CARIBBEAN FINANCIAL
ACTION TASK FORCE

Second Follow-Up Report

Trinidad and Tobago

May 24, 2010

TRINIDAD AND TOBAGO – SECOND FOLLOW-UP REPORT

I. Introduction

1. This report presents an analysis of measures taken by Trinidad and Tobago to comply with the CFATF follow-up procedures and the recommendations made in the third round Mutual Evaluation Report (MER). The MER of Trinidad and Tobago was adopted by the CFATF Council of Ministers in May 2007 in Guatemala. The first written follow-up report on Trinidad and Tobago was presented to the Plenary in May 2009. As a result of a decision taken by the Plenary in October 2009, three subsequent reports on recently enacted legislation, a proposed action plan submitted to the Plenary, and the feasibility of proposed deadlines were prepared by the CFATF Secretariat and distributed to Plenary delegates during the last two months of 2009 and the first month of 2010.

2. Trinidad and Tobago was rated partially compliant or non-compliant on fifteen (15) of the sixteen (16) Core and Key Recommendations and 26 other Recommendations. The Core and Key recommendations were rated as follows:

Table 1; Ratings of Core and Key Recommendations

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

3. With regard to the remaining Recommendations, Trinidad and Tobago was rated partially compliant or non-compliant on twenty-six (26) as indicated below:

Table 2: Non Core and Key Recommendations rated Partially Compliant and Non-Compliant

Partially Compliant (PC)	**Non-Complaint (NC)**
R. 2(ML offence – mental element and corporate liability)	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. 12 (DNFBP – R.5,6,8-11)
R. 19 (Other forms of reporting)	R. 16(DNFBP – R.13-15 & 21)
R. 30 (Resources, integrity and training)	R. 17 (Sanctions)
R. 31 (National co-operation)	R. 21 (Special attention for higher risk countries)
R. 32 (Statistics)	R.22 (Foreign branches & subsidiaries)
R.33 (Legal persons – beneficial owners)	R. 24 (DNFBP – regulation, supervision and monitoring)
	R. 25 (Guidelines & Feedback)
	R. 29 (Supervisors)

	R. 34 (Legal arrangements – beneficial owners)
	SR. VI (AML requirements for money value transfer services)
	SR. VII (Wire transfer rules)
	SR. VIII (Non-profit organizations)

4. The following table gives some idea of the level of risk in the financial sector by indicating the size and integration of the sector in Trinidad and Tobago.

Table 3: Size and integration of Trinidad and Tobago's financial sector
As at September 2009

		Banks	Other Credit Institutions*	Securities	Insurance	TOTAL
Number of institutions	Total #	8	17		31	56
Assets	US$000	15,313,517	2,174,466		5,087,741	22,575,724
Deposits	Total: US$000	10,343,277	196,741		4,729,483	15,269,501
	% Non-resident	2.03%	1.43%		1.02%	1.71%
International Links	% Foreign-owned:	48.87%	56.09%	% of assets	20.65%	43.21%
	#Subsidiaries abroad	12	0		2	14

II. Summary of progress made by Trinidad and Tobago

5. Shortly after the mutual evaluation visit of Trinidad and Tobago in June 2005, the Anti-Terrorism Act, 2005 (ATA) was passed on September 13, 2005. In an effort to address some of the major recommended actions made by the examiners, the authorities in Trinidad and Tobago enacted on October 9, 2009 the Proceeds of Crime (Amendment) Act, 2009 (POCAA), the Financial Intelligence Unit of Trinidad and Tobago Act, 2009 (FIUTTA) and the Financial Obligations Regulations, 2009 (FOR). Additionally, the Anti-Terrorism (Amendment) Act, 2010 (ATAA) was enacted on January 21, 2010. Other legislative measures are either being prepared i.e. the Credit Union Bill or are before the Parliament i.e. the Securities Bill. The authorities have also formulated an action plan with measures for implementing some of the provisions of the recently enacted legislation.

Core Recommendations

Recommendation 1

Examiners' Rec - *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".*

6. 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 beyond drug trafficking to include "a specified offence" has been incorporated in the POCAA. Section 43 of POCA has been amended to state;

"A person is guilty of an offence who conceals, disposes, disguises, transfers, brings into Trinidad and Tobago or removes from Trinidad and Tobago any money or other property knowing or having reasonable grounds to suspect that the money or other property is derived, obtained or realized, directly or indirectly from a specified offence."

7. A specified offence has been defined in the POCAA to include an indictable offence and any act committed or omitted to be done outside of Trinidad and Tobago.

Examiners' Rec *- 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*

8. As noted above a specified offence has been defined to include any act committed or omitted done outside of Trinidad and Tobago which would have constituted an indictable offence in Trinidad and Tobago.

Examiners' Rec *- Terrorism, including terrorist financing, and piracy should be covered under Trinidad and Tobago legislation.*

9. Part of this recommended action was implemented by the enactment of the ATA. As part of its measure to comply with the recommendations of the MER, the authorities enacted the ATAA in January 2010. The provisions of the ATA and the ATAA substantially comply with the requirements for the criminalizing of terrorism and the financing of terrorism. An assessment of the compliance of the legislation is presented in this report under the recommended actions for Special Recommendation II.

Examiners' Rec *- 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.*

10. The recommended action above is based on the deficiency that 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. This conclusion is based on the fact that confiscation of proceeds can only occur on the basis of conviction for a specified offence. While this procedure does recognize proceeds of crime on the basis of a conviction, this is only absolutely necessary for confiscation purposes.

11. Sections 18 to 20 of POCA allows for restraint and charging orders to be made against realizable property prior to a person being charged with an offence under POCA. There is no specific provision in POCA requiring conviction of a specified offence as a pre-condition for the application for a restraint or charging order to be made against realizable property i.e. criminal proceeds. Applications for such orders are required to be supported by affidavits which may contain statements of information or belief with sources and grounds.

12. The above provisions would suggest that for money laundering offences under POCA it is not necessary that a person be convicted of a predicate offence to recognize property as being the proceeds of crime and thereby dealing with the deficiency which forms the basis for the recommended action. Based on the above, the examiners' recommended actions have been substantially met.

Recommendation 5

Examiners' Rec - *The T&T authorities may wish to consider to set out measures in laws or implementing regulations with sanctions for non-compliance for the following:*

- *Financial institutions should not be permitted to keep anonymous accounts or accounts in fictitious names.*
- *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.*
- *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.*
- *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.*
- *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.*
- *Financial institutions should be required to determine the natural persons who ultimately own or control customers that are legal persons or legal arrangements.*
- *Financial institutions should be required to conduct due diligence on the business relationship.*

13. The recommendation above covers E.C. 5.1 to 5.7. With regard to the requirement for the prohibition of anonymous accounts, regulation 19(1) of the FOR prohibits a financial institution or listed business from keeping anonymous accounts or accounts in fictitious names and requires them to identify and record the identity of customers in accordance with the FOR.

14. Criterion 5.2 is dealt with by regulation 11. The intent of regulation 11 (1) is to specify circumstances for the conduct of due diligence in accordance with the FOR. The situations listed are as follows:

a) Pursuant to an agreement to form a business relationship;

b) As a one-off or occasional transaction of ninety thousand dollars or more; or

c) As two or more one-off transactions each of which is less than ninety thousand dollars but together the total value is ninety thousand dollars or more and it appears, whether at the outset of each transaction or subsequently, that the transactions are linked.

d) As a one-off or occasional wire transfer of six thousand dollars or more or two or more one-off transactions, each of which is less than six thousand dollars, but together the total value is six thousand dollars or more and it appears, whether at the outset of each transaction or subsequently that the transactions are linked.

15. Additionally sub regulation (11)(2) specifies that whenever a financial institution or listed business has reasonable grounds to suspect that the funds used for a transaction are or maybe the proceeds of money laundering or any other specified offence, procedures and policies identified in the regulation should be applied. The procedures and policies referred to are requirements for customer due diligence as detailed in Part III of the FOR. Regulation 11(2) does not deal explicitly with terrorist financing as required by E.C. 5.2, however the term specific offence with its definition in POCA including an indictable offence would incorporate terrorist financing.

16. The above provisions comply with the first four requirements of criterion 5.2. The threshold of TT$90,000 for occasional transactions and TT$6,000 for occasional wire transfers are equivalent to US$14,285 and US$950 respectively. The stipulated thresholds are within the Methodology limits of US$15,000 and US$1,000. With regard to the remaining requirement for customer due diligence whenever financial institutions have doubts about the veracity or adequacy of previously obtained customer identification data, the authorities have stipulated regulation 11(5) of the FOR as meeting this obligation. However, regulation 11(5) requires the cessation of a business relationship or one-off transaction when satisfactory evidence of identity has not been obtained and therefore does not comply with the specified requirement. However, regulation 18(1) of the FOR which requires financial institutions and listed businesses to perform due diligence procedures when there is doubt about the veracity of any information previously given by a customer, complies with the requirement.

17. The recommendation for financial institutions to identify the customer and verify that customer's identity using reliable, independent source documents is incorporated in regulation 11(3) which requires evidence of the identity of the customer in accordance with the compliance program established under regulation 7(a). This regulation requires that procedures governing customer identification, documentation and verification of customer information and other customer due diligence measures form part of a financial institution and listed business' compliance program. Specific information and documentation requirements for individuals, corporate entities and trust fiduciaries are detailed in regulations 15, 16 and 17. Regulation 15 requires full name, address and proof thereof, date and place of birth, nationality, nature and place of business/occupation where applicable, occupational income, purpose of proposed business relationship or transaction and source of funds and any other appropriate information. A valid photo identification document is also required as well as a bank reference for foreign customers. Only certified copies of unavailable original documents are acceptable.

18. Regulation 16 outlines the requirements for business customers. It is noted that regulation 16 states that the requirements in regulation 15 shall also be applicable to a business customer. Additionally, the regulation requires financial institutions and listed businesses to verify the identity of the directors and other officers of a company, partners of a partnership, account signatories, beneficial owners and sole traders by means of documentary evidence. Financial institutions and listed businesses are also required to obtain;

a) Certificate of Incorporation or Certificate of Continuance

b) Articles of Incorporation

c) Copy of the by-laws, where applicable

d) Management accounts for the last three years for self-employed persons and businesses in operation for more than three years

e) Information on the identity of shareholders holding more than ten per centum of the paid up share capital

19. Where management accounts are not available, other forms of proof of the integrity of the source of funds to be used for transactions can be requested. The above requirements do not include information on provisions regulating the power to bind the legal person or arrangement as set out in criterion E.C.5.4 (b).

20. With regard to trustees, nominees or fiduciary customers, regulation 17 stipulates in addition to the requirements outlined in regulation 15, financial institutions or listed businesses must obtain evidence of the appointment of the trustees by means of a certified copy of the Deed of Trust, information on the nature and purpose of the trust and verification of the identity of the trustee. Trustee in this regulation is defined to include the settlor, protector, person providing the trust funds, controller or any person holding power to appoint or remove the trustee.

21. The criterion for financial institutions to verify that any person purporting to act on behalf of a legal person or legal arrangement is so authorized, and identify and verify the identity of that person forms part of the customer due diligence (CDD) procedures for customers who are legal persons or legal arrangements. This criterion is addressed in regulation 12(2), which states that where a beneficial owner or customer is a legal person or where there is a legal arrangement, the financial institution or listed business shall:

a) verify that any person purporting to act on behalf of the legal person or legal arrangement is so authorized and identify and verify the identity of that person;

b) verify the legal status of the legal person or legal arrangement;

c) understand the ownership and control structure of the legal person or legal arrangement; and

d) determine who are the natural persons who have effective control over a legal person or legal arrangement.

22. Legal arrangement has been defined for this regulation to include an express trust in accordance with the Methodology. The above provisions of regulation 12(2) comply with the requirements of criteria E.C.5.4 and E.C. 5.5.2.

23. In relation to the examiners' recommendation concerning the identification of beneficial owners, regulation 12(1) states that a financial institution or listed business should record the identity of the beneficial owner of any account held at the financial institution or listed business or potential account and shall request original identification documents, data or other information from an applicant for business. Additionally, regulation 19(2) requires where a new account is opened or a new service is provided by a financial institution and the customer purports to be acting on his own behalf but the financial institution suspects otherwise, the institution shall verify the true identity of the beneficial owner and if not satisfied with the response, it should terminate relations with the customer. Beneficial owner is defined as a person who ultimately owns and controls an account or who exercises ultimate

control over a legal person or arrangement. It should be noted that regulation 19(2) refers only to financial institution and does not include listed businesses which would cover DNFBPs.

24. The examiners' recommendation that financial institutions should be required to determine the natural persons who ultimately own or control customers that are legal persons or legal arrangements as already noted is required in regulation 12(2)(d).

25. With regard to the examiners' recommendation for financial institutions to conduct due diligence on business relationships regulation 12 (3) requires a financial institution to conduct on going due diligence on or continuous review of the business relationship and monitor transactions undertaken during the course of the relationship, to maintain up to date records of information and ensure consistency with their business and risk profile and where necessary its source of funds..

Examiners' Rec *- The T&T authorities may set out the following measures in laws, regulations or enforceable guidelines with sanctions for non-compliance:*

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

26. 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, these requirements are stipulated in criteria E.C.5.8 to E.C. 5.18 of the methodology. Some of these requirements have been included in the FOR. Regulation 11 (5) requires the cessation of the business relationship or one-off transaction if satisfactory evidence of identity has not been obtained and the reporting of the matter to the AML Compliance Officer. This provision complies with criterion E.C. 5.15 dealing with failure to satisfactorily complete CDD. However, it should be noted that the requirement for financial institutions to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers as set out in criterion 5.13 is not addressed. .

27. With regard to the timing of verification as stated in E.C. 5.14, where a country may allow financial institutions to complete verification of the identity of the customer and beneficial owner following the establishment of a business relationship there is no general provision dealing with this requirement. However, regulation 24(2) requires that stringent controls be imposed in cases where it is necessary for sound business reasons to enter into an insurance contract before enquiries regarding the identity of a customer can be completed to ensure that any funds payable under the contract are not passed to third parties before the enquiries are completed. The authorities may need to consider implementing a general provision to cover instances where verification can be permitted following the establishment of a business relationship. This maybe relevant for securities transactions given the developing stock market in the country and non face-to-face business. The requirement under E.C. 5.16 concerning the termination of a business relationship already commenced and to consider making a suspicious report on the basis of failure to satisfactorily complete CDD measures is not addressed.

28. In the area of risk, the FOR does not require financial institutions or listed businesses to perform enhanced due diligence for higher risk categories of customers, business relationships or transactions as stated in criterion E.C.. 5.8. In relation to E.C. 5.9, concerning the application of reduced or simplified CDD measures, regulation 14 provides for certain circumstances where identification procedures do not require a financial institution or listed business to take steps to obtain evidence of the identity of a person. These circumstances include as follows:

a) A one-off transaction with an introduced customer where the introducer provides written assurance that evidence of the identity of the introduced customer has been obtained and recorded;

b) A pension scheme taken out by virtue of a person's occupation or contract of employment where contributions are made by deductions from wages and assignments of a member 's interest is not permitted under the scheme;

c) A contract of long-term insurance or where a contract of insurance contains no surrender clause and may not be used as collateral for a loan.

29. The above circumstances do not fully comply with FATF requirements for reduced CDD measures. Third party introductions are dealt with under Recommendation 9 and have their own requirements. Long-term insurance is not included in the FATF list of low risk products and only insurance policies for pension schemes that contain no surrender clause and the policy cannot be used for collateral are acceptable.

30. With regard to criterion E.C. 5.10 there is no provision which allows financial institutions to apply simplified or reduced CDD measures to customers resident in another country. As a matter of fact, regulation 11(4) requires financial institutions and listed businesses undertaking transactions with persons from another country to contact appropriate persons in the relevant country for satisfactory evidence of the identity of the customer before completing the transactions. This is in addition to routine CDD measures.

31. Criterion E.C.5.11 states that simplified CDD measures are not acceptable whenever there is suspicion of money laundering or terrorist financing or specific higher risk scenarios. While sub-regulation (11)(2) stipulates CDD measures for transactions whenever there is a suspicion of money laundering or terrorist financing, there is no prohibition against the use of simplified CDD measures in this instance or in the case of specific higher risk scenarios.

32. Criterion E.C.5.12 stipulates that where financial institutions are permitted to determine the extent of the CDD measures on a risk sensitive basis; this should be consistent with guidelines issued by the competent authorities. This requirement is not applicable since there is no provision for financial institutions to determine the extent of their CDD measures on a risk sensitive basis.

33. Finally, the criterion dealing with retrospective due diligence E.C. 5.17 is addressed in regulation 37 which requires every financial institution or listed business to conduct due diligence on all existing accounts within a time frame to be agreed upon in consultation with the industry. This requirement will need further follow-up for information on the final agreed time frame.

34. While the FOR has incorporated some of the examiners' recommended action with regard to risk, timing of verification, failure to satisfactorily complete CDD and retrospective CDD on existing customers, all requirements stipulated in criteria 5.4(b), 5.8, 5.9, 5.11, 5.13, 5.14 and 5.16 have not been satisfactorily addressed. Additionally, as noted above some of the addressed requirements do not fully comply with FATF standards. Consequently while the enactment of the FOR substantially improves compliance with Recommendation 5, more needs to be done to fully comply.

Recommendation 10

Examiners' Rec- *The T&T authorities may wish to introduce the proposed Financial Obligation Regulations as soon as possible and include the following;*

- *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.*
- *Transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.*
- *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).*
- *Financial institutions should be required to ensure that all customers and transaction records and information are available on a timely basis to domestic authorities upon appropriate authority.*

35. The examiners' recommendations include all essential criteria of Recommendation 10. Regulation 31(1) of the FOR requires a financial institutions or listed business to retain for a minimum of six years records of all domestic and international transactions and identification data obtained through the customer due diligence process. The retention period of six years is defined in regulation 32(2) in the case of business relationships to begin from the date of termination of the relationship and in the case of one-off transactions, from the date of completion of the transaction. The above provisions would require financial institutions and listed businesses to maintain records of all transactions for business relationships up to six years after the termination of these relationships. This is beyond the FATF requirement for the retention of transaction records for at least five years following the completion of the transaction.

