



Twelfth Follow-Up Report

Turks & Caicos Islands

November 27, 2015

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TURKS & CAICOS ISLANDS: TWELFTH FOLLOW-UP REPORT

I. Introduction

1. This report represents an analysis of the Turks and Caicos Islands' report back to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report (3rd MER). The 3rd MER of the Turks and Caicos Islands was adopted by the CFATF Council of Ministers in October 2008 in St. Kitts & Nevis. The Turks and Caicos Islands presented its 11th follow-up report (FUR) at the November 2014 Plenary in El Salvador. It was determined that the Turks & Caicos Islands would be required to report at the May 2015 Plenary. Following the November Plenary, the TCI applied to exit follow-up and made an attempt to do so for the May 2015 Plenary. However, this was not possible due to the non-receipt of the exit follow-up report matrix. The Turks and Caicos Islands did submit an exit report matrix for this plenary, however on reviewing a few of the Recommendations a determination was made that the Turks and Caicos should submit their exit report at the May 2016 Plenary. Based on the review of actions taken by the Turks & Caicos Islands since its last follow-up report, a recommendation would be made as to whether the Turks & Caicos Islands would remain in regular (expedited) follow-up.
2. The Turks & Caicos Islands received ratings of PC or NC on twelve (12) of the sixteen (16) Core and Key Recommendations as follows:

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

3. With regard to the other non- Core or Key Recommendations, Turks and Caicos Islands was rated partially compliant or non-compliant, as indicated below.

Partially Compliant (PC)	Non-Compliant (NC)
R. 9 (Third parties and Introducers)	R. 6 (Politically Exposed Persons)
R. 15 (Internal controls, compliance & audit)	R. 7 (Correspondent banking)
R. 16 (DNFBP-R. 13-15 & 21)	R. 8 (New technologies & non face-to-face business)
R. 17 (Sanctions)	R. 11 (Unusual transactions)
R. 18 (Shell banks)	R. 12 (DNFBPs – R. ,6,8-11)
R. 20 (Other NFBP & secure transaction techniques)	R. 19 (Other forms of reporting)
R. 29 (Supervisors)	R. 21 (Special attention for higher risk countries)
R. 31 (National cooperation)	R. 22 (Foreign branches & subsidiaries)
R. 32 (Statistics)	R. 24 (DNFBP-regulation, supervision and monitoring)
R. 33 (Legal persons – beneficial owners)	R. 25 (Guidelines and feedback)
R. 34 (Legal arrangements – beneficial owners)	R. 30 (Resources)
R. 38 (Mutual legal assistance on confiscation and freezing)	SR. VII (Wire transfer rules)

SR. VI (AML requirements for money and value transfer services)	SR. VIII (Non-profit organizations)
	SR. IX (Cash couriers)

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

Size and integration of the jurisdiction's financial sector (\$'000)

		Banks	Other Credit Institutions	Securities**	Insurance**	TOTAL
Number of institutions	Total #	7	N/A	7	19	33
Assets	US\$	1,808,704	N/A	623,041,791	38,943,000	663,793,495
Deposits	Total: US\$	1,075,291	N/A	623,041,791	15,085,000	639,202,082
	% Non-resident	33% of deposits	N/A	N/A	71.30%	
International Links	% Foreign-owned:	81%* of assets	-	N/A	65.6%	79% of assets
	#Subsidiaries abroad	5	N/A	0	0	5

* With the exception of one (1) licensee all other values were at March 31, 2013

** Reflects information for domestic insurance companies only.

II. Scope of this Report

5. This report will focus on the Turks and Caicos Islands' (TCI) Core, Key and Other Recommendations that were rated 'PC' and 'NC' and for which there are still outstanding Examiners' recommendations. Based on a review of the last report, the following Recommendations will be reviewed: Core and Key R. 1, 35, and IV. Non-Core and Key R. 12, 15, 24, 25, 29, 30, 32, 33, 34, SR. VII, VIII and IX.

III. Summary of progress made by the Turks & Caicos Islands since November 2014

6. The United Kingdom extended the Palermo Convention to the Turks and Caicos Islands in August 2015. While there has been no new legislation enacted in the timeframe under review, the TCI Government has drafted a Trafficking in Persons, Bill and an Anti-Bribery Bill, while a new Gaming Bill is being developed. The TCI Authorities are also planning to update the existing laws to incorporate provisions relating to arms trafficking. With regard to Money Service Businesses (MSBs), the Authorities have indicated that as of October 2015 there are only two operating MSBs and that the onsite inspection of these will take place in the first quarter of 2016. On the matter of NPOs, the Authorities have indicated that to date 125 NPOs have files applications to be registered. Additionally, the

FSC website addresses the risk of TF through NPOs. The FSC AML/CFT Compliance Unit resources have been increased and since August 2015 have four (4) compliance officers reporting to the Head of Compliance. All four officers are pursuing qualifications in either ACAMS or ICA, while the Head of Compliance obtained the 'CAMS Audit' qualification in September 2015, which represents the highest qualification offered by ACAMS. The FSC has also started a process (June 2015) of reviewing whether licensees have adequate controls in place with regard to the outward and inward movement of wire transfers. The Immigration Department has also increased its staff by nineteen (19) persons for the fiscal year 2015/2016. In 2015, the FIA updated the STR and SAR forms in relation to both Suspicious Transaction Reports and Terrorist Property Reporting and provided the relevant guidance to the new forms including beneficial ownership. With regard to mutual legal assistance, the TCI has signed seventeen (17) Tax Exchange Information Agreements (TIEAs).

7. As a general overview of national cooperation and a note of the further implementation of R. 31, the TCI Authorities have noted that national agencies routinely work together on AML/CFT matters. Additionally, that the importance of getting the regulated sector involved in the production of policies and legislation has been realized. It was also noted that the NRA has resulted in regular consultation and better cooperation nationally among the competent authorities and the regulated entities. International cooperation has also been enhanced (SR. V) by section 20 of the Prevention of Terrorism Ordinance (POCO), which allows for the disclosure of information in relation to a terrorist offence for the purposes of investigating a crime outside the TCI or of criminal proceedings outside the TCI to foreign regulatory authority that is also outside the TCI. Schedule 2 of the POCO also provides a procedure for the forfeiture of terrorist property, this includes the making of restraint orders and the enforcement of orders made in the United Kingdom and its Overseas Territories and external orders made in other countries.

Core Recommendations

Recommendation 1

8. As noted in the 11th FUR, the outstanding offences need to be properly enabled to allow for proper implementation of section 15 of the POCO, which references Schedule one that lists the offences of People Trafficking and Arms Trafficking, which were not properly criminalized. With regard to the outstanding offences of trafficking in persons and arms trafficking. The Authorities have indicated that the Trafficking in Persons Bill has a timeline for reaching the House of Assembly by January/February 2016. At present, the draft Bill is with the Immigration Department for review and will then be considered by Cabinet, and thereafter it will go for public consultation. With regard to the criminalisation of arms trafficking, as noted above the TCI is planning to amend existing laws to incorporate provisions relating to arms trafficking. The intention is to have this added to the Government's legislative agenda for the first quarter of 2016. Accordingly, with both outstanding offences scheduled for first quarter 2016 action, it is anticipated that the outstanding offences will be fully addressed in 2016 and both R. 1 and R. 131 deficiencies will be fully resolved. There remains a substantial level of compliance with R. 1.

¹ R. 13 recommendations were resolved since the 8th FUR. However the outstanding offences are a deficiency that affects compliance with R. 13. This is important with regard to TCI exiting the third round follow-up process, since the deficiency needs to be addressed.

Special Recommendation IV

9. The outstanding measure for SR. IV is the lack of a requirement to report with regard to suspicion of terrorist organisations. Section 13 of the Prevention of Terrorism Ordinance (PTO) requires that a disclosure be made on suspicion that a person is engaged in terrorist financing. The TCI Authorities have indicated that additional provisions will be inserted in the PTO to require the making of disclosures on the suspicion of involvement in a terrorist organization. SR. IV is still partially met.

Key Recommendations

Recommendation 35

10. As indicated above, the Palermo Convention was extended to the Turks and Caicos Islands in August 2015. Accordingly, the extension of the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention) remains the only matter outstanding. In that regard, the TCI Authorities have noted that the UK Home Office has not yet completed their review and TCI therefore awaits the conclusion of the UK's internal procedures. The PTO does accommodate and refer to the Terrorist Financing Convention. (See. Schedule 1 of the PTO). This recommendation is partially met.

Other Recommendations

Recommendation 12

11. With regard to the outstanding recommendations, TCI has indicated that the proposed timelines for the new Gaming Bill is November/December 2015. It has also been indicated that the policy regarding the legislation was approved in principle by Cabinet and public consultation on the policy document commenced in August 2015 is ongoing in order to obtain the widest possible public views. The status of the gaming legislation means that the implementation of the gaming framework remains outstanding. No information has been provided with regard to the separation of work of legal advisors when they act as real estate agents. With regard to training Gaming Inspectors with regard to their AML/CFT role, the Authorities have indicated that AML training has been done. The Authorities have also indicated that while there has been no increase in new personnel, the vacant position for Director of the Gaming Commission has been advertised and the interview process will start shortly. R. 12 remains partially met.

Recommendation 15

12. The Examiners' recommendation to keep employees training records is still not met. With regard to the inclusion of a reference to CFT in policy manuals, the FSC has indicated that it does not routinely look for reference to TF in its examination of manuals, but rather the

focus is on the risk assessment of the business; the outcome of which drives the policy manuals. It is therefore noted that if a business can demonstrate that the assessment of the TF risk is minimal or non-existent then that should be reflected in its manual. The FSC does review the risk assessments of financial institutions during the onsite visit. On the issue of the FSC's role in creating awareness amongst financial institutions with regard to CFT, the Authorities have indicated that the FSC website addresses the risk of TF through NPOs. Section 33(1)(c) of the AML/CFT Code provides for employee screening and requires that all financial institutions 'vet the competence and probity of employees whose duties relate to the provision of relevant business at the time of their recruitment and at any subsequent change in role and that their competence and probity is subject to ongoing monitoring.' Based on the construction of this provision it appears to cover all employees at the time of their recruitment, at a change in their role and also on an ongoing basis. This recommendation has been met. R. 15 remains partially met.

Recommendation 24

13. As noted in the 11th FUR, compliance with this Recommendation is primarily contingent upon the introduction of a gaming regime. Accordingly, please see discussion above at R. 12 with regard to the current status of the proposal to address the outstanding issues with regard to the gaming sector. R. 24 remains not met.

Recommendation 25

14. There have been no further updates provided for this Recommendation. The FSC however has noted that the outstanding issues are 'under active consideration but that clarification is needed as to what is required given that the existence of other guidelines. R.25 remains substantially met.

Recommendation 29

15. The Authorities have provided an analysis that shows: (1) that Regulation 3 of the AML/PFT Code defines the scope of the Code to include financial businesses as defined in the AML/CFT Regulations and directors and boards of financial businesses, (2) that pursuant to the POCO, the FSC is the AML/CFT supervisory authority for both financial businesses, DNFBPs and NPOs, (3) the Financial Services Commission Ordinance (FSCO) provides that the FSC is responsible for monitoring licensees compliance with both the AML/PFT Code and Regulations, (4) licensees are required to establish and maintain systems and controls that meeting obligations under the FSCO, the Code or any guidance issued by the FSC and any directives issued by the FSC, (5) the FSC can take enforcement action against any licensee, who in the opinion of the FSC has contravened the FSCO, a Financial Services Ordinance or the Code; the AML Regulations or such Ordinances or Codes relating to ML or FT, (6) section 33(2) of the FSCO provides the types of enforcement action that can be taken by the FSC, while section 41 empowers the FSC to require the removal of a director or agent who is deemed not to be fit and proper by the FSC, (7) section 45(1)(b) of the FSCO provides the disciplinary action that can be taken by the FSC, while section 57 provides for liability of directors for offences under the FSCO. While this analysis is sound, it still does not appear to be significantly different from what was described in the MER, and it is still unclear that the issues noted at paragraphs 747 and 750 of the MER have been addressed. R. 29 remains partially compliant.

Recommendation 30

16. As noted in the 11th FUR, the issues with the Gaming Inspectorate are still being addressed as noted in discussions on R. 12 and 24 above. As mentioned earlier, the Immigration Department has increased its staff by nineteen (19) persons in the FY 2015/2016 and continues to advertise for new staff. It has also been noted that the addition of the coastal radar station in 2014 has resulted in increased detection of unauthorized boats and ships in TCI waters. R. 30 remains not met.

Recommendation 32

17. TCI has indicated that both the Attorney General's Chambers and the Office of the DPP have now created databases, which provide for statistics on prosecutions and convictions, property frozen, seized and confiscated, legal assistance and requests. The establishment of these databases is a positive indication of compliance with the Examiners' recommendation. It is hoped that there would be a review of the statistics and other data so that TCI can determine the level of effectiveness of their AML/CFT regime. The FSC also maintains statistics on enforcement actions taken by the FSC. Additionally, the FSC tracks the training of staff of licensees (e.g. the attendance of staff at seminars) as well as the tracking of seminars and training facilitated by the FSC and FIA. The FSC maintains a running risk assessment of all NPOs to monitor exposure. R. 32 remains partially met..

Recommendation 33

18. The outstanding issues for R. 33 pertain to bearer shares in terms of the development of guidelines for financial institutions to follow and procedures where bearer shares are held outside the TCI. The Authorities have noted as indicated above that the FIA has had ongoing outreach and awareness raising seminars with regard to STRs/SARs reporting. Additionally, with the update of the both the suspicious transaction reports and the terrorist property reporting forms, training was provided on the use of the forms and also on beneficial ownership. R. 33 remains substantially met.

Recommendation 34

19. Compliance with the Examiners' recommendations is ongoing. As noted in the 11th FUR, the first recommendation pertaining to ensuring that persons associated with legal arrangements were aware of the POCO and MLRA requirements as they pertain to STR reporting was partially met, while the review of the FCU training programme to include AML/CFT training matters on legal arrangement was not addressed. Based on the information provided by TCI, training on the STR/SAR reporting requirement has been continuously reinforced as part of the FIA's outreach and awareness seminars. Additionally, as indicated above the FIA revised the STR/SAR forms and provided guidance on the new forms including beneficial ownership. The guidance was issued after consultation and sets out the information that is required, which includes beneficial ownership information of any companies involved. The Authorities have noted that this is in addition to the attached guidance in the Code which explains in detail the beneficial ownership information that is required for trusts. The concept of beneficial ownership and the fundamental need to identify through to the ultimate beneficial owner is generally well

understood by practitioners recently examined. As always there are pockets of non-compliance but certainly not widespread. R. 34 remains partially complied met.

