CARIBBEAN FINANCIAL
ACTION TASK FORCE

Final

Mutual Evaluation Report

Anti-Money Laundering and Combating the Financing of Terrorism

Suriname

November 30th 2009

Suriname is a member of the CFATF. This evaluation was conducted by the CFATF and was adopted as a 3rd mutual evaluation by its Council of Ministers on Friday 30th October, 2009

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PREFACE - Information and methodology used for the evaluation of Suriname

1. The evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Suriname was based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT Methodology 2004[1]. The evaluation was based on the laws, regulations and other materials supplied by Suriname, and information obtained by the evaluation team during its on-site visit to Suriname from March 23rd, 2009 to April 3rd, 2009 and subsequently. During the on-site the evaluation team met with officials and representatives of all relevant Suriname government agencies and the private sector. A list of the bodies met is set out in Annex 2 to the Mutual Evaluation Report.

2. This Report is the result of the third round Mutual Evaluation of Suriname as conducted in the period stated above. The examination team consisted of Mr. Guillano Luigino Clementino Schoop Legal expert (Netherlands Antilles), Mr. Boudewijn VERHELST, Law Enforcement expert, (Belgium), Ms. Ingrid de VRIES, Financial expert, (Netherlands) and Mr. George G. M. CROES, Financial expert, (Netherlands Antilles). The experts reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP), as well as examining the capacity, the implementation and the effectiveness of all these systems.

3. This report provides a summary of the AML/CFT measures in place in Suriname as at the date of the on-site visit or immediately thereafter. It describes and analyses those measures, sets out Suriname levels of compliance with the FATF 40+9 Recommendations (see Table 1), and provides recommendations on how certain aspects of the system could be strengthened (see Table 2).

1. [1] As updated in February 2008 …..

Executive Summary

1. Background Information

1. This report provides a summary of anti-money laundering/combating the financing of terrorism measures (AML/CFT) in place in the Republic of Suriname (hereinafter Suriname) at the time of the on-site visit (March 23rd, 2009 to April 3rd, 2009). It describes and analyses those measures that are in place and provides recommendations on how certain aspects of the system could be reinforced. It also sets out Suriname's level of compliance with the Financial Action Task Force (FATF) 40+9 Recommendations, (see attached table of ratings of Compliance with the FATF Recommendations).

2. Suriname is a constitutional democracy situated in northern South America with French Guiana to the east and Guyana to the West. The executive branch is headed by the president who is head of the Cabinet styled government. A 2007 population census revealed that Suriname had a population of 509,970. Most Surinamese live in the narrow, northern coastal plain.

3. Suriname is not a financial centre. The Bauxite industry accounts for more than 15% of its GDP. In addition to the bauxite industry there are mining activities in the gold and oil sectors. These activities together account for more than 20% of the GDP and about 75% of the export earnings. Suriname's borders are porous. Largely uninhabited, unguarded, and ungoverned rain forest and rivers make up the eastern, western, and southern borders, and the navy's capability to police Suriname's northern Atlantic coast is limited. Porous borders also make Suriname a target for transshipment of drugs.

4. Suriname's institutional AML/CFT framework is comprised of the Ministry of Finance which is responsible for the overarching supervision of financial institutions and preparing the necessary legislation needed in this regard, the Office of the Attorney General, which is responsible for instructing the judicial police in money laundering cases and the MOT/FIU which has the responsibility for receiving, analyzing and investigating all unusual transactions. This Ministry of Justice and Police is responsible for the detection and prosecution of all criminal offenses and for the preparation of legislation relating to money laundering and combating the financing of terrorism.

5. The Central Bank of Suriname (CBS) has the task of supervising the banks, the credit unions, the pension and provident funds, insurance companies, the money exchange businesses and the money transfer offices. With respect to the current AML and CFT framework, control mechanisms are not incorporated in existing AML/CFT legislation. In other words, existing AML legislation do not charge an institution or supervisory authority with the supervision of compliance with the AML and CFT requirements.

2. Legal Systems and Related Institutional Measures

6. As of September 2002 Money Laundering has been criminalized under Surinamese law by the Act Criminalizing Money Laundering. The ML Act not only criminalizes

intentional ML (Art. 1 - "knowing"), but also makes culpable laundering, based on reasonable suspicion (art. 3), and the habitual laundering (art. 2) an offence under Surinamese law. The physical and material elements of the ML offence, as formulated in art. 1 and 3 ML Act are in line with article 3 (1)(b)&(c) of the Vienna Convention and article 6 (1) of the Palermo Convention, as they cover the conversion, transfer, concealment, disguise, acquisition, possession or use of property that is the proceed(s) of crime.

7. The ML offence extends to any kind of object (literally "any capital element") that directly or indirectly represents the proceeds of a crime. "Object" not only refers to movable and unmovable goods such as money, gems, cars and real estate, but also all real and personal rights and claims with regards to these goods such as ownership, lease and lien (article 4 ML Act). Suriname takes an "all-crimes predicate" approach, in that all offences under Suriname laws can predicate ML. Although these predicate offences cover a wide range of designated categories of offences, there is a deficiency with regard to two of the designated categories of offences, as presently 'terrorism and financing of terrorism' and 'insider trading and market manipulation' are not criminalized in Suriname.

8. There are no legal or jurisprudential considerations prohibiting the criminal liability for ML of the author of the predicate offence. Article 76 of the Penal Code expressly states that criminal offences can not only be committed by natural persons, but also by legal persons. The penalties of up to 15 years imprisonment and/or a 500.000 Suriname dollars fine for intentional money laundering, and of up to 6 years and/or a fine of maximum 300.000 Suriname dollars for culpable money laundering, bring the offences into the category of the more serious crimes.

9. Although presently an irrevocable decision has been reached in only one case, it has to be acknowledged that the judicial authorities have already actively used the ML provisions with a certain measure of success, also in the difficult area of stand-alone money laundering. In all cases, however, there was a clear knowledge of the predicate offence, so it is still an open question how the courts will view real autonomous money laundering where the predicate criminality is totally unknown.

10. Presently there is no legislation criminalizing the Financing of Terrorism (FT). Draft legislation has been pending since November 2008, before the National Assembly (parliament) of Suriname.

11. The seizure and confiscation regime is basically conviction bound. The Act of the 5th of September 2002, *SB 2002, 76*, introduced an extensive and comprehensive confiscation, freezing and seizure regime in the Suriname Penal Code and the Penal Procedures Code, except for FT that still needs to be criminalised. Subject to confiscation are all objects/property (and the rights to these objects/property) largely or entirely obtained from a criminal offence or its proceeds. The object of the offence itself, including in the ML context, property that has been laundered or which constitutes proceeds of any criminal offence; the instrumentalities used in the commission or preparation of an

offence and items fabricated or destined to commit the offence (intended instrumentalities) are all subject to confiscation.

12. Equivalent value confiscation of criminal proceeds is covered by art. 54b PC, taking the form of a sum of money to be paid to the State for the purpose of depriving the defendant of his illegally obtained proceeds or benefits, whenever he is convicted of an offence (54b.1.1e PC). Any objects that can serve to (help) uncover the truth during a criminal investigation (article 82(1) CPC) and all objects that can be confiscated by court order (article 82(2) CPC), may be seized by the competent authorities.

13. The effectiveness and efficiency of the seizure/confiscation regime could not be assessed in the absence of comprehensive and detailed statistical data. No statistics are kept on the property and objects seized and/or confiscated relating to ML and criminal proceeds, nor are there (annual) statistics kept on the number of cases and the amount of property seized and confiscated relating to underlying predicate offences. There was no information whatsoever regarding the value of the property and objects confiscated.

14. As for the freezing of suspected terrorist assets, presently there are no appropriate regulations and procedures in place at all regarding the preventive measures to be taken in the context of the United Nation Resolutions 1267 and 1373 designations.

15. The FIU for Suriname is the "MOT *(Meldpunt Ongebruikelijke Transacties* – Office for the disclosure of unusual transactions). It was established as a central and autonomously functioning administrative type FIU by the Law of 5 September 2002 (the MOT Law - O.G.2002, n° 65). The MOT is responsible for the processing of the disclosures received from the service providers subject to the reporting obligation of unusual transactions according to objective or subjective criteria, supplemented by the information MOT may collect from the reporting entities and from all administrative and law enforcement State agencies. It is also the reception point of the suspicious activity reports the supervisory and State authorities are legally bound to forward to the FIU. When there is a reasonable suspicion the data are indicative of, or relevant to, intended or past money laundering or related activity, they have to be passed on to the prosecutorial authorities. The FIU remit does however not extend to TF related information.

16. Although the MOT d-base could and should cover a comprehensive and very broad spectrum of relevant information indicative of money laundering activity, in reality the register primarily contains unusual transactions disclosed on the basis of objective criteria, a small number of suspicious activity reports, information occasionally queried by the FIU, and no information from the supervisory and State authorities at all.

17. Between 2003 and 2008 MOT processed a total of 8401 UAR/SARs (8335 objective and 66 subjective). 5 cases (25 disclosures) have been forwarded to the Public Prosecutor in 2004, 2 cases (34 disclosures) in 2005, and 4 cases (95 disclosures) in 2008, so 11 cases in total over a period of 5 years. The amounts involved in those 154 disclosures totaled 464.847,31 USD and 52.335.456,93 EURO. Only 1 conviction (in 2004) was triggered

by an FIU report. So the performance of the preventive system is disappointing and clearly raises an issue of effectiveness.

18. Although legally strong and endowed with extensive powers, the FIU does not use them efficiently. The collection of additional information should become more structural and systemic, so to reach a substantiated conclusion based on all available information. Moreover, there is a serious lack of capacity. The MOT is under-resourced, both in human and financial terms, and does not have the means to play its role in an effective way. It is imperative to increase the quality and effective implementation of the system, but the present working conditions of the FIU are prohibitive. There is also a serious problem with the physical protection of the data and staff security.

19. MOT's suspicious activity reports are forwarded to the Prosecutor General. The magistrates of the Public Prosecutor's Office have a general competence and are assigned to deal with all forms of criminality. In practice however most money laundering prosecutions are dealt with by the same magistrate. The police have organized their investigation teams broadly according to the form of criminality. Recently the Financial Investigation Team (FOT) was re-established after a failed start due to a lack of human resources and specialists. Starting from April 2009 this unit is taking over all cases involving or related to money laundering. However, there is no policy of a systematic enquiry into the financial flows from profit generating criminal activity, beside the investigation of the basic offence.

20. Although some moderate successes in the investigation and prosecution of money laundering must be acknowledged, the effectiveness of the law enforcement action still leaves to be desired. The police approach is predominantly reactive, not proactive. In practice, they do not conduct a financial investigation together with the investigation of profit generating offences and wait for an instruction from the Public Prosecutor to that effect. Furthermore, the level of interaction with MOT is unacceptably low.

21. No statistics were given by the police on the results of the investigations specifically initiated by a MOT report, because of the fact that the investigating unit of the police (FOT) was inactive for some period in this timeframe. Since no investigations were conducted, no figures were available on the seizure or confiscation of criminal assets.

22. The export declaration system presently applicable at the Suriname borders cannot be considered to even partially meet the international AML/CFT criteria. The Suriname authorities should decide on the choice between a disclosure or a declaration system for cross-border transportation of currency or bearer negotiable instruments and put in place such system aimed at discovering criminal or terrorist related assets without delay.

3. Preventive Measures – Financial Institutions

23. The financial sector of Suriname is small. As was noted earlier, Suriname is not a regional financial centre and has no Free Trade Zone. Approximately 80% of Suriname population uses a bank account. In Suriname, it is a common practice to make payments

in cash rather than using electronic means of transfer. At the end of 2008, assets of the domestic banking system totalled approximately US$ 1,560.76 million. As these banks had no complex structured (off-balance sheet) products they have not been severely affected by the credit crises. There were eight commercial banks and one development bank. Domestic insurance assets totalled approximately US$ 206.11 million and pension funds assets totalled approximately US$ 306, 75 million at the end of 2008.

24. The financial system is continuing to evolve, and will become more complex, as new services and products are introduced. Over the years, the banking sector in Suriname has diversified its product offering to include ATMs, credit cards (limited), debit cards (limited) and Internet banking (limited). This has not had a minimizing effect on the use of cash within the economy, but it has modernised the banking industry. The use of cash still predominates, however, because of a general lack of trust in banks and the make up of the society. The types of banking services offered via the Internet are limited mainly to allow customers to pay bills and transfer funds between accounts.

25. The banking sector in Suriname consists of eight commercial banks and one development bank. RBTT is a subsidiary of the Royal Bank of Trinidad Tobago holding company. None of the seven other commercial banks have significant foreign ownership. Suriname has three banks with (quasi-)government ownership. In addition, there are twenty eight credit unions engaged in deposit taking and lending activities similar to banks.

26. The domestic insurance market in Suriname is small. Figures for 2008 show that total assets of twelve insurance companies were about US$ 206.11 million. The insurance companies offer many products. In general, the insurers felt that the risk of their products being used by money launderers was quite limited.

27. Suriname Stock Exchange regulation does not contain CDD rules, screening procedures or regulations on the detection of unusual transactions. There is also no Stock Exchange supervision ordinance in place in Suriname. The eleven Stock Exchange members have internal regulations in place with respect to the terms and procedures regarding the settlement of transactions. The number of stock exchange transactions was reportedly very limited. Stock Exchange brokers fall under identification and reporting of unusual transaction obligation.

28. There is an absence of supervisory provisions and subsequently the designation of a supervisory authority with adequate powers to supervise the compliance by (all) the financial institutions with their obligations pursuant to the present AML legislation (the Wid Act, the MOT Act and the State Decree on Indicators of Unusual Transactions). In addition, Suriname has no CFT legislation. Consequently, the supervision of the Central Bank of Suriname, CBS, solely aims at prudential supervision. At the moment no AML/CFT supervision onsite inspections are being done by the CBS. Steps were taken to strengthen supervision of banks, credit unions, pension funds, insurance companies and money transfer as well as money exchange offices by drafting new legislation. Due to a lack of resources, the draft legislation has not been enacted yet.

29. The Identification Requirement for Service Providers Act (hereafter Wid Act) which came into force in March 2003 is limited to identification requirements and does not cover the broad range of CDD measures as mentioned in criteria 5.3. to 5.6. of the FATF recommendations. As such, the Wid Act in Suriname does not include the obligation to identify and verify the identity of the beneficial owner(s), to obtain knowledge on the ownership and control structure of the customer and to obtain information on the purpose and intended nature of the business relationship. A specific requirement to perform ongoing due diligence on the business relationships cannot be found in the legislation of Suriname. Also, there is no legal obligation for financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transactions.

30. The number of non-resident customers that apply for financial services in Suriname is very limited. None of the financial institutions seem to have had any applications for business from trustees or trusts that are personal holding assets nor any applications for business from foreign companies that have nominee shareholders. Nevertheless, most companies in Suriname have bearer shares. Suriname does not have any provision on simplified or reduced customer due diligence measures. While the legislation was limited to customer identification requirements, part of the private sector had gone farther in its approach to applying established CDD measures to know their customers. This stems from a prudential point of view in which banks need to know their customer to overcome prudential risks, more than from an AML/CFT point of view. In general, banks in Suriname do observe the substance of the Basel CDD paper.

31. Financial institutions are not required by law to apply CDD requirements to existing customers on the basis of materiality and risk. Notwithstanding this deficiency in the law, the assessment team was informed that the banks, credit unions and insurance companies are in the process of classifying each customer into a customer profile, taking into account the transactions undertaken throughout the course of the contractual relationship and undertake reviews of existing records while doing this.

32. Suriname has not (yet) implemented any provision regarding the establishment and maintenance of a customer relationship with politically exposed persons (PEPs).

33. There is no legal framework in place in Suriname that deals with the issue of correspondent banking. Although the activity may be limited, interviews indicated that a number of banks operating in Suriname offer this service. These banks obtain the necessary information from the Bankers almanac depository.

34. There is no legal provision that addresses the reliance on intermediaries or third party introducers to perform some of the elements of the CDD process or to introduce business. Currently, the vast majority of the financial institutions in Suriname do not rely on an introducer or third party to perform some of the elements of the CDD process. Only some of the insurance companies do work with local insurance brokers and/or local insurance agents, who might perform some elements of the CDD process.

35. To a limited extent, the Wid Act addresses record keeping requirements for financial institutions. However, the obligation does not require financial institutions to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities.

36. There are no legal requirements for financial institutions regarding complex, or unusually large transactions, or unusual transaction patterns that have no apparent or visible economic or lawful purpose.

37. Financial institutions are required to file unusual transaction reports (UTRs). This obligation does not extend to unusual transactions related to terrorist financing (because the legislation on terrorist financing is not yet in place), nor does the obligation apply to funds that are proceeds of "insider trading" and "market manipulation" as these offences are not specified as a "predicate offence for money laundering" in Suriname.

38. In the State Decree on Indicators of Unusual Transactions, objective and subjective indicators serve as the basis for assessing whether a transaction should be designated as unusual. While there is a positive trend in the number of unusual transactions reported to the FIU, the number/volume of UTRs has been uneven across the financial sector. Looking at the FIU statistics over the 2003 – 2008 period, the FIU processed a total of 8,401 UTRs, 8,335 of which relate to objective-based unusual transactions (objective indicators have a threshold) while only 66 relate to subjective-based unusual transactions (subjective indicators do not have a threshold). These statistics clearly show that the reporting institutions mainly rely on the objective criteria to report and pay little or no attention to elements that would make a transaction unusual.

39. While, the MOT Act provides an adequate "safe harbour" for good faith reporting, and penalises unauthorised "tipping off", there is no sanction for unauthorised breach of this tipping off provision because Suriname as yet lacks effective AML/CFT supervision.

40. There is no legal requirement that stipulates that financial institutions are required to establish and maintain internal procedures, policies and controls to prevent money laundering and terrorist financing and to communicate these to their employees. Notwithstanding, financial institutions do have available such procedures and policies. These procedures, policies and controls remain untested by the CBS.

41. There is no law in Suriname that explicitly prohibits the establishment or continued operation of shell banks. However, licensing requirements are designed to ensure that shell banks are not permitted to operate. A specific legal requirement that prohibits the financial institutions from entering into, or continue, correspondent banking relationships with shell banks cannot be found in the legislation of Suriname. The CBS indicated that they are unaware of any financial institution that has a banking relationship with a shell bank. The financial institutions that were interviewed indicated that their policies prohibit business with shell banks.

42. The CBS has admission requirements for the admittance of credit institutions based on article 5.3 of the "Decreet Toezicht Kredietwezen 1986". Admission as a bank, saving fund & credit union, insurance company, pension & provident fund can not take place if this (may) violate a sound banking and credit system. Due to this interpretation of article 5.3, screening of directors and founders of such an institution takes place, upon admittance. However there is no legal provision for continued screening procedures nor is there a similar legal provision for money exchange offices and money transfer offices.

43. There is no designated authority responsible for ensuring compliance by the supervised financial institutions (and DNFBPs) with AML/CFT requirements. By consequence, none of the financial institutions (and DNFBPs) are supervised in respect of AML/CFT. Suriname is working on a new AML/CFT Act specifying that CBS carries responsibility for ensuring that all financial institutions adequately comply with the AML & CFT requirements.

4. Preventive Measures – Designated Non-Financial Businesses and Professions

44. The following DNFBPs have been identified in Suriname: casinos, lawyers, (civil) notaries, accountants, real estate agents, dealers in precious metals and stones, and car dealers. No Trust and Company Service Providers are active in Suriname.

45. As for customer identification and due diligence, it was noted that DNFBPs are subject to basically the same provisions of the ID law as financial institutions. This means that the same deficiencies noted with respect to the financial institutions recur when applying the ID law on DNFBPs. These deficiencies include the absence of the full range of CDD measures as prescribed in the FATF standards, the absence of explicit provisions regarding ultimate beneficiary owners, the lack of proper guidance on the implementation of the ID law, and the absence of compliance supervision and of sanctions that are effective, proportionate and dissuasive. As a consequence, the current provisions of the ID law are being only partially observed or not observed at all by the various categories of the DNFBPs.

46. Pursuant to the MOT law, DNFBPs are subject to the reporting obligation following the same basic principles set in this important law for the financial institutions. This means that DNFBPs are required to report unusual transactions to the FIU, using objective and subjective indicators. To that effect, various specific indicators have been set in secondary legislation for the various categories of DNFBPs. The fact that the scope of the MOT law extends to both the financial institutions and the DNFBPs means that the same legal and practical deficiencies noted with respect to the financial institutions are present with respect to the DNFBPs. This include the absence of TF-related provisions, of compliance supervision, of effective, proportionate and dissuasive sanctions, lack of adequate resources and deficient or absent behavior of DNFBPs.

47. As for casinos, Suriname has been working on the introduction of a new legal framework for the licensing and supervision in order to replace the current inadequate legal framework. The new law will provide for the institution of a gaming board-style

entity which will have as its main tasks to advise the government on the issuance of casino licenses and to supervise the casino industry.

5. Legal Persons and Arrangements & Non-Profit Organisations

48. There are no laws, regulations or measures to prevent the unlawful use of legal persons in relation to money laundering and terrorist financing. The commercial, corporate and other laws do not require adequate transparency concerning the beneficial ownership and control of legal persons. The first time a foundation, public limited company, co-operative society/association or association is registered, the information about the directors is at hand and (most of the time) accurate. The biggest problem is that changes in directors or beneficial owners are not communicated to the registrars, making the registered information unreliable.

6. National and International Co-Operation

49. The legal basis for MLA and extradition is genuinely sound and the internal organization of the Prosecutor General's Office is adequately geared to an efficient and speedy response to MLA requests. Quite positive is the fact that the legal arsenal allows for provisional conservatory and confiscation measures for criminal assets in all forms. Restrictive factor in the AML/CFT context is the formalistic interpretation of the dual criminality principle narrowing down the possibility of a positive response to requests related to offences that have no identical or even similar counterpart in Suriname law, such as the designated predicate offences of insider trading and stock market manipulation, and TF.

50. There are serious deficiencies in respect of the mutual cooperation capacity at FIU level. Information exchange is formally only allowed on the basis of a treaty. The law does not provide a legal basis for MOT to go out and collect information on request, nor to comply with TF related requests. Also in the international context the protection of the confidentiality is not adequately guaranteed.

7. Resources and Statistics

51. There is a general issue of lack of sufficient human resources available to competent authorities. Additionally, lack of financial resources at the FIU is reflected in that unit's evident capacity problem. With the exception of FIU related statistics, there is a general deficiency of relevant statistical data

1. GENERAL

1.1 General information on Suriname

1. Suriname is located on the North-eastern coast of South America. The capital is Paramaribo (pop. 242,946). It shares its borders with Guyana to the west, French Guyana to the east and Brazil to the South. Suriname's surface area is 63,251 square miles with a population of approximately 509,970 (census 2007). The forested area constitutes about 85% of the national territory and is accessible only by air or via the north-south rivers. The Bauxite industry accounts for more than 15% of GDP. Besides the bauxite industry there are mining activities in the gold and oil sector. These activities together account for more than 20% of the GDP and about 75% of the export earnings. The official language is Dutch; most people also speak Sranang Tongo, which is a local English-based Creole. Hindi, Javanese Chinese, Maroon languages of indigenous people and English are also spoken.

2. Most Surinamese live in the narrow, northern coastal plain. The population is one of the most ethnically diverse in the world. Each ethnic group preserves its own culture.

3. Independence from Netherlands was granted in 1975. Five years later the civilian government was replaced by a military regime. The military continued to rule through a succession of nominally civilian administrations until 1987, when international pressure finally brought about a democratic election. In 1989, the military overthrew the civilian government again with a so-called "telephone coup", but a democratically elected government returned to power in 1991. The political climate in Suriname during the years after the elected government took over has been strongly influenced by the transformation of an undemocratic government to a democratic one, based on the legitimacy of the government authority and the period of political isolation towards a period of strengthening and broadening of international contacts.

4. The Republic of Suriname is a constitutional democracy based on the 1987 constitution. The legislative branch of government consists of a 51-member in the National Assembly, and elected for a 5-year term.

5. The executive branch is headed by the president, who is elected by a two-thirds majority of the National Assembly or, failing that, by a majority of the People's Assembly for a 5-year term. If at least two-thirds of the National Assembly cannot agree to vote for one presidential candidate, a People's Assembly is formed from all National Assembly delegates and regional and municipal representatives who were elected by popular vote in the most recent national election. A vice president, normally elected at the same time as the president, needs a simple majority in the National Assembly or People's Assembly to be elected for a 5-year term. As head of government, the president appoints a cabinet of ministers, currently numbered at 17

and apportioned among the various political parties represented in the ruling coalition.

6. The country is divided into 10 administrative districts, each headed by a district commissioner appointed by the president.

7. Surinamese armed and security forces consist of the national army under the control of the Minister of Defense and a smaller civil police force, named Suriname Police Force (KPS) which is under the authority of the Minister of Justice and Police. The national armed forces comprise some 2,500 personnel, the majority of whom are deployed as light infantry security forces. A small air force, navy, and military police unit also exist. The Netherlands has provided limited military assistance to the Surinamese armed forces since the election of a democratic government in 1991.

8. In recent years, the U.S. has provided training to military officers and policymakers to promote a better understanding of the role of the military in a civilian government, as well as to improve the professional capabilities of its officers and senior personnel. The U.S. also provides assistance and training for disaster preparedness and mitigation as well as significant support for humanitarian aid projects. Since the mid-1990s, the People's Republic of China has provided small amounts of military equipment and logistical material to the Surinamese armed forces. The Netherlands, France, Venezuela, and Brazil also have working relationships with the Surinamese military.

9. Suriname's borders are porous; largely uninhabited, unguarded, and ungoverned rain forest and rivers make up the eastern, western, and southern borders, and the navy's capability to police Suriname's northern Atlantic coast is limited. Protecting natural resources from illegal exploitation such as unlicensed gold mining is difficult, and significant tax revenue is lost. Porous borders also make Suriname a target for transshipment of drugs. Since 2000, arrests and prosecutions of drug smugglers have increased, partially due to funding and training for police capacity through the U.S. State Department Bureau of International Narcotics and Law Enforcement.

10. The investigation of all crimes within Suriname falls under the responsibility of the Civil Police (KPS). Unlike the Military Police whose primary responsibility is to investigate cases wherein militaries are involved and security control at all ports and immigration duties, any arrests made by them regarding civilians must be handed over to the Civil Judicial Police for further action. The Civil Police falls under the Ministry of Justice and Police while Military Police falls under the Ministry of Defense. The Civil Judicial Police of Suriname consists of different entities under which the Crime Analysis Unit, the Forensic Investigation Unit, a Fraud Unit, an Intelligence Unit and a Narcotics Intelligence Unit which is housed together with agents from the DEA residing in Suriname. The Civil Judicial Police also houses a Special Investigation Team that is specialized in the drug trade between Suriname and Holland and a Special Arrest Squad. The Civil Judicial Police also works in close cooperation with the Immigration and border police that fall under the Defense Force. There is a specialized unit named JAP team (Johan Adolf Pengel Luchthaven) for surveillance and arrest at Suriname’s international airport. There is also a Drugs Steering Committee headed by the Attorney General. Furthermore, also the Customs have a specialized unit active on the borders which make arrests on the basis of violation of several specialized laws. After about three years of suspension

the Financial Investigation unit named FOD (Financieel Onderzoeksdienst) has made a fresh start with new staff and adequate funding and housing.

Table 1: Overall view of developments in crime

Types of crime	2004	2005	2006	2007	2008
Murder	19	16	24	25	23
Burglary	2718	3103	3880	4179	5395
Armed robbery	639	630	640	287	428
Robbery	1272	1450	1308	1512	1404

11. Suriname's international trade policy aims now at participating actively in regional integration initiatives and at integration in the world economy. Suriname has been enhancing cooperation with its direct neighbors in the region over the last few years. This is carried out especially with the CARICOM member states and also with Brazil, Venezuela, France, India and China. The expected economic grow for 2009 is 5%.

12. As of January 1st 2004 the Government of Suriname in collaboration with it's Central Bank made a significant change in the country's currency by introducing the Suriname dollar [SRD] and at the same time replaced the Suriname Guilder [SRG]. To reach the value of the new SRD, one should divide the SRG by the factor 1000. In other words three zero's at the end of a figure were taken out. This project was finalized in May 2004 and its implementation since showed to be a success.

13. Stability and growth-oriented policies in recent years have improved the macroeconomic fundamentals in Suriname and have triggered investments. These in turn have boosted overall economic activity.

14. The first eight years of the current decade have shown a growth rate of at average 5%. As a result of the steady growth of the economy, the per capita GDP increased significantly from US$ 1613 in 2001 to US$ 4403 in 2008. The performance of the economy is attributed to prudent and appropriate fiscal and monetary policies, foreign direct investments and favorable conditions on the international markets.

15. Fiscal policy is being conducted according to an approach of limiting Government spending to the availability of financing that has been secured, either through collection of current tax revenues, attraction of funds in the local markets or external borrowing, provided that such loans are beneath the debt ceiling set by law. This approach requires constant evaluation of the budget and tight reign of expenditures. It has proved effective to impose fiscal balance and to control growth of the money supply. This has contributed to exchange rate stability and a persistent downward path of inflation.

16. The real sector has responded well to the more favorable economic climate in recent years. The alumina industry has traditionally been the main stay of Suriname's economy. It is currently at a cross road. Suriname now focuses on exploitation of the proven reserves of 325 million tons of bauxite in the western region of Suriname.

These reserves would allow the industry to prolong its activities for at least another 50 years. Further expansion of Crude oil production is anticipated because of explorations on the continental shelf and on the sea bed as well as production sharing agreements signed with several international companies.

17. Gold mining has diversified production in the mining sector in the recent past. New explorations can result in another large-scale gold company in the eastern part of the country, the Nassau area. Small-scale mining exists parallel with large-scale mining and contributes significantly to the export of gold. Gold prices are expected to remain stable in the near future, which support continuity and encourage expansion.

18. Rice cultivation is a dominant agricultural activity in Suriname. The government has invested in the infrastructure and has made financing accessible through credit facilities for small farmers.

19. The national banana company after restriction is currently eligible for privatization in the near future. Both productivity and production increased significantly in recent years.

20. Tourism and the construction industry are emerging as promising sectors in the new decade. Suriname has a niche market in eco-tourism. Ongoing investments in hotels in Paramaribo and lodges in the interior indicate the potentials.

1.2 General situation on Money Laundering and Financing of Terrorism

21. Like most Central American and Caribbean Countries Suriname also faces the problem of large amounts of cocaine being transported from South American countries towards the European or North American continent. The country is still a hub for transhipment of cocaine mainly to Europe and the USA. XTC pills coming from Europe also find their way to the USA through Suriname.

22. Suriname is not a regional financial centre. The financial sector of the Republic of Suriname comprises 8 Commercial Banks, 28 Credit Unions, 5 Money Remitters, 23 Cambios, 12 Insurance Companies, 37 Pension- and Provident funds, 1 Development Bank and 9 Investment and Financing Companies. There is no offshore sector or Free Trade Zone.

23. Cambios and Casinos generally do not comply with the Identification Act while the relatively large number of Cambios and Casinos (15 Casinos) also raised questions on the integrity of these sectors.

24. No specific cases of Financing of Terrorism have been revealed to the Surinamese authorities as yet. Money laundering proceeds are believed to be controlled by both local drug-trafficking organizations and organized crime.

The Money Laundering Situation

25. Based on the analysis that have been done so far the predicate offences that is seen as major from which unlawful proceeds originates at local level are violation of the

Exchange Control Regulation act and the illegal trade in drugs. Indeed there are the hereby related offences such as racketeering and fraud. There is an increase in drugs abuse because of the sharpened policy on drugs which is hampering the drug smuggling. The result is an increase of drugs, mostly cocaine on the local market, causing small drugs related crimes.

26. With regard to Terrorism and terrorism financing, so far Suriname has not witnessed terrorism related activities. Although Suriname lack the concrete Terrorism act described on the international level, there are have enough legal provisions in Suriname's laws to tackle them if something might happen.

Table 2: Overview of Fraud cases investigated by the Fraud Unit

Year	Offences	Results	Number of cases
2004	Money Laundering act	Convicted	3
2005	Money Laundering / Drugs act	Convicted	2
2006	Money Laundering act, Foreign Exchange act/ Organized crime act	Convicted	4
2007	Money Laundering act, Organized crime act	Convicted	2
2008	Money Laundering act, Organized crime act	Convicted	2

Table 3: Overview of arrests by the Narcotics Squad

Year	Males	Females	Total
2004	391	111	502
2005	607	127	734
2006	606	130	736
2007	547	120	667
2008	517	65	582
2009 (first quarter)	132	24	156

Table 4: Overview of "swallowers"

Year	Males	Females	Total
2004	**203**	**65**	**268**
2005	133	45	178
2006	101	24	125
2007	75	24	99
2008	57	9	66
2009 (first quarter)	14	7	21

Table 5: Statistics on seized drugs

Year	Cocaine	Marihuana	Hashish	Heroine	XTC (tablets)
2004	750.4 kg	197.3 kg	2.2 kg		20084 (2020 grams)
2005	1.507.5 kg	169.7 kg	12.3 kg	51.1 grams	
2006	620.0 kg	152.9 kg	12.3 kg	17.5 grams	24 tablets
2007	206.3 kg	131.0 kg	2.2 kg	10.6 grams	3154 tablets + 81.3 grams
2008	228.4 kg	123.2 kg	3.3 kg	47.2 grams	785 tablets

27. Over the past five years crime was dominated by offences against property such as burglary and fraud. Violent crime such as armed robbery and robbery has decreased the past two years. There complaints from the general public about the increase of burglary offences, so special measurements have been taken to address this issue.

Table 6: Overview of crime over the past five years

Types of crime	2004	2005	2006	2007	2008
Murder	19	16	24	25	23
Burglary	2718	3103	3880	4179	5395
Armed robbery	639	630	640	287	428
Robbery	1272	1450	1308	1512	1404

1.3 Overview of the Financial Sector and DNFBPs.

Table 7: Institutions Conducting Financial Activities outlined in the Glossary of the FATF 40 Recommendations

	Types of Financial institutions	Financial activities
1	Banks	- Acceptance of deposits and other repayable funds from the public; - Lending; - Transfer of money or value; - Issuing and managing means of payments (e.g. credit and debit cards, cheques, traveler's cheques, money orders and bankers' draft, electronic money); - Financial guarantees and commitments; - Trading in money market instruments (cheques, bills, CDs, derivatives etc.), foreign exchange, exchange , interest rate and index instruments, transferable securities, commodity futures trading; - Participation in securities issues and the provision of financial services related to such issues; - Individual and collective portfolio management; - Safekeeping and administration of cash or liquid securities on behalf of other persons; - Otherwise investing, administering or managing funds or money on behalf of other persons; - Money and currency changing
2	Credit Unions	- Acceptance of deposits and other repayable funds from the public; - Lending;
3	Insurance Companies	Underwriting and placement of insurance and other investments
4	Cambios	Money and currency changing
5	Money remitters (national and international)	Money transfers national and international
6	Stock exchange	Trading in transferable securities
7	Investment and Finance Companies	- Trading in securities; - Individual collective portfolio management; - Otherwise investing, administering or managing funds or money on behalf of other persons

Table 8: Financial Sector Institutional Aspects

Category	Number of institutions
Banks (incl. bank related investment & finance companies)	8
Non-bank related investment & finance companies	3
- Pension funds	37
- Insurance Companies	12
- Credit Unions	28
Total	**88**

Table 9: Assets of the Financial System (US$ millions)

Types financial institutions	No. of institutions at Dec 31, 2008	2006	2007	2008	Percent of total at Dec 31, 2008
Banks (incl. bank related investment & finance companies	8	1,004.79	1,330.38	1,560.76	71.8%
Non-bank Financial Institutions	3	28.54	35.10	48.63	2.2%
Pension Funds	37	256.21	300.11	306.75	14.1%
Insurance Companies	12	123.36	155.43	206.11	9.5%
Credit Unions	28	30.07	40.79	51.43	2.4%
Total	**88**	**1,442.98**	**1,861.80**	**2,173.69**	**100.0%**

Source: Centrale Bank van Suriname

Table 10: Listing of DNFBPs

Overview of DNFBP	
Notaries	19
Candidate Notary	11
Jewelers	146
Accountants	8
Car Dealers	114
Real estate	66
Administrative offices	114
Casinos	15
Lawyers	N/A

* N/A = not available

Source: MOT

1.4 Overview of commercial laws and mechanisms governing legal persons and arrangements

28. The Commercial Code (O.G. 1936 no.115, amended latest O.G. 2003 no. 93),

29. The Cooperative Association Act (O.G. 1944 no. 93 amended latest 2004 no. 26),

30. The Commercial Register Act (O.G. 1936 no.149, amended latest O.G. 1962 no. 86,

31. The Trade Name Act (O.G. 1931 no. 65, amended latest O.G. 1937 no. 121),

32. The Foundation Act (O.G. 68 no. 74, amended latest O.G. 1983 no. 1).

33. Legal persons are considered, by law, organizations as having a legal personality distinct from the natural individuals who create them or cause them to function. They are subject to the law with the attribution of legal capacity and they possess both, rights and duties.

34. In Suriname the main types of legal persons to conduct financial transactions are:

i. public limited companies,

ii. foundations,

iii. cooperative associations.

35. The public limited companies are governed by the Commercial Code (O.G. 1936 no.115, amended latest O.G. 2003 no. 93), the foundations by the Foundation Act (O.G. 68 no. 74, amended latest O.G. 1983 no. 1) and the cooperative associations by the Cooperative Association Act (O.G. 1944 no. 93 amended latest 2004 no. 26).

1.5 Overview of the strategy to prevent money laundering and terrorist financing

36. The Suriname's Anti-Money Laundering legislation was enacted in September 2002 and became effective as of March 2003; it consists of:

i. The Act Penalizing Money Laundering

ii. The Reporting of Unusual Transactions Act (MOT Act) including a list of objective and subjective indicators

iii. The Act regarding Identification by Service Providers (LIF Act)

iv. The Act regarding Confiscation of Illegally Obtained gains

v. The Penalization of Organized Crime

vi. The Penalization of Legal Entities

vii. The Act regarding the Protection of the Endangered or Threatened Witness

viii. The Act regarding Mutual Legal Assistance

37. Within the framework of renewing the Penal Code of Suriname, in December 2008 the first two parts (Book 1 and Book 2), the General part and the Offences, were presented to the Minister of Justice and Police. Regarding ML in Book 2 preparatory acts are punishable. In November 2008 the draft act on TF was presented to Parliament (De Nationale Assemblee) for discussion. This draft is an amendment of the Penal Code, the Fire-arms Act and the MOT act.

38. The most important agencies and institutions in the AML/CFT regime are the MOT/FIU, the Police, Customs and Defense Force, the office of the Attorney General and the Court.

39. The MOT has the powers to facilitate proper analysis and investigations of unusual transactions. In this regard they can obtain additional information from all national sources and if needed they can also request information from foreign counterparts once there is a MOU in force.

40. In the Attorney Generals office a public prosecutor has the special task for instructing the judicial police in ML cases. The Ministries of Justice and Police, Finance, Foreign Affairs and Trade and Industry are in the AML/CFT regime the most important government parties.

Ministry of Justice and Police

41. This Ministry is responsible for the detection and prosecution of all criminal offenses. It is also responsible for the preparation of legislation relating to ML / CTF. The Ministry also facilitates the prosecuting office and the Courts at the stage in which sentences are executed.

Ministry of Finance

42. The Ministry is in the ML/CTF regime, inter alia, responsible for supervising financial institutions and is also responsible for preparing of the legislation which is needed in this regard.

Ministry of Foreign Affairs

43. The Ministry is in the ML/CTF regime, inter alia, responsible for preparing and guiding the process of approval by parliament of the membership of international organizations and the ratifying of treaties.

The Ministry of Trade and Industry

44. The Ministry is in the ML/CTF regime, inter alia, responsible for providing licenses to companies in certain sectors and exercising control on these companies, the import policy in general, and the preparing of legislation in this regard.

45. The Anti Money Laundering commission as part of its mandate collaborates with government agencies and stakeholders in order to advice the Minister of Justice and Police in matters dealing with policy and draft legislation.

46. Recently the act regarding the supervision of casinos was passed through parliament. The creation of a gaming board is also covered by this act and one of the priorities is to set up a gaming board with all necessary structures in order to supervise this industry.

i. special emphasis on:

ii. drugs and narcotics
iii. fraud
iv. money laundering and
v. Organized crime.

47. The Judicial Division of the Department of Police (Ministry of Justice and Police), has the special duty to conduct investigations and inquiries into criminal activity with The Judicial Police in cooperation with divisions of the National Army are often conducting investigations in the interior of Suriname.

48. Police, Immigration and customs are in the process of cultivating a strong relationship. Training, provided by the Justice Department of the USA were attended by officers of these three agencies.

Conferences and Seminars

International anti-narcotics conference, October 2006

49. In order to coordinate the bilateral, regional and global collaboration and to intensify it in order to reduce the transit of drugs and the criminality linked with is, as well as to dismantle the drug related criminal organizations, the International Anti Narcotics Conference was held from 12 to 13 October 2006 in Paramaribo.

50. The main purpose of this conference was to determine policy on coordination, and intensify bilateral, regional and global efforts aimed at limiting the trafficking of narcotics, as well as dismantling drug-related criminal organizations.

Anti narcotics workshop, May 2008

51. This workshop was held in cooperation with the government of Columbia and dealt with the technical aspects of illicit drugs and chemical substances.

52. The aim was to train Surinamese managers in the handling of chemical substances in the broadest sense. It was also aimed at developing simple methods to detect the presence of chemical substances that are used in the manufacture of illegal drugs.

Regional anti-narcotics and money laundering seminar, December 2008

53. In order to coordinate and intensify the bilateral and regional cooperation and collaboration, a regional anti-narcotics and money laundering seminar was held in Paramaribo, Suriname from 1st till the 3rd of December 2008. The seminar was hosted by the Embassy of the Republic of France in cooperation with the Ministry of Justice and Police of the Republic of Suriname.

54. The main purpose of this seminar was to strengthen the shared responsibility in the fight against transnational organized crime in particular drug trafficking and money laundering. Countries from the region as well as several observers involved with the combating of drugs and money laundering were invited to this seminar.

Partnerships and Strengthening programs

Tripartite relationship

55. In the framework of the tripartite relationship between Suriname, Netherlands Antilles and Aruba several consultation meetings are held. The first meeting was in October 2006 in Paramaribo and the last in June 2008. The aim is combating transnational crime and strengthening the institutional capacity of the countries and ensuring of an optimal exchange of information.

56. Examples of more concrete cooperation in this regard can be mentioned:

- Combating money laundering
  In October 2007 the MOT and the MOT Netherlands Antilles signed a MOU for cooperation, information exchange and mutual assistance. In 2008 FIU Aruba hosted training for three employees of MOT/FIU Suriname.
- The judiciary
  There is long and intensive cooperation between the Courts of Justice of the Netherlands Antilles and Suriname, particularly in the training and education of judicial officers.

Memorandum of understanding with St. Kitts and Nevis

57. There are currently talks going on exchange of information between FIU Suriname and FIU St. Kitts and Nevis.

Cooperation between Suriname and the Netherlands

58. In the framework of this cooperation it was agreed in August 2008 that with assistance of the Council for the Judiciary of the Netherlands training of judicial officials in Suriname will be continued with the aim to strengthen the capacity of the judiciary.

59. Between the Public Prosecution Department and the Council of Attorney Generals in the Netherlands new arrangements were made for 2008-2010 for further assistance in training of prosecutors and administrative staff.

