CFATF

GAFIC

CARIBBEAN FINANCIAL
ACTION TASK FORCE

Seventh Follow-Up Report

Turks & Caicos Islands

November 2, 2012

TURKS & CAICOS ISLANDS: SEVENTH 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. The third round Mutual Evaluation Report 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 sixth follow-up report post May Plenary in Honduras using the 'round robin processes." It was determined that the Turks & Caicos Islands would be required to report at the October 2012 Plenary[1]. Based on the review of actions taken by the Turks & Caicos Islands since its last follow-up report to meet the outstanding recommendations made by the Examiners, a recommendation would be made as to whether the Turks & Caicos Islands would remain on expedited follow-up or be placed in regular 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 owners0	R. 25 (Guidelines and feedback)
R. 34 (Legal arrangements – beneficial owners)	R. 30 (Resources)

[1] Due to the late submission of TCI's matrix, the Sixth Follow-Up Report was not presented at the May Plenary. A brief report giving TCI's progress was presented instead. Plenary agreed however that the Sixth Follow-Up Report will be completed post Plenary and submitted for approval via the round robin process. Plenary also agreed that TCI would make a report at the November 2012 Plenary in the Virgin Islands.

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 organizations0
	SR. IX (Cash couriers0

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

		Banks	Other Credit Institutions[2]*	Securities	Insurance	TOTAL
Number of institutions	Total #	8	-	5	5,799	5812.00
Assets	US$	1,721,497	-	-	-	1,721,497
Deposits	Total: US$	1,024,952	-	-	-	1,024,952
	% Non-resident	33%	-	-	-	33.03%
International Links	% Foreign-owned:	87.5%	-	60%		76.92%
	#Subsidiaries abroad	-	-	-	-	-

II. Summary of progress made by the Turks & Caicos Islands

5. Since the sixth follow-up report, (FUR) the TCI Authorities have indicated that the Companies (Amendment) Ordinance was enacted on October 12, 2012 (deals with Non-Profit Organisations (NPOs)) and new comprehensive anti-terrorism legislation should be in place by the end of 2012. Amendments have also been drafted with regard to the Confidential Relationships Ordinance, the Proceeds of Crime Ordinance (POCO) and the FSC is in the process of completing drafting new Banking and Trust Ordinances. The Authorities have also decided that guidance notes will be issued pursuant to Section 111(2) of the POCO to deal with the reporting of suspicious transaction/activity reports. Future drafting will include guidelines on AML/CFT compliance as it pertains to the internal audit function (December 2012), and an FIU Bill.

Core Recommendations[3]

Recommendation 5

6. The deficiency with regard to E.C. 5.3 remains outstanding to the extent that there is no provision with regard to financial institutions conducting CDD on legal arrangements. With regard to the sensitization campaign to make financial institutions aware of the

[2] Savings and loans institutions, credit unions, financial cooperatives and any other depository and non-depository credit institutions are not regulated in the TCI and the TCI Authorities report that they are not aware of such institutions operating in the TCI.

[3] R. 1 and R.10 have been fully met and accordingly will not be discussed.

benefits of meeting AML/CFT requirements, the Authorities have noted that a compliance workshop took place October 24, 2012 As noted in the previous report, a recommendation was made by the FIU to the MLRA with regard to issuing guidance in accordance with Section 111(2) of the POCO.[4] The Authorities have indicated that at its July 23, 2012 meeting the MLRA agreed with this recommendation.

7. Based on the aforementioned the outstanding issue with regard to R. 5 pertains to financial institutions conducting CDD on legal arrangements.

Recommendation 13

8. The outstanding issue for this Recommendation pertained to providing the regulated sector with guidance on the filing of unusual transactions. The TCI Authorities have indicated that the MLRA has decided to issue guidance notes under section 111(2) of the POCO. This will further supplement the guidance information that is provides as part of the MLRA's Suspicious Transaction/Activity form. The Recommendation remains substantially met.

Special Recommendations II and IV

9. As noted in the previous follow-up report, the Authorities hope to have comprehensive anti terrorism legislation in place by December, 2012. This legislation is expected to bring the TCI into full compliance with SR II and SR. IV. Accordingly, the Examiners' recommendations for SR. II remain outstanding with regard to both Recommendations.

Key Recommendations[5]

Recommendation 23

10. Based on the previous report, the outstanding deficiency pertains to the inclusion of collective investment schemes 'Core Principles' in the FSC's supervisory framework. With regard to addressing this deficiency, the Authorities had previously noted that draft securities legislation had been prepared but there was substantial work left to be done in that regard. Currently, the Authorities have noted that the FSC is also in the process of completing new draft Banking and Trust Ordinances to compliment the securities legislation. As noted in the previous report, once this work has been completed the Bills will have to undergo a period of consultation with the Industry. R. 23 remains partially met.

Recommendation 26

11. With regard to the issue of the operational independence of the FCU, the Authorities have noted that the MLRA's sub-committee is considering the creation of a fully independent FIU/FCU under stand-alone legislation. As noted previously the Head of the FCU carries out all staff recruitment. Reports on the progress of this approach were made to the

[4] The MLRA has decided that the guidance will be along the lines of those issued by the Trinidad and Tobago FIU (Customer Due Diligence Guide No. 1 of 2011).

[5] R. 3, 4, SR. III and SR. IV will not be discussed because they are rated either C or LC. R 36 has been fully met and accordingly will also not be discussed.

MLRA at its December 2011 and April 2012 meetings. The issue with regard to the operational independence of the FCU/FIU is still outstanding. As an update, the Authorities have noted that the FCU's website has a link to trends and typologies. Additionally, they have noted that the FCU is now being housed in a building that offers better security. Compliance with R. 26 remains substantially met.

Recommendation 35

12. The situation remains unchanged from previous follow-up reports in that the Palermo and Financing of Terrorism Conventions have not been ratified by the United Kingdom on behalf of the Turks and Caicos Islands. Accordingly, the Examiners' recommendation has still not been met.

Recommendation 40

13. As noted in the Sixth follow-up report, the situation with regard to Recommendation 40 remains the same as it pertains to the stipulation of specific standard operating procedures for dealing with the execution of requests for assistance received by foreign competent authorities. This is the only outstanding recommendation.

Special Recommendation I

14. The MLRA had previously agreed to request the extension of relevant sections of the UK Terrorist Financing Act and the Authorities have noted that this was done by the Terrorist Asset Freezing Act 2010 (Overseas Territories) Order, 2011. This specific Order relates to the provision of access to frozen funds and assets through the issuance of a license which will be issued by the Governor under Section 17 and meets the requirement for access required in accordance with UNSCR 1452. However, it should be noted that the Examiners' recommendation remains outstanding since this measure was given by the Examiners' as an example of some of the outstanding issues and the full implementation of the UNSCRs is tied (as noted in the summary factor) to the non-ratification and implementation of the Terrorist Financing Convention. (See. Discussion above at R. 40). Accordingly, the Examiners' recommendation has only been partially met.