36. Regulations 31(2) and (3) stipulate that the record retention period maybe extended at the request of the FIU or other Supervisory Authority and that transaction records should be sufficient to permit reconstruction of individual transactions and should be made available to the FIU upon request. Regulation 32(1) specifies the contents of transaction and identification records to be maintained including original documents and details of a transaction such as amount and type of currency and copies of evidence of identity as required under regulations 15 to 17. The above records are to be maintained to allow financial institutions and listed businesses to comply with requests for information from auditors, other competent authorities and law enforcement authorities. It should be noted that the records referred above are limited to transaction and identification and do not include

account files and business correspondence as required by the examiners' recommendations. Given the above a substantial number of the examiners' recommendations have been met.

Recommendation 13

Examiner Rec - *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 Recommendation 1.*

37. The recommendation for suspicious transaction reporting to the FIU is set out in section 55(3) of POCA as amended in POCAA and requires financial institutions and listed businesses on knowing or having reasonable grounds to suspect that funds being used for the purpose of a transaction to which subsection (2) refers are the proceeds of a specified offence, to make a suspicious transaction or suspicious activity report to the FIU. Specified offence is defined under the POCAA as an indictable offence committed in Trinidad and Tobago whether or not the offence is tried summarily in accordance with the examiners' recommended action under Recommendation 1. The MER indicated that at the time of the mutual evaluation all FATF ML predicate offences except for terrorism financing and piracy were criminalized as indictable offences. The enactment of the ATAA criminalized the financing of terrorism making it an indictable offence and therefore a predicate offence for money laundering. As such, piracy remains to be criminalized as an indictable offence. The suspicious transaction reporting requirement is linked to subsection (2) which mandates that special attention be paid to all;

a) business transactions with persons and financial institutions in or from countries which do not or insufficiently comply with the FATF Recommendations;

b) complex, unusual, or large transactions, whether completed on not, to all unusual patterns of transaction and to insignificant but periodic transactions which have no apparent economic or visible lawful purpose.

38. Suspicious transaction reporting is therefore limited to the transactions described in subsection (2) which while extensive does not include one-off transactions from residents. Additionally, it should be noted that Section 55(2)(b) requires the reporting of all complex, unusual or large transaction to the FIU. This could result in a financial institution or listed business reporting a transaction once as complex, unusual or large and again as suspicious.

39. Additionally, regulation 12(4) of the FOR requires financial institutions and listed businesses to report transactions and activities which they have reasonable grounds to believe are suspicious. Except for the lack of coverage of one-off transactions and the inclusion of piracy as a ML predicate offence, the recommendation for suspicious transaction reporting is met.

Examiner's Rec *- The requirement to report should be applied regardless of the amount of the transaction and if it involves tax matters.*

40. While there is no explicit requirement that suspicious transaction reporting should be applied regardless of the amount of the transaction, the reference to subsection (2) above includes both large and insignificant transactions. The requirement for the inclusion of tax offences has been addressed in section 55(3D) of POCA which requires a report to be made

irrespective of the type of specified offence, including offences under the Income Tax Act, the Corporation Tax Act and the Value Added Tax Act.

Special Recommendation II

Examiners' Rec *– Introduce diligently the proposed legislation criminalizing the financing of terrorism, terrorist acts and terrorist organizations and make such offences money laundering predicate offences.*

41. In assessing compliance with the examiners' recommended action it will be necessary to evaluate the country's measures against the essential criteria of SR II. The first criterion of SRII requires the criminalization of terrorist financing consistent with Article 2 of the Terrorist Financing Convention. Section 22A of the ATA, which was inserted as a result of the enactment of the ATAA in January 2010, criminalizes the financing of terrorism as follows:

"(1) Any person who by any means, directly or indirectly, willfully provides or collects funds, or attempts to do so, with the intention that they should be used or in the knowledge that they are to be used in whole or in part-

(a) in order to carry out a terrorist act; or
(b) by a terrorist; or
(c) by a terrorist organisation, commits the offence of financing of terrorism.

(2) An offence under subsection (1) is committed irrespective of whether -
(a) the funds are actually used to commit or attempt to commit a terrorist act;
(b) the funds are linked to a terrorist act ; and
(c) the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred or will occur.

(3) A person who contravenes this section commits an offence and is liable on conviction on indictment –

(a) in the case of an individual, to imprisonment for twenty five years; or
(b) in the case of a legal entity, to a fine of two million dollars.

(4) A director or person in charge of a legal entity who commits an offence under this section is liable on conviction on indictment to imprisonment for twenty-five years."

42. In addition to the above, Section 2 of the ATA has been amended to define funds as follows:

""property" or "funds" means assets of any kind, whether tangible or intangible, moveable or immovable, however acquired and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit whether situated in Trinidad and Tobago or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property";"

43. A terrorist act has also been defined in section 2 of the ATA to include:

a) An act whether committed in or outside of Trinidad and Tobago which causes or is likely to cause-

   i. loss of human life or serious bodily harm;

   ii. damage to property; or

   iii. prejudice to national security or disruption of public safety including disruption in the provision of emergency services or to any computer or electronic or to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure and is intended to-

   iv. compel a government or an international organization to do or refrain from doing any act; or

   v. intimidate the public or a section of the public, for the purpose of advancing a political, ideological or a religious cause

(b) An offence under any of the Conventions;

44. The Conventions referred to above are those in accordance with Article 2 (1) of the Terrorist Financing Convention. Specific offences under the relevant treaties of the Conventions are criminalized in Part III of the ATA.

45. The above provisions comply with requirements of the essential criterion SR II.1 (a) to (d). With regard to SR II.1 (e) which requires compliance with Article (2) (5) of the Terrorist Financing Convention, the definition of terrorist as set out in the ATAA would appear to address this issue. A terrorist is defined to include a person who –

a) Commits a terrorist act by any means directly or indirectly, unlawfully and willfully;

b) Participates as an accomplice in terrorist acts or the financing of terrorism;

c) Organizes or directs others to commit terrorist acts or the financing of terrorism; or

d) Contributes to the commission of terrorists acts or the financing of terrorism by a group of persons acting with a common purpose where the contribution-

   ii. Is made intentionally and with the aim of furthering the terrorist act or the financing of terrorism; or

   iii. With the knowledge of the intention of the group of persons to commit the terrorist act or the financing of terrorism

46. The definition above includes the offences required to be criminalized by Article 2 (5) of the Terrorist Financing Convention. As noted above, terrorist acts are defined to include an offence under any of the Conventions. Consequently conduct under article 2(5)

constitutes a terrorist act and under section 3(1) of the ATA is liable to imprisonment for twenty-five years on conviction on indictment for a person who participates in the commission of a terrorist act.

47. The second criterion of SR II requires terrorist financing offences to be predicate offences for money laundering. As noted above in section 22A (3) of the ATA, terrorist financing is an indictable offence. The definition of money laundering as set out in section 43 of POCA refers to money or other property from a specified offence. Specified offence has been defined in section 2 of POCA to include an indictable offence which thereby makes terrorist financing a predicate offence for money laundering.

48. The third criterion of SR II requires that countries should ensure that criteria 2.2 to 2.5 in Recommendation 2 also apply in relation to the offence of financing of terrorism. Application of criterion 2.2 to the offence of FT would require the intentional element of the offence to be inferred from objective factual circumstances. The definition of the FT offence in section 22A (1) of the ATA refers to "any person who by any means, directly or indirectly, willfully provides or collects funds, or attempts to do so, with the intention or in the knowledge that such funds are to be used " to carry out a terrorist act etc. The wording of the provision with regard to intention and knowledge does not appear to allow specifically for the intentional element of the offence to be inferred from objective factual circumstance.

49. Criterion 2.3 requires the extension of criminal liability to legal persons. As cited in the MER, section 16(1) of the Interpretation Act Ch 3:01 states that "words in a written law importing, whether in relation to an offence or not, persons or male persons include male and female persons, corporations whether aggregate or sole, and unincorporated bodies or persons." Therefore legal persons can be convicted for FT offences.

50. Application of criterion 2.4 would require ensuring that legal persons subject to criminal liability for FT are not precluded from potential parallel criminal, civil or administrative proceedings. According to the MER, in Trinidad and Tobago legal persons can also be subject to civil proceedings with the cause of action being a common law offence but not a statutory one. There have been no instances where legal persons have been sued under parallel proceedings.

51. Criterion 2.5 requires natural and legal persons to be subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions for FT. Natural and legal persons are subject to criminal but not civil sanctions. Section 22A (4) of the ATA imposes penalties of imprisonment for twenty-five years for individuals and a fine of two million dollars (approximately US$315,000) for legal entities for FT offences. Additionally, a director or person in charge of a legal entity who commits an FT offence is liable on conviction on indictment to imprisonment for twenty-five years.

52. Under section 53 of the POCA, a person guilty of ML offences is liable on conviction on indictment to a fine of twenty-five million dollars (approximately US$3,937,000)and to imprisonment for fifteen years. The penalty for tipping off with regard to ML is on summary conviction a fine of five million dollars (approximately US$833,300) and imprisonment for five years. While the imprisonment terms for FT offences appear dissuasive and proportionate when compared with ML offences the fine seems disproportionately low and may not be dissuasive in its applicability to legal persons.

53. Based on the above, the provisions of the ATA and the ATAA substantially comply with the criteria of SR II. The only deficiencies are the absence of the ability for the intentional element of the FT offence to be inferred from objective factual circumstance and the disproportionately low and possibly dissuasive fines for FT offences for legal persons.

Special Recommendation IV

Examiners' Rec *– 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 to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations, regardless of the amount of the transaction and including attempted transactions or if tax matters are involved.*

54. The examiners' recommended action incorporates the requirements of the two criteria of SR IV. The first criterion stipulates a direct mandatory reporting obligation on the basis of suspicion or reasonable grounds for suspicion that funds are linked to or related to TF. This requirement is met by section 22 C (3) of the ATA which obliges a financial institution or listed business that " knows or has reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism, the financial institution or listed business shall make a suspicious transaction, or suspicious activity report to the FIU in forms as set out in the Third Schedule to the Proceeds of Crime Act."

55. Under section 22 C (6) of the ATA the report referred to above must be made within fourteen days of the date on which the financial institution or listed business knew or had reasonable grounds to suspect that funds were linked or related to terrorist financing.

56. While the above obligations have been specified in the ATA, there are no provisions for ancillary penalties for breaches of these obligations. Additionally, the reporting obligation does not specify all suspicious transactions including attempted transactions regardless of the amount or whether they involve tax matters. As such, the enacted provisions only partially comply with the examiners' recommended actions.

Key Recommendations

Recommendation 3

Examiners' Rec - *The T&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) of POCA*

57. The definition of "a specified offence" in section 2 of POCA has been amended to include as noted above, an indictable offence thereby extending the range of offences subject to production and search orders. The examiners noted as a deficiency that the provision for confiscation under POCA has not been widely implemented and that there was no confiscation of assets under POCA for ML offences. This issue of effective implementation can only be addressed by the authorities providing appropriate statistics.

Recommendation 4

Examiners' Rec - *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.*

58. With regard to allowing the competent authorities the ability to share locally and internationally information necessary to perform their functions, sections 8(3)(e) and (f) of the FIUTTA, allow the FIU to engage in the exchange of financial intelligence with FIUs of any other country which belong with the Egmont Group and to also disseminate at regular intervals financial intelligence to domestic and foreign authorities. Section 26 of the FIUTTA also allows for the FIU to collect, disseminate or exchange information under the FIUTTA notwithstanding any other law pertaining to disclosure of personal information.

59. Section 8 (2) of the Financial Institutions Act (FIA) which deals with banks and non-financial institutions conducting business of a banking nature gives the Central Bank of Trinidad and Tobago the power to share information with foreign regulatory agencies/bodies and the designated authority under POCA i.e. the FIU. The Central Bank is also responsible for the supervision of the insurance industry. Section 6 of the Insurance Act as amended by the Insurance Amendment Act of 2009 facilitates the sharing of information with any local or foreign regulatory agency or body. The Central Bank is due to become the supervisory authority for credit unions shortly. Similar information sharing provisions have been included in a draft Credit Union Bill. Given the above, the Central Bank has the power to share information as required in the examiners' recommendation for financial institutions under the FIA and the Insurance Act and the FIU has similar powers under the FIUTTA.

60. With regard to other competent authorities in Trinidad and Tobago i.e. the Trinidad and Tobago Securities Exchange Commission (TTSEC) having the same ability, a Securities Bill is presently being debated in Parliament which will provide the TTSEC with such power. As such, the recommendation regarding the ability of competent authorities to share information has been partially met.

Examiners' Rec *- 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).*

61. The recommendation to specifically require that no financial institution secrecy law inhibit the implementation of the FATF Recommendation has not been addressed. As such only one of the two examiners' recommendations has been partially met.

Recommendation 23

Examiners' Rec – *Authorities should formally designate the relevant supervisory agencies with the responsibility for ensuring compliance by their licensees with AML/CFT obligations*

62. In POCAA, supervisory authority has been defined as the competent authority for ensuring compliance by financial institutions and listed businesses with requirements to combat money laundering. Regulation 2(1) of the FOR specifies the supervisory authority for different types of financial institutions as follows;

a) Central Bank – financial institutions licensed under the FIA, the Insurance Act, the Exchange Control Act, or a person who is registered to carry on cash remitting services under the Central Bank Act

b) TTSEC – persons licensed as a dealer or investment advisor under the Securities Industries Act

c) FIU – other financial institutions and listed business.

63. At present in accordance with the provision above, the FIU is the competent authority responsible for credit unions. However, the authorities have advised that credit unions upon enactment of the Credit Union Act will be supervised by the Central Bank which will also assume the responsibility for ensuring compliance with AML requirements. It should be noted that the definition above does not include the combating of terrorist financing.

Examiners'Rec *– The TTSEC should apply the requirements of the IOSCO Core Principles for the supervision of the securities sector with regard to AML/CFT*

64. The authorities have provided no information addressing the above recommendation.

Examiners' Rec *– 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 POCA.*

65. The authorities have provided no information addressing the above recommendation.

Examiners' Rec *– 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.*

66. Credit unions are due to come under the supervision of the Central Bank. A draft Credit Union Bill and Regulations with AML/CFT provisions is under review at present. No information has been provided with regard to the status of AML/CFT supervision of the securities sector. Under the POCAA money or value transfer services have been included in the definition of financial institution in POCA. The authorities advised that financial institutions that are money remitters are to be supervised by the Central Bank following an amendment to the Central Bank Act in 2008 and an appropriate framework is being developed. The Central Bank expects to issue a draft Regulatory and Supervisory framework to the industry for comment by September 2010. Only one of the examiners' recommended measures above has been partially addressed. This recommendation remains largely outstanding.

Recommendation 26

Examiners' Rec - *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.*

67. Enactment of the FIUTTA complies with the recommendation to proceed with FIU legislation. Part III of the FIUTTA provides for the functions and powers of the FIU. These include the collection, analysis and dissemination of financial intelligence and information among local and foreign law enforcement authorities, the ability to request necessary financial information from reporting entities, the ability to share financial intelligence with local and foreign authorities, the establishment of reporting standards and the publication of annual and periodic reports. The FIU has applied since 2003 for membership in the Egmont Group and enactment of the FIUTTA will aid in forwarding the application.

Examiners' Rec *- 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.*

68. Section 18(1) of the FIUTTA requires the Director of the FIU to submit an annual report to the Minister of Finance on the performance of the FIU, including statistics on suspicious activity reports, the results of any analyses of these reports, trends and typologies of money laundering activities or offences.

Examiners' Rec *- The FIU should consider publicizing periodic reports for the wider public.*

69. Section 17(b) of the FIUTTA requires the FIU to periodically publish information on trends and typologies of money laundering, locally and internationally, as well as appropriate statistics and any other information that would enhance public awareness and understanding of the nature of money laundering and its offences. It is noted that the provisions cited above do not include terrorist financing, referring solely to money laundering.

Examiners' Rec *– Consider strengthening and restructuring the staff of the FIU so as to encourage self-sufficiency and operational independence*

70. With regard to staffing, section 3(2) of the FIUTTA states as follows:

> The FIU shall consist of such number of suitably qualified public officers including a Director and Deputy Director as may be necessary, for the performance of its functions and may include-
>
> a) public officers, appointed, assigned, seconded or transferred from another Ministry or statutory corporation to the FIU; and
>
> b) officers and other persons appointed on contract by the Permanent Secretary of the Ministry of Finance.

71. The above provision raises concern as to the autonomy of the FIU with regard to employment of staff since final approval appears to rest with the Permanent Secretary of the Ministry of Finance. This arrangement could result in undue influence being exercised on the FIU. The authorities have advised that a Director designate of the FIU has been appointed and the staff of the previous FIU transferred to the present FIU. It will be necessary for the authorities to provide information as to the implementation of this provision to ascertain whether the FIU's operational independence is vulnerable.

72. Enactment of the FIUTTA results in substantial compliance with the examiners' recommended actions.

Recommendation 35

Examiners' Rec *– The T&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 Suppression of the Financing of Terrorism.*

73. Trinidad and Tobago acceded to the United Nations International Convention for the Suppression of the Financing of Terrorism on September 3, 2009. The Anti-Terrorism Act

(ATA) was enacted in September 2005 and the Anti-Terrorism (Amendment) Act 2010 which effectively criminalized the financing of terrorism was enacted in January 2010. Details as to the compliance of these measures with the various articles of the Terrorism Financing Convention as required by the FATF Recommendation are set out under the relevant Special Recommendation in this report.

