

## TRINIDAD AND TOBAGO - FIRST FOLLOW-UP REPORT

### I. Introduction

1. This report presents an analysis of Trinidad and Tobago's report to the CFATF Plenary regarding progress made to correct the deficiencies identified in its third round Mutual Evaluation Report. The third round Mutual Evaluation Report of Trinidad and Tobago was adopted by the CFATF Council of Ministers in May 2007 in Guatemala. Trinidad and Tobago presented a follow-up report at the last Plenary in St. Kitts and Nevis. Based on the review of actions taken by Trinidad and Tobago to meet the recommendations made by the examiners, a recommendation will be made as to whether Trinidad and Tobago should remain on enhanced follow-up or be placed on regular follow-up. Trinidad and Tobago was rated partially compliant or non-compliant on 27 Recommendations, as indicated below.

<b>Partially Compliant (PC)</b>	<b>Non-Complaint (NC)</b>
R. 2(ML offence – mental element and corporate liability)	R. 1 (ML offence)
R. 3 (Confiscation and provisional measures)	R. 5 (Customer due diligence)
R. 4 (Secrecy laws consistent with the Recommendations)	R. 6 (Politically exposed persons)
R. 11(Unusual transactions)	R. 7 (Correspondent banking)
R. 14 (Protection & no tipping-off)	R. 8 (New technologies & non face-to-face business)
R. 15 (Internal controls, compliance & audit)	R. 9 (Third parties and introducers)
R. 18 (Shell banks)	R. 10 (Record keeping)
R. 19 (Other forms of reporting)	R. 12 (DNFBP – R.5,6,8-11)
R. 30 (Resources, integrity and training)	R. 13 (Suspicious transaction reporting)
R. 31 (National co-operation)	R. 16(DNFBP – R.13-15 & 21)
R. 32 (Statistics)	R. 17 (Sanctions)
R.33 (Legal persons – beneficial owners)	R. 21 (Special attention for higher risk countries)
R. 40 (Other forms of co-operation)	R.22 (Foreign branches & subsidiaries)
	R. 23 (Regulation, supervision and monitoring)
	R. 24 (DNFBP – regulation, supervision and monitoring)
	R. 25 (Guidelines & Feedback)
	R. 26 (The FIU)
	R. 29 (Supervisors)
	R. 34 (Legal arrangements – beneficial owners)
	R. 35 (Conventions)
	SR. I (Implement UN instruments)
	SR. II (Criminalise terrorist financing)
	SR. III (Freeze and confiscate terrorist assets)
	SR. IV (Suspicious transaction reporting)
	SR. V (International co-operation)
	SR. VI (AML requirements for money value transfer services)
	SR. VII (Wire transfer rules)

	SR. VIII (Non-profit organizations)
	SR. IX (Cross Border Declaration & Disclosure)

## **II. Summary of progress made by Trinidad and Tobago**

2. Since the MER, the authorities in Trinidad and Tobago have taken steps to assess and propose various means to achieve compliance with the recommendations outlined in the MER. This has been carried out under the auspices of the National Committee Established to Develop, Monitor and Promote a Counter Money Laundering and Terrorist Financing Framework. A plan of action has been developed by the National Committee comprising of a national AML/CFT policy document, a partnering with the IMF to conduct a national risk assessment survey and drafting of policy and legislation to establish a Special Anti Crime Unit of Trinidad and Tobago. A proposed Financial Investigation Bureau responsible for the investigation of money laundering and the financing of terrorism will be located in this unit. Government has agreed to a comprehensive legislative package incorporating the Financial Intelligence Unit Bill, 2009, (FIU Bill) the Proceeds of Crime (Amendment) Act, draft Financial Obligations Regulations (FOR) and Special Anti Crime Unit Bill, 2009 to be tabled in Parliament as a matter of national priority early in 2009. The following report details the proposed measures for compliance with the relevant recommendations from the MER. Verification on the measures reported in the attached Matrix Table was not possible since the draft legislation was not available.

### **Recommendation 1**

3. The examiners' recommendation regarding the definition of the term money laundering being included in the Proceeds of Crime Act, 2000 (POCA) and broadening the scope of section 43 to include "a specified offence" have been incorporated in the proposed amendment to the POCA which has to be enacted. The examiners made recommendations on criminalizing terrorism, terrorist financing and piracy, and extending the predicate offences for ML in the POCA. The authorities advise that the policy for terrorist financing is being considered and will be adopted by amendments to the Anti-Terrorist Act. Additionally, a package of legislation is being considered to determine the nature of any amendments to be done for extending the predicate offences for ML. The recommendation to allow for the confiscation of property obtained from the proceeds of crime without a conviction of a predicate offence has not been implemented as it will require a constitutional majority since the Constitution provides for confiscation only on the basis of due process which includes conviction for an offence. As such, all recommendations remain outstanding

### **Recommendation 2**

4. With regard to the recommendations concerning the passage of the Proceeds of Crime (Amendment ) Bill 2005 and the FOR, the authorities advise that amendments to the POCA and the FOR have been prepared and are awaiting the Cabinet/Parliamentary process. Accordingly, all recommendations remain outstanding.

### **Recommendation 3**

5. The proposed amendment to POCA includes a change in the definition of a "specified offence" in line with the recommendation. This change will also remedy the identified deficiency

in law enforcement authorities' powers to obtain production orders and search warrants. However, since the proposed amendment to POCA has not been enacted, all recommendations remain outstanding.

#### **Recommendation 4**

6. With regard to allowing the competent authorities the ability to share locally and internationally information necessary to perform their functions, the FIU Bill allows the FIU to disseminate relevant information to the financial investigation unit. There is no response from the authorities concerning the recommendation to specifically require that no financial institution secrecy law inhibit the implementation of the FATF Recommendation. The authorities advise that the Securities Act is being reviewed to provide for information sharing with relevant financial institutions. As such, the recommendations regarding competent authorities are still outstanding.

#### **Recommendation 5**

7. The examiners' recommendations cover all criteria of Recommendation 5. The set of specific recommendations cover E.C. 5.1 to 5.7. The authorities advised that these criteria are incorporated in current amendments to POCA and the FOR.

8. With regard to the recommendation requiring the implementation of the remaining criteria of Recommendation 5 concerning CDD measures, risk, timing of verification, failure to satisfactorily complete CDD and retrospective CDD on existing customers, the authorities advise that this is to be addressed in current formulated policy guiding the discussions of the Cabinet appointed AML/CFT Committee with a view to being appropriately incorporated into amendments of the POCA and the supporting regulations. Given the fact that the FOR has not been enacted, all recommendations remain outstanding.

#### **Recommendation 6**

9. There was no response from the authorities to any of the examiners' recommendations. All recommendations remain outstanding.

#### **Recommendation 7**

10. The authorities advise that these recommendations are addressed in the proposed FOR. Given the fact that the FOR has not been enacted, all recommendations remain outstanding.

#### **Recommendation 8**

11. The authorities advise that these recommendations are addressed in the proposed FOR. Since the FOR has not been enacted all recommendations remain outstanding.

#### **Recommendation 9**

12. The authorities advise that these recommendations are addressed in the proposed FOR. Since the FOR has not been enacted all recommendations are still outstanding.

### **Recommendation 10**

13. The examiners' recommendations include all essential criteria. These recommendations are incorporated in the draft FOR. Since the FOR is still awaiting enactment, all recommendations remain outstanding.

### **Recommendation 11**

14. The examiners' recommendation is addressed in the proposed amendment to POCA and the FOR. Since the proposed amendment to POCA and the FOR are still awaiting enactment, this recommendation remains outstanding.

### **Recommendation 12**

15. The recommendations require lawyers, notaries, other independent legal professions, accountants and trust and company service providers to be subject to AML/CFT FATF obligations. The authorities advise that DNFBPs are included in the First Schedule to the POCA Bill and have been extended in the draft FOR so all AML/CFT obligations apply to all of them. The other recommendations deal with the requirements of Recommendations 5 to 10 and 11 and 21 being applied to all DNFBPs and more education and training about AML/CFT responsibilities being made available to all DNFBPs. The authorities advise that the FOR requires all financial institutions and DNFBPs to comply with Recommendations 11 and 21. Since the FOR has not been enacted, all recommendations remain outstanding.

### **Recommendation 13**

16. The recommendation for suspicious transaction reporting to the FIU has been included in section 15 of the proposed amendment to POCA and the draft FOR. The requirement to report regardless of the amount of the transaction and if it involves tax matters is to be addressed in taxation legislation. Since the mentioned legislation has not been enacted, all recommendations are still outstanding.

### **Recommendation 14**

17. The authorities advised that the proposed FIU Bill addresses the examiners' recommendations. Since the above legislation has not been enacted all recommendations are still outstanding.

### **Recommendation 15**

18. The examiners' recommendations are addressed in the draft FOR. However, until the FOR is enacted these recommendations remain outstanding.

