



# 3<sup>rd</sup> Follow-Up Report

## COSTA RICA

May 1, 2010

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## I. Introduction.

1. This report summarizes the analysis prepared by the CFATF Secretariat on the actions informed by the Country to rectify the deficiencies that were identified in its Mutual Evaluation Report adopted in May, 2007. It is based on the information submitted by February 2010, including the Matrix of Progress herein appended, and clarifications made in the course of the ICRG “prima facie” review of the FATF on June 2009.

2. For this analysis the Secretariat accomplished a detailed revision of the legal and regulatory provisions issued by Costa Rica in order to corroborate the preliminary conclusions contained in the reports submitted during the previous Plenary Session on November 2009.

3. Only the recommendations that were assigned the rating NC o PC are subject to the follow up procedure. In case of Costa Rica, 11 of the 16 essential core and key recommendations of GAFI received this rating.

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

4. The country’s ratings were insufficient in 37 of the FATF Recommendations, including 11 of the 16 core and key recommendations.

Partially Compliant (PC)	Non-Compliant (NC)
1. Money laundering offence: Criminalization	6. Politically exposed persons
2. Money laundering offence – mental element and corporate liability	7. Correspondent banking
5. Customer due diligence	8. New technologies and non-face-to-face business
11. Unusual transactions	12. DNFBPs – R.5, 6, 8-11
13. Suspicious transaction reporting	14. Protection and no tipping-off
15. Internal controls, compliance and audit	16. DNFBPs R – R.13-15 & 21
17. Sanctions	20. Other NFBP & secure transaction techniques
18. Shell banks	21. Special attention for higher risk countries
23. Regulation, supervision and monitoring	22. Foreign branches & subsidiaries
25. Guidelines and feedback	24. DNFBPs regulation, supervision and monitoring
29. Supervisors	32. Statistics
30. Resources, integrity and training	33. Legal persons-beneficial owners
35. Conventions	34. Legal arrangements-beneficial owners
36. Mutual legal assistance (MLA)	RE.I Implement UN instruments
38. MLA on confiscation and freezing	RE. 11 (Criminalise terrorist financing)
RE VI AML requirements for money value transfer services	RE.IV Suspicious transaction reporting
RE VII Wire transfer rules	RE.V International Cooperation
RE.VIII Non-profit organisations	RE.IX – Cross border declaration and disclosure

Description of the Financial System (as of July 2009)

		Banks*	Securities	Insurance	TOTAL
<b>Number</b>		17	36	3	53
<b>Assets</b>	US\$	23,047,004,910.25	17,962,728,994.87	2,202,544,376.00	43,212,278,281.12
<b>Deposits</b>	Total: US\$	12,318,477,122.81	None	None	12,318,477,122.81
	Non-residents: US\$ %	78,572,298.25 0.6%	None	None	78,572,298.25
<b>International Links</b>	Foreign-owned:	31% **	1%***	0%***	0.32%
	Subsidiaries abroad	2	None	None	2

\* Not including 32 Savings and Loans institutions with total assets of approx. US\$1,700 millions.

\*\* Percentage of foreign-owned banks is based on assets. In absolute numbers, 9 of the 17 banks are foreign-owned (53%).

\*\*\*In July/09, the only foreign-owned securities brokerage firm was sold to local owners. Also, two new insurance licenses were recently granted to foreign institutions, but they have not started operations.

## II. Summary of progress made since May, 2006

5. The legal and institutional progress made since the assessment visit have are very significant. It is worth noting the following:

- Criminalization of terrorist financing along international standards
- Amendments to the ML offense to include all the required predicate offenses; ten (1) convictions in 2.5 years.
- The granting of powers to the FIU to freeze suspicious assets without a court order – powers which have already been used in practice.
- The creation of a civil forfeiture legal regime and the establishment of a procedure for administrative freezing of assets of UNSCR persons.
- Modification of the legal provision on AML/CFT preventive measures: Law 8204 amended through Law 8719 effective as of March 16, 2009
- .An enhanced regulatory and supervisory framework. New anti-money regulations (“regulations”) issued by the National Council for the Supervision of the Financial System (CONASIF) effective from September 2009 in terms of CDD, PEPs correspondent relations, shell banks, etc. In addition, mid 2010 two additional amendments shall be issued: a) additional amendment of regulations of CONASIF and b) regulation amendment AML/CFT to reflect legal changes introduced in March 2009.