Recommendation 40

Examiners' Rec - *The T&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.*

74. The specific deficiencies being addressed with the above recommended action were the lack of effective gateways to facilitate the FIU and financial supervisory bodies in sharing information with their foreign counterparts

75. Subsections 8(3)(e) and (f) of the FIUTTA allows the FIU to exchange financial intelligence with the FIUs of any other countries which belong to Egmont and to disseminate at regular intervals financial intelligence to local and foreign authorities and affiliates within the intelligence community, including statistics on recent money laundering practices and offences. As noted with other provisions the last phrase of this clause does not include terrorist financing. Sections 8(2) and (3) of the FIA allows for the Central Bank to enter into MOUs with any local or foreign regulatory agency to share information. Sharing of information can also take place without a MOU. The authorities have not advised as to the situation regarding the TTSEC, the other financial supervisory body, in relation to this recommendation.

76. With regard to the above, the recommendation has been met in the case of the Central Bank and the passage of the FIUTTA except for the exclusion of reference to terrorist financing leaves the TTSEC as the only other authority still not compliant with the recommendation.

Special Recommendation I

Examiners' Rec *– The authorities may wish to continue taking steps towards enacting an Anti-Terrorism Bill and sign and ratify the United Nations International Convention for the Suppression of the Financing of Terrorism.*

77. At the time of Trinidad and Tobago's mutual evaluation visit in June 2005, the country had not signed, ratified or otherwise implemented the Terrorist Financing Convention or implemented United Nations Security Council Resolutions 1267 and 1373 as required by the essential criteria of Special Recommendation I.

78. Since the mutual evaluation visit, the authorities have enacted the ATA in September 2005 and the ATAA in January 2010 to deal with outstanding issues of the Special Recommendations. The above mentioned legislation and other relevant measures in the Matrix will be assessed against the outstanding recommended actions of the relevant Special Recommendations.

79. With regard to SR I, the outstanding recommended action requires the signing and ratifying or otherwise becoming a party to the Terrorist Financing Convention. While the

authorities advised that Trinidad and Tobago acceded to the Terrorist Financing Convention on September 3, 2010, the UN website has a date of September 23, 2010. Assessment of implementation of the Convention requires verification of enactment of relevant articles of the Convention under SR II, SR III and SR V. These will be addressed appropriately under these Recommendations.

Special Recommendation III

Examiners' Rec *- Introduce diligently the proposed legislation criminalizing the financing of terrorism, terrorist acts and terrorist organizations and make such offences money laundering predicate offences.*

80. While the examiners' recommended action for Special Recommendation III is identical to that of Special Recommendation II, the deficiency identified is the lack of legislation dealing with freezing or confiscating of terrorist funds in accordance with the relevant United Nations Resolutions. Assessment of the compliance with the examiners' recommended action will therefore focus on the measures to address the identified deficiency which in this case is the implementation of S/RES/1267(1999) and S/RES/1373(2001).

81. S/RES/1267(1999)and its successor resolutions obligate the freezing without delay of the funds or other assets owned or controlled by Al-Qaida, the Taliban, Usama bin Laden, or persons and entities associated with them as designated by the United Nations Al-Qaida and Taliban Sanctions Committee. The requirement to freeze includes funds derived from funds or other assets owned or controlled directly or indirectly by the persons designated or by persons acting on their behalf or at their direction.

82. Section 22 B of the ATA provides for the Attorney General to apply to a judge for an *ex parte* order to freeze the funds of any entity included on the list designated as terrorist entities by the United Nations Security Council or any entity that knowingly acts on behalf of, at the direction of, or in association with the designated terrorist entities.

83. The Attorney General can within seven days of the date of the order publish it in the Gazette or two daily newspaper advising that the order will be reviewed every six months. The order can also make provision for living and legal expenses of the individual or legal entity as the case may be.

84. Section 22C of the ATA requires financial institutions or listed businesses that know or have reasonable grounds to suspect that funds held by them belong to an individual or legal entity who commits terrorist acts or participates in or facilitates the commission of terrorist acts or the financing of terrorism or is a person or entity designated as a terrorist entity by the United Nations Security Council to report the existence of such funds to the FIU.

85. While section 22B of the ATA does provide for the freezing of funds of listed and associated entities, the sole reference to entities excludes persons associated with the listed entities or acting on their behalf or at their direction as required by the resolution. Additionally, the resolution requires the freezing of funds derived from funds or other assets owned or controlled by designated persons. The definition of funds as stipulated in section 2 of the ATA is comprehensive and includes "assets of any kind, whether tangible or intangible, moveable or immovable, however acquired." While the definition in its broadest application complies with the resolution requirements, an explicit reference to funds derived from funds should be considered.

86. The procedure for freezing as laid out in the above provisions would be initiated by the financial institution or listed business reporting the existence of suspected funds to the FIU and the Attorney General taking appropriate action under section 22B to freeze such funds. There is no set deadline in the ATA for the implementation of such procedure and there has been no need to apply it. Assessment as to the timeliness of the procedure is therefore not possible.

87. S/RES/1373(2001) obligates countries to freeze without delay the funds or other assets of persons who commit, or attempts to commit terrorist acts, or participate in or facilitate the commission of terrorist acts, of entities owned or controlled directly or indirectly by such persons and of persons and entities acting on behalf of, or at the direction of such persons and entities.

88. Subsection 22B (b) of the ATA specifically provides for the Attorney General to apply to a judge for an order to freeze the funds of an entity where there are reasonable grounds to believe that the entity has knowingly committed or participated in the commission of a terrorist act. The procedures as outlined for listed entities are also applicable in this situation.

89. Additionally, section 34 of the ATA has been amended to allow a customs officer, immigration officer, or police officer above the rank of sergeant who reasonably believes that property in the possession of a person is property intended to be used for the purpose of a terrorist act or for financing terrorism, terrorist property or property of a person or entities designated by the United Nations Security Council to apply for a restraint order for the property concerned. Terrorist property has been defined in section 2 of the ATA to include proceeds from the commission of a terrorist act, property which has been, is being, or is likely to be used to commit a terrorist act or property which has been collected for the purpose of funding a terrorist act or terrorist organization.

90. It is noted that the provision in subsection 22B (b) of the ATA does not include attempts to commit terrorist acts as required by the resolution and refers only to entities, which appears to exclude individual terrorists. Additionally, section 34 of the ATA provides for the restraining of property involved in terrorism or terrorist financing rather than all property of individuals or entities engaged in terrorism as stated in the resolution. As such, the scope of the above provisions would be narrower in application than required by the resolution.

91. Additionally it is noted that the restraint and charging provisions in sections 18 to 20 of POCA may also be applicable for offences under the ATA in that terrorist acts and the financing of terrorism are predicate offences for money laundering. Proceeds as set out in the definition of money laundering in POCA includes money or other property derived, obtained or realized, directly or indirectly from a specified offence. This would suggest that proceeds would have to be linked to a specified offence such as terrorism or the financing of terrorism in accordance with the definition of terrorist property as outlined above. Provisions under POCA therefore do not appear to offer any extension of the application of freezing measures in line with the requirements of the resolution.

92. S/RES/1373(2001) also requires countries to examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other countries. Such procedures should ensure the prompt determination, according to applicable national legal principles, whether reasonable grounds or a reasonable basis exists to initiate a freezing action and the subsequent freezing of funds or other assets without delay.

93. In Trinidad and Tobago, the above procedures are governed by the Mutual Assistance in Criminal Matters Act. As indicated in Trinidad and Tobago's mutual evaluation report, section 30 of the referenced statute allows for assistance to countries for confiscating or forfeiting property orders and orders that restrain dealings with property derived or obtained from the commission of a specified serious offence. One of the requirements for providing assistance is dual criminality. The criminalization of terrorism and terrorist financing under the ATA therefore provides the basis for the authorities in Trinidad and Tobago to incorporate assistance in giving effect to freezing mechanisms of other jurisdictions under the procedures established by the Mutual Assistance in Criminal Matters Act. However the requirement for dual criminality may limit application with regard to freezing mechanisms giving the constraints on freezing described above.

Special Recommendation V

Examiners' Rec *– Terrorist financing legislation should be implemented.*

Examiners' Rec *– Financing of terrorism and piracy should be made an offence in T&T and therefore an extraditable offence*.

94. In Trinidad and Tobago, extradition is governed by the Extradition (Foreign Territories and Commonwealth) Act 1985. Pursuant to the Act, extradition is available for any conduct, which is punishable by death or imprisonment for not less than twelve months if committed in Trinidad and Tobago or within its jurisdiction.

95. Section 22A of the ATA criminalizes terrorist financing with a penalty on conviction on indictment of imprisonment for twenty-five years, thereby making terrorist financing an extraditable offence as defined in the Extradition (Foreign Territories and Commonwealth) Act 1985. As such, the procedures available under the Extradition (Foreign Territories and Commonwealth) Act 1985 will apply. These procedures were assessed in Trinidad and Tobago's mutual evaluation report and the deficiency noted beside the inability to extradite for terrorist financing and piracy was the need for dual criminality.

96. Given the above, the recommended action for the criminalization of piracy thereby making it an extraditable offence remains outstanding.

Other Recommendations

Recommendation 2

Examiners' Rec *- Fast track the Proceeds of Crime (Amendment) Bill 2005, which will seek to strengthen the application of the POCA.*

97. While the enactment of the POCAA satisfies the examiners' recommendation, it should be noted that the corresponding underlying deficiency identified by the examiners was a lack of dissuasive criminal or administrative sanctions for money laundering against a company directly. The penalties applicable under the POCAA through amendment of section 53(1) are similar to previous sanctions in the imposition of both a fine and term of imprisonment and with no direct indication of applicability to a company.

Examiners' Rec *- Introduce the Financial Obligations Regulations to strengthen their AML regime*

98. As with the POCAA, the enactment of the FOR satisfies the examiners' recommendation. It is noted that the examiners concluded that AML offences are not effectively investigated, prosecuted and convicted since there were no ML convictions up to the date of the on-site visit. This deficiency dealing with implementation can only be addressed by the authorities providing appropriate statistics.

Recommendation 6

Examiners' Rec - *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.*

99. Regulation 20 (2) requires the establishment of appropriate measures to determine whether an applicant for business, an account holder or a beneficial owner is a politically exposed person.

Examiners' Rec *- Financial institutions should be required to obtain senior management approval for establishing or continuing business relationships with a PEP.*

100. Senior management approval is only required for establishing a relationship with a PEP in regulation 20 (4) and does not cover approval for continuing a relationship with a customer or beneficial owner who becomes a PEP or is subsequently found to be a PEP.

Examiners' Rec *- Financial institutions should be required to take reasonable measures to establish the source of wealth and funds of PEPs*

101. Regulation 20(5) requires a financial institution or listed business to take reasonable measures to determine the source of wealth and the source of funds of the politically exposed person.

Examiners' Rec *– Financial instituions should be required to conduct enhanced ongoing monitoring of business relationships with PEPs*

102. Regulation 20(5) requires a financial institution or listed business to conduct enhanced on-going monitoring of business relationships with PEPs. The definition of a PEP in regulation 20(1) is in accordance with FATF requirements. Enactment of the FOR has resulted in substantial compliance with the examiners' recommendations.

Recommendation 7

Examiners' Rec - *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.*

103. Regulation 21(2) requires a correspondent bank to collect sufficient information about its respondent bank to understand fully the nature of the business and to only establish correspondent accounts after determining that the respondent bank is effectively supervised. Additionally, regulation 21(4) requires a correspondent bank to ascertain whether the

respondent bank has been the subject of money laundering investigations or other regulatory action in the country in which it is incorporated or in any other country. This provision does not include terrorist financing investigation.

Examiners' Rec *- Financial institutions should assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective.*

104. Regulation 21(2)(b) requires a correspondent bank to assess the anti-money laundering controls of the respondent bank. This provision does not include financing of terrorism controls.

Examiners' Rec - *Financial institutions should obtain approval from senior management for establishing new correspondent relationships.*

105. Regulation 21(3)(a) requires a correspondent bank to obtain approval from senior management before establishing new correspondent relationships.

Examiners' Rec *– Financial institutions should document the respective AML/CFT responsibilities of each institution in the correspondent relationship*

106. Regulation 21(3)(b) requires a correspondent bank to record the respective responsibilities of the correspondent and the respondent banks.

Examiners' Rec - *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*

107. Regulation 21(3)(d) requires correspondent banks with respect to "payable through accounts" satisfy themselves that the respondent bank has verified the identity of and performed on-going due diligence on the customers who have access to accounts in the correspondent bank. There is no requirement that correspondent banks should be satisfied that respondent institutions are able to provide relevant identification data upon request on customers using "payable-through accounts."

108. As can be ascertained from the above provisions, except for not covering the need to include terrorist financing systems in a respondent and fully complying with the requirement concerning "payable-through accounts", the examiners recommended actions have been implemented by enactment of the FOR.

Recommendation 8

Examiners' Rec - *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.*

109. Regulation 23(1) of the FOR requires financial institutions and listed businesses to pay special attention to money laundering patterns that may arise from the use of new or developing technology that might favor anonymity and the use of such technology in money laundering offences and to take appropriate measures to deal with such patterns. While the above provision does provide for measures to deal with the use of new or developing technologies, this is limited to money laundering and does not include terrorist financing.

Examiners' Rec *- 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*

110. This requirement is addressed by regulation 23(2) which requires a financial institution or listed business to put special know-your-customer policies in place to address the specific risks associated with non face-to-face business relationships or transactions.

Examiners' Rec *- 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.*

111. The above recommended action has not been addressed in any of the newly enacted legislation. Enactment of the FOR has resulted in partial compliance with the requirements of the examiners' recommended actions.

Recommendation 9

Examiners' Rec - *The T&T authorities may set out the following measures in laws, regulations or enforceable guidelines with sanctions for non-compliance:*

- *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.*
- *Financial institutions should be required to take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay.*
- *Financial institutions should be required to satisfy themselves that the third party is regulated and supervised and had measures in place to comply with the CDD requirements set out in Recommendations 5 and 10.*
- *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.*
- *The ultimate responsibility for customer identification and verification should remain with the financial institution relying on the third party.*

112. With regard to the recommendations for third parties and introducers which include all the essential criteria, the provisions in the FOR in regulation 13 are limited to applicants for business who act or appear to act as a representative of a financial institution or listed business and require obtaining a written assurance from the applicant that evidence of the identity of the principal has been obtained and recorded in accordance with procedures maintained by the applicant. This provision seems limited to third parties representing financial institutions and DNFBPs rather than all customers. The provisions in this regulation do not address any of the examiners' recommendations in the MER with regard to the third parties and introduced business. All examiners' recommended actions remain outstanding.

Recommendation 11

Examiner Rec *- 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 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.

113. Section 55(2)(a)(ii) of POCA as amended by POCAA requires every financial institution or listed business to pay special attention to all complex, unusual, or large transactions, whether completed or not, to, all unusual patterns of transactions and to insignificant but periodic transactions which have no apparent economic or visible lawful pattern. While there is a requirement under section 55(2)(c) for the examination of the background and purpose of all transactions which have no economic or visible legal purpose, this section refers to transactions covered in (a)(i) rather than (a)(ii) which deals with complex, unusual large transactions etc. As such the requirement to examine and record findings in writing on the background and purpose of all complex, unusual large transactions or unusual patterns of transactions and to keep such findings available for competent authorities and auditors for at least five years has not been included in the legislation and is therefore still outstanding.

Recommendation 12

Examners' Rec - *Lawyers, notaries, other independent legal professions, accountants and trust and company service providers should be subject to AML/CFT FATF requirements.*

114. The First Schedule to the POCA has been amended by the POCAA and includes real estate, motor vehicle sales, money or value transfer services, gaming houses, pool betting national lotteries on-line betting games, jewelers, private members clubs, accounting business, attorneys at law or independent legal professionals, art dealers and trust and company service providers. These businesses are defined as "listed business" and have been subjected to the same AML/CFT requirements as financial institutions in POCA, the FIUTTA, the FOR and the ATAA. A review of the activities subject to AML/CFT requirements for accountants, attorneys at law and independent legal professionals reveals that management of securities account and the creation, operation or management of legal persons or arrangements have not been included. With regard to the activities of trust and company service providers, acting as (or arranging for another person to act as) a trustee of an express trust has also not been included.

Examiners' Rec *- The requirements of Recommendations 5 to 10 should be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendation 12.*

115. The specific FATF criterion is that requirements of Recommendations 5, 6 and 8-11 should be applied in circumstances detailed in Recommendation 12. The FATF requirement that casinos should be subject to above Recommendations when their customers engage in financial transactions equal to or above USD3,000 has not been included in the enacted legislation. At present the applicable transaction threshold for gaming houses, pool betting, national lotteries on-line betting games and private members' clubs is the same as all financial institutions and listed businesses i.e. TTS90,000 and over or US$14,285 for one-off transactions. The requirements of Recommendations 5, 6 and 8-11 as enacted are applicable to all the listed businesses and the deficiencies identified under the relevant Recommendations in this report are also applicable.

Examiners' Rec *- DNFBPs and persons engaged in relevant business activities should be supervised for AML/CFT compliance*

116. Section 34 of POCAA states that until the selection of the Supervisory Authority i.e. the competent authority responsible for ensuring compliance by financial institutions and listed business with AML obligations, the FIU will act as the Supervisory Authority for listed businesses. As such, the FIU is presently responsible for supervising DNFBPs only for AML compliance since combating the financing of terrorism is not mentioned. The authorities will have to submit information on the establishment and implementation of an AML supervisory regime.

Examiners' Rec *– 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*

117. No information has been provided by the authorities in Trinidad and Tobago regarding this recommendation.

Examiners' Rec *– The requirements of Recommendations 11 and 21 should be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendations 12 and 16.*

118. The requirements of Recommendations 11 and 21 as enacted are applicable to all the listed businesses and the deficiencies identified under the relevant Recommendations in this report are also applicable.