### **Recommendation 16**

19. The imposition of the requirements of Recommendations 13, 14 and 15 on all DNFBPs is to be addressed in rules made by the Minister of Finance under the FOR. This recommendation remains outstanding.

### **Recommendation 17**

20. With regard to amending the provisions for sanction in the POCA to allow for penalties to be applied jointly or separately, the authorities have stated that appropriate sanctions will be incorporated in existing legislation. Concerning the recommendation for increasing the range of sanctions for AML/CFT non-compliance to include disciplinary sanctions and the power to withdraw, restrict or suspend the financial institution's licence where applicable, the authorities advised that the Financial Institutions Bill, 2008 will enhance the powers of the Central Bank by providing for administrative fines; the enforcement of directions by court order and restraining order or other injunctive or equitable relief. Since the above is still to be enacted, these recommendations remain outstanding.

### **Recommendation 18**

21. The examiners' recommendations included all the criteria of Recommendation 18. Existing legislative provisions under the Companies Act as well as the criteria adopted by the Central Bank in the registration of businesses are being reviewed to determine whether it would be necessary to enact express provisions prohibiting the operations of shell banks. The authorities did not address the other two recommendations. All recommendations remain outstanding.

### **Recommendation 19**

22. The recommendation for the authorities to consider the feasibility of a system where financial institutions report all transactions in currency above a fixed threshold has been addressed in Part V of the proposed FOR. The recommendation regarding Customs Division notifying the Customs bodies of countries from which unusual shipments of currency, monetary instruments, precious metals or gems etc, originate has not been addressed. The authorities have advised that strict safeguards have been imposed on Customs Division's computerized database of Customs Declaration Forms, No information on the nature of the safeguards and accessibility to the database has been provided. Given that the FOR has not been enacted and no information has been provided to verify the last recommendation, all recommendations remain outstanding.

### **Recommendation 21**

23. The recommendation for financial institutions to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations is incorporated in the draft FIU Bill. Advising financial institutions of concerns about weaknesses in the AML/CFT systems of other countries is to be dealt with administratively by the FIU. The recommendation for financial institutions to review and properly document the background and purpose of transactions which have no apparent economic or lawful purpose with persons from or in countries which do not or insufficiently apply the FATF Recommendations is addressed in the draft FOR. The authorities advise that the Government of Trinidad and Tobago has the prerogative to invoke countermeasures in situations stipulated in E.C. 21.3. However, no information has been provided as to when or how such countermeasures were applied in the past or if not, how they would be applied in the future. Given that some of the recommendations have been addressed by provisions which have not been enacted as yet and one has not been verified, all recommendations remain outstanding.

## **Recommendation 22**

24. The authorities advise that the recommendations which cover criteria E.C. 22.1.1, 22.1.2 and 22.2 have been addressed in the proposed FOR or the FIU Bill. Since the above is still to be enacted these recommendations remain outstanding.

## **Recommendation 23**

25. The authorities advise that the recommendation for formal designation of relevant supervisory agencies with the responsibility for ensuring compliance by their licensees with AML/CFT obligations is provided for in section 37(1) of the Financial Institutions Act, 1993. No document was provided to verify this reference. No measures to address the recommendations regarding the securities sector, credit unions and money transfer companies and cash couriers have been indicated. Given the above, these recommendations remain outstanding.

## **Recommendation 24**

26. While gaming houses, pool betting and national lottery on line betting games are subject to AML/CFT obligations, no information has been provided as to whether they are subject to a comprehensive regulatory and supervisory regime (i.e. a body with responsibility and power for licensing, approving management, ownership, monitoring and examining operations) to ensure that they are effectively implementing AML/CFT measures. The other recommendations are to be addressed in other legislation. As such, all recommendations remain outstanding.

## **Recommendation 25**

27. The authorities advise that administrative steps will be taken to ensure that the FIU/Designated Authority has a structure in place to provide financial institutions with adequate and appropriate feedback on suspicious transaction reports. The recommendations regarding the enforceability of the Central Bank Guidelines and the issuance of similar guidelines for all other financial institutions have been addressed by incorporating the requirements of the Central Bank Guidelines into the proposed FOR which will be applicable to all financial institutions. Since the FOR has not been enacted, these recommendations remain outstanding.

## **Recommendation 26**

28. The authorities advised that the proposed FIU Bill incorporates those examiners' recommendations requiring enactment in legislation. The recommendation to consider strengthening and restructuring the staff of the FIU was not addressed. Since the FIU Bill is still to be enacted, these recommendations remain outstanding.

## **Recommendation 29**

29. With regard to the recommendations concerning the Credit Union Supervisory Unit (CUSU) the authorities advise that it has been decided that the supervision of credit unions will fall under the Central Bank and that legislation is being developed to accommodate this change. The authorities advise that in relation to the recommendation for all supervisors to have adequate powers of enforcement and sanction against financial institutions and their directors or senior management progress has been made by the Trinidad and Tobago Securities & Exchange Commission (TTSEC) with the Securities Act being under review. No information on the other supervisory bodies such as the Central Bank and the Commissioner of Co-operative Development

has been provided by the authorities on this issue. Additionally there has been no response to the recommendation for all supervisory authorities to have systems in place for combating ML and FT and to review the effectiveness of these systems. Consequently, this Recommendation remains outstanding.

### **Recommendation 30**

30. Recommendations concerning the FIU, law enforcement agencies, Immigration, Customs, the Office of the Director of Public Prosecutions (DPP), the Magistracy and Judges, the Strategic Services Agency, TTSEC, and CUSU were made by the examiners. The only recommendation dealt with concerned staffing in the Office of the DPP. The authorities advised that a business plan for reform of the Office of the DPP was receiving favourable consideration from the Attorney General. Given the above, all recommendations remain outstanding.

### **Recommendation 31**

31. The AML/CFT Committee was inaugurated in May 2006. It has reported on a regular basis to Cabinet on steps being taken to implement the recommendations made in T&T's mutual evaluation report. During 2007 the focus of the Committee was in the area of legislative drafting. Additionally, the FIU/Designated Authority reports to the Committee on a regular basis. In 2008 the Committee prepared for Cabinet a National AML/CFT Policy and a National AML/CFT Strategy. The National AML/CFT Strategy includes elements of public outreach, national awareness and training, risk base approach, strengthening of law enforcement etc. The Committee has been canvassing the relevant Ministerial team for Government policy and legislative action and advocating for expediency in recommendation implementation. With regard to the recommendation for the consideration of the introduction of MOUs between the Central Bank, the Trinidad and Tobago Securities Exchange Commission and the Designated Authority/FIU to enable them to cooperate and coordinate domestically concerning development and implementation of AML/CFT policies, the Financial Institutions Bill, 2008 retaining section 35A of the Financial Institutions Act, allows the Central Bank to share information with the designated authorities under the POCA. No information regarding the inclusion of the Trinidad and Tobago Securities Exchange Commission in this recommendation has been provided.

32. With regard to improving co-operation among law enforcement and other competent authorities, the authorities have advised that the Counter Drug & Crime Task Force collaborates on a continuing basis with law enforcement authorities. It is noted that the Counter Drug & Crime Task Force was in existence at the time of the mutual evaluation and yet the examiners were of the view that contact between competent authorities was haphazard. Therefore this submission does not satisfy this particular recommendation. The authorities have advised that the Committee is addressing the recommendation for the composition of the FIU to be expanded to include personnel from different relevant entities for inclusion in the FIU Bill. In view of the above, only the first recommendation has been fully met, and the remaining recommendations are outstanding.

### **Recommendation 32**

33. With regard to the recommendation for the review of the effectiveness of the FIU systems to combat ML and FT to be more thorough and produce more tangible results, the authorities advised that the Office of the DPP produces an annual report that is statistically based and the Central Bank has developed a statistics report during the period May – November 2008.. There

was no response from the authorities regarding the measures to review the effectiveness of T&T's money laundering and terrorist financing systems.

34. The mutual evaluation report noted that only the Central Bank had implemented AML/CFT supervision and maintained statistics. As such, the examiners recommended that once all other supervisory authorities (the Trinidad and Tobago Exchange Securities Commission, the Commissioner of Co-operative Development and the Credit Union Supervisory Unit) implemented AML/CFT supervision, they should maintain comprehensive statistics on on-site examinations and requests for assistance. This recommendation remains outstanding. The recommendation concerning the review of the effectiveness of the extradition system with regard to AML/CFT is also still outstanding.

### **Recommendation 33**

35. The recommendation for a comprehensive review to determine ways in which the authorities can ensure that adequate and accurate information on beneficial ownership is made available on a timely basis is under review and is therefore still outstanding.

### **Recommendation 34**

36. The recommendation that the authorities take steps to implement a mechanism to prevent the unlawful use of legal arrangements in relation to money laundering and terrorist financing by ensuring that the commercial, trust and other laws require adequate transparency concerning beneficial ownership and control of trusts and other legal arrangements has not been addressed and is therefore still outstanding.