KPS/USA

60. There is an existing work relation between the Civil Police Force (KPS) and the DEA of the USA.

61. With assistance from the DEA several investigations were carried out with regarding to cross border drugs cases.

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

2.1 Criminalisation of Money Laundering (R.1, 2)

2.1.1 Description and Analysis[2]

Legal Framework:
Criminalization of Money Laundering (c. 1.1—Physical and Material Elements of the Offence):

62. As of September 2002 Money Laundering, hereafter ML, has been criminalized under Surinamese law by the Act Criminalizing Money Laundering (*Wet Strafbaarstelling Money Laundering (SB 2002, 64), WSML.*

63. According to Art. 1 WSML, "is guilty of intentional money laundering and shall be punished by a prison sentence of maximum fifteen years and a fine of maximum five hundred million Suriname guilders:

A. He who conceals or disguises the true nature, origin, location, disposition or movement of an object, or conceals or disguises the beneficial ownership of an object or has it in his possession, knowing that the object is –directly or indirectly– derived from any offence;

B. He who obtains, possesses, transfers or converts, or uses an object knowing that the object is –directly or indirectly– derived from any offence.

64. Article 3 WSML provides that: "is guilty of culpable money laundering and shall be punished by a prison sentence or custody of maximum six years and a fine of maximum three hundred million Suriname guilders:

A. He who conceals or disguises the true nature, origin, location, disposition or movement of an object, or conceals or disguises the beneficial ownership of an object or has it in his possession, when he must reasonably suspect the object is –directly or indirectly– derived from any offence;

B. He who obtains, possesses, transfers or converts, or uses an object, when he must reasonably suspect that the object is –directly or indirectly– derived from any offence.

65. The physical and material elements of the ML offence, as formulated in both art. 1 and 3 WSML consequently are in line with article 3 (1)(b)&(c) of the Vienna Convention and article 6 (1) of the Palermo Convention, i.e. that they cover the

2. [2] For all recommendations, the description and analysis section should include the analysis of effectiveness, and should contain any relevant statistical data.

conversion, transfer, concealment, disguise, acquisition, possession or use of property that is the proceed(s) of crime.

66. The WSML not only criminalizes intentional ML (Art. 1 - "knowing that"), but also makes culpable laundering, based on reasonable suspicion (art. 3), and the habitual laundering (art. 2) felonies under Surinamese law.

67. In article 1 of the WSML it is stated that ML, intentional ML, is penalized with a maximum of 15 years of imprisonment and a 500,000,000 Surinamese Guilders' fine. The word 'and' (*en* in Dutch) should be read as 'and / or'. Also, the fine should be read as 500,000 Surinamese Dollars since the conversion of the Guilder into Dollar in 2004.

68. Supplementary legislation which passed parliament in September 2002, were the Wet Melding Ongebruikelijke Transacties (SB 2002, 65), WMOT (Act on the Reporting of Unusual Transactions), the Wet Identificatieplicht Dienstverleners (SB 2002, 66), WID (Act on the identification requirements for Service Providers), and three acts, respectively SB 2002, 67 (introducing new provisions on seizure, confiscation and asset recovery); SB 2002, 68 (criminal liability legal persons)and SB 2002, 69 (organised crime), to amend the Penal Code and the Penal Procedures Code.

69. With the introduction of the WMOT natural and legal persons rendering financial and non-financial services were obliged to report all unusual transactions with the Financial Intelligence Unit.

70. The WID, made it compulsory for the providers of abovementioned services to obtain the identity of the client and keep copies of the documents used for identification of the clients for a period of seven years. (See Sections 3 and 4 hereafter)

The Laundered Property (c. 1.2):

71. The offence of ML under the Surinamese legislation extends to any kind of object (literally "any capital element") that directly or indirectly represents the proceeds of a crime. "Object", within the meaning of the WSML, not only refers to movable and unmovable goods such as money, gems, cars and real estate, but also all real and personal rights and claims with regards to these goods such as ownership, lease and lien (article 4 of the WSML).

Proving Property is the Proceeds of Crime (c. 1.2.1):

72. The explanatory notes on the WSML state that both the public prosecutors and the judges may refer to international typologies and other characteristics or circumstances, such as absence of any reasonable economical purpose, when proving that property is the proceeds of a crime. In the meantime jurisprudence has confirmed that it is not necessary for a person to be convicted of a predicate offence to prove the act of ML. (see also effectiveness analysis hereafter)

The Scope of the Predicate Offences (c. 1.3):

73. Under Surinamese law, all offences are predicates to ML (article 1 (a) & (b) and article 3 (a) & (b) of the WSML). These (predicate) offences include a wide range of designated categories of offences. There is however a deficiency with regard to two of the designated categories of offence, as presently 'terrorism and financing of terrorism' and 'insider trading and market manipulation' are not criminalized in Suriname.

74. There is a draft for the criminalization of terrorism and the financing of terrorism, but it is not clear when this draft will pass parliament and become law.

Threshold Approach for Predicate Offences (c. 1.4):

75. Suriname does not apply a threshold approach in respect of the predicate offences, the money laundering offence being an "all crimes" offence. (see cr. 1.3)Extraterritorially Committed Predicate Offences (c. 1.5):

76. Article 5(2) of the Surinamese Penal Code states that the aforementioned Code is applies to all Surinamese citizens who commit a serious offence (predicate offence for ML) abroad, as long as this behaviour also constitutes a criminal offence in the country it was committed. As stated already, under Surinamese laws, all felonies are predicate offences for ML.

77. So far in all the cases brought to court which resulted in a conviction for ML and in which cases the accused where also prosecuted for a predicate offence, all these (predicate) offences were committed in Suriname. There were no convictions for ML based on a predicate offence committed abroad. From the way the ML provisions are formulated however, there seems to be no legal obstacle against the interpretation that it is irrelevant whether or not the predicate offence was committed abroad when proving the act of ML, subject to the general rule of dual criminality.(Principle laid down in article 5 of the Penal Code)
Laundering One's Own Illicit Funds (c. 1.6):

78. Neither the WSML, nor jurisprudence or other laws, disallow the prosecution and/or the conviction for the offence of ML for those who have also committed a predicate offence. The Explanatory Memorandum to the AML Law makes a clear differentiation between the "receiving" offence, where the civil law double jeopardy rule applies (the thief cannot be his own receiver), and ,the fundamentally different nature of the offence of money laundering, making the offence of ML also applicable to all persons (both natural and legal) who committed the predicate offence (self-laundering).

Ancillary Offences (c. 1.7):

79. Association with another or with others or conspiracy to commit the offence of ML is punishable under Surinamese law, as is the attempt, the aiding, abetting, facilitating and counselling the commission of the offence of ML (articles 70, 72 and 73 of the Penal Code).

80. The Surinamese Penal Code makes persons, both natural and legal, who attempt, aid, facilitate or counsel the commission of the offence of ML liable for punishment to a maximum of two thirds (2/3) of the (maximum) penalty imposed by the WSML for the offence of ML(articles 70 and 74 of the Surinamese Penal Code).

Additional Element

81. If an act overseas which do not constitute an offence overseas, but would be a predicate offence if occurred domestically, lead to an offence of ML (c. 1.8):

82. The Surinamese Penal Code states in article 4, that the Code is applicable on anyone, both Surinamese nationals and non-nationals, who commit certain serious offences (felonies) abroad, regardless of the fact that these acts also constitute offences overseas. All the offences mentioned in article 4 of the Surinamese Penal Code are or can be predicate offences for ML. These offences (mentioned in article 4) include assault on the (Surinamese) Head of State or his / her successor, assault on the higher ranked military officials and offences with regard to the Surinamese currency.

Liability of Natural Persons (c. 2.1):

83. Under Surinamese law, as provided for in the WSML, the offence of ML not only applies to natural persons that knowingly engage in ML activity (art. 1). Also the culpable ML is punishable under Surinamese law (art. 3). Intentional laundering is penalized with a maximum of 15 years of imprisonment and/or a fine of 500,000 Surinamese Dollars (roughly US$ 181,655). The maximum sanction for culpable ML is 6 years of imprisonment and/or a fine of 300,000 Surinamese Dollars (about US 109,090).

84. Besides the intentional ML (article 1 of the WSML) and the culpable ML (article 3 WSML) there is a special article, article 2 of the WSML, regarding the habitual ML. If convicted of habitual ML, one can face up to 20 years of imprisonment and/or a 750,000 Surinamese Dollars' fine.

The Mental Element of the ML Offence (c. 2.2):

85. As has been mentioned above, the explanatory notes on the WSML state that, both the public prosecutors and the judges may refer to international typologies and other objective elements when proving that property is the proceeds of a crime. In the 4 cases that were pursued in Court solely based on a stand-alone offence of ML (in other words: the persons involved were not charged for any predicate offence), reference has been made to international typologies when proving the intentional element of the offence of ML. So far the public prosecutor only referred to typologies in court when proving the intentional element of the ML offence. Although no reference has been made to other objective elements,, in the civil law tradition it is a general principle that the judge is sovereign in the assessment and acceptance of all material (objective or not) that can serve as evidence, including when he considers the moral element (*mens rea*) of the offence

Liability of Legal Persons (c. 2.3):

86. One of the supplementary legislations which passed parliament in 2002 to make the prosecution of ML more effective was *SB 2002, 68*. By means of this act, article 76 of the Penal Code of Suriname was amended and as of that moment the Penal Code states that criminal offences (both felonies and misdemeanours) could not only be committed by natural persons, but also by legal persons.

87. In accordance with the revised article 76 of the Penal Code, if convicted of any criminal offence, the same penalties which apply for a natural person, also apply to a) a legal person, b) the one(s) who commissioned the act or was / were in charge when the criminal offence happened, or c) both of them [a) and b)]. In the criminal procedure the legal person is represented by the director and if there are more directors, the legal person can be represented by any one of the directors (article 466a of the Penal Procedure Code).

88. In the case of ML, a legal person can be prosecuted for ML, and if convicted, be fined to a maximum of respectively 750,000 , 500,000 or 300,000 Surinamese Dollars, depending of course if the legal entity (legal person) gets convicted for intentional, habitual or culpable laundering.

Liability of Legal Persons should not preclude possible parallel criminal, civil or administrative proceedings (c. 2.4):

89. Besides the fact that legal persons can be made subject to criminal liability for ML, they can also be charged in parallel criminal, civil or administrative proceedings. There are no legal impediments for parallel criminal, civil or administrative proceeding, such as the procedures regarding the confiscation of assets derived from the act of ML or the revoking of licences of or of the right to constitute a company (legal person)

Sanctions for ML (C. 2.5);

90. The penalties of up to 15 years imprisonment and/or a 500.000. SD fine for intentional money laundering, and of up to 6 years and/or a fine of maximum 300.000 SD for culpable money laundering, bring the offences into the category of the more serious crimes, when compared with the average penalties for other (financial) offences. The two stand alone ML convictions carried a sentence of two years imprisonment and a fine between SRD 40.000 and SRD 50.000

91. Although the penalties actually imposed show a somewhat lenient approach by the courts, the Penal Code penalty level itself reflects a proportionate approach intended to be dissuasive and deterrent.

Analysis of effectiveness

92. At present it is virtually impossible to do any assessment with regards to the effectiveness and efficiency of the systems for combating ML. One of the major shortcomings is the lack of comprehensive and reliable (annual) statistics on the number of ML investigations, prosecutions and convictions.

93. Between 2002 (when ML was criminalized through the WSML) and now (April 2009), there were six ML prosecutions in Suriname. In all of those six cases the judge (in first instance) has already rendered a decision. The only information at hand is that in four of the cases in which there is a court decision, the suspects were only prosecuted for ML (no predicate offence). In another case the prosecution was based on ML and drug trafficking (as a predicate offence). In the remaining ML-case, a former Minister of Justice was charged, prosecuted and convicted for ML,

but it was unclear whether or not he was prosecuted solely for ML or also for a predicate offence.

94. Of the four cases prosecuted solely for the offence of ML, two have resulted in a conviction and two in an acquittal. Three of these four cases still have to be pursued in the Court of Appeals of Suriname. So far this is the only information that can be given with regards to the prosecutions and the convictions.

95. Although presently an irrevocable decision has been reached in only one case, it has to be acknowledged that the judicial authorities have already actively used the ML provisions with a certain measure of success, also in the difficult area of stand-alone money laundering. In doing so they are creating jurisprudence that serves as guidance for future court actions and enhances legal certainty. The legal framework is indeed sound enough so as to obtain reasonable results. So far the proceedings have not raised serious legal challenges in terms of the burden of proof, particularly on the predicate criminality. In all cases, however, there was a clear knowledge of the predicate offence, so it is still an open question how the courts will view real autonomous money laundering where the predicate criminality is totally unknown..

2.1.2 Recommendations and Comments

96. Overall, the text of the money laundering provision adequately covers all aspects required by the international standards. There is a deficiency however in respect of the range of predicate offences. At present the designated categories of 'terrorism and financing of terrorism' and 'insider trading and market manipulation' are not criminalised. It is recommended that legislation is adopted to make insider trading and market manipulation and terrorism and the financing of the same offences under Surinamese laws. Once adopted, the Surinamese legal system will cover predicate offences for ML in all of the designated categories of offences.

97. In terms of effectiveness, the active use of the ML provisions is a positive sign and the first tentative results are encouraging. It remains to be seen if this positive trend will be consolidated The real test in terms of burden of proof is however still to come when genuinely autonomous money laundering will be submitted before the courts.

2.1.3 Compliance with Recommendations 1 & 2

	Rating	Summary of factors underlying rating
R.1	**PC**	• **Not all designated categories of predicate offences are covered in the absence of the criminalization of 'terrorism and financing of terrorism' and 'insider trading and market manipulation' in Suriname penal legislation;** • **It is virtually impossible to do any assertion with regards to the effectiveness and efficiency of the systems for combating ML, due to the lack of comprehensive and reliable (annual) statistics**. • **Evidentiary requirements for autonomous ML still untested (effectiveness issue).**

R.2	**LC**	• **It is virtually impossible to do any assertion with regards to the effectiveness and efficiency of the systems for combating ML, due to the lack of comprehensive and reliable (annual) statistics**. • **Evidentiary requirements for autonomous ML still untested (effectiveness issue).**

2.2 Criminalization of Terrorist Financing (SR.II)

2.2.1 Description and Analysis

Legal Framework:

98. At this point in time there is no legislation criminalizing the Financing of Terrorism (FT). In November of 2008 a draft-legislation was sent to the National Assembly (parliament) of Suriname for discussion and adoption, both of which still haven't taken place. No one can be or has been charged with FT in Suriname.

Criminalization of Financing of Terrorism + predicate offence (c. II.1. + II.2):

99. FT is not criminalized under Suriname Laws, be it as an autonomous offence or a predicate to money laundering.

Jurisdiction for Terrorist Financing Offence (c. II.3) and the Mental Element of the TF Offence (applying c. 2.2 in R.2):

100. As stated above, the FT is no offence under Suriname law, therefore the two abovementioned criteria are not met.

Liability of Legal Persons (applying c. 2.3 & c. 2.4 in R.2):

101. FT not being criminalized under Surinamese Laws, legal persons are not made subject to criminal liability for FT.

Sanctions for FT (applying c. 2.5 in R.2);

Analysis of effectiveness.

102. Due to the fact that the FT is not an offence under Surinamese Laws, no investigations have been conducted on this matter. Therefore there haven't been any prosecutions or convictions for the offence of FT so far. As a result, nothing can be said about effectiveness and/or the efficiency.

2.2.2 Recommendations and Comments

103. It is imperative that the FT be criminalized on a very short term by the Surinamese authorities. Globally, governments and international organizations keep a close eye on countries to see whether or not these countries have laws in place to criminalize the FT and if those laws are consistent with article 2 of the Terrorist Financing

Convention. Non-compliance may result in reputation damage and corrective response by international organizations.

104. With the criminalization of the FT Suriname will also be one step closer to be fully compliant with Recommendation 1, as at this point in time terrorism and financing of terrorism are not offences under the designated category of offences.

105. Besides the criminalization of FT, local authorities should see to it, that, as soon as there is an act criminalizing the FT, comprehensive statistics be kept on the number investigations, prosecutions and convictions for the act of FT. These statistics are of the utmost importance for the assessment of the effectiveness and efficiency of the systems to combat FT.

2.2.3 Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR.II	**NC**	• **There is no legislation criminalizing FT;** • **Consequently, there are no TF related investigations, prosecutions and convictions.**

2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)

2.3.1 Description and Analysis

Legal Framework:

106. The Suriname's seizure and confiscation regime is basically conviction bound. One of the supplementary legislations which passed parliament in September 2002, is the act of the 5th of September 2002, *SB 2002, 76*, to amend the Penal Code and the Penal Procedures Code in order to elaborate on and incorporate confiscation, freezing and seizure in the abovementioned Codes. The articles in the Penal Code and the Penal Procedures Code containing regulations regarding confiscation and seizure are very extensive and comprehensive, except for FT, as this is no offence under Surinamese laws.

107. Confiscation of Property related to ML, FT or other predicate offences including property of corresponding value (c. 3.1) and Confiscation of Property Derived from Proceeds of Crime (c. 3.1.1 applying c. 3.1);

108. According to articles 50a and 54c of the Penal Code state following items are subject to confiscation:

i. all objects / property (and the rights to these objects / property) largely or entirely obtained from a criminal offence or its proceeds;

ii. the object of the offence itself, including – in the ML context - property that has been laundered or which constitutes proceeds of any criminal offence

iii. the instrumentalities used in the commission or preparation of an offence;

iv. items fabricated or destined to commit the offence (intended instrumentalities).

109. Just as in article 4 of the WSML, article 50a (4) of the Penal Code refers to objects, as movable and unmovable goods such as money, gems, cars and real estate, but also real and personal rights and claims with regards to these goods such as ownership, lease and lien or the credit on a bank account.

110. Equivalent value confiscation of criminal proceeds is covered by art. 54b PC. Such measure, taking the form of a sum of money to be paid to the State, is possible for the purpose of depriving the defendant of his illegally obtained proceeds or benefits, whenever he is convicted of an offence (54b.1.1e PC). The same is possible whenever there is a criminal court decision stating that an offence has been committed, but without a sentence being pronounced (2e), or with a separate court decision at the request of the public prosecutor finding that an offence has been committed (3e – after specific financial investigation procedure).

111. Art. 91.2 & 3 PC provides for the seizure of all assets for conservatory purposes to protect and ensure the effective implementation of equivalent value confiscation orders, by decision of the investigating magistrate.

112. All property subject to confiscation can be seized and later on confiscated, regardless of whether it is / was held or owned by a criminal defendant or by a third party. Art. 50a.2 of the Penal Code contains some restrictive provisions for the confiscation of the above items in case they do not belong to the convicted person: confiscation is then only possible if the proprietor knew or could reasonable suspect the criminal character (origin, use or destination) of the items, which in itself is a protection of the bona fide third party. The law also specifically provides for further protection of the rights of the bona fide third party (see further on [c. 3.5] for the protection of bona fide third parties).

Provisional Measures to Prevent Dealing in Property subject to Confiscation (c. 3.2):

113. Article 82 of the Penal Procedures Code states that all objects that can serve to (help) uncover the truth during a criminal investigation (article 82(1) of the Penal Procedure Code) and all objects that can be confiscated by court order (article 82(2) of the Penal Procedure Code), may be seized by the competent authorities. Seizure of an unmovable (registered) object is realized by making an annotation in the public registers and seizure of bearer stocks by seizure of the paper.

114. The Surinamese (Penal) Legislation does not know or use the term ‘freezing’. A bank account for example cannot be frozen. Under Surinamese laws a bank account will be seized by a written notification of the competent authorities to the bank in question. This action from the competent authorities has as a consequence that no one other than these authorities have access to that account. So although the Surinamese laws don’t provide for freezing of an account, the effects of the seizure through a written notification to the bearer of the account (read: the bank) has the same impact and consequences as the freezing of that account.

Ex Parte Application for Provisional Measures (c. 3.3):

115. Seizing of property or objects can take place at any time during the course of an investigation, and without prior notice to the criminal defendant or a third party**.** Depending on the stage of the investigation and the object to be seized, the authority that can seize or give an order to seize differs. Seizure of a bank account for example, can only be accomplished by a written notification by the public prosecutor to the bank which holds the bank account to be seized. However if there is a judicial enquiry("*gerechtelijk vooronderzoek")* as it is called in the Surinamese Penal Procedure Code, the only authority who can order such seizure is an examining judge.

Identification and Tracing of Property subject to Confiscation (c. 3.4):

116. The existing Surinamese laws, primarily the Surinamese Penal Procedures Code, provide law enforcement agencies, the FIU and other competent authorities with multiple possibilities / powers to identify and trace property that is or may become subject to confiscation or is suspected of being the proceeds of a crime. These powers range from looking up information in, or consulting registrars of public registries to requesting information with the local banks regarding bank accounts being kept by criminal defendants (art. 86a PC)

Protection of Bona Fide Third Parties (c. 3.5):

117. The Surinamese Penal Procedures Code provides ample protection for the rights of bona fide third parties and is fully consistent with the standards of the Palermo Convention. Article 460 of the Penal Procedure Code provides protection in case of seizure and article 461 protection in case of confiscation.

118. Every interested party can challenge the seizure of any object or the fact that an order to return the seized object(s) has not been given by the competent authorities. This should be in writing and the complaint should be filed with the court of first instance. The courts will assess the legitimacy of the complaint and issue a verdict that will imply that the seizure will be upheld, or that the decision by the authorities to seize the objects/ property will be abrogated.

119. What has been explained in the last paragraph also applies for objects / property / rights that have been confiscated. The interested party to whom the confiscated object(s) pertained to, can file a complaint with the court which rendered the decision of confiscation in last instance. The complaint should be filed by writing within 3 months after the decision (regarding the confiscation) has become executable (article 461 of the Penal Procedure Code).

Power to Void Actions (c. 3.6):

120. Based on the Surinamese Civil Code, the Civil Judge can void any contractual actions where the persons involved knew, or should have known, that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation.

Additional Elements (Rec 3)—Provision for a) Confiscation of assets from organizations principally criminal in nature; b) Civil forfeiture; and, c) Confiscation of Property which Reverses Burden of Proof (c. 3.7):

121. The property of a organization that is found to be primarily criminal in nature may be confiscated, as long as this property is largely or entirely derived from a criminal offence, or directly or indirectly derived from the proceeds of a criminal act (art. 54b PC).

122. In some cases objects can get confiscated without the conviction of any person. The most classical example is a firearm that has been seized, but for which no person has been arrested and later convicted. The courts may order the confiscation of that weapon as a security measure.

Analysis of effectiveness

123. Again it is impossible to comment on the effectiveness and efficiency of the systems for combating ML. The biggest shortcoming is the lack of statistics. No statistics are kept on the property and objects seized and / or confiscated relating to ML and criminal proceeds, nor are there (annual) statistics kept on the number of cases and the amount of property seized and confiscated relating to underlying predicate offences. There is no information whatsoever regarding the value of the property and objects confiscated.

124. As for money that has been seized or confiscated, it is almost impossible to differentiate from other posts or amounts. . One bank account is kept for all money being seized or confiscated. Even fines that are being paid by offenders for example for traffic violations, go to the same bank account that is used for depositing the money confiscated by the competent authorities in a ML investigation, without any specification.

125. During the course of the investigation in the six ML cases which eventually were brought to court, property and objects were seized, but no records were kept. To obtain any information regarding the seized property, each individual case file will have to be reviewed and each court sentence read to have an idea of the property and objects that (may) have been confiscated.

2.3.2 Recommendations and Comments

126. Recommendation 3 of the FATF is very well met with thru the existing legislation, except for the fact that the laws are not applicable for the FT, as the FT is no offence under Surinamese laws. The two shortcomings are the fact that the FT is no offence under Surinamese laws, and there are no statistics available to see how effective the legislation is in practice.

127. The competent authorities do not keep annual statistics on the number of cases and the amount of property seized and confiscated relating to ML, FT and criminal proceeds. No comprehensive statistics are maintained on the number of cases and the amounts of property seized and confiscated relating to underlying predicate offences.

2.3.3 Compliance with Recommendation 3

	Rating	Summary of factors underlying rating
R.3	**PC**	• **No legal basis for the confiscation of TF related assets, in the absence of a TF offence** • **It is impossible to assess the effectiveness and efficiency of the systems for combating ML, due to the lack of comprehensive and reliable (annual) statistics with respect to property / objects seized and confiscated**.

2.4 Freezing of funds used for terrorist financing (SR.III)

2.4.1 Description and Analysis

Legal Framework:

128. At this moment there are no special regulations and procedures in place regarding the freezing of terrorist funds or assets of persons designated by the United Nation's Al-Qaida and Taliban Sanctions Committee.

Freezing Assets under S/Res/1267 (c. III.1):

129. There are no laws and procedures to freeze terrorist funds or other assets of persons designated by the United Nation's Al-Qaida and Taliban Sanctions Committee in accordance with UN Security Council Resolution 1267 (1999). Therefore funds or other assets owned or controlled by Al-Qaida, the Taliban, Osama Bin Laden, or persons and entities associated with them as designated by the United Nations Al-Qaida and Taliban Sanctions Committee established pursuant to United Nations Security Council Resolution 1267 (1999) are not or cannot be preventively frozen.

Freezing Assets under S/Res/1373 (c. III.2):

130. Suriname has no effective laws and procedures to freeze terrorist funds or other assets of persons designated in the context of the UN Security Council Resolution 1373 (2001). There is no legal framework providing for and regulating a domestic designation and freezing procedure.

Freezing Actions Taken by Other Countries (c. III.3):

131. There are no laws and procedures to examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions.

Extension of c. III.1-III.3 to funds or assets controlled by designated persons (c. III.4):

132. The same as has been stated above applies for criteria III.4.

Communication to the Financial Sector (c. III.5):

133. There is no system of communicating actions taken under the freezing mechanisms referred to in criteria III.1, III.2 and III.3 to the financial sector, as no actions are being taken with regard to freezing of funds and assets controlled by the designated persons and organizations (Al-Qaida, Taliban, Osama Bin Laden and others).

Guidance to Financial Institutions (c. III.6):

134. There is no guidance what so ever to financial institutions and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms.

De-Listing Requests and Unfreezing Funds of De-Listed Persons (c. III.7):

135. Not in place.

Unfreezing Procedures of Funds of Persons Inadvertently Affected by Freezing Mechanism (c. III.8):

136. Not in place.

Access to frozen funds for expenses and other purposes (c. III.9):

137. There are no procedures for authorizing access to funds or other assets that were frozen pursuant to S/RES/1267(1999) and that have been determined to be necessary for basic expenses, the payment of certain types of fees, expenses and service charges or for extraordinary expenses.

Review of Freezing Decisions (c. III.10):

138. There are no procedures through which a person or entity whose funds or other assets have been frozen can challenge that measure with a view to having it reviewed by a court.

Freezing, Seizing and Confiscation in Other Circumstances (applying c. 3.1-3.4 and 3.6 in R.3, c. III.11)

139. Conservatory and recovery measures in respect of other terrorist related assets outside the administrative procedure are not provided for in the absence of specific anti-terrorism provisions in the Penal Code.

Protection of Rights of Third Parties (c. III.12):

140. Not in place in the specific UN RES. Context.

Enforcing the Obligations under SR III (c. III.13):

141. At this time Suriname has no appropriate measures to monitor effectively the compliance with relevant legislation, rules or regulations governing the obligations under SR III and to impose civil, administrative or criminal sanctions for failure to comply with such legislation, rules or regulations.

Additional Element (SR III)—Implementation of Measures in Best Practices Paper for SR III (c. III.14):

142. The measures set out in the Best Practices Paper for Special Recommendation III have not been implemented. Some of the people interviewed were not aware of the existence of the Best Practices Paper for SR III.

Analysis of effectiveness

143. Obviously, there are no statistics relating to persons or entities and the amounts of property frozen pursuant to or under UN Resolutions with regards to terrorist financing

2.4.2 Recommendations and Comments

144. None of the criteria of Special Recommendation III are met by Suriname. Many of the people interviewed did not even know of the existence of UN Security Council Resolutions 1267 (1999) and 1373 (2001) and there implications, nor did they have any information regarding the Best Practice Paper.

145. The Suriname authorities should endeavour to introduce the appropriate legislative measures effectively implementing the relevant UN Resolutions and establishing an adequate freezing regime in respect of assets suspected to be terrorism related.

2.4.3 Compliance with Special Recommendation III

	Rating	Summary of factors underlying rating
SR.III	**NC**	• **No system in place complying with the relevant UN Resolutions and providing for an adequate freezing regime**

Authorities

2.5 The Financial Intelligence Unit and its Functions (R.26)

2.5.1 Description and Analysis

Recommendation 26

Legal Framework:

146. The FIU for Suriname is the "MOT *(Meldpunt Ongebruikelijke Transacties* – Office for the disclosure of unusual transactions). It was established as an administrative type FIU by the Law of 5 September 2002 "holding arrangements concerning the disclosure of unusual transactions with the provision of services (the MOT Act - O.G.2002, n° 65). Also relevant in this context is the Law on the identification duty of service providers dd. 5 September 2002 (O.G. 2002, n° 66) and the Law on the criminalisation of money laundering of the same date (O.G. 2002, n° 64).

Establishment of FIU as National Centre (c. 26.1):

147. Art. 2 places the FIU in Paramaribo as the national and central agency responsible for (roughly translated): "the collection, registration, processing and analysis of data, so to determine their relevance for the prevention and detection of offences, as well as for supplying personal and other data according to the provisions of this (i.e. MOT Act) ". According to the Explanatory memorandum of the MOT Act it is - "for the time being" and "for administrative purposes" - placed within the Public Prosecutor's Office as a central and autonomous unit.

148. The "data" this provision refers to are, firstly, the disclosures received from the service providers subject to the reporting obligation of unusual transactions according to objective or subjective criteria (see section 3, R.13), supplemented by the information MOT collects for its analytical purposes, either from the reporting entities or from all State agencies (administrative or law enforcement services). Another source are the suspicious activity reports that the supervisory and State authorities are obliged to disclose (art. 13). All these data are collected in a confidential "MOT" register. The data collection does however not extend to TF related information, no TF specific disclosure duty or FIU assignment being in place under Suriname law.

Guidelines to Financial Institutions on Reporting STR (c. 26.2):

149. Art. 4 of the MOT Act confers several guidance and education assignments to the FIU, including issuing instructions on what requirements the disclosures have to comply with. The disclosure should be made "immediately" and in writing (art. 12). Accordingly MOT has developed forms, adapted to the specific sector, which the reporting entities have to use when making a disclosure to the FIU. The use of the prescribed forms is mandatory: all incomplete or incorrect forms are refused and sent back for corrective action. They are not registered until they are completely

in conformity. The forms are all sent by mail or handed over in hard copy. It is not yet possible to send them in on-line.

150. Furthermore, MOT distributed a guidance paper to the sector on the data that have to be filled in on the disclosure form (art. 12) and on how to respond to the FIU queries for additional information (art.5).

Access to Information on Timely Basis by FIU (c. 26.3):

151. In the performance of its analytical duties MOT has ample legal powers to query additional information from all financial and non-financial entities (where it is irrelevant if they have disclosed or not) as well as from all State agencies, be they administrative or law enforcement (art. 7.1). All these entities and agencies are under the obligation to supply the requested information (art. 7.2). In practice however MOT does not use this power frequently or in a systematic way.

152. Not all governmental services are entirely satisfied with this provision, arguing that there is a legal conflict where they also are bound to a confidentiality or secrecy obligation under their own organic law. This is, for instance, the case with the tax administration. As for the reporting parties, the lawyers are notoriously and intentionally non-compliant in this respect.

Additional Information from Reporting Parties (c. 26.4):

153. Rather abundantly art. 5 also provides for the right of the FIU to further query the disclosing entity in order for MOT to be able to fulfil its analysis (literally: " in order to assess if the collected data need to be disseminated according to art. 6", *i.e.* to the Public Prosecutor). This seems to be a (redundant) specification of the general power art 7 confers to the FIU.

Dissemination of Information (c. 26.5):

154. Whenever the collective information gives rise to a "reasonable suspicion" that somebody has committed money laundering or a related predicate offence, the unusual transaction becomes a suspect transaction, obliging MOT to supply such information to the authorities "responsible for the investigation and prosecution of criminal activity", *i.e.* the Public Prosecutor (art. 6.a). Art. 6.b & c further abundantly elaborate on the instances of reasonable suspicion, without adding anything substantial to the notion or extending the circumstances. The same art. 6 creates the possibility for the Public Prosecutor to query the MOT register in the framework of his criminal investigation.

155. It is not clear why it was deemed necessary to add those variations, which risk creating unnecessary interpretation issues. Art. 6.b refers to the data being relevant for the detection/investigation of money laundering, whereas art. 6.c refers to the relevance of the information for the prevention and detection of predicate offences which seriously violate the rule of law. However, taken as a whole the provision states that, as soon there is a reasonable suspicion the data are indicative of, or relevant to, intended or past money laundering or related activity, they have to be passed on to the prosecutorial authorities. TF related information has not yet been brought under the scope of the MOT Act.

Operational Independence (c. 26.6):

156. The principle of the functional independence of the FIU is not clearly stated in the MOT Act, but is confirmed by the Explanatory Memorandum where it states that "it is the intention that the FIU be an autonomous entity". The FIU is supervised by the Prosecutor General, to whom it has a reporting duty (with copy to the Minister of Justice and Police and the Minister of Finance) on the functioning of the unit, however under confidentiality guarantee and without any mention of operational case information (art. 3). Also, the director is appointed for a period of 3 years by State Decree on proposal of the Minister of Justice and Police, having consulted the Prosecutor General (art. 10.2).

157. Moreover, the Law does emphasize the confidentiality regime of the MOT register (art. 9) and does contain provisions reflecting the central role and integrity of the Head of the FIU (art. 10). The director of MOT cannot cumulate his post with other remunerated activity, nor be commercially active or interested in commercial enterprises. Only he/she is responsible for hiring, suspending or firing the staff of the FIU. Art. 10.5 promises to regulate the labor, remuneration and retirement conditions of the director and staff by decree, which has however not been forthcoming yet. Anybody connected to, or having performed any task within the FIU, is bound to a strict obligation of secrecy and may not use or divulge the information for other purposes than provided by the law (art. 22).

Protection of Information Held by FIU (c. 26.7):

158. The confidentiality regime of the MOT register is laid down in art. 8.3: only in the cases provided for by the Law can data be released from the register to the public prosecutor. Another exception to the confidentiality rule is the information exchange with foreign FIUs on treaty basis (art. 9.2). The State decree establishing the rules concerning the organization of the register (art. 9.1) is however still not drafted, let alone published. The confidentiality is further legally protected by the secrecy obligation imposed by art. 22 (see above). Violation of the secrecy rule carries a sanction of imprisonment up to 10 years and a fine up to five hundred million RSD.

159. The data are stored in a stand-alone computer, protected by a password only known to the director and the analyst(s). The FIU has no safe, so the back-up of the d-base is conserved simply in a fireproof cupboard. The physical safety measures securing the premises themselves are minimal: a simple door lock and grill that any amateur can pick. Entrance to the office is easily gained through the unprotected windows.

Publication of Annual Reports (c. 26.8):

160. The FIU reports its activities to the Prosecutor General on a quarterly basis, with copy to the Minister of Justice and Police and the Minister of Finance. (art. 3.1). MOT is also expected to present a yearly report to the Prosecutor General on its planning and targets of the coming year, again copied to the respective Ministers. No such report has been put down in writing yet, but allegedly an oral report is made in application of art. 3.3 of the MOT Act.

161. No reports are published or made available to the industry and other relevant AML partners giving feed-back on trends, typologies and general follow-up of the disclosures.

Membership of Egmont Group (c. 26.9):

162. MOT is not a candidate for membership of the Egmont Group yet, as it does not meet all of the admission criteria of the Group, particularly in respect of the TF component of the FIU definition. Once the TF law is voted extending the FIU remit to TF related disclosures, MOT will take the necessary steps to initiate the admission procedure.

Egmont Principles of Exchange of Information between FIUs (c. 26.10):

163. The MOUs MOT has concluded with its counterpart in the Netherlands and in the Netherlands Antilles follows the Egmont Group principles of information exchange. MOT Suriname will continue its policy to base its international cooperation on these principles, which is one of the Egmont Group membership criteria anyway.

Adequacy of Resources to FIU (c. 30.1):

164. MOT does not have a separate budget. It is funded out of the budget of the Ministry of Justice and Police on a request basis, with the director applying for funds according to the necessity of keeping his outfit running. The total expenditure for 2008 amounted to approximately 200.000 SRD. At the time of the onsite the proposed budget for 2009 had not received approval of the Minister yet. The foreseen expenditure amounts to 214.500 SRD.

165. The unit is poorly housed in what at the time was promised to be a temporary arrangement. Its premises (4 separated spaces) are part of a building complex of the Ministry of Public Works, located at the outskirts of Paramaribo some 10 km from the centre. It is small and soberly furnished. It disposes of internet, telephone and fax facilities, but the fax only has a national range. As stated above, security features are minimal: a simple door lock and grill, and unprotected windows.

166. At the time of the on-site the FIU counted 4 staff: the director, 1 analyst (who is also taking care of the register input) and 2 legal assistants. 2 analysts were on long term leave and were not expected to return. There is no administrative support staff. The staff shortage translates itself *i.a.* in arrears in the UTR processing (ca. one week).

Integrity of FIU Authorities (c. 30.2):

167. The director is an official from the Ministry of Finance, appointed for a 3 year term (renewable) by State Decree on proposal of the Minister of Justice and Police and after consultation of the Prosecutor General. It is a full-time occupation and he cannot perform other professional or any direct or indirect commercial activity. The present director is in function since the FIU became operational in 2003. His appointment has been tacitly extended. The members of the staff are appointed by the director after a screening process, they have a civil servant status (Ministry of Justice and Police), and take the oath before taking up their function.

Training for FIU Staff (c. 30.3):

168. Besides gaining experience and expertise on the job, which accounts for the bulk of the training, the staff has received some basic training in AML and compliance matters. Although training visits have been made to the FIUs of Aruba, Curacao and the Netherlands, the training process needs to be intensified to keep abreast of the developments and new typologies in the AML/CFT domain.

Statistics (applying R.32 to FIU):

The FIU supplied following statistics.

Table 11: Number of disclosures received since August 2003 – estimated amounts

Year	Disclosures	Indicator	SRG	SRD	USD	Euro
2003	4	Subjective			3.185,39	6.274.000,00
	272	Objective	3.303.676.500,00		1.154.966,29	295.882,46
2004	7	Subjective		377.000,00	482.880,00	100.000,00
	797	Objective	1.503.091.440,00	10.334.077,43	3.310.384,23	1.723.672,17
2005	25	Subjective			17.481.835,00	425.144.890,00
	974	Objective		14.933.423,81	4.696.399,41	1.434.783,70
2006	19	Subjective			2.020.650,00	1.019.500,00
	1951	Objective		40.703.405,56	61.532.090,07	26.032.782,29
2007	9	Subjective			15.447.220,00	1.086.500,00
	2309	Objective		27.790.154,42	81.350.352,73	57.985.811,57
2008	12	Subjective		32.452,86	1.085.349,08	200.375,95
	2022	Objective		14.513.156,15	33.763.431,22	28.323.675,03
	Total					
	66 subjective 8335 objective **8401**		4.806.767.940,00	108.683.670,23	222.328.743,42	549.621.873,17

Table 12: Number of suspicious transactions forwarded to the Public Prosecutor

	2004	2005	2006	2007	2008	Total
Own analysis	24	24			84	132
PP requests		10			2	12
Match MOT D-base	1				9	10

169. In terms of case files (several disclosures are interconnected and are aggregated in on file) 5 cases (25 STRs) have been forwarded in 2004, 2 cases (34 STRs) in 2005, and 4 cases (95 STRs) in 2008, so 11 cases in total over a period of 5 years. The amounts involved in those 154 STRs totaled 464.847,31 USD and 52.335.456,93 EURO.

170. The statistical figures do not specify how many of the 154 disclosures involved in the reports to the Public Prosecutor were subjective or objective indicator based, and consequently do not allow to draw conclusions on the quality of either criterion in terms of their relevance. Translated in percentage however, the number of the reported disclosures (154) represent 1,83 % of the total number of disclosures (8401). At the end of 2008 some 471 UTRs (or 5,6 %) were still in the analytical stage.

Analysis of effectiveness

171. From a legal perspective, the MOT Act provides for an adequate and basically solid legal framework for a performing reporting system and an appropriate processing of the disclosures. The Explanatory memorandum however does not always follow the same wording as the Law itself and raises questions sometimes as to its correct interpretation, for instance:

i. the "facts" to be reported according to Art. 12, become "transactions" in the Memorandum;

ii. the comments on the possibility to supply information from the MOT register according to Art. 8 state that his can only be done "in connection with an imminent criminal investigation", which seems to exclude the exchange of information at the request of a counterpart FIU for analytical purposes.

172. Although the Law already dates from 5 September 2002, some (implementing) legislation still has to be drafted:

i. the State Decree regulating the organization of the MOT register (art. 9.1);

ii. the Law stating the conditions for the international information exchange of data from the MOT register (art. 9.2);

iii. the State Decree on the remuneration, the pension scheme and other labour conditions for the MOT director and his staff.

173. The MOT register is alimented from different sources:

i. starting with the unusual transaction reports by the subjected financial and non-financial entities according to subjective and objective criteria (art. 12);

ii. supplemented by additional information queried by the FIU from the entity that has made the report and from all other entities subjected to the MOT Act (art. 5 and 7);

iii. additional information queried by the FIU from the "State authorities" (art. 7);

iv. information supplied by the supervisory and State authorities whenever they have reasons to suspect money laundering activity (art. 13).

174. So potentially the MOT d-base could and should cover a comprehensive and very broad spectrum of relevant information indicative of money laundering activity and the whereabouts of criminal assets. In reality the register primarily contains unusual transactions disclosed on the basis of objective criteria, a small number of suspicious activity reports (subjective criterion), information occasionally queried by the FIU, and no information supplied by the supervisory and State authorities at all.

175. The reasons are quite evident. Not surprisingly the sector mainly relies on the objective criteria to report and pays little or no attention to elements that would make a transaction suspicious. In terms of percentage, the subjective disclosures represent some 0.79 % of the total incoming disclosures. Some interviewed representatives were even quite blunt on this point, arguing they could not spend their valuable time in playing detective or did not want to risk the wrath of their clients with subsequent commercial losses. They also complain about the little feedback they receive from the authorities. MOT does not systematically search for additional information, except if the initial disclosure is incomplete. If the UTR remains "deficient", it is not even entered in the register. Other queries for additional information be it from the subjected entities or from the State administrations, to further develop and deepen the analysis are rather exceptional.

176. The obligation of Art. 13 for the supervisory and State authorities is simply ignored. No disclosure from these sources is on record with MOT. In the one instance the Customs had given information to the MOT, it was not even registered.

177. The statistics also illustrate the feeble output of the analytical process. Only 142 transactions, aggregated in 11 case files, have given rise to a report to the Public Prosecutor on the basis of the own FIU analysis (the reporting of the 12 other transactions was prompted by a request from the Public Prosecutor) over a period of more than 5 years, representing 1,69 % of the incoming disclosures. The subsequent criminal investigation of these cases ultimately resulted in 1 conviction in 2004. One cannot but conclude that the performance of the preventive system is quite disappointing.

178. So steps have to be undertaken at all stages to remedy the situation urgently, starting with raising awareness and enhancing the sensitivity of the financial and non-financial sector regarding money laundering risks.- The reporting entities should switch from a purely automatic mode to a more reasoned approach, which should translate itself in an increased suspicious transaction reporting that carries higher quality and relevance. Although this awareness raising education is primarily the legal responsibility of MOT (art. 4.1 & 2), in practice it cannot do this without the active support of the supervisory authorities. Feedback and education by way of typologies and case examples, *e.g.* through publication of periodic reports beside information sessions, is one way that has proven its effectiveness.