Special Recommendation VII

20. The TCI Authorities noted the enforcement capabilities of the FSC as provided by the FSCO at section 33. Additionally, the Financial Services (Financial Penalties) Regulations, 2010 allows the FSC to take enforcement action and issue administrative penalties against licensed entities and section 49 of the FSCO (2014 Revision) provides that any financial penalty issued constitutes a civil debt that is enforceable by Court action. TCI has also indicated that since June 2015, the FSC has commenced a process of reviewing whether licensees have adequate controls in place with regard to wire transfer instructions (inward and outward). In that regard, the FSC requested details of relevant procedures from the banking sector and the review of these procedures is ongoing, with two of the three major banks having procedures to an acceptable level of detail and the third is still being reviewed. SR. VII remains partially met.

Special Recommendation VIII

21. The Authorities have indicated that to date 125 NPOs have made applications to register. With regard to training, the FIA continues to partner with the FSC and other stakeholders to facilitate various AML/CFT seminars and workshops, which include representatives from NPOs. IT has also been noted that additional training has been provided to NPOs as part of the NRA process. With regard to sanctions for NPOs that do not comply with the AML/CFT requirements, the Authorities have indicated that the Non Profit Organisations (NPO) Regulations, 2014 came into force in November 2014, with the exception of Part V, which cited the enforcement action available to the NPO Supervisor. The FSC, the Attorney General's Chambers and the NPOs continue to meet and review this issue, with the next meeting scheduled for November 2015 at which time it is expected that the outstanding issues will be resolved. SR. VIII remains partially met.

Special Recommendation IX

22. The status of SR.IX remains unchanged from the 10th FUR and the Recommendation remains substantially met.

III. Conclusion

23. With regard to compliance with the Core and Key Recommendations, R. 1 is substantially met but requires further work with regard to the criminalisation of trafficking in persons and arms trafficking while R. 35 is almost met due to the extension of the Palermo Convention by the UK to the TCI, while SR. IV remains partially met. With regard to the other Recommendations, R. 25, 33 and SR. IX continue to be substantially met, while R. 12, 15, 29, 32, 34, VII and VIII are partially met; R. 24 and 30 are not met. The Turks and Caicos Islands continue to make good progress towards complying with the outstanding deficiencies. Consequently, it is recommended that TCI remain on regular (expedited) follow-up and report back to the May 2016 Plenary. However, given that Members were required to exit the 3rd round follow-up process at this Plenary, TCI is urged to rectify the issues noted with regard to R. 1 and SR. IV, which would allow it to complete its application to exit the follow-up process.

FATF 40+9	Rat- ing	Recommended Actions	Actions Undertaken by Turks and Caicos Islands	Remaining Actions to be Taken (if any)
Legal Systems				
1. ML offense	PC	<ul style="list-style-type: none"> The POCO should clearly reflect what it is intended to save, repeal or amend and consolidate of the pre-existing law in relation to anti money laundering, as sections 150 and 151 of the POCO do not effectively achieve this. Omissions contained in Schedules 5 and 6 of the POCO should also be addressed in order to fully reflect what the POCO seeks to do. In addition, the enabling provisions for the offences of directing terrorism, arms trafficking and human trafficking listed in Schedule 1 should be clearly defined. TCI should fully comply with Article 3(1)(c) in relation to the precursor chemicals requirements. The FATF 20 Designated Offences should also be fully incorporated in the laws of the Islands. 	<p>New Regulations converting the Code into regulations have been prepared and made. The Proceeds of Crime (Amendment) Ordinance 2009 and Proceeds of Crime (Amendment) Ordinance 2010 came into force on December 8, 2009 and May 24, 2010 respectively. The omissions in Schedules 5 and 6 have been addressed. What is intended to be saved, repealed and amended are all now clearly indicated.</p> <p>In essence the Control of Drugs Trafficking Ordinance and former Proceeds of Crime Ordinance are repealed.</p> <p>However, transitional provisions keep them in force in respect of matters falling under the former legislation.</p> <p>The offences of “drug trafficking offence” and “money laundering offence” have been defined in the amendments to section 2.</p> <p>Section 119(2) is amended to require that, in addition to obtaining adequate consideration, the defendant must show that he did not know or suspect that the property was criminal property.</p> <p>The MLRA at its meeting held on January 21, 2011 decided to have specific legislation drafted to cover all of the required areas relating to CFT in one place.</p> <p>Remaining amendments to the POCO call for the enabling provisions for the offences of directing terrorism, arms trafficking and human trafficking listed in Schedule 1 to be clearly defined A draft Human Trafficking (prevention of) Bill produced by an EU funded law review project undertaken in the Islands has been produced and is under consideration as part of the Legislative Agenda for the 2013-2014 financial year. All other recommendations have been fully observed.</p> <p>A number of existing legislation was amended as part of the law review and reform exercise and some new laws drafted. These include:</p>	<p>The Trafficking of Persons Bill has not yet been passed but the timeline to reach into the House of Assembly is January – February 2016.</p> <p>The draft Trafficking of Persons is with the Immigration Department and will then be considered by meeting of Cabinet and will then go out for public consultation.</p> <p>The TCI is planning to amend the existing laws to incorporate provisions relating to arms trafficking. It is planned that the amendments be added to the Government’s legislative agenda for the first quarter of 2016.</p>

			<ul style="list-style-type: none"> • Amendment to the Confidential Relationships Ordinance to tighten the AML/CFT requirements for disclosure is not a breach of confidentiality under that Ordinance; • Amendments to the Proceeds of Crime Ordinance to address the remaining concerns; and • Amendments to the Tax Exchange of Information Ordinance to clarify the remit of the Competent Authority to be able to request and provide information in accordance with the TIEAs. <p>A first draft of the Terrorism Bill 2013 was circulated to members of the MLRA and the Judiciary in August 2013 for consideration. It is hoped that this Bill will be considered by Cabinet in October and the House of Assembly in November 2013</p> <ul style="list-style-type: none"> • Part 2 of the Bill deals with offences relating to membership in or support of a proscribed organization (listed in Schedule 1) which is concerned with terrorism. • Part 3 of the Bill makes it an offence to use or possess property or engage in fundraising for the purposes of terrorism and to money launder terrorist property. It also provides a procedure for forfeiture of terrorist property (Schedule 3) which includes the making of restraint orders and enforcement of order made in the United Kingdom and its Overseas Territories and external orders made in other countries • Part 4 is concern with investigating terrorism and includes powers to search premises, cordon an area, the ability to obtain orders production of materials, orders for explanations to be given, and orders to/against a financial institution to provide customer information or for an account monitoring. It also provides that non-disclosure of information relating to terrorism, tipping off and interference with material would be offences. • Part 5 of the Bill deals with the power to search, arrest, detain and stop and search. It also provides for the exercise of these powers at ports (Schedule 7). The treatment of persons detained is in Schedule 8 which covers, places of detention, the right to legal 	
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			<p>advice, identification, fingerprinting and the taking of intimate samples. It also provides a procedure for the review of the detention</p> <ul style="list-style-type: none"> • Part 6 of the Bill covers further terrorist offences such as weapons training, directing terrorism, possession for terrorist purposes, and collection of information and inciting terrorism overseas. • The MLRA at its January 17, 2014 meeting mandated that a second draft of the Terrorism Bill be prepared by early February. • The MLRA at its February 21, 2014 meeting received second draft of the Terrorism Bill and set up a subcommittee to review and finalise the Bill. • The sub-committee met February 28 and will complete its work by March 5, 2014. A Cabinet Paper is then to be prepared for presentation to Cabinet at its March 12, 2014 and to be laid before the next of House Assembly meeting currently scheduled for the end of March. It is anticipated that the second reading and the remaining stages of the Bill in the House of Assembly would be completed by the end of April 2014. • The Prevention of Terrorism Ordinance (No. 9 of 2014) was passed in the House of Assembly on May 22nd 2014 and is expected to come into effect shortly. 	
2. ML offense–mental element and corporate liability	LC	<ul style="list-style-type: none"> • The penalty for the primary money laundering offences (sections 117, 118 and 119) upon summary conviction should be sufficiently dissuasive, so as not to limit prosecution of money laundering at the magisterial level to the most trivial of cases 	<p>The Proceeds of Crime (Amendment) Ordinance 2010 amends the penalties under sections 117 to 119 by raising the penalties from twelve months imprisonment to two years minimum and the fines from \$40,000 to \$200,000.</p>	None
3. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> • The POCO should be amended to provide for the confiscation and/or forfeiture of instrumentalities intended for use in or used in ML/FT offences. 	<p>The Proceeds of Crime Ordinance, in Part III now provides for the recovery of instrumentalities intended for use in or in connection with unlawful conduct through civil forfeiture. It includes new sections on freezing orders.</p> <p>In particular, section 59 now contains as an additional objective of the civil forfeiture regime, the recovery of property which is, or represents “property that has been used in, or in connection with, or is intended to be used in, or in connection with, unlawful conduct”. A new definition of</p>	None

			<p>tainted property is also included.</p> <p>There are a number of provisions that amend various sections in PART III to give effect to the recovery of tainted property.</p> <p>A first draft of the Terrorism Bill 2013 was circulated to members of the MLRA and the Judiciary in August 2013 for consideration. Part 3 of the Bill makes it an offence to use or possess property or engage in fundraising for the purposes of terrorism and to money launder terrorist property. It also provides a procedure for forfeiture of terrorist property (Schedule 2) which includes the making of restraint orders and enforcement of order made in the United Kingdom and its Overseas Territories and external orders made in other countries.</p> <p>The Prevention of Terrorism Ordinance (No. 9 of 2014) was passed in the House of Assembly on May 22nd 2014 and came into force on October 17, 2014.</p>	
Preventive measures				
4. Secrecy laws consistent with the Recommendations	C			

<p>5. Customer due diligence</p> <p>Post-Plenary Final</p>	<p>NC</p> <p>)</p>	<ul style="list-style-type: none"> Legislation should be enacted or amended to require that financial institutions: undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII; verify that any person purporting to act on behalf of legal persons or legal arrangements is so authorised and identify and verify the identity of that person; take reasonable measures to determine the natural persons that ultimately own or control legal persons or legal arrangements. Legislation should be enacted or amended to prohibit financial institutions from keeping anonymous accounts or accounts with fictitious names. Legislation should be enacted or amended to require that financial institutions conduct CDD measures whereby the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. Legislation should be enacted or amended to require that financial institutions conduct CDD on legal persons or legal arrangements. There seemed to be a high level of dependence on personal relationships between financial institutions and clients which results in CDD measures not being carried out. During interviews with financial institutions these institutions typically indicated that the reason for limited or no CDD measures is a result of the small size of the local industry and the fact that everyone knows each other. Such scenarios may open the TCI to a higher risk of financial institutions being used for money laundering and financing of terrorism. Therefore, TCI authorities should develop a sensitization campaign whereby financial institutions are made aware of the benefits and requirement to do relevant CDD. 	<p>Section 111 of POCO has been amended and provides for the issuance by the Reporting Authority of Codes and Guidance.</p> <p>The new section 111(5) provides that a Code issued under section 111 is subsidiary legislation and has full legislative effect.</p> <p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations were enacted on July 29, 2010. Part II deals with Customer Due Diligence. Regulation 11 requires a financial business to conduct CDD. Any person that contravenes that regulation may be liable to a fine up to \$50,000.00. The Regulations also provides for enhanced due diligence.</p> <p>Regulation 16 deals with shell banks and anonymous numbered accounts. It provides for a penalty of up to \$100,000.00 if a financial business sets up or maintains an anonymous account.</p> <p>Schedule 2 of the Regulations contains the meaning of financial business. Included are persons engaged in lending, including consumer credit and mortgage credit, accountants, auditors, legal professionals, and financial/investment advisors.</p> <p>The Anti-Money Laundering and Prevention of Terrorist Financing Code 2011 came into force on 6 May 2011. Part III of the Code deals with Customer Due Diligence and a summary of the principal requirements with respect to customer due diligence is set out on pages 25 to 27 of the Code and comprehensively addresses the recommendations of the Assessors.</p> <p>The AML/PTF Regulations were amended on 1st December 2011 to provide for specific provisions for occasional transactions that are wire transfers and to ensure that the requirements of EC 5.2 apply to all financial institutions and not just Money Service Businesses.</p> <p>The AML/PTF Regulations (regulation 5) were amended on 1st December 2011 to require the determination of the natural person who ultimately owns or controls customers that are legal persons or legal arrangements (EC 5.5.2(b)) and to require the verification the legal status of the legal person or legal arrangement (EC 5.4(b))</p> <p>Regulation, now provides that customer due diligence measures include measures for determining who the natural persons that ultimately own or control the customer are, where the customer is not an individual.</p> <p>The TCI continues on its sensitization campaign to make financial institutions aware of the benefits of meeting AML/CFT requirements. The FSC held AML/CFT training in November 2011 for industry practitioner, which focused on the requirements of the new code and establishing a compliance manual. During the November 2011 training, the FIU hosted a session. The FIU also conducted a two-hour of AML training with the staff at one of the local banks at the request of their Money Laundering Reporting officer.</p> <p>A Compliance Workshop was held on October 24, 2012.</p> <p>An AML Seminar was also held on April 25, 2013 and was attended by over 60 persons from across the various regulated</p>	<p>None</p> <p>[Type here]</p>
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6. Politically exposed persons	NC	<ul style="list-style-type: none"> Financial institutions should be required to seek senior management approval for a relationship with a customer who is found to be a PEP and to continue a relationship with a customer who is subsequently found to be a PEP or who subsequently becomes a PEP. The FSC should consider issuance of guidance with regard to financial institution's handling of relationships with PEPs. 	<p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations contain provisions relating to PEPs. PEPs are defined in regulation 6. Regulation 13 requires enhanced due diligence and ongoing monitoring on PEPs and imposes a fine of up to \$50,000.00 if that regulation is contravened</p> <p>The Financial Services Commission issued guidance in relation PEPs in August 2009.</p> <p>The Anti-Money Laundering and Prevention of Terrorist Financing Code addresses the requirements of E.C 6.2 in section 13(1) and (3). Approval by senior management of a financial institution is required for the continuation of the financial institution's relationship with a customer who is found to be a PEP and to continue a relationship with a customer who is subsequently found to be a PEP or who subsequently becomes a PEP.</p> <p>AML/PTF Regulation 13(2)(d) also requires enhanced CDD for PEPs.</p> <p>Recognizing that corruption and money laundering are related the TCI moved to strengthen its anti-corruption measures, in order to avoid rendering our anti-money laundering regime ineffective. Therefore, the TCI is the first regional jurisdiction to take the bold step of reforming the area of campaign financing. Campaign donations received by political parties and candidates are now required to be reported to the Integrity Commission, an anti-corruption watchdog body established under the Constitution. Additionally, the Integrity Commission Ordinance 2008 (as amended and strengthened in 2012) requires annual detailed declarations as to income, assets and debts from Persons in Public Life (including members of the Cabinet and of the House of Assembly, as well as senior public officials whether part of the public service or heading public bodies). The Political Activities Ordinance 2012, administered by the Integrity Commission, places restrictions on the kind of donors, donations and the amounts of campaign donations, and requires not only the filing of reports citing the amounts and names of donors but also introduces criminal sanctions and financial penalties on the leaders and treasurers of political parties liable. There is also an AML/CFT style obligation on political parties and independent candidates to maintain transparent accounting records and to produce</p>	None
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			<p>audited accounts. Provisions also allow for the forfeiture of prohibited donations. The Integrity Commission has issued guidance to political parties under these Ordinances.</p> <p>Additionally, work is being done on an Anti-Bribery Bill, which is before Cabinet for consideration.</p>	
7. Correspondent banking	NC	<ul style="list-style-type: none"> TCI authorities should consider issuing more guidance to financial intuitions on matters relating to AML/CFT. 	<p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations provide that no bank operating in or from the islands shall enter into or continue a correspondent banking relationship with a shell bank or a bank that is known to permit its accounts to be used by a shell bank.</p> <p>Regulation 16 provides for a fine of up to \$100,000.00 if a bank acts in contravention to the regulation.</p> <p>With regard to Rec. 7, Sections 42 and 43 of the Code, deals will correspondent banking. Regulation 16 was amended to extend it to all financial institutions in accordance with a decision taken by the MLRA in its meeting in December 2010. Regulation 16 was amended on 1st December 2011 to make it clear that the prohibition regarding entering into or continuing corresponding banking relationships with shell banks applies to all financial business.</p>	None
8. New technologies & non face-to-face business	NC	<ul style="list-style-type: none"> Financial institutions should have in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes. TCI authorities should consider bringing the business of mortgage lending under a licensing regime which will make it subject to AML/CFT requirements. 	<p>Regulation 13 of the Anti-Money Laundering and Prevention of Terrorist Financing Regulations requires enhanced due diligence and ongoing monitoring where the customer has not been physically present for identification</p> <p>Section 6(2) of the Code covers EC. 8.1 which requires that financial institutions should have measures in place to deal with the misuse of technological developments</p> <p>Section 24 of the Code covers EC 8.2 which requires that policies and procedures be in place to address any specific risks associated with non-face to face business relationships or transactions</p> <p>The FSC considered whether there was a need to bring the business of mortgage lending under a licensing regime and to</p>	None

