credit unions. There has also been no update provided with regard to the Authorities proposal to address the Examiners' recommendation for non-compliance with the FTRA through administrative penalties as noted in the Second FUR. Based on the aforementioned, there are still outstanding issues and so the Examiners' recommendations have not been fully met.

Recommendation 19

14. The Bahamian Authorities have provided a report on the issue of a fixed threshold currency reporting system. Accordingly, this Recommendation has been met

Recommendation 21

15. The only outstanding recommendation from the previous report pertained to the issue of having the written findings of the examinations of transactions with persons from or in countries who do not or insufficiently apply the FATF Recommendations and that have no apparent or visible lawful purpose available to assist competent authorities. While this measure is applicable to the entities regulated by the CBB and the SC (now SCB) and most of the CC, there is no provision at this time for cooperatives. See. Discussion above at R. 5, paragraph 7. There is now partial compliance with this outstanding recommendation.

Recommendation 24

16. The status of this Recommendation remains the same as was noted in the previous Report, with three of the four recommendations made by the Examiners remaining outstanding.

Recommendations 29

17. The Authorities have indicated that with regard to compliance with this Recommendation that the SCB's general authority to access information, records or documents is set out at Part IV section 41 to 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 persons 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 SC (now the SCB) to access and compel information. The SCB's authority to access and share information with domestic and foreign regulatory authorities is provided at Part III sections 34 to 40 of the SIA, 2011. Also note that 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 SC (now SCB); taking note of the fact that the provision addresses the activity and not the financial institution per se. The Authorities

have indicated that the ability to allow for action without a hearing is provided for at Part XV sections 132 to 141 of the SIA, 2011 which also captures registrants and licensees 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 parties¹⁴. 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. Based on the aforementioned, R. 29 has been fully complied with.

Recommendation 30

18. The outstanding issue for this Recommendation pertains to the Examiners' recommendation that greater autonomy be given to the IFCSP. On 1 January, 2008 the SCB was appointed IFCSP and became responsible for administration of the Financial and Corporate Services Providers Act ("FCSPA"). 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 rest 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 18A). 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 aforementioned, the Examiners' recommendation in this regard has been met and R. 30 ahs now been fully complied with. It is expected however that updates will be provided based on the outcome of the review exercise that is still ongoing.

Recommendation 32

19. Based on the information presented, The Examiners' recommendation with regard to the reporting of international wire transfer transactions and the collection, recording and analysis of the information obtained remains outstanding. As an update, the Authorities have noted that the Task Force¹⁵ that was established in 2009 continues to meet on a regular basis (monthly).

¹⁴Paragraph 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; Adding a definition of 'securities laws' that includes both the SIA and the IFA; Replacing most of the references to 'the Act' with reference to 'securities laws'; and Adding specific interpretation or application provisions to various Parts or sections to extend their application to the appropriate entities in the investment fund industry.

¹⁵ The Task Force comprises representatives from all financial services regulatory bodies, the Ministry of Finance, the Office of the Attorney-General, the Financial Intelligence Unit, the Royal Bahamas Police Force and the Department of Customs. The primary mandate of the Task Force is to serve as an oversight body ensuring effective implementing of all national anti-money laundering measures. Additionally, the Task force will be responsible for addressing all concerns and recommendations from regional and international bodies such as the Caribbean Financial Action Task Force, the International Monetary Fund, the Organization for Economic Cooperation & Development and others.

Special Recommendation VIII

20. With regard to the NPOs, the Authorities have noted that a subcommittee of the Group of Financial Service Regulators (GFSR) is updating the data previously obtained on the size and composition of the Non-Profit Organization (NPO) sector with a view to completing the report on measures required to enhance the supervision of the sector. The Examiners' recommendations have not been met.

Special Recommendation IX

21. The report of the GFSR which was noted as being under review by the Ministry of Finance in the fourth FUR has been accepted by the Ministry of Finance with regard to implementation measures for SR. IX. In this regard, the Ministry has requested that the GFSR provide draft legislation to give effect to its recommendations. A legal subcommittee of the GFSR has commenced work on preparing the draft legislation. There has been no additional update with regard to the border entry form for incoming passengers or the issue of collecting, collating and analysing declarations of cross border transportation of cash or negotiable instruments. Accordingly, the Examiners' recommendations with regard to SR. IX remain outstanding.

III. Conclusion

22. The Bahamas has made progress with the enactment of the SIA and SIR as noted above and accordingly, achieved full compliance with R. 29 and substantial compliance with R. 17. The Bahamas has also achieved full compliance with R. 19 and 30. As noted in the previous follow-up report, the outstanding Core recommendations are still Recs. 1 and 5 as they pertain to the implementation of the Palermo Convention and the applicability of certain CDD provisions to Cooperatives respectively. With regard to the Key recommendations Recs. 23, 35 and SR. III are still outstanding. Other outstanding recommendations include Recommendations 15, 16, 17, 21, 24, 32, SR. VIII and SR. IX.
23. Based on the aforementioned, it is recommended that The Bahamas remain on regular follow-up and be required to report back to the Plenary at the November Plenary meeting in 2013, at which point in time it will be expected that The Bahamas would have complied with all of its outstanding Core and Key Recommendations and a significant number of its other Recommendations.

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
The Bahamas (November 2012 Plenary/Council Meeting)**

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

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
The Bahamas (November 2012 Plenary/Council Meeting)**

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

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
The Bahamas (November 2012 Plenary/Council Meeting)**

Time FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by The Bahamas
		<p>The CBB cannot share information with the IFCSF or the CC.</p>	<p>ability of the regulatory bodies to share information on a domestic basis as pointed out.</p> <ul style="list-style-type: none"> • The new SIA should be finalized as soon as possible to allow the SC powers to compel information, and to share information with the FIU and the SIR should be amended to grant the SC powers to access bank accounts without a court order. • 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 duties. The Director should reserve the right to inspect a Society on the basis of all applications received from members. 	<p>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.</p> <p>This requirement has been removed from the External Insurance Act, Chapter 348.</p> <p>A provision for information exchange has been provided for in the draft Cooperative Societies Regulations in regulation 21(3) which provides “Every society shall comply with the Anti-Money Laundering legislative framework including the Proceeds of Crime Act, the Anti-Terrorism Act, and the Financial Intelligence Unit Act.” Sections 88 and 89 of the COSA give the Director of Societies the power to access accounts and other documents. (Note that the reference to Section 74 of COSA is incorrect.) . The draft regulations are under review by the Government.</p>