179. The law requires the unusual/suspicious transactions to be disclosed "without delay". This allows for a lot of latitude if improperly applied. The effectiveness of a preventive system depends also from a speedy intervention aimed at maximum immobilization and recovery of suspect assets. Ideally, disclosures based on suspicion should be made before the transaction is executed, whenever possible. The reporting entities should receive guidance to that effect.

180. The law enforcement community also has its role to play in this respect. It should contribute to the awareness raising by communicating its own experience to the relevant sectors and, if need be, applying the appropriate sanctions in case of non-compliance with the AML provisions (art.20).

181. Furthermore, the analytical process needs to be improved. The line MOT takes with incomplete disclosures is counterproductive: one cannot afford to lose information that in the end might prove valuable. All information, even fragmentary, must be at least be registered for future reference and subjected to analysis as much as possible.

182. The extensive powers of the FIU must be exhausted and used efficiently: the querying of additional information from all sources MOT has access to should become be structural and systemic, so to reach a substantiated conclusion based on all available information. In this context it cannot be tolerated that State administrations, who are obliged to respond to MOT queries (art. 7.2), hide behind their secrecy or confidentiality regime. This applies particularly to the tax administration, whose data are quite important for the FIU to establish the financial profile of the persons(s) involved in the transactions.

183. The potential offered by art. 13 MOT Act must be fully exploited. The supervisory and State authorities (including the police!) are subject to the express duty to inform the MOT spontaneously of all facts that might be indicative of money laundering. They cannot be allowed to further ignore this legal obligation and deprive MOT with valuable information.

2.5.2 Recommendations and Comments

184. The challenges MOT faces are huge. In order to make the preventive system work as it should, it must first and foremost establish, build and protect a relation of trust and partnership with the relevant sectors and other players in the AML field. The FIU is generally considered to be the driving force behind any AML effort and the performance of the system is first of all measured in the light of the (qualitative) output of the FIU.

185. Although sharing the responsibility of tracing criminal assets and implementing the general AML effort with the law enforcement and supervisory agencies, the FIU plays a pivotal role in the anti-money laundering preventive system and as such should act as catalyst in the AML/CFT effort. It must however be recognized that in Suriname the preventive reporting system has not yet met the expectations in terms of effectiveness.

186. The most important reason lies quite clearly in the serious lack of capacity. One cannot expect MOT to fulfil its assignment in a meaningful way if it is not properly resourced, both in terms of human and financial resources. It is legally strong and endowed with appropriate powers, but it simply does not have the means to play its role efficiently. It is no use to provide for a broad range of information supply, if MOT only has 1 staff member who is responsible for the registration, the processing and the analysis of the disclosures and all other information. At the moment of the on-site the registration arrear was about one week, but if all the information would have come in and all queries had been done as the law had intended, the system would be completely bottlenecked. It is obvious that the quality and effective implementation of the system needs to increase, but the present situation and working conditions of the FIU are prohibitive.

It is therefore recommended:

1) That the missing implementing legal instruments be drafted without further delay, so to consolidate the legal framework of the organisation and functioning of the FIU;
2) To substantially increase the human and financial resourcing of the FIU;
3) To move MOT to a location that ensures a secure conservation and management of the sensitive information and the safety of the staff;
4) To improve the IT security measures to protect the sensitive and confidential information;
5) That the sensitisation and education of all reporting entities should be substantially enhanced by awareness raising sessions and typology feedback, aimed at an increased perception of suspicious activity to be reported;
6) To issue the necessary guidance to the sector stressing the importance of timely reporting, particularly of suspicious activity;
7) To increase the quality of the analytical process by systematically querying all accessible sources, particularly the law enforcement and administrative data (including tax information);
8) To fully exploit all possibilities of information collection, particularly by having the supervisory and State authorities report as provided by the Law;
9) Finally, to intensify the efforts for the analysts to acquire better knowledge and insight in money laundering techniques and schemes.

2.5.3 Compliance with Recommendation 26

	Rating	Summary of factors relevant to s.2.5 underlying overall rating
R.26	**PC**	• **Overall problem of effectiveness** • **Insufficient use of the analytical and enquiry powers** • **Insufficient protection of the information and staff security** • **The FIU remit does not cover TF related disclosures**

2.6 Law enforcement, prosecution and other competent authorities the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27, & 28)

2.6.1 Description and Analysis

Legal Framework:

Judiciary

187. Criminal cases, including ML activity, are dealt with first of all by the 3 District Tribunals ("*Kantongerechten*"), who have regional competence. There is one Court of Justice ("Hof van Justitie") handling the appeals in last resort. All in all there are 14 judges serving at all Tribunals and the Court, with another 5 judges expected to take up their function shortly

188. The public prosecution department is installed in each of these courts, namely the Attorney General (*Procureur General)* and 1 Solicitor General ("*Advokaat Generaal*") at the Court of Justice, and 2 Chief Public Prosecutors ("*Hoofdofficier van Justitie*"), assisted by 9 Public Prosecutors and 1 Deputy for the District Tribunals.

189. Their competence and assignments are covered by the Code of Criminal Procedure The organisation and composition of the Suriname judiciary authorities are governed by the 1935 Organic Act laying down the Rules on the Establishment and Composition of the Suriname Judicial Authorities

Police

190. There is one State civil police corps with competence over the whole national territory of Suriname. It is organized according to the organic Law of 17 April 1971 on the Suriname police, and is subdivided in 8 tactical services: 2 Criminal Investigation (serious criminality), 1 local Drugs (local), 1 Drugs (cross-border and mutual assistance), 1 Juvenile and Vice, 1 Fraud and Economic crime, 1 Human Trafficking and (recently) 1 Financial Investigation Team.

Designation of Authorities ML/FT Investigations (c. 27.1):

191. Firstly, all MOT's suspicious activity reports are addressed to the Prosecutor General (art. 6 MOT Act). As said, 11 such reports have been received since 2004, and all were sent to the police for further investigation.

192. The magistrates of the Courts and of the Public Prosecutor's Office have a general competence and are assigned to deal with all forms of criminality. No magistrate is specifically assigned to deal with money laundering or related criminality, although in practice most money laundering prosecutions were dealt with by the same magistrate.

193. The police have organized their investigation teams broadly according to the form of criminality. Money laundering investigations were until recently assigned to the Fraud and Economic crime Section. Now the Financial Investigation Team (FOT) is re-established after a failed start due to a lack of human resources and specialists. Starting from April 2009 this unit is taking over all cases involving or related to money laundering. However, there is no policy of a systematic enquiry into the financial flows from profit generating criminal activity, beside the investigation of the basic offence. Such investigations are at present apparently limited to the enquiries ordered by the Public Prosecutor in the context of the special confiscation proceedings after conviction.

194. It was stated that the police had conducted 17 money laundering investigations since 2004, with 13 cases brought before the judge. This figure however also includes the investigations related to the asset recovery according to the new confiscation procedure. Also, these statistics diverge from those referred to in par. 210 below.

Ability to Postpone / Waive Arrest of Suspects or Seizure of Property (c. 27.2):

195. The investigative powers of the police are stated in the Criminal Procedure Code (art. 134 *ff.*). There are no formal or express provisions in the Suriname CPC, or in the AML Law, covering postponement of arrest and seizure. Nevertheless, in practice investigators have full latitude to decide on the most appropriate moment to proceed with the arrest of the individuals involved in these activities or to gather the evidence. All depends on the urgency of the steps to be taken and the circumstances surrounding the crimes and the need to secure property that has been laundered or is to be laundered and to prevent the perpetrators of these actions from escaping justice. In any case, the principles governing the criminal procedure do not place any time limit on the competent authorities to proceed with the arrest of an individual involved in the commission of a crime or offense. Police investigations are conducted under the direction and authority of the Public Prosecutor and, if appropriate, the investigating magistrate, so any related decision is normally taken in consultation with these magistrates.

Additional Element

Ability to Use Special Investigative Techniques (c. 27.3):

196. There is no law regulating the special investigative techniques in Suriname. Infiltration and undercover techniques are therefore not used by the police. Cross-border controlled delivery has been conducted in drug cases in coordination with the

Netherlands. Telephone tapping under the control of the investigating magistrate is allowed under art. 89 CPC.

Recommendation 28

Ability to Compel Production of and Searches for Documents and Information (c. 28.1):

197. In principle, any search and seizure requires a warrant from the appropriate judicial authority, namely the investigating magistrate (art.91 *ff.* CPC). The police can bypass this fundamental procedure only in cases of *flagrante delicto* (art. 85 and 88 CPC).

198. Beside the general search and seizure regime, special discovery and conservatory powers and tools are conferred by the Criminal Procedure Code to the law enforcement agents to enquire into the property status of a suspect in the context of criminal assets recovery. Upon authorisation by the investigating judge the police can order the production and seizure of all relevant documents by anybody, including financial institutions, and demand to divulge the existence of any property belonging or having belonged to a suspect (art. 86a & 221b CPC).

Power to Take Witnesses' Statement (c. 28.2):

199. Taking and using witnesses' statements are an essential part of any investigation or proceeding, whether involving money laundering or not. The law enforcement authorities, including the police, are routinely authorized to take and use witnesses' statements when they discover offenses and gather evidence (Arts. 134 *ff.* CPC). Special measures apply in the event of witnesses risking to be or being threatened (Law 5 September 2002 on the protection of threatened witnesses) ensuring anonymity as far as possible.

Adequacy of Resources to Law Enforcement and Other AML/CFT Investigative or Prosecutorial Agencies (c. 30.1):

200. The human resources of the Public Prosecutor's office (14 magistrates in all) appear to be quite small in view of their general competence over a multitude of criminal cases, simple and complicated. The workload is increasing steadily, and this increase will pick up speed once the preventive AML system will achieve more and more effectiveness, as should be expected.

201. The overall strength of the KPS (Suriname Police Corps) in human resources (amounts to 1.788 police officers (2.052 total staff, including civilian personnel) The FOT team is composed of 1 police inspector, 4 financial investigators and 2 administrative assistants, so 7 in all. The human and financial resources for the police appear adequate in the present circumstances.

Integrity of Competent Authorities (c. 30.2):

202. Public prosecutors are appointed by the President of the Republic of Suriname, and must comply with set criteria of age, education and integrity (art. 6 to 12 of the 1935 Organic Act). They take the oath before assuming their functions and are subject to

a range of incompatibilities that could affect their impartiality, Furthermore, before they are appointed they undergo a screening consisting mainly of examination on the candidate's personal history (morality and criminal record) and an environmental survey.

203. Investigations are conducted under the responsibility and supervision of a Public Prosecutor or a delegated police officer. All police officers take the oath and their behaviour is constantly scrutinized. A special team (Internal Affairs) investigates wrongdoing by police officers. Administrative sanctions can take the form of a warning, a fine or even dismissal from the force. If necessary criminal proceedings are instigated.

Training for Competent Authorities (c. 30.3):

204. The Public Prosecution magistrates all have a Master degree in law. Since 2004 they undergo a 5 year training ("RAIO") to prepare them for the judicial work. Experience is also acquired through on the job training. The police officers receive a basic training of 1 year, and 1 additional year for the higher level. As a rule 10 year operational experience is required before joining a specialist team. Whilst the Public Prosecutors receive no special guidance on ML/TF and related (legal) issues, they have already taken on the challenge of money laundering prosecutions, stand alone and others, with a certain degree of success.

205. Some training sessions on money laundering were organized for investigators and prosecutors. In December 2008 an international seminar was organized in Paramaribo in which eight countries, Venezuela, Brazil, Colombia, France, Guyana, USA, Trinidad and Tobago, St. Lucia and Suriname participated. Trainings courses, seminars, workshops are held on a regular basis for the judiciary authorities, police, customs and the military police, with assistance from agencies from countries like the USA, France, the Netherlands, Brazil and the EU.

Statistics (applying R.32):

Prosecution:

206. Because of the limited number of ML related prosecutions, the PP Office was able to supply some relevant figures. This was achieved through the process of reconstruction, as there is no structural, nor organisational policy of keeping detailed statistical data.

207. Between 2004 and 2008 6 investigations were followed by prosecution for money laundering, one of which was initiated by a MOT report. In 4 cases the charge was autonomous money laundering, the others were prosecuted together with the predicate offence. 1 case ended with a final conviction (stand alone ML) and 1 case is still pending. All other cases are in instance of appeal, 2 of them after an acquittal.

208. Police statistics were hard to come by and fragmentary and rather unreliable. All put together, the figures refer to some 14 cases investigated for money laundering activity (of which 3 stand alone) since 2004, of which 5 cases were settled out of court and 6 cases ended in a prosecution. The cases settled out of court were basically violations of the currency regulations, where the ML aspect did not really add value. No statistics were given by the police on the results of the investigations

specifically initiated by a MOT report (according to the PG all 11 reports were forwarded to the police for further investigation), nor was any clarification given on the reason why they were not pursued. Police supplied figures on the number of drug arrests and seizures between 2005 and 2008. No figures were available on the seizure or confiscation of criminal assets.

Analysis of effectiveness

209. It is worth noting that of the 11 MOT reports, only one ended up in a conviction in 2004. Although the money laundering prosecutions (stand alone and combined) show an encouraging trend, the overall picture raises some pertinent questions on the interaction between the MOT and the police. According to the police they receive few requests for additional information from the MOT. Furthermore it is clear that the police ignore the obligation imposed by art. 13 MOT FIU and do not volunteer any information that might be relevant or indicative to ML and might produce a match with data in the MOT register, present or future.

210. There is some confusion over the precise number of investigations related to money laundering. Although encouraging in the sense that some results have been achieved before the court, they are modest. It is hoped that, with the FOT becoming operational, more investigations will be successful.

211. The police approach is predominantly reactive, not proactive. In practice, they do not conduct a financial investigation together with the investigation of profit generating offences and wait for an instruction from the Public Prosecutor to that effect. The low level of interaction with MOT is a missed opportunity. The focus on tracing, detecting and investigating criminal proceeds needs to be strengthened.

2.6.2 Recommendations and Comments

212. Although some moderate successes in the investigation and prosecution of money laundering must be acknowledged, the effectiveness of the law enforcement action still leaves to be desired. The performance of the AML/CFT effort should be enhanced by:

i. A better interaction between the FIU and the police

ii. A more efficient use of the information supplied by the FIU

iii. A reinforced focus on the financial aspects when investigating (proceeds generating) offences

2.6.3 Compliance with Recommendations 27 & 28

	Rating	Summary of factors relevant to s.2.6 underlying overall rating
R.27	**PC**	• **No designated financial investigation team until recently – effectiveness untested** • **Loss of effectiveness by** **- insufficient focus on the financial aspects of serious criminality**

		- unsatisfactory exploitation of FIU reports • **- non-observance of the legal obligation to spontaneously informing MOT of ML relevant information**
R.28	**C**	**This Recommendation has been fully observed.**

2.7 Cross Border Declaration or Disclosure (SR. IX)

2.7.1 Description and Analysis

Legal Framework:

213. The Customs Law of 25 April 1908 assigns the customs department with the control of the importation, exportation and transit of goods in Suriname, and with the appropriate levying and collection of the customs duties. Customs has the mission of guarding Suriname's borders together with the Military Police, although the latter is more targeted on (illegal) immigration. In terms of criminality, the customs authorities obviously are mainly faced with smuggling of goods, alcohol and tobacco, but also with drug trafficking. The department falls directly under the Ministry of Finance and consists approximately of 290 personnel.

Mechanisms to Monitor Cross-border Physical Transportation of Currency (c. IX.1):

214. Suriname has not established a specific declaration/disclosure system in the AML/CFT context. The only declaration system in place at the Suriname borders is based on the Foreign Exchange Act (O.G. 1947 no. 136), according to which any person leaving Suriname with US $ 10.000 or above is obliged to acquire a license from the Foreign Currency Committee and declare the money at the border.

215. In practice, whenever they are faced with goods or assets they suspect might be related to a non-customs violation, they immediately turn over the person and goods to the civil police. The same goes for the military police when they discover facts that do not fall within the immigration regulations. Neither of them have the legal authority to stop and detain persons outside their specific domain.

Request Information on Origin and Use of Currency (c. IX.2):

216. In general terms, customs agents have the right to inspect goods, means of transport and individuals, homes, and a particular right of discovery for customs officers regarding papers and documents of all kinds. In principle, they have the right to interrogate the individuals concerned and conduct investigations in cases of customs offenses. However, as indicated above, this does not apply in the AML/CFT context

Restraint of Currency (c. IX.3):

217. The stopping and restraining of goods is possible only in case of a flagrant customs offense, and not in an AML/CFT context.

Retention of Information of Currency and Identification Data by Authorities when appropriate (c. IX.4):

218. Information on customs findings and other information on the identity of the persons concerned are stored, but are not kept or used in support of judicial proceedings against money laundering or the financing of terrorism

Access of Information to FIU (c. IX.5):

219. There is indeed an obligation for the customs, as a State authority, to inform the FIU of facts indicative of money laundering, pursuant to art. 13 MOT Act. Such report was effectively made on one occasion.

220. Domestic Cooperation between Customs, Immigration and Related Authorities (c. IX.6)

221. Currently, at the domestic level, adequate, structured coordination among the authorities concerned is lacking. Cooperation with other operational services occurs however frequently, especially with the military police.

International Cooperation between Competent Authorities relating to Cross-border Physical Transportation of Currency (c. IX.7):

222. The Suriname customs are member of the WCO. International cooperation among customs services is well organized as a rule. However, as the system of declaration/disclosure of currency has not been introduced in Suriname, there is no legal basis and practice for providing such international assistance.

Sanctions for Making False Declarations / Disclosures (applying c. 17.1-17.4 in R.17, c. IX.8

223. There is no applicable law, consequently no sanctions.

Sanctions for Cross-border Physical Transportation of Currency for Purposes of ML or TF (applying c. 17.1-17.4 in R.17, c. IX.9):

224. Cross-border transportation of currency related to money laundering may be punished under Art. 1 and 3 of the Money Laundering Law of 5 September 2002 as acts of commission or participation in these offenses. However, the customs agents themselves have no legal basis for intervening: they must leave the findings and investigation to the police forces.

Confiscation of Currency Related to ML/FT (applying c. 3.1-3.6 in R.3, c. IX.10); Confiscation of Currency Pursuant to UN SCRs (applying c. III.1-III.10 in SR III, c. IX.11):

225. As customs agents are authorized to seize goods only in cases of customs offenses, they must, if the case arises, refer the matter to the police and judicial authorities to take the appropriate precautionary measures.

Notification of Foreign Agency of Unusual Movement of Precious Metal and Stones (c. IX.12):

226. Nothing is expressly provided for this precise case, but this kind of exchange of information could fall under normal international cooperation between customs services.

Safeguards for Proper Use of Information (c. IX.13):

227. In principle, customs records are confidential and only authorized persons, such as the FIU and customs agents or police officers, have access to them. However, there are no reports of cross-borders operations within the meaning of this specific AML/CFT regime in the customs databases.

Statistics:

228. The Customs were not prepared to make their statistics available to the evaluation team.

2.7.2 Recommendations and Comments

229. The export declaration system presently applicable at the Suriname borders cannot be considered to even partially meet the international AML/CFT criteria. The Suriname authorities should decide on the choice between a disclosure or a declaration system for cross-border transportation of currency or bearer negotiable instruments and put in place such system aimed at discovering criminal or terrorist related assets without delay.

2.7.3 Compliance with Special Recommendation IX

	Rating	Summary of factors relevant to s.2.7 underlying overall rating
SR.IX	**NC**	• **No declaration/disclosure system in place regarding the cross-border transportation of currency in the AML/CFT context**

3. PREVENTIVE MEASURES —FINANCIAL INSTITUTIONS

3.1 Risk of money laundering or terrorist financing

230. The AML preventative measures applicable to the Suriname financial system are contained in the Identification Requirement for Service Providers Act, 2002 No 66 (WID Act) and the Reporting of Unusual Transaction Act, 2002 No 65 (MOT Act).

231. The WID Act and the MOT Act, which came into force in March 2003, are not based on risk assessments of the economy in the manner intended by the FATF recommendations.

3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)

3.2.1 Description and Analysis

Legal Framework:

232. In the WID Act, the identification of the customer and the verification of the (customers) identity are required before rendering financial services.

233. "Financial services", as defined in article 1c of the WID Act, means the performance, by an institution operating in or from Suriname, of any of the following acts:

a) taking custody of securities, banknotes, coins, precious metals and other valuables;

b) offering access to an account in which a balance of money, securities, precious metals or other variable may be held;

c) hiring out a safe deposit box;

d) making a payment in connection with the cashing of coupons or similar detachable certificates attached to bonds or similar negotiable instruments;

e) concluding a life insurance agreement or acting as an agent in such a transaction;

f) making a payment in respect of a life insurance agreement as referred to in e;

g) crediting of debiting or causing to be credited or debited an account in which a balance may be held in the form of money, securities, precious metals or other assets;

h) exchanging Suriname dollars and/or foreign currency;

i) making national and international money transfers;

j) receiving funds, repayable on demand or subject to notice being given, whether or not in the form of savings deposits or in return for the issue of one or more types of debt securities, and granting credits or making investments for the institution's own account;

k) trading in securities.

234. Making national and international money transfers includes making occasional transactions or one-off money transactions as covered by the interpretative Note to SR VII. This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked.

235. Pursuant to article 9d of the Bank Act 1956, as amended in 2005, the Central Bank of Suriname (CBS) has the task of supervising the banks, the credit unions, the pension –and provident funds, insurance companies, the money exchange businesses and the money transfer offices in Suriname in accordance with the provisions of the Ordinance of June 1968 on Supervision of the Banking and Credit Institutions and the Pension –and Provident Funds Act 2005. In addition, money exchange businesses are regulated under the Resolution on the Currency Arrangements 1994 State Ordinance no. 1994 No.64 (as amended by State Ordinance 2000 no.117) and Money Remitters are regulated under the Resolution on Money Remittance 2007 State Ordinance 2007 no. 44.With these Acts the supervision is solely aimed at prudential supervision.

236. Currently, CBS is working on a new Banking Supervision Act, which includes the Basle II Capital accord, a new Act on Supervision of Money Exchange Offices and Money Transfer Offices, a new Act on Insurance Companies and a new Act that combats terrorist financing, that will provide the CBS with a solid legal basis to issue AML and CFT guidelines and extent and modernize the supervisory framework accordingly.

237. With respect to the current AML and CFT framework, control mechanisms are not incorporated in the WID Act nor in the MOT Act. In other words, these Acts do not charge an institution or supervisory authority with the supervision of compliance with the AML and CFT requirements.

Recommendation 5

General description and context

238. The scope of the WID Act, is limited to basic customer identification requirements and does not contain the broad range of customer due diligence (CDD) measures in conformity with the FATF Recommendations.

239. The definition of "financial activities" as mentioned in the WID Act (and in the MOT Act) does not fully match with the definition of "financial activities" as stated in the FATF Methodology under "financial institution". The definition of "financial activity" in the WID Act (and similar in the MOT Act) is more restrictive. The activities "financial leasing" and issuing & managing means of payment" are not yet

included in the definition of "financial activities" of the WID Act (and similar in the MOT Act). The assessment team advises to adjust the definition of "financial activities" in accordance with the FATF Methodology.

Prohibition of Anonymous Accounts (c. 5.1):

240. According to article 2 of the WID Act, the opening and operation of numbered accounts, anonymous accounts and accounts in fictitious names is under Surinamese not permitted since financial institutions are required to verify the identity of every person (natural person or legal person) before rendering financial services (this includes opening of an account). During the on-site visit, the assessment team was advised that none of the financial institutions keeps or maintains anonymous accounts, accounts in fictitious names or numbered accounts.

When is CDD required (c. 5.2):

241. Under recommendation 5.2. all financial institutions should be required to undertake customer due diligence (CDD)

242. *a) when establishing business relations.*

243. The WID Act is limited to identification requirements and does not cover the broad range of CDD measures as mentioned in essential criteria 5.3 up to 5.6 of the FATF recommendations.

244. According to article 2 (1) of the WID Act all financial institutions are required to identify the customer before rendering this customer a financial service. In addition, article 9 of the WID Act stipulates that financial institutions are prohibited to render a financial service without knowing the true identity of the customer.

245. *b) when carrying out occasional transactions above the applicable designated threshold (USD/EUR 15.000), including when the transaction is carried out in a single operation or in several operations that appear to be linked.*

246. The WID Act is limited to identification requirements and does not cover the broad range of CDD measures as mentioned in essential criteria 5.3 up to 5.6 of the FATF recommendations.

247. *c) when carrying out occasional transfers that are wire transfers in the circumstances covered by the Interpretative Note to SR VII.*

248. According to article 2 (1) of the WID Act all financial institutions are required to identify the customer before rendering this customer a financial service. In addition, article 9 of the WID Act stipulates that financial institutions are prohibited to render a financial service without knowing the true identity of the customer.

249. However, the WID Act is limited to identification requirements and does not cover the broad range of CDD measures as mentioned in essential criteria 5.3 up to 5.6 of the FATF recommendations.

250. *d) when there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to elsewhere under the FATF Recommendations, or*

251. *e) the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.*

252. The WID Act, does not provide full customer due diligence requirements, when there is a suspicion of money laundering or terrorist financing, nor does the WID Act provide for customer due diligence requirements, when the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. Currently there is no law or regulation in place that addresses terrorist financing.

Identification measures and verification sources (c. 5.3):

253. Under recommendation 5.3 financial institutions are required to identify permanent or occasional customers (whether natural or legal persons or legal arrangements) and verify the customer´s identity using reliable independent source documents, data or information.

254. By virtue of article 2 (1) of the WID Act all financial institutions are required to identify the customer before rendering this customer a financial service.

255. By virtue of article 3 (1) of the WID Act financial instituations are obliged to do everything necessary to obtain all relevant information for the establishment of the identity of the customer. Articles 3 (2) and 3 (3) contain more detailed rules on the information and type of documents that can be used for identification and verification purposes as meant in article 3 (1); name, address, place of residence, telephone number, date of birth, nationality, occupation, name of employer as well as the type of document, the issuing date and place of issuance of the document that was used to identify the customer.

256. The identity of the customer (natural person) can be recorded using the following documents which generally contain a photograph:

i. A valid driver's license, or

ii. A valid identity card, or

iii. A valid travel document (passport), or

iv. A valid foreign ID document that meets legal requirements in the country of the customer's origin.

257. It became clear from meetings with the private sector that other types of documents are not accepted for identification purposes.

258. In the circumstance where a customer is legally incompetent or disqualified to perform transactions, it is sufficient for the financial institution to identify of the

legal representative in the meaning of the Surinamese Civil Code (according to article 3 (4) of the WID Act).

Identification of Legal Persons or Other Arrangements (c. 5.4):

259. In the case of customers that are legal persons and arrangements, essential criteria 5.4 of the Recommendations provides that:

i. Financial institutions should be required to verify that any person purporting to act on behalf of the customer is so authorised and verify the identity of that person and;

ii. That financial institution should be required to verify the legal status of the legal person or legal arrangement e.g. by obtaining proof of incorporation or similar evidence of establishment or existence, and obtain information concerning the customer's name, the names of trustees (for trusts), legal form, address, directors (for legal persons), and provisions regulating the power to bind the legal person or arrangement.

260. In article 3 (5) of the WID Act a requirement is introduced stating that the identity of a legal person must be verified by the submission of a certified excerpt of the Suriname Chamber of Commerce or a deed that is passed by a notary residing in Suriname.

261. According to article 3 (6) a financial institution should identify the identity of a foreign legal person by using a deed that has to be drawn up by a notary residing in Suriname.

262. In article 3 (7) of the WID Act, a requirement is introduced stating that in case a customer acts on behalf of a natural person of legal person, the financial institution must check to what extent the person concerned has procuration power, by using the articles of association, a power of attorney, an employer statement, an excerpt of the Chamber of Commerce or other documents.

263. By virtue of article 4 (1) of the WID Act financial institutions are obligated to verify whether a customer (natural person) is acting at his/her own behalf or on behalf of a third party.

264. For a customer that is a trust, the Suriname legislation does not have the obligation to verify the legal status of a trust by obtaining evidence of establishment or existence and obtain information concerning the customers name, the names of the trustee (s), the type of trust, address and provisions regulating the power to bind such trust.

Identification of Beneficial Owners (c. 5.5; 5.5.1 & 5.5.2):

265. In case a customer (natural person) is acting on behalf of a third party, the financial institution is obligated to take reasonable measures to verify the identity of that third party by using documents as described in article 3 of the WID Act (article 4 (3) and 4 (4) of the WID Act).

266. In the Surinamese legislation, there is no explicit requirement for financial institutions to a) understand the ownership and control structure of the customers and b) to determine who are the natural persons that ultimately own or control the customer. A definition of "beneficial owner" is lacking.

267. During the on-site visit, two of the five interviewed banks and credit unions informed the assessment team, that they take reasonable measures to identify the "beneficial owner" of a legal person. As such they apply a threshold approach whereby the natural person who is entitled to 10% or more interest in a legal person, or any individual, who owns 10% or more of the shares in a legal person is identified. Most companies in Suriname have issued bearer shares and as such these bearer shares can be transferred to anyone at any time. Suriname has not (yet) immobilized these types of shares.

268. The aforementioned two financial institutions in such circumstances consult the articles of association of a company, in which the founder(s) of a company is/(are) mentioned. Alternatively, they request the minutes of the last shareholders meeting or a list of "current" shareholders and may require such company to inform them of any changes in ownership. It is questionable, whether this kind of information does continuously provide up to date information on the beneficial ownership.

269. With respect to bearer shares, the weaknesses in the verification measures of beneficial ownership are exacerbated by the weaknesses described under Recommendation 33 and are thus noted here.

270. In respect to legal arrangements such as trusts, the Surinamese legislation does not provide types of measures that would generally be needed to satisfactorily understand who is/(are) the natural person(s) that ultimately owns or controls the customer or exercise(s) ultimate effective control over a legal arrangement such as a trust.

Information on Purpose and Nature of Business Relationship (c. 5.6):

271. According to article 7c of the WID Act, financial institutions are required to register the nature of the service that is provided. This requirement does not fully cover the intention of recommendation 5.6. Recommendation 5.6 refers to formulating a policy, in which factors such as customers background, his links to Suriname and the his public status, accounts related to this account, the extent of his business activities and the source of his wealth and/or income, etc. shall be taken into consideration.

Ongoing Due Diligence on Business Relationship (c. 5.7; 5.7.1 & 5.7.2):

272. A specific requirement to perform ongoing due diligence on business relationships can not be found in the legislation of Suriname. The assessment team was advised that the banks, credit unions and insurance companies are in the process of classifying each customer into a customer profile, taking into account the transactions undertaken throughout the course of the contractual relationship and undertake reviews of existing records while doing this.

Risk—Enhanced Due Diligence for Higher Risk Customers (c. 5.8):

273. A requirement to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction can not be found in the legislation of Suriname.

274. Examples of higher risk categories (which are derived from the Basel CDD Paper) may include:

i. Non-resident customers;

ii. Private banking;

iii. Legal persons or arrangements such as trusts that are personal assets holding vehicles;

iv. Companies that have nominee shareholders or shares in bearer form.

275. During the on-site visit, the financial institutions indicated that the number of non-resident customers that apply for financial services in Suriname is very limited. None of the financial institutions seem to have had applications for business from trustees or trusts that are personal holding assets or applications for business from foreign companies that have nominee shareholders. Nevertheless, most of the companies in Suriname have bearer shares. The assessment team advises Suriname to provide the private sector with specific CDD guidance to address the risks associated with such customers.

Risk—Application of Simplified/Reduced CDD Measures when appropriate (c. 5.9):

276. Circumstances in which simplified or reduced customer due diligence measures may be applied, can not be found in the legislation of Suriname.

Risk—Simplification / Reduction of CDD Measures relating to overseas residents (c. 5.10):

277. The application of simplified or reduced customer due diligence measures relating to overseas residents can not be found in the legislation of Suriname.

Risk—Simplified/Reduced CDD Measures not to apply when Suspicions of ML/TF or other high risk scenarios exist (c. 5.11):

278. The legislation of Suriname does not allow simplified or reduced customer due diligence measures and as such there is no stipulation that simplified or reduced customer due diligence measures are not allowed when suspicious of money laundering or terrorist finance or other high risk scenarios exist.

279. Risk Based Application of CDD to be Consistent with Guidelines (c. 5.12):

280. There is no specific legal requirement for financial institutions that advocates a risk based application of CDD. While the legislation at the time of the on-site visit was limited to customer identification requirements, part of the private sector was farther

in its approach to apply established CDD measures to know their customers. This stems from a prudential point of view in which banks need to know their customer to overcome prudential risks, more than from an AML/CFT point of view. In general, banks do take the Basel CDD paper into consideration.

Timing of Verification of Identity—General Rule (c. 5.13):

281. Recommendation 5 requires that financial institution should be required to verify the identity of the customer and the beneficial owner, before or during the course of establishing a business relationship or conducting transactions for occasional customers.

282. According to article 2 (1) of the WID Act financial institutions are required to verify the identity of the customer before rendering this customer a financial service. The requirement to verify the identity of the beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers can not be found in the legislation of Suriname.

Timing of Verification of Identity—Treatment of Exceptional Circumstances (c.5.14 & 5.14.1):

283. The application for financial institutions to complete the verification of the identity of the customer and beneficial owner following the establishment of the business relationship, provided that a) this occurs as soon as reasonably practicable, b) is essential not to interrupt the normal conduct of business and c) the money laundering risks are effectively managed, can not be found in the legislation of Suriname.

284. During the on-site visit, the assessment team was advised by one life insurance company, that they allow the verification of the identity of the beneficiary under the policy to take place after the business relationship has been established, in which case the verification has to take place no later than at the time of the payout or before the time the beneficiary intends to exercise rights vested under the policy.

Failure to Complete CDD before commencing the Business Relationship (c. 5.15):

285. According to article 9 of the WID Act, financial institutions are prohibited to render a financial service without knowing the true identity of the customer. As mentioned earlier, the WID Act is limited to identification requirements and does not cover the broad range of CDD measures as mentioned in essential criteria 5.3 up to 5.6 of the FATF recommendations.

286. In addition, there is no direct requirement for financial institutions to consider making a suspicious transaction report in the event the financial institution is not able to complete CDD or to identify the customer properly.

Failure to Complete CDD after commencing the Business Relationship (c. 5.16):

287. The WID Act does not require applying CDD to existing customers (customers before the WID Act came into force march 2003).

Existing Customers—CDD Requirements (c. 5.17):

288. Financial institutions should be required to apply CDD requirements to existing customers on basis of materiality and risk. Some examples are given in the Methodology of the times when this might be appropriate – e.g. when a transaction of significance takes place, when the institution becomes aware it lacks sufficient information about an existing customer. Such specific requirement can not be found in the WID Act.

289. As mentioned earlier, the assessment team was advised that the banks, credit unions and insurance companies are in the process of classifying each customer into a customer profile, taking into account the transactions undertaken throughout the course of the contractual relationship and undertake reviews of existing records while doing this.

Existing Anonymous-account Customers – CDD Requirements (c. 5.18):

290. According to article 2 of the WID Act, the opening and operation of numbered accounts, anonymous accounts and accounts in fictitious names is under Suriname law not permitted since financial institutions are required to verify the identity of every person (natural person or legal person) before rendering financial services (this includes opening of an account).

Recommendation 6

Foreign PEPs—Requirement to Identify (c. 6.1):

291. Suriname has not yet implemented any provision regarding the establishment and maintenance of a customer relationship with foreign politically exposed persons (PEPs).

Foreign PEPs—Risk Management (c. 6.2; 6.2.1):

292. There is no explicit legal obligation to obtain senior management approval to continue the business relationship where a customer or beneficial owner has been accepted and he/she is subsequently found to be or subsequently becomes a PEP.

Foreign PEPs—Requirement to Determine Source of Wealth and Funds (c. 6.3):

293. There is no explicit legal requirement to determine the source of wealth and source of funds of a PEP.

Foreign PEPs—Ongoing Monitoring (c. 6.4):

294. There is no explicit legal requirement to apply ongoing monitoring of the business relationship.

Domestic PEPs—Requirements (Additional Element c. 6.5):

295. Suriname has not yet implemented any provision regarding the establishment and maintenance of a customer relationship with domestic politically exposed persons (PEPs).

Domestic PEPs—Ratification of the Merida Convention (Additional Element c. 6.6):

296. Suriname has signed, ratified and implemented the OAS Convention against. Corruption on June, 04, 2002 (regional).The United Nations Convention against Corruption has not yet been signed and ratified by Suriname. Besides the OAS Convention, the Draft Anti Corruption Act also takes into account the requirements of the UN Convention against Corruption. This draft act was discussed in February 2009 in parliament, but the discussions have not been concluded.

Recommendation 7

Cross Border Correspondent Accounts and Similar Relationships – introduction

Requirement to Obtain Information on Respondent Institution (c. 7.1):

297. There is no legal framework in place in the Suriname that treats with the issue of correspondent banking. Although the activity may be limited, interviews indicated that a number of banks operating in Suriname offer this service. These banks obtain their information from the Bankers almanac depository.

Assessment of AML/CFT Controls in Respondent Institution (c. 7.2):

298. There is no legal requirement to ascertain that the respondent institution's AML/CFT controls are adequate and effective.

299. During the on-site visit, the banks informed the assessment team that the respondent institutions do assess their AML/CFT controls.

Approval of Establishing Correspondent Relationships (c. 7.3):

300. There is no legal requirement that stipulates that approval of establishing correspondent relationships should be obtained from senior management.

301. Interviewed financial institutions indicated that while there is no requirement for senior management approval of new correspondent relationships, approval of such new relationships normally took place at board level.

Documentation of AML/CFT Responsibilities for Each Institution (c. 7.4):

302. There is no legal requirement to document the respective responsibilities of each institution. During the on-site visit, the assessment team was advised by the banks that have available service level agreements on the respective responsibilities of each institution.

Payable-Through Accounts (c. 7.5):

303. Regarding payable through accounts, it is not clearly required to be satisfied that the respondent has performed all normal CDD obligations; this may be limited to the obligation to identify the customer. While Surinamese authorities indicate that the provision means "knowing the identity of the customer", this still would not adequately cover other required CDD measures such as beneficial ownership, and ascertain the purpose and nature of the business relationship.

Recommendation 8

Misuse of New Technology for ML/FT (c. 8.1):

304. There is no legal requirement that stipulates that financial institutions are required to have policies in place or take such measures as may be needed to prevent misuse of technological developments in money laundering or terrorist financing schemes.

Risk of Non-Face to Face Business Relationships (c. 8.2 & 8.2.1):

305. The legislation in Suriname does not require policies and procedures to address any specific risks associated with non-face to face business relationships or (ongoing) transactions. During the on-site visit, the assessment team was advised that non-face to face business relationships generally will not be accepted. If an applicant for business wants to be serviced, he or she needs to identify himself or herself in person.

Analysis of effectiveness

306. From a legal perspective, the WID Act does not provide for an adequate and solid framework that imposes the required obligations on financial institutions and designated non-financial businesses and professions. The scope of the WID Act, is limited to basic customer identification requirements and does not contain the broad range of customer due diligence (CDD) measures in conformity with the FATF Recommendations. The establishment of the identity of the ultimate beneficial owner(s) is not elaborated on in the WID Act.

307. The WID Act is lacking of a provision that entrusts an institution or a supervisory authority with the task of supervision of the compliance with the AML/CFT regime.

308. In addition the WID Act does not have any administrative (e.g. fines) or civil sanctions, which are in practise easier enforceable and in practice more effective than penal provisions.

3.2.2 Recommendations and Comments

309. Suriname should implement the following elements from Recommendation 5 which have not been fully addressed:

1) All financial institutions should be fully and effectively brought under AML and CFT regulation and especially under the broad range of customer due diligence requirements;

2) The definition of "financial activities" should be updated in accordance with the definition of "financial activities" in the FATF Methodology;

3) Financial institutions should be required to undertake full CDD measures when carrying out occasional transactions that are wire transfers in circumstances covered by the Interpretative Note to SR VII or occasional transactions above the applicable threshold of USD/EUR 15.000;

4) The requirement to undertake CDD measures in cases where there is a suspicion of terrorist financing and in cases where there are doubts about the veracity or adequacy of previously obtained customer identification data;

5) The requirement to verify the legal status of legal arrangements like trusts and understand who is (are) the natural person(s) that ultimately owns or control the customer or exercise(s) effective control over a legal arrangement such as a trust;

6) The requirements regarding identification and verification of the beneficial owner for legal persons, including the obligation to determine the natural persons who ultimately own or control the legal person;

7) The obligation to obtain information on the purpose and intended nature of the business relationship;

8) No specific requirement to perform ongoing due diligence on business relationships;

9) Performing enhanced due diligence on higher risk categories of customers, business relationships or transactions;

10) There should be some consideration/assessment made based on which there is a satisfaction about compliance with the Recommendations by countries which are currently seen as compliant without any doubt;

11) There are no general requirements to apply CDD measures to existing customers on the basis of materiality and risk;

12) When regulating the identification and verification of beneficial owners, a requirement to stop the financial institution from opening an account, commence business relations or performing transactions when it is unable to identify the beneficial owner satisfactorily.

13) The requirement to terminate the business relationship and to consider making a suspicious transaction report when identification of the customer cannot be performed properly after the relationship has commenced.

14) Suriname should implement the necessary requirements pertaining to PEPs.

15) With regard to correspondent banking, financial institutions should be required to determine that the respondent institution's AML/CFT controls are adequate and effective, and regarding payable through accounts, to be satisfied that the respondent has performed all normal CDD obligations.

16) Suriname should also implement the necessary requirements pertaining non-face to face business relationships or (ongoing) transactions.

17) In addition, steps should be taken to ensue that financial institutions have policies in place or take such measures as may be needed to prevent the misuse of technological developments in ML or TF schemes.

18) The assessment team recommends to include administrative (e.g. fines) or civil sanctions in the AML/CFT framework, which are in practise easier enforceable and in practice more effective than penal provisions.

3.2.3 Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
R.5	**NC**	• **All financial institutions should be fully and effectively brought under AML and CFT regulation and especially under the broad range of customer due diligence requirements. The definition of "financial activities" should be updated in accordance with the definition of "financial activities" in the FATF Methodology.** • **Financial institutions should be required to undertake full CDD measures when carrying out occasional transactions that are wire transfers in circumstances covered by the Interpretative Note to SR VII or occasional transactions above the applicable threshold of USD/EUR 15.000;** • **There is no legal requirement to undertake CDD measures in cases where there is a suspicion of terrorist financing and in cases where there are doubts about the veracity or adequacy of previously obtained customer identification data.** • **There is no legal requirement to verify the legal status of legal arrangements like trusts and understand who is (are) the natural person(s) that ultimately owns or control the customer or exercise(s) effective control over a legal arrangement such as an Anglosaxon trust.** • **There is no legal requirement regarding identification and verification of the beneficial owner of a legal person.** • **There is no legal requirement to obtain information on the purpose and intended nature of the business relationship.** • **No specific requirement to perform ongoing due diligence on business relationships.** • **Performing enhanced due diligence on higher risk categories of customers, business relationships or transactions.** • **There should be some consideration/assessment made based on which there is a satisfaction about compliance with the Recommendations by countries which are currently seen as compliant without any doubt.** • **There are no general requirements to apply CDD measures to**

		existing customers on the basis of materiality and risk. • **When regulating the identification and verification of beneficial owners, a requirement to stop the financial institution from opening an account, commence business relations or performing transactions when it is unable to identify the beneficial owner satisfactorily is needed.** • **There is no legal requirement to terminate the business relationship and to consider making a suspicious transaction report when identification of the customer cannot be performed properly after the relationship has commenced.**
R.6	**NC**	• **Suriname has not implemented any AML/CDD measures regarding the establishment and maintenance of customer relationships with politically exposed persons (PEPs).**
R.7	**NC**	• **There are no legal requirements applicable to banking relationships.**
R.8	**NC**	• **The (legal) requirement for financial institutions to have policies in place or take such measures as may be needed to prevent misuse of technological developments in ML or TF schemes is not covered.**

3.3 Third Parties and Introduced Business (R.9)

3.3.1 Description and Analysis

Legal Framework:

310. There are no provisions in the laws, regulations of Suriname regarding the use of third party introducers of customer identification. If financial institutions are permitted to rely on third parties or introducers the Surinamese legislation needs to be adjusted in conformity with Recommendation 9. If financial institutions are not permitted to rely on third parties or introducers for some elements of the CDD process, the law or regulation should specify this.