6. The following are actions and advancements informed by Costa Rica and verified in distance by the Secretary of CFATF. This report does not constitute a revision of ratings assigned in the mutual evaluation report since it may only be made through mutual evaluation which includes visit in situ to the country and deeper revision of the effectiveness with which in the practice FATF recommendations are being implemented. However, it is expressly indicated that there are still pending actions and FATF recommendations, the deficiencies of which seem to have been overcome in a degree at least equivalent to one “largely compliant” rating.

## Recommendations 1 and 2. Crime Tipification

- Mostly overcome deficiencies
- Pending, provide statistics on condemnations/sentences of self-laundering cases and laundering derived from crimes different from drug trafficking.

7. Costa Rica approved several pieces of legislation to strengthen its criminal justice system, including Act 8719 de 2009 in force since March 16 2009, which penalizes the financing of terrorism and amends the crime of money laundering. Since then, serious offences are those within the range of penalties of four years or more, thereby increasing the quantity of predicate crimes and covering all 20 categories set by the FATF.

8. Money laundering is being successfully prosecuted as an autonomous condemnation in the past three years (until June 2009)

9. No information was received regarding the report's recommendation to use in the practice employ the current criminal offense of ML in self laundering cases, and in cases where the predicate crime is not linked to drug trafficking.

## Recommendations 5, 6, 7 and 8: DDC

- **Mainly overcome deficiencies (except R.6)**
- **Pending: 1. Issue new AML/CFT Regulation to strengthen the application of changes made through Law 8719 dated March 2009. (Note: the new legal provisions are applicable immediately and sufficiently detailed to overcome deficiencies indicated in the report. However, the regulations shall strengthen application thereof) 2. Issue and amendment to regulations of CONASIF to demand that relations with PEPs have to be approved always by the higher level administration.**

10. Incorporated TF as an element of all the pre-existing preventive measures.

11. The insurance sector is now subject to the AML/CFT regime, and a Superintendent of Insurance was created to oversee compliance (Law 8653, article 54-X). Such Superintendence entered into operation as of the beginning of 2010 and so far it has accomplished inspections. Insurance and credit card companies have established CDD measures and have started to report suspicious operations.

12. Financial institutions are now clearly required to have risk-based parameters and procedures, and to apply enhanced CDD measures to high-risk customers. Non-residents and PEPs are among the criteria mentioned in the regulations (art. 3 and 4 of the Regulations for all financial institutions issued by Consejo Nacional del Supervisión de Sistema Financiero (CONASIF) in September 2009). However, the link of clients considered as PEPs shall not always be approved by the higher management of the financial institution but only when PEP is considered high risk. A new amendment to the regulations, the draft of which was known by the FATF Secretariat shall solve such deficiency.

13. The new Act 8653, in force since August 2008 created a supervisory body for insurance institutions and required the application of all regulations on the prevention of money laundering which already applied to other financial institutions. However, it is too early to have achieved an effective implementation of all recommendations in this sector.

14. With respect to PEPs, the new regulations require the approval for the opening of accounts of all PEPs by senior management of financial institutions (article 3 e) 4, 5 and 9 of the new regulations), thus complying with recommendations of the mutual evaluation report. In addition, the draft of the amendment

that is being prepared to the regulations, regulates the topic of PEPs in a really comprehensive manner (Article 10 of draft known by the Secretariat).

15. Similarly with respect to correspondent accounts the new regulations address the deficiencies identified in the report. The Secretariat acknowledged a draft of additional amendments that shall clarify such obligations.