Other Recommendations[6]

Recommendation 8

15. As noted in the previous follow-up report, the only outstanding recommendation pertains to a 'should consider' issue and since there will be no consideration of this matter before March 2013 it remains outstanding until that time.

Recommendation 12

16. The Authorities have noted that with regard to the use of the Bar Association as a channel to train industry practitioners with regard to AML/CFT compliance, the Bar Council is planning to have training in this area before the end of 2012. Additionally, the

[6] Recommendations 6, 7, 9, 11, 18, 19 and 22, have been fully met. Accordingly, they are not discussed in this Report.

FSC has engaged with the Bar Council with regard to partnering in this training. The Examiners' recommendation has been met. Issues pertaining to the Gaming Inspectorate and the implementation of a mechanism to legally and physically separate the work of legal advisers when their duties relate to financial or real estate transactions. The Examiners' recommendations remain partially complied with.

Recommendation 15

17. The Authorities have noted that a first draft of guidelines on internal audit functions will now be prepared and published by the end of December 2012. There has been no further action taken with regard to the outstanding issues for R. 15 and so based on the status of previous follow-up reports, the Examiners' recommendations remain partially met.

Recommendation 16

18. As noted in the previous follow-up report, R. 16 still has two outstanding deficiencies that have not been addressed by the TCI Authorities. These pertain to the consideration of training of DNFBPs with regard to the filing of STRs and the issuance of guidelines and instructions on the drawing up and maintaining of internal frameworks for AML/CFT compliance. The Recommendation remains partially met.

Recommendation 17

19. Based on the information provided in the previous report, the FSC has shown effective implementation of enforcement actions. However, while this meets the Examiners' recommendation, implementation is ongoing and the Authorities should continue to provide statistics showing the enforcement action taken by the FSC.

Recommendation 20

20. The outstanding recommendation pertains to a 'should consider' recommendation for determining whether there are other non-financial businesses or professions that are at risk of being misused for ML or FT and in this specific regard, the Examiners suggested that TCI should specifically assess the risk of ML and FT in the construction industry. To the extent that other NBFIs are at risk for ML and FT, the MLRA has given consideration and thus that aspect of the Examiners' recommendation has been met. The specific requirement to assess the risk in the construction industry has not been met, but TCI continues to make continuous progress towards compliance. In that regard, the Authorities have reported that the sub-committee that has been tasked with determining the risk in the construction sector has reported back to the MLRA at its July 23, 2012 meeting and noted that they had made progress, but would report again at the MLRA's September 3, 2012 meeting. At that meeting, it was decided that the sub-committee would complete its work and produce a final report by March 31, 2013.

Recommendation 21

21. In the previous follow-up report, the TCI Authorities had indicated 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. The advisory was placed on

the FSC website in August 2012 (deadline date indicated in the previous report) and this recommendation has now been fully met. There has been no change with regard to the recommendation that there be the promotion of an effective implementation of a risk management regime by the FSC and the application of counter measures against countries that do not or insufficiently apply the FATF Recommendations. Accordingly, this recommendation remains partially met.

Recommendation 24

22. A follow-up meeting to the meeting noted in the previous report was held on July 23, 2012 with a representative for the Permanent Secretary, Finance. At that meeting, the representative reported that they had begun work on reviewing the gaming supervisory regime. The Authorities have recognized the need for updated legislation and greater staff training. They have also received a commitment from the Gaming Board of The Bahamas to provide technical assistance. Additionally, the Gaming Laboratories International has also given a commitment to provide auditing assistance. The Authorities also realized in the review that the finances that would be needed to restructure the Gaming Inspectorate were not available in this financial year. The Authorities have noted however that the Gaming Inspectorate and the Ministry of Finance are to work together to create an implementation plan. An update of this plan is expected in October 2012. R. 24 remains substantially not met.

Recommendation 25

23. The Authorities have indicated that the 'alerts' with regard to the use of attorneys as collection agencies (noted in the previous report) has been posted to the FCU/FIU website. There have been no other changes with regard to the other outstanding recommendations and so the Examiners' recommendations remains substantially not met for R. 25

Recommendation 29

24. There has been no change to the level of compliance with the Examiners' recommendation from the previous report and accordingly R. 29 remains not met.

Recommendation 30

25. The updated situation with regard to the Gaming Inspectorate has been noted above in the discussion of R. 24. There have been no other changes with regard to compliance with the Examiners' recommendations and they therefore remain substantially not met.

Recommendation 31

26. In the previous report, the Authorities had noted that in keeping with the Examiners' recommendation to expand the membership of the MLRA as it pertains to relevant officers of the Attorney General's Chambers, the MLRA had invited the Deputy Director of Public Prosecutions (designate) to attend its meeting. As an update, the Authorities have noted that the steps to appoint a DPP are underway and the intention is to have a DPP appointed by November 2012. In the interim, the Attorney General continues to perform the function of the DPP. The Authorities have also indicated that both the DPP designate and the Attorney General are currently attending MLRA meetings, with the AG

as Chair of these meetings. The AG will continue as Chair of the MLRA since his responsibilities will include policy considerations in this area. Based on discussions throughout the Report, it can be noted that the MLRA continues to be active with regard to policies and activities as they pertain to ML/FT. Since these have not taken a prescriptive format, it is believed that this recommendation will continue to be met on an ongoing basis. There continues to be overall substantial compliance with Rec. 31.

Recommendation 32

27. There has still been no change since the last report with regard to measures towards compliance with this Recommendation. The Examiners' noted deficiencies still remain only partially addressed.

Recommendation 33

28. The Examiners' recommendations still remain outstanding as they pertain to the development of guidelines and procedures for dealing with bearer shares. As noted in the previous report the FCU has met the Examiners' recommendation with regard to training, which is an ongoing process. In that regard, the Authorities have noted that the FSC conducted a compliance workshop on October 24, 2012.

Recommendations 34

29. As noted in the previous report, there continues to be no update with regard to compliance with this Recommendation. Accordingly, the Examiners' recommendations still have not been met.

Recommendation 38

30. As noted in the sixth follow-up report, the recommendation for the establishment of administrative guidelines for dealing with mutual legal assistance has still not been addressed and so remains outstanding.

Special Recommendation VI

31. There has been no substantial change with regard to compliance with SR. VI. The Authorities have indicated that the licensing of MVT providers is ongoing. The Examiners' recommendations remain partially complied with.

Special Recommendation VII

32. There has been no update with regard to measures taken to comply with SR. VII. The Examiners' recommendation remains partially outstanding.