### **Recommendation 35**

37. The recommendation requires the authorities to continue taking steps to enact the Anti-Terrorism Bill and sign and ratify the United Nations International Convention for the Suppression of the Financing of Terrorism. The Anti-Terrorism Act was enacted in September 2005. The authorities advise that a second set of legislation was being prepared by the AML/CFT Committee in collaboration with the drafting consultant with the objective of incorporating provisions that would have the effect of criminalizing the financing of terrorism. The relevant amendments are expected to be drafted no later than the third quarter in 2009. There is no indication that Trinidad and Tobago has signed or ratified the Terrorist Financing Convention. In view of the fact that even with the passage of the Anti-Terrorism Act, terrorist financing still has to be criminalized and the Terrorist Financing Convention has not been signed or ratified, all recommendations remain outstanding.

### **Recommendation 40**

38. The examiners' recommendation stipulated the implementation of legislation to enable law enforcement and other competent authorities to provide the widest range of international cooperation to their foreign counterparts. The specific deficiencies being addressed were the lack of effective gateways to facilitate the FIU and financial supervisory bodies sharing information with their foreign counterparts. The authorities advised that the recommendation is being addressed by the AML/CFT Committee in collaboration with the drafting consultant. As such, this recommendation remains outstanding.

## **Special Recommendations I to VIII**

39. The examiners' recommendations under the Eight Special Recommendations are being addressed by the AML/CFT Committee in collaboration with the drafting consultant.

## **Special Recommendation IX**

40. At the time of the mutual evaluation of Trinidad and Tobago Special Recommendation IX had not been issued by the FATF and therefore no recommendations are outstanding. However, the authorities may as part of their general effort to implement measures to comply with the recommendations in the mutual evaluation report consider means for addressing the criteria in Special Recommendation IX.

## **II. Conclusion**

41. As noted above, the authorities in Trinidad and Tobago have either implemented some of the recommendations by passing legislation such as the Anti-Terrorism Act or have incorporated them in draft legislation awaiting enactment or are considering the most appropriate means of implementation. In particular, enactment of the FIU Bill, the Proceeds of Crime (Amendment) Act and the FOR will positively affect compliance with a substantial number of Recommendations. Given the above a significant majority of Recommendations have not been implemented by the authorities as yet. As such it is recommended that Trinidad and Tobago remain on enhanced follow-up and be required to report at the next Plenary in October 2009 on measures to comply with its mutual evaluation report's recommendations.

**Matrix with Ratings and Follow Up Action Plan 3rd Round Mutual Evaluation  
Trinidad and Tobago**

Forty Recommendations	Rating	Summary of factors underlying rating	Recommended Actions	Undertaken Actions
<b>Legal systems</b>				
1. ML offence	NC	<ul style="list-style-type: none"> <li>For money laundering offences the POCA only recognizes property as being the proceeds of crime where a person has been convicted of a predicate offence.</li> <li>Terrorism, including terrorist financing and piracy is not covered under Trinidad and Tobago legislation as predicate offences;</li> <li>Predicate offences for ML do not extend to conduct occurring in another jurisdiction that would have constituted an offence had it occurred domestically.</li> <li>The Mission concluded that AML offences are not effectively investigated, prosecuted and convicted. There were no ML convictions to date of the on site visit.</li> <li>The money laundering legislation does not appear to be effective as there have been no convictions in 6 years.</li> </ul>	<ul style="list-style-type: none"> <li>Consider defining the term money laundering in the POCA and also, for completeness sake, broadening the scope of section 43 beyond drug trafficking to include “or a specified offence”.</li> <li>Terrorism, including terrorist financing, and piracy should be covered under Trinidad and Tobago legislation.</li> <li>Predicate offences for ML in the POCA should also be extended to conduct occurring in another jurisdiction that would have constituted an offence had it occurred domestically.</li> <li>Include in the POCA that where it is proven that property is obtained from the proceeds of crime it should not be necessary that a person be convicted of a predicate offence in order for the court to make a confiscation order in relation to such property.</li> </ul>	<ul style="list-style-type: none"> <li>The POCA as amended defines “money laundering” in clause 3(d). Under Section 43 of POCA money laundering is extended to include a <i>specified offence</i>.</li> <li>The policy for terrorist financing is being considered and will be adopted by amendments to the Anti Terrorist Act. <ul style="list-style-type: none"> <li>A package of legislation is being considered by the Legislative Drafting Consultant including the Extradition Act, the Mutual Legal Assistance Act and the backing of Warrants Bill to determine the nature of any amendments to be done on this matter.</li> </ul> </li> <li>Inclusion of such a provision would require a Constitutional majority since under Sec 4(1) (a) of the Constitution of Trinidad and Tobago a person may not be deprived of property without due process of law which includes conviction for an offence.</li> </ul>
2. ML offence – mental element and corporate liability	PC	<ul style="list-style-type: none"> <li>There is no dissuasive criminal or administrative sanctions for money laundering against a company directly</li> <li>The Mission concluded that AML offences are not effectively investigated, prosecuted and convicted. There were no ML convictions up to date of the on site visit.</li> </ul>	<ul style="list-style-type: none"> <li>Fast track the Proceeds of Crime (Amendment) Bill 2005, which will seek to strengthen the application of the POCA.</li> <li>Introduce the Financial Obligations Regulations to strengthen their AML regime.</li> </ul>	<ul style="list-style-type: none"> <li>Amendments to the POCA 2000 have already been prepared and are awaiting the Cabinet/Parliamentary process. These include penalties for corporate liability.</li> </ul>
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> <li>Confiscation is limited to persons convicted of predicate offence. Therefore, the courts cannot make a confiscation order where the property in question is found to be the proceeds of crime unless there is a conviction with respect to such property (s. 3 of POCA).</li> </ul>	<ul style="list-style-type: none"> <li>The T&amp;T authorities should consider expanding/widening the scope of offences that are subject to production orders and search warrants by expanding the definition of a “specified offence” contained in section 2(1)</li> </ul>	<ul style="list-style-type: none"> <li>This is included in the Draft POCA Amendment awaiting the Cabinet/Parliamentary process.</li> </ul>

		<ul style="list-style-type: none"> <li>• Provision for confiscation under the POCA is not widely used/implemented. There has been no confiscation of assets under POCA for ML offences.</li> <li>• Law enforcement agencies are limited in their powers to obtain production orders and search warrants under POCA in order to identify and trace property that may become subject to confiscation. Such orders can only be obtained for offences under the Dangerous Drug Act or Part 2 of POCA (ML offences) [pursuant to the definition of “specified offence” contained in section 2 of the POCA].</li> </ul>	of the POCA.	<ul style="list-style-type: none"> <li>▪ There have been no confiscation of assets under POCA for money laundering (see old matrix)</li> <li>▪ This is included in the draft POCA amendment referred to above.</li> </ul>
<b>Preventive measures</b>				
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> <li>▪ While most of the competent authorities have access to information, there are no measures allowing for the sharing of information locally and internationally.</li> <li>▪ There are no measures for the sharing of information between financial institutions as required by Recommendations 7 and 9 and Special Recommendation VII.</li> </ul>	<ul style="list-style-type: none"> <li>• The mission recommends that the relevant competent authorities in Trinidad and Tobago be given the ability to share locally and internationally, information they require to properly perform their functions.</li> <li>• It is recommended to amend the legislation to specifically require that no financial institution secrecy law will inhibit the implementation of the FATF Recommendations (or a similar requirement).</li> </ul>	<ul style="list-style-type: none"> <li>▪ In addition to the authority given to the Central Bank under Section 6(z) of the Central Bank Act, to disseminate information, the FIU Bill establishing a financial intelligence unit provides for the dissemination of relevant information to the financial investigation unit, thereby overriding secrecy laws.</li> <li>▪ This matter is addressed in Part IV of the draft Financial Obligations Regulations which prohibit financial institutions from keeping accounts in fictitious names and obliges the relevant institution to obtain from its customer appropriate identification documents.</li> <li>▪ These matters are now addressed in Part IV under the heading <i>Customer Due Diligence</i>. The Financial Institutions Bill (2008) retains Section 35A of the Financial Institutions Act (FIA), allowing the Central Bank of Trinidad and Tobago to share information with the designated authority identified in the Proceeds of Crime Act and its amendments.</li> </ul> <p>Additionally, the Securities Act, which is currently being reviewed by the Law Reform Commission provides for information sharing with relevant financial</p>