Requirement to Immediately Obtain Certain CDD elements from Third Parties (c. 9.1):

311. According to Recommendation 9 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. The introducer must provide the name of the third party they are introducing and give an assurance that they have obtained evidence of the identity of the third party. There is no such provision in the Surinamese legislation.

Availability of Identification Data from Third Parties (c. 9.2):

312. Financial institutions relying on introducers or third parties, have to make sure that supporting identification documents can be made available if required by the relevant authorities. There is no such provision in the Suriname's legislation.

Regulation and Supervision of Third Party (applying R. 23, 24 & 29, c. 9.3):

313. Financial institutions relying on introducers or third parties should be required to satisfy themselves that the third party is regulated and supervised and has measures in place to comply with the CDD requirements set out in Recommendations 5 and 10. There is no such provision in the Surinamese legislation.

Adequacy of Application of FATF Recommendations (c. 9.4):

314. In determining in which countries the third party that meets the conditions can be based, competent authorities should take into account information available on whether those countries adequately apply the FATF Recommendations. There is no such provision in the Suriname's legislation.

Ultimate Responsibility for CDD (c. 9.5):

315. The responsibility for ensuring correct CDD should rest with the financial institution undertaking the business not the introducer. There is no such provision in the Surinamese legislation.

Analysis of effectiveness

316. Currently, the vast majority of the financial institutions in Suriname do not rely on an introducer or third party to perform some of the elements of the CDD process. The insurance companies do work with local insurance brokers and/or local insurance agents, who might perform some elements of the CDD process. Interviews indicated that none of the financial institution rely on non-resident introducers or non-resident third parties to perform these tasks.

3.3.2 Recommendations and Comments

317. Suriname has to determine or assess whether financial institutions should be permitted to rely on introducers or third parties to perform some elements of the CDD process. If financial institutions are permitted to rely on third parties or introducers the Surinamese legislation needs to be adjusted accordingly. If financial institutions are not permitted to rely on third parties or introducers for some elements of the CDD process, the law or regulation should specify this.

3.3.3 Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R.9	**NC**	• **There is no legal provision that addresses the reliance on intermediaries or third party introducers to perform some of the elements of the CDD process or to introduce business.**

		• **Financial institutions are not required to take adequate steps to satisfy themselves that copies of the relevant documentation will be made available from the third party upon request without delay** • **There is no requirement that the financial institution must be satisfied that the third party is regulated and supervised and has measures in place to comply with the CDD requirements.** • **In determining in which countries the third party that meets the conditions can be based, competent authorities do not take into account information available on whether those countries adequately apply the FATF Recommendations.** • **There is no legal provision that indicates that the ultimate responsibility for customer identification and verification remains with the financial institution relying on the third party.**

3.4 Financial Institution Secrecy or Confidentiality (R.4)

3.4.1 Description and Analysis

Legal Framework:

318. There are no financial secrecy laws in Suriname. Information can be obtained either by production of a court order or by the competent authorities i.e. the CBS and the Financial Intelligence Unit (FIU).

319. Section 15 of the Act on the Supervision of the Credit System 1986 provides that anyone who performs any duty by virtue of the implementation of this Act shall be prohibited from using or disclosing data or information furnished under this Act except insofar as such use or disclosure is required for the performance of his duty or by this Act.

320. Breaches of provisions, pursuant to Section 15 shall be punished as a crime, insofar as the breach was committed knowingly; insofar as it was not committed knowingly, it shall be punished as a breach. A person who commits a crime shall be punished by a term of imprisonment up to two years and a fine up to SRG 25,000 or with either of these penalties. In the "Algemene Geldboetewet" SB 2002 no. 73 these fines are converted into current currencies (category 6 of the Act). These fines now have a maximum of SRD 1 million. A person who commits a breach shall be punished by imprisonment of up to six months and a fine of up to SRG 10,000 or with either of these penalties. According to the "Algemene Geldboetewet" SB 2002 no. 73 such a fine is placed under category 5. These fines have a maximum of SRD 10.000.

321. Pursuant to Section 13 of the MOT Act, bodies charged with the supervision of financial institutions shall, notwithstanding any secrecy provisions applicable to the institutions in question, inform the FIU, if they discover, in the performance of their

duties, facts that point to money laundering or could reasonably by presumed to do so. To date, the CBS has not made any notifications to the FIU pursuant to the MOT Act.

322. The CBS has the ability to access all information they require to perform their prudential supervisory functions (Section 10 of the 1986 Act on the Supervision of Banking and Credit Institutions, which also covers insurance companies and pension funds).

323. There is no legislation on international cooperation in Suriname. The exchange of information occurs on a case-by-case basis, and more specifically at the level of institutions, solely with the approval of the financial institution concerned. There are no MOUs regarding information exchange and to date the CBS has not received any requests. Nevertheless according to article 7 of the MOT Act government, financial and non-financial institutions are obligated to provide the FIU with information on request.

324. Since the requirements of Recommendations 7 and 9 and Special Recommendation VII have not been imposed on financial institutions, there are no measures for financial institutions to share information between themselves by these Recommendations.

325. Inhibition of Implementation of FATF Recommendations (c. 4.1):

3.4.2 Recommendations and Comments

1) The assessment team recommends that the relevant competent authorities in Suriname be given the ability to share locally and internationally, information they require to properly perform their functions.

3.4.3 Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
R.4	**PC**	• **While most of the competent authorities have access to information, there are no measures allowing for the sharing of information locally and internationally.** • **There are no measures for the sharing of information between financial institutions as required by Recommendations 7 and 9 and Special Recommendation VII.**

3.5 Record keeping and wire transfer rules (R.10 & SR.VII)

3.5.1 Description and Analysis

Legal Framework:

326. According to the Methodology, Recommendation 10 requires financial institutions (by law or regulation) to:

i. Maintain all necessary records on transactions, both domestic and international, for at least five years following the completion of the transaction (or longer if properly required to do so) regardless of whether the business relationship is ongoing or has been terminated;

ii. Maintain all records on the identification data, account files and business correspondence for at least five years following the termination of the account or business relationship (or longer if necessary) and the customer and transaction records and information;

iii. Ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority.

327. Transaction records are also required under Recommendation 10.1.1 to be sufficient to permit reconstruction of individual transactions, so as to provide, if necessary evidence for the Prosecution. This needs to be required by other enforceable means and be sanctionable.

Record-Keeping & Reconstruction of Transaction Records (c. 10.1 & 10.1.1):

328. Article 5 of the WID Act, requires financial institutions to keep copies of identification papers of each customer for a period of at least seven years after termination of the provided services.

329. In addition, article 8 of the WID Act requires financial institutions to register the following information (as mentioned in article 7 of the WID Act) and to retain it in accessible form for seven years following the termination of the account or business relationship:

i. The family name, address and residence of the client, of the person in whose name the deposit or the account is registered, of the person in whose name a payment is made or a transaction is effected, and of their respective representatives;

ii. The nature, the number and the date and place of issue of the identity documents;

iii. The nature of the service, and;

iv. If the service consists in taking custody of assets:

v. The deposit's serial number and the market value represented by the said assets at the time of depositing or, failing a market value, the amount of money represented by the assets, calculated according to other generally accepted valuation standards, or if the amount of money represented by the assets may not reasonably be determined, an accurate description of the assets themselves

vi. If the service consists in opening an account: a clear description of the type of account and the serial number assigned to the account;

vii. If the service consists in hiring out a safe deposit box: the number of or other distinctive reference to the respective safe deposit box;

viii. If the service consists in making payments in connection with the cashing of coupons or similar certificates attached to bonds or similar negotiable instruments: the amount of money involved in the transaction and the number of the account concerned;

ix. If the service consists in concluding a life insurance agreement: the number of the account to which the first premium payment is charged;

x. If the service consists in making a payment in respect of a life insurance agreement: the number of the account to which the first premium payment is credited;

xi. If the service consists in crediting of debiting or causing to be credited or debited an account in which a balance may be held in the form of money, securities, precious metals or other assets; the amount of the transaction, the account number, the value of the securities, precious metals or other assets;

xii. If the service consists in buying and selling Surinamese guilders and/or foreign currency and making money and/or value transfers; the amount of money involved in the transaction and the applicable currency;

xiii. If the service consists in receiving funds, repayable on demand or subject to notice being given, whether or not in the form of savings deposits or in return for the issue of one or more types of debt securities, and granting credits or making investments for the institution's own account; the amount and the account number;

xiv. If the service consists in trading in securities; the account number and the value of the securities involved.

Record-Keeping for Identification Data, Files and Correspondence (c. 10.2):

330. Recommendation 10.2 with respect to business correspondence (which includes documents which attest instructions to financial institutions) is not covered. There is no obligation to keep other documents reflecting other details of the transaction carried out by the client. There is no specific guideline or other enforceable requirement mandating financial institutions to keep all documents, which record the details of all transactions carried out by the client in the course of an established business relationship.

Availability of Records to Competent Authorities in a Timely Manner (c. 10.3):

331. There is no general requirement for financial institutions to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority.

332. There is no guidance providing details of the types of transaction document to be kept (credit/debit slips, cheques, reports, client correspondence). The Surinamese authorities may wish to consider issuing such guidance in order to ensure the data recorded and kept by the financial service providers is sufficient to allow

reconstruction of individual transactions. The investigating or enforcing agencies need to be able to compile a satisfactory audit trail for suspected money and they have to be able to establish a financial profile of any suspect account.

333. Under Criteria SRVII.1 the Methodology requires, for all wire transfers, that financial institutions obtain and maintain the following full originator information: name of the originator, originators account number (or unique reference number if no account number exists); the originators address (though countries may permit financial institutions to substitute the address with a national identity number, customer identification number, or date and place of birth) and it must be verified that such information is meaningful and accurate.

334. Under Criteria SRVII.2 full originator information should accompany cross-border wire transfers, though under Criteria SRVII.3 (domestic wire transfers) it is sufficient for solely the account number or unique identifier to accompany the message.

Obtain Originator Information for Wire Transfers (applying c. 5.2 & 5.3 in R.5, c.VII.1):

335. At the time of the on-site visit the requirements to carry out CDD measures in occasional transfers as covered by the Interpretative Note to SR.VII were addressed in article 2.1. of the WID Act. Currently, it there is no designated competent authority to supervise compliance with the WID Act requirements.

Inclusion of Originator Information in Cross-Border Wire Transfers (c. VII.2):

336. The SWIFT messaging system is used by banks for of the cross border wire transfers; therefore, these transfers also contain originator information and a unique reference number. For the cross border money transfers that are carried out via a money remitter, the cross border wire transfers each transferred amount can generally be traced to its originator, provided that article 2.1 of the WID Act is applied correctly.

Inclusion of Originator Information in Domestic Wire Transfers (c. VII.3):

337. Surinamese authorities noted that this element of SRVII is implemented in practice. For example, domestic wire transfers that are carried out by existing customers of the banking system. Other domestic transfers are carried out by money transfer offices for customers who do no own a bank account. Irrespective of the method used, originator information is gathered and each transferred amount can be traced to its originator

Maintenance of Originator Information (c.VII.4):

338. The Interpretative Note to SRVII describes the roles and procedure of the ordering intermediary and beneficiary financial institutions. No such roles or procedures are required by the Surinamese authorities.

339. SRVII.4 states that intermediary and beneficiary financial institutions in the payment chain should be required to ensure that all originator information that

accompanies a wire transfer is transmitted with the transfer. There is no such requirement provided by law, regulation or other enforceable means.

340. Risk Based Procedures for Transfers Not Accompanied by Originator Information (c. VII.5) :

341. According to SR VII beneficiary financial institutions should be required to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information. No such requirement has been adopted by Surinamese authorities.

Monitoring of Implementation (c. VII.6 and VII.7):

342. Currently, the CBS does not monitor financial institutions for compliance with Special Recommendation VII since there are no such requirements. Consequently, no sanctions are imposed in relation to obligations under SRVII.

3.5.2 Recommendations and Comments

1) There should be a requirement to keep all documents, which record details of transactions carried out by the client in the course of an established business relationship, and a requirement to keep all documents longer than 7 years (if requested to do by an competent authority).
2) There should be a requirement for financial institutions to ensure availability of records to competent authorities in a timely manner.
3) Suriname should issue a law or regulation to implement the requirements of Special Recommendation VII.

3.5.3 Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R.10	**PC**	• **No requirement to keep all documents recording the details of all transactions carried out by the client in the course of an established business relationship.** • **No requirement to maintain account files and correspondence for at least five years following termination of an account or relationship.** • **No general requirement in law or regulation to keep documentation longer than 7 years if requested by a competent authority.** • **There is no general requirement for financial institutions to ensure that all customers and transactions records and information are available on a timely basis to domestic competent authorities upon appropriate authority.**

SR.VII	**NC**	• **Suriname has not implemented any requirement regarding obtaining and maintaining information with wire transfers.**

Unusual and Suspicious Transactions

3.6 Monitoring of Transactions and Relationships (R.11 & 21)

3.6.1 Description and Analysis

Legal Framework:

343. According to Recommendation 11 financial institutions should be required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose and examine, as far as possible the background and purpose of such transactions and to set forth their findings in writing. Financial institutions should also be required to keep such findings available for competent authorities and auditors for at least five years.

Special Attention to Complex, Unusual Large Transactions (c. 11.1):

344. There is no specific requirement in the law, regulation of Suriname to pay special attention to complex, unusual large transactions, or unusual patterns of transactions.

Examination of Complex & Unusual Transactions (c. 11.2):

345. There is no specific requirement in the law, regulation of Suriname to examine as far as possible the background and purpose of such transactions and to set forth the findings in writing.

Record-Keeping of Findings of Examination (c. 11.3):

346. Although, there is a general provision in article 8 of the WID Act to keep records of customers for at least seven years after rendering of completing the financial service, there is no specific requirement on the record-keeping of findings of examinations with regard to complex, unusual large transactions, or unusual patterns of transactions.

Recommendation 21

347. Recommendation 21 requires financial institutions to give special attention to business relationships and transactions with persons from or in countries which do not, or insufficiently apply, the FATF Recommendations. This should be required by law, regulation or by other enforceable means. It places an obligation on financial institutions to pay close attention to any country that fails or insufficiently applies FATF Recommendations and not just countries designated by FATF as non-co-operative.

348. In order to enable the financial institutions to do so, there should be measures in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries.

Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 & 21.1.1):

349. Currently, financial institutions are not required by law or regulation to give special attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF Recommendations.

Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2):

350. In Surinamese legislation there is no requirement for financial institutions to examine transactions with no apparent economic or visible lawful purpose with countries that do not or insufficiently apply FATF Recommendations (and to set forth the findings in writing).

351. Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3):

	Rating	Summary of factors underlying rating
R.11	**NC**	• **No requirement to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.** • **The obligation to examine as far as possible the background and purpose of the transaction and to set forth the findings in writing is not dealt with explicitly in the legislation.** • **No specific requirements for financial institutions keep findings regarding examinations about complex, unusual large transactions available for competent authorities and auditors for at least five years**
R.21	**NC**	• **No obligation to examine as far as possible the background and purpose of transactions with persons from countries which do not or insufficiently apply FATF Recommendations.** • **No specific requirements to keep written findings available to assist competent authorities and auditors.**

		• **No provision for the financial institutions to apply appropriate counter-measures against countries which do not or insufficiently apply the FATF.**

352. Suriname does not have a general requirement to apply counter measures with regard to countries that do not sufficiently applying FATF Recommendations. However, a financial institution may decide as part of its client acceptance policy, not to render financial services to a person from such country or to limit business relationships or financial transactions with the identified country or person in that country.

3.6.2 Recommendations and Comments

1) There should be a requirement for financial institutions to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.

2) There should be requirement for financial institutions to examine as far as possible the background and purpose of the transaction and to set forth the findings in writing and to keep these findings available for competent authorities and auditors for at least five years.

3) Suriname should issue a law or regulation to implement the requirements of Recommendation 21.

3.6.3 Compliance with Recommendations 11 & 21

3.7 Suspicious Transaction Reports and Other Reporting (R.13-14, 19, 25 & SR.IV)

3.7.1 Description and Analysis

Legal Framework:

353. Section 12(1) of the MOT Act provides that service providers, who in the performance of their duties discover facts that point to money laundering shall, with due observance of the indicators, which shall be determined by state decree, notify the Financial Intelligence Unit (FIU) forthwith of any intended or executed unusual transactions.

354. Indicators serve as the basis for assessing whether a transaction should be designated as unusual.

355. The State Decree of 20 June 2003 (S.B. 2002, no. 65) implementing Section 12(1) of the MOT Act distinguishes between objective and subjective indicators:

356. Objective indicators for banking institutions are:

i. a transaction that has been notified to the judicial authorities or the police in connection with a possible breach of the Act penalizing Money Laundering (S.B. 2002, no 64);

ii. a cash transaction with a value of at least USD 10,000;

iii. a cash transaction with a value of at least USD 10,000, in which a deposit is made to an account;

iv. a cash transaction with a value of at least USD 10,000, in which an exchange is made in larger denominations or in other currencies, involving the purchase or encashment of cheques or similar means of payment;

v. a transaction with a value of at least USD 10,000, in which the banking institution makes the amount payable to a non-account holder in Suriname or abroad;

vi. a non-cash transaction with a value of at least USD 10,000, to which at least two of the following sub-indicators apply:

a. the transaction originated abroad;

b. the transaction is destined abroad;

c. the transaction is being conducted through an account at an institution referred to in Section

d. 1 (1) under b and c of the Decree on the Supervision of the Credit System (S.B. 1986, no 82);

e. the transaction is conducted for and at the instruction of a non-resident of Suriname.

vii. a non-cash transaction with a value of at least USD 10,000

viii. for non-account holders destined abroad;

ix. in which securities are involved.

357. Subjective indicators for banking institutions are:

i. reasons to believe that the transaction may be related to a criminal offence as referred to in the Act penalizing Money Laundering (S.B. 2002, no 64);

ii. the procedure of opening of an account matches one or more of the following sub-indicators:

a) the account is opened for and at the instruction of a non-resident of Suriname;

b) identification problems;

c) an unusual offer is made in respect of the conditions;

d) an unusual number of accounts.

iii. a cash transaction with a value of at least USD 10,000, which matches one or more of the following sub-indicators:

c) identification problems;

d) an unusual offer is made in respect of the conditions;

e) the transaction is a-typical for the client;

f) the transaction is made in denominations that are unusual for the client;

g) the transaction is made in a packaging that is unusual for the client;

h) frequent deposits by non-account holders;

i) the client is nervous for no apparent reason;

j) the client is accompanied and supervised by one or more third parties;

k) the client acts as an intermediary for a third party;

l) the transaction has no explicable legal objective or bears no apparent relation to (commercial) activities;

m) a noticeable turnover or a noticeable change in the balance of the account;

n) the inflow consists of several small amounts and the outflow of large amounts;

o) the inflow consists of large amounts and the outflow of small amounts;

p) deposit of a noticeable number of round amounts;

q) noticeable income or payments, or inexplicable income or expenditures;

r) the client presents uncounted cash that does not relate to (commercial) activities;

s) no deposit is made to a private account or a business account;

t) a deposit is made to an account at a bank located abroad;

iv. at least one cash transaction with a value that is lower than those given in the objective indicators under b, c, or d, should there be a suspicion that the client is attempting to avoid notification;

v. a non-cash transaction with a value of at least USD10,000, that matches at least two of the following sub-indicators:

a) one of the objective indicators under f., subparagraphs 1, 2, or 3;

b) the transaction has no explicable legal objective or bears no apparent relation to (commercial) activities;

c) a noticeable turnover or a noticeable change in the balance of the account;

d) transfers or receipts of a noticeable number of round amounts;

e) identification problems;

f) an unusual offer is made in respect of the conditions;

g) the transaction is a-typical for the client;;

h) the client is thought to be acting as a intermediary for a third party.

358. The Decree on Indicators of Unusual Transactions contains similar detailed objective and subjective indicators for savings and credit corporations, life insurance companies, money exchange offices, money transfer offices, and DNFBPs such as notaries, real estate agents, accountants, lawyers, car dealers and traders in precious metals and stones and casinos.

359. Section 1 of the Act penalizing Money Laundering (S.B. 2002, no 64) provides that a term of imprisonment of at most fifteen years and a fine of at most five hundred thousand current Suriname dollars for being guilty of intentional money laundering shall be imposed on:

- *"Anyone who conceals or masks an object's true nature, origins, the place where it was found, or its disposal or its relocation, or conceals or masks the party entitled to the object, or has it in his possession, while knowing that the object originates – directly or indirectly – from some crime; anyone who acquires, has in his possession, transfers, converts or uses an object, while knowing that the object – directly or indirectly – originates from a crime."*

360. Section 3 of the Act penalizing Money Laundering (S.B. 2002, no 64) provides that a punishment for being guilty of <u>negligent</u> money laundering shall be imposed on:

- *"Anyone who conceals or masks an object's true nature, origins, the place where it was found, or its disposal or its relocation, or conceals or masks the party entitled to the object, or has it in his possession, while <u>he must reasonably assume</u> that the object originates – directly or indirectly – from some crime; anyone who acquires, has in his possession, transfers, converts or uses an object, while <u>he must reasonably assume</u> that the object – directly or indirectly – originates from a crime"*.

361. Objects as referred to in Sections 1 and 3 are understood to mean all wealth components, such as movable and immovable property and commercial and personal rights (Section 4 of the MOT Act).

Requirement to Make STRs on ML and TF to FIU (c. 13.1 & IV.1):

362. As mentioned in recommendation 1.3. of this report, the reporting obligation does not technically cover insider trading/marked manipulation as these are not predicate offences for money laundering.

363. Section 20 of the MOT Act provides that a breach of provisions made under or pursuant to this Act shall be regarded as a crime and shall be punished with a term of imprisonment of at most ten years and a fine of at most five hundred million Suriname dollars. The MOT Act contains no administrative sanctions.

STRs Related to Terrorism and its Financing (c. 13.2):

364. Currently, there is no obligation to make a UTR for funds where there are reasonable grounds to suspect or the funds are suspected to be linked or related to or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism.

No Reporting Threshold for STRs (c. 13.3):

365. According to criteria 13.3 all suspicious transactions, including attempted transactions, should be reported regardless of the amount of the transactions.

366. All subjective indicators in the State Decree on Indicators Unusual Transactions of June 20, 2003 (S.B. 2002, no 45) go without threshold.

367. In respect to the "attempted transactions", article 12 of the MOT Act requires all financial institutions to report transactions and attempted transactions to the FIU, while the State Decree on Indicators Unusual Transactions of June 20, 2003 (S.B. 2002, no 45) does not mention "attempted transactions".

Making of ML and TF STRs Regardless of Possible Involvement of Tax Matters (c. 13.4, c. IV.2):

368. No specific provisions are present in the State Decree Indicators Unusual Transactions or in the MOT Act regarding the application of the transactions when tax matters are involved. In view of the general scope of the indicators set out in the Decree Indicators Unusual Transactions – albeit limited to money laundering – it can be assumed that tax matters do not constitute an obstacle for financial institutions to report unusual transactions to the FIU.

Additional Element - Reporting of All Criminal Acts (c. 13.5):

369. Pursuant to the Decree Indicators Unusual Transactions, financial institutions are required to report to the FIU, when they suspect or have reasonable grounds to suspect that funds are the proceeds of all criminal acts that would constitute a predicate offence for money laundering domestically.

Statistics relating to UTR reporting

Table 13: The type of reporting institution and the number of UTRs received by the FIU in 2003-2008

TYPE	2003	2004	2005	2006	2007	2008
Banks	3	50	48	157	162	132
Life insurance companies					1	2
Money exchange offices			18	645	1,314	559
Credit unions					1	112
Money transfer offices	256	713	856	915	615	1,059
Notaries	17	41	77	165	142	64
Car dealers				88	83	106
TOTAL	**276**	**804**	**999**	**1,970**	**2,318**	**2,034**

370. The statistics show a positive trend. For the period 2003-2008, the number of total disclosures that contains the required information (according to article 12.2 of the MOT Act) has increased by approximately 7 times. As noted under Recommendation 26.2 the FIU has developed forms, adapted to the specific sector, which the reporting entities have to use when making a UTR. The use of the prescribed forms is mandatory; all incomplete or incorrect forms are refused and sent back for corrective action. These disclosures are not registered in the FIU database until they contain the prescribed information. It is not yet possible to send disclosures in on-line.

371. As for the reporting behaviour of financial institutions, it was established that reporting is done virtually always using fixed period intervals such as once a month or quarterly, and with the tacit or explicit approval of the FIU. This is however not in accordance with article 12.1 of the MOT Act, which requires all service providers to report unusual transactions promptly to the FIU.

372. A few banks are working on UTR-interface, which covers all unusual transactions under the objective indicator for a fixed period and should contain all prescribed disclosure information. Only one out of eight banks is currently able to provide the FIU with all prescribed information.

373. The banks generally use the prescribed forms to file STRs under the subjective indicator. These usually contain all prescribed information.

374. Looking at the FIU statistics over the period 2003 up to and including 2008 (as part of Recommendation 32), the FIU processed 8.401 UTRs of which only 66 relate to subjective-based suspicious transactions.

375. The volume of disclosures filings by money exchange offices decreased 43% in 2008. The FIU indicated that they received more disclosures, but a great deal of these filings were incomplete or incorrect, and were sent back for corrective action. In addition, thirteen out of nineteen notaries do file disclosures, whereas six out of thirteen do file incomplete disclosures. These were sent back for corrective action.

376. While there is a positive trend in the number of disclosures, the number/volume of disclosures has been uneven across sectors. During the period 2003-2008, the lawyers, accountants, real estate agents, dealers in precious metals & stones and casinos do not file disclosures at all.

Table 14: Type of reporting institution and the number of disseminated disclosures to Prosecution or Police in the period 2003-2008

Type	Number of disclosures	Under investigation by the FIU	Disseminated to Prosecution/Police
Banks	552	133	2
Life Insurance Companies	3	1	
Money Exchange Offices	2,536	2	
Credit Unions	113		
Money Transfer Offices	4,414	334	152
Notaries	506	1	
Car Dealers	277		
TOTAL	8,401	471	154

Recommendation 14

Protection for Making UTRs (c. 14.1):

377. Pursuant to article 18 of the MOT Act there will be no criminal or civil liability for financial institutions, their directors and employees for violating the confidentiality imposed on them by any agreement, law or contract when they report a suspicion of money laundering in good faith to the FIU. As mentioned earlier there is no terrorist financing specific disclosure duty in place under Surinamese law.

Prohibition against Tipping-Off (c. 14.2):

378. In article 22 of the MOT Act is stated "he/she who is engaged in performing, or has performed in the past, any duty pursuant to the provisions of the MOT Act or to provisions to the MOT Act, shall not use any information furnished or otherwise received by virtue of the MOT Act, nor shall he/she make such information known, otherwise or further than shall be required for the exercise of his/her duties or by the provisions of the MOT Act."

379. Section 23 van de MOT Act provides that anyone who discloses further data or information pursuant to Section 5 or makes a notification pursuant to Section 12 shall be bound to observe secrecy, except insofar as such disclosure is required by the objective of this Act. According to the Explanatory Memorandum to the MOT Act the latter is meant to enable service providers to warn each other on possible cases of money laundering.

380. Suriname has indicated that the prohibition against tipping off applies to the reporting financial institutions as well as its directors, officers and employees (whether permanent or temporary).

381. A breach of provisions made under or pursuant to the MOT Act shall be regarded as a crime and shall be punished with a term of imprisonment of at most ten years and a fine of at most five hundred thousand Suriname dollars (Section 20 van de MOT Act).

Additional Element—Confidentiality of Reporting Staff (c. 14.3):

382. Reporting STRs to the FIU is generally the responsibility of a senior manager who has been assigned special responsibility for this task (i.e. the compliance officer). Suriname reports that the identity of other employees (i.e. the person who initially formed the suspicion about the transaction) is kept confidential. No statutory legislation exists to protect the senior manager who bears this responsibility; however, only authorised persons at the FIU have access to the database containing this information.

Recommendation 19

Consideration of Reporting of Currency Transactions above a Threshold (c. 19.1):

383. Suriname has not considered the feasibility and utility of implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national central agency with a computerised data base.

384. According to the State Decree on Unusual Transactions (S.B. 2002, no 65) financial institutions (banks, life insurance companies, credit unions, money transfer and money exchange offices) and DNFBPs (notaries, real estate agents, accountants, lawyers, car dealers and casinos) are obliged to report to the FIU certain transactions above fixed thresholds. The threshold is fixed in accordance to the relevant sectors and the risk that may arise. For example for a bank the indicators as mentioned under paragraph 3.7.1 in this report are applicable.

385. Please refer to the State Decree on Unusual Transactions for thresholds that are applicable to other financial service providers.

386. In 1947 the Foreign Exchange Committee of Suriname introduced the Regulation on Foreign Exchange, which was amended by law in 1980 (no 116), in 1984 (no 104) and by General Decree no 217 of 18 June 2008. The Regulation on Foreign Exchange aims to promote and facilitate financial transactions between Suriname and other countries and within the industrial and trade sectors in Suriname. It does not aim to generate reports to prevent money laundering and terrorist financing.

Additional Element

387. Computerized Database for Currency Transactions above a Threshold and Access by Competent Authorities (c. 19.2) and Proper Use of Reports of Currency Transactions Above a Threshold (c. 19.3):

388. Currently, the FIU does not provide financial institutions with information to target and assess AML/CFT risks. The confidentiality regime of the MOT register is laid down in article 8.3: only in the cases provided for by the MOT act can data be released from the MOT register to the public prosecutor.

Recommendation 25

Feedback to Financial Institutions with respect to STR and other reporting (c. 25.2):

389. Due to the inadequate resources the FIU has not provided the reporting entities with information on current techniques, methods and trends (typologies) and sanitised examples of actual money laundering cases.

390. Although there is no general legal requirement to provide the financial institutions with an acknowledgement on the STRs received, the FIU acknowledges receipt of disclosures upon request by the compliance officer of the financial institution. The FIU does not provide specific or on a case by case feedback, nor does the FIU provide feedback whether a report is subject to domestic legal principles, if a case is found closed or completed.

391. At the moment, the FIU does not have the human and financial resources to set up a website that can be used to provide the reporting entities with general information or feedback.

Analysis of effectiveness

392. The FIU indicated that they have registered 101 reporting entities in their database. The total number of entities/persons that need to report under article 12 of the MOT Act is not known by the FIU.

393. FIU did not have the resources to determine the actual number of entities/persons that need to report. Currently, the Chamber of Commerce does not always contain up to date information on (types of) entities and the entities that do not file disclosures are not supervised for compliance with AML/CFT requirements.

394. There is a concern on the quality of STRs under the objective criteria, since quite a lot of STRs do not contain the information as prescribed by article 12.2 of the MOT Act; only 32 out of 101 institutions file UTRs that comply with the article 12.2 of the MOT Act.

395. Statistics illustrate that the financial sector mainly relies in the objective criteria to report and pays little or no attention to elements that would make a transaction suspicious. In terms of percentage, the subjective disclosures represent some 0,79% of the total incoming disclosures. Some interviewed representatives were even blunt on this point.

396. In addition, the MOT Act requires unusual transactions to be disclosed “without delay”. In practice however, reporting is done virtually always using fixed period intervals such as once a month or quarterly, and with the tacit or explicit approval of the FIU.

3.7.2 Recommendations and Comments

1) The reporting obligation under the MOT Act should cover transactions related to insider trading and market manipulation.

2) The reporting duty needs to be explicitly in the law to include all funds where there are reasonable grounds to suspect or they are suspected to be linked or related to, or to be used for terrorism, for terrorist acts, or by terrorist organizations or those who finance terrorism.

3) The assessment team advises to include in the State Decree on Unusual Transactions the requirement to also report "attempted unusual transactions"

4) The financial institutions that choose to use an UTR-interface for reporting purposes, should be obliged to improve the quality of the UTRs as soon as possible and in such a way that the disclosures contain all information as prescribed by article 12.2. of the MOT Act.

5) The authorities should consider whether the obligation to report unusual transactions "without delay" is sustainable.

6) The FIU and other competent authorities should make an inventory to identify all financial institutions and DNFBPs that have a reporting requirement, reach out to these parties and apply sanctions in case of non-compliance.

7) The FIU and other competent authorities should raise awareness and enhance the sensitivity of all financial institutions and DNFBPs regarding money laundering and terrorist financing risks.

8) Violation of the prohibition against tipping-off should be enforced by sanctions.

9) Suriname should consider the feasibility and utility of implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national central agency with computerized database.

3.7.3 Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2), and Special Recommendation IV

	Rating	Summary of factors underlying rating
R.13	**NC**	• **The reporting obligation does not cover transactions related to insider trading and market manipulation as these are not predicate offences for money laundering in Suriname.** • **There is no requirement to report suspicious transactions related to terrorist financing because the**

		legislation on TF is not yet in place. • **Not all institutions and DNFBPs that have a reporting requirement are fully aware of this requirement.** • **There is a concern on the quality of STRs under the objective criteria, since quite a lot of STRs do not contain the information as prescribed by article 12.2 of the MOT Act; only 32 out of 101 institutions file STRs that comply with the article 12.2 of the MOT Act.** • **There is a concern on the delay of STRs reported under the objective criteria; since this is virtually always done by using fixed period intervals, rather than without delay, as required by the MOT Act.** • **Reporting institutions mainly rely in the objective criteria to report and pay little or no attention to elements that would make a transaction suspicious.** • **Overall serious concern about the effectiveness of the system**
R.14	**PC**	• **No compliance with the prohibition by law to disclose the fact that a UTR or related information is being reported or provided to the FIU, is not enforced by sanctions, as Suriname is lacking effective AML/CFT supervision.**
R.19	**NC**	• **Feasibility and utility of CTR or threshold reporting has not been considered**
R.25	**PC**	• **There is no requirement for the FIU to provide the financial institutions and DNFBPs with adequate and appropriate information on current ML and TF techniques, methods and trends (typologies) and sanitised examples of actual money laundering and terrorist financing cases.** • **There is no requirement for the FIU to provide the financial institutions and DNFBPs with an acknowledgement of receipt of the STRs and whether a report is subject to legal principles, if a case is closed or completed, and if information is available, information on the decision or result.**
SR.IV	**NC**	• **There are no direct requirements for financial institutions to report to the FIU when they suspect or have reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations, regardless of the amount of the transaction and including attempted transactions.**

Internal controls and other measures

3.8 Internal Controls, Compliance, Audit and Foreign Branches (R.15 & 22)

3.8.1 Description and Analysis

Legal Framework:

397. According to Recommendation 15.1, financial institutions should be required to establish and maintain internal procedures, policies and controls to prevent money laundering and terrorist financing, and to communicate these to their employees. These procedures, policies and controls should cover, inter alia, CDD, record retention, the detection of unusual and suspicious transactions and the reporting obligation.

398. On November 14, 1996 the CBS issued Guidelines for the prevention of money laundering generally referred to as "CBS Gentlemens Agreement with the banks". This "Gentlemens Agreement" contained anti-money laundering requirements on procedures, policies and controls as required by Recommendation 15.1 but since this was a "Gentlemens Agreement", it did not have the force of law and was not enforceable. Terrorist financing was not covered by the "Gentlemens Agreement".

399. In 2003, the "Gentlemens Agreement" was replaced by the MOT Act and the WID Act.

400. The FIU is authorized, according to article 4.1 of the MOT Act to provide financial institutions with recommendations regarding internal control procedures, communication procedures and other measures in order for the prevention of money laundering. As mentioned earlier in this report, terrorist financing is not covered in the MOT Act.

401. So far, the FIU has not provided financial institutions with recommendations on internal control procedures and other measures.

Establish and Maintain Internal Controls to Prevent ML and TF (c. 15.1, 15.1.1 & 15.1.2):

402. There is no legal requirement that stipulates that financial institutions are required to establish and maintain internal procedures, policies and controls to prevent money laundering and terrorist financing and to communicate these to their employees.

403. During the interviews the majority of the financial institutions indicated that they have available internal procedures, policies and controls to prevent money laundering and terrorist financing. These procedures, policies and controls cover CDD, record retention and detection of unusual transactions and the reporting obligation. So far, the CBS has not tested the content of these procedures, policies and controls as part of an AML/CFT examination.

404. There is no legal requirement to develop appropriate compliance management arrangements e.g. for the financial institutions at a minimum the designation of an AML/CFT compliance officer at the management level.

405. During the on-site visit, the interviewed financial institutions indicated that they have appointed a compliance officer, who is a member of management or directly responsible to a member of management.

406. There is no provision in the Surinamese legislation for the AML/CFT compliance officer and other appropriate staff to have timely access to customer identification data and other CDD information, transaction records, and other relevant information.

407. The interviewed compliance officers indicated that in practice, they have timely access to customer identification data and other CDD information, transaction records, and other relevant information.

Independent Audit of Internal Controls to Prevent ML and TF (c. 15.2):

408. There is no legal requirement that stipulates that financial institutions are required to maintain an adequately resourced and independent audit function to test compliance with the procedures as mentioned under Recommendation 15.1.

409. The interviewed banks, credit unions and insurance companies indicated that an independent audit function has been established. These internal auditors tests compliance with aforementioned procedures and controls which includes sample testing and report the members of management and the supervisory body, if applicable. The assessment team is not aware of any internal audit function established by the money transfer offices (MTCs) and money exchange offices.

Ongoing Employee Training on AML/CFT Matters (c. 15.3):

410. There is no legal requirement that stipulates that financial institutions are required to establish ongoing employee training to ensure that employees are kept informed of new developments, including information on current money laundering and terrorist financing techniques, methods and trends; and that there is a clear explanation of all aspects of anti-money laundering and combat terrorist financing laws and obligations.

411. With regard to training, the interviewed financial institutions indicated that their compliance officers and most of their other personnel had received (basic) AML training. Generally, the compliance officer is expected to provide explanations to relevant employees on all aspects of AML law and obligations, requirements CDD and suspicious transaction reporting.

412. Additionally, two interviewed banks indicated that they had arranged in 2008 the Dutch Institute for Banking and Securities Business (NIBE) to provide training on AML issues.

413. The Surinamese Bankers Association informed the evaluators that providing ongoing training to employees on AML and CFT issues is a focal point for the Association in 2009.

Employee Screening Procedures (c. 15.4):

414. There is no clear provision which the evaluators have seen requiring financial institutions to put in place screening procedures to ensure high standards when hiring employees.

415. The interviewed banks, credit unions, insurance companies indicated that they have screening procedures in place. These financial institutions perform a background check, check references from previous employers and/or ask for a Declaration of Good Behaviour, before hiring employees. It is unclear whether the "open" pension –and provident funds and the money exchange offices have screening procedures in place to ensure high standards when hiring employees.

416. The money transfer offices generally have, as far as they make use of payment service providers Money Gram and Western Union, screening procedures in place to ensure high standards when hiring employees.

Additional Element

Independence of Compliance Officer (c. 15.5):

417. Compliance officers of interviewed financial institutions advised the assessment team that they can and have acted independently in reporting unusual transactions to the FIU and to senior management.

Application of AML/CFT Measures to Foreign Branches & Subsidiaries (c. 22.1, 22.1.1 & 22.1.2):

418. According to Recommendation 22.1 financial institutions should be required to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home requirements and the FATF Recommendations, to the extent that local laws and regulations permit. Such provision can not be found in the legislation of Suriname.

419. Requirement to Inform Home Country Supervisor if Foreign Branches & Subsidiaries are Unable Implement AML/CFT Measures (c. 22.2):

420. Recommendation 22.2 requires financial institutions to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local (i.e. host country) laws, regulations or other measures. Such provision can not be found in the legislation of Suriname.

3.8.2 Recommendations and Comments

Recommendation 15

1) The Surinamese authorities need to ensure that Recommendation 15 in all its aspects is clearly required by law, regulation or other enforceable means all of which requirements should be capable of being sanctioned.

Recommendation 22

421. Though none of the banks, insurance companies, credit unions or pension –and provident funds may have a foreign branch or subsidiary they may have in the future and the requirements of Recommendation 22 should be of general obligation.

422. There should be a binding obligation on all financial institutions:

1) To pay particular attention to the principle with respect of countries which do not or insufficiently apply FATF Recommendations;

2) Where the minimum AML/CFT requirements of home and host country differ to apply the higher standard to the extent that host country laws permit;

3) To inform the home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures.

3.8.3 Compliance with Recommendations 15 & 22

	Rating	Summary of factors underlying rating
R.15	**NC**	**No general enforceable requirements to:** • **Establish and maintain internal procedures, policies and controls to prevent money laundering and to communicate them to employees;** • **Designate compliance officers at management level;** • **Ensure compliance officers have timely access to information;** • **Maintain an adequately resourced and independent audit function to test compliance with AML/CFT procedures, policies and controls;** • **Establish ongoing employee training;** • **Put in place screening procedures;** • **Ensure high standard when hiring employees.**
R.22	**NC**	• **There is no general obligation for all financial institutions which ensures their branches and subsidiaries observe AML/CFT measures consistent with home requirements and the FATF Recommendations to the extent that host country laws and regulations permits;** • **There is no requirement to pay particular attention**

		to situations where branches and subsidiaries are based in countries that do not or insufficiently apply FATF Recommendations; • **Provision should be made that were minimum AML/CFT requirements of the home and host countries differ, branches and subsidiaries in host countries should be required to apply the higher standard to the extent that local (i.e. host country) laws and regulations permit;** • **No general obligation to inform the home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures.**

3.9 Shell banks (R.18)

3.9.1 Description and Analysis

423. Article 5.1 of the Ordinance Supervision on the Credit System 1986, stipulates that it is not permitted to operate as a bank, credit union, insurance company or pension fund in Suriname without having received a Declaration of No Objection from the CBS.

Prohibition of Establishment Shell Banks (c. 18.1):

424. Although there is no specific legal requirement that prohibits the establishment or the continued operation of shell banks, there are no shell banks in Suriname. The Guidelines issued by the CBS for the application of a Declaration of No Objection which is dated December 2005, requires in Section A2 the address of the registered office of the applicant, details on the management, details on main shareholders. Additionally, Section B4 requires that the applicant uses a Surinamese legal form for its business and management arrangements, whereby at least one resident of Suriname has to be appointed as board member and a supervisory body of five persons of which the majority needs to be a resident in Suriname. Any applicant who does not meet these requirements does not receive the Declaration of No Objection, and as such shell banks will not be permitted by the CBS.

Prohibition of Correspondent Banking with Shell Banks (c. 18.2):

425. A specific legal requirement that prohibits the financial institutions from entering into, or continue, correspondent banking relationships with shell banks cannot be found in the legislation of Suriname.

Requirement to Satisfy Respondent Financial Institutions Prohibit of Use of Accounts by Shell Banks (c. 18.3):

426. There is no legal requirement for financial institutions to reassure themselves that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.

Analysis of effectiveness

427. The CBS indicated that they are unaware of any financial institution, which has a banking relationship with a shell bank. The financial institutions that were interviewed indicated that their policies prohibit business with shell banks.