16. Credit card issuers even if they are not part of a financial group are now subject to the anti money laundering regime.

### **Recommendations 11, 13 and 14: Monitoring and reporting**

- **Mostly overcome deficiencies**

17. The deficiencies in this area are focused on the lack of anti money laundering obligations applicable to the insurance sector and credit card issuers not belonging to financial groups. The new effective legislation makes the preventive regime applicable to these two sectors.

18. Since December 2009 until May 2010 the new enforced/obliged subjects have sent 15 ROS to FIU.

19. In compliance with a recommendation in the report, the FIU is now the direct destination for suspicious transaction reports (previously they were sent through the various supervisory entities).

20. The necessary legal changes were made to give protection to those who, in good faith, comply with the requirement to report a suspicious transaction (law on terrorist financing).

### **Recommendations 12, 16, 20 and 24: APNFD**

- **Partially overcome deficiencies**

- **Pending: 1. Regulate DNFBPs obligations contained in the new law. 2. Evidence ICD capacity to exercise new supervision task of such sectors.**

21. The new law on terrorist financing includes obligations for business such as casinos, buying or selling of automobiles, firearms, precious metals and stones, works of art, jewellery and buying or selling any movable or immovable property. The evaluation report criticized the lack of a government authority responsible for regulating and monitoring money laundering for APNFDs, and this was also addressed by making the Instituto Costarricense sobre Drogas (which includes the FIU) the default regulator and supervisor (article 15-bis of Act 8204). The ICD informed that they are in the process of drafting the appropriate regulations.

22. The regulation is in its last phase of revision with which it will be ready for consultation and further approval through mid 2010.

### **Recommendation 15: Internal Controls**

- **Surpassed deficiencies**

23. In addition to the inclusion of the insurance industry the AML/CFT regime already explained, the authorities have conducted a large training effort to increase the expertise of regulated entities and government officials. The report criticized the lack of preventive obligations in terms of FT, which was overcome with issuance of Law 8719 dated March 16, 2009, above mentioned.

### **Recommendation 17: Sanctions**

- **Surpassed deficiencies**

24. The need for warnings prior to the imposition of sanctions was removed.

25. The value of potential fines for non-compliance was increased by a factor of (20). For example, financial institutions can now be fined up to 2% of their total equity (up from 0.1% before the amendment). The first fine under this new regime was imposed to a bank in April 2009: US\$600,000 for issues of compliance with CDD policies and procedures.

**Recommendation 18: Shell Banks**

- Overcome deficiencies

26. The current regulations at the time of evaluation already contained the requirement (the absence of which was mistakenly criticized in the evaluation report) for financial institutions to review that institutions abroad with which they have business or other relations do not allow their accounts to be used by shell or fictitious banks.

**Recommendation 21 and 22: High Risk Territories and Foreign branches**

- Overcome deficiencies

27. Article 16 of Act 8204 and article 7 of the regulations now cover this issue in detail of the CONASIF regulations.

**Recommendation 23, 24, 29. Regulation and Supervision**

- Mainly overcome deficiencies
- Pending: 1. Improve legal powers to supervise affiliates abroad for DDC. 2. Training AML/CFT supervisors.

28. Assigned supervisory responsibilities for AML/CFT to all the prudentially regulatory agencies, including banking, securities, pensions and insurance (the latter was recently created).

29. In august 2008 a new supervision entity of the insurance sector (SUGESE) was created and started to operate and accomplish inspections on September 2009.

30. The new law granted to Supervisors unrestricted access to information about transactions of domestic institutions with institutions located abroad.

31. Supervision now includes verification of CFT measures.

32. Insurance and credit card institutions are currently subject to AML/CFT regime.

**Recommendations 30 and 32. Resources and Statistics**

- Mainly overcome deficiencies
- Pending: Improve training for officers responsible for supervision.