				entities.
5.Customer due diligence	NC	<ul style="list-style-type: none"> <li>None of the CDD requirements are included in legislation, regulations or other enforceable means and existing requirements are only applicable to financial institutions supervised by the CBTT.</li> </ul>	<ul style="list-style-type: none"> <li>The T&amp;T authorities may wish to consider to set out measures in laws or implementing regulations with sanctions for non-compliance for the following:</li> <li>Financial institutions should not be permitted to keep anonymous accounts or accounts in fictitious names.</li> <li>Financial institutions should be required to undertake customer due diligence measures when establishing business relations, carrying out occasional or linked transactions above US 15,000, carrying out occasional wire transfers as covered in Special Recommendation VII, when there is suspicion of ML or FT regardless of exemptions or amounts, and when there is doubt about the veracity or adequacy of previously obtained customer identification data.</li> <li>Financial institutions should be required to identify the customer (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and verify that customer's identity using reliable, independent source documents, data or information.</li> <li>Financial institutions should be required to verify that any person purporting to act on behalf of a legal person or legal arrangement is so authorised, and identify and verify the identity of that person.</li> <li>Financial institutions should be required to identify the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner using relevant information or data.</li> <li>Financial institutions should be required to determine the natural persons who ultimately own or control customers that are legal persons or legal arrangements.</li> <li>Financial institutions should be required to conduct due diligence on the business relationship.</li> </ul>	<p>[The setting out of such measures is addressed in the current amendments to the Proceeds of Crime Act and supporting Regulations]</p> <p style="text-align: center;">do</p> <p style="text-align: center;">do</p> <ul style="list-style-type: none"> <li>Provided in Regulation 11 under Part IV of the draft Financial Obligations Regulations</li> <li>Provided in Regulation 12 under Part IV of the draft Financial Obligations Regulations</li> <li>Provided in Regulation 13 under Part IV of the draft Financial Obligations Regulations</li> <li>Provided in Regulation 14 under Part IV of the draft Financial Obligations Regulations</li> <li>Provided in Regulation 11 under Part IV of the draft Financial Obligations Regulations</li> <li>Provided in Regulation – under Part IV of the draft Financial Obligations Regulations</li> <li>Provided in Regulation -- under Part IV of the draft Financial Obligations Regulations</li> </ul>

			<ul style="list-style-type: none"> <li>The T&amp;T authorities may set out the following measures in laws, regulations or enforceable guidelines with sanctions for non-compliance:</li> <li>Financial institutions should be required to implement the other criteria of Recommendation 5 concerning remaining CDD measures, risk, timing of verification, failure to satisfactorily complete CDD and existing customers</li> </ul>	<ul style="list-style-type: none"> <li>These matters are being addressed in the current Amendments to the Proceeds of Crime Act and supporting Regulations.</li> <li>This is to be addressed in the current formulated policy guiding the discussions of the Cabinet appointed AML/CFT Committee, with a view to being appropriately incorporated into amendments of the Proceeds of Crime Act and supporting Regulations.</li> </ul>
6. Politically exposed persons	NC	<ul style="list-style-type: none"> <li>None of the requirements are included in legislation, regulations or other enforceable means and existing requirements are only applicable to financial institutions supervised by the CBTT.</li> </ul>	<ul style="list-style-type: none"> <li>Financial institutions should be required to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a PEP.</li> <li>Financial institutions should be required to obtain senior management approval for establishing or continuing business relationships with a PEP.</li> <li>Financial institutions should be required to take reasonable measures to establish the source of wealth and funds of PEPs</li> <li>Financial institutions should be required to conduct enhanced ongoing monitoring of business relationships with PEPs.</li> </ul>	
7. Correspondent banking	NC	<ul style="list-style-type: none"> <li>None of the requirements are included in legislation, regulations or other enforceable means and existing requirements are only applicable to financial institutions supervised by the CBTT.</li> </ul>	<ul style="list-style-type: none"> <li>Financial institutions should be required to gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine the reputation of the institution and the quality of the supervision, including whether it has been subject to a ML or TF investigation or regulatory action.</li> <li>Financial institutions should assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective.</li> <li>Financial institutions should obtain approval from senior management for establishing new correspondent relationships.</li> </ul>	<ul style="list-style-type: none"> <li>These matters are addressed in the draft Financial Obligations Regulations under the following regulations (see old matrix p. 14, 15, 16) <b>Under Correspondent banking</b>. Madame Justice Jean Perreault said the Legal Profession Act should be looked at and its relevance noted.</li> </ul>

			<ul style="list-style-type: none"> <li>Financial should document the respective AML/CFT responsibilities of each institution in the correspondent relationship.</li> <li>In the case of “payable-through accounts”, financial institutions should be satisfied that the respondent institution has performed all the normal CDD measures set out in Rec. 5 on customers using the accounts of the correspondent and the respondent institution is able to provide relevant customer identification data upon request to the correspondent.</li> </ul>	
8.New technologies & non face-to-face business	NC	<ul style="list-style-type: none"> <li>None of the requirements are included in legislation, regulations or other enforceable means and existing requirements are only applicable to financial institutions supervised by the CBTT.</li> </ul>	<ul style="list-style-type: none"> <li>Financial institutions should be required to have policies in place or take such measures to prevent the misuse of technological developments in ML or TF schemes.</li> <li>Financial institutions should be required to have policies and procedures in place to address specific risks associated with non-face to face business relationships or transactions. These policies and procedures should apply when establishing customer relationships and conducting ongoing due diligence.</li> <li>Financial institutions should be required to have measures for managing risks including specific and effective CDD procedures that apply to non-face to face customers.</li> </ul>	<ul style="list-style-type: none"> <li>These matters are addressed in the draft Financial Obligations Regulations.</li> </ul>
9.Third parties and introducers	NC	<ul style="list-style-type: none"> <li>The requirements in place are not mandatory and are applicable only to the financial institutions supervised by the Central Bank.</li> </ul>	<p>The T&amp;T authorities may set out the following measures in laws, regulations or enforceable guidelines with sanctions for non-compliance:</p> <ul style="list-style-type: none"> <li>Financial institutions relying upon a third party should be required to immediately obtain from the third party the necessary information concerning the elements of the CDD process in criteria 5.3 to 5.6.</li> <li>Financial institutions should be required to take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay.</li> <li>Financial institutions should be required to satisfy themselves that the third party is</li> </ul>	<ul style="list-style-type: none"> <li>These matters are addressed in the draft Financial Obligations Regulations at regulation 12.</li> </ul> <p style="text-align: center;">Same as above</p> <p style="text-align: center;">Same as above</p>

			<p>regulated and supervised and had measures in place to comply with the CDD requirements set out in Recommendations 5 and 10.</p> <ul style="list-style-type: none"> <li>• Competent authorities should determine in which countries third parties meet the conditions by taking into account information available on whether these countries adequately apply the FATF Recommendations.</li> <li>• The ultimate responsibility for customer identification and verification should remain with the financial institution relying on the third party.</li> </ul>	<ul style="list-style-type: none"> <li>▪ This matter is addressed in clause 4(1) of the draft Financial Intelligence Unit Bill.</li> </ul>
10.Record keeping	NC	<ul style="list-style-type: none"> <li>▪ The requirements in place are not mandatory and are applicable only to the financial institutions supervised by the Central Bank.</li> </ul>	<ul style="list-style-type: none"> <li>• The T&amp;T authorities may wish to introduce the proposed Financial Obligation Regulations as soon as possible and include the following;</li> <li>• Financial institutions should be required to maintain all necessary records on transactions, both domestic and international, for at least five years following the completion of the transaction (or longer if requested by a competent authority in specific cases and upon proper authority). This requirement applies regardless of whether the account or business relationship is ongoing or has been terminated.</li> <li>• Transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.</li> <li>• Financial institutions should be required to maintain records of the identification data, account files and business correspondence for at least five years following the termination of an account or business relationship ( or longer if requested by a competent authority in specific cases upon proper authority).</li> <li>• Financial institutions should be required to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Part VI of the draft Financial Obligations Regulations is dedicated to record keeping.</li> </ul> <p style="text-align: center;">Same as above</p>
11.Unusual transactions	PC	<ul style="list-style-type: none"> <li>▪ There is no requirement for financial institutions to examine the background and purpose of all complex, unusual large transactions or unusual patterns of</li> </ul>	<ul style="list-style-type: none"> <li>• The POCA should be amended to require financial institutions to examine and record their findings in writing on the background and purpose of all complex, unusual large transactions, or unusual patterns of</li> </ul>	<ul style="list-style-type: none"> <li>▪ This matter is dealt with at regulation – of the draft Financial Obligations Regulations and in clause – of the POCA (amendment) Bill 2009.</li> </ul>