			<p>this end conducted a market survey, reviewed and analysed the result of this survey by the at the end of September 2013. An initial review of the numbers of entities which have been issued licenses by the business licensing unit revealed that there were only 2 such entities. The MLRA at its February 21, 2014 meeting decided to single this area as one of the first areas to be considered in preparatory work for the National Risk Assessment. The NRA Team has agreed to take on this work.</p>	
9. Third parties and introducers	PC	<ul style="list-style-type: none"> Financial institutions relying on a third party should be required to immediately obtain from the third party the necessary information concerning elements of the CDD process covering identification and verification of customers and beneficial owners and the purpose and intended nature of the business relationship. Financial institutions should be required to satisfy themselves that the third party is regulated and supervised (in accordance with Recommendations 23, 24 and 29) and has measures in place to comply with the CDD requirements set out in Recommendations 5 and 10. Financial institutions relying on third parties should be ultimately responsible for customer identification and verification. TCI authorities should make more explicit requirements for financial institutions to immediately obtain from the third party all the necessary information concerning certain elements of the CDD process and for financial institutions to accept introducers pursuant to its assessment of AML/CFT adequacy. 	<p>Regulation 14 of the Anti-Money Laundering and Prevention of Terrorist Financing Regulations provides that a financial institution may only rely on introducers and intermediaries who are a regulated person or a foreign regulated person. The regulation requires introducers and intermediaries to have carried out CDD and to maintain records of that information which would be available upon request from the financial business or the Commission. It also provides that the financial business will be liable for any failure to apply CDD measures by the introducer or intermediary.</p> <p>Regulation 14 of the AML/PFT Regulations was amended on 1st December 2011 to include the specific wording of EC 9.1 that Financial institutions relying upon a third party should be required to immediately obtain from the third party the necessary information concerning certain elements of the CDD process (verifying the customers identity and the ultimate beneficial owner, who is a natural person). This is also reflected in section 27 of the Code.</p>	None
10. Record keeping	PC	<ul style="list-style-type: none"> It is recommended that the TCI 	Regulations 18 and 19 of the Anti-Money Laundering and	

		<p>review its legislative and regulatory provisions to take consideration of all requirements of Recommendation 10 particularly as it pertains to the retention of records and that appropriate legislation should be enacted as soon as possible.</p>	<p>Prevention of Terrorist Financing Regulations require records to be kept for at least five years. These records include CDD, account files and transaction records sufficient to enable a reconstruction of the individual transactions.</p> <p>Failure to comply with that regulation will result in a fine of up to \$100,000.00.</p> <p>Part VII of the Code comprehensively deals with the Assessors' recommendations with regard to Record Keeping and the Guidance on pages 83 and 84 of the Code describe the obligations of financial businesses in respect of Record Keeping.</p> <p>Additionally, in respect of accounting records the Companies (Amendment) Ordinance 2011 and the Limited Partnerships (Amendment) Ordinance 2011 amended section 57 of the Companies Ordinance and section 10 of the Limited Partnerships Ordinance respectively to expand the record keeping obligations in respect of companies and Limited Partnerships and to create an offence for failure to maintain such records. The fine imposed in each case is an amount not exceeding \$50,000. Both amendments came into force on 29th July 2011.</p> <p>A new Partnerships Ordinance was made in October 2011 and came into force on 1st November 2011. This new Ordinance codifies the law relating to partnership. Under the common law legal system, the basic form of partnership is a general partnership in which all partners manage the business and are personally liable for its debts. A partnership is defined as the relationship which subsists between persons carrying on business with a view of profit.</p> <p>A key feature of a partnership is that it does not have a legal personality of its own. In the eye of the law, a partnership is merely a way of describing the individual partners who make up the partnership. Thus unlike companies where a member of the company is to a large extent insulated from liabilities of the company, in a partnership, each partner is held responsible not just for the liabilities caused by his actions, but also for liabilities incurred by each partner.</p> <p>By virtue of section 28(1), partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his agents.</p>	None
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			<p>Under section 28(2), a partnership must keep or cause to be kept proper books of accounts including day books of accounts and underlying documentation including contracts and invoices, with respect to—</p> <p>(a) all sums of money received and expended by the partnership and the matter in respect of which the receipt and expenditure take place;</p> <p>(b) all sales and purchases of goods by the partnership; and</p> <p>(c) the assets and liabilities of the partnership.</p> <p>For the purpose of subsection (2) proper books of accounts do not satisfy the statutory requirement to be kept if there are not kept such books as are necessary to give a true and fair view of the state of the partnership's affairs and to explain its transactions. (section 28(3))</p> <p>Every partnership must keep all books of accounts required to be kept under subsection (2) for a minimum period of five years from the date on which they are prepared. (section 28(4))</p> <p>Any partner who knowingly contravenes, permits or authorizes the contravention of the provisions of subsection (2) or (4) commits an offence and is liable on summary conviction to a fine not exceeding \$50,000.(section 28(5))</p>	
11. Unusual transactions	NC	<ul style="list-style-type: none"> • TCI authorities should expand the scope of attention for unusual transaction patterns to include characteristics of size and purpose as addressed in Rec. 11 (essential criterion 11.1). • Financial institutions should be required to set forth in writing any findings related to a closer examination of the background and purpose of unusual transaction patterns. • The record retention policy addressed under section 7 of the 	<p>Regulation 17 of the Anti-Money Laundering and Prevention of Terrorist Financing Regulations requires financial businesses to establish, maintain and implement appropriate risk-sensitive policies, systems and controls to prevent and detect money laundering and terrorist financing which provide for identification and scrutiny of complex or unusually large transactions and other activities.</p> <p>The Code addresses these requirements. Section 28 of the Code requires financial businesses to keep a written record of transactions including unusual transactions. Section 37 requires a financial business to maintain records concerning reviews of and the conclusions reached in respect of such records for a period of at least five years.</p>	None

		<p>AMLR should be expanded to provide for the retention of records related to a closer investigation of the background and purpose of unusual transactions.</p>		
12. DNFBP–R.5, 6, 8-11	NC	<ul style="list-style-type: none"> • Contact the relevant new businesses and professions that have been subjected to AML/CFT rules and regulations due to the recently enacted legislation and inform them of the consequences of these changes for their respective industries. • Define the major risk area targeted under the group of DNFBP's categorized as "dealers in goods of any description involving a cash payment of \$50,000 or the equivalent in any currency". • Determine who will be responsible for the oversight of the precious metals and precious stones industry and the industry labelled as "dealers in goods of any description involving a cash payment of \$50,000 or the equivalent in any currency" • Where not regulated, TCI should regulate market participants in order to be able to monitor compliance by these market players with applicable AML/CFT rules and regulations; • Determine who will be responsible for the regulatory oversight of the relevant DNFBP's; • In light of client privileges issues that might arise relative to the implementation of an oversight regime for legal advisers, it is 	<p>The POCO has been amended to include provisions for a Non-Regulated Financial Business Supervisor. These businesses are now required to be registered with the NRFB Supervisor. The NRFB Supervisor has the power to take enforcement action against a non-regulated financial business, issue directives and take disciplinary action.</p> <p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations also contain provisions relating to non-regulated financial businesses in Part V. The POCO provides that the Commission is the NRFB (DNRFB) Supervisor. The FSC has issued notices to all NRFBs other than casinos requiring them to register their beneficial ownership, place of business, types of business and other details with the FSC on or before 1st January 2011.</p> <p>The Anti-Money Laundering and Prevention of Terrorist Financing (Amendment) Regulations 2011 came into operation on 1st December 2011. These Amendment Regulations amended regulation 24, to specify that there shall be a separate part of the NRFB Register for each category of non-regulated financial business (DNFBPs).</p> <p>The FSC is the identified NRFB Supervisor under the POCO. The FSC created a DNFBP Department at the end of 2012 and has commenced a system of registration, which is continuing.</p> <p>Additionally, the POCO was amended in January 2013 to make it clear that the FSC is the NRFB Supervisor and an amendment was made to the AML & PTF Regulations to prescribe a registration fee of \$150.</p> <p>These pieces of legislation came into force on April 1, 2013.</p> <p>The FSC conducted an AML seminar on April 25th 2013 at which there was wide representation across the sectors. These included: attorneys, accounting services and trust companies. At the end of the seminar each participant received a certificate of participation which counts as credit towards</p>	<ul style="list-style-type: none"> • FSC will issue some guidance to the Bar Association and lawyers in relation to separation of legal work from DNFBP work to advise its members • Complete Gaming Policy Consultation • Have draft Bill approved by Cabinet and put on the schedule of the House of Assembly • Increase staffing at the Gaming Inspectorate

		<p>advisable that a structure be maintained for these DNFBP's, where their duties relative to financial or real estate transactions on behalf of their clients is legally and physically separated from their other legal proceedings assistance duties.</p> <ul style="list-style-type: none"> • TCI should consider the use of the Bar Association as a channel for the training of industry practitioners. • TCI should define the role of respectively, the Gaming Inspectorate and the FCU, in the implementation of the AML/CFT framework, in order to avoid inefficiencies. • Adequate training should be provided to gaming inspectors and their role and legal authority in the implementation and oversight of the AML/CFT framework for the gaming industry should be clearly defined. 	<p>various certifications in AML. The training was targeted at licensees which includes some lawyers and accountants but it was not specific to those sectors.</p> <p>Training for the Bar Association on DNFBPs was held in 2014. Additionally members of the Bar has participated in the various conferences and workshops organized in relation to AML/PTF.</p> <p>Sections 2, 111,116, 120, 121,148F, 148Q and 148M of POCO were amended to reflect the correct name of the AML/PFT Regulations. This amendment came into force on 1st December 2011.</p> <p>Contact was made individually with Jewelers by Head of DNFBPs in the 4th quarter of 2013 to inform them of the AML/CFT legislative changes and the consequences to their industry. Guidance was issued and posted February 2014 on the FSC website and can be viewed at http://tcifsc.tc/departments/designated-non-financial-businesses-professions/legislation-regulations-guidance</p> <p>The role and functions of the Gaming Inspectorate has been discussed at various meetings of the MLRA starting from January 2011, at which time Gaming Inspectorate officials were in attendance.</p> <p>The Gaming Inspectorate and the Permanent Secretary, Finance attended the September 2011 meeting of the MLRA and both were briefed on the recommended improvements and provided with copies of the relevant documents and information. The Permanent Secretary, Finance agreed to place the required improvements to the Gaming Inspectorate on the agenda of the Ministry of Finance' work plan so that they can be prioritised in the Government's budget for the 2012/2013 financial year.</p> <p>In March 2013 the Government announced a moratorium on the issuance of new licences for gaming for up to one year with a view to implementing an Action Plan devised by the Ministry of Finance for reform in the Gaming Industry consistent with the recommendations of the MLRA. Changes to the Gaming legislation, strengthening of the Gaming Inspectorate, including training are part of this reform initiative.</p>	
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			<p>The moratorium on any new licences for gaming remains in effect. The consultant appointed to review the gaming inspectorate started work in October 2013 by visiting the country and doing preliminary work. The Consultant returned in February 2014 and met with the Attorney General on February 20. The report was finalized in April 2014 and the MLRA received a presentation on it at its meeting on May 22, 2014. The report contained a number of recommendations for legislation to over-haul the industry and the structure of the body which will regulate the industry and also make it more compliant with AML/CFT standards. At its meeting on July 23, 2014 Cabinet decided that included in the legislative agenda would a Gaming Bill.</p> <p>The proposed timelines for the new legislation is November/December 2015. The Policy has been approved in principle by Cabinet and public consultations on the Policy Document commenced in August and will end at the end of October.</p> <p>Whilst there has not been an increase in new personnel, the vacant position for Director is has been advertised and the interview process will start shortly.</p> <p>Funding for new resources has been allocated in the FY 2014/2015 budget and the department has commenced the necessary steps in acquiring the goods.</p> <p>AML training has been done.</p>	
13. Suspicious transaction reporting	PC	<ul style="list-style-type: none"> • TCI Authorities should provide for more guidance in the process of reporting unusual transactions. In this regard, standardized STR-forms that meet the requirements of the industry should be issued. Furthermore, the means through which STRs should be filed with the FCU should be standardized. • TCI Authorities should consider issuing guidelines on the filing of STRs which includes information on the requirement for timely filing to ensure a prompt reporting behaviour. 	<p>The standardized reporting form has been improved.</p> <p>This was published at a presentation to the industry by way of a two-hour presentation, including power point, copies of which were distributed.</p> <p>A revised form has since been circulated with guidance notes attached. Although guidance information is provided as a part of the Money Laundering Reporting Authority's Suspicious Transaction/ Activity form, it has been decided that guidance notes will also be issued under section 111(2) of the Proceeds of Crime Ordinance. These will be made available on both the FSC and FIU websites.</p> <p>Part 5 of the Code contains requirements for the timely filing of SARs, including a prescribed timeframe (within 24 hours) (See section 120 in the POCO).</p> <p>The MLRA considered the issuance of guidelines and these</p>	None