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
The Bahamas (November 2012 Plenary/Council Meeting)**

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

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
The Bahamas (November 2012 Plenary/Council Meeting)**

Time FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by The Bahamas
		<p>The exemption for insurance from full CDD measures is not limited to life insurance policies with an annual premium of no more than \$1,000 or a single premium of no more than \$2,500.</p> <p>Bahamian dollar facilities below \$15,000 are exempt from full CDD measures.</p>	<ul style="list-style-type: none"> • The basis for the application of any reduced or simplified CDD measures for designated customers should be formally documented by the Authorities. • Regulations 4 and 5 of the FTRR concerning the verification of the identity of legal persons should be amended to require minimum mandatory requirements as in Regulation 3 rather than permitting discretion for all requirements. • The requirement for financial institutions to understand the ownership and control structure of legal persons or legal arrangements should be enforceable on all financial institutions. • Financial institutions should be required to ensure that documents, data or information collected under the CDD process are kept up-to-date. 	<p>This requirement is addressed in the CC's Codes. This has been the basis of continuous training since January 2004 and has been incorporated into updated CC Codes of Practice. Constituents of the CC are required to submit their methodology and procedures in relation to this along with their on-site examination, so that the appropriateness of risk categorization can be assessed. This instruction is contained on the on-site examination form. The CBB's AML/CFT Guidelines were revised in March, 2011 to specifically include this requirement at paragraph 138.</p> <p>See responses above with respect to amendment of the FTRR.</p> <p>This obligation is found in Regulation 7A of the FTRR and again is enforceable through the mechanism created under Regulation 8 of the FI(TR)R. Specifically in relation to 5.5.2 (b), these requirements are set out in section 14.3 of the CC's Codes for the accounting profession. Similar provisions appear in all of the CC's other industry-specific Codes. Any failure to follow the direction set out in the Codes is dealt with under the sanctions regime established under Regulation 8 of the FI(TR)R.</p> <p>Amendments to the FTRA, FIUA and FI(TR)R, which were brought into force in January 2009, imposed penalties for non-compliance with financial sector AML/CFT guidelines including the CC's Codes of Practice.</p> <p>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.</p>

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
The Bahamas (November 2012 Plenary/Council Meeting)**

Time FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by The Bahamas
			<ul style="list-style-type: none"> <li data-bbox="982 451 1419 573">• 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. <li data-bbox="982 902 1419 997">• 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. <li data-bbox="982 1036 1419 1105">• Bahamian dollar facilities below \$15,000 should not be exempted from full CDD measures. <li data-bbox="982 1263 1419 1357">• All financial institutions except those already covered should be required to consider making a STR if it is unable to comply with CDD measures. 	<p data-bbox="1444 345 1915 394">This is also addressed in the CBB AML/CFT Guidelines at paragraph 42.</p> <p data-bbox="1444 418 1915 711">This requirement is met through the implementation of the amendments to the FTRA and the FTRR, which were passed in 2003 and have been incorporated in CC's updated Codes (in section 13.3.4-6 of the Codes for the accounting profession). Similar provisions appear in all of the other industry-specific Codes. These amendments introduced a risk based approach for CDD which includes enhanced due diligence for high risk clients/ products and simplified due diligence for low risk clients/ products. This is applied to all constituents of the CC, and communicated during all training sessions.</p> <p data-bbox="1444 813 1915 857">No action to be taken as the money laundering risk on \$2,500 is negligible.</p> <p data-bbox="1444 935 1915 1125">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.</p> <p data-bbox="1444 1154 1915 1248">This matter was addressed in the CC's updated Codes, (in section 14.8.1 of the Codes for the accounting profession). Similar provisions appear in all of the other industry-specific Codes.</p> <p data-bbox="1444 1278 1915 1321">The CBB's AML/CFT Guidelines were revised in March, 2011 to address this point (see paragraph 44).</p> <p data-bbox="1444 1351 1915 1367">•Revised draft Guidelines for Cooperatives have been</p>

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				prepared and are under review.

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6. Politically exposed persons	PC	<p>Enforceable requirements concerning PEPs are applicable only to banks and trust companies at present.</p> <p>No requirement for senior management approval to continue a relationship with a customer who is subsequently found to be a PEP or who subsequently becomes a PEP.</p>	<ul style="list-style-type: none"> • The requirements concerning PEPs detailed in the CBB AML/CFT Guidelines should be imposed on all other financial institutions. • Senior management approval should be required to continue a relationship with a customer who is subsequently found to be a PEP or who subsequently becomes a PEP. 	<p>By the SC's adoption of the CBB Guidelines, the issues raised with respect to FATF rec. 6 have now been addressed in the SC's Guidelines.</p> <p>With the passage of the SIA, 2011, a rule is being developed to clarify the enforceability of the SC's Guidelines.</p> <p>These requirements are addressed in the CBB's AML/CFT Guidelines revised in 2009.</p> <p>As a part of its on-site examination process, the CC examines whether all necessary procedures relative to PEPs are being adhered to by its constituent financial institutions. Requirements for PEPs have also been incorporated into the CC's training material. The relevant provisions are found in Section 13.3.4-5 of Sub-Part VI of the Codes for the accounting profession under the subject 'High Risk Characteristics'. Similar provisions appear in all of the other industry-specific Codes for DNFBBs regulated by the CC, including the legal profession, the real estate industry and financial and corporate service providers.</p> <p>Amendments of the FTRA, FIUA and FI(TR)R, which were brought into force in January 2009, have imposed penalties for non-compliance with financial sector AML/CFT guidelines including the CC's Codes.</p> <p>The relevant provision which addresses this requirement is found in Section 13.3.4-6 (b)(2) of Sub-Part VI of the Codes for the accounting profession. Similar provisions appear in all of the other industry-specific Codes, for DNFBBs 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 DNFBB.</p>
7. Correspondent banking	NC	<p>No requirement to determine the reputation of a respondent and the quality of supervision.</p> <p>Assessment of a respondent AML/CFT controls is limited to identification procedures.</p>	<ul style="list-style-type: none"> • Financial institutions should be required to gather sufficient information about a respondent institution to understand fully the nature of the respondent's business, the 	<p>These requirements were addressed in the 2009 revisions to the CBB's AML/CFT Guidelines.</p> <p>By the SC's adoption of the CBB Guidelines, this issue has been addressed in respect of SC constituents.</p>