33. UAF received important resources: For example:

- From 2006 to 2009 UIF passed from 6 analysts to 13 analysts in addition to 10 field investigators and 4 data base analysts without including administrative support personnel.
- FIU passed from having access to only 4 data bases to have access online to 14 public and private data bases.

34. The authorities also evidenced and improvement of the capacity to produce statistics and control or management of the anti-money laundering national system

35. FIU prepared and published statistics for 2007, 2008 and 2009 as well as typologies of cases prepared by such Unit.

**Recommendations 33 and 34. Legal persons – beneficial owners**

- **Overcome deficiency**

36. Currently under the new law, financial institutions are banned from opening or maintaining accounts of any foreign company that issues bearer shares. Concerning local companies, Costa Rica's laws do not provide bearer shares

37. Law 8204 was also amended to expressly provide that trust agreements and similar agreements are subject to AML/CFT regime and the obligation of obtaining, verifying and maintaining the real identity of persons for the benefit of whom a transaction is ordered (art. 16)

**Recommendations 35, 36 and 38. Mutual help and Seizure/Freezing**

- **Mainly overcome deficiencies**
- **Provide statistics that demonstrate an increase in the speed response to the speed to response to requirements**

38. International cooperation was streamlined: the Anti-Drug Institute ICD (which hosts the FIU) remains the focal point for Vienna-Convention related requests. For everything else, the MLA responsibilities formerly divided into Procuraduría and the Foreign Ministry were assigned to the Fiscalía (the Attorney General's Office). Executive Decree 34501-J of 28-03-2008.

39. Costa Rica submitted the following information about international cooperation recently provided.

<b>2008</b>	<b>Given</b>	<b>Pending</b>		<b>2009</b>	<b>Given</b>	<b>Pending</b>
FIU to DEA (US)	20	0		FIU to DEA (US)	5	1
Mutual Legal Assistance (ICD) to El Salvador	1	0		Mutual Legal Assistance (Prosecutor's Office) to other countries	6	3
Mutual Legal Assistance (ICD) to Panamá	1	0		UIF to Italian and Colombian Police (joint)	1	0
UIF to Ministry of Foreign Affairs Peru	1	0		UIF to US Securities and Exchange Commission	2	1
Mutual Legal Assistance Prosecutor's Office to other countries	4	0		UIF to several countries (via EGMONT)	27	14
UIF to other countries (via EGMONT)	48	0		<b>Total 2009</b>	<b>41</b>	<b>19</b>
UIF to US Justice Dept.	3	0				
<b>Total 2008</b>	<b>78</b>	<b>0</b>				

**Special Recommendations against Terrorism, RE. I to IX**

- **Mainly overcome deficiencies**
- **Pending: provide statistics in RTS in terms of financing of terrorism**

40. In March 2009, Costa Rica passed the Law Against Terrorism (Act 8719 of 2009) which criminalized TF and addressed loopholes in Law 8204. (until June 2009)

41. Legal powers were given to the FIU and a procedure was established to administratively freeze the assets of persons from UNSCR lists

42. A Civil forfeiture regime [*capitales emergentes*] was created ("Organized Crime Act" No. 8754, July 22, 2009)

43. The Extradition for TF is now possible, as well as Mutual legal assistance for TF.
44. All the provisions on prevention, control and repression under ALD legislation are applicable in the fight against financing of terrorism.
45. As of the issue of Law 8719 FIU has received 5 ROS related with possible financing of terrorist groups.

**Other improvements:**

46. **Freezing and Civil Forfeiture:** Enacted the “Organized Crime Act” No. 8754 (July 22, 2009) which creates a civil procedure to forfeit the assets of any person that is unable to demonstrate, under a reversal of the burden of proof, that the origin of those assets is legal.
47. Also, by Act 8719 of 2009 the FIU was given the power to administratively freeze assets or accounts that are subject to investigation, without a prior Court order (judicial confirmation must be obtained ex-post). The mechanism has already been used in money laundering cases (article 86 of Act 8202 of 2001, as amended by Act 8719 of 2009). As previously informed this legislation also includes a procedure to administratively freeze any assets of persons listed in the UNSC Resolutions (art. 33 of Act 8204, as amended).
48. **Strengthening of the FIU:** Broadened the scope of the FIU's mandate to include TF. The resources of the FIU have also been significantly improved.