			<p>guidelines were drafted and posted on the FIU's website since May 2013.</p> <p>The FIA has issued and updated guidance and forms in relation to both Suspicious Transaction Reports and Terrorist Property Reporting. These forms and guidance may be found on the FIA's web page at http://www.tcipolice.tc/index.php/financial-intelligence-unit</p>	
14. Protection & no tipping-off	C			
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> The FSC should screen the Policy Manuals of all supervised financial institutions, to ensure compliance with CFT. The FSC should play a more active role in creating awareness amongst financial institutions with regard to the issue of CFT. The TCI should provide guidance for financial institutions on the implementation of an independent audit function to test compliance with AML/CFT procedures, policies and controls. TCI should take appropriate action to implement the recently enacted AMLR requirement to keep employees training records. The TCI should amend its requirement for screening relevant personnel upon hiring, to the screening of all employees to fully comply with essential criterion 15.4. <p>Financial institutions should be required to have their screening policy for new personnel formalized and documented for review by the FSC.</p>	<p>The FSC screens policy manuals both at the point where an entity applies for licensing and also during onsite examinations.</p> <p>The FSC has included a review of training logs as a part of its onsite inspection regime.</p> <p>Sections 6 and 30 of the Code deal with internal reporting procedures and includes a provision in similar terms to EC 15.2.</p> <p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations now provide that a financial business must maintain policies regarding the screening of employees and internal controls. Contravention the regulation may result in the financial business being fined up to \$50,000.00.</p> <p>The FSC has issued guidelines in relation to Internal Control and Audit. These guidelines were issued in November 2012 and revised July 2014 and have been available on the FSC's website since that time at http://tcifsc.tc/policies-guidelines?start=10.</p> <p>In August 2014 the Commission issued Risk Management and Internal Controls guidelines for insurance companies. This includes reference to Internal Audit requirements. http://tcifsc.tc/policies-guidelines?limitstart=0</p> <p>The Commission in its examination on manuals does not routinely look for reference to terrorist financing. However focus is on the Risk Assessment of the business the outcome of which drives the policy manuals. (Section 4 of the Code). If a business can demonstrate that the assessment of TF risk is minimal or non-existent then the manual should reflect that.</p>	

			<p>The FSC website addresses the risk of terrorist financing through NPOs (http://tcifsc.tc/departments/head-compliance-unit/non-profit-organisations)</p> <p>Screening of all employees is included in scope of onsite examinations. (For compliance with Section 33 of the Code)</p>	
16. DNFBP–R.13-15 & 21	NC	<ul style="list-style-type: none"> • TCI should ensure an effective implementation of the recently enacted AML/CFT legislative framework for DNFBPs, including the requirement for the filing of STRs. • TCI Authorities should consider training for DNFBPs on the filing of STR's to promote a compliant regime within the relevant industries. • The relevant supervisory authorities per category of DNFBP should issue guidelines and instructions on the drawing up and maintaining of internal frameworks for compliance with AML/CFT rules and regulations. 	<p>The FCU has met with and advised stakeholders in this area of the requirements for filing STR's. This work is ongoing.</p> <p>Since 2011 the NRFB Supervisor has conducted training for DNFBPs on the filing of STRs to promote a compliant regime within the relevant industries and guidelines for each category of DNFBP has been issued.</p> <p>The FSC is the identified NRFB Supervisor under the POCO. The FSC created a DNFBP Department at the end of 2012 and has commenced a system of registration, which is continuing.</p> <p>Additionally, the POCO was amended in January 2013 to make it clear that the FSC is the NRFB Supervisor and an amendment was made to the AML & PTF Regulations to prescribe a registration fee of \$150. These legislative changes came into operation on April 1, 2013.</p> <p>The Head of the DNFBP Dept. completed the work, including consultation on guidelines for the DNFBP's in September 2013.</p> <p>In January 2014 the TCI FSC published for Consultation guidelines for High Value Dealers. The consultation period ended on February 18, 2014. These guidelines are now finalized and have been publicized on the FSC's website at http://tcifsc.tc/departments/designated-non-financial-businesses-professions/legislation-regulations-guidance</p> <p>The FIA often times with the assistance of the FSC has engaged in continuous efforts to bring awareness to AML/CFT issues including advertisement in newspapers; appearing on talk shows and engaging with sector specific firms such as attorneys and money transmitters. The FIA has in 2015 updated its STR and SAR forms and provided guidance in relation to it. This guidance was issued after consultation.</p>	None

17. Sanctions	PC	<ul style="list-style-type: none"> The TCI supervisory authority should promote an effective implementation of enforcement actions in order to increase the dissuasiveness of the existing sanctions framework. This can be improved amongst other methods through improvement of the follow up provided by the supervisory authority relative to outstanding issues with regard to the compliance with AML/CFT rules and regulations by financial institutions. The TCI Authorities should make appropriate adjustments to its legislative framework to provide for the FSC to impose financial sanctions without court order in case of non-compliance with AML/CFT rules or regulations. The TCI should include in the AMLR the sanctions applicable to an offence under AMLR section 10(1). 	<p>The FSC takes enforcement action and issues administrative penalties against licensed entities in accordance with the Financial Services (Financial Penalties) Regulations made on October 29, 2010.</p> <p>Since its enactment the FSC has undertaken several disciplinary actions under the Regulations, which have been dissuasive and resulted in compliance without the relevant financial institutions having to be fined, save in one case.</p> <p>The FSC continues to foster compliance among licensees and in this regard, the FSC had a vigorous enforcement programme during 2011. A table and detailed enforcement action taken during the year was supplied to the CFATF. The information reveals that the FSC had taken a total of 138 enforcement actions during 2011. The majority have been against insurance companies, with a few trust and, company managers and one money remitter. The majority of actions (89) have involved a 'notice of intention to revoke licence'. During the period, there was the suspension of a licence and the surrender of a licence.</p> <p>For 2012 approximately 30 enforcement actions were initiated. Of that number 8 resulted in actual penalty notices being issued, 7 resulted in revocations of licences, 1 resulted in legal action to have the company wound up and for the remainder, the enforcement action did not materialize.</p> <p>Initially, penalty notices issued by the FSC were not considered as a civil debt which could be legally recovered through the courts. As a result the only recourse where a person failed to pay a penalty was to pursue criminal action or seek to have the company wound up and the licence revoked.</p> <p>Consistent with similar provisions in the POCO in respect of DNFBPs, the FSC has therefore proposed, and the Government agreed, that there be an amendment to section 47 of the FSCO to make a Penalty Notice (once it becomes final on the expiration on 14 days from the date of issue) to be considered as a debt.</p> <p>FINANCIAL SERVICES COMMISSION (AMENDMENT) ORDINANCE 2013 (No. 5 of 2013) adds a new section 49 to the FSCO in relation to recovery of financial penalties. The amendment was assented to on May 16, 2013 and came into</p>	None
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			<p>force July 1, 2013.</p> <p>Two judicial matters have been commenced since the amendment came into force. Both of these has since been settled.</p>	
18. Shell banks	PC	<ul style="list-style-type: none"> 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. 	<p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations provide that no bank operating in or from the islands shall enter into or continue a correspondent banking relationship with a shell bank or a bank that is known to permit its accounts to be used by a shell bank.</p> <p>Regulation 16 deals with shell banks and provides for a fine up to \$100,000.00 if a bank acts in contravention to the regulation.</p> <p>Regulation 16 prohibits banks from carrying on business with a shell bank. Regulation 16 and Part 8 of the Code are to be amended to extend their application to all financial institutions.</p>	None
19. Other forms of reporting	NC	<ul style="list-style-type: none"> We advise that the TCI consider the implementation of a system where all (cash) transactions above a fixed threshold are required to be reported to the FCU. In this regard TCI should include as part of their considerations the possible increase of STRs filed, the size of this increase compared to resources available for analyzing the information and the effectiveness of the additional intelligence in the process of intercepting illicit activities. 	<p>TCI Authorities considered and decided against the use of a system where all (cash) transactions above a fixed threshold require reporting to the FCU.</p>	None
20. Other NFBP & secure transaction techniques	PC	<ul style="list-style-type: none"> TCI should consider if there are other non-financial businesses and professions that are at risk of being misused for ML or FT. In this regard, TCI should specifically assess the risk of ML and FT in the construction industry, considering the amount of cash turnover in this 	<p>POCO has been amended to include a regime for a Non Regulated Financial Businesses and a Non Regulated Financial Business Supervisor and actions have been taken to register NRFBs since January 1st 2011.</p> <p>The MLRA, at its meeting in December 2010 decided to have a sub-committee assess the risk of the construction industry being misused for ML and FT purposes and prepare a paper for consideration of the MLRA. The sub-committee reported</p>	<ul style="list-style-type: none"> Complete Gaming Policy Consultation Have draft Bill approved by Cabinet and put on the schedule of the House of Assembly Increase staffing at the Gaming Inspectorate

		<p>industry.</p> <ul style="list-style-type: none"> • TCI Authorities should consider taking an intermediary role in the process of establishing proper communications between local banks and the casino, in order to assure that credit card facilities for casino clients are available at the casinos place of business in order to reduce the amount of cash in circulation in the casino. 	<p>to the MLRA at its meeting held on 23rd July 2012 that it was making progress but would report again at the MLRA meeting scheduled for 3rd September 2012. At a February 21, 2014 MLRA meeting a report was presented detailing the results received which showed that the risk at this time was minimal.</p> <p>An initial review of the numbers of entities which have been issued licenses by the business licensing unit has revealed that there are currently only 2 such entities. The MLRA at its February 21, 2014 meeting decided to single this area as one of the first areas to be considered in preparatory work for the National Risk Assessment. The NRA Team agreed to take on this work with a view to having some preliminary finding by the end of April, 2014.</p> <p>The NRA team determined that it is likely that there is a risk that the construction industry could be misused for ML or FT and has agreed to further consider the issue in conducting its work on the National Risk Assessment.</p> <p>Credit card facilities are now available in casinos.</p> <p>A review of the regulatory framework of the gaming industry was undertaken and a report on the findings was finalized in April 2014. The MLRA received a presentation on it at its meeting on May 22, 2014. The report contained a number of recommendations for legislation to over-haul the industry and the structure of the body which will regulate the industry and also make it more compliant with AML/CFT standards. At its meeting on July 23, 2014 Cabinet decided that included in the legislative agenda for the balance of 2014 would be a Gaming Bill.</p> <p>The proposed timelines for the new legislation is November/December 2015. The Policy has been approved in principle by Cabinet and public consultations on the Policy Document commenced in August and will end at the end of October.</p> <p>Whilst there has not been an increase in new personnel, the vacant position for Director is has been advertised and the interview process will start shortly.</p> <p>Funding for new resources has been allocated in the FY 2014/2015 budget and the department has commenced the necessary steps in acquiring the goods.</p> <p>AML training has been done.</p>	
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21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> The FSC should promote an effective implementation of a country risk management regime with regard to AML/CFT. In this regard, the FSC should promote an effective implementation of provisions 4.18 and 4.23 of the Code amongst licensed institutions. It is not a conclusive requirement to issue a blacklist containing countries that do not or insufficiently apply the FATF standards. However, if a particular jurisdiction continues to impose a high risk for ML or TF on the financial services industry of the TCI, the FSC should consider applying its powers under the FSCO to issue additional guidance on the subject. In this respect, the FSC might consider for example issuing a list of countries that do not or insufficiently apply the FATF standards and for which transactions originating from these countries should be subject to a higher degree of scrutiny. 	<p>The MLRA has deliberated on the Examiner's recommendations to consider the appropriate counter measures for the TCI to take against countries that do not or insufficiently apply the FATF Recommendations and decided that the FSC will create an advisory on its website regarding carrying on business with countries which do not sufficiently meet the FATF standards and provide a link to the FATF list of countries which do not sufficiently meets its standards. This was completed by August 2012.</p> <p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations require enhanced CDD and enhanced ongoing monitoring on a risk-sensitive basis when the financial business proposes to have a business relationship with a person connected with a country that does not apply or insufficiently applies the FATF recommendations.</p> <p>Following a decision of the Money Laundering Reporting Authority the TCI decided that the appropriate counter measures to be applied against countries who do not or insufficiently apply the FATF recommendations was by posting on the FSC's web page, the names of such non-compliant jurisdictions as published by the FATF and notifying licensees. The FSC on its website has a sanctions page, where it has posted a number of Orders relating to countries against which there are sanctions.</p> <p>The FSC has promoted a risk-based approach to money Laundering among its licensees including that licensees should have regard to country or geographical risks in its client acceptance and CDD systems. These requirements are specifically stated in section 11(3)(d) of the AML & PTF Code and paragraph (viii)(c)(II) & (III) and paragraph (xxvi) to (xxviii) of the guidance to the Code. The FSC has provided AML/CFT and Compliance training on this and other requirements of the Code in November 2011, November 2012 and recently on April 25, 2013.</p>	None
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> Although, the TCI does not have any local financial institution, with foreign branches and/or subsidiaries, TCI should consider including regulations pertaining to possible TCI financial institutions' subsidiaries in foreign jurisdictions. Particularly in light of the envisioned 	<p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations contain provisions for the application of the Regulations outside of the Islands. Specifically Regulation 10 provides that a branch or subsidiary of relevant financial business located in or incorporated in a country outside the Islands shall comply with the regulations and Code, to the extent that the laws of that country permit.</p>	None

		growth of the financial services industry.	Section 6 of the Code requires all branches and subsidiaries to be compliant with the established policies systems and controls.	
23. Regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> The FSC should develop clear procedures for the assessment of integrity of relevant persons, as part of its execution of the “fit and proper” testing requirement. The TCI should consider the relevance of including collective investment schemes “Core Principles” in their supervisory framework. The TCI should develop an approach and set clear terms for the effective implementation of the recently enacted MTO. In this regard, the TCI should consider its resources and where required take action to support an effective implementation of a supervisory regime for MVTs 	<p>The FSC has issued fit and proper guidelines to the industry which covers these matters.</p> <p>The FSC is currently considering including these principles in its supervisory framework.</p> <p>The MTO is now effective with an established licensing regime which continues to grow.</p> <p>The FSC will be including collective investment schemes ‘Core Principles’ in their supervisory framework. The FSC is also actively engaging with IOSCO and working within their required timelines and procedures to gain membership in IOSCO.</p> <p>The FSC is currently in the process of reviewing its securities legislation to bring it up to standard with IOSCO Core Principles and other internationally accepted best practices. A first draft of the legislation has been prepared and circulated to the industry for comments however, it is recognized that a significant amount of work remains to be completed on the Bill itself and on the drafting of subsidiary legislation to compliment the Bill.</p> <p>The FSC is also in the process of a completing draft new Banking. The Trust Bill and the Trust Companies Licensing and Supervision Bill are currently being considered by Cabinet. Once this work has been completed the Bills have to undergo a period of consultation with the Industries.</p> <p>The Government has recently approved a new Domestic Insurance Bill which seeks to implement the recommendations of the IMF on its assessment of the industry in 2003. In this regard, the FSC has engaged with the House of Assembly members by a meeting set for 30th April 2013 to walk through the provisions of the Bill before it is debated at the next meeting of the House set for May 2013. At the May 2013 sitting of the House, the Bill had its first reading but was not debated. The Bill was then redrafted and has received its first reading in the House of Assembly. It is currently slated to received its second reading and be debated before the end of October 2015.</p>	None