		transactions that have no apparent or visible economic or lawful purpose, to set forth their findings in writing, and to keep such findings for competent authorities and auditors for at least five years.	transactions, that have no apparent or visible economic or lawful purpose, and to keep such findings available for competent authorities and auditors for at least five years.	
12.DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> <li>The DNFBP's are not supervised or regulated for AML compliance.</li> <li>Lawyers, notaries, other independent legal professionals, accountants and trust and company service providers are not subject to AML/CFT obligations.</li> <li>Casino's, real estate agents, and jewellers have been designated under the law, but none of the requirements set out in Recommendations 5 – 10 have been implemented.</li> <li>No requirement to examine the background and purpose of the transactions and no requirement to keep the findings for DNFBP's.</li> <li>No requirement to pay special attention to complex – unusual large transactions or unusual patterns of transactions for DNFBP's.</li> </ul>	<ul style="list-style-type: none"> <li>Lawyers, notaries, other independent legal professions, accountants and trust and company service providers should be subject to AML/CFT FATF requirements.</li> <li>DNFBPs and persons engaged in relevant business activities should be supervised for AML/CFT compliance</li> <li>The requirements of Recommendations 5 to 10 should be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendation 12.</li> <li>Government should put more effort in educating and informing the DNFBPs and persons engaged in relevant business activities about their responsibilities under the legislation and about other relevant AML/CFT issues and developments.</li> <li>The requirements of Recommendations 11 and 21 should be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendations 12 and 16.</li> </ul>	<ul style="list-style-type: none"> <li>DNFBP's are included in the First Schedule to POCA Bill and have been extended in the draft Financial Obligations Regulations 2009 to apply to all of them.</li> <li>The draft Financial Obligations Regulations required all financial institutions and DNFBP's to comply with this requirement.</li> </ul>
13.Suspicious transaction reporting	NC	<ul style="list-style-type: none"> <li>The reporting agency is the designated authority rather than the FIU and suspicion is based on illicit activities rather than all predicate offences</li> <li>No requirement to report suspicious transactions related to terrorist financing</li> <li>No requirement to report suspicious transactions regardless of whether they involve tax matters.</li> </ul>	<ul style="list-style-type: none"> <li>The POCA should be amended to require reporting to the FIU rather than the designated authority of suspicious transactions related to the proceeds of all ML predicate offences as defined in FATF Recommendation1.</li> <li>The requirement to report should be applied regardless of the amount of the transaction and if it involves tax matters.</li> </ul>	<ul style="list-style-type: none"> <li>This matter is addressed in section 15 of POCA and in Part – of the draft Financial Obligations Regulations</li> <li>This matter is to be addressed in taxation legislation.</li> </ul>
14.Protection & no tipping-off	PC	<ul style="list-style-type: none"> <li>No prohibition of disclosure of the reporting of a suspicious transaction to the designated authority/FIU.</li> </ul>	<ul style="list-style-type: none"> <li>The POCA should be amended to prohibit the disclosure of reporting to the designated authority/FIU as stipulated in Section 55 (3) of the POCA.</li> <li>The POCA should be amended to ensure that the confidentiality requirement in Subsections 55(8) and (9) also applies to the personnel of the FIU.</li> </ul>	<ul style="list-style-type: none"> <li>This matter is addressed in clauses 23 and 24 of the draft Financial Intelligence Unit Bill.</li> </ul> <p style="text-align: center;">Same as above</p>

15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> <li>• Internal controls requirements are too general and do not include FT.</li> <li>• No requirement for the designation of a compliance officer at management level</li> <li>• No requirement for AML/CFT compliance officer and other appropriate staff to have access to relevant information</li> <li>• Employee training is limited to the identification of suspicious transactions</li> <li>• No requirement for financial institutions to place screening procedures when hiring employees.</li> </ul>	<p>The T&amp;T authorities may wish to amend legislative provisions for internal controls and other measures to include the following:</p> <ul style="list-style-type: none"> <li>• Internal procedures, policies and controls to prevent ML and FT covering inter alia CDD, record retention, detection of unusual and suspicious transactions and the reporting obligation.</li> <li>• Appropriate compliance management arrangements should be developed to include at a minimum the designation of an AML/CFT compliance officer at management level.</li> <li>• The AML/CFT compliance officer and other appropriate staff should have timely access to customer identification data and other CDD information, transaction records, and other relevant information.</li> <li>• Employee training should include information on new developments including current ML and FT techniques, methods and trends, clear explanations of all aspects of AML/CFT laws and obligations and requirements concerning CDD and suspicious transaction reporting.</li> <li>• Financial institutions should be required to put in place screening procedures to ensure high standards when hiring employees</li> </ul>	<ul style="list-style-type: none"> <li>▪ Addressed in Part 11 of the draft Financial Obligations Regulations at Regulation 9.</li> <li>▪ Addressed in Part II of the draft Financial Obligations Regulations at Regulation 3.</li> <li>▪ Addressed in Part II of the draft Financial Obligations Regulations at Regulation 9(1)(c).</li> <li>▪ Addressed in Part II of the draft Financial Obligations Regulations at Regulation 6.</li> <li>▪ Addressed in the draft Financial Obligations Regulations.</li> </ul>
16. DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> <li>• No SAR's from DNFBP's have been submitted to the Designated Authority/FIU.</li> <li>• No evidence that the DNFBP's are complying with legislated requirements of Rec. 15.</li> <li>• See section 3.7.3 for factors relevant to Recs. 13 and 14.</li> <li>• See section 3.8.3 for factors relevant to Rec. 15.</li> </ul>	<ul style="list-style-type: none"> <li>• The requirements of Recommendations 13 and 14 as detailed in section 3.7.2 of this report should be imposed on all DNFBP's as stipulated in the circumstances detailed in Recommendation 16.</li> <li>• The requirements of Recommendations 15 as detailed in section 3.8.2 of this report should be imposed on all DNFBP's as stipulated in the circumstances detailed in Recommendation 16</li> </ul>	<ul style="list-style-type: none"> <li>▪ These matters are to be addressed in rules to be made by the Minister under the Financial Obligations Regulations.</li> </ul>
17. Sanctions	NC	<ul style="list-style-type: none"> <li>• No provisions in legislation to withdraw, restrict or suspend the licence of the financial institution for non-compliance with AML/CFT requirements.</li> <li>• The requirements set out in Rec. 17 are included in the POCA 2000, but there are no provisions in the legislation to withdraw, restrict or suspend the license</li> </ul>	<ul style="list-style-type: none"> <li>• The authorities should consider amending the provisions for sanctions in the POCA to allow for penalties to be applied jointly or separately.</li> <li>• The authorities should consider increasing the range of sanctions for AML/CFT non-compliance to include disciplinary sanctions and the power to withdraw, restrict or suspend the financial institution's license, where</li> </ul>	<ul style="list-style-type: none"> <li>• Appropriate sanctions would be incorporated in enabling legislation.</li> </ul> <p>The Financial Institutions Bill (2008) seeks to enhance the enforcement powers of the Central Bank of Trinidad and Tobago by providing for administrative fines; the</p>

		of the DNFBP.	applicable.	enforcement of directions by Court Order; and restraining order or other injunctive or equitable relief.
18.Shell banks	PC	<ul style="list-style-type: none"> <li>• There are no provisions to prevent financial institutions to enter, or continue, correspondent banking relationships with shell banks.</li> <li>• There are no provisions to require that financial institutions should satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.</li> </ul>	<ul style="list-style-type: none"> <li>• Shell banks should be prohibited by law.</li> <li>• Financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks;</li> <li>• Financial institutions should be required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.</li> </ul>	<ul style="list-style-type: none"> <li>• The drafting consultant is in the process of reviewing existing legislative provisions under the Companies Act 1995 as well as the criteria adopted by the Central Bank of Trinidad and Tobago in the registration of businesses to determine whether it would be necessary to enact express provisions prohibiting the operation of Shell Banks.</li> </ul>
19.Other forms of reporting	PC	<ul style="list-style-type: none"> <li>• No indication that the authorities considered implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national central agency with a computerized database.</li> <li>• No indication that when the Customs Division discovers an unusual international shipment of currency, monetary instruments, precious metals or gems etc, it considers notifying, as appropriate, the Customs Service or other competent authorities of the countries from which the shipment originated and/or to which it is destined, and co-operates with a view toward establishing the source, destination, and purpose of such shipment and toward the taking of appropriate action.</li> </ul>	<ul style="list-style-type: none"> <li>• The authorities should consider the feasibility and utility of implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national agency with a computerized data base.</li> <li>• When the Customs Division discovers an unusual international shipment of currency, monetary instruments, precious metals or gems etc, it should consider notifying, as appropriate, the Customs Division or other competent authorities of the countries from which the shipment originated and/or to which it is destined, and should co-operate with a view toward establishing the source, destination, and purpose of such shipment and toward the taking of appropriate action.</li> <li>• The Customs Division's computerized database of Customs Declaration Forms should be subject to strict safeguards to ensure proper use of the information that is recorded.</li> </ul>	<ul style="list-style-type: none"> <li>• This matter is addressed in Part V of the draft Financial Obligations Regulations at Regulation 17.</li> <li>▪ This matter has already been implemented.</li> </ul>
20.Other NFBP & secure transaction techniques	LC	<ul style="list-style-type: none"> <li>• The only measure taken by the Government of Trinidad and Tobago to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to ML has been not issuing large denomination banknotes.</li> </ul>	<ul style="list-style-type: none"> <li>• Authorities should consider applying the relevant FATF Recommendation to non-financial businesses and professions (other than DNFBP's) that are at the risk of being misused for ML or TF.</li> <li>• Measures should be taken to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to ML</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Government of Trinidad and Tobago has requested technical assistance from the International Monetary Fund to undertake a risk assessment of its relevant sectors.</li> </ul>