3.9.2 Recommendations and Comments

1) Financial institutions should not be permitted to enter into or continue correspondent banking relationships with shell banks

2) There should a specific enforceable obligation on financial institutions to reassure themselves that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.

3.9.3 Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
R.18	**PC**	• **Measures to prevent the establishment of shell banks and to prevent financial institutions to enter into or continue a correspondent banking relationship with shell banks are not sufficiently explicit.** • **There is no specific enforceable obligation that requires financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks**

Regulation, supervision, guidance, monitoring and sanctions

3.10 The Supervisory and Oversight System—Competent Authorities and SROs. Role, Functions, Duties, and Powers (Including Sanctions) (R. 17, 23, 25 & 29)

3.10.1 Description and Analysis

Legal Framework:

428. Criteria 23.1 requires that countries should ensure that financial institutions are subject to adequate AML/CFT regulation and supervision and are effectively implementing the FATF Recommendations. Criteria 23.2 require that countries should ensure that a designated competent authority or authorities has/have responsibility for ensuring AML/CFT compliance.

429. The Central Bank Act (O.G. 1956 no 97) as amended in may 2005 states the powers and functions of the CBS. Article 9 of the act states the tasks and scope of the CBS:

i. Promoting the stability of the value of the Surinamese currency;

ii. Providing the circulation of currency in Suriname, insofar as said;

iii. Promoting the development of a sound banking and credit system in Suriname;

iv. The exercise of supervision on the banking and credit system, pension and insurance sector, money exchange sector, and on transfers of financial resources to and from abroad; all on the basis of the applicable statutory regulations; the supervision is in part focused on the integrity of the institutions active in these sectors and sub-sectors;

v. Promoting and facilitating the system of payments between Suriname and foreign states;

vi. Promoting a balanced social-economic development of Suriname.

430. This makes the CBS the competent authority for (prudential) supervision of 8 banks, 9 investment & finance companies, 28 saving funds & credit unions, 12 insurance companies, 37 pension & provident funds, 23 money exchange offices and 5 money transfer offices.

431. The Banking Supervision Act (O.G. 1968 no 63) contains the supervisory tools for the CBS to perform its duties. No credit institution or credit union can commence its business without a declaration of no objection of the CBS (article 5.1). The term "credit institution" includes investment & finance companies, insurance companies and pension & provident funds.

432. CBS has a UTR reporting obligation according to article 13 of the MOT Act. The assessment team was advised that so far no (UTR) disclosures have been filed by CBS.

Regulation and Supervision of Financial Institutions (c. 23.1):

433. At the time of the on-site visit there was no CFT regulation (and supervision) in place and no competent authority was appointed to supervise financial institutions for compliance with the WID Act and the MOT Act (which contain money laundering requirements), nor did the money laundering regulation in place cover financial institutions with issuing and managing means of payment activities.

434. Known issuing of credit cards occurs through three banks. Credit cards are only issued by banks. As mentioned earlier, these kind of financial activities are not included in the WID Act nor in the MOT Act, as a result of which there is no formal CDD requirement and disclosure duty if a person (other than a bank) operates such business.

435. Suriname is not a regional financial centre. There is no offshore sector or Free Trade Zone. Suriname has a Stock Exchange, which was set up in 1996 as a private initiative. The number of stock exchange transactions is very limited according to

the Chairman of the Stock Exchange. The volume of the Stock Exchange's activities is approximately USD 71,000 annually. Currently, the Stock Exchange is not regulated and there is no Stock Exchange supervision ordinance in place in Suriname. It should be noted that the Stock Exchange brokers (generally banks) fall under the WID Act and the MOT Act.

Designation of Competent Authority (c. 23.2):

436. Suriname is working on a new SBCSA and a new Insurance Act that specifies that CBS has the responsibility for ensuring that all financial institutions adequately comply with the AML and CFT requirements. The draft SBCSA and the draft Insurance Act will also provide the CBS with the legal basis to issue comprehensive AML and CFT guidelines based on the Basel Core Principles for effective Banking Supervision

Fit and Proper Criteria and Prevention of Criminals from Controlling Institutions (c. 23.3 & 23.3.1):

437. The CBS has admission requirements for the admittance of credit institutions based on article 5.3 of the Decreet Toezicht Kredietwezen 1986. Admission as a bank, saving fund & credit union, insurance company, pension & provident fund can not take place if this (may) violate a sound banking and credit system. Due to this extensive interpretation of article 5.3., screening of directors and founders of such a institution takes place, upon admittance. However there is no legal provision for continued screening procedures, neither is there ~~is~~ such legal provision for money exchange offices and money transfer offices.

438. There is no specific legal provision stating the conditions for the withdrawal of a declaration of no objection and no jurisprudence on how a declaration of no objection can be repealed.

439. There is no specific provision stating that managing and supervisory directors must be approved by the CBS before being appointed as such. If a fact occurs which indicates that a director of a financial institution is not being lawful, it is not possible for the CBS to dismiss this director under current legislation. Moral persuasion is currently the only possible tool to force a director to step down.

440. In the draft SBCSA and in the draft Supervision on Insurance Companies Act, a holding of 5% or more in the issued share capital of a financial institution, will be subject to approval of the CBS.

441. In addition in these Acts, it is mentioned that the directors and senior management of financial institutions subject to the Core Principles should be evaluated on the basis of a "fit and proper" criteria including those relating to expertise and integrity.

Application of Prudential Regulations to AML/CFT (c. 23.4):

442. For financial institutions subject to the Core Principles, the regulatory and supervisory measures that apply for prudential purposes and which are also relevant to money laundering, do not apply in a similar manner for anti-money laundering and terrorist financing purposes.

Licensing or Registration of Value Transfer/Exchange Services (c. 23.5):

443. The new Act on money exchange offices and money transfer offices is in draft. It outlines the licensing requirements for money services businesses in Suriname. Currently, a declaration of no objection is required, which is not equivalent with a registration or license, since the requirements of the declaration of no objection are only tested at admission and not on an ongoing basis.

Monitoring and Supervision of Value Transfer/Exchange Services (c. 23.6):

444. At the time of the assessment, the money exchange offices and money transfer offices were not subject to AML/CFT supervision. On average money exchange offices purchases about USD 9,5 -18 million each month. Sales averages amount to USD 12,5-15 million each month. Money transfers average transactions are USD 3-4 million each month.

Licensing and AML/CFT Supervision of other Financial Institutions (c. 23.7):

445. The Surinamese law does not have provisions for financial institutions like independent credit card & debit card issuers, financial lease corporations. As such, these kind of financial institutions are not subject to any system for monitoring and ensuring compliance with the AML/CFT requirements.

Recommendation 25

Guidelines for Financial Institutions (c. 25.1):

446. On November 14, 1996 the CBS issued Guidelines for the prevention of money laundering generally referred to as "CBS Gentlemens Agreement with the banks". This "Gentlemens Agreement" contained anti-money laundering requirements on procedures, policies and controls as required by Recommendation 15.1 but since this was a "Gentlemens Agreement", it did not have the force of law and was not enforceable. Terrorist financing was not covered by the "Gentlemens Agreement". In 2003, the "Gentlemens Agreement" was replaced by the MOT Act and the WID Act.

447. The CBS (nor the FIU) has issued no guidelines regarding money laundering or terrorist financing techniques and methods for financial institutions. The CBS will work on guidelines for the financial institutions, once the draft Supervision on Banking and Credit System Act and the draft Supervision on Insurance Companies Act, the draft Act on Supervision of money exchange offices and money transfer offices as well as the draft Act Penalizing Terrorist Financing and Offences come into effect.

448. The assessment team recommends the CBS to work together with the FIU and the Anti Money Laundering Commission in drafting guidelines for financial institutions (and DNFBPs) that give a description of money laundering and terrorist financing techniques and methods.

Recommendation 29

Power for Supervisors to Monitor AML/CFT Requirement (c. 29.1):

449. Currently, there is no authority that has powers to monitor and ensure compliance by financial institutions, with the requirements to combat money laundering and terrorist financing, consistent with the FATF Recommendations.

450. When the draft Supervision on Banking and Credit System Act, the draft Supervision on Insurance Companies Act, the draft Act on Supervision of money exchange offices and money transfer offices as well as the draft Act Penalizing Terrorist Financing and Offences come into effect, the CBS will provided with the power to monitor AML/CFT requirements. .

Authority to conduct AML/CFT Inspections by Supervisors (c. 29.2):

451. Currently, there is no supervisory authority to conduct AML/CFT inspections of financial institutions to ensure compliance.

452. When the draft Supervision on Banking and Credit System Act, the draft Supervision on Insurance Companies Act, the draft Act Supervision of Money ct Penalizing Terrorist Financing and Offences come into effect, the CBS will provided with the authority to conduct AML/CFT inspections of financial institutions.

Power for Supervisors to Compel Production of Records (c. 29.3 & 29.3.1):

453. Article 10 of the Decreet Toezicht Kredietwezen 1986 states that each bank, saving fund, credit union, insurance company, pension or provident fund must grant the CBS access to all their accounts, minutes, documents and other data in their possession regarding their activities which the CBS considers necessary in fulfilling her task as described in the Decreet". Currently, there is no such power relevant to monitoring AML/CFT compliance of all financial institutions. The draft Supervision on Banking and Credit System Act, the draft Supervision on Insurance Companies Act, the draft Act Supervision of Money Transfer Offices and Money Exchange Offices do contain this power. Article 32 of the Pension Fund and Provident Fund Act contains a similar provision.

454. The draft Supervision on Banking and Credit System Act, the draft Supervision on Insurance Companies Act, the draft Act Supervision of Money Transfer Offices and Money Exchange Offices do contain this power.

Powers of Enforcement & Sanction (c. 29.4):

455. Both the WID Act and the MOT Act only have penal/criminal provisions in case of violations. These acts do not have administrative (e.g. fines) or civil sanctions.

456. According to the draft SBCSA Act, the draft insurance Act, the draft Act on money exchange offices and money transfer offices, the CBS may issue AML/CFT guidelines to the financial institutions. When the financial institutions fail to comply with these AML/CFT guidelines, there are administrative penalties which can be imposed against the financial institution and/or its directors, senior management and

controlling owners of financial institutions directly for AML/CFT breaches, indirectly by not meeting fit and proper criteria. These draft Acts also include possibility to directly bar persons from the sector and the general possibility to restrict or revoke a license for AML/CFT violations

Recommendation 17

Availability of Effective, Proportionate & Dissuasive Sanctions (c. 17.1):

457. Recommendation 17.1 requires that a country should ensure that effective, proportionate and dissuasive criminal, civil or administrative sanctions are available to deal with natural or legal persons covered by the FATF Recommendations, which fail to comply with national AML/CFT requirements.

458. By virtue of article 20 of the MOT Act, non-compliance with all provisions of the MOT Act is sanctioned with imprisonment of a maximum of ten years and a maximum fine of 500,000 Surinamese dollars (penal sanction).

459. Non-compliance with the provision of the WID Act is sanctioned by virtue of article 10 of the WID Act with imprisonment of a maximum of ten years and a maximum fine of 500,000 Surinamese dollars. This sanction has never been applied for violation of the MOT Act.

460. While there is the penal/criminal sanction available, the range is not sufficiently broad. There are no administrative penalties which can be imposed on financial institutions and DNFBPs or against directors and controlling owners of financial institutions or directly for AML/CFT breaches. The available sanctions also should include the cease and desist order or the possibility to restrict or revoke a license for AML/CFT violations.

Designation of Authority to Impose Sanctions (c. 17.2):

461. Recommendation 17.2 requires that a country should designate an authority (e.g. supervisor or the FIU) empowered to apply the criminal, civil or administrative sanctions. Currently, there is no designated authority in Suriname to impose sanctions for violation with the WID Act and the MOT Act.

Ability to Sanction Directors & Senior Management of Financial Institutions for violations national AML/CFT requirements (c. 17.3):

462. Currently, there is no ability to sanction directors & senior management of financial institutions for violations of national AML and CFT requirements.

463. Are in the draft SBCSA, draft Insurance Act, draft Act on Money Transfer Offices and Money Exchange offices administrative penalties which can be imposed against directors and controlling owners of financial institutions directly for AML/CFT breaches? Against senior management?

Range of Sanctions—Scope and Proportionality (c. 17.4):

464. There is no requirement to report suspicion of terrorist financing and consequently no supervision of this issue. The Act penalising Terrorist Financing and Offences is in draft and soon will be discussed in the Parliament.

465. The draft SBCSA contains the ability for the CBS to impose administrative sanctions (fines). The draft Insurance Act, the draft Act on Money Transfer Offices and Money Exchange Offices also contain such a clause. These draft Acts do not contain the possibility for CBS to impose a cease and desist order, secret receivership, emergency regulation and the possibility to restrict or revoke a license for AML/CFT violations.

466. Given the restricted range of sanctions, the fact that there is no requirement to report suspicion of terrorist financing and no supervision thereof, the effectiveness of the overall sanctioning regime, at present, is questioned.

Recommendation 30

Adequacy of Resources for Competent Authorities (c. 30.1):

467. The CBS operates in accordance with the tasks as described in article 9 of the Central Bank Act 1956 and has in total approximately 321 members of staff.

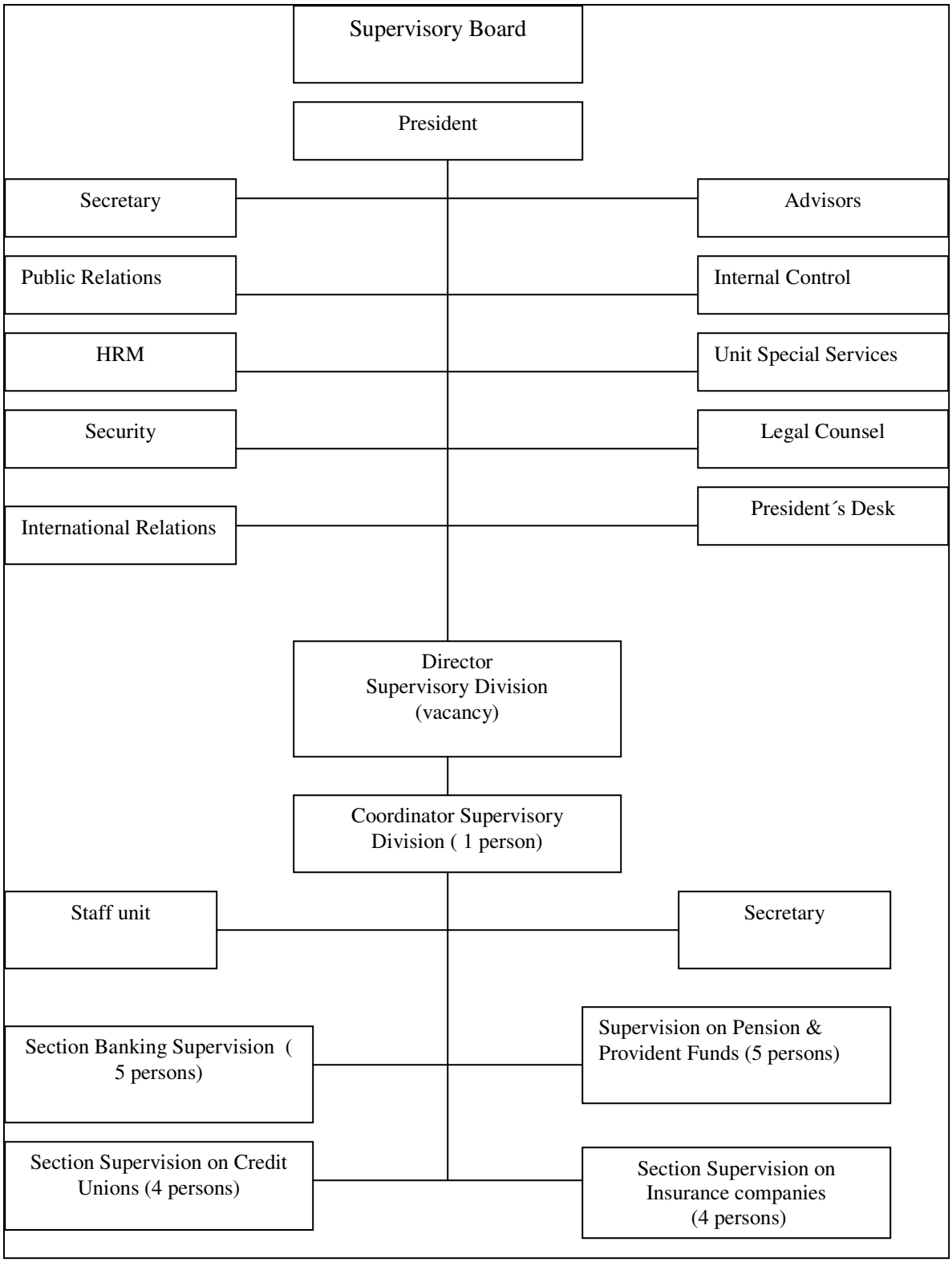
468. The CBS is managed by the President or the Governor. The Governor is appointed by the Government for a period of five years; at the end of office he may be reappointed immediately. The CBS has a Supervisory Body; the Governor reports to the Supervisory Directors, which has 6 members.

469. For an effective coordination of monetary and fiscal policy, the Governor of the CBS regularly discusses relevant policy issues with the Minister of Finance. In its capacity as cashier and banker of the State, the CBS is also responsible to the Minister of Finance and accountable to the Office of the Author General of Suriname. The CBS role is divided in the following three sectors:

i. Division Monetary & Economic Affairs
ii. Supervisory Division
iii. Banking Division

470. All three directors report directly to the Governor of the CBS. The Supervisory division of the CBS is divided in a banking supervision department, a credit union supervision department, a pension & provident fund supervision department and an insurance supervision department.

Figure 1: The Supervisory Division (as per 1-12-2006)of the CBS:



471. The Supervision division was set up in 1986. The activities of this department are governed by the SBCSA 1968 and as such limited to prudential supervision.

472. At present the Supervisory division counts a total of 25 persons. The banking supervision department has 5 staff members, credit union supervision department has 4 staff members, pension & provident funds supervision has 5 staff members and the insurance supervision department has 4 staff members.

473. The Supervision division is presently headed by a Coordinator. There is, since a number of years a vacancy for a "Director of Supervision". The Supervision division is fully funded by the CBS budget which amounts to USD 8 million. The budget for the Supervisory division amounts to approximately USD 740,000 (2008). Approximately 3% of that is dedicated to training.

474. The CBS should be given additional resources to be allocated for AML/CFT supervision and maintain statistics of the number of on-site inspections conducted and sanctions applied.

475. The CBS should consider creating a team of examiners specialising in AML/CFT measures that check financial institutions compliance with AML/CFT on an ongoing basis for all supervised entities.

Integrity of Competent Authorities (c. 30.2):

476. The Supervision department of the CBS is staffed with employees with mid to high level degree. Specific training in supervisory areas is an ongoing process. Training programs are provided by inter alia ASBA Cartac, Ogis, CGBS, and World Bank etc. Personnel of the CBS in general are thoroughly scrutinized before employment. The confidentiality of information on the operation of the CBS, the business and operation of parties subject to supervision, related parties or others, is required under article 15 of the SBCSA and is punishable in accordance with article 19 of the SBCSA. In addition, new staff is required to sign a declaration regarding the confidentiality obligation.

Training for Competent Authorities (c. 30.3):

477. In total three persons of the Supervision department & the Legal department of the CBS attended the following AML training seminars

478. "Compliance anti-money laundering, Corruption & Forensic investigation" seminar organized by Tjong A. Hung Accountants (Price Waterhouse Coopers); August 11-12, 2008.

479. CFATF Training workshop for Mutual Evaluation Assessors Revised FATF 49 Recommendations and the 2004 AML/CFT Methodology; January 21-25th, 2008.

480. Surinamese authorities indicated that the CBS, the FIU and the AML Committee together have provided an AML/CFT seminar in March 2009, just before the on-site visit of the assessment team. Nevertheless, in the view of the evaluation team, it appeared that there was not yet adequate training on AML/CFT issues, such as the scope of predicate offences, ML and FT typologies, and the techniques to be used by supervisors to ensure that financial institutions are complying with their obligations and other resources relevant to the execution of their function

Recommendation 32.2

481. Statistics AML/CFT on-site examinations, sanctions, formal requests assistance (applying R.32.2):

482. The CBS conducted in 2008 17 on-site inspections with a prudential focus (in 2007: 12, in 2006: 14 and in 2005:11). So far, no AML/CFT inspections have been conducted. As a result no sanctions for AML/CFT breaches have been applied.

483. The assessment team was advised that the CBS has so far not received any formal request for assistance or any request by law enforcement authorities relating to money laundering or financing terrorism.

3.10.2 Recommendations and Comments

Recommendation 17:

1) The range of sanctions should be broadened with administrative sanctions for financial institutions, DNFBPs, for directors and senior management of financial institutions, to include the more direct possibility to bar persons from the sector, to be able to more broadly replace or restrict the powers of managers, directors, or controlling owners for AML & CFT breaches. In addition, there should be the possibility to restrict or revoke a license for AML and CFT violations.

Recommendation 23:

1) A relevant supervisory authority should be designated as responsible for ensuring the compliance of their supervised financial institutions and DNFBPs with AML/CFT requirements.
2) There should be a general requirement for money transfer offices and money exchange offices to be licensed or registered. In addition, money transfer offices and money exchange offices should also be made subject to a system for monitoring and ensuring compliance with the AML/CFT requirements.
3) Surinamese authorities should consider regulating and supervise the Stock exchange for AML/CFT purposes.

Recommendation 25:

1) The assessment team recommends the CBS to work together with the FIU and the Anti Money Laundering Commission in drafting guidelines for financial institutions (and DNFBPs) that give a description of money laundering and terrorist financing techniques and methods.

Recommendation 29

1) The CBS should have the general power to compel production or to obtain access to all records, documents or information relevant to monitoring compliance.

2) The CBS should have the authority to conduct inspections of all relevant financial institutions including on-site inspection to ensure compliance.

3) The supervisor should have adequate powers of enforcement and sanction against financial institutions and their directors or senior management for failure to comply with the AML/CFT requirements

Recommendation 30 and 32.2

1) The CBS should be given additional resources to be allocated for AML/CFT supervision and maintain statistics of the number of on-site inspections conducted and sanctions applied.

2) The CBS should consider creating a team of examiners specialising in AML/CFT measures that check financial institutions compliance with AML/CFT on an ongoing basis for all supervised entities.

3.10.3 Compliance with Recommendations 17, 23, 25, 29 & 30

	Rating	Summary of factors underlying rating
R.17	**NC**	• **The range of sanctions is not sufficiently broad. There are no administrative sanctions, which can be imposed against financial institutions, directors, controlling owners and senior management of financial institutions directly for AML/CFT breaches. The available sanctions do not include the possibility to directly bar persons from the sector. Currently, there is not the general possibility to restrict or revoke a license for AML/CFT violations.** • **No requirement to report suspicion of terrorist financing and consequently no supervision of this issue.** • **The effectiveness of the overall sanctioning regime, at present, is questioned because penal sanctions have not been imposed for AML failings.**
R.23	**NC**	• **Relevant supervisory authority has not been designated as responsible for ensuring the compliance of their supervised financial institutions and DNFBPs with AML/CFT requirements.** • **The money & value transfer companies, money exchange offices and stock exchange are not subject to AML/CFT supervision.** • **Money transfer offices and money exchange offices are not registered or licensed and appropriately regulated.** • **No requirement to report suspicion of terrorist financing and consequently no supervision of this issue.**

R.25 (25.1)	**NC**	• **No guidelines on CFT issues (Sanction Act) provided to financial sector.** • **No guidelines regarding ML or TF techniques and methods provided to the financial sector.** • **There is no requirement for the FIU to provide the financial institutions and DNFBPs with adequate and appropriate information on current ML and TF techniques, methods and trends (typologies) and sanitised examples of actual money laundering and terrorist financing cases.** • **There is no requirement for the FIU to provide the financial institutions and DNFBPs with an acknowledgement of receipt of the STRs and whether a report is subject to legal principles, if a case is closed or completed, and if information is available, information on the decision or result.**
R.29	**NC**	• **The CBS should have the authority to conduct inspections of relevant financial institutions including on-site inspection to ensure compliance.** • **The CBS should have the general power to compel production or to obtain access to all records, documents or information relevant to monitoring compliance.** • **The CBS should have adequate powers of enforcement and sanction against financial institutions and their directors or senior management for failure to comply with the AML/CFT requirements.**

3.11 Money or value transfer services (SR.VI)

3.11.1 Description and Analysis (summary)

Legal Framework:

484. The money transfer offices and money value service operators (MTCs) were formally placed under the (prudential) supervision of the CBS in May 2005 by an amendment of the Bank Act 1956.

485. MTCs are obliged to report their transfer activities from and to foreign countries to the CBS on a weekly basis. On a special form designed by the CBS the MTCs have to report every transaction, the amount of the transaction, personal information of the client, the country of origin and the currency.

486. The MTCs became subject to the Surinamese anti-money laundering legislation on March 24, 2003.

Designation of Registration or Licensing Authority (c. VI.1):

487. In March 2007 a preliminary regulation on the admittance of MTCs was introduced by State Ordinance 2007 no 44. The MTCs need a Declaration of No Objection issued by the CBS and a special decree issued by the Foreign Exchange Commission before they can start operating.

488. On March 12, 2008, the CBS issued Guidelines for the applicants of the Declaration of No Objection the MTCs which were already operating had to register with the CBS and are now in the process of obtaining a Declaration of No Objection.

489. The CBS has drafted an Act on the Supervision of MTCs and Money Exchange Offices. This draft legislation provides for a one-window-stop system, while the CBS as the financial supervisor will be the sole institute that will grant a license to MTCs and Money Exchange Offices. The draft legislation also provides for guidelines issued by the CBS in order to combat money laundering and terrorist financing.

Application of FATF Recommendations (applying R.4-11, 13-15 & 21-23, & SRI-IX)(c. VI.2):

490. There are deficiencies identified earlier in this report in respect of CDD and Recommendations15 and 21 which materially affect the compliance of the MTCs with the FATF Recommendations overall.

Monitoring of Value Transfer Service Operators (c. VI.3):

491. According to article 2 of the WID Act, the MTCs need to verify the identity of the customer, before rendering services. According to the MOT Act the MTCs need to report unusual transactions to the FIU. The CBS indicated that the MTCs (and money exchange offices) are currently not supervised for AML and CFT compliance.

492. While not supervised for AML and CFT compliance, the MTCs reported 1.059 unusual transactions to the FIU in 2008, which represents 52% of the total reported unusual transactions in Suriname. It is unclear, whether in fact all MTCs in Suriname do report unusual transactions.

List of Agents (c. VI.4):

493. There is no legal requirement for MTCs to maintain a current list of their agents (and sub-agents) to be made available to the CBS. In terms of transparency, the CBS has made public on its website www.cbvs.sr the names of all financial institutions that are supervised, except the names of the MTCs and money exchange offices, which do report their transaction activities to the CBS and according to article 9d of the Bank Act 1956, as amended in 2005 fall under (prudential) supervision of the CBS.

Sanctions (applying c. 17.1-17.4 in R.17)(c. VI.5):

494. Only penal provisions are included in the MOT Act. The MOT Act does not have any administrative (e.g. fines) or civil sanctions, which are easier enforceable and in

practice more effective than penal provisions. In the draft legislation on MTCs and money exchange offices, the CBS will be able to revoke a license of a MTC or money exchange office.

Additional Element

Applying Best Practices Paper for SR VI (c. VI.6):

495. The measures set out in the Best Practices Paper for SR VI have not been implemented so far.

3.11.2 Recommendations and Comments

496. The assessment team recommends the following:

1) A competent authority should be designated to register or licence MTCs and be responsible for ensuring compliance with licensing and/or registration requirements.

2) A system for monitoring MTCs ensuring that they comply with the FATF Recommendations should be implemented. The mission also recommends that the CBS issues the AML/CFT Guidelines to MTCs that indicate circumstances in which a transaction might be considered as "unusual".

3) MTCs should be required to maintain a current list of its agents and sub-agents, which must be made available to the CBS and the Foreign Exchange Commission.

4) The measures set out in the Best Practices Paper for SR.VI should be implemented and Suriname authorities should take FATF R. 17 into account when introducing system for monitoring money transfer companies.

3.11.3 Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR.VI	**NC**	• **None of the requirements are included in legislation, regulations or other enforceable means.**

4. PREVENTIVE MEASURES—DESIGNATED NON-FINANCIALBUSINESSES AND PROFESSIONS

4.1 Customer due Diligence and Record-keeping (R.12)

4.1.1 Description and Analysis

Legal Framework:

497. In general, DNFBPs fall under the same identification requirements of the ID law as the financial institutions. Article 1, paragraph b, of the ID law states that as "services" in the sense of the ID law is to be understood financial as well as non-financial services. Non-financial services are subsequently defined in paragraph d of the same article, these being the following services provided in or from Suriname:

i. Drawing up of notarial deeds for the transferral of immobile property situated in Suriname;

ii. Organizing and control of books and administrations;

iii. Provision of legal assistance to persons and institutions;

iv. Trading in immobile property;

v. Trading in gold and other precious metals and precious stones;

vi. Providing of games of chance;

vii. Trading in motor vehicles.

498. This effectively places civil notaries, accountants, lawyers, real estate brokers, jewellers, dealers in precious metals and/or precious stones, casinos, lotteries and car dealers under the scope of the ID law. It should be noted in this respect that the ID law does not take into account the circumstances set out in Recommendation 12 and Essential Criterion 12.1 of the Methodology or any other circumstance related specifically to the nature of the various DNFBPs mentioned above, thereby submitting them to the same identification requirements as the financial institutions. In line with the above the ID law also does not distinguish between the various DNFBPs according to the nature of their business or profession, except for article 7, second section, which requires only civil notaries, accountants and lawyers to also establish the amount of the transaction when recording the required customer data pursuant to the first section of article 7.

499. As for DNFBP-specific legislation containing customer identification requirements it can be noted that article 22, second section, of the Law on the office of civil notary (*Wet op het notarisambt*) requires civil notaries to explicitly mention in deeds drawn up by them the names, occupation or social office, possession of residency and residence of the parties appearing in front of them and of those whom they represent, in so far as they are able to submit the profession or social office and residence; furthermore the relationships and capacities in which, and the authorizations and proxies serving based on which it is acted; and the names, occupation or social office and residence of each of the witnesses. No other

DNFBP-specific legislation containing customer identification requirements exists in Suriname.

500. Following the line that the ID law is applicable on DNFBPs on the same level as with the financial institutions, this law's provisions are limited to identification requirements and do not cover the broad range of CDD measures as mentioned in essential criteria 5.3-5.6. Furthermore no provisions are present in the ID law with regard to guidance and supervision on the DNFBPs in order to promote and ensure their compliance with the ID law, nor does the ID contain a basis for the designation of a government or semi-government body or of officials of such bodies for the supervision of the compliance by the DNFBPs with their obligations pursuant to the ID law. Next to this, violation of the provisions of the ID law is solely sanctioned through criminal prosecution. Pursuant to the Law on the office of civil notary, civil notaries are subject to a system of repressive supervision by the Court of Justice with sanctions ranging from reprimanding to the removal from office.

CDD Measures for DNFBPs in Set Circumstances (Applying c. 5.1-5.18 in R. 5 to DNFBP) (c. 12.1):

501. *5.1*: Article 2, first section, of the ID law sets out the general obligation for DNFBPs to verify the true identity of the customer whether it is a natural or a legal person before proceeding to provide the service. This excludes the use of accounts in fictitious names and numbered accounts.

502. *5.2*: Pursuant to article 2, first section, of the ID law DNFBPs are required to verify the true identity of the customer prior to providing a service. The second section of the said article extends this identification requirement to transactions of which the amount is smaller than that designated pursuant to article 12 of the MOT Act, but the transaction, due to its nature, can be considered unusual or is part of a whole of interrelated transactions. Furthermore, article 4, first section, of the ID law requires DNFBPs to verify the identity of the natural person appearing before him on behalf of a customer in accordance with article 3 of the ID law, prior to the provision of the financial service. The second, third and fourth sections of article 4 of the ID law contain further provisions regarding the identification of third parties. It should be noted that identification requirement of the first section of article 4 of the ID law is expressly related to the provision of financial services. This raises the question on the applicability of this and the other sections of article 4 to non-financial services, as the ID law contains separate definitions for financial and non-financial services.

503. *5.3*: Following the principle of equal applicability of the ID law to financial institutions and DNFBPs, articles 2 and 3 of this law regarding the identification obligation and the identification data respectively need to be followed by the DNFBPs as well. The required identification data include, among other, the name, address, residence, telephone number, date of birth, nationality, occupation and, if necessary, the employer of the customer; also subject to identification are the nature, number, date and place of issue of the documents used for the establishment of the identity of the customer (section 2 of article 3of the ID law). If the customer is a natural person the identity must be established using one of the following documents (section 2 of article 3of the ID law):

i. a valid driver's license as meant in article 7, first section, paragraph 3, of the Driving Law 1971, or

ii. a valid identity card, or

iii. a valid travelling document/passport, or

iv. a another valid document from the country of origin, that complies with the requirements of that country.

504. Article 7 of the ID law contains additional identification requirements for financial institutions as well as DNFBPs. Pursuant to its first section, DNFBPs must establish:

i. The name, address and residence, or the place of establishment of the customer and of the person on whose name an account or depot is set, or of the person getting access to a safe deposit box, or of the person on whose name a payment or transaction is carried out, as well as their representatives;

ii. The nature, number and date of issuance of the document with which the identity has been established, unless article 6 of the ID law is applicable;

iii. The nature of the service.

505. More additionally, the second section of article 7 requires with regard to DNFBPs that the following data also be established:

i. In case of the drawing up of a notarial deed for the transferral of immobile property situated in Suriname, the amounts involved with these transactions;

ii. In case of the organization and audit of books and administrations, the amounts involved with these transactions;

iii. In case of the provision of legal assistance to persons and institutions, the amounts involved with these transactions;

iv. In view of the nature of these services, only civil notaries, accountants and lawyers are required to establish the amounts involved with transactions carried out by them. The reason for not including other important DNFBPs active in Suriname, such as casinos and real estate brokers, under this important additional requirement is unknown and is not explained in the Explanatory Memorandum to the ID law.

506. *5.4*: As is the case with financial institutions, DNFBPs are required pursuant to article 3, seventh section, of the ID law to properly verify using articles of incorporation, authorizations, employer's declarations, extracts from the commercial register or other documents, if and to what extent the person in question is authorized to act on behalf of a legal person. The identity of the legal person itself must established by means of certified extract from a Chamber of Commerce established in Suriname, or by means of a deed drawn up in Suriname (article 3, fifth section). In case of a foreign legal person the identity must be established by means of deed drawn up Surinamese civil notary. As for the content of the certified extract of the Commercial Register, reference can be made to articles 8 (concerning limited liability companies), 9 (concerning cooperative associations) and 10 (concerning associations with legal personality) of the Commercial Register Law, as well as to article 9 of the Law on Foundations (concerning foundations). For a

customer that is a trust, the Suriname legislation does not have the obligation to verify the legal status of a trust by obtaining evidence of establishment or existence and obtain information concerning the customers name, the names of the trustee(´s), the type of trust, address and provisions regulating the power to bind such trust

507. *5.5*: In general, the first section of article 4 of the ID law requires DNFBPs to establish in accordance with article 3 of the ID law the identity of the natural person appearing before them on behalf of a customer, prior to the provision of a financial service. As explained above, this raises the question whether the requested provision under the same circumstances of a non-financial service would also fall under the scope of first and other sections of article 4 of the ID law. The second section of article 4 requires DNFBPs to verify if a natural person appearing before him is acting for himself or for someone else. In case of a natural person acting on behalf of a third party, the third section of article 4 requires DNFBPs to establish the identity of that third party through documents meant in article 3 to be provided by the said natural person. Finally, the fourth section of article 4 requires DNFBPs to take reasonable measures in order to establish the identity of the third party, if they know or should reasonably suspect that the natural person appearing before them is acting for a third party. As is the case with the financial institutions, these provisions do not explicitly require the DNFBPs to verify the identity of the ultimate beneficial owner, nor do they explicitly require DNFBPs to a) understand the ownership and control structure of the customers and b) to determine who are the natural persons that ultimately own or control the customer. In this respect it should be noted that a definition of the term "beneficial owner" in the ID law or elsewhere is lacking. Related to this it should also be noted that ~~as~~ article 3, sections five and six, of the ID law do not require the service provider to look beyond the legal person acting as a customer and the persons mentioned in the Commercial Register extract as managers and/or supervisory board members of that legal person (for example shareholders). Also, while a starting point can be found in section 4 of article 4 for the identification of the ultimate beneficiary of a transaction, no further explanation or guidance is given in the Explanatory Memorandum to the ID law or any other official document with respect to the interpretation of the concepts "reasonable measures" and "third party".

508. *5.6*: The ID law contains in article 7, section one, paragraph c, a requirement for the DNFBPs to establish the nature of the service. No provisions exist in the ID law or elsewhere requiring DNFBPs to establish the purpose of the service or business relationship.

509. *5.7*: The ID law or another Surinamese legislative instrument does not contain provisions regarding the conduct of ongoing due diligence by DNFBPs on their business relationships.

510. *Essential criteria 5.8-5.12*: No provisions exist in the ID law or elsewhere with regard to performance by DNFBPs of enhanced or simplified CDD measures or to determine the extent of the CDD measures on a risk sensitive basis.

511. *5.13 and 5.14*: Pursuant to articles 2, first section, and 4, first section, of the ID law, DNFBPs are required to establish the identity of the customer and possible third parties prior to the provision of the requested service. No provisions exist with

regard to completion of the verification process after the establishment of the business relationship.

512. *5.15 and 5.16*: Article 9 of the ID law prohibits DNFBPs to provide a service if the identity of the customer cannot be established in the manner set out by the ID law. In view of the words "the identity of the customer cannot be established in the manner set out by the ID law" it must be assumed that this prohibition is also applicable in the cases referred to in essential criterion 5.16. It should be noted here that there is no direct requirement for DNFBPs to consider making a suspicious transaction report in the event the financial institution is not able to complete CDD or to identify the customer properly.

513. *5.17 and 5.18*: Article 6 of the ID law carries with it an implicit obligation to apply CDD requirements on existing customers in case of change of the identification data or of elapsing of more than seven years. No provisions or guidance exist on the performance of CDD measures on existing customers if these are customers to whom Essential criterion 5.1 is applicable.

CDD Measures for DNFBPs in Set Circumstances (Applying Criteria under R. 6 & 8-11 to DNFBP) (c.12.2):

Recommendation 6

514. No provisions exist in the ID law or in any other piece of primary or secondary legislation with regard to the establishment, conduct and monitoring by DNFBPs of business relationships with PEPs. Based on the interviews conducted with representatives of DNFBPs, those DNFBPs that are aware of the concept PEPs treat them (whether domestic or foreign) in the same manner as other customers.

Recommendation 8:

515. No provisions exist in the ID law or elsewhere for DNFBPs requiring the presence of policies or measures for the prevention of the misuse of technological developments in money laundering or terrorist financing schemes, of policies and procedures addressing specific risks associated with non-face to face business relationships or transactions. Likewise, no measures exist for DNFBPs regarding risk management with specific and effective CDD procedures applicable to non-face to face customers.

Recommendation 9:

516. No provisions exist in the ID law or elsewhere for DNFBPs with regard to reliance on intermediaries or other third parties to perform elements (a) – (c) of the CDD process or the introduction of business.

Recommendation 10:

517. In line with the intended scope of the ID law, its recordkeeping provisions are equally applicable to DNFBPs. Additionally, civil notaries have the obligation pursuant to the Law on civil notaries to keep their records for an indefinite period. Article 5 of the ID law requires DNFBPs to keep copies of the identification data of their customers for a period of at least seven years after the termination of the

provided service. This reason for this, according to the Explanatory Memorandum, is that they may be of interest to the judicial authorities for possible criminal investigations.

518. Furthermore, article 8 of the ID law requires DNFBPs to keep the data meant in article 7 of the ID law in an accessible way for a period of seven years after the termination of the agreement based on which the transaction was performed, or seven years after the performance of a service as meant in article 1, paragraphs c and d, of the ID law. It should be noted that pursuant to article 7, second section, of the ID law only civil notaries, accountants and lawyers are required to establish the amount of the transactions carried out by them, making these subsequently subject to the recordkeeping obligation of article 8. The purpose of article 8 is to require service providers to keep the records meant in article 7 in an accessible way for themselves or judicial authorities.

Recommendation 11:

519. No legal or other requirement exists in Suriname for DNFBPs to pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. Likewise, there is no requirement for the examination of the background an purpose of such transactions, to establish the findings in writing and to be made available to help competent authorities and auditors.

Analysis of effectiveness

520. In the ID law Suriname chose to have the DNFBPs subject to the same customer identification requirements as the financial institutions. For this purpose a wide range of DNFBPs, comprising of civil notaries, accountants, lawyers, real estate brokers, dealers in gold and other precious metals and precious stones, providers of games of chance (including casinos) and motor vehicle dealers, has been placed under the scope of the ID law. This includes the DNFBPs mentioned in Recommendation 12 (except trust and company service providers which are not active in Suriname), as well as some of the DNFBPs meant in Recommendation 20. Related to this the ID law also contains broad descriptions of the activities of the DNFBPs for which the ID requirements are applicable. In doing so Suriname has created in principle a basis for the identification of customers by DNFBPs. However, deficiencies have been detected in these identification requirements which inhibit adequate compliance with Recommendation 12.

521. As is the case with financial institutions, the ID law only sets basic customer identification requirements for DNFBPs. It does not cover the broad range of CDD measures as set out in the FATF standards.

522. The identification provisions set out in the ID do not explicitly require DNFBPs to verify the identity of the ultimate beneficial owner. The ID law also does not require DNFBPs to understand the ownership and control structure of the customers, and to determine who are the natural persons that ultimately own or control the customer. A definition of the term “beneficial owner” in the ID law or elsewhere is lacking. Article 3, sections five and six, do not require the service provider to look beyond the legal person acting as a customer and the persons mentioned in the Commercial

Register extract as managers and/or supervisory board members of that legal person (for example shareholders). Also, while a starting point can be found in section 4 of article 4 for the identification of the ultimate beneficiary of a transaction, no further explanation or guidance is given in the Explanatory Memorandum to the ID law or any other official document with respect to the interpretation of the concepts "reasonable measures" and "third party".

523. Moreover, the uses of information from public registers such as the Commercial Register or the Foundations Register, whether mandatory or not, require these information sources to be up to date and kept in an appropriate manner. This does not always seem to be the case, especially with the Foundations Register which is an important tool for especially civil notaries and real estate brokers for the identification of their clients when conducting real estate-related transactions.

524. Article 4, first section, which deals with identification of natural persons acting on behalf of a customer, requires DNFBPs to establish the identity of such a natural person prior to the provision of a financial service. Strict interpretation of this important provision leads to the conclusion that DNFBPs are not required to identify the natural person acting on behalf of another when providing a non-financial service as described in article 1, paragraph d, of the ID law, in effect exempting DNFBPs from the identification obligation when dealing with natural persons acting on behalf of a customer. This conclusion subsequently also applies to the other sections of article 4 of the ID law.

525. The requirement of article 7, second section, to establish the amount involved with the transaction subject to the identification provisions is limited to civil notaries, accountants and lawyers. Other DNFBPs are therefore not required to establish the amount involved with such transactions.

526. A major shortcoming is the absence of supervisory provisions and subsequently the designation of a supervisory authority with adequate powers to assess and supervise the compliance by the DNFBPs with their obligations pursuant to the ID law. This issue was already identified in the Mutual Evaluation Report on Suriname of 2005 but has since then not been addressed. Furthermore, at present there is no public entity or government agency (such as the Central Bank of Suriname or the FIU) tasked with policy development and implementation with regard to the application and compliance by the DNFBPs of the identification requirements set out in the ID law or other legislation. Closely related to this is the absence of adequate guidance to the DNFBPs regarding the proper application of and compliance with the identification requirements of the ID law.