Recommendation 14

Examiner's Rec - *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.*

119. The recommendation for POCA to be amended to prohibit the disclosure of reporting to the designated authority/FIU as stipulated in section 55(3) of POCA has been enacted in POCAA by inserting section 55(3A) which makes the disclosure by the director or staff of a financial institution or listed business of the submission of a suspicious transaction or suspicious activity report to the FIU an offence liable on summary conviction to a fine of TT$250,000 approximately US$39,500 and imprisonment for three years.

Examiner's Rec *- 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.*

120. With regard to the recommendation mandating confidentiality obligations on the staff of the FIU, sections 22 to 24 of the FIUTTA prohibits the staff of the FIU from disclosing information about investigations recommended or commenced as a result of suspicious transactions and suspicious activity reports or any information obtained during employment with the FIU. The penalty for breaches of these requirements is on summary conviction, a fine of TT$250,000 approximately US$39,500 and imprisonment for three years. Additionally, section 22A of the FIUTTA also prohibits the Director of the FIU from disclosing to the Minister of Finance or any other person, except in accordance with the Act, the personal and financial details contained in a suspicious transaction or suspicious activity report, a report on any analysis forwarded to prescribed law enforcement authorities and any

information obtained from financial institutions or listed businesses concerning any account held by a customer. Contravention of this provision is an offence liable on summary conviction to a fine of one million TT dollars approximately US$158,000 and imprisonment for five years. The above provisions comply with all the examiners' recommendations.

Recommendation 15

Examiner's Rec - *The T&T authorities may wish to amend legislative provisions for internal controls and other measures to include the following:*

- *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.*
- *Appropriate compliance management arrangements should be develop to include at a minimum the designation of an AML/CFT compliance officer at management level.*
- *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.*
- *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.*
- *Financial institutions should be required to put in place screening procedures to ensure high standards when hiring employees*

121. The examiners' recommendations have been addressed in regulations 3 to 8 of the FOR. Regulation 7 provides for the establishment of a compliance programme to include procedures, methods and guidelines covering CDD, record retention, identification of suspicious transactions and suspicious activities and internal reporting obligations. Regulation 3(1) requires financial institutions and listed businesses to designate a manager or official at managerial level as Compliance Officer. Regulation 4 details the functions of the Compliance Officer.

122. Regulation 8(2) requires financial institutions and listed businesses to ensure that the Compliance Officer and other employees have timely access to customer identification data and other records and relevant information to enable them to produce reports in a timely manner. Regulation 6 requires training for directors and all members of staff. Training is specified for obligations under the POCA, the FIUTTA, the FOR, the ATA and guidelines on the subject of money laundering issued in accordance with the FOR and understanding the techniques for identifying suspicious activity. Information on new developments in methods and trends in money laundering and financing of terrorism is not included.

123. Regulation 5(1) requires financial institutions and listed businesses to utilize the industry best practices in determining their staff recruitment policy in order to hire and retain staff of the highest level of integrity and competence. The above provisions comply with a substantial number of the examiners' recommendations. However, as noted the training obligation does not cover new developments in method and trends in money laundering and terrorist financing.

Recommendation 16

Examiners' Rec - *The requirements of Recommendations 13 and 14 as detailed in section 3.7.2 of this report should be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendation 16.*

124. As already noted under Recommendation 12, while "listed business" has been extended to include all FATF DNFBPs, the list of detailed activities subject to AML obligations does not include all FATF requirements. Since listed businesses are subject to the same AML requirements as financial institutions the deficiencies noted in the analysis of the requirements of Recommendations 13 and 14 are also applicable to DNFBPs.

125. It is noted that regulation 9 provides an exemption for legal professional advisers with regard to the reporting of knowledge or suspicion based on advice obtained in privileged circumstances. These circumstances are itemized to include information or other matter communicated or given to a legal adviser;

a) By a client or a representative of the client in connection with the provision of legal advice;

b) By another person or his representative seeking legal advice from the adviser;

c) In connection with legal proceedings or contemplated legal proceedings.

126. This regulation does not apply in the case of information or other matter which is communicated or given with a view to furthering a criminal purpose known to the professional legal adviser. This is in accordance with the FATF requirement concerning legal privilege.

Examiners' Rec *- The requirements of Recommendations 15 as detailed in section 3.8.2 of this report should be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendation 16*

127. As noted above in relation to Recommendations 13 and 14, the same is applicable to the requirements of Recommendation 15. Enactment of the POCAA, the FIUTTA and the FOR has resulted in partial compliance with examiners' recommended actions.

Recommendation 17

Examiner's Rec - *The authorities should consider amending the provisions for sanctions in the POCA to allow for penalties to be applied jointly or separately.*

128. The recommendation for considering the amendment of the provisions for sanctions in the POCA to allow for penalties to be applied jointly or separately was due to the examiners' concern that all penalties in the POCA include both a term of imprisonment and a fine with no indication that the penalties could be applied separately. This raised questions as to the applicability of the penalties to legal persons. Section 53(1) of POCA has been amended to provide penalties for offences under sections 43, 44, 45 and 46 on conviction on indictment to a fine of twenty-five million TT dollars approximately US$3,950,000 and imprisonment for fifteen years and for offences under section 51 on summary conviction to a fine of five million TT dollars approximately US$790,000 and imprisonment for five years and offences

under section 52 to a fine of TT$250,000 approximately US$39,500 and imprisonment for three years. These amendments have not addressed the examiners' recommendation since the penalties include both a term of imprisonment and a fine with no indication that the penalties could be applied separately.

Examiner's Rec *- 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 applicable.*

129. 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 FIA enhances 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. Section 86 of the FIA gives the Inspector of Financial Institutions power to issue compliance directions or seek restraining orders for actions violating any provision of the FIA and associate regulations, measures imposed by the Central Bank or unsafe or unsound practice in conducting the business of banking. Unsafe and unsound practice is defined to include without limitation any action or lack of action that is contrary to generally accepted standards of prudent operation and behaviour. This definition should allow for the Inspector of Financial Institutions to exercise the above power with regard to AML/CFT breaches. It should be noted that this power is limited to banking and does not include insurance companies. Additionally, since the FIA is limited to the Central Bank, the SEC does not have similar powers. Given the above, only the Central Bank's range of sanctions for AML/CFT has been extended and only for banks.

Recommendation 18

Examiners' Rec - *Shell banks should be prohibited by law.*

130. The recommendation to prohibit shell banks by law has not been addressed.

Examiners' Rec *- Financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks;*

131. Regulation 22(1) prohibits banks from entering into or continuing a correspondent banking relationship with a bank which is incorporated in a jurisdiction in which it has no physical presence or a bank which is unaffiliated with a financial group regulated by a Supervisory Authority in a country where the FATF Recommendations are applicable. This provision is limited to banks rather than all financial institutions as stated in the examiners' recommendation.

Examiners' Rec *- 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.*

132. Regulation 22(2) requires financial institutions and listed businesses to ensure that the respondent financial institution or business in a foreign country does not permit a shell bank to use its accounts. The above provision complies with the examiners' third recommendation.

The passage of the FOR has substantially dealt with two of the three recommendations of the examiners.

Recommendation 19

Examiners' Rec - *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*

133. The authorities have presented no information or documentation that the feasibility and utility of a large currency transaction reporting system has been considered. The authorities advise that regulations 31 – 32 of the FOR deals with this matter, however, the cited regulations are concerned with record keeping and not a large currency reporting requirement.

Examiners' Rec *– When the Customs Division discovers an unusual international shipment of currency, monetary instruments, precious metals or gems etc, is 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.*

134. The authorities have presented no information addressing the above recommendation.

Examiners' Rec *– The Customs Division's computerized database of Custom Declaration Forms should be subject to strict safeguards to ensure proper use of the information that is recorded.*

135. The authorities have advised that the above recommendation has been implemented but has provided no details on implementation. Based on the above, two of the recommended actions remain outstanding and one needs further details on implementation.

Recommendation 20

Examiners' Rec - *Authorities should consider applying the relevant FATF Recommendation to non-financial businesses and professions (other than DBFBP's) that are at the risk of being misused for ML or TF.*

136. The AML/CFT regime in Trinidad and Tobago is applicable to financial institutions and listed business. Listed business is defined in the POCAA to mean a business or profession listed in the First Schedule. Section 35 of the POCAA has amended the First Schedule to include not only DNFBPs but also motor vehicle sales and the business of an art dealer which are now subject to AML obligations. This provision satisfies the examiners' recommended action above.

Examiners' Rec *- 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*

137. The authorities have presented no information on the above recommendation. As such, only one of the examiners' recommended action has been implemented.

Recommendation 21

Examiners' Rec ***-*** *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*

138. Section 55 of POCA has been amended by POCAA by substituting section 55(2) (a) (i) which requires financial institutions and listed businesses to pay special attention to all business transactions with persons and financial institutions in or from other countries which do not or insufficiently comply with the recommendations of the FATF. Except for not including business relationships, this provision complies with the examiners' recommended action.

Examiners' Rec *- 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.*

139. Section 55(2) (c) requires financial institutions and listed businesses to examine the background and purpose of all transactions which have no economic or visible legal purpose under paragraph (a)(i) and make available to the Supervisory Authority, written findings after its examination where necessary.

Examiners' Rec *- 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.*

140. Section 17(1)(a) of the FIUTTA requires the FIU to publish as frequently as necessary, by notices in the Gazette and in at least two newspapers in daily circulation in Trinidad and Tobago, a list of countries identified by the FATF as non compliant or not sufficiently compliant with their recommendations.

Examiners' Rec *- 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.*

141. Section 17(2) empowers the FIU to set measures that may be utilized by a financial institution or listed business against countries listed as being identified by the FATF as non compliant or not sufficiently compliant with their recommendations. Given the above all of the examiners' recommendations have been dealt with by enactment of the POCAA and the FIUTTA. The issue of implementation has to be addressed.

Recommendation 22

Examiners' Rec ***-*** *The T&T authorities may wish to introduce legislation or enforceable regulations to include the requirements for financial institutions to:*

- *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;

- *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;*

- *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.*

142. The authorities advised that these recommendations have been addressed in the FIUTTA and the FOR. However, a review of both pieces of legislation reveals no provisions concerning these recommendations; consequently the examiners' recommended actions remain outstanding.

Recommendation 24

Examiners' Rec – *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 AML/CFT measures required under the FATF Recommendations.*

143. Section 2 of POCA has been amended by POCAA to include gaming houses (or private member clubs), pool betting and the national lottery on line betting games as listed businesses and thereby subject to AML requirements. A similar amendment to section 2 of the ATA also imposes CFT requirements. As noted before, the FIU has been designated the competent authority responsible for ensuring compliance by listed businesses with only AML obligations. No information on measures implementing this responsibility has been submitted by the authorities.

Examiners' Rec *– 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 members club), pool betting and the national lottery on line betting games.*

144. The authorities have provided no information addressing the above recommendation.

Examiners' Rec - *A competent authority or self regulatory organization (SRO) should be designated as responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements*

145. Under Section 34 of POCAA the FIU has been named as the Supervisory Authority for listed businesses until regulations for the selection of a Supervisory Authority are made. The Supervisory Authority has been defined in the POCAA as the competent authority responsible for ensuring compliance by financial institutions and listed business with AML obligations. Regulation 2(1) of the FOR specifies the FIU as the supervisory authority for other financial institutions and listed businesses. Listed businesses as defined in POCA include DNFBPs. As such, the FIU is presently responsible for supervising DNFBPs but only for AML compliance since combating the financing of terrorism is not mentioned. As

noted under Recommendation 12, the authorities will have to submit information on the establishment and implementation of an AML supervisory regime.

Examiners' Rec *– Competent authorities should establish guidelines that will assist DNFBPs to implement and comply with their respective AML/CFT requirements.*

146. The authorities have provided no information addressing the above recommendation. Since only one of the examiners' recommended measures above has been satisfactorily met, this recommendation remains largely outstanding.

Recommendation 25

Examiners' Rec - *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.*

147. Section 10 of the FIUTTA requires the FIU to provide to financial institutions and listed businesses feedback in writing on received suspicious activity reports.

Examiners' Rec *- The CBTT AML/CFT Guidelines should be enforceable and have sanctions for non-compliance*

148. The authorities in response advise that the issue of penalties is addressed by virtue of Part VII of the FOR. However Part VII of the FOR deals with penalties applicable to breaches of the provisions of the FOR and there is no reference to the CBTT AML/CFT Guidelines. As such, this recommendation remains outstanding.

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Examiners' Rec *- 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.*

149. The authorities have provided no information addressing the above recommendation. Only one of the examiners' recommended actions has been addressed resulting in this recommendation remaining largely outstanding.

Recommendation 29

Examiners' Rec – *The Credit Union Supervisory Unit (CUSU) should have the power to compel production or to obtain access to all records, documents or information relevant to monitoring compliance.*

Examiners' Rec – *The CUSU should have the authority to conduct inspections of relevant financial institutions including on-site inspections to ensure compliance*

150. The above recommended actions deal with providing the CUSU – the unit at the time of the mutual evaluation functioning as a supervisory agency for credit unions- with adequate powers to supervise credit unions with AML/CFT obligations. The authorities advise that a decision has been taken to place the supervision of credit unions under the Central Bank. As such legislation is being prepared to facilitate this change. Once, credit unions have been

brought under the supervision of the Central Bank, the concern of the examiners about the lack of effective supervision of the credit unions should be addressed.

***Examiners Rec** – All supervisors should have adequate powers of enforcement and sanctions against financial institutions and their directors or senior management for failure to comply with the AML/CFT requirements*

***Examiners Rec** – 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.*

151. The recommended actions above address specifically the absence of adequate powers of enforcement and sanctions and an effective AML/CFT supervisory compliance regime of the TTSEC and the CUSU. The deficiency with regard to the TTSEC is to be dealt with by the enactment of a Security Act which is presently before the Parliament Joint Select Committee. The deficiency with regard to the CUSU will be dealt with, as previously mentioned by transferring the supervision of credit unions to the Central Bank. As such, all recommended actions under this Recommendation remain outstanding.

Recommendation 30

***Examiners' Recs-** Introduce provisions for continuous training for the Designated Authority, the Training Officer and other staff within the FIU*

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.

Improve budgetary, staffing and physical accommodation of the FIU in order to improve its capabilities

More resources (law enforcement staff) should be dedicated to investigation of ML offences.

Immigration should also be included in AML/CFT training or awareness programs.

Provide training to specific Customs Officers for future attachment to the FIU.

Address quickly the current shortage of staff at the Customs Division to enhance efficiency.

Provide further training to prosecutors, magistrates and judges to broaden their understanding of the relevant legislations.

Give considerable attention to staffing constraints faced by the magistracy and the Office of the DPP.

Strengthen the executive staff of the SSA in order to provide assistance to the Director.

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.

152. The main recommended actions under this Recommendation address deficiencies in resources and training in the FIU, the DPP, the Magistracy, Customs Division, the Police, the

Strategic Services Agency (SSA), TTSEC and CUSU. The authorities advise that the DPP is contemplating establishing a specialist Proceeds of Crime/Money Laundering Unit and that the Financial Investigations Branch of the Special Anti-Crime Unit of Trinidad and Tobago dedicated to money laundering offences is operating with a complement of seven investigators and one manager. As already noted, a Director designate of the FIU has been appointed and staff from the former FIU transferred to the present FIU. The FIU has also been relocated to new offices. This information is inadequate to assess compliance with the examiners' recommended actions which therefore remain outstanding.

Recommendation 31

Examiners' Rec *– The T&T authorities should consider instituting the legal framework necessary to formalize 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 sensitizing the general public about T&T ML measures and encourage compliance with the relevant legislations.*

153. Since its inauguration in May 2006 the AML/CFT committee has been reporting periodically to Cabinet on steps taken to implement the recommended actions made in Trinidad and Tobago's MER. During 2007, the focus of the Committee was on legislative drafting and 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. In 2008, the Committee was presented with a suggested text for a national AML/CFT policy and a national AML/CFT strategy comprising elements of public outreach, national awareness and training, risk base approach, strengthening of law enforcement, promoting relationships with the CFATF and regional international affiliates and advocating for strengthening of representation on the Committee and provision of adequate resources to fulfill the functions of the Committee. This national AML/CFT policy and strategy document was according to the authorities due for subsequent ratification by Cabinet. There is no information as to whether such ratification did occur or to the present status of the AML/CFT Committee.

Examiners' Rec *– Trinidad and Tobago should consider introducing MOUs between the Central Bank, 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.*

154. The Authorities advise that section 8(2) of the FIA 2008 allows the Central Bank to share information with the designated authorities under the POCA, as part of the fight against ML and TF. While this addresses the concern of the examiners' recommended action for cooperation, this provision does not include the TTSEC as required by the recommended action.

Examiners' Rec - *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.*

155. The authorities advise that the Counter Drug & Crime Task Force collaborates on a continuing basis with law enforcement authorities who have supported the Task Force with full time assignees to that department. It should be noted that the Counter Drug & Crime

Task Force was in existence at the time of the mutual evaluation as indicated in the mutual evaluation report and appeared to provide a means of collaboration for law enforcement authorities at the time. There is no indication as to whether the present collaboration is more proactive than before. The examiners' recommended action also refers to cooperation amongst other competent authorities. Information with regard to this aspect of the recommended action has not been provided.

Examiners' Rec *– The composition of the FIU could be expanded to include personnel from different relevant entities, which would not only strengthen cooperation but also enhance the human resource capability of the FIU.*

156. No information has been provided on this recommended action.

Recommendation 32

Examiners' Rec - *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.*

157. The requirement of section 9 of the FIUTTA for the FIU to implement a system for monitoring the effectiveness of its anti-money laundering policies by maintaining comprehensive statistics on suspicious transaction or suspicious activity reports received and transmitted, money laundering investigations and convictions, property frozen, seized and confiscated and international requests for mutual legal assistance or other cooperation partially complies with the recommendation for the FIU to review the effectiveness of its systems to combat ML and FT. The provision does not include FT.