			<p>Additionally, the Money Transmitters Ordinance has been fully implemented. There are currently four licensed Money Transmitters. Of this number, one licensee was inspected last year and 2 licensees have undergone onsite inspections since the beginning of this year. The FSC's Banking department noted that all Money Transmitters completed their risk assessment by the end of the financial year 2013. Detailed AML/CFT guidance for Money Transmitters is set out in the AML/PTF Code. Formal reporting for Money Transmitters was introduced in September 2010 with the mandatory reporting process commencing as at the end of the last quarter in 2010. Money Transmitters must report on and complete financial returns and supplemental reports which show inter alia, the largest transaction, the number of transactions and the value of transactions for each month in a quarter both for funds sent as well as for those received. Additionally, there are two other supplemental filings which require information on all single and aggregate transactions above USD \$5,000 in any one month for funds sent as well as for those received.</p> <p>As at October 2015 is that there are only two operating MSBs in TCI. During 2015, the Western Union agent ceased trading and another MSB surrendered its licence voluntarily. – that MSB had never traded. As of February 2015 the Commission has placed MSBs on an annual cycle of onsite inspections. In March /April 2015 the then three MSBs were subject to on site examinations. Remediation of findings is in hand. Further onsite of the remaining two MSBs will take place in Q1 2016.</p> <p>In relation to Recommendation 23, the assessor's recommendation was that the TCI should consider the relevance of including collective investment schemes "Core Principles" in their supervisory framework. Again the FATF Methodology notes that: <i>"Consider - References in the Recommendations that require a country to consider taking particular measures means that the country should have made a proper consideration or assessment of whether to implement such measures."</i></p> <p>The TCI has already indicated that the FSC is in the process of updating its securities law to bring it up to standard with the IOSCO Core Principles and that a first draft was</p>	
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			circulated to the industry for their comments and remains under consultation. Work on this is continuing as a number of regulations and codes and guidelines must be enacted in tandem with the primary legislation. Therefore, we have given full consideration to this matter.	
24. DNFBP - regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> TCI should draw up an implementation plan, for the AML/CFT supervisory regime for casinos. This plan should address the following: <ul style="list-style-type: none"> Who is responsible for the training of gaming inspectors in the area of AML/CFT compliance oversight; Who is responsible for informing the relevant sector of the AML/CFT changes and the respective implications for the relevant sector; Who is responsible for training of the gaming industry in the introductory phase; What are the tools required for an effective oversight of the industry's compliance with AML/CFT laws and regulations; Where necessary resources should be sought to appropriately equip the Gaming Inspectorate for the effective AML/CFT oversight tasks. The due diligence process performed for the granting of a Gaming license should be formalized and TCI Authorities should determine the risk areas 	<p>Casinos are now covered in the definition of financial business in the Anti-Money Laundering and Prevention of Terrorist Financing Regulations.</p> <p>POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now include a regime for non-financial business persons.</p> <p>The FSC created a DNFBP Department at the end of 2012 and took on additional staff to Head that Department. The FSC is already met with and engaging with the Bar Council, Realtors, and Accountants to inform them of their obligations and move the registration drive forward.</p> <p>Additionally, the POCO was amended in January 2013 to make it clear that the FSC is the NRFB Supervisor and an amendment was made to the AML & PTF Regulations to prescribe a registration fee of \$150. These legislative changes came into operation on April 1, 2013.</p> <p>Finally, in March 2013, the Government approved amendments to be made to the POCO, AML & PTF Regulations and Code to change the terminology from Non-Regulated Financial Business to Designated Non-Financial Businesses & professions. These amendments were brought into force November 2013.</p> <p>The DNFBP Department issued guidelines for various DNFBP sectors which are out for consultation. These guidelines have now been finalised and issued as at September 2013.</p> <p>In January 2014 the TCI FSC published for Consultation guidelines for High Value Dealers. The consultation period ended on February 18, 2014. These guidelines are now finalized and have been publicized on the FSC's website at http://tcifsc.tc/departments/designated-non-financial-businesses-professions/legislation-regulations-guidance</p> <p>The MLRA requested that a documented plan be produced for</p>	<ul style="list-style-type: none"> Complete Gaming Policy Consultation Have draft Bill approved by Cabinet and put on the schedule of the House of Assembly Increase staffing at the Gaming Inspectorate

		<p>within gaming establishments and require that key personnel responsible for these risk areas be assessed by the Gaming Inspectorate.</p> <ul style="list-style-type: none"> • The Gaming Inspectorate should possess the ability to disclose information to overseas regulators and to share information with domestic regulators. • TCI Authorities should appoint an oversight body for each of the category of DNFBPs (same oversight body might also supervise more than one category of DNFBP) in order to determine effective compliance by regulated entities with applicable AML/CFT laws and regulations. • Continuing on the effective compliance with laws and regulations, the oversight bodies have the responsibility to enforce sanctions where situations of non-compliance with AML/CFT laws are observed. In this regard, reference is made to section 3 where recommendations have been made relative to the AML/CFT non-compliance sanctioning/enforcement regime in place. 	<p>the AML/CFT supervisory regime for casinos be done. In this regard, the Gaming Inspector and the Permanent Secretary, Finance attended the September 2011 meeting of the MLRA and both were briefed on the recommended improvements and provided with copies of the relevant documents and information.</p> <p>A follow up meeting with a representative for the Permanent Secretary, Finance was held on 23 July 2012 and he reported that they had begun the work of reviewing the gaming supervisory regime. It was recognised that there is a need for updated legislation and greater staff training. A commitment was received from the Gaming Board of The Bahamas to provide technical assistance and also from Gaming Laboratories International to provide auditing assistance. It was also recognised that the finances to undertake the much needed restructuring of the Gaming Inspectorate was not available at that time.</p> <p>As noted above, the necessary reforms needed in respect of the Gaming Inspectorate will form part of the Government's Legislative Agenda and a moratorium on the issuance of new licences in this area was instituted from 2013-2014.</p> <p>A consultant was appointed to review the gaming inspectorate and started work in October 2013 by visiting the country and doing preliminary work. The Consultant returned in February 2014 and met with the Attorney General on February 20. Consultation took place and simultaneously a draft report was prepared. The report was expected to include suggested legislative changes and a model legislation that may be best suited to the country. Once the report was finalised an Action Plan was to be devised by the Ministry of Finance for reform in the Gaming Industry, changes to the Gaming legislation and the structure of regulation of the Gaming Industry.</p> <p>A report on the findings of the consultant was finalized in April 2014. The MLRA received a presentation on it at its meeting on May 22, 2014. The report contained a number of recommendations for legislation to over-haul the industry and the structure of the body which will regulate the industry and also make it more compliant with AML/CFT standards. At its meeting on July 23, 2014 Cabinet decided that included in the legislative agenda for the balance of 2014 will be a Gaming Bill.</p>	
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			<p>The proposed timelines for the new legislation is November/December 2015. The Policy has been approved in principle by Cabinet and public consultations on the Policy Document commenced in August and will end at the end of October.</p> <p>Whilst there has not been an increase in new personnel, the vacant position for Director is has been advertised and the interview process will start shortly.</p> <p>Funding for new resources has been allocated in the FY 2014/2015 budget and the department has commenced the necessary steps in acquiring the goods.</p> <p>AML training has been done.</p>	
25. Guidelines & Feedback	NC	<ul style="list-style-type: none"> The FCU should provide more feedback to regulated entities in order to increase their capacity to detect and deter ML and TC practices. TCI Authorities should consider contacting and working together with the relevant DNFBP's that have recently been included in the AMLR towards the implementation of a framework for compliance with the established AML/CFT rules and regulations, including the reporting of STRs. Guidelines should be issued, trainings should be provided and assistance should be given to the relevant DNFBPs to establish compliance with the new applicable AML/CFT requirements. The FSC should consider issuing trend and typologies relative to ML/FT schemes in order to increase awareness amongst industry practitioners and thereby increase their ability to effectively identify ML/FT activities. The FSC should provide for more guidance in the combating of the 	<p>Typologies and risk trends are published on a regular basis in the local press – copies of which were supplied to evaluation team. The FCU/FIA has been involved in a number of the FSC's AML and compliance training workshops/ seminars to the financial industry and on those occasions provided feedback to regulated entities on trends and specifically on the level of SAR reporting. The most recent occasion was at the FSC's AML Seminar which was held on September 2015. Feedback is provided to reporting entities on an ongoing basis.</p> <p>The industry is small and in practical terms the head of the FIA liaises directly with compliance officers.</p> <p>Typologies and risk issues are also published on the FIA website.</p> <p>The FIA has completed its annual reports for 2011-2014 which include statistics, trends and typologies relating to AML/CFT. These reports were published on the websites of the FCU/FIA and the FSC.</p> <p>The FIA agreed to provide quarterly reports on trends and typologies to the MLRA. The latest report is found on its website.</p> <p>Statistics were published by the MLRA and FIA in MLRA Annual Reports to the Governor for 2009 and 2010 since 2009 in compliance with the POCO.</p> <p>MLRA with the assistance of FIA has ensured that adequate feedback has been given on STRs, typologies and trends.</p>	<p>The FSC has this under active consideration but requires clarification from the Secretariat on what exactly is needed given the existence of the other various guidelines.</p>

		<p>financing of terrorist. In this regard, the FSC should consider issuing lists/ information on terrorists and terrorist organization to regulated entities. The regulated entities will then be required to assess their client base against the relevant information.</p> <ul style="list-style-type: none"> • The FSC should make the appropriate adjustments in its structure, in order to increase productivity in the issuance of report of findings resulting from on-site examinations. • The FSC should provide follow up to deficiencies identified and keep statistics on the outcome of these follow up actions. • The FSC should establish instructions provided to regulated entities in general in writing in order to increase transparency of policy, enforceability and structural compliance with these instructions. • TCI Authorities (oversight bodies) should consider issuing sector specific guidelines that deal with the relevant issues pertaining to the specific sectors and disregard requirements that are not applicable considering the structure of the industry and/or the risks that the relevant industry activities impose. • TCI Authorities and specifically the regulatory body for the specific industries once appointed should issue specific guidelines that address the respective DNFBPs industries' challenges in the implementation of an AML/CFT compliant regime. 	<p>The FIA has full operational independence and is responsible for dealing with SAR's. The head of the FIA carries out all staff recruitment.</p> <p>Every SAR is responded to with a strategy within most cases 24 hours. Successful outcomes of investigations are also reported.</p> <p>The FIA is situated in a secure building with electronic security monitoring.</p> <p>The FIA Ordinance (No. 11 of 2014) was passed in the House of Assembly on June 12th 2014 and came into effect in October 2014.</p> <p>The FSC underwent an organizational review. The final report was approved by the FSC's Directors and the FSC commenced implementation of the report on a phase basis. Over the course of 2011 to 2013, the staff complement in mid to senior level positions has increased by over 10 persons. In June 2014 the FSC formed a bespoke compliance unit with specific responsibility for AML/PTF compliance. Resources have been increased and since August 2015 the unit has four compliance officers reporting to the Head of Compliance. This has increased the level of productivity in the issuance of reports of findings from onsite examinations and enabled it to put in place a system for following up on identified deficiencies.</p> <p>The Governor attended a 'National Promotion Plan' workshop organised by the Financial Services Commission on Tuesday 8 May 2012. The event drew together representatives from the financial services industry, government officials, and an international expert from the British Virgin Islands to discuss ways of working together to better promote the TCI financial services sector and to provide opportunities for growth. The workshop concluded with the formation of a joint industry-government co-ordinating committee for promotion of the financial services sector that will meet on a regular basis. The main aim of the committee will be to effectively represent the sector as it seeks to develop its product base and attract new clients to the Turks and Caicos Islands. The representation of both government and the private sector on the committee offers the opportunity to draw together policy ideas and identify and overcome barriers to progress.</p>	
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			<p>The FSC has improved its onsite procedures to provide follow-up on deficiencies and continued monitoring.</p> <p>A new Part VIII has been added to POCO which provides for supervision and enforcement. The following new sections are relevant:</p> <p>Section 148F(2) provides for the appointment of a NRFB Supervisor (i.e. Supervisor for non-regulated financial businesses). This will be the new DNFBP Supervisor.</p> <p>Section 148F(3) sets out the responsibilities of the supervisory authority (i.e. monitoring compliance and taking enforcement action).</p> <p>Section 148H provides for the registration of non-regulated financial businesses.</p> <p>Section 148I enables the NRFB Supervisor to undertake compliance visits.</p> <p>Sections 148J to 148P set out the various types of enforcement action that can be taken by the NRFB Supervisor against non-regulated financial businesses. This includes disciplinary action, which is the imposition of an administrative penalty.</p> <p>Section 148 Q provides the NRFB Supervisor with the power to require information and the production of documents.</p> <p>The new sections 148F to 148Q therefore establishes a strong enforcement regime with respect DNFBPs.</p> <p>The FSC reviewed its supervisory capacity to ensure that it secures the necessary resources to effectively implement a DNFBP regulatory regime. Training was conducted with various stakeholders in this sector in 2013 to assist in establishing compliance with the new framework. The FSC updated its website to provide links to lists and information on terrorist which is published periodically by the UNSC and other reputable body. A notice advising all financial institutions of the publication and the requirement to assess their client base against the list, was circulated in tandem with the availability of the information on the FSC's website.</p>	
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Institutional and other measures				
26. The FIU	PC	<ul style="list-style-type: none"> The Head of the FCU should be afforded more operational independence particularly with regard to matters such as staff recruitment and budget management. The FCU should provide guidance to relevant parties on the revised procedures for reporting STRs. The FCU should provide feedback to reporting parties in a formalised and timely manner. The FCU should produce and periodically release its own monthly reports which should contain statistics on STRs, trends and typologies within the sector and an update on its activities. The security of the building which houses the FCU should be addressed as a matter of urgency. 	<p>The FIA Ordinance (No. 11 of 2014) was passed in the House of Assembly on June 12th 2014 and came into effect October 2014.</p> <p>The FIA has now full operational independence.</p> <p>The matter of the FIA's operational independence, autonomy and budget allocation has been addressed in the FIA Ordinance which was came into force October 2014.</p> <p>The FIA has issued and updated guidance and forms in relation to both Suspicious Transaction Reports and Terrorist Property Reporting. These forms and guidance may be found on the FIA's web page at http://www.tcipolice.tc/index.php/financial-intelligence-unit</p> <p>Typologies and risk trends are published on a regular basis in the local press. The FIA's website also has a link to trends and typologies.</p> <p>Every SAR is responded to with a strategy within most cases 24 hours. Successful outcomes of investigations are also reported.</p> <p>Statistics were published by the FIA in the annual reports for</p>	None