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		<p>No provision to obtain senior management approval before establishing new correspondent relationships.</p> <p>No provision to document respective AML/CFT responsibilities in correspondent relationships.</p> <p>No requirement for financial institutions with correspondent relationships involving “payable-through accounts” to be satisfied that the respondent financial institution has performed all normal CDD obligations on its customers that have access to the accounts.</p> <p>No requirement for the financial institution to be satisfied that the respondent institution can provide reliable customer identification data upon request.</p>	<p>reputation of the institution and the quality of supervision.</p> <ul style="list-style-type: none"> • Financial institutions should assess the respondent institution’s AML/CFT controls and ascertain their adequacy and effectiveness. • Financial institutions should be required to obtain approval from senior management before establishing new correspondent relationships. • Financial institutions should document respective AML/CFT responsibilities in correspondent banking relationships. • Financial institution with correspondent relationships involving “payable-through accounts” should be required to be satisfied that the respondent financial institution has performed all normal CDD obligations on its customers that have access to the accounts and that the respondent institution can provide reliable customer identification data upon request. 	<p>With the passage of the SIA, 2011, a rule is being developed to clarify the enforceability of the SC’s Guidelines.</p>

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8. New technologies & non face-to-face business	PC	<p>No provision for financial institutions to have in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes.</p> <p>Legislative provision for non-face to face transactions does not include ongoing due diligence.</p> <p>Requirements in the CBB AML/CFT Guidelines extend specifically to non-resident customers and are only enforceable for banks and trust companies.</p>	<ul style="list-style-type: none"> • Financial institutions should have in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes. • Requirements for policies and procedures to address specific risks associated with non-face to face business relationships and transactions should include ongoing due diligence and should be enforceable on all financial institutions. 	<p>These requirements have been met by the 2009 amendments to the CBB's AML/CFT Guidelines.</p> <p>The CC's Codes for accountants includes this requirement in section 13.3.4-5 (b) of Part VI. This requirement is replicated in the CC's other Codes.</p> <p>The CC's Codes for the accounting profession has been amended at Section 13.3.4-5 (a)(ii) of Sub-Part VI to strengthen the provisions for effective CDD procedures when dealing with non-face-to-face customers. There is a similar provision in all of the CC's other industry-specific Codes.</p>
9. Third parties and introducers	PC	<p>No requirement for all financial institutions relying on a third party to immediately obtain from the third party the necessary information concerning elements of the CDD process covering identification and verification of customers and beneficial owners and purpose and intended nature of the business relationship.</p> <p>Only banks and trust companies are required to obtain identification documentation from third parties.</p> <p>No provision requiring financial institutions to satisfy themselves that the third party is regulated and supervised (in accordance with Recommendation 23, 24 and 29) and has measures in place to comply with the CDD requirements set out in Recommendations 5 and 10.</p> <p>The ultimate responsibility for customer identification and verification when relying on third parties is only enforceable on banks and trust companies.</p>	<ul style="list-style-type: none"> • All financial institutions relying on a third party should be required to immediately obtain from the third party the necessary information concerning elements of the CDD process covering identification and verification of customers and beneficial owners and purpose and intended nature of the business relationship. • The present requirement for banks and trust companies to obtain copies of all documentation from third parties should be extended to all financial institutions. • Financial institutions should be required to satisfy themselves that the third party is regulated and supervised (in accordance with Recommendations 23, 24 and 29) and has measures in place to comply with the CDD requirements set out in Recommendations 5 and 10. • All financial institutions relying on third parties should be ultimately responsible for customer identification and 	<p>These requirements have been met by the 2009 amendments to the CBB's AML/CFT Guidelines.</p> <p>By the SC's adoption of the CBB Guidelines, this issue has been addressed in respect of SC constituents. With the passage of the SIA, 2011, a rule is being developed to clarify the enforceability of the SC's Guidelines.</p> <p>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).</p> <p>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).</p> <p>Paragraph 546 of the MER acknowledges that Section 15.1 of the CC's Codes for accountants stipulates that the primary duty to verify identity using best evidence</p>

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			verification.	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	<p>Termination of the obligation to retain transaction records when corporate financial institutions are liquidated and finally dissolved or where financial institutions that are partnerships have been dissolved.</p> <p>Inclusion of the commencement of proceedings to recover debts payable on insolvency as a definition of termination of an account.</p>	<ul style="list-style-type: none"> The legislative provision for the cessation of the obligation to retain transaction records when corporate financial institutions are liquidated and finally dissolved or where financial institutions that were partnerships have been dissolved should be repealed. The inclusion of the commencement of proceedings to recover debts payable on insolvency as a definition of termination of an account should be eliminated. 	<p>The FTRA has been amended at section 27 to address these issues.</p> <p>This requirement is found in the CC's Codes for the accounting profession at Section 17.7 of Sub-Part VII (Record Keeping Procedures). Similar provisions are found in the other industry-specific Codes.</p> <p>This provision has been removed from AML/CFT Guidelines and Codes.</p>
11. Unusual transactions	PC	<p>The monitoring requirement focussing on significant changes and inconsistencies in patterns of transactions is only enforceable on banks and trust companies.</p> <p>Financial institutions are not required to examine as far as possible the background and purpose of complex, unusual large transactions and to set their findings in writing.</p> <p>Financial institutions are not required to keep such findings available for competent authorities and auditors for at least five (5) years.</p>	<ul style="list-style-type: none"> All financial institutions except those already covered should be required to pay special attention to all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose. 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. 	<p>These requirements are addressed in the CBB's AML/CFT Guidelines as revised in 2009.</p> <p>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.</p> <p>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.</p> <p>By the SC's adoption of the CBB Guidelines, this issue has been addressed in respect of SC Constituents. With the passage of the SIA, 2011, a rule is being developed to clarify the enforceability of the SC's Guidelines.</p> <p>These provisions appear in the CC Codes for accountants at Section 16.3 of Sub-Part VI (Client Identification / Verification (KYC) Procedures). The</p>