**III. Conclusion**

49. Costa Rica has attained significant advances in practically all areas identified as deficient in accordance with the mutual evaluation report. These advancements are reflected in new legal provisions which have been effective for over a year, both in criminal and financial matters. Likewise, new regulations have been issued for the enforced subjects, an authority to supervise the insurance sector was created and FIU resources were extended. The Regulation amendment of AML/CFT Law has not yet been issued but it is expected to be issued on mid 2010 and in all events the law generates immediate and sufficient obligations to overcome deficiencies. Lastly, the system is generating RTS investigations forfeitures and condemnations,
50. This leads allows to conclude that the country has attained to overcome most of the deficiencies identified in the report and shall continue given in an improvement process. Specifically with respect to 11 key and essential recommendations rated deficient, Costa Rica has modified the laws, regulations and instructions (norms) that have been applicable for over one year and which surpass deficiencies identified in the mutual evaluation report.
51. It is recommended then to suspend the follow-up process to Costa Rica and replace it for a biannual update the first of which shall be the Plenary Session of May 2012.

**COSTA RICA**

Matrix of ratings and actions as of October 2009.

With respect to Mutual Evaluation Report approved in May 2007. Third Round of Mutual Evaluations

<b>FATF 40 Rec.</b>	<b>Rating</b>	<b>Factors underlying rating</b>	<b>Actions Informed by Country in 2009</b>	<b>Progress 2010</b>
<b>Legal Systems</b>				
1. ML offence	PC	<p>1. The offence is not being effectively dealt with since in the great majority of cases only the predicate offence is prosecuted and there are very few verdicts handed down for money laundering</p> <p>2. Costa Rican law covers only 7 of the 20 categories of offences laid down in the glossary of the FATF 40 Recommendations</p>	<ul style="list-style-type: none"> <li>• Law No. 8719, of March 16th, 2009, establishes as a serious crime (predicate of Legitimation) any whose range of penalties establishes a sanction of 4 years or more,</li> <li>• This increases the quantity of predicate offences for money laundering from 16 to more than 60. Fulfilling the more than 20 categories established by the FATF</li> <li>• In the last 3 years more than 10 conviction judicial sentences have been passed for the crime of Legitimation of Assets.</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications of 2009 advancement</li> </ul>
2. ML offense–mental element and corporate liability	PC	<p>1. The criminal law is not being effectively enforced. There are no civil or administrative penalties applied to legal persons for money laundering.</p>	<ul style="list-style-type: none"> <li>• This past April, administratively, the first Bank was fined for failing to comply with the Law against Legitimation of Assets. The fine amounted to a USD \$600 thousand dollars for non compliance with the Know Your Customer policy.</li> <li>• The law was modified so that the administrative sanctions could be applied without previous warning.</li> <li>• The amount or quantity of the sanctions established for this type of noncompliances was increased 20 times.</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications of 2009 advancement</li> </ul>
5. Customer due diligence	PC	<p>2. There financial activities such as insurance that are not supervised by any</p>	<ul style="list-style-type: none"> <li>• Through Law No. 8653, Law for the Regulation of the Insurance Market, the</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications of 2009 advancement</li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
		<p>of the Superintendencies. In addition, there are credit card issuing companies that do not belong to financial groups and are also, therefore, not supervised. As a result they are not activities or persons required to comply with the obligations imposed by Act 8204, its Regulations and the Rules for compliance with it.</p> <p>3. There are no regulations related to prevention or repression of financing of terrorism.</p> <p>4. The Superintendency General of Financial Institutions cannot verify compliance with Customer Due Diligence in off-shore banks operating in Costa Rica, since there are rules that prevent it being done directly.</p> <p>5. Non-compliant with FATF criteria requiring regulated entities to apply more in-depth due diligence to high-risk categories of customers or transactions.</p> <p>6. No systematic procedure for updating customer profiles has been established, and it could happen that financial institutions update the information following strict study, analysis and assessment of present customer profiles, without establishing any system of minimum periodic updates.</p>	<p>General Insurance Superintendency (Superintendencia General de Seguros) was created and it established the regulation for the prevention and repression of the legitimization of assets in this sector (See Law 8653, article 54, transitory X)</p> <ul style="list-style-type: none"> <li>• Law No. 8719 establishes that the insurance market under the supervision of the respective Superintendency, will be subject to AML/CFT law,</li> <li>• Law No. 8719 of March 16th, 2009, Law for the Strengthening of the Legislation against Terrorism, determines that parameters should be established for assessing the client's risk.</li> <li>• The updating of the client's information is contemplated in article No. 167 of Law No. 8204, furthermore the Executive Rule to this law establishes in its Article 33 that in reference to the monitoring process, the clients' transactional profiles should be updated as a result of a previous analysis and evaluation of their current profiles.</li> <li>• Article 14 of Law No. 8204, grants the legal authority to the General Superintendency of Financial Entities to supervise financial transactions made by banks or financial entities domiciled abroad and carried out through financial institutions domiciled in Costa Rica.</li> <li>• During the last few years and due to the</li> </ul>	