Special Recommendation VIII

33. The TCI Authorities have enacted the Companies (Amendment) Ordinance, 2012. The Ordinance was enacted on October 10, 2012 and provides for Non-Profit Companies. Additionally, an amendment to the POCO has been drafted and is intended to provide for a supervisory regime for NPOs. The draft along with the NPO Regulations was approved

by the Advisory Council (Cabinet equivalent) on October 3, 2012 and it is anticipated that it will be enacted by November 2012 after the new Ministerial Government takes office. As noted in the previous report, the Regulations include sanctions against NPOs that fail to comply with AML/CFT oversight measures. As noted in the previous report, since there are no enacted measures to address the Examiners' recommendations the majority of their recommendations remain outstanding.

Special Recommendation IX

34. There still has been no change in the level of compliance with the Examiners' recommendations for SR.IX. Accordingly, there is still only partial compliance with the SR.IX recommendations.

III. Conclusion

35. The Turks and Caicos Islands continue to address the outstanding issues with regard to their AML/CFT compliance in the face of an enormous legislative and administrative agenda to deal with Constitutional issues. There has been no substantive change with regard to compliance with the Core Recommendations, R. 5 has been very substantially complied with, R. 13 remains substantially met, SR. II has not been met and SR.IV has been partially met. For the Key Recommendations, outstanding deficiencies remain with regard to Recs. 23, 26, 35, 40 and SR. I. With regard to the non-Core or Key Recommendations, there remain outstanding deficiencies with regard to Recs.8, 12, 15, 16, 17, 20, 21, 24, 25, 29, 30, 31, 32, 33, 34, 38, and SR.s VI, VII, VIII and IX.

36. Based on the aforementioned, TCI is again urged to deal with some of the longer outstanding issues especially as they pertain to implementation and it is recommended that they report back to the May 2013 Plenary.

Legal Systems				
1. ML offense	PC	The exact scope of what the POCO appeals, amends and saves is ambiguous. Schedule 1 of the POCO refers to offences which are not defined in the laws of the TCI, namely directing terrorism, people trafficking and arms trafficking. The FATF 20 Designated Categories of Offences are not fully reflected in the laws of the TCI. All the precursor chemicals under Article 3 (c)(ii) of the Vienna Convention are not covered by TCI law and there is no precursor chemical legislation. The effectiveness of TCI's legal framework is difficult to assess since there have no money laundering convictions since 2002. The defence to the ML offence at section 119(2) of the POCO provides a criminal with the opportunity to escape liability merely by showing that the property was obtained for adequate consideration.	• 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.	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. In essence the Control of Drugs Trafficking Ordinance and former Proceeds of Crime Ordinance are repealed. However, transitional provisions keep them in force in respect of matters falling under the former legislation. The offences of "drug trafficking offence" and "money laundering offence" have been defined in the amendments to section 2. 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. 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. An EU funded Law Reform Project underway in the TCI **was** tasked with this work. This work was later taken out of the Project deliverables due to other pressing legislative initiatives and new resources will need to be identified. A number of existing legislation was amended **as part of** the law review and reform exercise and some new laws drafted. These include: • **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.** **Discussions are underway as to the dates that these laws will be made.**
2. ML offense–mental element and corporate liability	LC	The penalties for money laundering upon summary conviction are lenient and therefore are not dissuasive sanctions. The efficacy of implementation of the anti-money laundering regime is uncertain, particularly in view of the very low incidence of ML prosecutions.	• 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	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.
3. Confiscation and provisional measures	LC	Forfeiture or confiscation of instrumentalities intended for use in or used in ML/FT offences are not clearly covered by the POCO.	• 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.	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 new sections on freezing orders. 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 tainted property is also included. There are a number of sections that amend various sections in PART III to give effect to the recovery of tainted property.
Preventive measures				
4. Secrecy laws consistent with the Recommendations	C	This Recommendation is fully observed.		

5. Customer due diligence	NC	There are no requirements in the POCO and AMLR which prohibit financial institutions from keeping anonymous accounts or accounts with fictitious names. No requirement for the conduct of CDD measures where the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. No requirement for financial institutions to conduct CDD on legal persons or legal arrangements. No requirement for financial institutions to verify that any person purporting to act on behalf of a customer who is a legal person is so authorized, and identify and verify the identity of that person. No requirement for financial institutions to verify the legal status of the legal person or legal arrangement. No requirement for financial institution perform enhanced due diligence for higher risk categories of customer, business relationship or transaction. No requirement for financial institutions to conduct ongoing due diligence on existing customers. No requirement for financial institutions to perform enhanced due diligence on high risk customers. No requirement for financial institutions to undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII. No requirement to terminate the business relationship if proper CDD cannot be conducted. No requirement for financial institutions to ensure that documents, data or information collected under the CDD process is kept up to date. Lack of guidance on matters such as PEPs, risk based approach and reduced CDD impacts on the effectiveness of the TCI's AML/CFT regime.	• 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	Section 111 of POCO has been amended and provides for the issuance by the Reporting Authority of Codes and Guidance. The new section 111(5) provides that a Code issued under section 111 is subsidiary legislation and has full legislative effect. 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. 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. 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. 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. 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. 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

		The scope of AML/CFT legislation in the TCI does not cover financial institutions that engage in mortgage lending. No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.	benefits and requirement to do relevant CDD.	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)) Regulation, now provides that customer due diligence measures include measures for determining who are the natural persons that ultimately own or control the customer where the customer is not an individual. 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. **A Compliance Workshop is scheduled to be held on October 24,** 2012. 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. **On the recommendation of the FIU the MLRA at its next meeting held on 23rd July 2012 agreed that it would be useful to issue guidance in accordance with section 111(2) of the Proceeds of Crime Ordinance along the lines of the guidance issued by the Trinidad and Tobago FIU in 2011 (Customer Due Diligence Guide No. 1 of 2011).**

6. Politically exposed persons	NC	No requirements concerning PEPs are applicable to regulated persons at present. No requirement for senior management approval of a relationship with a customer who is found to be a PEP. No requirement for senior management approval to continue a relationship with a customer who is subsequently found to be a PEP or who subsequently becomes a PEP. Little awareness of the requirements in relation to the performance of enhanced CDD measures on high risk customers who are PEPs. No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.	• 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.	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 The Financial Services Commission issued guidance in relation PEPs in August 2009. 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. AML/PTF Regulation 13(2)(d) also requires enhanced CDD for PEPs. **Campaign donations received by political parties and candidates are now required to be reported to the Integrity Commission, a watchdog body established under law. The Political Activities Ordinance 2012 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 audited accounts. Provisions also allow for the forfeiture of prohibited donations.**