158. The authorities have submitted statistics that the FIU has been collecting. These include statistics on the number of AML/CFT legal assistance treaty requests made and received by T&T for the period 2005 to 2009. These statistics are presented in the following table.

Table 4: MLAT Requests Made/Received During 2005 to 2008

Year	No of requests made/corruption	No of requests received
2005	2	0
2006	3	0
2007	2	0
2008	1	1
2009	0	3

159. All mutual legal assistance requests made by Trinidad and Tobago during the period were based on corruption offences. The mutual legal assistance requests received by Trinidad and Tobago in 2008 and 2009 dealt with money laundering. Statistics on the number of production orders obtained by the FIU have been submitted and are presented in the following table.

Table 5: Production Orders Obtained During 2006 to Jan/Feb 2010

Year	No of production orders
2006	6
2008	9
2009	13
Jan/Feb2010	4

160. The majority of the production orders were served on financial institutions. Two of the production orders in 2009 were as a result of mutual legal assistance requests and one of these dealt with money laundering. The production orders obtained in the first two months of 2010 were due to mutual legal assistance requests. Statistics on money laundering investigations conducted by the FIU for the period 2006 to 2009 is presented in the following table.

Table 6: Money Laundering Investigations Conducted by the FIU

Year	No of investigations	Predicate Offence
2006	Nil	N/A
2007	3	SAR & Fraud (x2)
2008	2	POMFT[1]
2009	4	Murder, POCFT[2] & POMFT (x2)

161. Statistics on restraint orders obtained by the FIU for the period 2005 to 2009 is presented in the following table.

[1] POMFT; Possession of marijuana for trafficking
[2] POCFT: Possession of cocaine for trafficking

Table 7: Restraint Orders Obtained by the FIU

Year	Offence	Drugs Restrained	Cash Restrained
2005	UFD & OVS[3]	Nil	TT$390,338.
2008	POCFT	3.5 kgs	TT$112,369.
2009	POMFT	11.8 kgs	TT311,228./US$2,127.

162. It should be noted that the restraint orders reported in the table above are still in effect since the relevant court matters are still in process. In addition to the provision for the maintenance of statistics by the FIU, section 18(1) of the FIUTTA requires that annual reports on the performance of the FIU be prepared and submitted to the Minister within two months of the end of the financial year. The annual report will include the referred mandated statistics. Under section 18(2), the Minister is required to present the report to Parliament. While the provisions address the FIU, the examiners' recommended action refers to tangible results from other relevant stakeholders in the system. The authorities advised that the office of the DPP generates an annual report that is statistically based. No figures from this report have been submitted.

Examiners' Rec *– Measures should be instituted to review the effectiveness of T&T's money laundering and terrorist financing systems.*

163. No information has been provided on this recommended action.

Examiners' Rec *– 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.*

164. The Central Bank submitted statistics on the number of on-site inspections with AML components conducted for the period 2006 to 2009 as follows:

Table 8: Number of on-site inspections with AML done by the Central Bank

Year	No.of on-site inspections
2006	2
2007	8
2008	4
2009	7

[3] UFD & OVS : Uttering forged document & Obtained valuable security

165. No figures on requests for assistance were submitted for this report.

***Examiners' Rec** – T&T should review the effectiveness of its systems with regard to AML (CFT) extradition cases based on statistics and on a regular basis..*

166. No information has been provided on this recommended action. While the authorities have advised that the FIU, the DPP and the Central Bank maintain statistics, only figures from the FIU and the Central Bank were submitted. Additionally, no information on any measures for reviewing the effectiveness of T&T AML/CFT regime has been submitted. Consequently, the recommended actions for this recommendation remain substantially outstanding.

Recommendation 33

***Examiners' Rec** – 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.*

167. The authorities have advised that a review of the operations of the registrar of companies has not yet determined ways to ensure that adequate and accurate information on beneficial owners can be available on a timely basis. As such, the recommended action remains outstanding.

Recommendation 34

***Examiners' Rec –** The T&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.*

168. No information has been provided on this recommended action. Consequently, the recommended action under this recommendation remains outstanding.

Special Recommendation VI

***Examiners' Rec** – A competent authority should be designated to register and/or licence money transfer companies and maintain a current list of their names and addresses and be responsible for ensuring compliance with licensing and/or registration requirements*

169. Due to an amendment of the Central Bank Act 2008, the Central Bank is now responsible for supervising money remitters who are required to be registered under the Act. A supervisory framework is being devised for implementation.

*.**Examiners' Rec** - All MVT service operators should be subject to the applicable FATF Forty Recommendations and FATF Eight Special Recommendations.*

170. As already noted section 35 of POCAA amended the First Schedule of POCA to encompass additional activities such as money or value transfer services as listed businesses. These listed businesses are subject to the same AML/CFT requirements as financial institutions in POCA, the FIUTTA, the FOR, the ATA and the ATAA. The applicable FATF recommendations with regard to money value service operators are Recs. 4-11, 13-15, and 21-23 and SR VII. The recently enacted legislation includes provisions which comply with some of the examiners' recommended actions for Recs. 4-11, 13-15, 21, 23 and SRVII. Specific analysis of compliance is provided in the sections dealing with the individual Recommendations. The examiners' recommended actions for Rec. 22 are not dealt with in recent legislation and remain outstanding. As such, while money value transfer operators have been included in the AML/CFT regime the full range of requirements under the applicable FATF Recommendations have not been imposed.

Examiners' Rec *– 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 Central Bank of Trinidad and Tobago issue the AML/CFT Guidelines to the cambios and test compliance during on site inspections.*

171. The authorities have provided no information addressing the above recommendation.

Examiners' Rec *– Money transfer companies should be required to maintain a current list of agents, which must be made available to the designated competent authority.*

172. The authorities have provided no information addressing the above recommendation.

Examiners' Rec *– The measure set out in the Best Practices Paper for SRVI should be implemented and Trinidad and Tobago authorities should take FATF R. 17 into account when introducing system for monitoring money transfer companies.*

173. The authorities have provided no information addressing the above recommendation. Based on the above, the recommended actions for this recommendation remain largely outstanding.

Special Recommendation VII

Examiners' Rec - *The T&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*

174. Regulations 33 to 34 of the FOR provide for cross border and domestic wire transfers. Regulation 33(2) requires a financial institution or listed business that participates in a business transaction via wire transfer to relay the identifying information to any other financial institution participating in the transmittal. Regulation 34(2) requires cross border wire transfers to be accompanied by information containing the name of the originator and number of an existing account, and in the absence of an existing account, a unique reference number, and the address of the originator and either a national identification number or passport number. Regulation 34(1) requires domestic and cross-border wire transfers to include accurate and meaningful identification data on the originator.

175. Financial institutions are required under regulation 34(4) to put provisions in place to identify wire transfers lacking complete originator information so that the lack of complete originator information shall be considered as a factor in assessing whether a wire transfer is or related transactions are suspicious and thus required to be reported to the FIU. The requirements as outlined comply with most of the criteria of SR VII. The omitted criteria include a requirement for ordering financial institutions to verify the identity of the originators of wire transfers of EUR/US$1,000 or more in accordance with Rec. 5. There is no indication of measures in place to effectively monitor the compliance of financial institutions with rules and regulation implementing SR. VII. Consequently, the enactment of the FOR has resulted in partial compliance with the examiners' recommendations.

Special Recommendation VIII

Examiners' Rec *– Authorities should review the adequacy of laws and regulations that relate to non-profit organizations that can be abused for the financing of terrorism.*

Examiners Rec *– Measures should be put in place to ensure that terrorist organizations cannot pose as legitimate non-profit organizations.*

Examiners' Rec *– Measures should be put in place to ensure that funds or other assets collected by or transferred through non-profit organizations are not delivered to support the activities of terrorists or terrorist organizations.*

176. With regard to the above recommended actions, the authorities have advised that the ATA has been amended with the inclusion of section 24C (1) which provides for a police officer above the rank of sergeant to obtain an *ex parte* monitoring order on a non-profit organization. This order will allow access to transaction information held by a non-profit organization. The above measure is inadequate to meet any of the examiners' recommended actions which therefore remain outstanding.

177. At the time of the mutual evaluation of Trinidad and Tobago in June 2005, Special Recommendation IX was not part of the Methodology and the country was not assessed for compliance with the Recommendation. However, the authorities have taken note of Special Recommendation IX and advised that the ATAA provides for the seizure and detention of cash and bearer negotiable instruments. Specifically, section 38A 1 of the amended ATA allows for a customs officer, or a police officer above the rank of sergeant to seize and detain cash or bearer negotiable instruments where there are reasonable grounds for suspecting that it is intended for use in the commission of an offence under the ATA or is terrorist property. The definition of cash and bearer negotiable instruments are in accordance with FATF requirements. The above provision is a start; however, the authorities will need to implement substantial additional measures to meet all the requirements of Special Recommendation IX.

III. Conclusion

178. As noted in the beginning of this report, Trinidad and Tobago was rated partially compliant or non-compliant on fifteen (15) of the sixteen (16) Core and Key Recommendations and 26 other Recommendations. Enactment of the POCAA, the FIUTTA, the FOR and the ATAA has addressed substantial deficiencies identified in fourteen (14) Core and Key Recommendations (R.1, R.3 – R.5, R.10, R.13, R.26, R. 40, and SR.I – SR.V) and seventeen other Recommendations (R.2, R.6 – R.8, R.11, R.12, R.14, R.15 – R.18, R.20, R.21, R.25, R.32, SR. VI and SR.VII) in Trinidad and Tobago's MER. This is a substantial

improvement over Trinidad and Tobago's former situation. However, substantial deficiencies in one Key Recommendation (R.23,) and nine other Recommendations remain to be addressed. Based on the foregoing it is recommended that Trinidad and Tobago be required to report back to the November 2010 Plenary and Council meetings.

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
Legal systems				
1.ML offence	NC	• 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. • Terrorism, including terrorist financing and piracy is not covered under Trinidad and Tobago legislation as predicate offences; • Predicate offences for ML do not extend to conduct occurring in another jurisdiction that would have constituted an offence had it occurred domestically. • 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. • The money laundering legislation does not appear to be effective as there have been no convictions in 6 years.	• 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". • Terrorism, including terrorist financing, and piracy should be covered under Trinidad and Tobago legislation.	• Section 43 of the Proceeds of Crime Act 2000 is amended by deleting the words "drug trafficking" and substituting the words "a specified offense", thereby broadening the scope of section 43 beyond drug trafficking. Accordingly, Section 43 of Proceeds of Crime Act 2000 has been amended by virtue of Section 22 of the Proceeds of Crime (Amendment) Act 2009 and states the following: *"A person is guilty of an offence who conceals, disposes, disguises, transfers, brings into Trinidad and Tobago or removes from Trinidad and Tobago and money or other property knowing or having reasonable grounds to suspect that the money or other property is derived, obtained or realized, directly or indirectly from a specified offence"* • The offense of piracy as contemplated under the list of 20 predicate offenses to money laundering does not exist under Trinidad and Tobago's legislation. The taking of Hostages Act ch 12.005 (1993) falls short of the elements of the crime of piracy. This short coming will be remedied with appropriate enactments. The financing of terrorism is criminalized under Section 22A. (1-4) of the Anti-Terrorism (Amendment) Act,2010 as follows: *22A. (1) Any person who by any means, directly or indirectly, willfully provides or collects funds, or attempts to do so, with the intention that they should be used or in the knowledge that they are to be used in whole or in part-* *(a) in order to carry out a terrorist act; or* *(b) by a terrorist; or* *(c) by a terrorist organisation, commits the offence of financing of terrorism.*

				(2) An offence under subsection (1) is committed irrespective of whether - *(a) the funds are actually used to commit or attempt to commit a terrorist act;* *(b) the funds are linked to a terrorist act ; and* *(c) the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred or will occur.* *(3) A person who contravenes this section commits an offence and is liable on conviction on indictment –* *(a)in the case of an individual, to imprisonment for twenty five years; or* *(b) in the case of a legal entity, to a fine of two million dollars.* *(4) A director or person in charge of a legal entity who commits an offence under this section is liable on conviction on indictment be to imprisonment for twenty-five years.*
			• 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.	• Predicate offenses for money laundering under the POCA no55 2000 are extended to conduct occurring in another jurisdiction that would have constituted an offense had it occurred domestically by expanding the meaning of specified offence under section 5 (g) to include, among other things; Any act committed or omitted to be done outside of Trinidad and Tobago which would constitute an indictable offence in Trinidad and Tobago;

			• 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.	
2.ML offence – mental element and corporate liability	PC	• There is no dissuasive criminal or administrative sanctions for money laundering against a company directly • 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.	• Fast track the Proceeds of Crime (Amendment) Bill 2005, which will seek to strengthen the application of the POCA. • Introduce the Financial Obligations Regulations to strengthen their AML regime.	• The Proceeds Of Crime (Amendment) Act 2009 was passed in parliament 9th October, 2009 • The Financial Obligation Regulations was made by Minister October 2009. On 19th January 2010 an updated and more comprehensive body of Regulations was published and immediately became law. These updated Regulations superseded the FOR 2009. • Section 35 (1) of the Interpretation Act ch 1:21 defines a "person" to include a company by specifically stating "any word or expression descriptive of a person, includes a corporation." Further, Section 29 of the Proceeds of Crime (Amendment) Act 2009 establishes penalties consisting of both fines and imprisonment all of which relate directly to companies . The relevant subsections read as follows: *(1) A person guilty of an offence under sections 43, 44, 45 and 46 is liable on conviction on indictment, to a fine of twenty-five million dollars and to imprisonment for fifteen years.* *(2) A person guilty of an offence under section 51 is liable on summary conviction to a fine of five million dollars and to imprisonment for five years.* *(3) A person guilty of an offence under section 52 is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years".*

				While there are currently no administrative sanctions in the POCA 2000 as amended, Pursuant to section 56 of the POCA 2000 as amended, the minister may make regulations stated in Section 31, 1 (f) which provide *"measures that may be taken by a supervisory authority to secure compliance" with the Act or to prevent the commission of unsafe or unsound practices. These measures include administrative sanctions and disciplinary actions, when possible."* Section 40 of the Financial Obligations Regulations 2010 allows the Supervisory Authority to use such regulatory measures as prescribed in the relevant legislation e.g. the Financial Institutions Act 2008, the Insurance Act, etc to ensure compliance of supervised financial institutions with the Regulations. For example, the Financial Institutions Act allows the Central Bank to issue guidelines to aid compliance with the Proceeds of Crime Act, the Anti-terrorist Act etc. and the Central Bank can issue compliance directions for noncompliance with the Guidelines, noncompliance with which constitutes an offence and which incurs a penalty of $5 million on summary conviction.
3. Confiscation and provisional measures	PC	• 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). • Provision for confiscation under the POCA is not widely used/implemented. There has been no confiscation of assets under POCA for ML offences. • 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	• The T&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) of the POCA.	• There is no provision in the Amendment to POCA for the court to make a confiscation order in the absence of conviction for money laundering. If a person is charged for a predicate offense (e.g. drug trafficking) a restraint order could be obtained prior to conviction and a confiscation order given subsequent to conviction in relation to the proceeds of criminal activity from which the person benefited. The quantum will be treated as a debt owed to the state. There has/have been instances of confiscation of assets in Trinidad and Tobago under the POCA 2000 for money laundering offenses. • The scope of offenses that are subject to production orders and search warrants has

		offence" contained in section 2 of the POCA].		been widened by expanding the definition of "specified offense" under section 2 POCA no55 2000. "Specified offense" now means: *(a) an indictable offence committed in Trinidad and Tobago whether or not the offence is tried summarily; No. 10 Proceeds of Crime (Amendment) 2009 5* *(b) any act committed or omitted to be done outside of Trinidad and Tobago, which would constitute an indictable offence in Trinidad and Tobago; or* *(c) or an offence specified in the Second Schedule.";* It should be noted that under this recommendation confiscation without conviction is an additional element. At this point in time there is no civil forfeiture regime in Trinidad and Tobago.
Preventive measures				
4. Secrecy laws consistent with the Recommendations	PC	▪ While most of the competent authorities have access to information, there are no measures allowing for the sharing of information locally and internationally. ▪ There are no measures for the sharing of information between financial institutions as required by Recommendations 7 and 9 and Special Recommendation VII.	• 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. • 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).	▪ Section 8 of the Financial Intelligence Unit of Trinidad and Tobago Act No. 11 of 2009, facilitates efficient execution of information sharing duties on the part of the competent authorities of Trinidad and Tobago. The sharing of information is achieved at the domestic and international level. This will be elaborated upon. -Section 8 (3) (e) of Act no. 11 2009, empowers the FIU to engage in the exchange of financial intelligence with members of the Egmont Group -Section 8 (3) (f) of Act no. 11 2009, empowers the FIU to disseminate at regular intervals, financial intelligence and information to local and foreign authorities and affiliates within the intelligence community, including statistics on recent money laundering practices and offences. Sec 26. of the FIU Act 2009 states 'Notwithstanding any other law pertaining to the disclosure of personal information,

				the power of the FIU to collect, disseminate or exchange information under this Act, shall prevail. This in effect overrides any existing law regarding disclosure of information and ensures that the FATF recommendations can be implemented without inhibition • Section 8(2) of the Financial Institutions Act empowers Central Bank of Trinidad and Tobago to engage in information sharing practices with international regulatory bodies as well as the designated authority i.e. the FIU under Proceeds of Crime Act No 55 of 2000. Similar sharing of information provisions have been included in the new Insurance Bill and the draft Credit Union Bill. • Section 6 of the Insurance Act 1980 was amended by the Insurance Amendment Act of 2009 to facilitate sharing of information with any local or foreign regulatory agency or body that regulates financial institutions for purposes related to that regulation. • The following provides a status regarding information sharing practices of specific regulatory bodies of Trinidad and Tobago: -**Trinidad and Tobago Securities and Exchange Commission** (TTSEC) is currently awaiting the enactment of a Securities Bill which is before the Parliament Joint Select Committee and will provide for the sharing of information
5.Customer due diligence	NC	• 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.	• The T&T authorities may wish to consider to set out measures in laws or implementing regulations with sanctions for non-compliance for the following: • Financial institutions should not be permitted to keep anonymous accounts or accounts in fictitious names.	• Regulation 19 (1) of the Financial Obligation Regulations, 2010, prohibits the keeping of anonymous accounts or accounts