527. As a consequence the compliance by DNFBPs in accordance with the provisions of the ID law is highly deficient and in some cases simply absent. Based on interviews conducted on site with various DNFBPs or representatives of groups of DNFBPs the following could be established: Civil notaries generally establish the identity of their clients by requesting certain identification data and documentation. In case of resident natural persons a proof of identity, being an identity card, passport or driver's license), as well as a nationality statement must be presented by the customer. Non-resident natural persons are also required to present a historical extract from the Civil Registry of the country of origin, and a declaration on their nationality and marital status. As for national legal persons civil notaries require

presentation of an extract of the Commercial Register or Foundations Register. In case of foreign legal persons an extract of the commercial register of the country of origin is required. No effect is given to article 3, sixth section, of the ID law which require DNFBPs to establish the identity of foreign legal persons by means of a notary deed drawn up by a Surinamese civil notary, as this is deemed unpractical and unrealistic. On the whole however, the identification procedures as applied seem consistent with the ID law and the Law on the office of civil notary. It was noted that under the current system it is difficult to establish the identity of the ultimate beneficiary owner as the relevant national registries do not require registration of shareholders or beneficiaries to the legal person's capital. This is especially relevant to commercial real estate transactions involving foreigners who use foundations to acquire title to property in Suriname. Under the laws of Suriname foreigners are not allowed to directly acquire a special land lease title *("grondhuur")* on land. This prohibition is by-passed by establishing foundations which acquire the land lease title on behalf of the foreign person.

528. It was made clear to the assessment team that lawyers do not comply with the requirements of the ID law. This is done on a deliberate basis, citing professional secrecy, the presence of identification rules for court procedures already requiring judges to establish the identity of the parties involved, the lack of reliable identification documents and of adequate professional liability insurance and the fact that lawyers generally carry out activities related to the representation of their clients in court or ascertaining their clients' legal position. It was also noted that the Law on lawyers, in force since 2004, had not yet been fully implemented, impeding monitoring of lawyers' activities through self-regulatory instruments provided for in that law. In so far as identification of clients is carried out by lawyers, it is only with respect to legal persons in which case extracts of the Chamber of Commerce are requested.

529. Interviews were held with representatives of the casino sector as well as with one individual casino. Based on the information received it was established that some casinos do no establish the identity of their customers, while others do so but combine this with the reporting of unusual transactions to the FIU, applying the thresholds mentioned in the objective indicators as established pursuant to the MOT Act in the process.

530. As for the real estate brokers, car dealers and jewellers, interviews were held with individual businesses of each category as representative organizations for these DNFBPs are currently not present in Suriname. Based on these interviews compliance with the ID law was found to be absent or linked with the obligation to report unusual transactions pursuant to the MOT Act. All interviewees indicated the need for more guidance. It should be noted that an interview with representatives of the accountants was not possible during the onsite visit because of time constraints.

531. Furthermore, the descriptions of the activities of lawyers, civil notaries and accountants subject to the identification requirements of the ID law are very broad and do not limit themselves to those mentioned in paragraph d) of essential criterion 12.1 but also include the original activities of these professionals such as ascertaining the legal position of their client or performing a task of defending or representing a client in legal proceedings. Similarly, the ID law does not call for a threshold approach for casinos, dealers in precious stones and dealers in precious

metals for the identification of their customers. Full application of this system might actually lead to unnecessary burdening of these DNFBPs and (if present) the public entity or government agency tasked with compliance supervision of these DNFBPs.

532. Finally, as is the case with the financial institutions, the ID law does not contain sanctions that are effective, proportionate and dissuasive other than a general penalizing provision, in order to enforce and ensure compliance by the DNFBPs with the ID law.

4.1.2 Recommendations and Comments

533. As stated previously Suriname has created a basis in the ID law for customer identification by DNFBPs. However, this law does not cover the full range of CDD measures as set out in the FATF standards. The implementation of the existing legal obligations by the DNFBPs is also seriously hampered by certain deficiencies in the ID law, of which the lack of supervision and effective sanctions are the most prominent. Of equal importance is the presence of adequate guidance to the DNFBPs regarding proper implementation of the requirements of the ID law. Such guidance is currently lacking. Furthermore, proper implementation of the identification provisions of the ID law require the presence of modern, up-to-date and easily accessible information databases on especially legal persons and their beneficiaries. Currently this does not seem to be case with especially the Foundations Register which is a vital tool for civil notaries and real estate brokers for identification of clients when carrying out real estate transactions in Suriname. Overall, the effectiveness of the ID law with regard to DNFBPs is seriously compromised by these factors and circumstances. Suriname is therefore recommended to take the following steps:

1) Suriname should modify the ID law in order for it to cover the full range of CDD measures as set out in the FATF standards.

2) Suriname should introduce in the ID law or in another law provisions regarding the supervision of the DNFBPs on their compliance with the identification requirements of the ID law. In doing so Suriname should set out the supervisory instruments and powers, and designate a public entity or government agency tasked with the actual supervision of DNFBPs.

3) Suriname should introduce in the ID law or in another law provisions enabling effective, proportionate and dissuasive sanctioning of non-compliance by DNFBPs with their obligations pursuant to the ID law. More specifically Suriname should consider the introduction of administrative sanctioning of violations of the ID-law by DNFBPs next to the existing general criminal sanctioning provision of article 10 of the ID law. In doing so Suriname should also designate a public entity or government agency tasked with the imposition of the administrative sanctions on non-compliant DNFBPs.

4) Suriname should provide proper, continuous and effective guidance to the DNFBPs on the purpose and compliance with the ID law, in order to raise their awareness of their obligations and responsibilities under the ID law and to facilitate and enhance their compliance.

5) The ID law should contain specific provisions for the identification of the ultimate beneficiary owners involved in transactions carried out by DNFBPs. DNFBPs should also be required to understand the ownership and control structure of the customers, and to determine who are the natural persons that ultimately own or control the customer.

6) Article 4, first section, of the ID law, which deals with identification of natural persons acting on behalf of a customer, requiring DNFBPs in the process to establish the identity of such a natural person prior to the provision of a financial service, should be modified so as to requiring identity establishment of a natural person acting on behalf of another when providing a service as meant in paragraph d of article 1 of the ID law.

7) Article 7, second section, of the ID law should be expanded to require other DNFBPs besides currently civil notaries, accountants and lawyers, to record the transaction amount as part of the identification requirements pursuant to article 7 and 3 of the ID law.

8) Suriname should improve its registration system for legal persons, especially for foundations, in order to better enable DNFBPs to better comply with their identification obligations under the ID law. Additionally, measures, including legal ones, should be taken to better enable DNFBPs to identify the ultimate beneficiary owner through the legal persons registration system.

9) Suriname should consider bringing the scope of the ID requirements for casinos, real estate agents, dealers in precious metals, dealers in precious stones, lawyers, civil notaries, accountants and other DNFBPs in accordance with essential criterion 12.1. This means introducing a monetary threshold for casinos, dealers in precious metals and dealers in precious stones, as well as a description of activities for real estate agents, lawyers, civil notaries, accountants and other legal professionals, for activities subject to the identification requirements.

10) Suriname should fully implement the Law on lawyers. In doing so, Suriname might consider to have an order decree pursuant to article 34 of this law enacted with provisions on the identification of clients by lawyers, thereby further strengthening the identification framework for lawyers. Suriname may also consider introducing similar provisions for other professionals such as civil notaries and accountants.

4.1.3 Compliance with Recommendation 12

	Rating	Summary of factors relevant to s.4.1 underlying overall rating
R.12	**NC**	• **The ID law does not contain any provisions with regard to the supervision of DNFBPs on their compliance with their obligations pursuant to the ID law;** • **There is a significant lack of guidance to the DNFBPs as to the**

		proper application of the identification obligations pursuant to the ID law; • **There is no public entity or government agency explicitly tasked with guidance and supervision for DNFBPs with respect to their obligations under the ID law;** • **The ID law lacks an effective sanctioning system;** • **The above leads to an overall problem of effectiveness of the ID law in so far as it concerns DNFBPs;** • **The registration system for legal persons is not always adequate, thereby hampering certain DNFBPs to properly identify the persons behind a legal person involved in a transactions** • **The ID law does not contain explicit provisions regarding transactions carried out by DNFBPs involving ultimate beneficiary owner;** • **The ID law does not require DNFBPs to establish the identity of a natural person acting on behalf of a client when providing a non-financial service;** • **DNFBP-specific laws such as the new Law on lawyers, which may provide for useful additional identification requirements, have not been fully implemented;** • **The ID law requires only civil notaries, accountants and lawyers to establish the transaction amount when recording additional personal data of the customer**

4.2 Suspicious Transaction Reporting (R.16)

4.2.1 Description and Analysis

Legal Framework:

534. Article 1, section a, of the MOT Act describes a service provider as a natural person or a legal person who provides services in business or professional manner, while section b of the same article defines service as financial or non-financial services. Pursuant to paragraph d, numbers 1 up to and including 7, of the same article the provision in or from Suriname of the following non-financial services is subject to the reporting obligation as set out in the MOT Act:

i. Drawing up of notary deeds for the transferral of immobile property situated in Suriname;

ii. Organizing and control of books and administrations;

iii. Provision of legal assistance to persons and institutions;

iv. Trading in immobile property;

v. Trading in gold and other precious metals and precious stones;

vi. Providing of games of chance;

vii. Trading in motor vehicles.

535. These provisions effectively subject civil notaries, accountants, lawyers, real estate brokers, jewellers, dealers in precious metals and/or precious stones, casinos, lotteries and car dealers to the reporting obligation as set out in the MOT Act. As for the rights and obligations of these DNFBPs, the MOT Act does not distinguish between them and the financial institutions which are also subject to the MOT Act. In doing so the MOT Act follows the same all-in approach of the ID . It also means that no consideration has been given in the MOT Act to the circumstances set out in essential criterion 16.1, letters a and b, of the FAFT Methodology with regard to activities carried out by dealers in precious metals or stones, lawyers, civil notaries, other legal professionals and accountants Similarly, no consideration has been given in the MOT Act to legal professional privilege or legal professional secrecy of lawyers and civil notaries.

536. Article 12, first section, of the MOT Act places on the said DNFBPs the obligation to report unusual transactions to the MOT by following the indicators set out by State Decree. In connection with this the State Decree of June 20th 2003 for the implementation of article 12 of the MOT Act (Decree Indicators Unusual Transactions) was enacted. Article 3 of this State Decree divides the DNFBPS in categories F up to and including I, being:

i. Category F: civil notaries, real estate agents, accountants, administration offices and lawyers;

ii. Category G: traders in gold, other precious metals and precious stones;

iii. Category H: traders in motor vehicles;

iv. Category I: providers of games of chance.

v. Each category is linked to a set of indicators which must be used to determine and report unusual transactions. These indicators follow the same pattern as the indicators for the financial institutions in that they are divided in objective and subjective indicators.

537. Since DNFBPs are subject to the same provisions of the MOT Act as the financial institutions, the scope of their reporting is limited to transactions related to or possibly related to money laundering and not to terrorist financing. The data collection from the DNFBPs therefore does not extend to terrorist financing related information, as there is no terrorist financing-specific disclosure duty or FIU assignment in place under Suriname law.

538. For the remainder reference can be made to sections 3.7 (Suspicious Transactions Reports and Other Reporting (R.13-14, 19, 25&SR.IV)) and 2.5 (The FIU and its functions (R.26)).

Requirement to Make STRs on ML and TF to FIU (applying c. 13.1 & IV.1 to DNFBPs):

539. Based on article 12 of the MOT Act DNFBPs must report unusual transactions to the FIU using the objective and subjective indicators set pursuant to the said article. All DNFBPs covered by the MOT Act are required, among other, to report transactions which have been reported to the police or judicial authorities in connection with a possible violation of the Law on criminalization of money laundering (objective indicator) and, more importantly, transactions which give reason to assume that they can be related with a criminal offence as meant in the Law on criminalization of money laundering (subjective indicator). These reporting requirements are related to money laundering-offenses only and not to terrorism-related offenses, as the MOT Act's scope do not explicitly include terrorism and terrorism-related offenses. The reporting obligation does not technically cover insider trading/marked manipulation as these are not predicate offences for money laundering.

STRs Related to Terrorism and its Financing (applying c. 13.2 to DNFBPs):

540. The Decree Indicators Unusual Transactions does not contain indicators for the reporting of transactions related to terrorism and/or terrorism financing. This is a consequence of the scope of the MOT Act which is currently limited to the prevention and combat of money laundering.

No Reporting Threshold for STRs (applying c. 13.3 & IV.2 to DNFBPs):

541. All subjective indicators go without a reporting threshold. This includes the subjective indicator for transactions which give reason to assume that they can be related with a criminal offence as meant in the Law on criminalization of money laundering. There are no indicators in place for the reporting of terrorism and terrorist financing-related transactions.

542. Making of ML and TF STRs regardless of Possible Involvement of Tax Matters (applying c. 13.4 and c. IV.2 to DNFBPs):

543. No specific provisions are present in the Decree Indicators Unusual Transactions or in the MOT Act regarding the application of the transactions when tax matters are involved. In view of the general scope of the indicators set out in the Decree Indicators Unusual Transactions – albeit limited to money laundering – it can be assumed that tax matters do not constitute an obstacle for DNFBPs to report unusual transactions to the FIU.

Additional Element

Reporting of All Criminal Acts (applying c. 13.5 to DNFBPs):

544. Pursuant to the Decree Indicators Unusual Transactions the DNFBPs mentioned above are required to report transactions which give reason to assume that they can be related with a criminal offence as meant in the Law on criminalization of money laundering. As this law comprises an all-offense regime for predicate offenses for money laundering, DNFBPs are therefore required to report transactions when they

suspect or have reasonable grounds to suspect that the funds are the proceeds of any criminal act that would constitute a predicate offense for money laundering domestically. It should be noted that proper application of the relevant objective indicator in this light requires adequate guidance for the DNFBPs which is presently absent.

Protection for Making STRs (applying c. 14.1 to DNFBPs):

545. Pursuant to article 18 of the MOT Act DNFBPs, their directors and employees are exempted from criminal and civil liability for breach of restrictions imposed by contract or a legal provision on the disclosure of information, if they report their suspicions of money laundering to the FIU. Furthermore, according to article 19 of the MOT Act, DNFBPs who have filed a report pursuant to article 12 of the MOT are not liable for damage incurred subsequently by a third party, unless it is made plausible that, in view of all the facts and circumstances, the report should not have been reasonably filed. On a whole this seems in accordance with essential criterion 14.1 of the Methodology. However, it should be noted that article 18 of the Act provides for exemption of criminal and civil liability in case of a report of a suspicion of money laundering and not specifically for a filing an unusual transaction report with the FIU. This may be seen as broader and more-encompassing but it is also vague and actually raises the question of practicality as the MOT Act specifically requires service providers to report unusual transactions and not just suspicions of money laundering. Noteworthy in this respect is that the subsequent article 19, which provides for civil indemnity, does specifically refer to reporting of unusual transactions as meant in article 12 of the MOT Act.

Prohibition against Tipping-Off (applying c. 14.2 to DNFBPs):

546. Article 23 of the MOT requires DNFBPs to maintain secrecy on an unusual transaction reported pursuant to article 12 of the MOT Act, except and in so far as the objective of the MOT Act requires the necessity for disclosure. According to the Explanatory Memorandum to the MOT Act the latter is meant to enable service providers to warn each other on possible cases of money laundering.

Additional Element—Confidentiality of Reporting Staff (applying c. 14.3 to DNFBPs):

547. The FIU staff is subject to the secrecy provision of article 23 of the MOT Act with regard to information disclosed to it by DNFBPs under the scope of the MOT Act. Taking into account the broad wording of article 23 of the MOT Act this will include the names and personal details of DNFBPs and their staff making an unusual transaction report. Furthermore, as government employees all FIU staff members fall under the general secrecy obligations for all government employees set in the legislation regarding government employees.

Establish and Maintain Internal Controls to Prevent ML and TF (applying c. 15.1, 15.1.1 & 15.1.2 to DNFBPs):

548. As is the case with financial institutions the MOT Act does not contain a requirement for DNFBPs to establish and maintain internal procedures, policies and controls to prevent ML and FT and to communicate these to their employees. Based

on interviews with representative organizations of DNFBPs and individual DNFBPs no such internal procedures, policies and controls are currently present either with the DNFBPs. Article 4, section one, of the MOT Act directs the FIU to provide recommendations to DNFBPs regarding the implementation of appropriate procedures for internal control and communication and other measures for the prevention of money laundering. At the time of the on site-visit the FIU had not yet followed through on this statutory instruction, citing prioritization towards the financial institutions.

Independent Audit of Internal Controls to Prevent ML and TF (applying c. 15.2 to DNFBPs):

549. There is no requirement present in the MOT Act or elsewhere for the DNFBPs to maintain an adequately resourced and independent audit function to test compliance with the procedures, policies and controls to prevent money laundering and terrorist financing. Likewise, no voluntary systems for audit functions have been detected with DNFBPs, nor has the FIU issued recommendations on this subject pursuant to article 4, first section, of the MOT Act.

Ongoing Employee Training on AML/CFT Matters (applying c. 15.3 to DNFBPs):

550. No requirement is currently present in the MOT Act or elsewhere for DNFBPs to have ongoing employee training on AML/CFT matters. No voluntary training programs have been detected nor has the FIU issued recommendations on this subject pursuant to article 4, first section, of the MOT Act.

551. Employee Screening Procedures (applying c. 15.4 to DNFBPs):

552. No requirement is currently present in the MOT Act or elsewhere requiring DNFBPs to have employee screening procedures, except for casinos which by virtue of a Presidential Resolution of August 20th 2004 pursuant to article 1 of the Law on Hazard Games are required to appoint only special and adequately trained personnel for the conduct of the games in the casino. Appointment of such personnel furthermore requires prior written permission from the District-Commissioner of the district in which the hotel is situated. The purpose of this requirement is to ensure a good and safe course of the games in a casino and not to provide for AML/CFT-related screening. Apart from that, no voluntary training programs have been detected nor has the FIU issued recommendations on this subject pursuant to article 4, first section, of the MOT Act.

Additional Element—Independence of Compliance Officer (applying c. 15.5 to DNFBPs):

553. No legal requirements, procedures or guidance have been detected regarding the independence of compliance officer.

Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 & 21.1.1):

554. There is no requirement present in the MOT Act or elsewhere requiring DNFBPs to give special attention to business relationships and transactions with persons from or

in countries which do not or insufficiently apply the FAFT Recommendations. Similarly, no effective measures have been detected that ensure that DNFBPs are advised of concerns about weaknesses in the AML/CFT systems of other countries.

Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2):

555. No legal requirements exist for DNFBPs with regard to the examination of transactions with no apparent economic or visible lawful purpose from countries not sufficiently applying the FATF Recommendation, nor with regard to the availability of written findings to assist competent authorities.

Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3):

556. There is no law, regulation or other enforceable means present which enables Suriname to apply appropriate counter-measures against countries not sufficiently applying the FATF Recommendations and thereby requiring DNFBPs to comply with such counter-measures.

Analysis of effectiveness

557. DNFBPs are subject to the same unusual transactions reporting regime set in the MOT Act as the financial institutions, albeit with their sector-specific indicator regulations. This means that the same adequate and basically solid legal framework for a performing reporting system and an appropriate processing of the disclosures is present for DNFBPs. However, it also means that the same deficiencies and shortcomings detected with the financial institutions recur when analyzing the effectiveness of the unusual transactions reporting system for DNFBPs. Reference can be made to the sections 2.5 and 3.7 of this report.

558. A major deficiency in the reporting is the current limitation of the scope of the MOT Act to money laundering, thereby excluding terrorist financing from the reporting system and depriving the FIU from receiving, analyzing and disseminating terrorist financing-related information. In order to eliminate this deficiency the authorities of Suriname have prepared a draft for a law to amend the MOT Act aimed at expanding the scope of the MOT Act to include TF as well. This draft is still pending approval and enactment by the proper legislative authorities.

559. As is the case with the financial institutions the effectiveness of the unusual transactions system as set out in the MOT Act for DNFBPs is seriously compromised by the absence of compliance supervision, of effective, proportionate and dissuasive sanctions and of adequate guidance. In anticipation thereof Suriname has a draft act on criminalisation of terrorism and it's financing. This draft act is now in Parliament to be placed on the agenda for discussion. This has resulted in inadequate or absent reporting behaviour by the DNFBPs who are subject to the MOT.

560. During the on-site visit it was established that some DNFBPs such as lawyers deliberately do not report unusual transactions to the FIU despite their legal

obligation pursuant to the MOT Act to do so. The reasons given for this were that the transactions in questions were already being reported by the banks and that the rules of legal professional secrecy and privilege prevailed over those of the MOT Act. It should be noted that the scope of lawyers' services as defined in the MOT Act and the Decree Indicators Unusual Transactions is very broad and actually excessive in view of the circumstances and activities described in essential criterion 16.1 of the Methodology. In the relevant provisions of the said legislation lawyer's services subject to the reporting obligation are understood to be all services related to the provision of legal assistance to persons or institutions, without there being any consideration in place for the special position of lawyers as permitted under essential criterion 16.1.

561. The same broad approach is followed *mutatis mutandis* in the MOT legislation with respect to the activities of civil notaries although it was found that civil notaries do comply up to certain extent with their reporting obligation. As mentioned before an interview was not possible with representatives of the accountants and tax advisors sectors. Based on information gathered from the representatives of the lawyers, civil notaries and other interviewed DNFBPs it can be reasonably assumed however that similar complications are present among accountants.

562. In general it can be noted that of the DNFBPs that did comply with their reporting obligation did so by reporting only transactions based on the objective indicators containing the threshold amounts set out in the Decree Indicators Unusual Transactions. In many cases this way of reporting was combined with the establishment of customer identity pursuant to the ID law. No DNFBP was found to report using the subjective indicators. This obviously affects the effectiveness of the reporting system for DNFBPs as potentially valuable ML-related transactions do not reach the FIU.

563. Related to the above it should be noted that the threshold amounts in the DNFBP-related objective indicators present an obstacle for the gathering of valuable transaction amount information. This is due to their high amount in relation with the size of the Surinamese economy and the per capita GDP in Suriname, which ultimately renders their application unrealistic and improbable. The threshold amount for legal professionals and real estate is USD 25,000, for jewellers, dealers in precious metals and precious stones is USD 10,000, for car dealers it is USD 25,000 and for casinos it is USD 5000. For example, the assessment team was advised that the maximal amounts gambled in casinos almost never surpassed the amount of USD 3000. The same seemed to be *mutatis mutandis* the case with the jewellers sector.

564. As for the reporting behaviour of those DNFBPs that did report unusual transactions to the FIU, it was established that this was done virtually always using fixed period intervals such as once per month or per yearly quarter, and with the tacit or explicit approval of the FIU. This is however not in accordance with article 12, first section of the MOT Act, which requires all service providers to report unusual transactions promptly to the FIU. It was also noted that some DNFBPs notify their clients of an unusual transaction related to them having been reported to the FIU. This situation, which is probably a consequence of a lack of adequate guidance, is a violation of the no tipping-off provision of article 23 of the MOT Act.

565. Furthermore, the overall effectives of the reporting system for DNFBPs is affected negatively by the absence in the MOT legislative framework or elsewhere in the Surinamese legislation of provisions requiring DNFBPs to have AML/CFT programs in place as required by Recommendation 15, as well as by the absence of measures with respect to countries that do not or insufficiently comply with the FATF Recommendations.

566. Finally, it should also be noted that until recently the FIU has been focusing on compliance by the financial institutions, thereby putting the DNFBPs on a hold. Because of this no on-site visits have been yet been performed at DNFBPs. This policy is related to the practical complications noted in sections 2.5 and 3.7 with respect to the FIU.

4.2.2 Recommendations and Comments

567. In the MOT Act Suriname chose to subject a relatively broad range of DNFBPs to the same reporting obligation set out in the MOT Act and the Decree Indicators Unusual Transactions as the financial institutions, with some DNFBP-specific provisions for the respective DNFBPs. The range of DNFBPs subject to the MOT legislative framework include those mentioned in Recommendation 16, except for Trust and Company Service Providers as these currently do not exist in Suriname. In doing so, Suriname has created in principle a solid basis for the reporting by the DNFBPs in question of unusual transactions to the FIU. Unfortunately however, it also means that the same legal and practical shortcomings and deficiencies noted in Sections 2.5 and 3.7 with respect to the functioning of the FIU and the application and enforcement of the reporting obligation to the financial institutions recur with respect to the DNFBPs. The DNFBP-specific provisions of the MOT Act and the Decree Indicators Unusual Transactions also contain deficiencies that form a significant obstacle for an effective implementation by Suriname of Recommendation 16. Suriname is therefore recommended to take the following steps:

1) Suriname should address the deficiencies and shortcomings noted in sections 2.5 and 3.7 regarding the functioning of the FIU and the application and enforcement of the provisions of the MOT Act and the Decree Indicators Unusual Transactions, since these are equally applicable to the DNFBPs. These include, but are not limited to, the expansion of the scope of the MOT Act to TF-related transactions, the introduction of adequate compliance supervision provisions in the MOT Act and the introduction of effective, proportionate and dissuasive sanctions in the MOT Act. The latter could be done by introducing administrative sanctions in the MOT Act.

2) More specifically, Suriname should provide adequate and continuous guidance to the DNFBPs in order to reach and maintain satisfactory compliance with the MOT Act and the Decree Indicators Unusual Transactions. This guidance should have as one of its primary objectives the prompt and continuous reporting of unusual transactions based on the

subjective indicators as well as transactions based on the objective indicators.

3) Suriname should bring the definitions of services by lawyers, civil notaries and other legal professionals in the MOT Act and Decree Indicators Unusual Transactions in line with the circumstances set out in essential criterion 16.1 of the Methodology. While doing so Suriname should also take the legal professional secrecy of lawyers and civil notaries into account.

4) Suriname should consider lowering the threshold amounts mentioned in the relevant objective indicators in order to better reflect the current realities of the Surinamese financial-economic situation, thereby increasing the amount of reports to be received pursuant to these indicators.

5) It should be noted that a significant amount of subjective indicators described in the various categories are very broad and actually do not relate with the typical activities pursued by the relevant DNFBPs. For example, the subjective indicators for legal professionals cover various services which are typically financial services but are not services provided by legal professionals. Reference can be made to sections 7 up to and including 11 of the subjective indicators for legal professionals (category F of article 3 of the Decree Indicators Unusual Transactions). Suriname should address this issue in order to ensure effective reporting based on the subjective indicators.

4.2.3 Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.2 underlying overall rating
R.16	**NC**	• **The same deficiencies and shortcomings detected in the MOT legislative framework and its implementation with respect to the financial institutions recur with the DNFBPs. These include the absence of TF-related provisions, of compliance supervision, effective, proportionate and dissuasive sanctions to enforce compliance and the lack of clear and effective guidance;** • **Due to practical constraints the FIU has been focusing primarily on financial institutions, further compromising the effectiveness of the reporting system for DNFBPs;** • **The definition of legal professionals services in the MOT Act and the Decree Indicators Unusual Transactions is excessive while the legal professional secrecy of lawyers and civil notaries has not been taken into account;** • **Only certain groups of DNFBPs or individual DNFBPs submit unusual transactions reports to the FIU;**

		• **Deficient reporting of unusual transactions in which only unusual transactions based on objective indicators containing monetary thresholds are reported, while unusual transactions based on subjective indicators are not reported at all;** • **No requirement with respect to the presence of AML/CFT programs as required by Recommendation 15;** • **Absence of measures or legal basis for such measures with respect to countries that do not or insufficiently comply with the FATF Recommendations.**

4.3 Regulation, Supervision, and Monitoring (R.24-25)

4.3.1 Description and Analysis

Legal Framework:

568. In Suriname casinos are regulated by the Law on Hazard Games (*Wet op de Hazardspelen*). This law dates from 1962 and has since then not been modified substantially, in any case not with relation to AML/CFT. This law grants the President of Suriname the authority to issue licenses for casinos to be run in specially designated hotels and under conditions and guarantees set by him.

569. The Law on Hazard Games also regulates the admission to casinos by residents and non-residents, it declares licenses to be personal and non-transferable and authorizes the President to revoke a license at any time whenever he is of the opinion that the conditions and guarantees are not met. Pursuant to the President's authority to issue conditions and guarantees with casinos licenses. A Presidential Resolution of August 20th, 2004, has been issued containing additional mandatory provisions for all casinos regarding the conduct of their business. None of these provisions are related to AML/CFT.

570. The Surinamese authorities have acknowledged the inadequacy of the Law on Hazard Games with respect to AML/CFT. They have submitted to the parliament a proposal for a Law on the supervision and control of the games of chance, and have requested the parliament to pass it as soon as possible. This proposal has as its principal objective the introduction of a supervisory regime for providers of games of chance in so far a as they are licensed pursuant to the relevant laws. In Suriname these are the casinos (based on the Law on Hazard Games) and lottery sellers (based on the Lottery Law 1939).

571. The proposal will institute a "Supervision and Control Institute for Games of Chance" (the "Institute") which will be charged with (*inter alia*) the supervision and control of licensed casinos and lottery sellers, the provision of directives for the content and exploitation of the games of chance offered, the advising of government and providers of games of chance on gaming matters and the presentation of proposals to the government for a policy plan on certain gambling matters. It should

be noted that in the proposal the licensing authority with respect to the casinos would remain with the President of Suriname, in effect the government, as the Law on Hazard Games would remain in force.

572. Lawyers are regulated by the Law on Lawyers of 2004 (*Advocatenwet*). It provides rules for the admission, training and competences of lawyers, the institution of a Bar Association of which membership is mandatory, and the disciplining of lawyers and the entities in charge with this. One of the noteworthy authorities of the Bar Association is the authority to issue so called Bar Decrees which have binding effect for the lawyers. As will be elaborated below, the Law on Lawyers has not yet been fully implemented.

573. The civil notaries exercise their profession under the Law on the office of civil notary (*Wet op het notarisambt*). Civil notaries are appointed as such by the President of Suriname after having complied with certain qualifications. There are no AML/CFT-specific provisions in the Law on the office of civil notary, nor does this law contain provisions for an ongoing AML/CFT-related supervision of civil notaries. No provisions are present in the Law on the office of civil notary or elsewhere providing for an SRO.

574. There are no laws or regulations subjecting other DNFBPs to effective regulation, monitoring and supervision.

Regulation and Supervision of Casinos (c. 24.1, 24.1.1, 24.1.2 & 24.1.3):

575. Casinos are currently subject to the Law on Hazard Games and the pursuant Presidential Resolution of August 20th 2004. Based on these legal documents, casinos are required to have a license and to abide by certain conditions set in the Presidential Resolution. As the President of the Republic of Suriname is the license issuing authority for casinos, it can be assumed that he is also authorized to withdraw a license in case of non-compliance with the relevant legal provisions or license conditions.

576. The conditions mentioned in the Presidential Resolution are however neither AML/CFT-related, nor does the Law on Hazard Games contain any basis to that effect. Specifically, there are no provisions in place to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a casino. Furthermore, there is no designated competent authority present to regulate and supervise casinos on an AML/CFT-basis, nor is there a framework present for ongoing supervision of casinos.

577. The Presidential Resolution does contain provisions regarding the access of certain government officials, such as the police and experts appointed by the District-Commissioner, to casinos for the purpose of inspection and control. The Presidential Resolution also grants the Minister of Justice the authority to temporarily close a casino based on the findings of an inspection. It also grants the District-Commissioner the authority to temporarily close a casino based on grounds derived from the general interest, public order, good morals or public rest. These are however not AML/CFT-related grounds and do not constitute the presence of a

designated competent authority nor of ongoing supervision in accordance with the FATF standards.

578. As mentioned at the beginning of this section, Suriname has been working on the introduction of a new and AML/CFT-based law for the supervision of casinos, to which effect it submitted to its parliament a proposal for a "Law on the supervision and control of games of chance". Based on the copy supplied to the assessment team the following remarks can be made with regard to this proposal.

579. The proposal institutes a Gaming Board-style entity called the Supervision and Control Institute for Games of Chance (the "Institute"). The Institute will have public legal personality and be tasked (*inter alia*) with the supervision and control of licensed casinos, the provision of directives for the content and exploitation of the games of chance offered, the submittal of proposals to the government with regard to the establishment and modification of license conditions and the revision of legal provisions regarding games of chance, the advising of government and providers of games of chance on gaming matters, the presentation of proposals to the government for a policy plan on certain gambling matters and the collection of data regarding the illegal supply of games of chance and the subsequent provision of this data to the competent authorities and officials in charge with the detection and prosecution of criminal offences.

580. The Institute will be required to inform the FIU on facts discovered by her during the execution of her tasks which may be indicative of money laundering or give reasonable suspicion to that effect. It should be noted that in the proposed law the licensing authority with respect to the casinos would remain with the government through the President of the Republic of Suriname, since the Law on Hazard Games would actually remain in force. To a large extent this will mean that the present situation will be continued, especially since the Institute will have only an advisory role with regard to the establishment and modification of casino license conditions. Suriname should therefore consider transferring the licensing authority to the Institute and to set out in the proposal basic license requirements and conditions that are in accordance with section (a) of Recommendation 24.

581. Furthermore, in the proposal the appointment of the management, the hiring of personnel, the determination of the budget and the policy plan, and the appointment of supervisory personnel are subject to the approval of the Ministers of Justice and of Finance, thereby giving these ministers considerable influence on the operational affairs of the Institute. This might be to the detriment of the autonomous and effective execution of its tasks, and the credibility it needs to have towards the casino industry. As for the sanctioning regime for non-compliant casinos it should be noted that the maximum of the administrative fine mentioned in article 15 of the proposal for non-compliance with the license conditions is set at SRD 10.000 (appr. USD 3000) which seems quite low. It should also be noted that violation of the secrecy provision of article 19 is not criminalized through article 15 which is a deficiency that should be addressed.

582. Finally, clarity should be provided on the issue of internet casinos, more specifically on the question if these are to be allowed or not. If the former is to be case then the FATF standards should be taken into account.

583. Relate to this, based on the Law on Hazard Games and the subsequent Presidential Resolution it can be assumed that these are not permitted since these legal documents require casinos to be an integral physical part of a hotel. However, it should be noted that there are various casinos operating in Suriname (especially in the capital city Paramaribo) that are stand-alone businesses and not related in anyway to a hotel. On the analogy of this it could be argued that internet casinos could also be possible. However none are currently active in Suriname.

Monitoring Systems for Other DNFBPs (c. 24.2 & 24.2.1):

584. The present Law on Lawyers of March 11th 2004 institutes a Bar Association (*Orde van Advocaten*) which, according to article 28 of the Law on Lawyers, comprises of all registered lawyers. As registration as a lawyer is required to act as such in Suriname, it can be concluded that membership of the Bar Association is mandatory for all lawyers. The Bar Association has public legal personality and is governed by a Board of Directors which is headed by a president.

585. The Board of Directors is tasked with the promotion of a proper exercise of the lawyers' practice. It stands up for the rights and interests of the lawyers, oversees the compliance of the lawyers with their obligations and executes the tasks assigned to it by a bar decree. Pursuant to article 34 of the Law on Lawyers the Bar Association is authorized to issue bar decrees (*ordebesluiten*) on among other the proper exercise of the professional practice in so far as that authority has not already been reserved by the Law on Lawyers or any other law to another entity or institute.

586. Bar decrees are binding for all lawyers and visiting lawyers. Upon conception they must be sent immediately to the Minister of Justice and enter into force after publication in the Official Government Paper. Noteworthy is that the Minister of Justice has the authority to annul a bar decree within 3 months after its receipt for being contrary to the law or general interest and to subsequently send it back to the Bar Association for review.

587. Based on the above the Bar Association to a large extent can be considered a self-regulatory organization (SRO). Based on the wording of article 34, first section, of the Law on Lawyers it can also be assumed that the Bar Association has the authority to issue a bar decree on AML/CFT matters. The assessment team was informed that however the Law on Lawyers still needs to be implemented fully. For example, the Bar Association has actually not yet been instituted, meaning that no bar decrees have yet been issued or guidance given on for AML/CFT.

588. As for the rest, the Law on Lawyers contains ample provisions regarding the disciplining of lawyers for any action or lack of action which is contrary to the care they should exercise with respect to those whose interests they serve or should be serving, for infringements of bar decrees and for any action or lack of action which does not befit a proper lawyer. The disciplining system is however repressive of nature and no cases were presented to the assessment team regarding the disciplining of lawyers for AML/CFT-related matters.

589. As mentioned previously, civil notaries are subject to a repressive system of disciplining which is set out in the Law on the office of civil notary and involves the Supreme Court of Suriname. Civil notaries do not have a specific designated

competent authority or SRO for monitoring and ensuring their compliance with AML/CFT requirements.

590. As for the other categories of DNFBPs no effective systems for monitoring their compliance through a designated competent authority or SRO with the AML/CFT requirements have been detected.

Guidelines for DNFBPs (applying c. 25.1):

591. No guidelines are present for DNFBPs to assist them with the implementation and compliance with their respective AML/CFT requirements. This is of special concern since during the onsite interviews various categories of DNFBPs already subject to the requirements of the ID law and the MOT Act were mentioned repeatedly as being possibly involved in ML-activities. These were car dealers (especially second-hand car dealers), real estate agents and casinos.

Analysis of effectiveness

592. As for casinos, the current legislative framework as contained in the Law on Hazard Games and the Presidential Resolution of August 20th 2004 does not make any reference to AML/CFT. Looking at the current limited and actually quite obsolete content of the Law on Hazard Games it is very doubtful that any comprehensive AML/CFT system for regulation and supervision of casinos can be accomplished. It can be therefore concluded that at present there is no AML/CFT based regulation and supervision of casinos. As for the lawyers a Law on Lawyers was introduced in 2004 which contains valuable sections for the regulation and monitoring with respect to AML/CFT, such as the institution of a Bar Association, of which membership is mandatory for all lawyers and which has the authority to issue binding bar decrees on a wide range of issues. However, this important law still awaits full implementation, meaning for example that the Bar Association is not yet functional nor have any bar decrees been issued. Other DNFBPs are not subject to regulatory and supervisory measures as prescribed in Recommendation 24.

593. As noted under section 4.2 of this MER, DNFBPs are subject to the reporting obligation as set out in the MOT-law. However, the scope, compliance and supervision of this reporting obligation is presently deficient.

594. Overall it can be concluded that there are no adequate regulatory and monitoring measures regarding AML/CFT in place for the various categories of DNFBPs present in Suriname, thereby rendering an effectiveness analysis unfeasible.

4.3.2 Recommendations and Comments

1) Suriname should effectively introduce as soon as possible an AML/CFT-based regulation and supervision of casinos in accordance with Recommendation 24. This includes the institution of a regulatory body with adequate powers and operational independence, and invested with sanctions instruments that are effective, proportionate and dissuasive

2) As for lawyers, Suriname should fully implement the Law on Lawyers, by making the Bar Association operational and providing this entity with all

the instruments described in the Law. In doing so, Suriname should consider having the Bar Association issue one or more bar decrees on AML/CFT matters which complement and support the current AML/CFT system set out in the ID law and the MOT Act. Suriname should also consider to remove the current ministerial authority set out in article 34 of the Law on Lawyers to annul a bar decree within a given period as this clearly undermines the independent status of the Bar Association.

3) Suriname should consider introducing SRO-style bodies for other (legal) professionals, such as civil notaries, accountants and tax advisors, with mandatory membership and authority to regulate and supervise these professionals. Given the total amount of for example civil notaries (currently 19 against a legal maximum of 20) this does seem quite feasible.

4) Suriname is strongly urged to introduce guidelines for DNFBPs to assist them with the implementation and compliance with their respective AML/CFT requirements.

4.3.3 Compliance with Recommendations 24 & 25 (criteria 25.1, DNFBP)

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R.24	**NC**	• **No AML/CFT based regulation and supervision of casinos currently present.** • **No adequate regulatory and monitoring measures regarding AML/CFT in place for the other categories of DNFBPs currently operating in Suriname**
R.25	**NC**	• **No guidelines present for DNFBPs to assist them with the implementation and compliance with their respective AML/CFT requirements**

4.4 Other Non-Financial Businesses and Professions—Modern-Secure Transaction Techniques (R.20)

595. The Methodology provides the following examples of businesses or professions to which countries "should consider" applying the FATF Recommendations: dealers in high value and luxury goods, pawnshops, gambling, auction houses and investment advisers.

4.4.1 Description and Analysis

Legal Framework:

596. Pursuant to article 1, paragraph d, of the ID law the following non-financial services are also subject to its identification requirements:

i. Trading in immobile property;

ii. Trading in motor vehicles.

597. This effectively places real estate agents and car dealers under the scope of the ID law. Likewise, pursuant to the articles 1, paragraph d, and 12 of the MOT Act real estate agents and car dealers are subject to the reporting obligation of the MOT Act. Categories F and H of the Decree Indicators Unusual Transactions deal with real estate agents and car dealers respectively by providing objective and subjective indicators for the reporting of performed or intended unusual transactions by these entities.

598. No measures are currently present to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to ML.

Other Vulnerable DNFBPs (applying R. 5, 6, 8-11, 13-15, 17 &21 c. 20.1):

599. Pursuant to article 1, paragraph d, of the ID law and article 1, paragraph d, of the MOT Act, real estate agents and car dealers are subject to the same identification and reporting requirements as lawyers, civil notaries, accountants, dealers in precious metals and precious metals and casinos as described in sections 4.1 and 4.2 of this report with the same remarks and observations made in those sections regarding the application of Recommendations 5, 6, 8-11, 13-15, 17 and 21 being equally applicable. Particular mention can be made of the fact that pursuant to article 7, second section, of the ID law real estate agents and car dealers are not required to establish the amount involved with transactions carried out by them. Furthermore, the threshold amount mentioned in the objective indicators in the Categories F and H of the Decree Indicators Unusual Transactions seem rather high, given the size of the Surinamese economy and the subsequent buying power of the average Surinamese consumer.

Modernization of Conduct of Financial Transactions (c. 20.2):

600. No measures are currently present encouraging the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.

Analysis of effectiveness

601. Real estate agents and car dealers are subject to the same legal identification and reporting requirements as lawyers, civil notaries, accountants, and dealers in precious metals and precious metals and casinos. As such this is commendable, especially since real estate agents and (second-hand) car dealers were mentioned repeatedly as being possibly involved in ML activities. Unfortunately, the same legal and practical deficiencies noted with the other DNFBPs and financial institutions recur with respect to the implementation of the identification and reporting obligations of the real estate agents and car dealers. In particular real estate agents and car dealers are not required to establish the amount of the transactions performed by them when identifying their customers. Both these DNFBPs also have

relatively high thresholds for the reporting of unusual transactions based on objective indicators (USD 25.000). In so far as it could be assessed most real estate agents do not comply with their identification and obligation requirements, while there are individual car dealers that comply with their reporting obligation, but do so by reporting only transactions based on the USD 25.000 threshold. These factors clearly affect the effectiveness of the identification and reporting obligation of real estate agents and car dealers, especially when it is considered that, based on information received by the assessment team, these DNFBPs are particularly vulnerable to ML in Suriname.

4.4.2 Recommendations and Comments

1) Suriname is urged to correct the deficiencies discussed in sections 4.1 and 4.2 of this report which are also present with respect to the real estate agents and car dealers.

2) Suriname should require the transaction amounts to be established as well when real estate agents and car dealers establish the identity of a client pursuant to the ID law.

3) Suriname should also consider lowering the threshold amounts mentioned in Decree Indicators Unusual Transactions in order to improve the amounts of reports received based on the objective indicators.