7. Correspondent banking	NC	No requirement to determine the reputation of a respondent and the quality of supervision. No provision to obtain senior management approval before establishing new correspondent relationships. No provision to document respective AML/CFT responsibilities in correspondent relationships. No requirement for financial institutions with correspondent relationships involving "payable-through accounts" to be satisfied that the respondent financial institution has performed all normal CDD obligations on its customers that have access to the accounts. No requirement for the financial institution to be satisfied that the respondent institution can provide reliable customer identification data upon request. No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.	• TCI authorities should consider issuing more guidance to financial intuitions on matters relating to AML/CFT.	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. Regulation 16 provides for a fine of up to $100,000.00 if a bank acts in contravention to the regulation. 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.
8. New technologies & non face-to-face business	NC	No provision for financial institutions to have in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes.	• 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.	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 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 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 The FSC will consider whether there is a need to bring the business of mortgage lending under a licensing regime and to this end will conduct a market survey, review and analyse the result of this survey by March 2013.
9. Third parties and introducers	PC	No requirement for all financial institutions relying on a third party to immediately obtain from the third party the necessary information concerning elements of the CDD process covering identification and verification	• Financial institutions relying on a third party should be required to immediately obtain from the third party the necessary information concerning elements of the	Regulation 14 of the Anti-Money Laundering and Prevention of Terrorist Financing Regulations provides that a financial institution may only rely on introducers and

		of customers and beneficial owners and the purpose and intended nature of the business relationship. No provision requiring financial institutions 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.	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.	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. 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

10. Record keeping	PC	There are no requirements for financial institutions to maintain records of the identification data, account files and business correspondence for at least five years following the termination of an account or business relationship (or longer if requested by a competent authority in specific cases upon proper authority).	• It is recommended that the TCI 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.	Regulations 18 and 19 of the Anti-Money Laundering and 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. Failure to comply with that regulation will result in a fine up to $100,000.00. 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. 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. 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. A key feature of a partnership is that it does not have a legal personality of is 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. 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. 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— *(a)* all sums of money received and expended by the partnership and the matter in respect of which the receipt and expenditure take place; *(b)* all sales and purchases of goods by the partnership; and *(c)* the assets and liabilities of the partnership. 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)) 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)) 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))

11. Unusual transactions	NC	No requirements for special attention to be paid to characteristics of size and purpose of transactions. No requirement to put findings in writing that result from a closer investigation of complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose. No minimum record retention period applies for the findings resulting from a closer investigation of unusual transaction patterns. No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.	• 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 AMLR should be expanded to provide for the retention of records related to a closer investigation of the background and purpose of unusual transactions.	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. The Code address**es** 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.
12. DNFBP–R.5, 6, 8-11	NC	For the majority of the DNFBPs that have not been subjected to the TCI AML/CFT legislative framework, it remains unclear how TCI authorities will ensure proper compliance with recommendation 5, 6 and 8 through 11 of the FATF. Except for trust and company service providers which are considered financial institutions, effective implementation of Rec. 12 lacks for all remaining groups of DNFBP's. No contact has been established with dealers in precious metals or precious stones to inform them of the AML/CFT legislative changes and the consequences thereof for the relevant industry. TCI Authorities have not determined yet who will be responsible for the compliance oversight of the dealers in precious metals and precious stones. TCI Authorities have not defined the targeted risk that it aims to manage with the inclusion of dealers in goods of any description involving a cash payment of $50,000 or the equivalent in any currency, under the definition of relevant businesses, and consequently, TCI authorities are unable to develop an implementation plan for this specific group of	• 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	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. 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. The Anti Money 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). Training for the Bar Association on DNFBPs is being planned. The FSC will engage the Bar Association by September 2012, through its executive body, the Bar

		DNFBPs. There is a lack of information to the real estate industry, about the AML/CFT changes in the legislation and its implications for the sector. The TCI real estate sector is currently not regulated, thereby imposing a constraint to the effective implementation of an AML/CFT oversight regime for the relevant sector. No implementation plan has been developed yet for the regulatory oversight of the legal practitioners' industry or the accounting/auditing industry relative to their compliance with AML/CFT rules and regulations. The gaming industry lacks the implementation of an AML/CFT compliance supervisory regime. The role of the Gaming Inspectorate and the FCU in the implementation of the AML/CFT framework is not clearly defined.	DNFBP's; • In light of client privileges issues that might arise relative to the implementation of an oversight regime for legal advisers, it is 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. • 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.	Council, to formalize the use of that body for the delivery of AML Training. **The Bar Council plan to have training in this area before the end of 2012 and the FSC has engaged with the Bar Council to partner on this training.** The role and functions of the Gaming Inspectorate was tabled for discussion at the January 2011 meeting of the MLRA and it was decided to list it for further discussion at the next meeting of the MLRA scheduled for September 2011, at which time Gaming Inspectorate officials were in attendance. 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 new financial year. Sections 2, 111,116, 120, 121,148F, 148Q and 148M of POCO were amended to reflect the correct name of the AML Regulations. This amendment came into force on 1st December 2011.

13. Suspicious transaction reporting	PC	The guidance provided for the effective execution of the suspicious transaction reporting requirement is not considered sufficient The broad time frame given by the POCO has been interpreted by the industry to be time periods that seem quite long. (24 to 30 days). The awareness amongst financial institutions for the misuse of TCI's financial system for the financing of terrorist is low thereby affecting the effectiveness of the CFT regime. The deficiencies identified within R 1 as it pertains to predicate offences not defined in the TCI laws; specifically directing terrorism, people trafficking and arms trafficking are also applicable here.	• 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.	The standardized reporting form has been improved. This was published at a presentation to the industry by way of a two-hour presentation, including power point, copies of which were distributed. 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. Part 5 of the Code contain**s** requirement**s** for the timely filing of SARs, including a prescribed timeframe (within 24 hours) (See section 120 in the POCO).
14. Protection & no tipping-off	C	This Recommendation is fully observed.		
15. Internal controls, compliance & audit	PC	Applicable requirements for the implementation of an internal control framework do not address the issue of CFT. Policy manuals of entities supervised by the FSC do not include CFT. No requirements in place for the appointment of an independent audit function to test compliance with procedures, policies and controls on AML/CFT. No effective implementation of the AMLR requirement to keep training records of employees. No requirement to have financial institutions put in place screening procedures to ensure that high standards apply when hiring new employees.	• The FCS 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. Financial institutions should be required to	The FSC screens policy manuals both at the point where an entity applies for licensing and also during onsite examinations. The FSC has included a review of training logs as a part of its onsite inspection regime. The FSC is to do compliance guidelines, which is to include provisions on how the audits are to be conducted. Sections 6 and 30 of the Code deal with internal reporting procedures and includes a provision in similar terms to EC 15.2. 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. As part of the FSC's continuing efforts to enhance its supervisory regime, the FSC is working to issue guidelines to financial institutions on the internal audit function.

			have their screening policy for new personnel formalized and documented for review by the FSC.	These guidelines will include information on AML/CFT compliance. It is anticipated that a first draft will be prepared and published by the end of the **fourth** quarter of 2012 (**December**).