<p>21.Special attention for higher risk countries</p>	<p>NC</p>	<ul style="list-style-type: none"> <li>• Financial institutions are not 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.</li> <li>• There is no legal requirement for the background and purpose of transactions having no apparent economic or visible lawful purpose with persons from or in countries which do not or insufficiently apply the FATF Recommendations to be examined and written findings made available to assist competent authorities and auditors.</li> <li>• Only the Central Bank circulates the NCCT list to the financial institutions it supervises.</li> </ul>	<ul style="list-style-type: none"> <li>• The POCA should be amended to require financial institutions to give special attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF Recommendations</li> <li>• Effective measures should be put in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries.</li> <li>• The background and purpose of transactions having no apparent economic or visible lawful purpose with persons from or in countries which do not or insufficiently apply the FATF Recommendations should be examined and written findings made available to assist competent authorities and auditors.</li> <li>• That the Government Trinidad and Tobago have in place arrangements to take the necessary countermeasures where a country continues not to apply or insufficiently applies the FATF Recommendations.</li> </ul>	<ul style="list-style-type: none"> <li>▪ These measures are incorporated in the current draft Financial Intelligence Unit Bill under clause 4 (3) (i).</li> <li>▪ This matter shall be addressed administratively by the Financial Intelligence Unit.</li> <li>▪ This matter is addressed in regulation – of the draft Financial Obligations Regulations.</li> <li>▪ Trinidad and Tobago has the prerogative of invoking recommendation 21 and 40 = 9 recommendations, an option that is available to any member of the CFATF.</li> </ul>
<p>22.Foreign branches &amp; subsidiaries</p>	<p>NC</p>	<ul style="list-style-type: none"> <li>• No legal requirements for financial institution to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with FATF standards.</li> </ul>	<p>The T&amp;T authorities may wish to introduce legislation or enforceable regulations to include the requirements for financial institutions to:</p> <ul style="list-style-type: none"> <li>• pay particular attention that their branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations observe the AML/CFT requirements consistent with home country requirements and the FATF Recommendations;</li> <li>• apply the higher standard, to the extent that local (i.e. host country) laws and regulations permit, where the minimum AML/CFT requirements of the home and host countries differ;</li> <li>• 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</li> </ul>	<ul style="list-style-type: none"> <li>▪ This matter is addressed in clause 4(3) (i) of the draft Financial Intelligence Unit Bill.</li> <li>▪ To be included in the Financial Obligations Regulations</li> </ul>

			country) laws, regulations or other measures.	
23.Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>• Relevant supervisory agencies have not been designated as responsible for ensuring the compliance of their supervised financial institutions with AML/CFT requirements.</li> <li>• The TTSEC does not apply the requirements of the IOSCO Principles for the supervision of the securities sector with regard to AML/CFT.</li> <li>▪ Only the financial institutions supervised by the CBTT are subject to AML/CFT regulation and supervision.</li> <li>▪ Only financial institution under the FIA are subject to all measures necessary to prevent criminals and their associates from gaining control or significant ownership of financial institutions.</li> <li>▪ The securities sector, credit unions, money transfer companies and cash couriers are not subject to AML/CFT supervision.</li> <li>▪ Money transfer companies and cash couriers are not licensed, registered or appropriately regulated</li> </ul>	<ul style="list-style-type: none"> <li>• Authorities should formally designate the relevant supervisory agencies with the responsibility for ensuring compliance by their licensees with AML/CFT obligations.</li> <li>• The TTSEC should apply the requirements of the IOSCO Core Principles for the supervision of the securities sector with regard to AML/CFT.</li> <li>• The securities sector and credit unions should be subject to AML/CFT supervision. Money transfer companies and cash couriers should be licensed, registered, appropriately regulated and subject to AML/CFT supervision.</li> <li>• The measures in the FIA to prevent criminals or their associates from gaining control or significant ownership of financial institutions should be duplicated in the relevant legislation governing the supervision of other financial institutions under the POCA.</li> </ul>	<ul style="list-style-type: none"> <li>• Addressed in Section 37(1) of the Financial Institutions Act, 1993.</li> </ul> <p>The Government of Trinidad and Tobago is awaiting technical assistance.</p>
24. DNFBP – regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>• There is no legal requirement to ensure that the gaming houses (or private member clubs), pool betting and the national lottery on line betting games are subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF Recommendations.</li> <li>• There are no legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a Gaming House (or Private Member Club), Pool Betting and the National Lottery on line Betting Games.</li> </ul>	<ul style="list-style-type: none"> <li>• Gaming houses (or private member clubs), pool betting and the national lottery on line betting games should be subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF Recommendations.</li> <li>• Legal or regulatory measures should be taken to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a gaming house (or private member club), pool betting and the national lottery on line betting games.</li> <li>• A competent authority or SRO should be designated as responsible for monitoring and ensuring compliance of DNFBPs with</li> </ul>	<ul style="list-style-type: none"> <li>▪ Private members clubs have been added to the First Schedule of POCA Amendment Bill.</li> <li>▪ This matter has to be addressed in separate legislation concerning these operations or in the Gambling and Betting Act.</li> </ul>

		<ul style="list-style-type: none"> <li>There is no designated competent authority or SRO responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements.</li> </ul>	<p>AML/CFT requirements.</p> <ul style="list-style-type: none"> <li>Competent authorities should establish guidelines that will assist DNFBP's to implement and comply with their respective AML/CFT requirements</li> </ul>	
25. Guidelines & Feedback	NC	<ul style="list-style-type: none"> <li>The Designated Authority/FIU does not provide feedback to financial institutions that are required to report suspicious transactions.</li> <li>The CBTT AML/CFT Guidelines are applicable only to banks and insurance companies.</li> <li>There are no guidelines to assist DNFBPs to implement and comply with their respective AML/CFT requirements".</li> </ul>	<ul style="list-style-type: none"> <li>The designated authority/FIU should have a structure in place to provide financial institutions that are required to report suspicious transactions, with adequate and appropriate feedback.</li> <li>The CBTT AML/CFT Guidelines should be enforceable and have sanctions for non-compliance.</li> <li>Guidelines similar to the CBTT AML/CFT Guidelines should be issued by the relevant authorities for all financial institutions and persons engaged in relevant business activity stipulated in the POCA.</li> </ul>	<ul style="list-style-type: none"> <li>Administrative steps would be taken to ensure that this occurs.</li> <li>These guidelines re incorporated into the draft Financial Obligations Regulations.</li> <li>These guidelines have been strengthened and incorporated into the Draft Financial Obligations Regulations.</li> </ul>
<b>Institutional and other measures</b>				
26.The FIU	NC	<ul style="list-style-type: none"> <li>There is no (legally established) FIU that receives, analyses and disseminates financial information (FIU legislation not introduced to clearly indicate the powers of this entity).</li> <li>The FIU lacks the legal authority to obtain and disseminate financial information.</li> <li>Operational independence and more autonomous structure (reconsider "designated authority structure) of the FIU is needed</li> <li>The FIU does not prepare and publish periodic reports of operations, typologies, trends and its activities for public scrutiny.</li> </ul>	<ul style="list-style-type: none"> <li>Proceed quickly to enact FIU legislation. The required Legislative framework should be implemented with the view to gain membership to the Egmont Group of FIUs.</li> <li>Introduce Periodic reports prepared by the FIU in relation to its operation in order to test its growth and effectiveness. This report should also serve to show ML and TF trends.</li> <li>Consider strengthening and restructuring the staff of the FIU so as to encourage self-sufficiency and operational independence.</li> <li>The FIU should consider publicizing periodic reports for the wider public.</li> </ul>	<ul style="list-style-type: none"> <li>A draft Financial Intelligence Unit Bill is awaiting Cabinet/Parliamentary procedure before enactment.</li> <li>The Financial Intelligence Unit will be required under the enabling legislation to provide periodic reports.</li> <li>A provision to this effect is contained in the drfat Financial Intelligence Unit Bill.</li> </ul>
27.Law enforcement authorities	LC	<ul style="list-style-type: none"> <li>The lack of resources is hampering the ability of Law enforcement authorities to properly investigate ML and FT offences.</li> </ul>	<ul style="list-style-type: none"> <li>Pay more attention to pursuing Money-Laundering offences based on received and analysed SAR's.</li> </ul>	<ul style="list-style-type: none"> <li>A formal administrative review of the laws, institutions and human resource needs of the security community is being undertaken to arrive at an assessment of where assets and personnel should be deployed. This review taken in conjunction with this Recommendation would be used to strengthen the resources needed by law</li> </ul>