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			<ul style="list-style-type: none"> Financial institutions should be required to keep such findings (i.e. for all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose) available for competent authorities and auditors for at least five (5) years. 	<p>requirements are replicated in the CC's other industry-specific Codes.</p> <p>Financial institutions supervised by the CC are required keep such findings for at least five (5) years. This is found in section 16.3 of the Codes for the accounting profession. Similar provisions appear in all of the other industry-specific Codes.</p> <p>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.</p>

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12. DNFBP–R.5, 6, 8-11	PC	<p>Dealers in precious metals and dealers in precious stones are not included as DNFBPs under the AML/CFT framework.</p> <p>Deficiencies identified for all financial institutions for Recommendation 5, 6, 8-11, in sections 3.2.3, 3.3.3, 3.5.3, 3.6.3 of this Report are also applicable to DNFBPs.</p> <p>Requirements of Recommendations 5,6, and 8-11 which are stipulated in the Codes of Practice are not enforceable on DNFBPs.</p>	<ul style="list-style-type: none"> • Dealers in precious metals and dealers in precious stones should be included as DNFBPs in the AML/CFT framework. • Ensure that the recommendations formulated for Recommendations 5, 6, 8-11, in Sections 3.2.2, 3.3.2, 3.5.2, 3.6.2 of this Report are also applied to the DNFBPs. • The Codes of Practice should be binding with sanctions for non-compliance. 	<p>Dealers in precious metals and precious stones represented 0.32% or B\$8 million of imports in 2005. 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..</p> <p>The recommendations formulated for financial institutions have been applied to DNFBPs</p> <p>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.</p>
13. Suspicious transaction reporting	PC	<p>Statistics on STRs suggest that only the banking sector has effectively implemented suspicious transaction reporting measures.</p>	<ul style="list-style-type: none"> • Measures should be taken to ensure that there is effective reporting by all financial institutions. 	<p>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.</p> <p>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</p>

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				<p>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.</p> <p>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.</p>

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14. Protection & no tipping-off	C	This Recommendation is fully observed.		
15. Internal controls, compliance & audit	PC	<p>Access to information which may be of assistance in making a STR is not extended to both the compliance officer and other appropriate staff.</p> <p>Requirement for the establishment and maintenance of internal procedures, policies and controls with regard to the detection of unusual and suspicious transactions is only enforceable on banks and trust companies.</p> <p>There is no requirement for the maintenance of an adequately resourced and independent audit function to test compliance with procedures, policies and controls.</p>	<ul style="list-style-type: none"> • Timely access to CDD information, transaction records and other relevant information should be extended to include both the compliance officer and other 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. 	<p>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.</p> <ul style="list-style-type: none"> • With the SCBs adoption of the CBB Guidelines, this issue has been addressed in respect of SC constituents. • Revised draft Guidelines for Cooperatives which addresses this issue have been prepared and are under review. <p>The obligation to deal with the detection of unusual transactions appears in Regulations 3-6 of the FI(TR)R (Internal Reporting Procedures). These have been further expanded on in Part C of the CC's Codes for accountants, at Sections 18.7 and 16.3. Similar requirements exist in the CC's other industry-specific Codes.</p> <p>The CBB's AML/CFT Guidelines address this issue (see paragraph 22). In practice, Cooperatives external auditors report on compliance with AML/CFT requirements.</p> <p>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.</p>

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		<p>There is no requirement for all financial institutions to put in place screening procedures to ensure high standards when hiring employees.</p>	<ul style="list-style-type: none"> • Financial institutions should be required to put in place screening procedures to ensure high standards when hiring employees. 	<p>The CBB's AML/CFT Guidelines were amended in 2009 to address this issue.</p> <p>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 IX 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.</p>

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16. DNFBP–R.13-15 & 21	PC	<p>Deficiencies identified for all financial institutions for Recommendations 13, 15, and 21 in Sections 3.7.3, 3.8.3, and 3.6.3 of this Report are also applicable to DNFBPs</p> <p>Ineffective implementation of suspicious transaction reporting requirements.</p>	<ul style="list-style-type: none"> The Bahamas should ensure that recommendations formulated for Recommendations 13, 15 and 21 in Sections 3.7.2; 3.8.2 and 3.6.2 of this Report are also applied to DNFBPs. 	<p>Amendments to the FTRA, FI(TR)R and the CC's Codes have brought The Bahamas into full compliance with this recommendation</p> <p>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.</p> <p>Constituents of the CC are obliged to comply with:</p> <ul style="list-style-type: none"> The Suspicious Transaction Reporting requirements of Part III of the FTRA The suspicious transactions reporting policies and procedure of the Financial Intelligence (Transaction Reporting) Regulations; and The obligations of the Proceeds of Crime Act, 2000. <p>The CC has a vigorous training programme where all of its constituents are apprised of their AML/ CFT statutory obligations. In addition to training, constituents are required to stipulate the numbers of STRs filed with the FIU, as part of their on-site examination exercise</p>
17. Sanctions	PC	<p>The supervisory authorities for financial corporate service providers, insurance and cooperatives have limited sanctions against natural or legal persons.</p> <p>The supervisory authorities for financial corporate service providers, insurance and cooperatives have no powers to sanction directors and senior managers of their licensees under their relevant Statutes.</p>	<ul style="list-style-type: none"> The SC should have powers of sanction against a licensee or registrant who fails to comply with a directive. In addition, the 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 	<p>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.</p> <p>The SIA 2011¹⁶ and the SIR 2012 were both brought into force on the dates noted in the paragraph above. The Securities Commission of The Bahamas ("SCB" also referenced in the document as "SC") 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</p>

¹⁶ The SIA 2011 replaced the Securities Industry Act, 1999 and the SIR 2012 replaced the Securities Industry Regulation 2000.