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
			<p>regulations that have been applied, the financial institutions in Costa Rica have closed their Off Shore entities to the point where of the 10 existing Off Shore entities in 2006 only 2 are actually functioning.</p> <ul style="list-style-type: none"> <li>The financial institutions are prohibited from maintaining or opening accounts to legal persons with bearer shares. Neither to foreign legal persons with their capital represented through shares or stock holdings whose physical holders or owners cannot be clearly identified.</li> <li>With regards to Credit Card Issuers that are not part of a financial group, Law No. 8719, under Article 15bis, established the obligation of these institutions to comply with Law No. 8204. To this effect the established administrative sanctions under Article 81 for non-compliance with this law will be applicable to these entities too.</li> </ul>	
6. Politically exposed persons	PC	<p>1. There are no rules or regulations requiring financial institutions to comply with the essential criteria of this Recommendation, and in particular to obtain approval of senior management to set up business relations with a PEP or to continue such relations, or to establish procedures for determining the source of wealth and the funds of customers or beneficial owners who may be PEP's.</p> <p>2. Insurance companies do not apply</p>	<ul style="list-style-type: none"> <li>Article 9 of the rule for the fulfillment of Law No. 8204, develops the subjects of the PEPs, defining who is to be considered a PEP, also establishing the responsibility of identifying the accounts of the PEPs and assess the risk it represents with the purpose of adopting appropriate measures and defining if they are considered high risk; this process must be documented. If a person is considered a PEP there must also be an</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications of 2009 advancement</li> <li>Currently under approval process by regulators there is a new regulation that shall reinforce the existing one.</li> <li>Likewise the Regulation of Law 8204 and its amendment Law 8719 is on its last stage of preparation also contemplating the PEPs topic.</li> <li><b>Regulation under approval</b></li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
		any rules for identifying a PEP.	<p>evaluation in order to determine if his/her spouse or persons with whom he/she is related to by kin or by affinity up to the second grade, as well as the companies with which the publicly exposed person has financial or ownership ties or acts as their director, executive or as its legal representative are considered high risk or not.</p> <ul style="list-style-type: none"> <li>• If a PEP is considered high risk, then they must also seek the approval of their Senior Management to be able to establish business relations with those clients as indicated in Article 5 of the Rule for the Fulfillment of Law No. 8204.</li> </ul>	<p><i>Article 10 Politically exposed persons</i>  <i>Politically exposed persons PEPs are those who develop or have developed public tasks highlighted in the country or in a foreign country such as, without limitation, Ministers, Viceministers, members of Board of Directors, executive presidents, treasury heads, persons that have been elected popularly, high hierarchy military members, state entities high executives, important members of political parties.</i></p> <p><i>For the spouse and persons with which PEPs keep kingship due to consanguinity or affinity up to second grade as well as for corporations that have shareholding links or positions as director executive or attorney in fact or who maintain accounts products or services within the entity must be considered risks similar to those determined for PEPs.</i></p> <p><i>The controlled subject must establish the documentation policy for the identification of PEPs considering the above provisions.</i></p> <p><i>To establish commercial relation with its clients express approval from general management must be obtained. Likewise, whenever a client has been accepted and further determined that the client or beneficial owner of an account is or becomes PEPs controlled subject must have approval of general management to continue with the</i></p>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