16. DNFBP–R.13-15 & 21	NC	There is a lack of implementation of the AML/CFT legislative framework for DNFBPs To date no STRs have been filed with the FCU by any category of DNFBP, except for Trust and company service providers. No training of DNFBPs on the filing of STRs. DNFBPs have not implemented an internal framework for the compliance with AML/CFT rules and regulations.	• 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.	The FCU has met with and advised stakeholders in this area of the requirements for filing STR's. The NRFB Supervisor was to conduct training, by the end of July 2011, for DNFBPs on the filing of STRs to promote a compliant regime within the relevant industries and issue guidelines for each category of DNFBP. The FSC has been identified as the NRFB Supervisor under the POCO and is currently reviewing its supervisory capacity to determine what additional resources are required to undertake this new area of responsibility including the employment of additional staff. This has an implication on the current staff housing of offices both in Grand Turk and Providenciales. That issue must first be resolved. The FSC will then be in a position to take on additional staff for the position of NRFB Supervisor and additional compliance officers as necessary. The FSC has already commenced a system of registration, which will continue on resolution of resources and capacity issues. It is anticipated that these issues will be settled by the end of the first quarter in 2013 (March 2013).
17. Sanctions	PC	The sanctions in the legislative framework are not effective or dissuasive. Financial sanctions cannot be applied by the supervisory without a court order. The sanctions applicable in case of non-compliance with provisions of the AMLR in respect of regulation 10 are not defined in the respective legislation.	• 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).	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. 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. In continuing 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 has 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.

18. Shell banks	PC	Although the Code appropriately addresses shell banks it cannot be properly enforced.	• Financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks. • Financial institutions should be required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.	The 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. 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. 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.
19. Other forms of reporting	NC	It appears that the TCI Authorities have not considered the feasibility and utility of implementing a system where financial institutions are required to report all transactions above a fixed threshold.	• 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.	TCI Authorities considered and decided against the use of a system where all (cash) transactions above a fixed threshold require reporting to the FCU.
20. Other NFBP & secure transaction techniques	PC	TCI has not considered the risk of other non-financial businesses and professions being misused for the purpose of ML/ FT. TCI Authorities have not considered or taken adequate steps to ensure that the money laundering risk associated with the large volumes of cash at the casinos are reduced.	• 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 industry. • 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	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. 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 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 that meeting it was decided that the sub-committee would complete its work and produce a final report by 31st March 2013.**

			cash in circulation in the casino.	Credit card facilities are now available in casinos.

21. Special attention for higher risk countries	NC	The majority of financial institutions do not observe the level of compliance of the foreign jurisdiction when establishing international business relationships. No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.	• 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.	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.** 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. The Money Laundering Reporting Authority is presently giving consideration to appropriate counter measures to be applied against countries who do not or insufficiently apply the FATF recommendations.
22. Foreign branches & subsidiaries	NC	There are currently no provisions in place pertaining to the regulation of compliance with AML/CFT rules and regulations by TCI financial institutions' subsidiaries in foreign jurisdictions.	• 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 growth of the financial services industry.	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. 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	The integrity component to the "fit and proper" testing of relevant persons is not clearly specified by the FSC. There was no evidence that Collective investment Schemes' Core Principles (IOSCO) apply for Mutual Funds in TCI. The recently enacted legislative framework providing	• 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 FSC has issued fit and proper guidelines to the industry which covers these matters. The FSC is currently considering including these principles in its supervisory framework. The MTO is now effective with an established licensing regime which continues to grow.

		for the licensing and supervision of MVT is not yet effective.	• 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	The FSC will be including collective investment schemes 'Core Principles' in their supervisory framework. The FSC is also actively working on its membership into IOSCO, which the TCI hopes will be considered soon by IOSCO. 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 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. **The FSC is also in the process of completing draft new Banking and Trust Ordinances. O**nce this work has been completed the Bills ha**ve** to undergo a period of consultation with the Industries. This is a lengthy process, which is anticipated to be completed ambitiously, by the end of the first quarter of 2013 (March 2013). 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 has noted that it expects all Money Transmitters to have 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.

24. DNFBP - regulation, supervision and monitoring	NC	No implementation plan in place addressing the relevant issues pertaining to the effective implementation of an AML/CFT oversight regime for the gaming industry. The due diligence performed on entities requesting a gaming license is not formally established, nor is it clear that all key personnel are subjected to scrutiny for the purpose of granting a gaming license. TCI authorities have not appointed oversight body(ies) that is/are responsible for monitoring compliance with AML/CFT rules and regulations by DNFBPs (except for trust and company service providers that fall under the supervision of the FSC). No effective implementation of the enforcement regime for DNFBPs. The Gaming Inspectorate does not have the ability to disclose information to overseas regulators and to domestic regulators. .	• TCI should draw up an implementation plan, for the AML/CFT supervisory regime for casinos. This plan should address the following: o Who is responsible for the training of gaming inspectors in the area of AML/CFT compliance oversight; o Who is responsible for informing the relevant sector of the AML/CFT changes and the respective implications for the relevant sector; o Who is responsible for training of the gaming industry in the introductory phase; o What are the tools required for an effective oversight of the industry's compliance with AML/CFT laws and regulations; o 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 within gaming establishments and require that key personnel responsible for these risk areas be assessed by the Gaming Inspectorate. • 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	This is to being considered by the MLRA at its meeting scheduled for September 2011. Casinos are now covered in the definition of financial business in the Anti-Money Laundering and Prevention of Terrorist Financing Regulations. POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now include a regime for non-financial business persons. The MLRA has requested that a documented plan be produced for the AML/CFT supervisory regime for casinos which should include training of gaming inspectors, resources for the gaming inspectorate and oversight of the industry, cooperation with international authorities. 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. 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 new financial year. **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 is recognized that there is a need for updated legislation and greater staff training. A commitment has been 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 recognized that the finances to undertake the much needed restructuring of the Gaming Inspectorate was not available this financial year.** **The Gaming Inspectorate and the Ministry of Finance is to work together to create an implementation plan. An update on this is expected in October 2012.**

			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.	