			• 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. • 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. • 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.	in fictitious names by financial institutions. Such institutions are compelled to identify and record the identity of customers. Regulation 11 (1) of the Financial Obligation Regulations, 2010, requires financial institutions to apply customer due diligence procedure in the following instances: (a) pursuant to an agreement to form a business relationship; (b) as a one-off or occasional transaction of ninety thousand dollars or more; (c) as two or more one-off transactions, each of which is less than ninety thousand dollars but together the total value is ninety thousand dollars or more and it appears, whether at the outset of each transaction or subsequently that the transactions are linked; or (d) as a one-off or occasional wire transfer of six thousand dollars or more or two or more one-off transactions, each of which is less than six thousand dollars, but together the total value is six thousand dollars or more and it appears, whether at the outset of each transaction or subsequently that the transactions are linked, • Regulation 11 (5) specifies measures that should be taken when there is doubt about the veracity or adequacy of previously obtained customer identification data. In such cases the Financial Institution is compelled to discontinue the transaction and report same to the Compliance Officer in accordance with Regulation 7 (1) (b), (c) and (d). Regulation 7 speaks of the following: (a) procedures governing customer identification, documentation and verification of customer information, and other customer due diligence measures. (b) methods for the identification of

				suspicious transactions and suspicious activities (c) guidelines for internal reporting of suspicious transaction and suspicious activities (d) guidelines for adopting the risk-based approach to monitoring financial activity. This includes categories of activities or business that are considered to be of a high risk.
			• 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. • Financial institutions should be required to determine the natural persons who ultimately own or control customers that are legal persons or legal arrangements.	• Regulation 12 (2) considers that where the beneficial owner of an account is a legal person or a person acting pursuant to a legal arrangement, the Financial Institution or listed business shall: (a) verify that any person purporting to act on behalf of the legal person or legal arrangement is so authorized and identify and verify the identity of that person; (b) verify the legal status of the legal person or legal arrangement; (c) understand the ownership and control structure of the legal person or legal arrangement; and (d) determine who are natural persons who have effective control over a legal person or legal arrangement. Note that for the purpose of this Regulation, "beneficial owner" means the person who ultimately owns and controls an account, or who exercises ultimate control over a legal person or arrangement.
			• Financial institutions should be required to conduct due diligence on the business relationship.	• Regulation 15 of the Financial Obligation Regulations, 2010, states that relevant identification records shall be obtained by

			• The T&T authorities may set out the following measures in laws, regulations or enforceable guidelines with sanctions for non-compliance:	the Financial Institution or listed business upon the initiation of a business relationship. The detailed information to be recorded are as follows: (a) full name of the applicant(s) (b) permanent address and proof thereof (c) date and place of birth (d) nationality (e) nature and place of business/ occupation where applicable, occupational income (f) signature (g) purpose of the proposed business relationship or transaction or source of funds (h) any other information deemed appropriate by the Financial Institution or listed business. The following points are noteworthy: - a valid photo bearing identification shall be subject to scrutiny. For this purpose, identification documents may include a passport, a national identification card or a license to drive a motor vehicle. - where the above documents are not available in its original form, copies shall be acceptable only where they are certified. Further identification documents, which are easily obtainable (example birth certificates) shall not be accepted as a sole means of identification. - where there is foreign customer involvement reference shall be sought from the foreign customer's bank. • Section 10 of the FIA 2008 allows the Central Bank to issue guidelines to aide compliance in POCA, Anti Terrorism Act 2005 and the FOR 2010. Section 12 of the FIA allows the Central Bank to take action,

			• 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	for example, issue of compliance directions, for contravention of any guidelines issued under Section 10. Non-compliance with a compliance direction is an offence. • Section 65 of the Insurance Act 1980 as amended by the Insurance Amendment Act of 2009 allows the Central Bank to issue compliance directions to an insurer, intermediary, controller, officer, employee or agent for inter alia that has violated or is about to violate any of the provisions of any law or Regulations made thereunder; if it has failed to comply with any measure imposed by the Central Bank in accordance with the Act or Regulations; or if committing or pursuing unsafe and unsound practices. Consequently, the Central Bank can issue compliance directions to an insurer or intermediary for non-compliance with AML/ CFT requirements. A person who fails to comply with a compliance direction is liable on summary conviction to a fine of $5 million. • Part VII of the Financial Obligation Regulations, 2010, addresses the issue of penalties. Regulation 42 states that where a financial institution or listed business fails to comply with specific mandatory obligations (as outlined below), it shall be subject to penalties. These penalties are provided for by virtue of Section 57 (1) of the Proceeds of Crime Act No.55 of 2000, and carries the effect of imposing sanctions on any person who knowingly contravenes or fails to comply with the provisions.

				These mandatory obligations are as follows: - Regulation 3 makes the designation of a compliance officer mandatory. Detailed guidance regarding associated procedure is provided by the various sub-regulations. - Regulation 7 makes the establishment of a compliance programme mandatory. Detailed guidance regarding measures and guidelines to be included in such a compliance programme is provided in the sub-regulations. - Regulation 8 makes internal reporting mandatory. Detailed guidance regarding the precise rules which should underpin this exercise is provided in the sub-regulations that follow. -Part III of the Financial Obligation Regulations, 2010, makes customer due diligence practice mandatory. - Part IV of the Financial Obligation Regulations, 2010, provides for customer due diligence provisions that are applicable to the insurance sector. - Part V of the Financial Obligation Regulations, 2010, makes sound and reliable record-keeping practice mandatory. • Regulation 8 (2) of the Financial Obligation Regulations, 2010, states that the Financial Institution or listed business shall also ensure that the compliance officer and other employees, have timely access to customer identification data and other records and relevant information, to enable them to produce reports in a timely manner. - Part III of the Financial Obligation Regulations, 2009, addresses the application of customer due diligence in all ascertainable customer categories encompassed within the overall spectrum of

				customers.
6.Politically exposed persons	NC	• 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.	• 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. • Financial institutions should be required to obtain senior management approval for establishing or continuing business relationships with a PEP. • Financial institutions should be required to take reasonable measures to establish the source of wealth and funds of PEPs	Regulation 20 of the Financial Obligation Regulations, 2010, stipulates criteria from which one can infer that a person is a "politically exposed person". 20. (1) defines "politically exposed person" as a person who is or was entrusted with important public functions in a foreign country such as — (a) a current or former senior official in the executive, legislative, administrative or judicial branch of a foreign government, whether elected or not; (b) a senior official of a major political party; (c) a senior executive of a foreign government-owned commercial enterprise; (d) a senior military official; (e) an immediate family member of a person mentioned in paragraphs (a) to (d) meaning the spouse, parents, siblings or children of that person and the parents, siblings and additional children of the person's spouse; and (f) any individual publicly known or actually known to the relevant financial institution to be a close personal or professional associate of the person mentioned in paragraphs (a) to (d). • In particular, the following sections are noteworthy: -Regulation 20(2) of the Financial Obligation Regulations, 2010 ensures that appropriate measures shall be put in place on the part of the financial institution or listed business to ascertain whether an applicant is in fact a Politically Exposed Person. -Regulation 20(3) of the Financial Obligation Regulations, 2010 imposes mandatory obligation to impose Enhanced Due Diligence Procedures when dealing

			• Financial institutions should be required to conduct enhanced ongoing monitoring of business relationships with PEPs.	with a politically exposed person. The sub-regulations provide detailed guidance regarding the various groups of persons that may be deemed high-risk and may warrant the application of customer due diligence procedures. • Regulation 20 (4) of the Financial Obligation Regulations, 2010, stipulates that before entering into a business relationship with a politically exposed person, a financial institution or listed business must obtain the permission of a senior management official within the said institution. • Regulation 20 (5) of the Financial Obligation Regulations, 2010, stipulates that where the institution or business has entered into a business relationship with the politically exposed person, reasonable measures should be taken to ascertain the source of wealth. Regulation 20 (5) of the Financial Obligation Regulations, 2010, stipulates that where the institution or business has entered into a business relationship with the politically exposed person, it shall conduct enhanced on-going monitoring of that relationship.
7.Correspondent banking	NC	• 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.	• 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,	• Regulation 21 (2) (a) of the Financial Obligation Regulations, 2010, imposes mandatory obligation upon a correspondent bank to collect sufficient information about its respondent bank to understand fully the nature of the business which it is required to undertake and shall only establish correspondent accounts with a foreign bank, after determining that it is effectively supervised by the competent authorities in its

			• including whether it has been subject to a ML or TF investigation or regulatory action.	• Regulation 21 (4) states that A correspondent bank shall also ascertain whether the respondent bank has been the subject of money laundering investigations or other regulatory action in the country in which it is incorporated or in any other country.
			• Financial institutions should assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective.	• Regulation 21 (2) (b) of the Financial Obligation Regulations, 2010, imposes mandatory obligations obligation upon a correspondent bank to collect sufficient information about its respondent bank to assess the anti-money laundering controls of the respondent bank.
			• Financial institutions should obtain approval from senior management for establishing new correspondent relationships.	• Regulation 21 (3a) of the Financial Obligation Regulations, 2010, imposes mandatory obligation on a correspondent bank to obtain approval from senior management before establishing new respondent relationships.
			• Financial should document the respective AML/CFT responsibilities of each institution in the correspondent relationship.	• Regulation 21 (3b) of the Financial Obligation Regulations, 2010, imposes mandatory obligation on a correspondent bank to record the respective responsibilities of the correspondent and respondent banks.
			• 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.	• Regulation 21 (3d) of the Financial Obligation Regulations, 2010, imposes mandatory obligation on a correspondent bank to satisfy itself that the respondent bank has verified the identity of and performed on-going due diligence on the customer with respect to "payable-through accounts".
8.New technologies & non face-to-	NC	• None of the requirements are included in	• Financial institutions should be required to	• Regulation 23 (1) of the Financial

face business		legislation, regulations or other enforceable means and existing requirements are only applicable to financial institutions supervised by the CBTT.	have policies in place or take such measures to prevent the misuse of technological developments in ML or TF schemes. • 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. • 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.	Obligation Regulations, 2010, imposes mandatory obligation on a financial institution or listed business to pay special attention to any money laundering patterns that may arise with respect to technological developments in the following respects: (a) new or developing technology that might favor anonymity (b) use of such technology in money laundering offences, and shall take appropriate measures to treat such patterns. ▪ Regulation 23 (2) of the FOR 2010 states that A financial institution or listed business shall put special know-your-customer policies in place to address the specific concerns associated with non-face-to-face business relationships or transactions.
9.Third parties and introducers	NC	• The requirements in place are not mandatory and are applicable only to the financial institutions supervised by the Central Bank.	The T&T authorities may set out the following measures in laws, regulations or enforceable guidelines with sanctions for non-compliance: • 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. • Financial institutions should be required to take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay. • Financial institutions should be required to satisfy themselves that the third party is regulated and supervised and had measures in place to comply with the CDD requirements set out in Recommendations 5 and 10. • Competent authorities should determine in	• Regulation 13 of the Financial Obligation Regulations, 2010 carries implication for third parties acting on behalf of financial institutions and business persons.

			which countries third parties meet the conditions by taking into account information available on whether these countries adequately apply the FATF Recommendations. • The ultimate responsibility for customer identification and verification should remain with the financial institution relying on the third party.	
10.Record keeping	NC	▪ The requirements in place are not mandatory and are applicable only to the financial institutions supervised by the Central Bank.	• The T&T authorities may wish to introduce the proposed Financial Obligation Regulations as soon as possible and include the following; • 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. • Transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. • 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). • 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.	• Regulation 31 (1) of the Financial Obligation Regulations, 2010, imposes a mandatory obligation on a Financial Institution or listed business to retain records of- (a) all domestic and international transactions; (b) identification data updated through the customer due diligence process. These records shall be maintained in either electronic format or in written form for a period of six years. This enables the financial institution or listed business to immediately and efficiently action lawful requests for information from auditors, other competent authorities and law enforcement authorities that request these records. These records may be used for the purpose of criminal investigations or the prosecution of persons charged with criminal offences. Regulation 32 (2) of the Financial Obligation Regulations, 2010, requires that records be retained for a period of six years. The six year period is calculated as follows: (a) In the case where a financial institution or listed business and an applicant for business have formed a business

				relationship, at least six years from the date on which relationship ended. (b) in the case of a one-off transaction, or a series of such transactions, at least six years from the date of the completion of the one-off transaction or, as the case may be, the last of the series of such transactions. • Regulation 31 (3) of the Financial Obligation Regulations, 2010, states that all transaction records shall be- (a) kept in the format specified by the FIU, and with sufficient detail to permit reconstruction of individual transactions. • Same as above Regulation 31 (3) (b) of the Financial Obligation Regulations, 2010, imposes obligations on a financial institution or listed business to make transaction records available to the FIU upon its request. This capability to ensure availability and efficient transfer of records to the FIU upon request is achieved by virtue of Regulation 8 (2) of the Financial Obligation Regulation, 2009, which ensures that the Compliance Officer and other employees of the financial institution or listed business have timely access to customer identification data and other records and relevant information. This enables them to produce reports in a timely manner.
11.Unusual transactions	PC	▪ There is no requirement for financial institutions to examine the background and purpose of all complex, unusual large transactions or unusual patterns of transactions that have no apparent or	• 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	▪ The Proceeds of Crime (Amendment) Act 10 of 2009, amends Section 55 of the Proceeds of Crime Act No 55 of 2000. By virtue of Section 30 (2)(a) (ii) every financial institution or listed business shall pay special attention to all complex, unusual,

		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.	or large transactions, whether completed or not, to, all unusual patterns of transactions and to insignificant but periodic transactions which have no apparent economic or visible lawful purpose. Further, Section 30 (2)(b) states that all complex, unusual or large transactions shall be reported to the FIU.
12.DNFBP – R.5, 6, 8-11	NC	• The DNFBP's are not supervised or regulated for AML compliance. • Lawyers, notaries, other independent legal professionals, accountants and trust and company service providers are not subject to AML/CFT obligations. • 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. • No requirement to examine the background and purpose of the transactions and no requirement to keep the findings for DNFBP's. • No requirement to pay special attention to complex – unusual large transactions or unusual patterns of transactions for DNFBP's.	• Lawyers, notaries, other independent legal professions, accountants and trust and company service providers should be subject to AML/CFT FATF requirements. • DNFBPs and persons engaged in relevant business activities should be supervised for AML/CFT compliance	The first schedule of the Proceeds of Crime Act No 55 of 2000 provided a limited list of businesses which conduct relevant business activity to be subject to AML/CFT FATF requirements. This list was later revised, by virtue of the Proceeds of Crime (Amendment) Act 10 of 2009, to include a wider spectrum of listed businesses to be subject to AML/CFT FATF compliance. Accordingly, The relevant business activity are now ascertained as follows: - Real Estate Business -Motor Vehicle Sales -Gaming Houses -Jewelers -Pool Betting -National Lottery On-line betting games - Money or Value Transfer Services - A Private Members' Club -An Accountant, an Attorney-at-Law or other independent legal professional -An Art Dealer -Trust and Company Service Provider Section 34 of The Proceeds of crime (Amendment) Act10 of 2009 states that until regulations are made under section 56 for the selection of the Supervisory Authority, the FIU shall be the supervisory authority for financial institutions and listed businesses.

			• The requirements of Recommendations 5 to 10 should be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendation 12. • 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. • The requirements of Recommendations 11 and 21 should be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendations 12 and 16.	Currently, the overall threshold value of ninety thousand dollars and over is extrapolated in the context of pool betting, National Lottery On-line betting games and Private Members' Clubs
13.Suspicious transaction reporting	NC	• The reporting agency is the designated authority rather than the FIU and suspicion is based on illicit activities rather than all predicate offences • No requirement to report suspicious transactions related to terrorist financing • No requirement to report suspicious transactions regardless of whether they involve tax matters.	• 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. • The requirement to report should be applied regardless of the amount of the transaction and if it involves tax matters.	• The Proceeds of Crime (Amendment) Act No 10 of 2009, deletes the words "Designated Authority" as mentioned under POCA No 55 of 2000 wherever they occur and substitutes it with the word "FIU". • Sec 55 (3D) of the POCA Amendment states a report shall be made irrespective of the type of specified offence from which the funds may be generated including offences under the income Tax Act, the Corporation Tax Act and the Value Added Tax Act."
14.Protection & no tipping-off	PC	• No prohibition of disclosure of the reporting of a suspicious transaction to the designated authority/FIU.	• 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.	• The Proceeds of Crime (Amendment) Act No 10 of 2009, by virtue of Section 30, prohibits a financial institution or listed business to disclose the fact that a suspicious activity report has been forwarded to the FIU. Specifically Section 30 (3A) states that where a financial institution or listed business makes a suspicious transaction or suspicious activity report to the FIU under this section, the Director or staff or such financial institution or listed business shall not disclose the fact or content of such report to any person.