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			<p>comply with directives.</p> <ul style="list-style-type: none"> • 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 IFCS, ICB and Director of Societies should introduce ladders of supervisory intervention that are broad and proportionate. 	<p>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 SC (now the SCB).</p> <p>A provision extending the Director of Societies’ power over AML/CFT matters has been addressed in the new Cooperative Societies Regulations - regulation 21(3) “Every society shall comply with the Anti-Money Laundering legislative framework including the Proceeds of Crime Act, the Anti-Terrorism Act, and the Financial Intelligence Unit Act.” The draft regulations are under review.</p> <p>Section 18A of the FCSPA as amended by the FCSPA (Amendment) Act 2008, increases the powers of the IFCS.</p> <p>This matter has been addressed in amendments to the FCSPs Act, which were brought into force in January 2009, and provide robust powers for the IFCS.</p> <p>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.</p> <p>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.</p> <p>Amendments to the Financial and Corporate Service Providers Act, which provide ladders of supervisory intervention, were brought into force in January 2009.</p>

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				<p>The ICB is presently developing its ladders of supervisory intervention to be broad in scope.</p> <p>Following adoption of the new Cooperative Societies Regulations with the provision for AML/CFT matters (S21(3)), the existing AML Guidelines for Cooperatives would be revised to further address ladders of supervisory interventions.</p>
18. Shell banks	C	This Recommendation is fully observed.		
19. Other forms of reporting	NC	No evidence that the Bahamas has considered the feasibility and utility of implementing a fixed threshold currency reporting system.		The Group of Financial Services Regulators has prepared a report and submitted the same to the Ministry of Finance for review. The Ministry of Finance supports the report, contents of which are under active consideration.
20. Other NFBP & secure transaction techniques	C	This Recommendation is fully observed.		
21. Special attention for higher risk countries	PC	<p>The only requirement for special attention to business relationships is generally for those with high risk countries and it is only applicable to banks and trust companies.</p> <p>Effective measures to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries have only been implemented by the CC for its registrants.</p> <p>No requirement for written findings of the examinations of transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations that have no apparent economic or visible lawful purpose to be available for competent authorities.</p>	<ul style="list-style-type: none"> Financial institutions should be required to give special attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries, which do not or insufficiently apply the FATF Recommendations. 	<p>Paragraphs 141(d), 166 and 167 of the CBB AML/CFT Guidelines amended in 2009 require Licensees to give particular attention to the business relations and transactions with persons from or in countries and jurisdictions known to have inadequate AML/CFT measures.</p> <p>The CBB Guidelines also require written findings of the examination of unusual activity to be kept (see paragraphs 209, 223 and 224).</p> <p>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 SC's Guidelines.</p> <p>This requirement is covered in section 12.4.1 for financial institutions supervised by the CC.</p>

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			<ul style="list-style-type: none"> • 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. 	<p>This requirement is covered in Section 9 of the FTRR which deals with continuous monitoring, and which is applicable to all financial institutions as defined in the FTRA. If the stated purposes have been declared upfront then any transaction which operates outside of the ordinary specification of account purpose and activity, is required to be noted.</p> <p>The CBB AML/CFT Guidelines amended in 2009 address this issue.</p> <p>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.</p> <p>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.</p> <p>Paragraph 167 of the amended CBB AML/CFT Guidelines require Licensees to investigate the background and purpose of transactions to and from countries that insufficiently apply FATF recommendations or where the transactions appear to have no economic or visible lawful purpose and to document their findings. This has been implemented through the CC's Codes and during its training and education campaigns.</p>

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22. Foreign branches & subsidiaries	PC	The majority of the requirements of the Recommendation are only applicable to banks and trust companies.	<ul style="list-style-type: none"> • Ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and the FATF Recommendations to the extent that local (i.e. host country) laws and regulations permit. • Pay particular attention that AML/CFT standards consistent with FATF Recommendations are observed with respect to their branches and subsidiaries in countries, which do not sufficiently apply the FATF Recommendations. • Where AML/CFT requirements of home and host countries differ, branches and subsidiaries in host countries should be required to apply the higher standard to the extent that local (i.e. host country) laws and regulations permit. • Inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local (i.e. host country) laws, regulations or other measures. 	<p>SC has adopted the CBB's AML/CFT Guidelines which addresses issues raised with respect to FATF Rec. 22.</p> <p>The CC has 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.</p> <p>See the comment immediately above.</p> <p>See the comment immediately above.</p> <p>See the comment immediately above.</p>
23. Regulation, supervision and monitoring	PC	<p>Inadequacies in staffing resources, with the exception of the CBB, of competent authorities impact on the capacity to adequately regulate and supervise all financial institutions.</p> <p>The SC (now the SCB) does not have a system whereby exemption of investment funds is granted on the basis of a proven CDD by promoters.</p>	<ul style="list-style-type: none"> • The SC (now the SCB) should implement a system whereby exemption of investment funds is granted on the basis of proven CDD by promoters. 	<p>The issue regarding staffing resources of the SCB is addressed at Recommendation 30.</p> <p>SCB Guidelines have been amended to clarify that regulation 5A (e) of the Financial Transactions Reporting Regulation (Chapter 368) ("FTRR"), allows for "reduced or simplified due diligence" and not an absolute exemption from due diligence requirements. The Guidelines now provide that in respect of</p>

¹⁷ The Registrar is now referred to as the Superintendent. The Registrar of Insurance is now referred to as the Insurance Commission of The Bahamas.

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		<p>Licenses and registrants under the Registrar of Insurance (now the ICB) (with respect to the EIA) and the IFCSF are not subject to adequate fit and proper tests.</p>	<ul style="list-style-type: none"> • 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 ongoing basis to seek the Registrar's¹⁷ 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 	<p>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.</p> <p>A provision for compliance with FTRA has been provided for in the new Cooperative Societies Regulations Section 21(2) "A society shall not accept shares or deposits in any transaction, above the limit set by the Financial Transactions Reporting Act, from a member or non-member without an accepted declaration of the source of funds." The draft regulations are under review.</p> <p>The Insurance Act, Chapter, 347 provides for such powers in paragraph 20 of the First Schedule of the Act. Paragraph 20 authorizes the Commission to appoint officers and employees as the Commission considers necessary to assist with the execution of its functions.</p> <p>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.</p> <p>Section 4 (3) of the External Insurance Act, Chapter 348 defines fit and proper criteria.</p>

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			<p>in the case of the IFCSP.</p> <ul style="list-style-type: none"> The Bahamas is encouraged to finalize the revisions to the licensing and registration regime for stand-alone MVT service providers so as to strengthen their licensing and ongoing supervision, including monitoring of natural and legal persons. 	<p>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.</p>