25. Guidelines & Feedback	NC	The FSC has not issued any guidance relative to trends and typologies in ML/FT. The FSC has not promoted the issuance of lists containing names of terrorists and terrorist organizations to provide for FT screening of clientele by financial institutions. Other than the Code that provides general instructions to regulated sector, DNFBP's have not been provided with specific guidelines that address the respective industries' challenges in the implementation of an AML/CFT compliant regime. The FCU is currently not issuing reports on statistics, trends and typologies related to ML and TF to regulated entities Except for the Trust and Company Service Providers there is no effective AML/CFT framework in place for DNFBPs, consequently, STRs are currently not being filed by DNFBPs. Lack of training of the DNFBP sector is a major shortcoming in the process of implementing the new legislative framework that addresses the AML/CFT requirements for DNFBPs. The guidance provided so far to DNFBPs with regard to the introduction of the new AML/CFT requirements is insufficient. No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.	• 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 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 them be required to assess their client base against the relevant information. • 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	Typologies and risk trends are published on a regular basis in the local press – copies of which were supplied to evaluation team. The industry is small and in practical terms the head of the FCU liaises directly with compliance officers. Typologies and risk issues are also published on the FCU website – as pointed out to the evaluation team. At the April 2012 meeting of the MLRA, the FCU raised a concern about an apparent trend of attorneys being used as collection agencies where clients would send their attorneys cheques to deposit into their escrow accounts then simultaneously transferring the funds back to their clients is being watched. The FCU has sent out a public notice warning the relevant persons and had also sent off a press release. The MLRA recommended that a notice also be sent to the Bar Council and the governing body of that self-regulating industry. **The Alerts have also been posted on its website.** The FCU agreed to provide quarterly reports on trends and typologies to the MLRA. The Last report is found on its website Statistics were published by the MLRA and FCU in MLRA Annual Report for 2009 and 2010 in compliance with the POCO. The FSC has recently undergone an organizational review. The final report has already been approved by the FSC Directors and the FSC has commenced implementation of the report on a phase basis. Over the last year, the staff compliment in mid to senior level positions has increased by over 5 persons. 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 in the future.

			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.	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. Governor Damian Roderic Todd acting as Minister for Finance said that the committee would "should be aiming to build the image of the Turks and Caicos Islands financial services sector, as: • An attractive, profitable place to do business; with, • A transparent regulatory system that fully meets international standards; and, • With the infrastructure to support future growth." The FSC has improved its onsite procedures to provide follow-up on deficiencies and continued monitoring. A new Part VIII has been added to POCO which provides for supervision and enforcement. The following new sections are relevant: Section 148F(2) provides for the appointment of a NFRB Supervisor (i.e. Supervisor for non-regulated financial businesses). This will be the new DNFBP Supervisor. Section 148F(3) sets out the responsibilities of the supervisory authority (i.e. monitoring compliance and taking enforcement action). Section 148H provides for the registration of non-regulated financial businesses. Section 148I enables the NRFB Supervisor to undertake compliance visits. 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. Section 148 Q provides the NRFB Supervisor with the power to require information and the production of documents. The new sections 148F to 148Q therefore establish a strong enforcement regime with respect DNFBPs. MLRA directed that sector specific guidelines for financial institutions and DNFBPs be completed by the end of April 2011. This was tabled for further consideration at the MLRA's meeting in September 2011. **The FSC is currently reviewing its supervisory capacity with a view to ensuring that it secures the necessary resources to effectively implement a DNFBP regulatory regime. Once this has been established the FSC anticipates greater contact with this sector to better implement a framework for AML/CFT compliance and STR Reporting. Training will be conducted with various stakeholders in this sector by the end of the first quarter of 2013 (March 2013) to assist in establishing compliance the new framework. Additionally, work is to commence on the issuing of guidelines for this sector. This work should be completed by April 2013. The FSC anticipates updating its website to provide links to lists and information on terrorist which is published periodically by the UNSC and other reputable body by August 2012. A notice advising all financial institutions of the publication and the requirement to assess their client base against the list, will be circulated in tandem with the availability of the information on the FSC's website. The FSC is also currently reviewing the need for sector specific guidelines and will attempt to source relevant technical assistance to implement this initiative including guidelines relating to DNFBP's. Provided that the FSC is able to source technical assistance for this project by the end of this year it would anticipate completing this work by March 2013.** MLRA with the assistance of FCU will ensure that

				adequate feedback is given on STRs, typologies and trends.
Institutional and other measures				
26. The FIU	PC	The FCU does not appear to have full operational independence and autonomy. The FCU has not provided sufficient guidance to financial institutions and other reporting parties regarding the reporting of STRs. The FCU has not provided feedback to reporting parties in a formalized and timely manner. The FCU does not release periodic reports which include statistics on STRS, trends and typologies within the sector and an update of its activities. The building which houses the FCU does not appear to be properly secured.	• 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.	These matters are under review; however, the head of the FCU has full operational independence when dealing with SAR's. The head of the FCU carries out all staff recruitment. The MLRA's sub-committee looking at the creation of a fully independent FIU/FCU under stand alone legislation continues with it's work and reported to the MLRA at its meetings in December 2011 and April 2012. Typologies and risk trends are published on a regular basis in the local press – copies of which were supplied to the evaluation team. **The FCU's website also has a link to trends and typologies.** Every SAR is responded to with a strategy within most cases 24 hours. Successful outcomes of investigations are also reported. The industry is small and in practical terms the head of the FCU liaises directly with compliance officers. Typologies and risk issues are also published on the FCU website – as pointed out to the evaluation team. Statistics were published by the FCU in the annual report for the last calendar year and new statistics are now being prepared. While TCI is a low risk crime country the FCU is situated on the top floor of a converted hotel which otherwise houses the police. In addition to the steel door in place at the entrance to the office. Further steel doors have been erected at both ends of the corridor housing the unit. Unwanted visitors would now need explosives to enter. **The FCU, since the beginning of October is now being housed in a building which offers better security.** 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. The FIU submitted its statistics for 2010 and it was distributed at a Money Laundering Conference hosted by the FSC in November 2011. This matter was reviewed further at the MLRA meeting held in September and December 2011 and again in April 2012 and remains under review. **Model FIU legislation has been identified and work on the drafting of the FIU bill is to begin shortly. It is anticipated that this work will be completed at the end of March 2013 to be implemented in the next financial year.**
27. Law enforcement authorities	C	This Recommendation is fully observed.		
28. Powers of competent authorities	C	This Recommendation is fully observed.		
29. Supervisors	PC	Written reports of findings resulting from on-site examinations of banking and insurance companies have not been issued to the respective companies. The report of findings relative to on-site examinations of the trust and company service providers industry have not been issued consistently (backlog). The FSC is limited in its potential to give follow up to deficiencies identified during on-site inspections. The FSC does not provide for sufficient written instruction to regulated entities. The FSC does not have the authority to impose financial sanctions independently (summary of convictions required)	• The Registrar 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.	POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now empowers the NFBP Supervisor to impose administrative sanctions on NFBPs. 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.
30. Resources, integrity	NC	AML/CFT related training is lacking at the Gaming		The MLRA has recognized the need for an action plan with regard to the Gaming Inspectorate. In keeping with