			<p>2011-2104.</p> <p>The FIU is situated in a secure building with electronic security monitoring.</p> <p>The MLRA at its meeting in January 2011 directed the FCU to produce and periodically release its own monthly reports which should contain statistics on STRs, trends and typologies within the sector and an update on its activities.</p>	
27. Law enforcement authorities	C			
28. Powers of competent authorities	C			
29. Supervisors	PC	<ul style="list-style-type: none"> The Registrar Head of Insurance and the Registrar of Co-operative Societies should have adequate powers of enforcement and sanction against financial institutions and their directors or senior management for failure to comply with AML/CFT requirement. 	<p>POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now empowers the DNFBP Supervisor to impose administrative sanctions on DNFBPs.</p> <p>The Financial Services (Financial Penalties) Regulations came into operation on October 29, 2010. The regulations inter alia, provide the FSC with the authority to impose financial sanctions independently.</p> <p>Regulation 3 of the AMLPFT Code defines the scope of that Code as follows –</p> <p>3. This Code applies, to the extent specified, to— <i>(a)</i> financial businesses within the meaning of the AML/CFT Regulations; and <i>(b)</i> directors and boards of financial businesses.</p> <p>The words “board” and “director” are defined in regulation 2 as follows –</p> <p>“board” means— <i>(a)</i> in relation to a corporate body, the board of directors, committee of management or other governing authority of the corporate body, by whatever name called or, if the corporate body only has one director, that director; <i>(b)</i> in relation to a partnership, the partners, or in the case of a limited partnership, the general partners; or <i>(c)</i> in relation to any other organisation or undertaking, the persons fulfilling functions equivalent to the functions of the</p>	

			<p>directors of a company;</p> <p>“director”, in relation to a legal entity, means a person appointed to direct the affairs of the legal entity and includes—</p> <p>(a) a person who is a member of the governing body of the legal entity; and</p> <p>(b) a person who, in relation to the legal entity, occupies the position of director, by whatever name called</p> <p>The POCO prescribes the supervisory authority for financial businesses as the FSC, for DNFBPs as the DNFBP Supervisor, which is also the FSC and finally for NPOs as the NPO Supervisor, which is also the FSC.</p> <p>The FSCO provides that the FSC is responsible for monitoring licensee’s compliance with, inter alia, the AMLPFT Regulations and the AMLPFT Code (see section 4(1)(d)). Similar provisions to those cited below are made in respect of DNFBPs and NPOs in the POCO.</p> <p>Section 31(1) of the FSCO requires a licensee to establish and maintain adequate systems and controls for ensuring its compliance with the requirements of and its obligations under –</p> <p>(a) this Ordinance and the Financial Services Ordinances;</p> <p>(b) the Code, or any guidance issued by the Commission, that applies to the licensee;</p> <p>(c) any directives issued by the Commission that apply to the licensee.</p> <p>Section 33(1)(a)(i) and (ii) empowers the FSC to take enforcement action against licensees who, inter alia, -</p> <p>(a) in the opinion of the Commission, the licensee—</p> <p>(i) has contravened or is in contravention of this Ordinance, a Financial Services Ordinance or the Code;</p> <p>(ii) has contravened or is in contravention of the Anti-Money Laundering Regulations or of such Ordinances or codes relating to money laundering or the financing of terrorism as may be prescribed for the purposes of section 4(1)(d);</p> <p>Section 33(2) of the FSCO provides that where the FSC is entitled to take enforcement action against a licensee, the FSC may exercise one or more of the following powers –</p>	
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			<p>(a) revoke or suspend the licensee's licence under section 34; (b) issue a directive under section 37; (c) appoint an examiner to conduct an investigation under section 35; (d) require the licensee to appoint a qualified person under section 36; (e) apply for a protection order under section 38; (f) where the licensee is a company, petition the Court for the winding up of the licensee under section 92 of the Companies Ordinance; (g) impose a financial penalty on the licensee in accordance with Part VII.</p> <p>Furthermore section 41 empowers the FSC to require the removal of a director or agent etc. who is not deemed to be fit and proper by the FSC.</p> <p>Part VII of the FSCO sets out the disciplinary actions which the FSC can take. Note in particular section 45(1)(b) and (4)(b).</p> <p>Finally, section 57 of the FSCO provides for liability for directors etc. for offences under the FSCO –</p> <p>57. (1) Where an offence under this Ordinance is committed by a body corporate, a director or officer who authorized, permitted or acquiesced in the commission of the offence also commits an offence and is liable on summary conviction to the same financial fine as an individual would be liable for. (2) Where an offence under this Ordinance is committed by a body corporate and its affairs are managed by its members, subsection (1) applies to a member of that body corporate as if he was a director of the body corporate.</p> <p>Note that the Financial Services (Financial Penalties) Regulations made under sections 45 and 55 of the FSCO set out the ranges of penalties for the various contraventions. Note in particular regulations 2(2) and 3(2) and Schedule 1.</p> <p>Note also that the Financial Services Commission (Prescribed Instruments) Regulations made under section 55 of the FSCO prescribe the AMLPFT Regulations and AMLPFT Code issued under section 118(1) of the POCO for the purposes of section 4(1)(d) of the FSCO. Note in particular regulation 3. The implication being that licensees are required to comply with them for the purposes of the FSCO.</p>	
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30. Resources, integrity and training	NC	<p>AML/CFT related training is lacking at the Gaming Inspectorate</p> <p>Funding for the Gaming Inspectorate is dependent upon government funds (Ministry of Finance)</p> <p>The FSC is not properly structured. The current structure imposes a risk for conflict of interest.</p> <p>Insufficient staff at the FSC to execute additional tasks pursuant to legislative changes, reference is in this regard made to the enactment of the MTO.</p> <p>The FCU lacks full operational independence and autonomy as it is one (1) of six (6) Departments within the overall TCI Police Force and does not have its own budget allocation.</p> <p>AML/CFT training for staff of competent authorities with few exceptions have not been adequate. AML/CFT training has not been provided to the judges, magistracy and court personnel. Only recently have staff of most of the competent authorities been sufficiently trained in ML/FT matters.</p> <p>Law enforcement agencies operate with clear monetary and manpower constraints. The Immigration Department in particular suffers from severe staffing constraints exacerbated by onerous illegal immigrants' issues.</p>	<p>The Immigration Department increased its staff by 19 persons in the FY 2015/2016 and continues to advertise for new staff. With the additional of a coastal radar station in 2014, this has allowed for increased detection of unauthorized boats and ships in TCI waters.</p> <p>The role and functions of the Gaming Inspectorate has been discussed at various meetings of the MLRA starting from January 2011, at which time Gaming Inspectorate officials and the Permanent Secretary, Finance were in attendance.</p> <p>The Permanent Secretary, Finance agreed to place the required improvements to the Gaming Inspectorate on the agenda of the Ministry of Finance' work plan so that they can be prioritized in the Government's budget for the 2012/2013 financial year.</p> <p>In March 2013 the Government announced a one year moratorium on the issuance of new licences for gaming.</p> <p>The consultant appointed to review the gaming inspectorate started work in October 2013 by visiting the country and doing preliminary work. The Consultant returned in February 2014 and met with the Attorney General on February 20. The report was finalized in April 2014 and the MLRA received a presentation on it at its meeting on May 22, 2014. The report contained a number of recommendations for legislation to over-haul the industry and the structure of the body which will regulate the industry and also make it more compliant with AML/CFT standards. At its meeting on July 23, 2014 Cabinet decided that included in the legislative agenda would a Gaming Bill.</p> <p>The proposed timelines for the new legislation is November/December 2015. The Policy has been approved in principle by Cabinet and public consultations on the Policy Document commenced in August and will end at the end of October.</p> <p>Whilst there has not been an increase in new personnel, the vacant position for Director is has been advertised and the interview process will start shortly.</p> <p>Funding for new resources has been allocated in the FY 2014/2015 budget and the department has commenced the</p>	<ul style="list-style-type: none"> • Complete Gaming Policy Consultation • Have draft Bill approved by Cabinet and put on the schedule of the House of Assembly • Increase staffing at the Gaming Inspectorate

			<p>necessary steps in acquiring the goods. AML training has been done.</p> <p>As a result of a process of organizational review, the FSC reviewed existing posts, and created new posts. Over the course of 2011 to 2013, the staff compliment in mid to senior level positions has increased by over 10 persons. In June 2014 the FSC formed a bespoke compliance unit with specific responsibility for AML/PTF compliance. Resources have been increased and since August 2015 the unit has four compliance officers reporting to the Head of Compliance. This has increased the level of productivity in the issuance of reports of findings from onsite examinations and enabled it to put in place a system for following up on identified deficiencies.</p> <p>The head of the FIA has full operational independence when dealing with SAR's. The matter of the FIAs operational independence, autonomy and budget allocation has been addressed in the FIA Ordinance which was came into force October 2014.</p> <p>Judges and Magistrates underwent AML/CFT training during the latter part of 2009.</p> <p>The FCU/FIA was awarded 2nd place in the Best Money Laundering Case in the worldwide competition among policing agencies. The award was presented in Armenia in early 2012.</p> <p>Two-week training in financial intelligence and financial investigation Training in the United Kingdom hosted by the National Police Improvement Agency was done for members of the FCU/FIU along with Customs Officers and Fraud Unit Officers. .</p> <p>The FSC's Bank and Trust Department (which also has oversight for money transmitters) and the Head of Insurance and the officer responsible for domestic insurance have been relocated to Providenciales which ensures that there is adequate oversight and supervision of the relevant industries. The Head of the rebranded Company Management and Investments Department along with her staff have each obtained a Diploma in Compliance from the International Compliance Association. Additionally, new staff members have been engaged for these departments which have increased its capacity to enable it to properly supervise these</p>	
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			<p>areas. All four compliance officers are pursuing qualifications in either ACAMS or ICA.</p> <p>In addition the head of Compliance has obtained the “CAMS – Audit” qualification in September 2015 – this being the highest qualification offered by ACAMS.</p> <p>The Office of the Director of Public Prosecutions arranged for training on POCO and related legislation to be conducted by AML expert the attendees included the FCU, Prosecutors from the ODPP, counsel from the AGC and Integrity Commission officers. Regular training has been done since 2013.</p>	
31. National cooperation	PC	<ul style="list-style-type: none"> The MLRA should play a more active role in local cooperation and coordination and should aim to have a set minimum number of meetings each year, for example, once every quarter. The MLRA should develop and implement policies and activities to combat ML/FT on a regular basis. It is even more desirable for the MLRA to be able to monitor adherence to such policies and to be able to assess the effectiveness of operational systems which have been implemented further to the AML/CFT legislation. Since the Attorney General's Chambers has two distinct departments, the criminal and the civil side, it would be useful for the Principal Crown Counsel as Chief Prosecuting Counsel, to be a part of the MLRA or at the very least to attend some meetings when policy is being formulated or reviews undertaken. The members of the MLRA can agree to appoint persons to assist in the performance of its functions pursuant to section 108(5) of the POCO, and this therefore facilitates the attendance of other persons in the discretion of the MLRA. 	<p>The MLRA meets, at a minimum, once every quarter.</p> <p>The MLRA and FSC conducted an AML/CFT seminar for reporting entities and a number of DNFBPs in April 2013. Training has also been provided as part of the National Risk Assessment process and the TCI also hosted the 10th Compliance Conference which saw participation from representatives of the various regulated sectors.</p> <p>The MLRA has invited the Deputy Attorney General, having overall oversight of the various departments of the Attorney General's Chambers as well as the Deputy Director of Public Prosecutions, a Principal Crown Counsel, Civil as well as the Principal Legislative Drafter to attend meetings. This decision was affirmed at the meeting of the MLRA held in April 2012 and February 2013.</p> <p>The 2011 Constitution (in force on 15th October 2012) introduced the post of Director of Public Prosecutions with the independence to carry out prosecutions in the Islands. The criminal side of the Attorney General's Chambers has been established as the DPP's Office and a new DPP was appointed on 1st February 2013.</p> <p>The MLRA is developing and seeking to implement policies and activities to combat ML/FT on an ongoing basis.</p> <p>The national agencies routinely work together in AML/CFT matters. Also the importance of getting the regulated sectors involved in the production of policies and legislation that affects them is realized. Consultation is regularly done and involvement in the National Risk Assessment process has fostered better cooperation nationally among the competent authorities and the regulated entities.</p>	None (On-going)

32. Statistics	PC	<p>The TCI does not review the effectiveness of its systems for combating money laundering and terrorist financing on a regular basis.</p> <p>Comprehensive statistics are not maintained by all competent authorities</p> <p>No data had been provided regarding AML/CFT on-site examinations of financial institutions and, where appropriate, sanctions relative thereto.</p>	<p>The TCI has instituted a system for more comprehensive statistics. This has been reflected in the MLRA Annual Reports.</p> <p>Reports on enforcement actions are submitted on a monthly basis internally at the FSC. These are used to determine and shape areas where further guidance, training or legislative changes may be needed.</p> <p>The FIU publishes an annual report covering a wide range of statistics relating to AML/CFT SAR/STR reporting, international cooperation etc.</p> <p>Both the Attorney General's Chambers and the Office of the DPP has now created databases which provide for statistics on prosecutions and convictions, property frozen; seized and confiscated, legal assistance and international requests.</p>	<p>From 10th FUR:</p> <p>"it was still unclear that comprehensive statistics were being maintained by competent authorities or that there is a review of statistics to determine the effectiveness of the systems to combat ML and TF on a regular basis."</p>
33. Legal persons–beneficial owners	PC	<ul style="list-style-type: none"> The TCI Authorities should develop guidelines that financial institutions must follow in the event that issued bearer shares in a company for which they represent are held outside the TCI. The FSC should develop procedures to deal with instances where bearer shares are held by an institution outside the TCI and where the TCI licensed Company Manager or Company Agent is required to submit a certificate issued by an authority as prescribe in 32E of the Companies Ordinance. The FCU should ensure that all legal persons are made aware of the requirements of the POCO and the Code regarding the procedure for reporting suspicious transactions. 	<p>The FSC produced a paper on bearer shares including considerations on whether they should be prohibited or whether greater restrictions should be placed on them, which was reviewed by the MLRA circulated among the industry for comment. In March 2013 the Government reviewed the results of the consultation and decided to propose a bill to the House of Assembly to abolish bearer shares in the Islands.</p> <p>The Issuance and use of bearer shares have now been abolished within the TCI by virtue of the Abolition of Bearer Shares Ordinance 2013. This ordinance was enacted in December 2013 and came into operation on January 1, 2014. The transitional period to convert any remaining bearer shares into registered shares was six months from the date of coming into operation of the Ordinance.</p> <p>A number of companies that used bearer shares have converted those shares into registered shares. The FSC continues work on attaining full compliance by both ordinary and exempt companies. The Abolition of Bearer Shares Ordinance 2013 came into operation on 1st January 2014. Part IV "Transitional Provision" Section 13 (2) states that any bearer shares which have not been recalled and cancelled within the period of six months from the date of commencement of the Ordinance shall thereafter be null and void and be without effect for all purposes of law.</p> <p>All companies no longer have Bearer Shares, by virtue of the</p>	None