				Accordingly, any person who discloses this fact commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment for three years. The Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009 addresses the ramifications of disclosure of information in two key respects: -on the part of any person and -on the part of an FIU officer. These will be elaborated upon. With respect to the disclosure of information on the part of any person other than an FIU officer, Section 23 (1) of Act NO 11 of 2009 states that any person other than an FIU officer, who, in the course of his business obtains or receives information from the FIU about the commission of an offence, commits an offence if he knowingly discloses— (a) the information to any person; or (b) the fact that an analysis has been recommended by the FIU, is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years. With respect to the disclosure of information on the part of a FIU officer, Section 24 of Act No 11 of 2009 states that a FIU officer or other person who discloses the fact that an investigation into a suspicious transaction or suspicious activity report has been recommended by the FIU or that an investigation has commenced, otherwise than in the proper exercise of his duties, is guilty of an offence, and is liable on summary conviction, to a fine of two hundred and fifty thousand dollars and to imprisonment for three years.

			• 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.	• Section 22 (1) of the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009 states that a FIU Officer who discloses information that has come into his possession as a result of his employment in the FIU to a person otherwise than in the proper exercise of his duties, commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment for three years.
15.Internal controls, compliance & audit	PC	• Internal controls requirements are too general and do not include FT. • No requirement for the designation of a compliance officer at management level • No requirement for AML/CFT compliance officer and other appropriate staff to have access to relevant information • Employee training is limited to the identification of suspicious transactions • No requirement for financial institutions to place screening procedures when hiring employees.	The T&T authorities may wish to amend legislative provisions for internal controls and other measures to include the following: • 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. • Appropriate compliance management arrangements should be develop to include at a minimum the designation of an AML/CFT compliance officer at management level. • 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.	• Regulation 4 (1) of the Financial Obligations Regulations 2010 imposes obligation on the designated compliance officer to ensure that the necessary compliance programme procedures and controls required by these regulations are in place with the financial institution or listed business. • Regulation 3 (1) of the Financial Obligations Regulations 2010, addresses the setting up of a sound compliance programme within an organization. Accordingly, a financial institution or listed business shall for the purpose of securing AML/CFT compliance, designate a manager or official employed at managerial level as the Compliance Officer of that institution or business. With respect to the designation of the compliance officer, the following criteria must be satisfied. - Where the financial institution or listed business employs five persons or less, the employee who occupies the most senior position, shall be the Compliance Officer. -Where the financial institution or listed business is an individual who neither employs nor acts in association with another person, that individual shall be the Compliance Officer.

			• 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.	- The Compliance Officer shall be trained by the financial institution or listed business. • Regulation 4 (4) of the Financial Obligation Regulations, 2010, requires that guidelines to financial institutions be issued. The guidelines shall indicate the circumstances that may be considered, in determining whether a transaction or activity is suspicious. Regulation 6 of the Financial Obligation Regulations, 2010, provides guidance on specific training issues to be adequately covered by directors and by extension all members of staff. These are as follows: - the Proceeds of Crime Act No 55 of 2000; - the Proceeds of Crime (Amendment) Act No 10 of 2009 - the Financial Intelligence Unit of Trinidad and Tobago Act, 2009; - these regulations; and - guidelines on the subject of money laundering In addition to this, Regulation 6 (1) (b) ensure that subsequent to the training staff should develop an overall understanding of the techniques for identifying any suspicious transactions or suspicious activities. Regulation 6 (2) outlines the envisaged effect of training. The essential idea here is that employees at all levels of the financial institution or listed business would become capable of detecting suspicious transactions and other suspicious activities. Regulation 6 (3) requires that records of the training programmes administered to its employees shall be kept.

			• Financial institutions should be required to put in place screening procedures to ensure high standards when hiring employees • 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.	▪ Regulation 5 (1) of the Financial Obligation Regulations, 2010, requires that the best practices of industry to be utilized with a view of determining its staff recruitment policy. It is intended that this approach ensures that staff of the highest levels of integrity and competence shall be hired and retained. In an attempt to achieve high standards regarding screening procedures of staff to be potentially hired, Regulation 5 (2) requires the following specific information to be maintained for a period of six years and made available to the Central Bank, the FIU and any Supervisory Authority when necessary: - the name - addresses - position titles and - other official information pertaining to staff appointed or recruited by the financial institution or listed business. • Regulation 8 (2) of FOR 2010 states that The financial institution or listed business shall also ensure that the Compliance Officer and other employees have timely access to customer identification data and other records and relevant information to enable them to produce reports in a timely manner.
16.DNFBP – R.13-15 & 21	NC	• No SAR's from DNFBP's have been submitted to the Designated Authority/FIU. • No evidence that the DNFBP's are complying with legislated requirements of Rec. 15. • See section 3.7.3 for factors relevant to	• The requirements of Recommendations 13 and 14 as detailed in section 3.7.2 of this report should be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendation 16. • The requirements of Recommendations 15 as detailed in section 3.8.2 of this report should	The first schedule of the Proceeds of Crime Act No 55 of 2000 provides a limited list of businesses which conduct relevant business activity to be subject to AML/CFT FATF requirements. The relevant business activity are ascertained as follows: ▪ - Real Estate Business

		Recs. 13 and 14. • See section 3.8.3 for factors relevant to Rec. 15.	be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendation 16	▪ -Motor Vehicle Sales ▪ -Courier Services ▪ -Gaming Houses ▪ -Jewelers ▪ -Pool Betting ▪ -National Lottery On-line betting games This list was later revised, by virtue of the Proceeds of Crime (Amendment) Act 10 of 2009, to include a wider spectrum of listed businesses to be subject to AML/CFT FATF compliance. Accordingly, the following listed businesses is included for the purposes of compliance with AML/CFT FATF requirements: ▪ - Money or Value Transfer Services ▪ - A Private Members' Club ▪ -An Accountant, an Attorney-at-Law or other independent legal professional ▪ -An Art Dealer ▪ -Trust and Company Service Provider
17.Sanctions	NC	• No provisions in legislation to withdraw, restrict or suspend the licence of the financial institution for non-compliance with AML/CFT requirements. • 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 of the DNFBP.	• The authorities should consider amending the provisions for sanctions in the POCA to allow for penalties to be applied jointly or separately. • 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 applicable.	• The Financial Obligation Regulations, 2010, ensures that any financial institution or listed business which does not comply with any of its obligations under these regulations commits an offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in section 57 of the Proceeds of Crime Act No 55 of 2000. • Regulation 40 of the Financial Obligations Regulations allows the Supervisory Authority be it the Central Bank, the TTSEC or the FIU to use the regulatory measures as outlined in the legislation the governs the supervised entities to bring about compliance with AML/ CFT requirements. For example the Central Bank can issue compliance directions to for noncompliance with AML/ CFT Guidelines. In addition, where institutions

				do not comply with a compliance direction, the Central Bank can revoke a licence in accordance with section 23 (1)(g) of the Financial Institutions Act 2008. In addition, the Central Bank may choose to restrict rather than revoke the licence. Similar provisions have been incorporated in the new Insurance Bill. Regulation 43 (1) addresses the liability of companies. It states that where a company commits an offence under these Regulations, any officer, director or agent of the company— (a) who directed, authorized, assented to, or acquiesced in the commission of the offence; or (b) to whom any omission is attributable, is a party to the offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in section 57 of the Act whether or not the company has been prosecuted or convicted. Regulation 42 (2) address the liability of a partnership. It states that where a partnership commits an offence under these regulations, and it is proved that the partner acted inappropriately by either -directing, authorizing or assenting to the commission of the offence or -omitting to act appropriately, the partner and the partnership are liable on summary conviction or on conviction on indictment to the penalty prescribed in section 57 of the Act. Regulation 42 (3) addressed the liability of unincorporated association. It states that where an unincorporated association, other than a partnership, commits an offence and it is proved that an officer or member of the governing body acted as described above, that officer or member as well as the unincorporated body, commits an offence

				and is liable on summary conviction or on conviction on indictment to the penalty prescribed in section 57 of the Act. • The Financial Institutions Bill (2008) seeks to enhance the enforcement powers of the Central Bank of Trinidad and Tobago by providing for the enforcement of directions by Court Order; and restraining order or other injunctive or equitable relief.
18.Shell banks	PC	• There are no provisions to prevent financial institutions to enter, or continue, correspondent banking relationships with shell banks. • 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.	• Shell banks should be prohibited by law. • Financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks; • 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.	• 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. • 22. (1) A bank shall not enter or continue a correspondent banking relationship with a bank— (a) incorporated in a jurisdiction in which it has no physicalpresence; or (b) which is unaffiliated with a financial group regulated by a supervisory authority in a country where the Recommendations of the Financial Action Task Force are applicable. • Regulation 22 (2) of the Financial Obligation Regulations, 2010, states that a financial institution or listed business shall ensure that the respondent financial institution or business in a foreign country, does not permit a shell bank to use its accounts.
19.Other forms of reporting	PC	• 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	• 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.	• This matter is addressed in Part V of the Financial Obligations Regulations 2010 at Regulation 31-32.

		with a computerized database. • 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.	• 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. • 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.	▪ This matter has already been implemented.
20.Other NFBP & secure transaction techniques	LC	• 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.	• Authorities should consider applying the relevant FATF Recommendation to non-financial businesses and professions (other than DBFBP's) that are at the risk of being misused for ML or TF. • 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	The Government of Trinidad and Tobago has requested technical assistance from the International Monetary Fund to undertake a risk assessment of its relevant sectors
21.Special attention for higher risk countries	NC	• 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. • 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. • Only the Central Bank circulates the	• 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 • 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. • 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	• The Proceeds of Crime (Amendment) Act No. 10 of 2009 amends section 55 and is substituted with the following: - Section 55(2) (a) states that every financial institution or listed business shall pay special attention to all business transactions with persons and financial institutions in or from other countries which do not or insufficiently comply with the recommendations of the Financial Action Task Force • Section 55(2) (c) states that every financial institution or listed business shall examine

		NCCT list to the financial institutions it supervises.	written findings made available to assist competent authorities and auditors. • 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.	the background and purpose of all transactions which have no economic or visible legal purpose under para (a) (i) and make available to the Supervisory Authority, written findings after its examinations were necessary. • The Financial Obligation Regulations, 2010, and the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009 both address the issue of special attention. Accordingly, special attention is afforded 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. These will be elaborated upon. - Regulation 7 of the Financial Obligation Regulations, 2010, states that any ascertainable compliance programme shall contain measures which include the compilation of a listing of countries which are non-compliant, or do not sufficiently comply with the recommendations of the Financial Action Task Force. - Section 17 (1) of the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2010, imposes (a) as frequently as is necessary, the obligation of publishing notices in the Gazette and in at least two newspapers in daily circulation in Trinidad and Tobago, a list of the countries identified by the Financial Action Task Force, as noncompliant or not sufficiently compliant with its recommendations; and (b) periodically, information on trends and typologies of money laundering, locally and internationally, as well as appropriate statistics and any other information that would enhance public

				awareness and understanding of the nature of money laundering and its offences. In Section 17 (2) of Act No 11 of 2000, the need for the FIU to set out measures that may be utilized by a financial institution or listed business, against such countries is addressed. These measures may be set out by Order.
22.Foreign branches & subsidiaries	NC	• No legal requirements for financial institution to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with FATF standards.	The T&T authorities may wish to introduce legislation or enforceable regulations to include the requirements for financial institutions to: • 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; • 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; • 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.	• This matter is addressed in clause 4 of the Financial Intelligence Unit Act 2009. ▪ To be included in the Financial Obligations Regulations
23.Regulation, supervision and monitoring	NC	• Relevant supervisory agencies have not been designated as responsible for ensuring the compliance of their supervised financial institutions with AML/CFT requirements. • The TTSEC does not apply the requirements of the IOSCO Principles for the supervision of the securities sector with regard to AML/CFT. ▪ Only the financial institutions supervised by the CBTT are subject to AML/CFT regulation and supervision.	• Authorities should formally designate the relevant supervisory agencies with the responsibility for ensuring compliance by their licensees with AML/CFT obligations. • The TTSEC should apply the requirements of the IOSCO Core Principles for the supervision of the securities sector with regard to AML/CFT. • 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	In the Proceeds of Crime (Amendment) Act No 10 of 2009, "Supervisory Authority" is defined as the competent authority responsible for ensuring compliance by financial institutions and listed business with requirements to combat money laundering. The Financial Obligations Regulations 2010 has made this even clearer by specifying the relevant agencies in the definition section in Reg 2.. For example:: - The Central Bank of Trinidad and Tobago is now named as the Supervisory Authority for institutions licensed under the Financial

		▪ 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. ▪ The securities sector, credit unions, money transfer companies and cash couriers are not subject to AML/CFT supervision. ▪ Money transfer companies and cash couriers are not licensed, registered or appropriately regulated	legislation governing the supervision of other financial institutions under the POCA.	Institutions Act, the Insurance Act, the Exchange Control Act; money remitters under the Central Bank Act and credit union upon enactment of the Credit Union Act. It is noteworthy that AML/CFT FATF requirements are included in this remit. Institutions licensed under the FIA include that are subject to supervision by Central Bank are as follows: - Confirming House or Acceptance House - Finance Company -Leasing Cooperation - Merchant Bank -Mortgage Institutions - Trust Company - Unit Trust - Financial Services -**The Commissioner of Co-operative Development** regulates activities of credit unions. These institutions are scheduled to fall under the purview of Central Bank. - Trinidad and Tobago Securities and Exchange Commission (TTSEC) is the supervisory body for the securities sector. For the purposes of AML/CFT compliance in the securities sector, the Proceeds of Crime (Amendment) Act No 10 of 2009, provides a definition of "security" as including the following: - any document, - instrument or - writing evidencing ownership of, or - any interest in the capital, - debt property, -profits, - earnings or -royalties of any person or - enterprise and - without limiting the generality of the foregoing, includes any— (a) bond, debenture, note or other evidence of indebtedness; (b) share, stock, unit or unit certificate, participation, certificate, certificate of share

			• 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.	or interest; (c) document, instrument or writing commonly known as a security; document, instrument or writing evidencing an option, subscription or other interest in respect of— (i) a financial institution; (ii) a credit union within the meaning of the Co-operative Societies Act; or (iii) an insurance company; (e) investment contract; (f) document, instrument or writing constituting evidence of any interest or participation in— (i) a profit-sharing arrangement or agreement; (ii) a trust; or (iii) an oil, natural gas or mining lease, claim or royalty or other mineral rights • Money or value transfer services are provided for as financial institutions and listed business in the first schedule of the Proceeds of Crime (Amendment) Act No 10 of 2009. Financial institutions that are money remitters will be supervised by the Central Bank Act following an amendment to the Central Bank Act in 2008. An appropriate framework is being developed
24. DNFBP – regulation, supervision and monitoring	NC	• 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. • 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	• 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. • 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.	▪ Private members clubs have been added to the First Schedule of POCA Amendment Act 2009 ▪ This matter has to be addressed in separate legislation or in the Gambling and Betting Act.

		operator of a Gaming House (or Private Member Club), Pool Betting and the National Lottery on line Betting Games. • There is no designated competent authority or SRO responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements.	• A competent authority or SRO should be designated as responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements. • Competent authorities should establish guidelines that will assist DNFBP's to implement and comply with their respective AML/CFT requirements	By virtue of Section 34 of the Proceeds of Crime (Amendment) Act No 10 2009 the FIU has been named the supervisory authority for listed business pending enactment of regulations.
25. Guidelines & Feedback	NC	• The Designated Authority/FIU does not provide feedback to financial institutions that are required to report suspicious transactions. • The CBTT AML/CFT Guidelines are applicable only to banks and insurance companies. • There are no guidelines to assist DNFBPs to implement and comply with their respective AML/CFT requirements".	• 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. • The CBTT AML/CFT Guidelines should be enforceable and have sanctions for non-compliance. • 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.	• Section 10 of the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009, imposes a requirement on the FIU that feedback shall be provided in writing to the financial institution or listed business regarding suspicious transaction or suspicious activity report received from the same. • The issue of penalties is addressed by virtue of Part VII of the Financial Obligation Regulation of 2010.
Institutional and other measures				
26.The FIU	NC	• 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). • The FIU lacks the legal authority to obtain and disseminate financial information. • Operational independence and more autonomous structure (reconsider "designated authority structure) of the FIU is needed • The FIU does not prepare and publish periodic reports of operations, typologies, trends and its activities for public scrutiny**.**	• 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. • 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. • Consider strengthening and restructuring the	• Section 3 of Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009 provides for the establishment and staff of the Financial Intelligence Unit. The FIU is a department of the Ministry of Finance, to be known as the Financial Intelligence Unit. The functions and powers of the FIU include the exchange of financial intelligence with members of the Egmont Group and it shall be undertaken on the basis or reciprocity with an FIU which belongs with the Egmont Group. • In order to demonstrate its growth and effectiveness, checks and balances are installed at three (3) levels. **- Maintenance of Statistics**

			staff of the FIU so as to encourage self-sufficiency and operational independence. • The FIU should consider publicizing periodic reports for the wider public.	Section 9 of the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009, specifically requires the FIU to implement a system for monitoring the effectiveness of its anti-money laundering policies by maintaining comprehensive statistics on— (a) suspicious transaction or suspicious activity reports received and transmitted to law enforcement; (b) money laundering investigations and convictions; (c) property frozen, seized and confiscated; and (d) International requests for mutual legal assistance or other co-operation. The above statistics will provide information regarding ML and TF trends. **- The Installation of a Reporting Mechanism within the FIU** Section 18 (1) of the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009 requires that annual reports be prepared to capture the above information. According, the Director of the FIU shall submit within sixty days of the end of the financial year an annual report to the Minister on the performance of the FIU. This includes statistics on suspicious transaction and suspicious activities reports, the results of any analyses of these reports, trends and typologies of money laundering activities or offences. **- Accountability to Parliament** Subsequently, Section 18 (2) imposes an obligation on the Minister to lay the report in Parliament within thirty days of receipt of a report from the Director. ▪ Section 17 (1) of the Financial Intelligence