and training		Inspectorate Funding for the Gaming Inspectorate is dependent upon government funds (Ministry of Finance) The FSC is not properly structured. The current structure imposes a risk for conflict of interest. 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. 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. 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. 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.		this Senior Officials from the Gaming Inspectorate and the Permanent Secretary, Finance attended the meeting of the MLRA held in September 2011. 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 new financial year. The annual budget preparations are underway in the Islands and the MLRA, at its meeting held in April 2012 requested that a letter be sent to the new Permanent Secretary, Finance seeking a report on what progress has been made and the creation of an action plan for the Gaming Inspectorate. As a result of a process of organizational review, the FSC has reviewed existing posts, and created new posts. Some of these have been filled and it is anticipated that others will be filled shortly. The head of the FIU has full operational independence when dealing with SAR's. The head of the FCU carries out all staff recruitment. Judges and Magistrate underwent AML/CFT training during the latter part of 2009. There is serious strain on the local economy in keeping with the worldwide economic downturn. However, the MLRA is reviewing the situation in order to make appropriate recommendations to the Governor. The FCU/FIU 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. Four members of the FCU/FIU along with two Customs Officers will participate in a two-week training in financial intelligence and financial investigation in the United Kingdom hosted by the National Police Improvement Agency. The training will took place from 25th May 2012 and was funded by the UK's Foreign and Commonwealth Office. As at the date of this update, two (2) FIU investigators, one (1) Customs officer and one (1) Fraud

				Unit officer had completed or were completing their training with the others to follow. 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 should ensure that there is adequate oversight and supervision of the relevant industries.
31. National cooperation	PC	Implementation and coordination of local cooperation and efforts by the various units i.e. MLRA, SPICE or of the MOU involving Customs and Police are limited and must be strengthened.	• 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.	These matters are under review by the MLRA. The MLRA meets frequently and has decided to meet, at a minimum, once every quarter. The MLRA and FSC conducted AML training in May and September 2010 for the industry. The MLRA has now invited the Deputy Attorney General, having overall oversight of the various departments of the Chambers as well as the Deputy Director of Public Prosecutions (designate), a Senior Crown Counsel, Civil as well as the Principal Legislative Drafter. This decision was recently affirmed at the meeting of the MLRA held in April 2012. **The 2011 Constitution 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 steps to appointment of the DPP in an open and transparent process is underway in the Islands with the intention to have the DPP appointed in November 2012. In the interim the Attorney General continues to perform the functions of the DPP.** The MLRA is developing and seeking to implement policies and activities to combat ML/FT on an ongoing basis. In a joint investigation between the Customs Department and the FCU/FIU, $28,000 was intercepted by the Customs Department whilst being smuggled into the Islands without being declared and concealed in luggage.
32. Statistics	PC	The TCI does not review the effectiveness of its systems for combating money laundering and terrorist		The TCI has instituted a system for more comprehensive

		financing on a regular basis. Comprehensive statistics are not maintained by all competent authorities No data had been provided regarding AML/ CFT on-site examinations of financial institutions and, where appropriate, sanctions relative thereto.		statistics. This has been reflected in the MLRA Annual Report for 2010. The 2011 Report was delayed to the technical problems but should be released shortly.

33. Legal persons– beneficial owners	PC	There is no evidence that any training occurred on matters relative to legal persons including the revised procedure for reporting of suspicious transactions. The deficiencies identified in Rec. 5 with regard to beneficial ownership apply equally to Rec. 33.	• 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.	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. The MLRA reviewed that paper and directed that the paper be circulated among the industry for comment. The public consultation is concluded and the results have been tabled at the meetings of the MLRA in December 2011 and April 2012 but no decision has been taken to date on this issue. 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.**
34. Legal arrangements – beneficial owners	PC	Persons associated with Legal Arrangements do not appear to be aware of the revised protocol for reporting suspicious transactions. There is no evidence that the FCU held training sessions on matters relative to Legal Arrangements. The deficiencies indentified with regard to beneficial ownership at R5 apply to trustee services.	• 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 programmme to include AML/ CFT training on matters relative to Legal Arrangements.	Training was arranged in London UK in September 2009 and again in February 2010 for the Judiciary, Prosecutors and key law enforcement officials. While the FCU is a law enforcement unit and there is some doubt that this falls within their area of responsibility, staff from the FCU have recently given presentations to the money remitters industry and the insurance industry. Now in planning stage for formalized presentation within the remaining industry. The FCU has been directed by the MLRA to ensure that all persons associated with Legal Arrangements are made aware of the requirements of the POCO and the MLRA Codes regarding the reporting of suspicious transactions. The FCU is to review its training programme to include AML/CFT training on matters relative to Legal Arrangements.
International Cooperation				

35. Conventions	PC	The Palermo Convention and the Terrorism Financing Convention have not by extension been ratified on behalf of the TCI. Not all relevant aspects of the Conventions have been implemented.	• 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.	These matters were considered by the MLRA and a decision taken to recommend that a request be made to the UK Foreign Office to have these conventions extended to the TCI. The MLRA is to follow-up on its request to the UK FCO for the ratification of the Palermo Convention and the Financing of Terrorism Convention on behalf of the TCI.
36. Mutual legal assistance (MLA)	PC	Mutual legal assistance will not be provided by the TCI once tax or fiscal matters are involved which do not fall within certain exemptions. The effectiveness of implementation is difficult to assess due to the lack of statistical details. There are no formal administrative procedures except those implemented by the Chief Magistrate further to the MLAO, which would work towards ensuring that assistance would be given in a timely manner.	• 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.	TCI has signed sixteen Tax Exchange Information Agreements to date and are in active negotiations with a number of other OECD countries to sign additional TIEAs before the end of the year. An implementation Ordinance was made and brought into force in December 2009. In 2010, Orders giving effect to all of the TIEAs singed by the end of December 2010 were made and letters informing TIEA partner countries that all internal procedures had been completed. The TCI is processing **three requests from OECD member countries.**
37. Dual criminality	C	This Recommendation is fully observed.		
38. MLA on confiscation and freezing	PC	There are no administrative arrangements in place for coordinating actions relating to seizure and confiscation actions with other countries, neither are any arrangements in place in relation to the sharing of the assets resulting from such coordinated efforts. The effectiveness of implementation cannot be ascertained.	• The TCI Authorities should establish administrative guidelines 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.	These matters will be tabled for consideration of the MLRA. Law Reform is currently on-going in the country. The MLRA has directed that the mutual legal assistance legislation be reviewed and if necessary new legislation or amendments will be made. The FCU/FIU and the Attorney General's Chambers working with the Government of Taiwan have 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. Additionally, a confiscation order in the amount of $21 Million dollars was awarded on 25th April 2012 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. Requests for assistance from Jamaica were not