			<p>six month transition arrangement which expired on 1st July 2014.</p> <p>The FSC Compliance Unit has commenced onsite reviews of all Company Manager licensees. The thirty seven licensees will be examined at the rate of two per month meaning the programme will be completed over 18 months. The Compliance Unit has increased and is continuing to increase resource to meet its widening responsibilities. Legal arrangements and bearer shares are in scope for these examinations.</p> <p>The FCU/FIU conducted AML/CFT training for the staff of the International Banking Group on 19th April 2012. The FSC will be conducting a Compliance Workshop on October 24, 2012. The FSC also conducted a Compliance Workshop on October 24, 2012 and another AML Seminar on April 25, 2013. The procedure for STR/SAR reporting is continuously reinforced as part of the FIAs ongoing outreach and awareness seminars. The FIA has in 2015 updated its STR and SAR forms in relation to both Suspicious Transaction Reports and Terrorist Property Reporting and provided guidance in relation to it, including beneficial ownership.</p> <p>The FIA continually partners with the FSC and other stakeholders in facilitating the various AML/CFT seminars and workshops. Training has been provided as part of the National Risk Assessment process and the TCI also hosted the 10th Compliance Conference which saw participation from representatives of the various regulated sectors.</p> <p>The FIA often times with the assistance of the FSC has engaged in other efforts to bring awareness to AML/CFT issues including advertisement in newspapers; appearing on talk shows and engaging with sector specific firms such as attorneys and money transmitters.</p>	
34. Legal arrangements – beneficial owners	PC	<ul style="list-style-type: none"> The FCU should ensure that all persons associated with Legal Arrangements are made aware of the requirements of POCO and the MLRA Codes regarding the reporting of suspicious transactions. The FCU should review its training programme to include AML/ CFT 	<p>Training was arranged in London UK in September 2009 and again in February 2010 for the Judiciary, Prosecutors and key law enforcement officials.</p> <p>The FIU/FIA was directed by the MLRA to ensure that all persons associated with Legal Arrangements were made aware of the requirements of the POCO and the MLRA Codes regarding the reporting of suspicious transactions.</p>	None (On-going)

		training on matters relative to Legal Arrangements.	<p>The FIU reviewed its training programme to include AML/CFT training on matters relative to Legal Arrangements.</p> <p>The FIU/FIA continually partners with the FSC and other stakeholders in facilitating the various AML/CFT seminars and workshops. Training has been provided as part of the National Risk Assessment process and the TCI also hosted the 10th Compliance Conference which saw participation from representatives of the various regulated sectors.</p> <p>The procedure for STR/SAR reporting is continuously reinforced as part of the FIAs ongoing outreach and awareness seminars. The FIA has in 2015 updated its STR and SAR forms in relation to both Suspicious Transaction Reports and Terrorist Property Reporting and provided guidance in relation to it, including beneficial ownership. This guidance was issued after consultation.</p>	
International Cooperation				
35. Conventions	PC	<ul style="list-style-type: none"> TCI should recommend or propose ratification of the Palermo Convention and the Financing of Terrorism Convention on its behalf to the UK Government; particularly as the TCI has enabling legislation under these Conventions already in place and the UK Government has already ratified the said Conventions on its own behalf. 	<p>The AG has been following-up on its request to the UK FCO for the extension of the Palermo Convention and the Convention for the Suppression of the Financing of Terrorism on behalf of the TCI. In July 2013 the FCO advised that a questionnaire relating on how compliant the country was with the requirements of the convention needed to be submitted. The questionnaire completed and sent to the FCO. TCIG is now waiting to revert to us.</p> <p>The UK FCO advised that the conventions could not be ratified until the country had enacted local legislation to give effect to them. With the enactment of the Prevention of Terrorism Ordinance (No. 9 of 2014) in May 2014 the process to get the Conventions extended to the TCI was engaged once again.</p> <p>The Palermo Convention was extended to TCI in August 2015. Here is the link to the Depository Notification https://treaties.un.org/doc/Publication/CN/2015/CN.446.2015-Eng.pdf</p> <p>The Prevention of Terrorism Ordinance does accommodate and refer in Schedule 1 to the 1999 United Nations Convention for the Suppression of the Financing</p>	<ul style="list-style-type: none"> Have the Convention for the Suppression of the Financing of Terrorism extended to the TCI

			<p>of Terrorism. This convention has not yet been extended to the TCI. We are advised that the UK Home Office has not yet completed their review. The TCI awaits completion of the internal UK procedures</p> <p>Additionally, please note that work is being done on an Anti-Bribery Bill, which is before Cabinet for consideration. The new provisions relating to bribery which will include an offence imposed on commercial organisations who fail to put measures to prevent bribery within their organisations; and the application of extra territorial jurisdiction to prosecute bribery committed abroad by persons ordinarily residents in the TCI or TC Islanders and TCI corporate bodies (this will be the equivalent of what the UK has imposed on its residents, nationals and corporate bodies). It will also supplement the Integrity Commission Ordinance, Public Service Ordinance and Political Activities Ordinance and strengthen the TCI's compliance to Articles 8 and 9 of the UNTOC which provide for criminalisation of corruption (corruption by public officials and foreign public officials) and measures against corruption (measures to promote integrity and prevent, detect and punish corruption of public officials).</p>	
36. Mutual legal assistance (MLA)	PC	<ul style="list-style-type: none"> The TCI should consider rendering mutual legal assistance for requests which deal solely or for those portions of the request which deal partially, with tax or fiscal matters. 	<p>TCI has signed seventeen Tax Exchange Information Agreements to date and are in active negotiations with a number of other OECD countries to sign additional TIEAs. An implementation Ordinance was made and brought into force in December 2009.</p> <p>Since the TCI acceded to the OECD process in 2002 we have moved gradually to enacting appropriate legislation to give effect to the TIEAs entered into to date, mainly with OECD countries. The TCI has established an Exchange of Information Unit within the Ministry of Finance with dedicated staff working hard to ensure that the TCI meets all of its tax treaty obligations.</p> <p>Since accepting the European Union Directive on the Taxation of Savings Income and enacting legislation in 2005, the TCI formally transitioned from the withholding tax arrangement under the Directive to the automatic exchange of information arrangement in July 2012 and has issued guidance to the industry as late as February 2013.</p>	None

			<p>With the advent of the US Foreign Account Tax Compliance Act (commonly referred to as “FATCA”), the TCI undertook necessary consultations with all stakeholders in the jurisdiction with a view to bringing about cooperation on the subject with the US Government. And has decided to enter into a FATCA arrangement with the US as part of its negotiations to conclude a TIEA. At the end of August 2013, a TCI delegation led by the Attorney General with officials from the FSC and Exchange of Information Unit met with the US Treasury Department to continue discussions concluding a FATCA IGA and a TIEA with the US. They also attended a workshop on FATCA.</p> <p>In the same vein, the TCI has taken the decision recently to thereafter engage Her Majesty’s Government in the United Kingdom in negotiating and concluding an Inter-Governmental Agreement that emulates the US-type FATCA.</p> <p>The TCI continues to negotiate TIEAs with jurisdictions that are inclined to concluding such an arrangements and have a further eleven TIEAs in various stages of negotiations and has decided to explore a multilateral approach.</p> <p>The Convention on Mutual administrative Assistance in Tax Matter was extended to the TCI in August 2013. The Tax Information (Exchange and Mutual Administrative Assistance) Ordinance (“TIEO”) allows for exchange of information between the TCI and countries with whom it has a TIEA. By amendment in 2014, the TIEO also includes is a party to any arrangement or convention relating to exchange of information or mutual assistance in tax matters applicable to or entered into by the Turks and Caicos Islands. The 2014 amendments also allow for Automatic and Spontaneous exchange of information.</p> <p>The 2014 amendment to the FSCO also expands information sharing capabilities to spontaneous exchange of information.</p> <p>Guidelines on MLA in Criminal and Civil Matters have been drafted and disseminated to the various authorities for comments.</p>	
37. Dual criminality	C			
38. MLA on	PC	<ul style="list-style-type: none"> The TCI Authorities should establish administrative guidelines 	The TCI has provided mutual assistance in a number of matters. The FCU/FIU and the Attorney General’s Chambers	None

confiscation and freezing		<p>to accompany legislated provisions which permit the rendering of international assistance by the TCI, so as to ensure that international assistance is given in a prompt and efficient manner. Time frames relative to each procedural step, and other administrative details with respect to the execution of international requests, should be formalised in written guidelines or standard operating procedures. Effectiveness should not depend solely on the commitment and efficiency of the entity or persons responsible for executing a request but on formal systems which can monitor and support such efficiency.</p>	<p>working with the Government of Taiwan successfully seized the amount of \$187,000 from a Taiwanese national who was indicted in Taiwan for bribery and illegal arms dealing and transferred funds through the Bahamas into the Islands. This matter arose as a result of a SAR.</p> <p>Additionally, a confiscation order against David Smith, a Jamaican national convicted in relation to a regional 'ponzi scheme' run through his company Olint TCI and other regional companies. This was due to a joint effort between the FCU/FIU and the Attorney General's Chambers.</p> <p>The Proceeds of Crime (Amendment) Ordinance 2010 provides for the recovery of instrumentalities intended for use in or in connection with unlawful conduct through civil forfeiture. It includes sections on freezing orders.</p> <p>In particular, The Proceeds of Crime Ordinance now contains as an additional objective of the civil forfeiture regime, the recovery of property which is, or represents "property that has been used in, or in connection with, or is intended to be used in, or in connection with, unlawful conduct". A definition of tainted property is also included. There are a number of provisions that give effect to the recovery of tainted property.</p> <p>Section 143 and 144 of POCO deals with international cooperation and allows for external requests and orders, which include the Attorney General making an application for a restraint order on behalf of an overseas authority. Since 2013, the Attorney General's Chambers has successfully made on behalf of authorities from the United States of America.</p> <p>In January 2014 the United States offered to share forfeited funds. The assets in question represented a portion of securities fraud proceeds forfeited following the recovery of the proceeds from accounts in the Turks and Caicos Islands. At the FBI's request, the Turks and Caicos Islands authorities restrained the accounts which eventually resulted in the voluntarily repatriation of the monies to the United States for forfeiture.</p> <p>This marked the first time that the United States shared forfeited assets with the Turks and Caicos Islands. The funds as part forfeited proceeds of crime was placed in the national forfeiture fund.</p>	
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39. Extradition	C	<ul style="list-style-type: none"> The TCI authorities should seek to have extradition requests transmitted directly from the UK Government to the TCI so as to ensure prompt and early attention to such requests. 	Extradition requests are submitted to the UK by treaty partners and then sent to the Governor. This procedure complies with the legal requirements of the treaties and does not cause a delay in attending to such requests.	
40. Other forms of co-operation	PC	<ul style="list-style-type: none"> The TCI Authorities should stipulate specific standard operating procedures inclusive of targeted time frames with regard to the execution of requests for assistance received by foreign competent authorities. The FSC should consider entering into MOUs with other foreign supervisory authority to ensure that the exchange of information to combat ML/FT can effectively be executed with other foreign jurisdictions. 	<p>The FSC Ordinance 2007 adequately allows for the exchange of information with foreign regulators. In 2009 the FSC dealt with four requests. These were handled expeditiously and no problems were encountered. The FSC has negotiated MOU's with a number of foreign supervisory authorities including Canada, Panama, the Cayman Islands, Jamaica and a multinational MOU with several regional jurisdictions. The MOUs are posted on the FSC's website.</p> <p>The 2009 Tax Information Exchange Ordinance (as amended) also provides a regime for the exchange of information between competent authorities for tax matters.</p> <p>An Exchange of Information (EOI) Unit was created within the Ministry of Finance which includes the Competent Authority's delegate and which performs the administrative functions relations to exchange of information for tax purposes pursuant to the TIEO and the EU Saving Directive. The EOI Unit has already entered into an MOU with the Attorney General's Chambers and hopes to complete MOU's with the FIU and the FSC shortly.</p> <p>TCI FSC prepared a Handbook setting out guidelines, which stipulate standard operating procedures for the processing of requests for assistance received by foreign competent authorities. The Handbook has been available on the FSC's</p>	None

			website since the end of June 2013.	
9 Special Recommendations				
SR.I Implement UN instruments	PC	<ul style="list-style-type: none"> All the provisions of the United Security Council Resolutions should be fully implemented, for example, authorising access to frozen funds for the purpose of meeting the defendant's basic expenses and certain fees in accordance with UNSCR 1452. 	<p>The MLRA has already agreed to request the extension of relevant sections of the UK Terrorist Financing Act and that was done by The Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order 2011. Under the Order access to frozen funds and assets may be done by the issue of a license issued by the Governor under section 17.</p> <p>Standalone legislation on CFT has been produced. Provisions in line with the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism are included.</p> <p>The Prevention of Terrorism Ordinance covers all the concerns of the Special Recommendations. I to V.</p> <ul style="list-style-type: none"> Part 2 of the Ordinance deals with offences relating to membership in or support of a proscribed organization (listed in Schedule 1) which is concerned with terrorism. Part 3 of the Ordinance makes it an offence to use or possess property or engage in fundraising for the purposes of terrorism and to money launder terrorist property. It also provides a procedure for forfeiture of terrorist property (Schedule 3) which includes the making of restraint orders and enforcement of order made in the United Kingdom and its Overseas Territories and external orders made in other countries Part 4 is concerned with investigating terrorism and includes powers to search premises, cordon an area, the ability to obtain orders production of materials, orders for explanations to be given, and orders to/against a financial institution to provide customer information or for an account monitoring. It also provides that non-disclosure of information relating to terrorism, tipping off and interference with material would be offences. Part 5 of the Ordinance deals with the power to search, arrest, detain and stop and search. It also provides for the exercise of these powers at ports (Schedule 7). The treatment of persons detained is in 	Continue to press the UK to have convention extended.