				Unit of Trinidad and Tobago Act No 11 of 2009, imposes an obligation on the FIU to publish a list of the countries identified by the Financial Action Task Force, as noncompliant or not sufficiently compliant with its recommendations. This exercise shall be undertaken as frequently as is necessary, through the use of Notices placed in the Gazette and in at least two newspapers in daily circulation in Trinidad and Tobago. Section 17 (1) (b) enhances public awareness and understanding of the nature of money laundering and its offences. This section imposes an obligation on the FIU to publish, periodically, information on trends any typologies of money laundering, locally and internationally, as well as appropriate statistics and any other information. Section 17 (2) states that the FIU may by Order set out the measures that may be utilized by a financial institution or listed business, against such countries.
27.Law enforcement authorities	LC	• The lack of resources is hampering the ability of Law enforcement authorities to properly investigate ML and FT offences.	• Pay more attention to pursuing Money-Laundering offences based on received and analysed SAR's. • The effectiveness of the system to combat AML(/CFT) offences should be improved. • Enact the Police Service Reform Bill quickly in order to reform the Police Service with the view to improve efficiency and restore public trust. • Increase involvement of the Customs and Excise Division in combating money laundering and terrorist financing. • The Customs and Excise Division should consider reviewing its policy in relation to the	▪ 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 enforcement. • Police Service Act enacted in 200**0** • **Under Law enforcement authorities**, The DPP office has implemented its special project on Money Laundering prosecutions. • The office of the DPP is engaged on an

			sharing of data. • The DPP office should continue to implement its special project on ML prosecutions.	ongoing basis in the prosecution of money laundering matters..
29.Supervisors	NC	• 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. • The CUSU do not have the authority to conduct inspections of relevant financial institutions including on-site inspection to ensure compliance. • 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.	• The CUSU should have the power to compel production or to obtain access to all records, documents or information relevant to monitoring compliance • The CUSU should have the authority to conduct inspections of relevant financial institutions including on-site inspection to ensure compliance. • 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. • 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.	• **Under Supervisors**, 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. • Progress has also been made by the Securities & Exchange Commission with the creation of the Securities Act which is before the Parliament Joint Select Committee.
30.Resources, integrity and training	PC	• 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. ▪ Staff resources of the TTSEC and CUSU are insufficient for their task. ▪ AML/CFT training available for supervisory staff is insufficient. • The strength and structure of the FIU is inadequate to meet its needs. ▪ Ongoing training is necessary.	• Introduce provisions for continuous training for the Designated Authority, the Training Officer and other staff within the FIU. • 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. • Improve budgetary, staffing and physical accommodation of the FIU in order to improve its capabilities. • More resources (law enforcement staff) should be dedicated to investigation of ML offences. • Immigration should also be included in AML/CFT training or awareness programs. • Provide training to specific Customs Officers for future attachment to the FIU. • Address quickly the current shortage of staff at the Customs Division to enhance efficiency. • Provide further training to Prosecutors,	• **Under Resources, integrity and training**, 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. • The Financial Investigations Branch of the Special Anti-Crime Unit of Trinidad and Tobago has a current complement of seven investigators and one manager dedicated to the investigation of money laundering offences

			Magistrates and Judges to broaden their understating of the relevant legislations. • Give considerable attention to Staffing constraints faced by the Magistracy and the Office of the DPP. • Strengthen the Executive Staff of the SSA in order to provide assistance to the Director. • 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.	
31.National co-operation	PC	• NAMLC is not yet fully operational. • No MOU's for cooperation between supervisors and other competent authorities, which affects the level of cooperation.	• The T&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&T ML measures and encourage compliance with the relevant legislations.	• 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. • 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. • In 2008 the Chair presented to the Committee for adoption and subsequent ratification by Cabinet: i. A suggested text for a National AML/CFT Policy 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. ▪ Canvassing with the relevant Ministerial Team for Government policy and legislative enactment. ▪ Advocating on the committee's behalf with

			• 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. • 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. • The composition of the FIU could be expanded to include personnel from different relevant entities, which would not only strengthen cooperation but also enhance the human resource capability of the FIU.	the Prime Minister and Prime Contact for expediency in recommendation implementation. ▪ 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. ▪ Making appropriate representations with line Ministries for the strengthening of representation on the AML/CFT Committee. ▪ Negotiating with the CFATF assistance from international bodies such as the IMF/World Bank and CARTAC. ▪ Engagement of a full time legal drafting expert to promote the committee's legislative agenda in accordance with the Strategy priorities. ▪ Section 8(2) of the Financial Institutions Act 2008 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. ▪ The Counter Drug & 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. ▪ The Committee is addressing this matter for inclusion in the FIU Bill.
32.Statistics	PC	• There is no Review of effectiveness of AML/CFT systems on a regular basis.	• 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. • Measures should be instituted to review the	• In order to demonstrate its growth and effectiveness, checks and balances are installed at three (3) levels. **- Maintenance of Statistics**

			effectiveness of T&T's money laundering and terrorist financing systems. • 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. • T&T should also review the effectiveness of its system with regard to AML (CFT) extradition cases based on statistics and on a regular basis.	Section 9 of the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009, specifically requires the FIU to implement a system for monitoring the effectiveness of its anti-money laundering policies by maintaining comprehensive statistics on— (a) suspicious transaction or suspicious activity reports received and transmitted to law enforcement; (b) money laundering investigations and convictions; (c) property frozen, seized and confiscated; and (d) International requests for mutual legal assistance or other co-operation. The above statistics will provide information regarding ML and TF trends. **- The Installation of a Reporting Mechanism within the FIU** Section 18 (1) of the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009 requires that annual reports be prepared to capture the above information. According, the Director of the FIU shall submit within sixty days of the end of the financial year an annual report to the Minister on the performance of the FIU. This includes statistics on suspicious transaction and suspicious activities reports, the results of any analyses of these reports, trends and typologies of money laundering activities or offences. **- Accountability to Parliament** Subsequently, Section 18 (2) imposes an obligation on the Minister to lay the report in Parliament within thirty days of receipt of a report from the Director. **Under Statistics**, 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.
33.Legal persons – beneficial owners	PC	• 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.	• 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.	• **Under Legal persons – beneficial owners**, Input from the registrar of companies is being sought in considering the way forward.
34.Legal arrangements – beneficial owners	NC	• 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.	• The T&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.	
International Co-operation				
35.Conventions	NC	• The relevant international conventions have not been implemented extensively.	• The T&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 Suppression of the Financing of Terrorism.	• The United Nations International Convention for the Suppression of the Financing of Terrorism has been acceded on the 3 September 2009. ▪ The Anti-Terrorism (Amendment) Act,2010 was assented to on the 21st January 2010 and effect of criminalizing the financing of terrorism
36.Mutual legal assistance (MLA)	LC	• There are no mechanisms currently in place that deals with conflicts of jurisdiction. • Also, dual criminality is required in order to render mutual legal assistance. This would make mutual legal assistance on TF almost impossible	• T&T Should introduce legislation that deals with conflicts of jurisdiction. Also, dual criminality is required in order to render mutual legal assistance.	▪ This matter is being addressed by the AML/CFT Committee in collaboration with the drafting consultant.
37.Dual criminality	LC	• 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.	• Dual criminality is required in order to render mutual legal assistance (TF not available).	

38.MLA on confiscation and freezing	LC	• Financing of terrorism is not an offence and therefore not a predicate offence4.	• Trinidad & 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. • The asset forfeiture fund should be clearly established and utilized in T&T.	
39.Extradition	LC	• T&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&T legislation.	• Dual criminality is required in order to render mutual legal assistance (TF not available).	
40.Other forms of co-operation	PC	• The FIU has not established any effective gateways to facilitate the prompt and constructive exchange of information directly with its foreign counterparts. • T&T has not established any MOU's or other mechanism to allow financial supervisory bodies to cooperate with their foreign counterparts.	• The T&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.	Section 8 of the Financial Intelligence Unit of Trinidad ad Tobago Act No. 11 of 2009 empowers the FIU to provide the widest range of international cooperation to their foreign counterparts in a timely and effective manner. -Section 8 (3) (e) of the Financial Intelligence Unit of Trinidad ad Tobago Act No. 11 of 2009, empowers the FIU to engage in the exchange of financial intelligence with members of the Egmont Group -Section 8 (3) (f) of the Financial Intelligence Unit of Trinidad ad Tobago Act No. 11 of 2009, allows the FIU to disseminate at regular intervals, financial intelligence and information to local and foreign authorities and affiliates within the intelligence community. This includes the dissemination of statistics on recent money laundering practices and offences
Nine Special Recommendations		Summary of factors underlying rating		
SR.I Implement UN instruments	NC	• The essential criteria have not been adhered to as Trinidad & Tobago do not have the relevant legislation in place in order to comply with SR.I.	• The T&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 Suppression of the Financing of Terrorism.	Trinidad and Tobago acceded to the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism on September 03, 2009. Implementation of UN Security Council Resolutions: S/RES/1267 (1999), S/RES/1269 (1999), S/RES/1333 (2000), S/RES/1373 (2001) and S/RES/1390 (2001) has been captured under the Anti-Terrorism (Amendment) Act, 2010 (It is to be noted that the Act

4 Idem note 1

				was passed with 3/5 majority) in Section 22 C (1) which states that: *Where a financial institution or listed business knows or has reasonable grounds to suspect that funds within the financial institution or listed business belong to an individual or legal entity who –* *(a) commits terrorist acts or participates in or facilitates the commission of terrorist acts or the financing of terrorism; or* ***(b) is a person or entity designated by the United Nations Security Council*** *the financial institution or listed business shall report the existence of such funds to the FIU".*
SR.II Criminalise terrorist financing	NC	• There is no legislation in T&T criminalising terrorist financing	• Introduce diligently the proposed legislation criminalising the financing of terrorism, terrorist acts and terrorist organizations and make such offences money laundering predicate offences. • Sign and ratify the Terrorist Financing Convention.	To capture the financing of terrorism Section 22A. (1-4) has been added to the Anti-Terrorism (Amendment) Act,2010 at section 5(c) as follows: *22A. (1) Any person who by any means, directly or indirectly, willfully provides or collects funds, or attempts to do so, with the intention that they should be used or in the knowledge that they are to be used in whole or in part-* *(a) in order to carry out a terrorist act; or* *(b) by a terrorist; or* *(c) by a terrorist organisation, commits the offence of financing of terrorism.* *(2) An offence under subsection (1) is committed irrespective of whether -* *(a) the funds are actually used to commit or attempt to commit a terrorist act;* *(b) the funds are linked to a terrorist act ; and* *(c) the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred or will occur.* *(3) A person who contravenes this section*

				commits an offence and is liable on conviction on indictment – *(a)in the case of an individual, to imprisonment for twenty five years; or* *(b) in the case of a legal entity, to a fine of two million dollars.* *(4) A director or person in charge of a legal entity who commits an offence under this section is liable on conviction on indictment be to imprisonment for twenty-five years.* • Section 2 of the Anti-Terrorism Act 2005 has been amended in Anti-Terrorism (Amendment) Act,2010 to define funds as follows: *"property" or "funds" means assets of any kind, whether tangible or intangible, moveable or immovable, [whether from legitimate or illegitimate sources or] however acquired [and] legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit whether situated in Trinidad and Tobago or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property";*
SR.III Freeze and confiscate terrorist assets	NC	• There is no legislation that deals with freezing or confiscating terrorists' funds in accordance with the relevant United Nations Resolutions	• Introduce diligently the proposed legislation criminalising the financing of terrorism, terrorist acts, terrorist organizations and make such offences money laundering predicate offences. • Sign and ratify the Terrorist Financing Convention.	Anti-Terrorism (Amendment) Act,2010 in Section 22 C (1) will provide powers to freeze or confiscate as follows: *Where a financial institution or listed business knows or has reasonable grounds to suspect that funds within the financial institution or listed business belong to an individual or legal entity who –* *(a) commits terrorist acts or participates in or facilitates the commission of terrorist acts or the financing of terrorism; or* ***(b)is a person or entity designated by the United***

				Nations Security Council *the financial institution or listed business shall report the existence of such funds to the FIU".* **The powers to freeze are contained in section 22B (3) which reads:** **Upon an application under subsection (1) the judge shall, by Order-** **(a) declare an entity to be a listed entity for the purposes of this Act if the judge is satisfied as to the matters referred to in subsection (1): and** **(b) freeze the funds of the listed entity.** **The definition of "terrorist act" in section 2 of the Anti-Terrorist Act, 2005 (the Act) refers also section 35(1) of the Act makes provision for forfeiture. There is no provision for" confiscation".**
SR.IV Suspicious transaction reporting	NC	• 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.	• 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	The obligation of financial Institution and listed business to report STR's/SAR's which relate to terrorist financing, terrorism acts or by terrorist organisations or those who finance terrorism is captured in section 22 C (3) in Anti-Terrorism (Amendment) Act,2010as follows: *(3) Where a financial institution or listed business knows or has reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism, the financial institution or listed business shall make a suspicious transactions or a suspicious activity report to the FIU in the forms as set out in the Third Schedule to the Proceeds of Crime Act.*

SR.V International co-operation	NC	• Financing of Terrorism is not an offence in T&T and therefore not an extraditable offence 5.	• Terrorist-Financing legislation should be implemented. • Financing of terrorism and Piracy should be made an offence in T&T and therefore an extraditable offence.	Part VI (Section 28 to 31) of the Anti-Terrorism Act 2005 deals with Information Sharing, Extradition And Mutual Assistance Disclosure And Sharing Information. Part VII Sections 32-33
SR VI AML requirements for money/value transfer services	NC	• None of the requirements are included in legislation, regulations or other enforceable means.	• A competent authority should be designated to register and/or licence money transfer companies and maintain a current list of their names and addresses and be responsible for ensuring compliance with licensing and/or registration requirements. • All MVT service operators should be subject to the applicable FATF Forty Recommendations and FATF Eight Special Recommendations. • 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. • Money transfer companies should be required to maintain a current list of its agents, which must be made available to the designated competent authority. • 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.	Money value transfer services are pursuant to the POCA 2000 as amended in 2009, listed as financial institutions and listed business. As listed business they are subject to all the requirements of the FIU Act 2009, POCA and the FOR 2010. An amendment to the Central Bank Act 2008 gave the Central Bank the ability to supervise money remitters and an appropriate framework is being developed in this regard.
SR VII Wire transfer rules	NC	• The requirements in place are not mandatory and are applicable only to the financial institutions supervised by the Central Bank.	• The T&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	• The Financial Obligations Regulations 2010 section 33-35 deal with wire transfers which states: *33. (1) The information listed in regulation 34 concerning the originator and recipient of the*

5 Idem note 1

			with stipulated requirements.	*funds transferred, shall be included on all domestic and cross border wire transfers.* *(2) A financial institution or listed business that participates in a business transaction via wire transfer shall relay the identification data about the originator and recipient of the funds transferred, to any other financial institution participating in the transaction.* *(3) Where the originator of the wire transfer does not supply the transfer identification data requested by the financial institution or listed business, the transaction shall not be effected and a suspicious activity report shall be submitted to the FIU.* *34. (1) Domestic and cross-border wire transfers shall be accompanied by accurate and meaningful identification data on the originator of the transfer, which shall be kept in a format determined by the FIU.* *(2) Information accompanying a cross-border transfer shall consist of—* *(a) the name and address of the originator of the transfer;* *(b) a national identification number or a passport number where the address of the originator of the transfer is not available* *(c) the financial institution where the account exists;* *(d) the number of the account and in the absence of an account, a unique reference number; and* *(3) Information accompanying a domestic wire transfer shall be kept in a format which enables it to be produced immediately, to the FIU.* *(4) The financial institution or listed business shall put provisions in place to identify wire transfers lacking complete originator information so that the lack of complete originator information shall be considered as a factor in assessing whether a wire transfer is or related transactions are suspicious and thus required to be reported to the FIU.*

				35. A wire transfer from one financial institution to another, is exempted from the provisions of this Part, where both the originator and beneficiary are financial institutions acting on their own behalf. • This requirement has been satisfied by amendments contained in the Proceeds of Crime (Amendment) Act No. 10 of 2009. Section 5C of the amendment defines listed business as a business listed in the First Schedule. Under the First Schedule, a listed business is defined to include money remittance entities. The listed businesses are therefore now subject to the Financial Obligations Regulations 2010.
SR.VIII Non-profit organisations	NC	• There are no requirements in legislation, regulations or other enforceable means to comply with this recommendation.	• Authorities should review the adequacy of laws and regulations that relate to non-profit organizations that can be abused for the financing of terrorism. • Measures should be put in place to ensure that terrorist organizations cannot pose as legitimate non-profit organizations. • 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.	The Anti-Terrorism (Amendment) Act,2010 will address Non-Profit Organisations as follows : *24C. (1) A police officer above the rank of sergeant may apply, ex parte to a judge for a monitoring order directing a financial institution, listed business or non-profit organization to provide certain information.* (3) A monitoring order shall— (a) direct a financial institution, listed business or non-profit organization to disclose information it obtained relating to transactions conducted through an account held by a particular person with the financial institution, listed business or non-profit organization;
SR.IX Cross Border Declaration & Disclosure	NA			• The Anti-Terrorism (Amendment) Act,2010 deals with the issue of seizing and detention of cash or other bearer negiotiable instruments under subsection 38A.(1) which states; *Any customs officer or officer above the rank of sergeant may seize and detain part of or the whole amount of any cash or other bearer negotiable instruments where there are*

				reasonable grounds for suspecting that it is – *(a) intended for use in the commission of an offence under this Act; or* *(b) is terrorist property* • The following definitions of cash and bearer negotiable instrument under section 38A (10) of Anti-Terrorism (Amendment) Act,2010 are as follows: *(a) "cash" includes coins, notes and other bearer negotiable instruments in any currency;* *(b) "bearer negotiable instrument" includes monetary instruments in bearer form such as travelers cheques, negotiable instruments (including cheques, promissory notes and money orders) that are either in bearer form, endorsed without restriction made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; incomplete instruments including (cheques, promissory notes and money orders) signed, but with the payee's name omitted.*