			<ul style="list-style-type: none"> <li>The effectiveness of the system to combat AML/(CFT) offences should be improved.</li> <li>Enact the Police Service Reform Bill quickly in order to reform the Police Service with the view to improve efficiency and restore public trust.</li> <li>Increase involvement of the Customs and Excise Division in combating money laundering and terrorist financing.</li> <li>The Customs and Excise Division should consider reviewing its policy in relation to the sharing of data.</li> <li>The DPP office should continue to implement its special project on ML prosecutions.</li> </ul>	<p>enforcement.</p> <ul style="list-style-type: none"> <li>Police Service Act enacted in 2000</li> <li><b>Under Law enforcement authorities</b>, The DPP office has implemented its special project on Money Laundering prosecutions</li> <li>The office of the DPP is engaged on an ongoing basis in the prosecution of money laundering matters.</li> </ul>
29. Supervisors	NC	<ul style="list-style-type: none"> <li>The CUSU do not have the power to compel production of or to obtain access to all records, documents or information relevant to monitoring compliance.</li> <li>The CUSU do not have the authority to conduct inspections of relevant financial institutions including on-site inspection to ensure compliance.</li> <li>Supervisors do not have adequate powers of enforcement and sanction against financial institutions and their directors or senior management for failure to comply with AML/CFT requirements.</li> </ul>	<ul style="list-style-type: none"> <li>The CUSU should have the power to compel production or to obtain access to all records, documents or information relevant to monitoring compliance</li> <li>The CUSU should have the authority to conduct inspections of relevant financial institutions including on-site inspection to ensure compliance.</li> <li>All supervisors should have adequate powers of enforcement and sanction against financial institutions and their directors or senior management for failure to comply with the AML/CFT requirements.</li> <li>All supervisory authorities of financial institutions need to have systems in place for combating ML and FT and should review the effectiveness of these systems.</li> </ul>	<ul style="list-style-type: none"> <li><b>Under Supervisors</b>, the decision has been made for the supervision of Credit Unions to fall under the CBTT. At present, legislation is being developed to accommodate this change.</li> </ul> <p>Progress has also been made by the Securities &amp; Exchange Commission with the creation of the Securities Act which is currently under review.</p>
30. Resources, integrity and training	PC	<ul style="list-style-type: none"> <li>Resources of the FIU, DPP, Customs and the Police Service are not sufficient for these agencies to perform their respective functions. More and continuous training is needed for these entities, including the Immigration service.</li> <li>Staff resources of the TTSEC and CUSU are insufficient for their task.</li> </ul>	<ul style="list-style-type: none"> <li>Introduce provisions for continuous training for the Designated Authority, the Training Officer and other staff within the FIU.</li> <li>Consider establishing a training program for staff of the FIU. Coordinating of workshops/seminars in conjunction with the SSA would assist greatly in this effort.</li> <li>Improve budgetary, staffing and physical</li> </ul>	<ul style="list-style-type: none"> <li><b>Under Resources, integrity and training</b>. During March 2008, a business plan for reform in the DPP's office which contemplated the setting up of a specialist Proceeds of Crime/Money laundering Unit. This was submitted to the Attorney General and is receiving favourable consideration.</li> </ul>

		<ul style="list-style-type: none"> <li>▪ AML/CFT training available for supervisory staff is insufficient.</li> <li>• The strength and structure of the FIU is inadequate to meet its needs.</li> <li>▪ Ongoing training is necessary.</li> </ul>	<p>accommodation of the FIU in order to improve its capabilities.</p> <ul style="list-style-type: none"> <li>• More resources (law enforcement staff) should be dedicated to investigation of ML offences.</li> <li>• Immigration should also be included in AML/CFT training or awareness programs.</li> <li>• Provide training to specific Customs Officers for future attachment to the FIU.</li> <li>• Address quickly the current shortage of staff at the Customs Division to enhance efficiency.</li> <li>• Provide further training to Prosecutors, Magistrates and Judges to broaden their understating of the relevant legislations.</li> <li>• Give considerable attention to Staffing constraints faced by the Magistracy and the Office of the DPP.</li> <li>• Strengthen the Executive Staff of the SSA in order to provide assistance to the Director.</li> <li>• The TTSEC and CUSU should review their staffing requirements and consider appropriate AML/CFT training in the event of being designated the AML/CFT authority for their licensees.</li> </ul>	
31.National co-operation	PC	<ul style="list-style-type: none"> <li>• NAMLC is not yet fully operational.</li> <li>• No MOU's for cooperation between supervisors and other competent authorities, which affects the level of cooperation.</li> </ul>	<ul style="list-style-type: none"> <li>• The T&amp;T authorities should consider instituting the legal framework necessary to formalise the National Anti- Money Laundering Committee. This Committee should be given legal responsibility to gather competent authorities regularly in order to develop and implement policies and strategies to combat ML and FT. The Committee should also be given responsibility for sensitising the general public about T&amp;T ML measures and encourage compliance with the relevant legislations.</li> </ul>	<ul style="list-style-type: none"> <li>• Since its inauguration in May 2006 the AML/CFT committee has been reporting periodically to Cabinet on steps being taken during intercessional meetings to implement the Recommendations made in Trinidad and Tobago's Mutual Evaluation Report.</li> <li>• During 2007 the focus of the Committee was in the area of legislative drafting with support from the Chief Parliamentary Office. Additionally, the FIU reported to the Committee on a regular basis on its outreach initiatives with banks, insurance companies and other members of the regulated sectors.</li> <li>• In 2008 the Chair presented to the Committee for adoption and subsequent ratification by Cabinet: <ul style="list-style-type: none"> <li>i. A suggested text for a National AML/CFT Policy</li> </ul> </li> </ul>

			<ul style="list-style-type: none"> <li>• Trinidad and Tobago should consider introducing MOU's between the CBTT, the TTSEC and the Designated Authority / FIU of Trinidad and Tobago, which would enable them to cooperate, and where appropriate, coordinate domestically with each other concerning the development and implementation of policies and activities to combat money laundering and terrorist financing.</li> <li>• Co-operation amongst law enforcement and other competent authorities could be improved. Competent authorities need to be more proactive in their approach as contact is presently maintained in a haphazard manner, in particular when a need arises.</li> </ul>	<p>ii. A suggested text for a National AML/CFT Strategy comprising the elements of public outreach, national awareness and training, risk base approach, strengthening of law enforcement, promoting relationships with the CFATF and regional and international affiliates etc.</p> <ul style="list-style-type: none"> <li>▪ Canvassing with the relevant Ministerial Team for Government policy and legislative enactment.</li> <li>▪ Advocating on the committee's behalf with the Prime Minister and Prime Contact for expediency in recommendation implementation.</li> <li>▪ Making representations to Cabinet for the full staffing of the Prime Contact's Secretariat so that the Committee's work could be appropriately buttressed by a full time team of legal research experts.</li> <li>▪ Making appropriate representations with line Ministries for the strengthening of representation on the AML/CFT Committee.</li> <li>▪ Negotiating with the CFATF assistance from international bodies such as the IMF/World Bank and CARTAC.</li> <li>▪ Engagement of a full time legal drafting expert to promote the committee's legislative agenda in accordance with the Strategy priorities.</li> </ul> <ul style="list-style-type: none"> <li>▪ The Financial Institution Bill (2008), retaining Section 35A of the Financial Institutions Act (FIA), allows the CBTT to share information with the designated authorities under the POCA, as part of the fight against money laundering and terrorist financing. This will address the recommended action of setting up MOU's among the designated authorities.</li> <li>▪ The Counter Drug &amp; Crime Task Force collaborates on a continuing basis with law enforcement authorities. Some of these authorities have supported the Task Force with full time assignees to that department.</li> </ul>
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32.Statistics	PC	<ul style="list-style-type: none"> <li>There is no Review of effectiveness of AML/CFT systems on a regular basis.</li> </ul>	<ul style="list-style-type: none"> <li>Review of the effectiveness of the FIU systems to combat ML and FT should be more thorough and should produce more tangible results also with regard to other relevant stakeholders involved.</li> <li>Measures should be instituted to review the effectiveness of T&amp;T's money laundering and terrorist financing systems.</li> <li>Once all other supervisory authorities of financial institutions have implemented AML/CFT supervision, they should maintain comprehensive statistics on on-site examinations and requests for assistance.</li> <li>T&amp;T should also review the effectiveness of its system with regard to AML (CFT) extradition cases based on statistics and on a regular basis.</li> </ul>	<ul style="list-style-type: none"> <li><b>Under Statistics</b>, the office of the DPP generates an annual report that is statistically based in addition to the CBTT which has developed a statistics report on their site visited during the period May - November 2008.</li> </ul>
33.Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> <li>Competent authorities have access to information stored by the Registrar of Companies, however it could not be ascertained if adequate, accurate and current information on beneficial ownership and control of legal persons is maintained in Trinidad and Tobago.</li> </ul>	<ul style="list-style-type: none"> <li>It is recommended that Trinidad and Tobago authorities undertake a comprehensive review to determine ways in which it can ensure itself that adequate and accurate information on beneficial ownership may be available on a timely basis.</li> </ul>	<ul style="list-style-type: none"> <li><b>Under Legal persons – beneficial owners</b>, Madame Justice Jean Permand will seek input from the registrar of companies to be inputted at a later date.</li> </ul>
34.Legal arrangements – beneficial owners	NC	<ul style="list-style-type: none"> <li>There is no mechanism to prevent the unlawful use of legal arrangements in relation to money laundering and terrorist financing by ensuring that its commercial, trust and other laws require adequate transparency concerning the beneficial ownership and control of trusts and other legal arrangements.</li> </ul>	<ul style="list-style-type: none"> <li>The T&amp;T authorities should take steps to implement a mechanism to prevent the unlawful use of legal arrangements in relation to money laundering and terrorist financing by ensuring that its commercial, trust and other laws require adequate transparency concerning the beneficial ownership and control of trusts and other legal arrangements.</li> </ul>	
<b>International Co-operation</b>				
35.Conventions	NC	<ul style="list-style-type: none"> <li>The relevant international conventions have not been implemented extensively.</li> </ul>	<ul style="list-style-type: none"> <li>The T&amp;T authorities may wish to continue taking steps towards enacting an Anti-Terrorism Bill and sign and ratify the United Nations International Convention for the</li> </ul>	<ul style="list-style-type: none"> <li>The second tranche of legislative work being pursued by the AML/CFT Committee in collaboration with the drafting consultant includes the review of the existing terrorist legislation with the objective of incorporating provisions that would have the effect of criminalising the</li> </ul>