				provided but many other countries assisted in this matter.
39. Extradition	C	The Recommendation is fully observed	• 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.	These matters will be tabled for consideration of the MLRA.
40. Other forms of co-operation	PC	No MOUs in place between the FSC and other similar bodies or by the FCU with FIUs which require MOUs for the exchange of information It cannot be ascertained whether assistance by certain competent authorities including the Attorney General's Chambers and the FSC ,was given in a rapid, constructive and effective manner due to lack of statistical detail. Considerations which apply under the FSCO before regulatory assistance is given are onerous when taken conjunctively.	• 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.	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 is currently well advanced in negotiating MOU's with a number of jurisdictions. The FSC has now entered into five MOUs with 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. The 2009 Tax Information Exchange Ordinance (as amended) also provides a regime for the exchange of information between competent authorities for tax matters.
9 Special Recommendations				
SR.I Implement UN instruments	PC	The Terrorist Financing Convention has not been ratified or fully implemented.	• 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.	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.** Stand alone legislation on CFT is to be produced. Provisions in line with the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism will be included.
SR.II Criminalize terrorist financing	PC	Penalties for terrorist financing offences at the summary level are lenient. The elements of directing terrorism as required by	I. The TCI Authorities should review the penalty for terrorism and terrorist financing offences at the summary	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

		Article 2(5) of the Terrorist Financing Convention, are undefined in the laws of the TCI. Inconsistent mens rea requirements for terrorism offences. The effectiveness of the CFT regime is difficult to assess in the absence of any STRs or investigations on FT.	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. • 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.	CDD, reporting, enforcement, inspection, and offences. **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 II.**

SR.III Freeze and confiscate terrorist assets	LC	Ineffective implementation of a strong CFT regime: no formal or administrative provisions to ensure that freezing of funds and assets will be carried out without delay; no procedures which apply directly to persons inadvertently affected by freezing orders; no procedures for authorizing access to frozen funds for incidental costs or expenses; and no clear procedures for the communication of lists of suspected terrorists to the financial sector. De-listing procedures are not publicly known.	• 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 take place. • 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.	The Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order 2011 which came into force on March 31, 2011and 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 provides a regime for notification of designations under sections 4 and 7. 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 which have been extended to the TCI relating to Afghanistan, Al-Qaida, Iran, Syria, Sudan and South Sudan and Libya.** 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 news sections on freezing orders. Stand-alone legislation on CFT is to be produced. Consideration is being given to having such a provision covered in the new legislation.
SR.IV Suspicious transaction reporting	PC	The awareness amongst financial institutions for the misuse of TCI's financial system for the financing of terrorist is low thereby affecting the effectiveness of the CFT regime.	• 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.	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. 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. 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. 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 II 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.
SR.V International cooperation	LC	There are no formal administrative procedures which have been established to ensure mutual legal assistance is given in a timely manner. Deficiencies noted with regard to Recs. 36 and 38 are also applicable to this Recommendation.		These matters will be tabled for consideration of the MLRA. Stand-alone legislation on CFT is to be produced. These issues are being considered for inclusion in the Bill.
SR.VI AML requirements for money and value transfer services	PC	Money service providers have not yet been licensed within the TCI. The AML/CFT legislative framework applicable to money service providers has not been effectively implemented. The deficiencies noted with regard to Rec. 5 as it pertains to customer identification such as lack of proper beneficial ownership requirements; Rec. 6 PEPs and Recs. 11 and 21 transaction monitoring also apply to money service providers.	• 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.	The licensing of money service providers **is ongoing** 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. POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now include a regulatory regime for NFBPs and a NFBP Supervisor. FSC has started the process of assessing the current level of compliance with AML/CFT rules and regulations by the MSP'**s** and is develop**ing** a plan to improve the current compliance level. 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 ~~is~~ training was conducted in September 2010. The FSC has commenced a programme of onsite reviews of Money Transmitters and during the financial year ending March 31, 2012 it conducted two (2) onsite examinations. 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.
SR.VII Wire transfer rules	NC	There are no measures in place to cover domestic, cross-border and non-routine wire transfers. There are no requirements for intermediary and beneficial financial institutions handling wire transfers. There are no measures in place to effectively monitor compliance with the requirements of SR VII.	• 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 and non-routine wire transfers Additionally, TCI should review its legislative and regulator framework to ensure that there is monitoring of compliance by financial insinuations and the implementation of effective, proportionate and dissuasive sanctions for non compliance with SR VII. Appropriate legislation should be enacted as soon as possible.	POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now includes a regulatory regime for NFBPs and a NFBP Supervisor. Part 9 of the Code gives effect to SRVII concerning wire transfers.
SR.VIII Nonprofit organizations	NC	TCI Authorities have not addressed the non-profit organizations that can be used for FT purposed in their legislative framework. There is no requirement for NPOs to maintain information on the nature of their activities or on the persons who control or direct their activities and to make this information available to the public. There are no sanctions against non-profit organisations for failure to comply with AML/CFT measures. There is no requirement for NPOs to maintain relevant information on domestic and international financial transactions for at least five (5) years and make such information available to the law enforcement authorities. No measures to ensure that NPOs can be effectively investigated and that required information can be gathered. Regulatory bodies have not issued any guidance notes to regulated entities to increase awareness for the relevant risks of non-profit organizations as FT vehicles.	• 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 activities and make such information available to the public. • 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.	A new section 148S has been added to POCO which provides for the appointment of an NPO Supervisor. **The Companies (Amendment) Ordinance 2012 was enacted on October 10, 2012, which allows for Non-Profit Companies. 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 aapproved 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.** Working with the FSC, the FCU is to ensure that all NPOs are made aware of the revised procedures for reporting suspicious transactions.

		The FCU has not provided any guidance to NPOs regarding the reporting of suspicious transactions. There has not been any training for NPOs. There is no point of contact with regard to obtaining international requests for information on NPOs.	• 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.	All known NPO's are aware of their responsibilities.
SR.IX Cash Couriers	NC	The recently enacted POCO has had no time to be effectively implemented. The Immigration Department has not established any MOUs with its counterparts abroad. There are no provisions for Authorities in the TCI to notify other countries when there is unusual movement of gold, precious metal and precious stones from their jurisdictions.	• 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 unusual movement of gold, precious metals or precious stones from their jurisdictions	These matters are under review by the relevant Department. 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 previous stones from their jurisdictions. This is being kept under review by the MLRA.