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

FINAL

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25. Guidelines & Feedback	LC	No information on current typologies is presented in the FIU's annual report.	<ul style="list-style-type: none"> • The FIU Guidelines for casino operators should be updated to preserve relevance to the existing legal and regulatory framework. • The revised Codes of Practice for DNFBBPs should be finalized as soon as possible. 	<p>The FIU issued its Suspicious Transactions Guidelines Relating To The Prevention of Money Laundering and the Financing of Terrorism on 19th March 2007. The Guidelines replaced 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.</p> <p>The CC's industry-specific Codes for DNFBBPs came into force at first in 2002 and has undergone revisions/amendments throughout the years as deemed necessary</p>
Institutional and other measures				
26. The FIU	C	This Recommendation is fully observed.	<ul style="list-style-type: none"> • The FIU may wish to consider issuing a narrower set of guidelines, relating to suspicious transactions and Suspicious Transaction Reporting that can be included in the Guidelines issued by the various sub-sectors of the financial services industry. 	The FIU has duly considered the recommendation.
27. Law enforcement authorities	C	This Recommendation is fully observed.		
28. Powers of competent authorities	C	This Recommendation is fully observed.		
29. Supervisors	PC	<p>The powers to access and compel information by the SC (now the SCB) and the Director of Societies are inadequate. The powers of the Registrar of Insurance (now the ICB) to compel information under the EIA are also deficient.</p> <p>The SCB's powers of enforcement and sanction under the SIA are inadequate.</p>	<ul style="list-style-type: none"> • The exemption at section 29(7) of the SIA should be removed to ensure that all financial institutions are at a minimum registered with the SC (now the SCB). • The SC (now the SCB) should have powers under the SIA similar to those at section 49(2) of the IFA, which allow for the 	<p>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.</p> <p>The Commission's general authority to access</p>

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		<p>The CC's ongoing AML/CFT supervision lacks an offsite programme.</p>	<p>appointment of an auditor to assist in examinations</p> <ul style="list-style-type: none"> • The SIA should include provisions for access by the SC to information and imposition of an obligation on licensees and registrants to provide the SC with any information required to fulfil its mandate. • The 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 	<p>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.</p> <p>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.</p> <p>The ability to allow for action without a hearing is provided for at Part XV of the SIA, 2011 which also captures registrants and licences under the IFA.</p> <p>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 parties¹⁸. These would include all of the provisions in Parts II [the Commission], III</p>

¹⁸Paragraph 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.

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			<p>develop procedures and criteria to trigger formal notification of substantive authorities when powers of enforcement and sanction need to be implemented.</p> <ul style="list-style-type: none"> • The SIA should include provisions for access by the SC to information, and imposition of an obligation on licensees and registrants to provide the SC with any information required to fulfil its mandate. • The Director of Societies and the 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. 	<p>[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.</p> <p>Sections 88 & 89 of COSA provides for inspection and investigation. Section 80 & 81 of draft Regs amplifies provisions in the Act.</p> <p>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.</p> <p>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.</p> <p>The CC commenced its off-site examination programme effective 1st August, 2008.</p> <p>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.</p> <p>These guidelines have been made enforceable by amendments to the FIU Act, and the regulations there under, which were brought into force in January 2009</p> <p>The Cooperative Societies Act, 2005 Part VI S(10) (a); S175(1) and S177(1) addresses the power of the</p>

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				<p>Director of Societies to compel reporting.</p> <p>Section 43 of the External Insurance Act, Chapter 348, gives the Commission powers to obtain information.</p> <p>In 2010, CBB reorganized its Bank Supervision Department to support the full implementation of an enhanced Risk-Based Supervision Framework (RBSF), which delivers greater focus on the most material risk issues affecting licensees. Considerable resources were focused on developing the Examination Unit, to ensure the alignment of the on-site examination assessments with the enhanced RBSF and integration of a significant number of new staff into the on-site examination process. Because of these initiatives, and the on-site examiners' involvement with the risk assessment framework, a relatively smaller number of on-site examinations were undertaken in 2010. In 2010, twenty-six (26) on-site examinations were completed compared to forty-four (44) in 2009. To date in 2011, twenty-two (22) on-site examinations have been completed and one (1) is in progress.</p> <p>.</p> <p>The SC 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.</p>
30. Resources, integrity and training	PC	<p>Inordinate length of time to bring matters to trial.</p> <p>There are insufficient resources overseeing AML/CFT with regard to financial institutions.</p>	<ul style="list-style-type: none"> The SC and CC should consider revising their staff complement to meet the demands of their constituency base. 	<p>The SC 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</p>

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			<ul style="list-style-type: none"> • The ICB and to a lesser extent, IFCSs should be granted more operational autonomy under their respective Statutes. • Every effort should be made to reduce the length of time between arrest and a matter coming to trial which can in some instances in the Supreme Court be as long as six years. The ‘Swift Justice’ project is a good start and its effectiveness should be reviewed and measured on an ongoing basis to ensure all necessary measures are being taken to speed up the administration of justice. • The DPP should seek to recruit additional staff especially at the senior level in order to strengthen the Criminal Division’s capability. 	<p>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.</p> <p>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 ongoing.</p> <p>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.</p> <p>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;</p>

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		<p>There is insufficient operational independence and autonomy of the ICB and the Inspector, FCSP.</p>		<p>improving the level of witnesses' interest in cases and their confidence in the said system; and several other actions.</p> <p>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 ongoing recruitment drive in respect of attorneys at both the junior and senior levels. In addition, eight attorneys-at-law within the Royal Bahamas Police Force have been deployed to the 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.</p> <p>The Insurance Act, Chapter 347, gave the Commission operational independence and the powers of the ICB were expanded.</p> <p>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.</p>