			<p>Schedule 8 which covers, places of detention, the right to legal advice, identification, fingerprinting and the taking of intimate samples. It also provides a procedure for the review of the detention</p> <ul style="list-style-type: none"> Part 6 of the Ordinance covers further terrorist offences such as weapons training, directing terrorism, possession for terrorist purposes, and collection of information and inciting terrorism overseas. <p>With the enactment of the Prevention of Terrorism Ordinance (No. 9 of 2014) in May 2014 the process to get the Conventions extended to the TCI has been engaged once again. The TCI awaits completion of the internal UK procedures.</p>	
SR.II Criminalize terrorist financing	PC	<p>I. The TCI Authorities should review the penalty for terrorism and terrorist financing offences at the summary level to determine whether it accords the spirit and intent of the anti-terrorism legislation and indeed if these sanctions are in fact effective punishment and hence sufficiently dissuasive.</p> <ul style="list-style-type: none"> Directing terrorism as an offence should be defined in the laws of the Turks and Caicos Islands. The TCI Authorities should consider amending the mens rea requirement for the offences in the Terrorism UN Order and the Al Qa'ida Order so that they are consistent with the description set out in the Anti-Terrorism Order. 	<p>The Counter-Terrorism (Terrorist Financing, Money Laundering and Certain Other Activities: Financial Restrictions) (Turks and Caicos Islands) Order 2010 came into force on March 18, 2010 and it includes provisions on CDD, reporting, enforcement, inspection, and offences.</p> <p>Provisions in line with the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism are included in Part III of the Prevention of Terrorism Ordinance as mentioned above:</p> <ul style="list-style-type: none"> Part 3 of the Ordinance makes it an offence to use or possess property or engage in fundraising for the purposes of terrorism and to money launder terrorist property. It also provides a procedure for forfeiture of terrorist property (Schedule 3) which includes the making of restraint orders and enforcement of order made in the United Kingdom and its Overseas Territories and external orders made in other countries. The procedure also includes variation and discharge of such orders. 	None
SR.III Freeze and confiscate terrorist assets	LC	<ul style="list-style-type: none"> The TCI should establish administrative systems, which complement the CFT legislative framework, such as standard operating procedures which outline time frames for certain processes to 	<p>The Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order 2011 which came into force on March 31, 2011 and extended Part 1 of the UK Terrorist Asset-Freezing etc. Act 2010 and Part 1 of Schedule 2 to that Act to the Turks and Caicos Islands. Under sections 2 and 6 of the Act as modified by the Order the Governor is responsible for designating persons connected to terrorist activities and</p>	None

		<p>take place.</p> <ul style="list-style-type: none"> • Clear administrative guidelines as to who has responsibility for the lists of suspected or named terrorist and whether such lists are in fact circulated in the TCI in order to alert financial institutions of suspected terrorist whose accounts they may be holding, should be implemented. • The TCI should also provide for authorizing access to frozen funds and assets for the payment of incidental expenses when a freezing order is made and a person inadvertently affected by a freezing order should have a clear process of redress. 	<p>provides a regime for notification of designations under sections 4 and 7. The duration of designations is provided for under sections 4 and 8 and designations may be varied or revoked under section 5 and 9. Sections 11-15 dealing with freezing of funds and economic resources; making funds or financial services, or economic resources available to designated persons or for benefit of designated persons, provide for the freezing of assets by FIs without delay. Access to frozen funds and assets may be done by the issue of a license issued by the Governor under section 17. Section 27 provides a procedure whereby any person affected by a decision pursuant to the Act (other than a designation) may seek redress. Similar provisions are also included in Orders in Council made in 2012-2015 which have been extended to the TCI relating to Afghanistan, Al-Qaida, Iran, Syria, Sudan, South Sudan, Libya, Somalia, Burma, the Ivory Coast, Guinea-Bissau, Democratic People's Republic of Korea, Zimbabwe, Sudan, South Sudan, Ukraine, Russia, Crimea and Sevastopol, Yemen and the Democratic Republic of the Congo.</p> <p>The Financial Intelligence Agency section 6 also empowers the FIA give notices to any relevant financial institution in the Islands, requiring it to freeze or not to make available any funds to any person specified in the notice.</p> <p>The TCI Authorities will keep this matter under review but are of the view that the POCO amply covers the freezing of funds for any criminal conduct. The Proceeds of Crime (Amendment) Ordinance 2010 amends Part III of POCO to provide for the recovery of instrumentalities intended for use in or in connection with unlawful conduct through civil forfeiture. It includes sections on freezing orders.</p> <p>Standalone legislation on CFT has been produced in the form of the Prevention of Terrorism Ordinance. Provisions in line with the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism are included. The Prevention of Terrorism Ordinance in Part II makes provisions relating to involvement in proscribed organizations, including membership in and support of proscribed organizations. As mentioned above the Part 3 of the Prevention Terrorism Ordinance also provides a procedure for forfeiture of terrorist property (Schedule 2) which includes the making of restraint orders and enforcement of order made in the United Kingdom and its</p>	
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			Overseas Territories and external orders made in other countries.	
SR.IV Suspicious transaction reporting	PC	<ul style="list-style-type: none"> The reporting of STRs with regard to terrorism and the financing of terrorism should include suspicion of terrorist organisations or those who finance terrorism. The obligation to make a STR related to terrorism should include attempted transactions. 	<p>These matters are for ongoing consideration of the MLRA. However, the MLRA has already agreed to request the extension of relevant sections of the UK Terrorist Financing Act.</p> <p>Counter-Terrorism (Terrorist Financing, Money Laundering and Certain Other Activities: Financial Restrictions) (Turks and Caicos Islands) Order 2010 came into force on March 18, 2010 and it includes provisions on reporting.</p> <p>Section 29 of the Code provides for the reporting of STR's where there are reasonable grounds for suspecting that a person is engaged or attempted to engage in terrorist financing.</p> <p>The proposed new comprehensive anti-terrorism legislation is hoped to be in place by the end of the year, that should bring the TCI into full compliance with SR IV including provisions to require the reporting of STRs with regard to terrorism and the financing of terrorism and suspicion of terrorist organisations or those who finance terrorism and to include an obligation to make a STR related to terrorism cover attempted transactions.</p> <p>A first draft of the Terrorism Bill 2013 was circulated to members of the MLRA and the Judiciary in August 2013 for consideration. It is hoped that this Bill will be considered by Cabinet in October and the House of Assembly in November 2013.</p> <p>As mentioned above the Terrorism Bill includes provisions relating to making STRs in relation terrorist financing. It is anticipated that the Bill be approved in the House of by the end of April 2014.</p> <p>The Prevention of Terrorism Ordinance (No. 9 of 2014) was passed in the House of Assembly on May 22nd 2014 and is came into effect October 2014.</p> <p>Amendments are being prepared to insert a provision in the Prevention of Terrorism Ordinance relating the reporting of suspicion of involvement in a Terrorist Organization.</p>	
SR.V International cooperation	LC		The Prevention of Terrorism Ordinance in section 20 allows for disclosure of information relation to a terrorist offence for the purposes of the investigation of crime outside the Islands or of criminal proceedings outside the Islands to an authority	None

			<p>outside the Islands which is a foreign regulatory authority. It also provides a procedure for forfeiture of terrorist property (Schedule 2) which includes the making of restraint orders and enforcement of orders made in the United Kingdom and its Overseas Territories and external orders made in other countries.</p> <p>Guidelines on MLA in Criminal and Civil Matters have been drafted and disseminated to the various authorities for comments.</p>	
SR.VI AML requirements for money and value transfer services	PC	<ul style="list-style-type: none"> The FSC should establish contact with the money service providers' industry, to start the licensing process of the relevant companies. The FSC should assess the current level of compliance with AML/CFT rules and regulations by the money service provider and develop a plan to improve the current compliance level. The FSC should develop guidelines, issue instructions and provide for training to guide money service providers into the effective execution of their responsibilities under the recently enacted AML/CFT legislative framework. In order to execute the abovementioned, the FSC should appropriately resource a department within the Commission that is responsible for the effective execution of the MTO. 	<p>The licensing of money service providers has been completed. A supervisory regime including the issuance of guidelines (published on the FSC's website), reporting forms and standards and a programme of onsite inspection has also been instituted.</p> <p>A unit within the FSC's Banking Department has been created and is responsible for the effective implementation of money service providers under the legislative framework.</p> <p>POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now include a regulatory regime for DNFBPs and a DNFBP Supervisor.</p> <p>The FSC has provided training to guide MSP's into the effective execution of their responsibilities under the recently enacted AML/CFT legislative framework. This training was first conducted in September 2010.</p> <p>As mentioned above, the FSC has commenced a programme of onsite reviews of Money Transmitters and by the end of the 1st Quarter of financial year 2013 had completed a cycle of onsite inspections. A component of these examinations related to the licensees AML/CFT compliance. The Management Report produced by the FSC sets out recommendations to improve compliance levels and states timelines by which these must be achieved. The FSC has also introduced quarterly reporting as a part of its offsite supervisory programme. Deficiencies are monitored on a risk focused basis.</p>	None
SR.VII Wire transfer rules	NC	<ul style="list-style-type: none"> It is recommended that the TCI review its legislative and regulatory provisions to take consideration of all requirements of the recommendation particularly domestic, cross-border 	<p>POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now includes a regulatory regime for DNFBPs and a DNFBP Supervisor.</p> <p>Part 9 of the Anti-Money Laundering and Prevention of</p>	

		<p>and non-routine wire transfers. Additionally, TCI should review its legislative and regulatory framework to ensure that there is monitoring of compliance by financial institutions and the implementation of effective, proportionate and dissuasive sanctions for non-compliance with SR VII. Appropriate legislation should be enacted as soon as possible.</p>	<p>Terrorist Financing Code gives effect to SRVII concerning wire transfers.</p> <p>Section 118 (5) of POCO (2014 Revision) provides that a Code issued under POCO is subsidiary legislation and has full legislative effect. This position is confirmed in the guidance to section 3 of the Code. The Code is enforced by the FSC in accordance with section 33 of Financial Services Commission Ordinance which sets out a number of actions that can be taken by the FSC including the imposition of a financial penalty. The FSC takes enforcement action and issues administrative penalties against licensed entities in accordance with the Financial Services (Financial Penalties) Regulations made on October 29, 2010. Section 49 of the FSCO (2014 Revision) provides that any financial penalty issued constitutes a civil debt enforceable by court action.</p> <p>The FSC has since June 2015 commenced a process of reviewing whether licensees have adequate controls in place with regard to the wire transfer instructions (inward and outward). The Commission requested details of relevant procedures from the banking sector and this review of such procedures is underway.</p> <p>To date two of the three major retail bank have procedures to an acceptable level of detail. The third has just submitted their own procedures which is now under review.</p>	
SR.VIII Non-profit organizations	NC	<ul style="list-style-type: none"> • TCI should consider the review of their legislative framework to provide for laws and regulations that relate to counter arrest the possible abuse of NPOs for the financing of terrorism. • The TCI Authorities should ensure that regulatory bodies make their regulated entities vigilant of the risks for abuse of non-profit organizations for the purpose of financing terrorism. • NPOs in the TCI should be required to maintain information on the purpose and objectives of their stated activities and on the persons who own or control or direct those 	<p>A new section 148S has been added to POCO which provides for the appointment of an NPO Supervisor.</p> <p>The POCO was amended in January 2013 to give the Governor power to make regulations that would create a regulatory and supervisory regime for NPO's. Regulations creating the supervisory framework for NPO's were made in March, 2013. The Regulations includes sanctions against NPOs that do not comply with AML/CFT oversight measures. The regulations include requirements for NPO's to maintain information on the purpose and objectives of their stated activities as well as other essential information for a minimum of five years.</p> <p>The Companies (Amendment) Ordinance 2012 was enacted on October 10, 2012, which allows for the establishment of Non-Profit Companies.</p>	

		<p>activities and make such information available to the public.</p> <ul style="list-style-type: none"> • The TCI Authorities should ensure that there are sanctions in place against NPOs that do not comply with AML/CFT oversight measures. • NPOs should be required to maintain the relevant required information on domestic and international financial transactions for a minimum period of five (5) years and make such information available to the relevant law enforcement authorities such as the FCU. • The FCU should ensure that all NPOs are made aware of the revised procedures for reporting suspicious transactions. • The FCU should revise its training programme to include AML/ CFT training for NPOs. • A specific point of contact should be established with regard to international request for information on NPOs. 	<p>A Proceeds of Crime Amendment Ordinance has been drafted which will enable the establishment of a supervisory regime for Non-Profit Organisations. This along with the NPO Regulations have been approved by the Advisory Council (equivalent to Cabinet) on October 3, 2012 and is anticipation to be enacted in November 2012, after the new Ministerial Government takes office. The Regulations includes sanctions against NPOs that do not comply with AML/CFT oversight measures.</p> <p>An amendment to the Companies (Fees) Regulations was also made in March 2013 to insert new fees into the schedule in relation to Non-Profit companies.</p> <p>These four bits of legislation came into operation on April 1, 2013. The head of the DNFBP Department of the FSC will also function as the NPO Supervisor.</p> <p>Working with the FSC, the FCU is to ensure that all NPOs are made aware of the revised procedures for reporting suspicious transactions.</p> <p>All known NPO's are aware of their responsibilities.</p> <p>NPO registration has commenced and deadline the deadline for registration set by law is March 31, 2014. Additionally, NPO's which are companies are now making the election required by the amendment to the Companies Ordinance to indicate whether they will continue as a Non-Profit Company (NPC). Such companies are also making the chances to comply with the recent amendments relating to NPC's in order to comply with these new requirements. All new NPC's must meet the new requirements in order to be incorporated. Again, companies operated as non-profit associations before the amendment and which elect to continue as a NPC must elect and comply with the new requirements by March 31, 2014. Those associations which were incorporated as companies, which do not comply with the requirements and make the election by March 31, will be struck off the Register. The Registry is to work with Government to ensure that various Government Departments are aware of the changes and now request the general registration of all NPO's with the NPO Supervisor is also underway and the deadline for registration is also March 31, 2014. The NPO Supervisor has through the local media conducted various awareness rising actions. Banks and other financial institutions have also</p>	
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			<p>commenced requesting the registration certificate issued by the FSC as a part of its ongoing due diligence measures.</p> <p>As a result of further representations and consultations with NPOs on August 27, 2014, Cabinet has agreed to extend the period, by 3 months, for Non-Profit Organisations (NPOs) to register with the Financial Services Commission from 31 August to 30 November. The extension is being provided to enable consideration by Cabinet of submissions received from NPOs on the existing NPO legislation and the proposed amendments thereto.</p> <p>The FIA continually partners with the FSC and other stakeholders in facilitating the various AML/CFT seminars and workshops which now include representatives of NPOs. Additionally, training has been provided as part of the National Risk Assessment process.</p> <p>The Non-Profit Organisation (NPO) Regulations 2014 came into force in November 2014, with the exception of Part V which cited the enforcement action available to the NPO Supervisor. The FSC, Attorney General's Chambers and NPOs continue to meet and review this issue. A meeting is planned in November 2015 at which time it is expected that the outstanding issues will be resolved.</p> <p>The deadline for registration of existing NPOs was 20th February 2015. To date 125 applications to register have been received from existing NPOs.</p> <p><u>Non Profit Companies.</u> After consultation with the private sector throughout 2014 the Companies (Amendment) (No2) Ordinance 2014 was published in the Gazette on 27th November 2014 with commencement on the same date. Concerns of the private sector with regard to elements of the Companies (Amendment) Ordinance 2012 were addressed.</p>	
SR.IX Cash Couriers	NC	<ul style="list-style-type: none"> • The Immigration Department should seek to establish MOUs with Immigration Departments in other jurisdictions. • The TCI Authorities should notify other countries when there is an 	<p>The MLRA at its January 2011 meeting recommended that the Immigration Department should seek to establish MOUs with Immigration Departments in other jurisdictions and that the Customs Department should notify other countries when there is an unusual movement of gold, precious metals or precious stones from their jurisdictions. This is being kept under review by the MLRA.</p>	

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