4) As Suriname has a largely cash-based economy with a fairly large informal component it is encouraged to introduce measures for the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.

4.4.3 Compliance with Recommendation 20

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R.20	**PC**	• **Although real estate agents and car dealers are also subject to basically the same legal identification and reporting obligation as the DNFBPs meant in R.12 and R.16, the same legal and practical deficiencies are present;** • **No obligation in the ID law for real estate agents and car dealers to establish the transaction amounts during the identification of their clients;** • **Threshold for reporting of unusual transactions based on monetary objective indicator is too high;** • **No measures are currently present encouraging the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.**

5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANISATIONS

5.1 Legal Persons – Access to beneficial ownership and control information (R.33)

5.1.1 Description and Analysis

Legal Framework:

There are 4 types of legal persons under Surinamese laws:

i. The foundation;

ii. The public limited company;

iii. The co-operative society / association

iv. The association.

602. A foundation is a legal person instated by will or by means of a notary act. Foundations have to be registered in the foundation registers at the Ministry of Justice. The directors are (personally) accountable for the actions of the foundation. A foundation does not have members and in most cases has a cultural, social or charitable purpose. For the legal framework for the foundation is the Act regarding foundations; GB 1968, no. 74, revised / amended in 1970 and 1983 (acts GB 1970, no. 81 and SB 1983, no 1).

603. The public limited company is established by notary act and becomes a legal person after receiving a certificate of no objection by the President of the Republic of Suriname. A public limited company has shares (which can be bearer shares). The public limited company has to be registered at the Chamber of Commerce. The rules and regulations regarding the public limited company can be found in the Commercial Code, GB 1944, no. 23, last amended in 2003 (SB 2003, no. 93).

604. The co-operative society / association is established thru notary act and has members (the Cooperative association act, GB 1944, no. 93, last amended in 2004 (SB 2004, no. 26). The co-operative association is registered at the Chamber of Commerce.

605. The association is established by an act of the members by which they establish the association. It will become a legal person only after publication in the government gazette. The members are not personally responsible for the 'whereabouts' of the association. An association has to be registered at the Chamber of Commerce. For the legal framework one should refer to the Civil Code of Suriname.

Measures to Prevent Unlawful Use of Legal Persons (c. 33.1):

606. There are no laws, regulations or measures to prevent the unlawful use of legal persons in relation to money laundering and terrorist financing. The commercial, corporate and other laws do not require adequate transparency concerning the beneficial ownership and control of legal persons. The first time a foundation, public limited company, co-operative society / association or association is registered, the

information about the directors is at hand and (most of the time) accurate. The biggest problem is that changes in directors or beneficial owners are not communicated with the registrars. The information at the registers can not be trusted.

Access to Information on Beneficial Owners of Legal Persons (c. 33.2):

607. Competent authorities can not obtain or do not have obtain or have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control of legal persons, because the information is not updated regularly.

Prevention of Misuse of Bearer Shares (c. 33.3):

608. There are no measures to prevent the misuse of bearer shares for ML. Because there are no measures being taken, nothing can be said about the effectiveness.

Additional Element—Access to Information on Beneficial Owners of Legal Persons by Financial Institutions)(c. 33.4):

609. Financial institutions and any other person have access to the information in the registers held by the Ministry of Justice and the Chamber of Commerce, as both these registers are public. The information however the information can not be relied upon, because the information may be outdated.

5.1.2 Recommendations and Comments

1) Suriname should take measures to prevent the unlawful use of legal persons in relation to money laundering and terrorist financing. There should be adequate transparency concerning the beneficial ownership and control of legal persons.

2) The first time a foundation, public limited company, co-operative society / association or association is registered, the information about the directors is at hand and (most of the time) accurate. However there is no information regarding the (ultimate) beneficial owner and changes in directors or beneficial owners are not communicated with the registrars. Measures should be taken to ensure that the information with the different registrars is accurate and kept up to date.

3) Measures will have to be taken to prevent the misuse of bearer shares for ML.

5.1.3 Compliance with Recommendations 33

	Rating	Summary of factors underlying rating
R.33	**NC**	• **There are no measures to prevent the unlawful use of legal persons in relation to money laundering and terrorist financing;**

		• **There is no adequate transparency concerning the beneficial ownership and control of legal persons;** • **The information at the registries can not be trusted. They are not kept up to date.**

5.2 Legal Arrangements—Access to Beneficial Ownership and Control Information (R.34)

610. Suriname does not know trusts or other legal arrangements. Recommendation 34 therefore is not applicable for Suriname.

Compliance with Recommendations 34

	Rating	Summary of factors underlying rating
R.34	**N/A**	• **Suriname does not know trusts or other legal arrangements.**

5.3 Non-profit organisations (SR.VIII)

5.3.1 Description and Analysis

611. There are no specific laws and regulations with regards to the NPOs in Suriname. Most NPOs in the Suriname legal system are foundations. As has been said already in paragraph 5.1, a foundation is a legal person instated by will or by means of a notarial act. Foundations have to be registered in the foundation registers at the Ministry of Justice. The directors are (personally) accountable for the actions of the foundation. A foundation does not have members and in most cases has a cultural, social or charitable purpose. For the legal framework for the foundation one should refer to the Act regarding foundations; GB 1968, no. 74, revised / amended in 1970 and 1983 (acts GB 1970, no. 81 and SB 1983, no 1).

612. None of the recommendations of SRVIII are met at present.

5.3.2 Recommendations and Comments

1) Local authorities should see to it that laws are passed and other targeted measures taken to avoid the misuse of NPOs for FT.

5.3.3 Compliance with Special Recommendation VIII

	Rating	Summary of factors underlying rating
SR.VIII	**NC**	• **Complete absence of an adequate legislative and regulatory system for the prevention of misuse of the non-profit sector by terrorists or for terrorism purposes**

6. NATIONAL AND INTERNATIONAL C-OOPERATION

6.1 National co-operation and coordination (R.31)

6.1.1 Description and Analysis

Mechanisms for Domestic Cooperation and Coordination in AML/CFT (c. 31.1):

613. By decision of the Council of Ministers of 19 December 2007, the Anti Money Laundering Commission was created for one year starting on 1 January 2008, with the specific task to monitor the progress made in the implementation of the CFATF recommendations and related activities, and advise the Minister of Justice and Police on the updating of the anti money laundering and terrorism financing provisions and the implementation of related mechanisms.

614. The mandate has been extended for another year since 1 January 2009. At present the Commission is composed of 7 representatives of different actors in the AML/CFT domain, namely 1 Attorney General, the head of the FIU, 2 representatives of the Central Bank, 2 officials from the Ministry of Justice and Police, and 1 police officer. The Commission is required to report on a quarterly basis to the Minister of Justice and Police. These reports have been made orally in the past, and no minutes have been taken of the discussions.

615. Issues that have been discussed in the Commission related *i.a.* to the outreach of the FIU to the financial and non-financial sector, the Financial Investigation Team, the TF draft law, the gaming legislation and the supervision of the financial sector. A working session with the financial and non-financial sector on the correct application of the MOT Act was organized under the auspices of the Commission.

616. The Commission does not actually coordinate the AML/CFT effort, although each representative brings the proposals/decisions of the Commission back to its own organization. There are no real structural measures or mechanisms in place that focus on the operational and other cooperation between the authorities that have a responsibility in the AML/CFT regime, but possibly the AML Commission could in the future provide a suitable forum and instrument to that purpose.

6.1.2 Recommendations and Comments

617. Although the legal mandate of the AML Commission does not include the coordination and cooperation between the different competent authorities, in practice it already goes some way in that direction. It could be an option to give this body a more permanent and structural character, with extension of its mandate to expressly include coordination of the AML/CFT effort and streamlining the cooperation between the relevant actors, but this matter is obviously the sovereign decision of the government. The relatively small size of the Suriname society is already a facilitating factor for an efficient communication and cooperative relation between the relevant actors.

Compliance with Recommendation 31

	Rating	Summary of factors underlying rating
R.31	**LC**	• **The legal mandate of the existing monitoring and advisory body does not extend to cooperation and coordination**

6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)

6.2.1 Description and Analysis

Ratification of AML Related UN Conventions (c. 35.1) :

618. The Republic of Suriname ratified the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (the Vienna Convention) on 28 October 1992. It ratified the United Nations Convention against Transnational Organized Crime of 2000 (Palermo Convention) on 24 June 2007, and also acceded to the Protocols related to trafficking in humans and smuggling of migrants, supplementing the TOC Convention.

Ratification of CFT Related UN Conventions (c. I.1): Implementation of CFT Convention (Articles 2-18, c. 35.1 & c. I.1):

619. Suriname has not signed, let alone ratified and implemented the New York CFT Convention. The Articles that have been enacted into domestic legislation in the relevant Conventions are as shown in the Table below.

Table of Treaties and Conventions

Treaty	**Articles**	**Suriname's Situation**
Vienna Convention (1988)	3 (Offences and Sanctions)	ML Act (O.G.2002 no. 64): articles 1, 2 and 3.
	4 (Jurisdiction)	Penal Code (O.G. 1911 no. 1, amended latest O.G. 2006 no. 42), articles 2 – 9
	5 (Confiscation)	"Pluk ze" Act (O.G. no. 67, amendment of the Penal Code and Penal Procedures Code), ARTICLE I and ARTICLE II.
	6 (Extradition)	Penal Procedures Code, article 467 – 477.
	7 (Mutual Legal Assistance)	Act on International Legal Cooperation (O.G. 2002 no. 71, amendment of the Penal Procedures Code), Article I.
	8 (Transfer of Proceedings)	No express provisions, but no legal obstacles
	9 (Other forms of co-operation and training)	Act on International Legal Cooperation (O.G. 2002 no. 71, amendment of the Penal

		Procedures Code), Article I.
	10 (International Co-operation and Assistance for Transit states)	Act on International Legal Cooperation (O.G. 2002 no. 71, amendment of the Penal Procedures Code), Article I.
	11 (Controlled Delivery)	Act on International Legal Cooperation (O.G. 2002 no. 71, amendment of the Penal Procedures Code), Article I.
	15 (Commercial carriers)	See SRIX comments
	17 (Illicit Traffic at sea)	Ship rider agreement 1998 between Suriname and the USA
	19 (Use of mail)	See SRIX comments
Palermo Convention	5 (Criminalization of participation in an organized criminal group)	Act Penalizing Organized Crime (O.G. 2002 no. 69, amendment of the Penal Code), ARTICLE I.
	6 (Criminalization of laundering of the Proceeds of Crime)	ML Act (O.G.2002 no. 64): articles 1, 2 and 3.
	7 (Measures to combat money laundering)	ML Act (O.G. 2002 no. 64) MOT Act (O.G. 2002 no. 65) WID Act (O.G. 2002 no. 66)
	10 (Liability of Legal persons)	Act Penalizing Legal Entities (O.G. 2002 no. 68, amendment of the Penal Code and the Penal Procedures Code), ARTICLE I.
	11 (Prosecution Adjudication and sanction)	Act Penalizing Legal Entities (O.G. 2002 no. 68, amendment of the Penal Code and the Penal Procedures Code), ARTICLE II.
	12 (Confiscation and Seizure)	"Pluk ze" Act (O.G. no. 67, amendment of the Penal Code and Penal Procedures Code), ARTICLE I and ARTICLE II.
	13 (International Co-operation for the purposes of confiscation)	Act on International Legal Cooperation (O.G. 2002 no. 71, amendment of the Penal Procedures Code), Article I.
	14 (Disposal of confiscated proceeds of crime or property)	No specific provisions – practice of asset sharing
	15 (Jurisdiction)	Penal Code (O.G. 1911 no. 1, amended latest O.G. 2006 no.

		42), articles 2 – 9
	16 (Extradition)	Penal Procedures Code, article 467 – 477.
	18 (Mutual Legal Assistance)	Act on International Legal Cooperation (O.G. 2002 no. 71, amendment of the Penal Procedures Code), Article I.
	19 (Joint Investigations)	Act on International Legal Cooperation (O.G. 2002 no. 71, amendment of the Penal Procedures Code), Article I.
	20 (Special Investigative Techniques)	Draft BOP (Bijzondere Opsporingsmethoden) Act.
	24 (Protection of witnesses)	Act on the Protection of Endangered or Threatened Witnesses (O.G. 2002 no. 70, amendment of the Penal Code and the Penal Procedures Code), ARTICLE I and ARTICLE II.
	25 (Assistance and protection of victims)	No special measures outside the common criminal procedure regime
	26 (Measures to enhance cooperation with law enforcement authorities)	Act on the Protection of Endangered or Threatened Witnesses (O.G. 2002 no. 70, amendment of the Penal Code and the Penal Procedures Code), ARTICLE I and ARTICLE II.
	27 (Law Enforcement cooperation)	Act on International Legal Cooperation (O.G. 2002 no. 71, amendment of the Penal Procedures Code), Article I.
	29 (Training and technical assistance)	Assistance received from KLPD (Korps Landelijke Politie Dienst), the Netherlands; Interpol, the IOM.
	30 (Other measures)	No implementation outside the MLA and international LE cooperation
	31 (Prevention)	Preventive regime insufficiently developed because of supervisory and regulatory deficiencies
	34 (Implementation of the Convention)	Act Penalizing Organized Crime (O.G. 2002 no. 69, amendment

		of the Penal Code), ARTICLE I.
Terrorist Financing Convention		The draft Act on Terrorism and Financing thereof, amendment of the Penal Code, the Firearms Act and the MOT Act, is now in parliament waiting to be placed on the agenda for discussion. Based on this draft Act the situation is as follows.
	2 (Offences)	Draft act on Terrorism and Financing thereof, - ARTICLE I paragraph H, I, J, L, M, N, O, P, Q, R, S, T, X; - ARTICLE II.
	4 (Criminalization)	Draft act on Terrorism and Financing thereof, ARTICLE I, C and D.
	5 (Liability of legal persons)	Act Penalizing Legal Entities (O.G. 2002 no. 68, amendment of the Penal Code and the Penal Procedures Code), ARTICLE I.
	6 (Justification for commission of offence)	
	7 (Jurisdiction)	Draft act on Terrorism and Financing thereof, ARTICLE I, A.
	8 (Measures for identification, detection, freezing and seizure of funds)	"Pluk ze" Act (O.G. no. 67, amendment of the Penal Code and Penal Procedures Code), ARTICLE I and ARTICLE II.
	9 (Investigations & the rights of the accused).	Penal Procedures Code, article 54.
	10 (Extradition of nationals)	Extradition Act (O.G. 1983 no. 52), article 2.
	11 (Offences which are extraditable)	
	12 (Assistance to other states)	Act on International Legal Cooperation (O.G. 2002 no. 71, amendment of the Penal Procedures Code), Article I.
	13 (Refusal to assist in the case of a fiscal offence)	Extradition Act (O.G. 1983 no. 52), article 8.
	14 (Refusal to assist in the case of a political offence)	Extradition Act (O.G. 1983 no. 52), article 8.
	15 (No obligation if belief that prosecution based on race, nationality, political opinions,	Extradition Act (O.G. 1983 no. 52), article 8.

	etc.)	
	16 (Transfer of prisoners)	
	17 (Guarantee of fair treatment of persons in custody)	Constitution article 16.
	18 (Measures to prohibit persons from encouraging, organising the commission of offences and STRs, record keeping and CDD measures by financial institutions and other institutions carrying out financial transactions) and facilitating information exchange between agencies)	MOT Act (O.G. 2002 no. 65) WID Act (O.G. 2002 no. 66).

620. Implementation of Vienna Convention (Articles 3-11, 15, 17 & 19, c. 35.1); Implementation of Palermo Convention (Articles 5-7, 10-16, 18-20, 24-27, 29-31 & 34, c. 35.1):

621. In the AML domain these instruments were mainly implemented by the Narcotics Law of 12 February 1998, the Law of 2 September 2002 criminalizing money laundering and the MOT Act of the same date. As shown elsewhere in the report, not all relevant articles of the Conventions have been fully or effectively implemented to the satisfaction of the FATF criteria:

i. Vienna Convention

a. Art. 5 as far as relating to enforcement of foreign confiscation orders (R38.2)

b. Art.15, 17 & 19 as far as relating to the cross-border cash transportation control (SRIX)

ii. Palermo Convention

a. Art. 7 as far as relating to the regulatory and supervisory regime (R.29) and cross-border control (SRIX)

b. Art. 20 on the special investigative techniques (R27.3)

Implementation of UN SCRs relating to Prevention and Suppression of FT (c. I.2)

622. Except for the fragmentary dissemination of the UN Res. 1267 lists, no other implementing measure has been applied. UN Res.1373 is fully ignored.

6.2.2 Recommendations and Comments

1) Suriname should take the necessary steps to fully and effectively implement the Vienna and Palermo Conventions

2) Suriname should forthwith initiate the accession procedure to the CFT Convention and take the necessary implementation steps.

3) UN Res. 1267 and 1373 should be implemented fully and without delay (see comments above on SRIII).

6.2.3 Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying rating
R.35	**PC**	• **No signing, ratification and implementation of the TF Convention; no full and effective implementation of the relevant provisions of the Vienna and Palermo Convention**
SR.I	**NC**	• **No signing, ratification and implementation of the TF Convention; no effective implementation of the UN Res. 1267 and 1373**

6.3 Mutual Legal Assistance (R.36-38, SR.V)

6.3.1 Description and Analysis

Legal Framework:

623. Except if based on a bilateral treaty, the Suriname mutual legal assistance regime in criminal matters is generally governed by art. 466a to 477 of the Criminal Procedure Code (CPC), as amended by the Law of 5 September 2002. These provisions relate to the formal procedure for in- and outgoing requests, as well as to the conditions such requests need to comply with. Mutual legal assistance activity is frequent, particularly with the neighbouring countries and the Netherlands. Suriname also concluded a bilateral treaty with the Netherlands on 27 August 1976, which came into force on 18 June 1981. As a general rule all requests are channelled through the Office of the Prosecutor General as central authority. Requests based on the Netherlands treaty are exchanged exclusively between the Ministers of Justice (art. 3 Protocol dd. 18 May 1993).

624. Also, Suriname is party to the Treaty of Chaguaramas which contains general principles on the MLA between CARICOM countries.

Widest Possible Range of Mutual Assistance (c. 36.1):

625. The range of possible forms of mutual assistance is quite comprehensive. Basically there are no limits as long as execution of the request does not conflict with the national rules of law. As such, assistance can be given for the hearing of witnesses, serving of judicial documents, production and forwarding of all evidentiary data and documents, search and seizure orders, as well as the execution of court decisions on confiscation (art. 467.2 CPC *e.a.*). Requests requiring coercive measures, such as search and seizure, are dealt with by an Investigation Judge ("*Rechter-Commissaris*"- art. 473 CPC). Implementation of foreign confiscation orders or

decisions needs the approval of the court through a specific execution procedure ("*Exequatur*").

Provision of Assistance in Timely, Constructive and Effective Manner (c. 36.1.1):

626. The statistical figures show an intense cooperative activity with other countries. Although the statistics are not specific in terms of the time of response and cases of refusal, there are no negative indications in this respect. The whole system is geared to a flexible and speedy execution of foreign requests, particularly those concerning to drug trafficking and related offences. Art. 469 CPC even specifically instructs the Prosecutor General to act speedily and effectively. On average, it is estimated that a simple MLA request takes one month to execute, the more complicated ones 6 to 8 weeks.

No Unreasonable or Unduly Restrictive Conditions on Mutual Assistance (c. 36.2):

627. As a general rule, all requests have to pass the test of conformity with the national legal principles and rules (art. 470.2 CPC). Consequently, requests related to special investigative techniques that have no formal legal basis in Suriname - such as controlled delivery, infiltration and undercover operations - cannot be complied with. Other grounds for refusal concern prosecutions based on considerations of race, nationality, or political or religious convictions. The principles of dual criminality and the double jeopardy prohibition ("*non bis in idem"*) also apply (art. 471 CPC). Requests related to offences of a political or fiscal nature need approval of the Government (art. 472 CPC). Telephone tapping can only be ordered on a specific requisition of the Public Prosecutor.

Efficiency of Processes (c. 36.3):

628. The procedures outlined in the CPC are clear and comprehensive. As said, the Prosecutor General – as central authority - has the legal duty to decide "immediately" to allow the rogatory commissions to be executed in a speedy and constructive way. A special unit for international cooperation and relations in criminal matters (DIRSIB) has been created to that effect, comprising a legal officer and an assistant.

Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 36.4):

629. Fiscal matters as such are subject to a special authorization by the Government (art. 472 CPC). Otherwise the rogatory commission will be executed with exception of the fiscal part. The fact, however, that the MLA request may have fiscal consequences or aspects is not a ground for refusal and has – according to the authorities - never given raise to such decision.

Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 36.5):

630. There is no criminally sanctioned banking secrecy in Suriname, only a general obligation of confidentiality. Anyhow, if a MLA request would require the lifting of

any professional secrecy or confidentiality, the appropriate domestic search and seizure procedures can and will be applied.

Availability of Powers of Competent Authorities (applying R.28, c. 36.6):

631. All law enforcement agencies can exercise the same powers, as provided for domestic investigations, in the context of the mutual legal assistance process. There is no legal or principal restriction.

Avoiding Conflicts of Jurisdiction (c. 36.7):

632. There is no formal mechanism in place dealing with conflicts of jurisdiction in the framework of MLA. The dual criminality rule avoids double prosecutions, whereas these and other conflicts can be solved by the possibility to take over the foreign criminal procedure. On a practical level, the DIRSIB is in charge of dealing with and solving such issues.

Additional Element—Availability of Powers of Competent Authorities Required under R28 (c. 36.8):

633. The answer to cr. 36.6 above applies. Except for the Netherlands, all requests are exchanged between judicial authorities. As for the police and other law enforcement agencies, see cr. 40.

International Cooperation under SR V (applying c. 36.1-36.6 in R. 36, c. V.1):

634. The absence of a terrorism financing penal provision and the application of the dual criminality principle presents a legal obstacle to comply with rogatory commissions related to this form of criminality.

Dual Criminality and Mutual Assistance (c. 37.1 & 37.2):

635. Art. 474.2 and 3 CPC establishes the dual criminality principle in the MLA framework: no rogatory commission requiring the application of any coercive measure, such as seizure, shall be complied with if the facts underlying the request are not punishable under Suriname law and are not extraditable.

636. In practice the same principle is also applied to measures that do not require coercion, such as the taking of (voluntary) witness statements. This is based on an interpretation of art. 470.2 CPC stating that all ”reasonable” requests are complied with, except if “contrary to a legal provision”, dual criminality being a general principle in criminal law. Exception could be made if the requested information is within the public domain.

637. Moreover, the dual criminality principle is of strict application and interpretation. Although the text of the CPC refers to equally punishable “facts”, the magistrates consider that the foreign “facts” should be translated in – if not identical – at least similar offences under the Suriname PC. Consequently a request based on (money laundering related to) insider trading or market manipulation would not receive a

positive response from the Suriname judiciary authorities. No jurisprudence on this issue exists, however.

International Cooperation under SR V (applying c. 37.1-37.2 in R. 37, c. V.2):

638. The dual criminality principle being also applicable in TF related MLA requests, it most certainly presents a legal barrier inhibiting the execution of requests based on this offence in the absence of criminalization of this specific offence in the Suriname penal legislation.

Timeliness to Requests for Provisional Measures including Confiscation (c. 38.1) Property of Corresponding Value (c. 38.2):

639. Conservatory provisional measures at the request of foreign jurisdiction are specifically covered in art. 473 and 474 CPC (see also comments cr. 36.1 above). Although not specifically provided for in Title VIII of the CPC on MLA, the execution of foreign confiscation orders is deemed possible if these judicial judgments or rulings have been subjected to an "*exequatur*" decision by a Suriname court, allowing their execution as if they were rendered by a Suriname judge. Such implementation of a penal decision or ruling would then be based on an analogous application of the procedure for recognition and execution of foreign civil judgments. This theory has however not been tested in court yet.

640. Seizure and confiscation can be applied for all items covered by the domestic law, *i.e.* the criminal proceeds, the money laundered (as object of the offence), and the intended or used instrumentalities (art. 50a PC). This also includes property of corresponding value (art. 54b PC).

Coordination of Seizure and Confiscation Actions (c. 38.3):

641. There is no problem to organize a coordinated seizure and confiscation action with foreign jurisdictions. As said, within the Public Prosecutor's office there is a magistrate specifically assigned to deal with MLA issues and who can also give the necessary instructions to the police to that end.

International Cooperation under SR V (applying c. 38.1-38.3 in R. 38, c. V.3):

642. The dual criminality principle being also applicable in TF related MLA requests for seizure and confiscation, this legal barrier also inhibits the execution of such requests in the absence of criminalization of terrorism financing in the Suriname penal system.

Asset Forfeiture Fund (c. 38.4):

643. There is no asset forfeiture fund as such, as all confiscated values go to the Treasury under one general item. There is however an arrangement with the Minister of Finance allocating 25 % of the confiscated assets to the Prosecutor General's Office to be used for law enforcement purposes (20% for the police and 5% for the judiciary). A draft law establishing a fund for combating criminality is being elaborated in the meantime.

Sharing of Confiscated Assets (c. 38.5):

644. There are no legal or principal objections against asset sharing. Indeed, there have already been instances of such arrangements with assets confiscated as a result of a mixed operation in coordination with foreign law enforcement agencies, after prior agreement between the authorities.

Statistics (applying R.32):

645. The Suriname authorities supplied the following figures in relation to MLA activity:

2006: 105 in and 23 out requests
2007: 105 in and 13 out requests
2008: 101 in and 14 out requests

646. Not surprisingly the statistics show intense cooperation exchanges between Suriname and the Netherlands, accounting for 90% and more of the incoming requests and between 75% and more than 90% of the outgoing. The statistical figures however give no information on the nature of the requests, on the number and reasons of refusal (apparently no incoming requests have been refused since 2006), nor on the time required to respond.

Analysis of effectiveness

647. Overall, the MLA regime presents a picture of effectiveness, be it hat there are still some obstacles to the Suriname capacity of full compliance with foreign requests. The legal basis is genuinely sound and the internal organization of the Prosecutor General's Office is adequately geared to an efficient and speedy response to MLA requests. Quite positive is the fact that the legal arsenal allows for provisional conservatory and confiscation measures for criminal assets in all forms. The conditions for MLA are universally accepted and not unduly restrictive.

648. Suriname's capacity to render MLA - and consequently the effectiveness of its international cooperation system – is however restrained by a restrictive interpretation of the dual criminality principle, narrowing down the possibility of a positive response to requests related to offences that have no identical or even similar counterpart in Suriname law. This is all the more so in the AML/CFT context, where the dual criminality principle inhibits and even prohibits assistance in respect of some predicate offences and the offence of TF that do not feature in the Suriname penal system yet, particularly in relation to coercive measures such as seizure and confiscation.

649. There is no firm legal basis and no formal procedure is established in the CPC for the enforcement of foreign confiscation decisions. The analogous interpretation referring to the provisions on the implementation of foreign civil judgments is certainly defendable, but it is still open to challenge as long as it has not been confirmed in court. Another factor that might negatively affect the effectiveness – although not a mandatory international standard - is the absence of a formal legal framework on the special investigative techniques, which could form an obstacle for

the execution of measures that genuinely belong to a modern legal arsenal, such as controlled delivery.

6.3.2 Recommendations and Comments

1) In order to enhance the quality and comprehensiveness of its MLA system, the Suriname authorities should endeavour to complete their penal legislation with a speedy introduction of the missing designated predicate offences (insider trading and stock market manipulation) and the offence of terrorism financing, so as to avoid all prohibitions resulting from the dual criminality principle.

2) The narrow and legalistic interpretation of the dual criminality principle should be put to the test and efforts should be made to try and create jurisprudence which would bring the application of this (rightful) principle in line with the broader international standard, which only requires the underlying conduct to be criminalised by both countries. Legal certainty on the capability to execute foreign confiscation orders should be ensured, if necessary through specific legislation.

3) Finally the authorities should endeavour to maintain more detailed statistics allowing them to assess and monitor the performance of the MLA regime.

6.3.3 Compliance with Recommendations 36 to 38 and Special Recommendation V

	Rating	Summary of factors relevant to s.6.3 underlying overall rating
R.36	**C**	
R.37	**PC**	• **Restrictive and formalistic interpretation of the dual criminality principle impeding cooperation on the basis of mutually criminalised conduct, also affecting the effectiveness of the MLA system**
R.38	**PC**	• **Seizure and confiscation possibilities negatively affected in the MLA context by the non-criminalisation of all designated predicate offences and TF.** • **No formal legal basis for enforcement of foreign confiscation orders.**
SR.V	**NC**	• **No legal basis for TF related MLA in the absence of TF criminalisation.**

6.4 Extradition (R.37, 39, SR.V)

6.4.1 Description and Analysis

Legal Framework:

650. All rules governing extradition are covered by the Decree of 10 June 1983 on extradition and other forms of international legal assistance in criminal matters. The Decree establishes the principles, conditions, and procedure regarding extradition requests and provisional arrest of the person to be extradited. It also provides for simplified procedures and the transfer of evidentiary and other material found in the possession of the person involved. Extradition can only be provided on treaty basis, bilateral or multilateral (art. 2.1 Extradition Decree). Only one extradition treaty has been concluded until now, namely with the Netherlands, but extradition proceedings with other countries have already taken place on the basis of the 1988 Vienna Convention.

Dual Criminality and Mutual Assistance (c. 37.1 & 37.2 and SRV):

651. Beside the treaty condition, art. 3.2 of the Extradition Decree clearly states the dual criminality principle as an essential condition for extradition: the "fact" should be punishable both under the law of Suriname and that of the requesting country. This means that an extradition request based on money laundering activity related to insider trading or market manipulation can be challenged on the grounds that those predicate offences do not exist in Suriname. Furthermore, the absence of penal provisions covering the financing of terrorism or terrorists prohibits any extradition based on these specific offences.

652. Moreover, the restrictive interpretation of the dual criminality concept in the sense that the foreign offence should be criminalised in a similar way in the Suriname penal legislation narrows down the possibility to extradite even more. Reference is made to the comments regarding the application of the dual criminality principle in a MLA context.

Money Laundering as Extraditable Offence (c. 39.1 and SRV):

653. According to Art. 3.1 of the Extradition Decree, the offence giving rise to the extradition request should be punishable by deprivation of liberty of one year or more, both under the Suriname and the foreign law. The offence of intentional money laundering being punished by an imprisonment of up to 15 years (art. 1a ML Law of 5/9/2002), and negligent money laundering by an imprisonment of 6 years maximum (art. 3 ML Law), extradition is allowed for both forms of money laundering.

654. There are grounds for refusal, as enumerated in Art. 6 to 8 of the Decree. They relate to the *non bis in idem* principle, the statute of limitations, simultaneous criminal proceedings in Suriname, prior acquittal, racially or religiously and politically motivated prosecutions, and excessively hard consequences of the extradition. Art. 5 in principle forbids extradition if the extradited person risks the death penalty, except if there are guarantees it will not be executed.

Extradition of Nationals (c. 39.2); Cooperation for Prosecution of Nationals (applying c. 39.2(b), c. 39.3):

655. Suriname does not extradite its own nationals. This principle, common to civil law tradition countries, is expressly restated in Art. 2.2 of the Extradition Decree. However, in such case the Suriname judicial authorities would be prepared to accept the case to be transferred to them to take over the prosecution of the offender as if the criminal activity had occurred under the national jurisdiction. Although not formally and expressly provided for, there are case precedents (2 in 2006 and 1 in 2007, both with the Netherlands).

656. If the suspect is of Suriname nationality, he is directly subject to the domestic jurisdiction anyway for acts committed outside Suriname, as provided by art. 5.2 of the Penal Code, on condition of dual criminality. In the event of transfer of the case the MLA practice allows for an efficient continuation of the proceedings, such as the transfer of evidentiary material.

Efficiency of Extradition Process (c. 39.4):

657. The Extradition Decree establishes clear and specific procedural ways enhancing a timely and efficient handling of the procedure with respect of due process and rights of defense. The procedure is bound to strict deadlines: for instance, the suspect can be provisionally arrested sustaining the extradition request for a maximum of 20 days awaiting the transfer of the procedural documents. There are no structural obstacles unduly delaying or burdening the extradition procedure. As with MLA, the judiciary authorities have organized themselves to adequately respond to extradition requests (DIRSIB). They could however not give concrete information on the duration of the proceedings, nor were they able to give comprehensive statistics.

Additional Element (R.39)—Existence of Simplified Procedures relating to Extradition (c. 39.5):

658. Chapter VII of the Extradition Decree provides for the possibility of simplified procedures, if the suspect consents.

Statistics (applying R.32):

659. The judicial authorities provided following statistical figures on active and passive extradition procedures:

2006:	5 passive (Netherlands 3, US 2)
	No active
2007:	7 passive (Netherlands 6, Brazil 1)
	1 active (to the Netherlands)
2008:	1 passive (Netherlands)
	1 active (Netherlands)

660. The statistics do not specify the offences the requests are based on (although it was stated that most are drug related), nor the time required to respond. 1 U.S. request was refused in 2008, on the grounds that criminal proceedings had already been initiated in Suriname.

Analysis of effectiveness

661. As with MLA, the legal framework is sound. The Extradition Decree is a piece of clear and well structured legislation. The legal grounds for refusal are reasonable and a matter of universal practice. There are no structural obstacles and the judiciary authorities have organised themselves in an appropriate way.

662. On the other hand, the deficiencies affecting the MLA process also apply to the extradition regime here again the dual criminality principle undermines the quality of the extradition regime as a result of the absence of legislation criminalizing certain designated predicate offences and the financing of terrorism. The restrictive interpretation of the same principle further jeopardizes the effectiveness of the system.

663. Finally, the effectiveness in terms of timeliness cannot be assessed in the absence of detailed and comprehensive statistics.

6.4.2 Recommendations and Comments

1) The deficiencies established in respect of the criminalisation of all designated predicate offences and terrorism financing should be remedied forthwith. Also the restrictive interpretation of the dual criminality principle should be subject to reconsideration. (see s. 6.3.2).

2) The authorities should endeavour to maintain more detailed statistics allowing them to assess and monitor the performance of the MLA regime.

6.4.3 Compliance with Recommendations 37 & 39, and Special Recommendation V

	Rating	Summary of factors relevant to s.6.4 underlying overall rating
R.39	**LC**	• **Extradition grounded on certain designated predicate activity is subject to challenge**
R.37	**PC**	• **Formalistic and restrictive interpretation of the dual criminality rule impeding extradition based on mutually criminalised conduct** • **Effectiveness cannot be assessed on the basis of the available information**
SR.V	**NC**	• **No legal basis for TF related extradition requests in the absence of TF criminalisation**

6.5 Other Forms of International Co-Operation (R.40 & SR.V)

6.5.1 Description and Analysis

Widest Range of International Cooperation (c. 40.1); Provision of Assistance in Timely, Constructive and Effective Manner (c. 40.1.1):

FIU

664. One of the sources of intelligence MOT relies on is the information exchange with its counterpart FIUs. The legal basis is provided for in art. 4 and 9.2 of the MOT Act of 5 September 2002, stating that data from the MOT register can be supplied to foreign agencies with a "task comparable" to that of the MOT, designated as such by their own authorities, but only on the basis of a treaty. Although art. 4 and 9.2 of the MOT Act formally refer only to the outgoing information supply, it goes without saying that these provisions cover the mutual information exchange as such. The conditions of such information supply shall be established by law. No such treaty has been concluded since the creation of the Suriname FIU, nor has a law been drafted regulating the information exchange.

665. In the absence of a law regulating and delineating the mutual FIU cooperation, MOT interprets the information exchange to the widest extent possible. It has adopted a practical approach by concluding Memoranda of Understandings (MOUs) with their counterparts. At the moment of the on-site they had signed such agreement with their Dutch counterparts of FIU-NL and with MOT Netherlands Antilles, the MOU with MOT Aruba still being negotiated. The MOUs are structured along the Egmont model and incorporate the Egmont Group principles of information exchange, allowing for an effective and swift mutual assistance.

Law enforcement

666. The prosecutorial authorities have no other way of exchanging case related information than through the MLA procedure. The Suriname Police is member of Interpol and uses its communication channels intensely with its foreign counterparts. The IP information exchange among police forces is informal and flexible, but it can only be used for intelligence purposes.

Supervisor

667. In general, the exchange of information pertaining to supervisory related matters is subject to strict caveats, such as the obligation to keep such information secret. This obligation can only be removed by obtaining the consent of the CBS that provided the information. So far, the CBS has signed one Regional MOU with the supervisory authority of Trinidad and Tobago regarding the supervision of financial undertakings on a consolidated basis. In addition, CBS does share information on a case by case basis and as such always with consent of the originating institution.

668. Presently, there is no legal basis for the CBS to conclude MOUs, but the draft legislation on Banking Supervision and the draft Insurance Act contains provisions that enables the CBS to conclude MOUs with other supervisory authorities

Clear and Effective Gateways for Exchange of Information (c. 40.2):

FIU

669. MOT Suriname not (yet) being a member of the Egmont Group, it has no access to the Egmont FIU specific secure web. Another possibility that is being explored is acceding to the FIU-net, which is being developed between EU member states, including the Netherlands. So the only way to exchange information is the regular mail, internet, telephone or fax, none of which communication lines are secured. The FIU does not even possess an international fax-line.

Spontaneous Exchange of Information (c. 40.3):

FIU

670. The legal provisions do not differentiate between spontaneous supply of information and responses to queries, nor do they state any condition of reciprocity. All information from the MOT register can be exchanged, be it at request or otherwise.

Making Inquiries on Behalf of Foreign Counterparts (c. 40.4); FIU Authorized to Make Inquiries on Behalf of Foreign Counterparts (c. 40.4.1):

FIU

671. The formulation of art. 4 and 9.2 MOT Act is quite restrictive: only data from the MOT register can be supplied. No allowance is made for the collection, at the request of counterpart FIUs, of relevant information with other agencies or from other databases MOT might have directly or indirectly access to. Information from public registers does not pose a problem, being accessible to everyone by its very nature.

Conducting of Investigations on Behalf of Foreign Counterparts (c. 40.5):

Law enforcement

672. As a rule the law enforcement agencies do not conduct investigations at the request and on behalf of their counterparts outside the MLA context. There may be some flexibility if an IP request does not require formal investigative measures and only implies collection of pure intelligence or of public information, but this is viewed with caution. If the request is however made in a MLA context, the requested investigation may be fully executed.

No Unreasonable or Unduly Restrictive Conditions on Exchange of Information (c. 40.6):

FIU

673. The MOT Act in its art. 9.2 only provides for the possibility to exchange information on the basis of a treaty, which is an extra-ordinarily stern condition and nearly impossible to observe. MOT tries to bypass this legal requirement through the signing of MOUs, which is the more realistic and appropriate way to deal with international cooperation, but it does raise a serious legal issue.

Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 40.7):

FIU and law enforcement

674. For MOT it is legally quite irrelevant if the information requests relate to fiscal matters or not, or if there are fiscal aspects involved. The FIU register contains information (possibly) related to money laundering, which also covers fiscal predicate offences anyhow. The fiscal alibi does not apply. The police will normally not cooperate in purely fiscal matters, but the circumstance that there might be fiscal aspects involved is not prohibitive.

Supervisor

675. Requests for cooperation are refused by the CBS on the sole ground that the request is considered (also) to involve tax matters.

Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 40.8):

FIU

676. MOT Suriname has access to all information – protected or not - from Governmental institutions and services, as well from all entities subject to the MOT Act (art. 7.2), so it can exchange sensitive information of a confidential nature that is present in its register. The law however does not provide a legal basis for MOT to go out and collect them on request.

Law enforcement

677. Police can only break through the confidentiality and secrecy protection when due process is observed, *i.e.* when acting under a court order or instruction of a judge-commissary.

Safeguards in Use of Exchanged Information (c. 40.9):

FIU

678. All information compiled by the MOT in the exercise of its legal assignment is purpose bound to the combat against money laundering. Also all FIU staff is subject to a confidentiality obligation (art. 22). The legal protection of the information MOT receives from its counterparts however poses a dilemma:

i. the MOT register is confidential and the information it contains can only be used within an anti- money laundering context (art. 8 and 9 MOT Act). The register is however restricted to the disclosures made in accordance with the Law, whereas the same Law does not provide for inclusion in the register of information supplied by counterparts;

ii. on the other hand, even if registered, the information supplied may be accessible to the public prosecutor (art. 6 MOT Act), notwithstanding the confidentiality condition imposed by the foreign FIU.

679. Beside the legal issue of confidentiality, there is also the physical protection of the information supplied in the framework of mutual assistance. It has already been pointed out that the security measures against intrusion are unsatisfactory and the FIU location and housing present a security risk.

International Cooperation under SR V (applying c. 40.1-40.9 in R. 40, c. V.5):

FIU, Law Enforcement, Supervisor

680. The legal assignment of MOT Suriname and the CBS does not (yet) comprise TF related information, so they are not in a legally formal position to exchange such data. The same goes in principle for the law enforcement agencies, such as the police, although they are not strictly bound to the legal categorization of terrorism financing as a specific offence and can be flexible enough to consider such requests as simply terrorism related.

Statistics (applying R.32):

FIU

681. International cooperation relations with counterpart FIUs are still not a real feature in the functioning of the FIU. To date exchange of information has only occurred in 1 case with the Netherlands, in 2004.

Supervisor

682. CBS does not maintain statistics on the number of requests for assistance made or received by other supervisors.

Analysis of effectiveness

FIU

683. Although the MOT Act does create the legal framework for mutual assistance at FIU level, MOT faces a series of challenges, legal and others that seriously jeopardize its ability to exchange information in an effective and secure way:

i. The treaty condition is clearly excessive, prohibitive and outdated. It effectively excludes MOT from the global network of FIU to FIU mutual assistance, which is essentially based on simple reciprocity. It is simply not realistic to expect countries to sign treaties only for this purpose and, furthermore, the process is exceedingly time-consuming. The MOU instruments clearly have not the force of law of a treaty or convention, so information exchange based on such arrangements is formally *contra legem.*

ii. The effectiveness is further undermined by the provisions of the MOT Act restricting the substance of the information exchange to data compiled in the MOT register, *i.e.* disclosure related, thus excluding the collection of non-disclosure related information at the request of a counterpart.

iii. Counterpart FIUs will, under the Egmont rules, only exchange information on condition of strict confidentiality, until consent is given for further dissemination. This confidentiality is not guaranteed under the MOT Act, as shown above. MOT may want to give assurances in their MOUs, but that does not solve the legal dilemma.

iv. The confidentiality of the information exchange is also insufficiently guaranteed in other ways. There are no secured communication lines, nor is the physical protection of the collected and stored data assured in a satisfactory way.

v. The FIUs mutual assistance capacity is only partial, MOT having no legal assignment in dealing with TF related disclosures and information.

Law enforcement

684. Information exchange and other forms of cooperation with foreign police agencies that do not fall under the MLA regime is routinely done for intelligence purposes. No special problems or obstacles are on record, except for the absence of a formal legal basis for TF related issues.

Supervisor

685. Supervisory authority (CBS) has no legal basis for signing MOUs with counterparts. Due to lack of statistics, the assessment team was not able to determine that the mechanisms for international cooperation are fully effective.

6.5.2 Recommendations and Comments

FIU

1) In order for MOT Suriname to legally and fully become a player in the international FIU forum and to comply with the present standards, it is recommended that:

2) The treaty condition should be discarded and replaced by the generally accepted rule of information exchange with its counterparts, based on reciprocity and the Egmont Principles of Information exchange. Ideally such exchange should be allowed on an ad hoc basis or, if deemed necessary, on the basis of a bilateral agreement between FIUs;

3) The Law should expressly allow MOT to collect information outside its register at the request of a counterpart FIU. One simple and adequate way to realise this is to put such foreign request legally at par with a disclosure, which would automatically bring them under the regime of art. 5 and 7 of the MOT Act;

4) The confidentiality status of the exchanged information should be expressly provided for to protect it from undue access or dissemination;

5) The (physical) protection of the MOT data-base and its offices be upgraded;

6) The processing of TF related disclosures should be brought within the assignment of the FIU as soon as possible, which would also increase the chance of MOT acceding to the Egmont Group and its ESW.