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31. National cooperation	C	This Recommendation is fully observed.		
32. Statistics	PC	<p>There has been no evidence on which effective implementation can be measured as the police have not received information regarding terrorism or terrorism financing.</p> <p>There has been no evidence on which the effectiveness of the freezing actions with regard to terrorism or terrorist financing can be measured as the police have not received information regarding those matters.</p> <p>The legal framework requiring the reporting of international wire transfers is not in place therefore no statistics are available.</p> <p>Statistics regarding the cross border transportation of cash or negotiable instruments are not maintained, as the legislative framework is not in place requiring such a declaration in the first instance.</p> <p>There is no system in place requiring the reporting of STRs based on domestic or foreign currency transactions above a certain threshold.</p> <p>Statistical information from the SC in support of AML/CFT effectiveness is not maintained.</p> <p>No evidence of review of AML/CFT systems by the Task Force. .</p>	<ul style="list-style-type: none"> • It is recommended that a legislative framework be put in place requiring the reporting of international wire transfers transactions, and the collection, recording and analysis of the information obtained. • The SC should maintain statistics on FTRA focused examinations, and sanctions applied for non-compliance with AML/CFT requirements. • The legislative reforms that have been proposed should be pursued as a matter of urgency in particular those that will expand the CBB's powers to share information. It may also be useful for the Authorities to consider flexible approaches in terms of information sharing. In addition, the legislative amendments that will enhance co-operation powers of regulators will also be very useful in ensuring that resources are properly allocated. • The Government of the Bahamas should establish some form of 'umbrella' group or committee that can review and make recommendations on AML/CFT matters. These recommendations would be at the policy level and from a strategic perspective using the statistics generated to assist in the decision making process. 	<p>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.</p> <p>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.</p> <p>Under the leadership of the Minister of State for Finance, the National Task Force on AML/CFT was convened in 2009.</p> <p>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.</p>
33. Legal persons–	LC	No requirement to determine the natural persons who	<ul style="list-style-type: none"> • There should be a legal requirement for financial 	These matters are addressed in amendments to the

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beneficial owners		ultimately control legal persons.	institutions to take reasonable measures to determine the natural persons that ultimately own or control legal persons.	FTRR, which were brought into force in January 2009. In the package of proposed amendments to the Lotteries and Gaming Act, provision is being made for the Gaming Board to be notified within thirty (30) days of any change in the beneficial ownership of a casino licensee so as to ensure that the new beneficial owner or owners satisfy the fit and proper test; a Standard Audit Programme has been put in place in order to obtain information on changes to beneficial owners of casinos to prevent criminals from holding or being the beneficial owners of a significant or controlling interest
34. Legal arrangements – beneficial owners	LC	<p>The ability to obtain and access information on the beneficial ownership and control of legal arrangements for which lawyers provide trust services was hindered by the legal challenge.</p> <p>No requirement to determine the natural persons who ultimately control legal arrangements.</p>	<ul style="list-style-type: none"> • A new legislative framework for private trust companies was being proposed and this should be enacted as soon as practicable to further strengthen oversight of all legal arrangements. • There should be a legal requirement for financial institutions to take reasonable measures to determine the natural persons that ultimately own or control legal arrangements. 	<p>Legislation and Regulations came into force in December 2006 and January 2007, respectively. Guidelines to the industry were issued in January 2007 and the administrative arrangements to process applications have been set up in the Central Bank.</p> <p>Amendments have been made to the Financial Transactions Reporting Regulations which, inter alia, establish minimum mandatory requirements for financial institutions to verify the identity of the ultimate beneficial owners of corporate entities (Regulations 4(1)(e)), partners or beneficial owners of partnerships and unincorporated business (Regulation 5(1)(a)) and to require financial institutions to take reasonable measures to determine the identity of the natural persons that own or control legal persons or legal arrangements.</p>
International Cooperation				
35. Conventions	PC	<p>Section 42(2) of the POCA does not comply with the Vienna Convention requirements.</p> <p>The ATA does not extend to all Conventions and Protocols named in the Terrorist Financing Convention.</p> <p>The Palermo Convention has not been ratified.</p>	<ul style="list-style-type: none"> • The procedures for mutual legal assistance issued by the ILCU should be further improved to deal with the treatment of potential requests for information relating to suspected terrorism offences. The GFSR should include in its procedures manual the procedures that will apply in these cases, and 	<p>The Procedures Manual now contains the procedure for requests for information relating to suspected terrorism offences</p> <p>The Anti-Terrorism (Amendment to First Schedule) Order, 2008 (Statutory Instrument No. 52 of 2008) amends the First Schedule to the Anti-Terrorism Act to incorporate all of the Conventions referred to in the</p>

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		<p>Section 9(4) does not constitute appropriate grounds for refusing a request for freezing from a foreign State under the ATA.</p>	<p>particularly in cases of applications for freezing under the ATA.</p> <ul style="list-style-type: none"> • The Bahamas has not ratified the Palermo Convention and should move to do. • The Bahamas should also move to criminalize a person's participation in an organized criminal group as required by the Convention and to extend the existing measures to cover this type of offence. 	<p>Annex to the Terrorist Financing Convention.</p> <p>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.</p> <p>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.</p>

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

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			<ul style="list-style-type: none"> All regulatory authorities should have the power to conduct inquiries on behalf of foreign counterparts. 	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	<p>The ATA does not extend to all Conventions and Protocols named in the Terrorist Financing Convention.</p> <p>The ATA does not fully implement the requirements of UNSCRs 1267 and 1373 particularly as they relate to the freezing of the funds or assets of terrorists.</p> <p>The ATA does not deal with the prohibition on the movement of aircraft owned leased or operated by the Taliban.</p>	<ul style="list-style-type: none"> The ATA should be extended to criminalize conduct referred to in the Conventions and Protocols that are named in the Terrorist Financing Convention but that are currently not named in the ATA. 	The Anti-Terrorism (Amendment to First Schedule) Order, 2008 (Statutory Instrument No. 52 of 2008) amends the First Schedule to the Anti-Terrorism Act to incorporate all of the Conventions referred to in the Annex to the Terrorist Financing Convention.
SR.II Criminalize terrorist financing	LC	<p>The offence of terrorist financing under the ATA does not extend to all of the offences listed in the Annex to the UN Convention on the Financing of Terrorism.</p> <p>The FT offence does not cover all the types of conduct set out in Art. 2(5) of the Terrorist Financing Convention specifically Art. 2(5)(c).</p>	<ul style="list-style-type: none"> The special unit to deal with terrorism within the Royal Bahamas Police Force should be established. The Examiners considered that the ATA did provide for the criminalization of the financing of terrorism; however the fact that the scope of the crime of terrorism did not cover all of the conduct referred to in the Annex to the Terrorist Financing Convention constituted a serious shortfall that the Authorities should move to rectify. The Bahamas should ensure that the offences of terrorism financing under the ATA extends to all of the offences specified in Article 2(5) of the Terrorist Financing Convention. 	<p>The Special Anti-Terrorism Unit was established on 7th August, 2007 and is led by a Detective Assistant.</p> <p>The Anti-Terrorism (Amendment to First Schedule) Order, 2008 (Statutory Instrument No. 52 of 2008) amends the First Schedule to the Anti-Terrorism Act to incorporate all of the Conventions referred to in the Annex to the Terrorist Financing Convention.</p> <p>See response immediately above.</p>
SR.III Freeze and	PC	The ATA does not address UNSCR 1267 adequately as	<ul style="list-style-type: none"> SR. III (E.C. III.2) requires that countries 	The Anti-Terrorism (Amendment) Act, 2008 (Act No.