			Suppression of the Financing of Terrorism.	financing of terrorism. It is anticipated that the relevant amendments would be drafted no later than the third quarter in 2009.
36.Mutual legal assistance (MLA)	LC	<ul style="list-style-type: none"> <li>• There are no mechanisms currently in place that deals with conflicts of jurisdiction.</li> <li>• Also, dual criminality is required in order to render mutual legal assistance. This would make mutual legal assistance on TF almost impossible</li> </ul>	<ul style="list-style-type: none"> <li>• T&amp;T Should introduce legislation that deals with conflicts of jurisdiction. Also, dual criminality is required in order to render mutual legal assistance.</li> </ul>	<ul style="list-style-type: none"> <li>▪ This matter is being addressed by the AML/CFT Committee in collaboration with the drafting consultant.</li> </ul>
37.Dual criminality	LC	<ul style="list-style-type: none"> <li>• Mutual legal assistance is not generally rendered in the absence dual criminality. However the authorities try and assist if they are able to obtain a voluntary statement.</li> </ul>	<ul style="list-style-type: none"> <li>• Dual criminality is required in order to render mutual legal assistance (TF not available).</li> </ul>	do
38.MLA on confiscation and freezing	LC	<ul style="list-style-type: none"> <li>• Financing of terrorism is not an offence and therefore not a predicate offence<sup>1</sup>.</li> </ul>	<ul style="list-style-type: none"> <li>• Trinidad &amp; Tobago should strongly consider implementing legislation that would give greater effect to confiscation, seizing and freezing ability with regard to requests for assistance from foreign countries.</li> <li>• The asset forfeiture fund should be clearly established and utilized in T&amp;T.</li> </ul>	do
39.Extradition	LC	<ul style="list-style-type: none"> <li>• T&amp;T would be unable to extradite a fugitive for an offence relating to terrorist financing and piracy as such offences don't exist in T&amp;T legislation.</li> </ul>	<ul style="list-style-type: none"> <li>• Dual criminality is required in order to render mutual legal assistance (TF not available).</li> </ul>	do
40.Other forms of co-operation	PC	<ul style="list-style-type: none"> <li>• The FIU has not established any effective gateways to facilitate the prompt and constructive exchange of information directly with its foreign counterparts.</li> <li>• T&amp;T has not established any MOU's or other mechanism to allow financial supervisory bodies to cooperate with their foreign counterparts.</li> </ul>	<ul style="list-style-type: none"> <li>• The T&amp;T authorities may wish to implement Legislations to enable Law Enforcement Agencies and other competent authorities to provide the widest range of international cooperation to their foreign counterparts in a timely and effective manner.</li> </ul>	do
<b>Nine Special Recommendations</b>		<b>Summary of factors underlying rating</b>		
SR.I Implement UN instruments	NC	<ul style="list-style-type: none"> <li>• The essential criteria have not been adhered to as Trinidad &amp; Tobago do not have the</li> </ul>	<ul style="list-style-type: none"> <li>• The T&amp;T authorities may wish to continue taking steps towards enacting an Anti-</li> </ul>	do

<sup>1</sup> Idem note 1

		relevant legislation in place in order to comply with SR.I.	Terrorism Bill and sign and ratify the United Nations International Convention for the Suppression of the Financing of Terrorism.	
SR.II Criminalise terrorist financing	NC	<ul style="list-style-type: none"> <li>There is no legislation in T&amp;T criminalising terrorist financing</li> </ul>	<ul style="list-style-type: none"> <li>Introduce diligently the proposed legislation criminalising the financing of terrorism, terrorist acts and terrorist organizations and make such offences money laundering predicate offences.</li> <li>Sign and ratify the Terrorist Financing Convention.</li> </ul>	do
SR.III Freeze and confiscate terrorist assets	NC	<ul style="list-style-type: none"> <li>There is no legislation that deals with freezing or confiscating terrorists' funds in accordance with the relevant United Nations Resolutions</li> </ul>	<ul style="list-style-type: none"> <li>Introduce diligently the proposed legislation criminalising the financing of terrorism, terrorist acts, terrorist organizations and make such offences money laundering predicate offences.</li> <li>Sign and ratify the Terrorist Financing Convention.</li> </ul>	do
SR.IV Suspicious transaction reporting	NC	<ul style="list-style-type: none"> <li>There are no requirements for financial institutions to report to the designated authority/FIU when they suspect or have reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations, regardless of the amount of the transaction and including attempted transactions or if tax matters are involved.</li> </ul>	<ul style="list-style-type: none"> <li>The Anti Terrorism Bill should be enacted as soon as possible to require financial institutions to report to the designated authority/FIU when they suspect or have reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations, regardless of the amount of the transaction and including attempted transactions or if tax matters are involved</li> </ul>	do
SR.V International co-operation	NC	<ul style="list-style-type: none"> <li>Financing of Terrorism is not an offence in T&amp;T and therefore not an extraditable offence 2.</li> </ul>	<ul style="list-style-type: none"> <li>Terrorist-Financing legislation should be implemented.</li> <li>Financing of terrorism and Piracy should be made an offence in T&amp;T and therefore an extraditable offence.</li> </ul>	do
SR.VI AML requirements for money/value transfer	NC	<ul style="list-style-type: none"> <li>None of the requirements are included in legislation, regulations or other</li> </ul>	<ul style="list-style-type: none"> <li>A competent authority should be designated to register and/or licence money transfer</li> </ul>	do

2 Idem note 1

services		enforceable means.	<p>companies and maintain a current list of their names and addresses and be responsible for ensuring compliance with licensing and/or registration requirements.</p> <ul style="list-style-type: none"> <li>• All MVT service operators should be subject to the applicable FATF Forty Recommendations and FATF Eight Special Recommendations.</li> <li>• A system for monitoring money transfer companies and ensuring that they comply with the FATF Recommendations should be implemented. The mission also recommends that the CBTT issue the AML/CFT Guidelines to the cambios and test compliance during on site inspections.</li> <li>• Money transfer companies should be required to maintain a current list of its agents, which must be made available to the designated competent authority.</li> <li>• The measures set out in the Best Practices Paper for SR.VI should be implemented and Trinidad and Tobago authorities should take FATF R. 17 into account when introducing system for monitoring money transfer companies.</li> </ul>	
SR.VII Wire transfer rules	NC	<ul style="list-style-type: none"> <li>• The requirements in place are not mandatory and are applicable only to the financial institutions supervised by the Central Bank.</li> </ul>	<ul style="list-style-type: none"> <li>• The T&amp;T authorities may wish to impose mandatory requirements on financial institutions dealing with the measures of SR VII covering domestic, cross-border and non-routine wire transfers, intermediary and beneficial financial institutions handling wire transfers and the monitoring of compliance with stipulated requirements.</li> </ul>	do
SR.VIII Non-profit organisations	NC	<ul style="list-style-type: none"> <li>• There are no requirements in legislation, regulations or other enforceable means to comply with this recommendation.</li> </ul>	<ul style="list-style-type: none"> <li>• Authorities should review the adequacy of laws and regulations that relate to non-profit organizations that can be abused for the financing of terrorism.</li> <li>• Measures should be put in place to ensure that terrorist organizations cannot pose as legitimate non-profit organizations.</li> <li>• Measures should be put in place to ensure that funds or other assets collected by or transferred through non-profit organizations are not diverted to support the activities of terrorists or terrorist organizations.</li> </ul>	do

SR.IX Cross Border Declaration & Disclosure	NA			
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