Supervisor

7) A legal basis should be provided for information exchange between the CBS and counterpart supervisors, by way of MOUs or otherwise.

6.5.3 Compliance with Recommendation 40 and Special Recommendation V

	Rating	Summary of factors relative to s.6.5 underlying overall rating
R.40	**PC**	**FIU:** • **Excessive treaty condition** • **No legal basis for collecting information at the request of a counterpart** • **Deficient protection of the exchanged information, both formally and physically** **Supervisor:** • **No legal basis for mutual assistance and information exchange with counterparts**
SR.V	**NC**	• **FIU and law enforcement: no legal framework for TF related information exchange and other forms of (non-legal) mutual assistance** • **Supervisor: No legal basis for mutual assistance and information exchange with counterparts**

7. OTHER ISSUES

7.1 Resources and statistics

686. There is a general issue of insufficient human resources

	Rating	Summary of factors relative to S.7 underlying overall rating
R.30	**PC**	**FIU:** • **Serious capacity problem by lack of adequate financial and human resources** • **Analyst training rather basic** **PP:** • **Low number of PP magistrates disproportionate to workload** **SUPERVISORS (CBS):** • **Insufficient staffing for (future) AML/CFT supervision on all FI** • **No adequate training on AML/CFT issues**

Recommendation 32

32.1 Review of effectiveness

687. Assessing the effectiveness of the AML/CFT system in Suriname is within the mandate of the Anti Money Laundering Commission established by decision of the Council of Ministers of 19 December 2007 with the specific assignment to monitor the progress made and advise the Minister of Justice and Police on the actions to be taken to improve the system. The Commission has not yet reported on the overall performance of the AML/CFT regime, but has already come up with some punctual proposals (see Section 6.1 above).

32.2 STATISTICS

688. Except for most FIU related statistics, there is a general deficiency of relevant statistical data, which should be addressed in a structural and organised way with all relevant "competent authorities".

	Rating	Summary of factors relative to S.7 underlying overall rating
R.32	**NC**	• **Lack of comprehensive and reliable (annual) statistics on the number of ML investigations.** • **No policy of keeping comprehensive statistics at the Public Prosecutor's level** • **Lack of comprehensive and reliable (annual) statistics with respect to property / objects seized and confiscated**. • **MLA: no statistical information on the nature of the requests, on the number and reasons of refusal, nor on the time required to respond** • **Extradition: no information on the underlying offence and response time** **Supervisor:** • **no statistics on request for assistance**

7.2 General framework for AML/CFT system (see also section 1.1)

TABLES

Table 1: Ratings of Compliance with FATF Recommendations
Table 2: Recommended Action Plan to improve the AML/CFT system
Table 3: Authorities' Response to the Evaluation (if necessary)

Table 1: Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (NA).

Forty Recommendations	Rating	Summary of factors underlying rating[3]
Legal systems		
1. ML offence	**PC**	• **Not all designated categories of predicate offences are covered in the absence of the criminalization of 'terrorism and financing of terrorism' and 'insider trading and market manipulation' in Suriname penal legislation;** • **It is virtually impossible to do any assertion with regards to the effectiveness and efficiency of the systems for combating ML , due to the lack of comprehensive and reliable (annual) statistics**. • **Evidentiary requirements for autonomous ML still untested (effectiveness issue).**
2. ML offence – mental element and corporate liability	**LC**	• **It is virtually impossible to do any assertion with regards to the effectiveness and efficiency of the systems for combating ML , due to the lack of comprehensive and reliable (annual) statistics**. • **Evidentiary requirements for autonomous ML still untested (effectiveness issue).**
3. Confiscation and provisional measures	**PC**	• **No legal basis for the confiscation of TF related assets, in the absence of a TF offence** • **It is impossible to assess the effectiveness and**

3. [3] These factors are only required to be set out when the rating is less than Compliant.

		efficiency of the systems for combating ML, due to the lack of comprehensive and reliable (annual) statistics with respect to property / objects seized and confiscated.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	**PC**	• **While most of the competent authorities have access to information, there are no measures allowing for the sharing of information locally and internationally.** • **There are no measures for the sharing of information between financial institutions as required by Recommendations 7 and 9 and Special Recommendation VII.**
5. Customer due diligence	**NC**	• **All financial institutions should be fully and effectively brought under AML and CFT regulation and especially under the broad range of customer due diligence requirements. The definition of "financial activities" should be updated in accordance with the definition of "financial activities" in the FATF Methodology.** • **Financial institutions should be required to undertake full CDD measures when carrying out occasional transactions that are wire transfers in circumstances covered by the Interpretative Note to SR VII or occasional transactions above the applicable threshold of USD/EUR 15.000;** • **There is no legal requirement to undertake CDD measures in cases where there is a suspicion of terrorist financing and in cases where there are doubts about the veracity or adequacy of previously obtained customer identification data.** • **There is no legal requirement to verify the legal status of legal arrangements like trusts and understand who is (are) the natural person(s) that ultimately owns or control the customer or exercise(s) effective control over a legal arrangement such as a trust.** • **There is no legal requirement regarding identification and verification of the beneficial owner of a legal person.** • **There is no legal requirement to obtain**

		information on the purpose and intended nature of the business relationship. • **No specific requirement to perform ongoing due diligence on business relationships.** • **Performing enhanced due diligence on higher risk categories of customers, business relationships or transactions.** • **There should be some consideration/assessment made based on which there is a satisfaction about compliance with the Recommendations by countries which are currently seen as compliant without any doubt.** • **There are no general requirements to apply CDD measures to existing customers on the basis of materiality and risk.** • **When regulating the identification and verification of beneficial owners, a requirement to stop the financial institution from opening an account, commence business relations or performing transactions when it is unable to identify the beneficial owner satisfactorily is needed.** • **There is no legal requirement to terminate the business relationship and to consider making a suspicious transaction report when identification of the customer cannot be performed properly after the relationship has commenced.**
6. Politically exposed persons	**NC**	• **Suriname has not implemented any AML/CDD measures regarding the establishment and maintenance of customer relationships with politically exposed persons (PEP´s).**
7. Correspondent banking	**NC**	• **There are no legal requirements applicable to banking relationships.**
8. New technologies & non face-to-face business	**NC**	• **The (legal) requirement for financial institutions to have policies in place or take such measures as may be needed to prevent misuse of technological developments in ML or TF schemes is not covered.**
9. Third parties and introducers	**NC**	• **There is no legal provision that addresses the reliance on intermediaries or third party introducers to perform some of the elements of**

		the CDD process or to introduce business. • **Financial institutions are not required to take adequate steps to satisfy themselves that copies of the relevant documentation will be made available from the third party upon request without delay** • **There is no requirement that the financial institution must be satisfied that the third party is regulated and supervised and has measures in place to comply with the CDD requirements.** • **In determining in which countries the third party that meets the conditions can be based, competent authorities do not take into account information available on whether those countries adequately apply the FATF Recommendations.** • **There is no legal provision that indicates that the ultimate responsibility for customer identification and verification remains with the financial institution relying on the third party.**
10. Record keeping	**PC**	• **No requirement to keep all documents recording the details of all transactions carried out by the client in the course of an established business relationship.** • **No requirement to maintain account files and correspondence for at least five years following termination of an account or relationship.** • **No general requirement in law or regulation to keep documentation longer than 7 years if requested by a competent authority.** • **There is no general requirement for financial institutions to ensure that all customers and transactions records and information are available on a timely basis to domestic competent authorities upon appropriate authority.**
11. Unusual transactions	**NC**	• **No requirement to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.** • **The obligation to examine as far as possible the background and purpose of the transaction and to set forth the findings in writing is not dealt**

		with explicitly in the legislation. • **No specific requirements for financial institutions keep findings regarding examinations about complex, unusual large transactions available for competent authorities and auditors for at least five years**
12. DNFBP – R.5, 6, 8-11	**NC**	• **The ID law does not contain any provisions with regard to the supervision of DNFBPs on their compliance with their obligations pursuant to the ID law;** • **There is a significant lack of guidance to the DNFBPs as to the proper application of the identification obligations pursuant to the ID law;** • **There is no public entity or government agency explicitly tasked with guidance and supervision for DNFBPs with respect to their obligations under the ID law;** • **The ID law lacks an effective sanctioning system;** • **The above leads to an overall problem of effectiveness of the ID law in so far as it concerns DNFBPs;** • **The registration system for legal persons is not always adequate, thereby hampering certain DNFBPs to properly identify the persons behind a legal person involved in a transactions** • **The ID law does not contain specific provisions regarding the identification by the DNFBPs of the ultimate beneficiary owner;** • **The ID law does not contain explicit provisions regarding transactions carried out by DNFBPs involving ultimate beneficiary owner;** • **DNFBP-specific laws such as the new Law on lawyers, which may provide for useful additional identification requirements, have not been fully implemented;** • **The ID law requires only civil notaries, accountants and lawyers to establish the transaction amount when recording additional personal data of the customer**
13. Suspicious transaction reporting	**NC**	• **The reporting obligation does not cover transactions related to insider trading and**

		market manipulation as these are not predicate offences for money laundering in Suriname. • **There is no requirement to report suspicious transactions related to terrorist financing because the legislation on TF is not yet in place.** • **Not <u>all</u> institutions and DNFBPs that have a reporting requirement are fully aware of this requirement.** • **There is a concern on the quality of STRs under the objective criteria, since quite a lot of STRs do not contain the information as prescribed by article 12.2 of the MOT Act; only 32 out of 101 institutions file STRs that comply with the article 12.2 of the MOT Act.** • **There is a concern on the delay of STRs reported under the objective criteria; since this is virtually always done by using fixed period intervals, rather than without delay, as required by the MOT Act.** • **Reporting institutions mainly rely in the objective criteria to report and pay little or no attention to elements that would make a transaction suspicious.** • **Overall serious concern about the effectiveness of the system**
14. Protection & no tipping-off	**PC**	• **No compliance with the prohibition by law to disclose the fact that a UTR or related information is being reported or provided to the FIU, is not enforced by sanctions, as Suriname is lacking effective AML/CFT supervision.**
15. Internal controls, compliance & audit	**NC**	**No general enforceable requirements to:** • **Establish and maintain internal procedures, policies and controls to prevent money laundering and to communicate them to employees;** • **Designate compliance officers at management level;** • **Ensure compliance officers have timely access to information;** • **Maintain an adequately resourced and independent audit function to test compliance with AML/CFT procedures, policies and controls;**

		• **Establish ongoing employee training;** • **Put in place screening procedures;** • **Ensure high standard when hiring employees.**
16. DNFBP – R.13-15 & 21	**NC**	• **The same deficiencies and shortcomings detected in the MOT legislative framework and its implementation with respect to the financial institutions recur with the DNFBPs. These include the absence of TF-related provisions, of compliance supervision, effective, proportionate and dissuasive sanctions to enforce compliance and the lack of clear and effective guidance;** • **Due to practical constraints the FIU has been focusing primarily on financial institutions, further compromising the effectiveness of the reporting system for DNFBPs;** • **The definition of legal professionals services in the MOT Act and the Decree Indicators Unusual Transactions is excessive while the legal professional secrecy of lawyers and civil notaries has not been taken into account;** • **Only certain groups of DNFBPs or individual DNFBPs submit unusual transactions reports to the FIU;** • **Deficient reporting of unusual transactions in which only unusual transactions based on objective indicators containing monetary thresholds are reported, while unusual transactions based on subjective indicators are not reported at all;** • **No requirement with respect to the presence of AML/CFT programs as required by Recommendation 15;** • **Absence of measures or legal basis for such measures with respect to countries that do not or insufficiently comply with the FATF Recommendations.**
17. Sanctions	**NC**	• **The range of sanctions is not sufficiently broad. There are no administrative sanctions, which can be imposed against financial institutions, directors, controlling owners and senior management of financial institutions directly**

		for AML/CFT breaches. The available sanctions do not include the possibility to directly bar persons from the sector. Currently, there is not the general possibility to restrict or revoke a license for AML/CFT violations. • **No requirement to report suspicion of terrorist financing and consequently no supervision of this issue.** • **The effectiveness of the overall sanctioning regime, at present, is questioned because penal sanctions have not been imposed for AML failings.**
18. Shell banks	**PC**	• **Measures to prevent the establishment of shell banks and to prevent financial institutions to enter into or continue a correspondent banking relationship with shell banks are not sufficiently explicit.** • **There is no specific enforceable obligation that requires financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks**
19. Other forms of reporting	**NC**	• **Feasibility and utility of CTR or threshold reporting has not been considered**
20. Other NFBP & secure transaction techniques	**PC**	• **Although real estate agents and car dealers are also subject to basically the same legal identification and reporting obligation as the DNFBPs meant in R.12 and R.16, the same legal and practical deficiencies are present;** • **No obligation in the ID law for real estate agents and car dealers to establish the transaction amounts during the identification of their clients;** • **Threshold for reporting of unusual transactions based on monetary objective indicator is too high;** • **No measures are currently present encouraging the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.**
21. Special attention for higher	**NC**	• **No obligation to examine as far as possible the background and purpose of transactions with**

risk countries		**persons from countries which do not or insufficiently apply FATF Recommendations.** • **No specific requirements to keep written findings available to assist competent authorities and auditors.** • **No provision for the financial institutions to apply appropriate counter-measures against countries which do not or insufficiently apply the FATF.**
22. Foreign branches & subsidiaries	**NC**	• **There is no general obligation for all financial institutions which ensures their branches and subsidiaries observe AML/CFT measures consistent with home requirements and the FATF Recommendations to the extent that host country laws and regulations permits;** • **There is no requirement to pay particular attention to situations where branches and subsidiaries are based in countries that do not or insufficiently apply FATF Recommendations;** • **Provision should be made that were minimum AML/CFT requirements of the home and host countries differ, branches and subsidiaries in host countries should be required to apply the higher standard to the extent that local (i.e. host country) laws and regulations permit;** • **No general obligation to inform the home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures.**
23. Regulation, supervision and monitoring	**NC**	• **Relevant supervisory authority has not been designated as responsible for ensuring the compliance of their supervised financial institutions and DNFBPs with AML/CFT requirements.** • **The money & value transfer companies, money exchange offices and stock exchange are not subject to AML/CFT supervision.** • **Money transfer offices and money exchange offices are not registered or licensed and appropriately regulated.** • **No requirement to report suspicion of terrorist financing and consequently no supervision of this issue.**

24. DNFBP - regulation, supervision and monitoring	**NC**	• **No AML/CFT based regulation and supervision of casinos currently present.** • **No adequate regulatory and monitoring measures regarding AML/CFT in place for the other categories of DNFBPs currently operating in Suriname**
25. Guidelines & Feedback	**PC**	• **There is no requirement for the FIU to provide the financial institutions and DNFBPs with adequate and appropriate information on current ML and TF techniques, methods and trends (typologies) and sanitised examples of actual money laundering and terrorist financing cases.** • **There is no requirement for the FIU to provide the financial institutions and DNFBPs with an acknowledgement of receipt of the UTRs and whether a report is subject to legal principles, if a case is closed or completed, and if information is available, information on the decision or result.** • **No guidelines present for DNFBPs to assist them with the implementation and compliance with their respective AML/CFT requirements**
Institutional and other measures		
26. The FIU	**PC**	• **Overall problem of effectiveness** • **Insufficient use of the analytical and enquiry powers** • **Insufficient protection of the information and staff security** • **The FIU remit does not cover TF related disclosures**
27. Law enforcement authorities	**PC**	• **No designated financial investigation team until recently – effectiveness untested** • **Loss of effectiveness by** **- insufficient focus on the financial aspects of serious criminality** **- unsatisfactory exploitation of FIU reports** • **non-observance of the legal obligation to spontaneously informing MOT of ML relevant information**
28. Powers of	**C**	**This Recommendation has been fully observed**

competent authorities		
29. Supervisors	**NC**	• **The CBS should have the authority to conduct inspections of relevant financial institutions including on-site inspection to ensure compliance.** • **The CBS should have the <u>general</u> power to compel production or to obtain access to all records, documents or information relevant to monitoring compliance.** • **The CBS should have adequate powers of enforcement and sanction against financial institutions and their directors or senior management for failure to comply with the AML/CFT requirements.**
30. Resources, integrity and training	**PC**	**<u>FIU</u>:** • **Serious capacity problem by lack of adequate financial and human resources** • **Analyst training rather basic** **<u>PP</u>:** • **Low number of PP magistrates disproportionate to workload** **<u>SUPERVISORS (CBS)</u>:** • **Insufficient staffing for (future) AML/CFT supervision on all FI** • **No adequate training on AML/CFT issues**
31. National co-operation	**LC**	• **The legal mandate of the existing monitoring and advisory body does not extend to cooperation and coordination**
32. Statistics	**NC**	• **Lack of comprehensive and reliable (annual) statistics on the number of ML investigations.** • **No policy of keeping comprehensive statistics at the Public Prosecutor's level** • **Lack of comprehensive and reliable (annual) statistics with respect to property / objects seized and confiscated**. • **MLA: no statistical information on the nature of the requests, on the number and reasons of refusal, nor on the time required to respond** • **Extradition: no information on the underlying offence and response time** • **Supervisor: no statistics on request for**

		assistance
33. Legal persons – beneficial owners	**NC**	• **There are no measures to prevent the unlawful use of legal persons in relation to money laundering and terrorist financing;** • **There is no adequate transparency concerning the beneficial ownership and control of legal persons;** • **The information at the registries can not be trusted. They are not kept up to date.**
34. Legal arrangements – beneficial owners	**N/A**	• **Suriname does not have trusts or other legal arrangements.**
International Co-operation		
35. Conventions	**PC**	• **No signing, ratification and implementation of the TF Convention; no full and effective implementation of the relevant provisions of the Vienna and Palermo Convention**
36. Mutual legal assistance (MLA)	**C**	**This Recommendation has been fully observed.**
37. Dual criminality	**PC**	• **Restrictive and formalistic interpretation of the dual criminality principle impeding cooperation on the basis of mutually criminalised conduct, also affecting the effectiveness of the MLA system** • **Formalistic and restrictive interpretation of the dual criminality rule impeding extradition based on mutually criminalised conduct** • **Effectiveness cannot be assessed on the basis of the available information**
38. MLA on confiscation and freezing	**PC**	• **Seizure and confiscation possibilities negatively affected in the MLA context by the non-criminalisation of all designated predicate offences and TF.** • **No formal legal basis for enforcement of foreign confiscation orders.**
39. Extradition	**LC**	• **Extradition grounded on certain designated predicate activity is subject to challenge**
40. Other forms of co-operation	**PC**	**<u>FIU</u>:** • **Excessive treaty condition** • **No legal basis for collecting information at**

		the request of a counterpart • **Deficient protection of the exchanged information, both formally and physically** **<u>Supervisor</u>** • **No legal basis for mutual assistance and information exchange with counterparts**
Nine Special Recommendations	**Rating**	**Summary of factors underlying rating**
SR.I Implement UN instruments	**NC**	• **No signing, ratification and implementation of the TF Convention; no effective implementation of the UN Res. 1267 and 1373**
SR.II Criminalise terrorist financing	**NC**	• **There is no legislation criminalizing FT;** • **Consequently, there are no TF related investigations, prosecutions and convictions.**
SR.III Freeze and confiscate terrorist assets	**NC**	• **No system in place complying with the relevant UN Resolutions and providing for an adequate freezing regime**
SR.IV Suspicious transaction reporting	**NC**	• **There are no direct requirements for financial institutions to report to the FIU when they suspect or have reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations, regardless of the amount of the transaction and including attempted transactions.**
SR.V International co-operation	**NC**	• **No legal basis for TF related MLA in the absence of TF criminalisation** • **No legal basis for TF related extradition requests in the absence of TF criminalisation** • **FIU and law enforcement: no legal framework for TF related information exchange and other forms of (non-legal) mutual assistance** • **Supervisor: No legal basis for mutual assistance and information exchange with counterparts**
SR VI AML requirements for money/value transfer services	**NC**	• **None of the requirements are included in legislation, regulations or other enforceable means.**
SR VII Wire transfer	**NC**	• **Suriname has not implemented any**

rules		**requirement regarding obtaining and maintaining information with wire transfers.**
SR.VIII Non-profit organisations	**NC**	• **Complete absence of an adequate legislative and regulatory system for the prevention of misuse of the non-profit sector by terrorists or for terrorism purposes**
SR.IX Cross Border Declaration & Disclosure	**NC**	• **No declaration/disclosure system in place regarding the cross-border transportation of currency in the AML/CFT context**

Table 2: Recommended Action Plan to Improve the AML/CFT System

AML/CFT System	Recommended Action (listed in order of priority)
1. General	**No text required**
2. Legal System and Related Institutional Measures	
Criminalisation of Money Laundering (R.1, 2 & 32)	1) It is recommended that legislation is adopted to make insider trading and market manipulation and terrorism and the financing of the same offences under Surinamese laws.
Criminalisation of Terrorist Financing (SR.II, R.32)	1) Besides the criminalization of FT, local authorities should see to it, that, as soon as there is an act criminalizing the FT, comprehensive statistics be kept on the number investigations, prosecutions and convictions for the act of FT
Confiscation, freezing and seizing of proceeds of crime (R.3, R.32)	1) The two shortcomings are the fact that the FT is no offence under Surinamese laws, and there are no statistics available to see how effective the legislation is in practice.
Freezing of funds used for terrorist financing (SR.III, R.32)	1) None of the criteria of Special Recommendation III are met by Suriname. Many of the people interviewed did not even know of the existence of UN Security Council Resolutions 1267 (1999) and 1373 (2001) and there implications, nor did they have any information regarding the Best Practice Paper. 2) The Suriname authorities should endeavour to introduce the appropriate legislative measures effectively implementing the relevant UN Resolutions and establishing an adequate freezing regime in respect of assets suspected to be terrorism related.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	1) That the missing implementing legal instruments be drafted without further delay, so to consolidate the legal framework of the organisation and functioning of the FIU; 2) To substantially increase the human and financial resourcing of the FIU; 3) To move MOT to a location that ensures a secure conservation and management of the sensitive information and the safety of the staff; 4) To improve the IT security measures to protect the sensitive and confidential information; 5) That the sensitisation and education of all reporting

	entities should be substantially enhanced by awareness raising sessions and typology feedback, aimed at an increased perception of suspicious activity to be reported; 6) To issue the necessary guidance to the sector stressing the importance of timely reporting, particularly of suspicious activity; 7) To increase the quality of the analytical process by systematically querying all accessible sources, particularly the law enforcement and administrative data (including tax information); 8) To fully exploit all possibilities of information collection, particularly by having the supervisory and State authorities report as provided by the Law; 9) Finally, to intensify the efforts for the analysts to acquire better knowledge and insight in money laundering techniques and schemes.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	1) The performance of the AML/CFT effort should be enhanced by: i. A better interaction between the FIU and the police ii. A more efficient use of the information supplied by the FIU iii. A reinforced focus on the financial aspects when investigating (proceeds generating) offences
3. Preventive Measures – Financial Institutions	
Risk of money laundering or terrorist financing	
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	Suriname should implement the following elements from Recommendation 5 which have not been fully addressed: 1) All financial institutions should be fully and effectively brought under AML and CFT regulation and especially under the broad range of customer due diligence requirements; 2) The definition of "financial activities" should be updated in accordance with the definition of "financial activities" in the FATF Methodology; 3) Financial institutions should be required to undertake full CDD measures when carrying out occasional transactions that are wire transfers in circumstances covered by the Interpretative Note to SR VII or occasional transactions above the applicable threshold of USD/EUR 15.000; 4) The requirement to undertake CDD measures in cases

	where there is a suspicion of terrorist financing and in cases where there are doubts about the veracity or adequacy of previously obtained customer identification data; 5) The requirement to verify the legal status of legal arrangements like trusts and understand who is (are) the natural person(s) that ultimately owns or control the customer or exercise(s) effective control over a legal arrangement such as a trust; 6) The requirements regarding identification and verification of the beneficial owner for legal persons, including the obligation to determine the natural persons who ultimately own or control the legal person; 7) The obligation to obtain information on the purpose and intended nature of the business relationship; 8) No specific requirement to perform ongoing due diligence on business relationships; 9) Performing enhanced due diligence on higher risk categories of customers, business relationships or transactions; 10) There should be some consideration/assessment made based on which there is a satisfaction about compliance with the Recommendations by countries which are currently seen as compliant without any doubt; 11) There are no general requirements to apply CDD measures to existing customers on the basis of materiality and risk; 12) When regulating the identification and verification of beneficial owners, a requirement to stop the financial institution from opening an account, commence business relations or performing transactions when it is unable to identify the beneficial owner satisfactorily. 13) The requirement to terminate the business relationship and to consider making a suspicious transaction report when identification of the customer cannot be performed properly after the relationship has commenced. 14) Suriname should implement the necessary requirements pertaining to PEPs. 15) With regard to correspondent banking, financial institutions should be required to determine that the respondent institution's AML/CFT controls are adequate and effective, and regarding payable through accounts, to be satisfied that the respondent has performed all normal CDD obligations. 16) Suriname should also implement the necessary

	requirements pertaining non-face to face business relationships or (ongoing) transactions. 17) In addition, steps should be taken to ensue that financial institutions have policies in place or take such measures as may be needed to prevent the misuse of technological developments in ML or TF schemes. 18) The assessment team recommends to include administrative (e.g. fines) or civil sanctions in the AML/CFT framework, which are in practise easier enforceable and in practice more effective than penal provisions.
Third parties and introduced business (R.9)	1) If financial institutions are permitted to rely on third parties or introducers the Surinamese legislation needs to be adjusted accordingly. If financial institutions are not permitted to rely on third parties or introducers for some elements of the CDD process, the law or regulation should specify this
Financial institution secrecy or confidentiality (R.4)	1) The assessment team recommends that the relevant competent authorities in Suriname be given the ability to share locally and internationally, information they require to properly perform their functions.
Record keeping and wire transfer rules (R.10 & SR.VII)	1) There should be a requirement to keep all documents, which record details of transactions carried out by the client in the course of an established business relationship, and a requirement to keep all documents longer than 7 years (if requested to do by an competent authority). 2) There should be a requirement for financial institutions to ensure availability of records to competent authorities in a timely manner. 3) Suriname should issue a law or regulation to implement the requirements of Special Recommendation VII.
Monitoring of transactions and relationships (R.11 & 21)	1) There should be a requirement for financial institutions to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. 2) There should be requirement for financial institutions to examine as far as possible the background and purpose of the transaction and to set forth the findings in writing and to keep these findings available for competent authorities and auditors for at least five years. 3) Suriname should issue a law or regulation to implement

	the requirements of Recommendation 21.
Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	1) The reporting obligation under the MOT Act should cover transactions related to insider trading and market manipulation. 2) The reporting duty needs to be explicitly in the law to include all funds where there are reasonable grounds to suspect or they are suspected to be linked or related to, or to be used for terrorism, for terrorist acts, or by terrorist organizations or those who finance terrorism. 3) The assessment team advises to include in the State Decree on Unusual Transactions the requirement to also report "attempted unusual transactions" 4) The financial institutions that choose to use an UTR-interface for reporting purposes, should be obliged to improve the quality of the UTRs as soon as possible and in such a way that the disclosures contain all information as prescribed by article 12.2. of the MOT Act. 5) The authorities should consider whether the obligation to report unusual transactions "without delay" is sustainable. 6) The FIU and other competent authorities should make an inventory to identify all financial institutions and DNFBPs that have a reporting requirement, reach out to these parties and apply sanctions in case of non-compliance. 7) The FIU and other competent authorities should raise awareness and enhance the sensitivity of all financial institutions and DNFBPs regarding money laundering and terrorist financing risks. 8) Violation of the prohibition against tipping-off should be enforced by sanctions. 9) Suriname should consider the feasibility and utility of implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national central agency with computerized database.
Cross Border declaration or disclosure (SR.IX)	1) The Suriname authorities should decide on the choice between a disclosure or a declaration system for cross-border transportation of currency or bearer negotiable instruments and put in place such system aimed at discovering criminal or terrorist related assets without delay.
Internal controls, compliance, audit and foreign branches (R.15 &	*Recommendation 15* 1) The Surinamese authorities need to ensure that

22)	Recommendation 15 in all its aspects is clearly required by law, regulation or other enforceable means all of which requirements should be capable of being sanctioned. *Recommendation 22* 1) There should be a binding obligation on all financial institutions: i. To pay particular attention to the principle with respect of countries which do not or insufficiently apply FATF Recommendations; ii. Where the minimum AML/CFT requirements of home and host country differ to apply the higher standard to the extent that host country laws permit; iii. To inform the home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures.
Shell banks (R.18)	1) Suriname should review its laws, regulations, and procedures and implement a specific requirement that covers in a formal way, the prohibition on the establishment or continued operation with shell banks. 2) There should a specific enforceable obligation on financial institutions to reassure themselves that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.
The supervisory and oversight system - competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 32 & 25)	*Recommendation 17:* 1) The range of sanctions should be broadened with administrative sanctions for financial institutions, DNFBPs, for directors and senior management of financial institutions, to include the more direct possibility to bar persons from the sector, to be able to more broadly replace or restrict the powers of managers, directors, or controlling owners for AML & CFT breaches. In addition, there should be the possibility to restrict or revoke a license for AML and CFT violations. Recommendation 23: 1) A relevant supervisory authority should be designated as responsible for ensuring the compliance of their supervised financial institutions and DNFBPs with AML/CFT requirements.

	2) There should be a general requirement for money transfer offices and money exchange offices to be licensed or registered. In addition, money transfer offices and money exchange offices should also be made subject to a system for monitoring and ensuring compliance with the AML/CFT requirements. 3) Surinamese authorities should consider regulating and supervising the Stock exchange for AML/CFT purposes. Recommendation 25: 1) The assessment team recommends the CBS to work together with the FIU and the Anti Money Laundering Commission in drafting guidelines for financial institutions (and DNFBPs) that give a description of money laundering and terrorist financing techniques and methods. Recommendation 29 1) The CBS should have the general power to compel production or to obtain access to all records, documents or information relevant to monitoring compliance. 2) The CBS should have the authority to conduct inspections of all relevant financial institutions including on-site inspection to ensure compliance. 3) The supervisor should have adequate powers of enforcement and sanction against financial institutions and their directors or senior management for failure to comply with the AML/CFT requirements
Money value transfer services (SR.VI)	1) A competent authority should be designated to register or licence MTCs and be responsible for ensuring compliance with licensing and/or registration requirements. 2) A system for monitoring MTCs ensuring that they comply with the FATF Recommendations should be implemented. The mission also recommends that the CBS issues the AML/CFT Guidelines to MTCs that indicate circumstances in which a transaction might be considered as "unusual". 3) MTCs should be required to maintain a current list of its agents and sub-agents, which must be made available to the CBS and the Foreign Exchange Commission. 4) The measures set out in the Best Practices Paper for SR.VI should be implemented and Suriname authorities should take FATF R. 17 into account when introducing

	system for monitoring money transfer companies.
4. Preventive Measures –Non-Financial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	1) Suriname should modify the ID law in order for it to cover the full range of CDD measures as set out in the FATF standards 2) Suriname should introduce in the ID law or in another law provisions regarding the supervision of the DNFBPs on their compliance with the identification requirements of the ID law. In doing so Suriname should set out the supervisory instruments and powers, and designate a public entity or government agency tasked with the actual supervision of DNFBPs. 3) Suriname should introduce in the ID law or in another law provisions enabling effective, proportionate and dissuasive sanctioning of non-compliance by DNFBPs with their obligations pursuant to the ID law. More specifically Suriname should consider the introduction of administrative sanctioning of violations of the ID-law by DNFBPs next to the existing general criminal sanctioning provision of article 10 of the ID law. In doing so Suriname should also designate a public entity or government agency tasked with the imposition of the administrative sanctions on non-compliant DNFBPs. 4) Suriname should provide proper, continuous and effective guidance to the DNFBPs on the purpose and compliance with the ID law, in order to raise their awareness of their obligations and responsibilities under the ID law and to facilitate and enhance their compliance. 5) The ID law should contain more specific provisions for the identification of the ultimate beneficiary owners involved in transactions carried out by DNFBPs. DNFBPs should also be required to understand the ownership and control structure of the customers, and to determine who are the natural persons that ultimately own or control the customer. 6) Article 4, first section, of the ID law, which deals with identification of natural persons acting on behalf of a customer, requiring DNFBPs in the process to establish the identity of such a natural person prior to the provision of a financial service, should be modified so as to requiring identity establishment of a natural person acting on behalf of another when providing a service as meant in paragraph d of article 1 of the ID law.

	7) Article 7, second section, of the ID law should be expanded to require other DNFBPs besides currently civil notaries, accountants and lawyers, to record the transaction amount as part of the identification requirements pursuant to article 7 and 3 of the ID law. 8) Suriname should improve its registration system for legal persons, especially for foundations, in order to better enable DNFBPs to better comply with their identification obligations under the ID law. Additionally, measures, including legal ones, should be taken to better enable DNFBPs to identify the ultimate beneficiary owner through the legal persons registration system. 9) Suriname should consider bringing the scope of the ID requirements for casinos, real estate agents, dealers in precious metals, dealers in precious stones, lawyers, civil notaries, accountants and other DNFBPs in accordance with essential criterion 12.1. This means introducing a monetary threshold for casinos, dealers in precious metals and dealers in precious stones, as well as a description of activities for real estate agents, lawyers, civil notaries, accountants and other legal professionals, for activities subject to the identification requirements. 10) Suriname should fully implement the Law on lawyers. In doing so, Suriname might consider to have an order decree pursuant to article 34 of this law enacted with provisions on the identification of clients by lawyers, thereby further strengthening the identification framework for lawyers. Suriname may also consider introducing similar provisions for other professionals such as civil notaries and accountants
Suspicious transaction reporting (R.16)	1) Suriname should address the deficiencies and shortcomings noted in sections 2.5 and 3.7 regarding the functioning of the FIU and the application and enforcement of the provisions of the MOT Act and the Decree Indicators Unusual Transactions, since these are equally applicable to the DNFBPs. These include, but is not limited to, DNFBPs should also be required to understand the ownership and control structure of the customers, and to determine who are the natural persons that ultimately own or control the customer the introduction of adequate compliance supervision provisions in the MOT Act and the introduction of effective, proportionate and dissuasive sanctions in the MOT Act. The latter could be done by introducing administrative sanctions in the MOT Act. 2) More specifically, Suriname should provide adequate and continuous guidance to the DNFBPs in order to reach and

	maintain satisfactory compliance with the MOT Act and the Decree Indicators Unusual Transactions. This guidance should have as one of its primary objectives the prompt and continuous reporting of transactions based on the subjective indicators as well as transactions based on the objective indicators. 3) Suriname should bring the definitions of services by lawyers, civil notaries and other legal professionals in the MOT Act and Decree Indicators Unusual Transactions in line with the circumstances set out in essential criterion 16.1 of the Methodology. While doing so Suriname should also take the legal professional secrecy of lawyers and civil notaries into account. 4) Suriname should consider lowering the threshold amounts mentioned in the relevant objective indicators in order to better reflect the current realities of the Surinamese financial-economic situation, thereby increasing the amount of reports to be received pursuant to these indicators. 5) It should be noted that a significant amount of subjective indicators described in the various categories are very broad and actually do not relate with the typical activities pursued by the relevant DNFBPs. For example, the subjective indicators for legal professionals cover various services which are typically financial services but are not services provided by legal professionals. Reference can be made to sections 7 up to and including 11 of the subjective indicators for legal professionals (category F of article 3 of the Decree Indicators Unusual Transactions). Suriname should address this issue in order to ensure effective reporting based on the subjective indicators.
	1) Suriname should effectively introduce as soon as possible an AML/CFT-based regulation and supervision of casinos in accordance with Recommendation 24. This includes the institution of a regulatory body with adequate powers and operational independence, and invested with sanctions instruments that are effective, proportionate and dissuasive 2) As for lawyers, Suriname should fully implement the Law on Lawyers, a.o. by making the Bar Association operational and providing this entity with all the instruments described in the Law. In doing so, Suriname should consider having the Bar Association issue one or more bar decrees on AML/CFT matters which

	complement and support the current AML/CFT system set out in the ID law and the MOT Act. Suriname should also consider to remove the current ministerial authority set out in article 34 of the Law on Lawyers to annul a bar decree within a given period as this clearly undermines the independent status of the Bar Association. 3) Suriname should consider introducing SRO-style bodies for other (legal) professionals, such as civil notaries, accountants and tax advisors, with mandatory membership and authority to regulate and supervise these professionals. Given the total amount of for example civil notaries (currently 19 against a legal maximum of 20) this does seem quite feasible. 4) Suriname is strongly urged to introduce guidelines for DNFBPs to assist them with the implementation and compliance with their respective AML/CFT requirements.
Other designated non-financial businesses and professions (R.20)	1) Suriname is urged to correct the deficiencies discussed in sections 4.1 and 4.2 of this report which are also present with respect to the real estate agents and car dealers. 2) Suriname should require the transaction amounts to be established as well when real estate agents and car dealers establish the identity of a client pursuant to the ID law. 3) Suriname should also consider lowering the threshold amounts mentioned in Decree Indicators Unusual Transactions in order to improve the amounts of reports received based on the objective indicators. 4) As Suriname has a largely cash-based economy with a fairly large informal component it is encouraged to introduce measures for the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering
5. Legal Persons and Arrangements & Non-Profit Organisations	
Legal Persons – Access to beneficial ownership and control information (R.33)	1) Suriname should take measures to prevent the unlawful use of legal persons in relation to money laundering and terrorist financing. There should be adequate transparency concerning the beneficial ownership and control of legal persons. 2) The first time a foundation, public limited company, co-operative society / association or association is registered,

	the information about the directors is at hand and (most of the time) accurate. However there is no information regarding the (ultimate) beneficial owner and changes in directors or beneficial owners are not communicated with the registrars. Measures should be taken to ensure that the information with the different registrars is accurate and kept up to date. 3) Measures will have to be taken to prevent the misuse of bearer shares for ML.
Legal Arrangements – Access to beneficial ownership and control information (R.34)	
Non-profit organisations (SR.VIII)	1) Suriname should forthwith initiate the accession procedure to the CFT Convention and take the necessary implementation steps. 2) UN Res. 1267 and 1373 should be implemented fully and without delay (see comments above on SRIII).
6. National and International Co-operation	
National co-operation and coordination (R.31 & 32)	
The Conventions and UN Special Resolutions (R.35 & SR.I)	
Mutual Legal Assistance (R.36-38, SR.V, and R.32)	1) In order to enhance the quality and comprehensiveness of its MLA system, the Suriname authorities should endeavour to complete their penal legislation with a speedy introduction of the missing designated predicate offences (insider trading and stock market manipulation) and the offence of terrorism financing, so as to avoid all prohibitions resulting from the dual criminality principle. 2) The narrow and legalistic interpretation of the dual criminality principle should be put to the test and efforts should be made to try and create jurisprudence which would bring the application of this (rightful) principle in line with the broader international standard, which only requires the underlying conduct to be criminalised by both countries. Legal certainty on the capability to execute foreign confiscation orders should be ensured, if necessary through specific legislation.

Extradition (R.39, 37, SR.V & R.32)	1) The deficiencies established in respect of the criminalisation of all designated predicate offences and terrorism financing should be remedied forthwith. Also the restrictive interpretation of the dual criminality principle should be subject to reconsideration.
Other Forms of Co-operation (R.40, SR.V & R.32)	<u>FIU</u> In order for MOT Suriname to legally and fully become a player in the international FIU forum and to comply with the present standards, it is recommended that: 1) The treaty condition should be discarded and replaced by the generally accepted rule of information exchange with its counterparts, based on reciprocity and the Egmont Principles of Information exchange. Ideally such exchange should be allowed on an ad hoc basis or, if deemed necessary, on the basis of a bilateral agreement between FIUs; 2) The Law should expressly allow MOT to collect information outside its register at the request of a counterpart FIU. One simple and adequate way to realise this is to put such foreign request legally at par with a disclosure, which would automatically bring them under the regime of art. 5 and 7 of the MOT Act; 3) The confidentiality status of the exchanged information should be expressly provided for to protect it from undue access or dissemination; 4) The (physical) protection of the MOT data-base and its offices be upgraded; 5) The processing of TF related disclosures should be brought within the assignment of the FIU as soon as possible, which would also increase the chance of MOT acceding to the Egmont Group and its ESW. 6) <u>Supervisor</u> 7) A legal basis should be provided for information exchange between the CBS and counterpart supervisors, by way of MOUs or otherwise.
7. Other Issues	
Other relevant AML/CFT measures or issues	Recommendation 30 and 32.2 1) To substantially increase the human and financial resourcing of the FIU. 2) The CBS should be given additional resources to be allocated for AML/CFT supervision and maintain statistics of the number of on-site inspections conducted

	and sanctions applied. 3) The CBS should consider creating a team of examiners specialising in AML/CFT measures that check financial institutions compliance with AML/CFT on an ongoing basis for all supervised entities. 4) The competent authorities do not keep annual statistics on the number of cases and the amount of property seized and confiscated relating to ML, FT and criminal proceeds. No comprehensive statistics are maintained on the number of cases and the amounts of property seized and confiscated relating to underlying predicate offences. 5) The CBS should keep statistics on formal requests for assistance made or received by law enforcement authorities relating to money laundering or financing terrorism, including whether the request was granted or refused. 6) The authorities should endeavour to maintain more detailed statistics allowing them to assess and monitor the performance of the MLA regime.
General framework – structural issues	

Table 3: Authorities' Response to the Evaluation (if necessary)

Relevant sections and paragraphs	Country Comments

ANNEXES

Annex 1: List of abbreviations

ANNEX 1

Abbreviations

AML	Anti-Money Laundering
CBS	Central Bank of Suriname
CDD	Customer due diligence
CFT	Combating Financing of Terrorism
CPC	Criminal Procedure Code / Penal procedures Code
CTR	Currency Transaction Report
DEA	Drug Enforcement Agency
DNFBP	Designed Non-Financial Business and Professions
FIU	Financial Intelligence Unit
FIU-NL	Financial Intelligence Unit from the Netherlands
FOD	Financiele Onderzoeksdienst/ Financial investigation unit
FOT	Financial Investigation team
FT / TF	Financing of Terrorism
ID law	Identification law / WID act
JAP	Johan Adolf Pengel Luchthaven / International airport
KPS	Suriname Police Force
ML	Money Laundering
MOT	Meldpunt Ongebruikelijke Transacties / Financial Intelligence Unit
MOU	Memorandum of Understanding
MTC	Money Tranfers Companies
NPOs	Non- Profit Organisations
OAS	Organization of American States
OG	Official Gazette / SB
PC	Penal Code
PG	Prosecuter General
PP	Public Prosecutor
RAIO	Rechterlijke Ambtenaren in opleiding / PP's training in judicial work
ROSC	Report On Standards and Codes
SBCSA	Supervision on Banking and Credit System Act
SB	Staatsblad / Official Gazette
SRD	Surinamese Dollar
SRO	Self regulatory Organisation
STR	Suspicious Transactions Report
TOC	Transnational Organized Crime
UN	United Nations
UTR	Unusual Transaction Reports
WID act	Wet Identificatieplicht Dienstverleners / ID law
WMOT	Wet Melding Ongebruikelijke Transacties / MOT act
WSML	Wet Strafbaarstelling Money Laundering / ML act

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