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confiscate terrorist assets		<p>freezing cannot take place solely upon a designation by the UN Security Council without delay.</p> <p>The reciprocal requirements for the granting of an application for a freezing order to a foreign jurisdiction could inhibit the granting of such requests.</p> <p>The International Obligations (Economic and Ancillary Measures) Act is a pre-existing measure that was not designed to meet the combating of the financing of terrorism and the related UNSCRs.</p>	<p>should have procedures to examine and give effect to actions initiated in other countries provided that there are reasonable grounds or a reasonable basis to freeze funds. Section 9(4) introduces different criteria in relation to freezing terrorist funds and an amendment should be considered.</p> <ul style="list-style-type: none"> • The authorities should provide clarity, whether in the law or in the policies outlined by the Attorney General's Office as to the effect of section 17 of the ATA and section 6 of the MLA(CM)A, and consequently the basis upon which requests made under the ATA by foreign States would be addressed. • It is the view of the Examiners that the International Obligations (Economic and Ancillary Measures) Act would have been a pre-existing measure, with a particular focus on applying international economic sanctions against Nation States. It would not meet the focus of SR III as being a preventative measure that is necessary and unique in the context of stopping flows or the use of funds or other assets to terrorist groups. It is therefore recommended that the ATA should be amended to achieve compliance with the UNSCRs. • The Special Anti-Terrorism Unit should be established within the Royal Bahamas Police Force. • The language at section 9(7) of the ATA should be clarified to establish whether the period of 18 months is an absolute outer limit for freezing and the Authorities may wish to consider whether this is appropriate given the length of time that an offence under the ATA 	<p>24 of 2008) amends section 9 of the Anti-Terrorism Act by removing the requirement for reciprocity in section 9 (4) of the ATA in cases where a foreign state makes an application for a freezing order.</p> <p>The Anti-Terrorism (Amendment) Act, 2008 amends section 17 of the Anti-Terrorism Act to delete the reference to section 6 of the MLA (CM)A and substitute in its place section 6 of the CJ(IC)A.</p> <p>No further amendments have been made to the ATA.</p> <p>The Special Anti-Terrorism Unit was established on 7th August, 2007 and is led by a Detective Assistant.</p> <p>No further amendments have been made to the ATA.</p>

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			may take to reach to trial.	

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SR.IV Suspicious transaction reporting	C	This Recommendation is fully observed.		
SR.V International cooperation	LC	The reciprocity requirement could hinder international cooperation. The SC does not have powers to conduct inquiries on behalf of foreign counterparts.	<ul style="list-style-type: none"> The legislation for the SC should be fast tracked to allow for stronger information gathering powers. The SC may also wish to establish MOUs for the sharing of information with overseas counterparts. 	The SC submitted an application to the IOSCO MOU, on May 23, 2008. At the IOSCO 2009 conference it was announced that the SC was eligible to sign Appendix B of the MOU The SC has taken the steps necessary to finalise this process and on June 14, 2012 submitted a re-application to become a Signatory A to the IOSCO MMOU
SR.VI AML requirements for money and value transfer services	LC	No requirement for money value transfer service operators to maintain a current list of their agents which must be made available to the designated authority.	<ul style="list-style-type: none"> MVT service operators should be required to maintain a current list of their agents, which must be made available to the designated authority. The Bahamas should implement the amendments to the legal framework as soon as possible to bring about full compliance with SR VI. 	The Banks and Trust Companies (Money Transmission Business) Regulations, 2008 [S.I. No. 30 of 2008] requires persons acting as Money Transmission Agents on behalf of a Money Transmission Service Provider to register with CBB.
SR.VII Wire transfer rules	NC	There are no measures in place to cover domestic, cross-border and non-routine wire transfers. There are no requirements for intermediary and beneficial financial institutions handling wire transfers. There are no measures in place to effectively monitor compliance with the requirements of SR VII.	<ul style="list-style-type: none"> With regard to SR VII, The Bahamas is compliant with only the first criterion of the recommendation. See. Paragraph 662. It is recommended that the review of The Bahamas' legislative and regulatory provision take consideration of all requirements of the recommendation and appropriate legislation be enacted as soon as possible. 	The Financial Transaction Reporting (Wire Transfers) Regulation 2009, which gave effect to FATF SRVII, was brought into effect on the 12 January, 2009.
SR.VIII Nonprofit organizations	PC	No information was available for the Examiner's to gauge the size and risk of NPO activity. No evidence of review of the adequacy of laws and regulations that relate to NPOs. Specific guidance with regard to NPOs is enforceable only on banks and trust companies. Only friendly societies and foundations (by virtue of their secretaries) are included as financial institutions under the FTRA.	<ul style="list-style-type: none"> The Authorities should review the adequacy of the laws that relate to NPOs. The requirements concerning NPOs in the CBB AML/CFT Guidelines should be enforceable on all financial institutions. The Authorities should consider some of the additional measures in the Best Practices Paper to Special Recommendation VIII to ensure that funds or other assets collected by or transferred through NPOs are not diverted to support the activities of terrorists or terrorist organisations. 	The GFSR has, in response to a request from the Ministry of Finance, established a subcommittee to review this recommendation. The subcommittee has completed its review of existing laws and policies relative to the non-profit sector, obtained data on the size and composition of the sector and conducted a benchmark of other jurisdictions' regulation of the sector. The subcommittee is updating the data previously obtained on the size and composition of the sector with a view to completing the report on measures required to enhance the supervision of the sector. Upon completion, the report will be submitted to the Ministry of Finance for the Government's consideration.

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