				<p><i>commercial relation.</i></p> <ul style="list-style-type: none"> <li>• <b>Regulation in progress</b></li> </ul> <p><i>Article 23 – Relation with Politically Exposed Persons (PEPS) Subject and institutions supervised must apply reinforced due diligence whenever dealing with clients which are considered politically exposed whether local or foreign.</i></p> <p><i>Term during which PEP shall be considered covers all the term and ten further years to the finalization of tasks.</i></p> <p><i>In case of presidents or chiefs of state they shall be considered as PEPs indefinitely</i></p>
<p>7. Correspondent banking</p>	<p>NC</p>	<p>1. There are no rules to enable financial institutions to compile sufficient information on the institutions with which they maintain correspondent relations, nor to evaluate their AML/CFT controls and determine whether these are adequate and effective, or to obtain the approval of senior management before opening new correspondent relationships.</p> <p>2. Nor are there regulations to require correspondent banks to provide information on their customers to Costa Rican financial institutions on request.</p> <p>.</p>	<ul style="list-style-type: none"> <li>• Article 21 of the Executive Rule of Law No. 8204 prohibits the regulated institutions by this law to maintain direct or indirect relations with institutions that possess the same characteristics of a Shell Bank (Banco Pantalla). This creates an obligation to the regulated institutions of carrying out a due diligence process over all its correspondent relationships.</li> <li>• Article 37 of the Rule of Law No.8204 establishes the controls the financial institutions must have in their correspondent relationships. According to the international standards and the recommendations of the FATF (see the attached rule).</li> </ul>	<ul style="list-style-type: none"> <li>• Complied</li> <li>• New texts shall read:</li> <li>• Regulation</li> </ul> <p><i>Article 24. Correspondent banks abroad Institutions or subjects regulated in Articles 14, 15, 15bis of Law 8204 are banned from maintaining direct or indirect relations with institutions that meet characteristics of a fictitious bank or shell bank.</i></p> <p><i>Regulation:</i></p> <p><i>Article 36: Shell bank</i></p> <p><i>Controlled subject that establish commercial relations of business or correspondent relations with financial institutions in other countries must ensure that such foreign entities do not allow the accounts to be used by fictitious or shell banks.</i></p> <p><i>Documents that back the revision of the above</i></p>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
				<p><i>must be available for purposes of supervision.</i></p> <p><i>Article 37 Correspondent relations</i>  <i>Fiscalized subjects that establish correspondent relations must periodically value should the counterparties adjust to minimum international standards on anti-money laundering and combat against terrorism controls established by the financial action group GAFI. At least it shall be verified that the counterparty is subject to supervision of the regulating entity of the origin country as well as value information contained in international entities reports issued for the country in the matter of capital legalization and against financing of terrorism. In the cases in which it is deemed necessary counterparty may be requested legal and administrative instruments or reports related with the controls that are applied in the country of origin of the correspondent or that who has adopted such entity.</i></p> <p><i>Should transactions with correspondents have taken place that as of the accomplished valuation do not comply with minimum international standards on anti-money laundering the fiscalized subject must value the degree of risk that may be assumed for the use of such correspondent determine should the situation affects the classification of risk of clients that use it and if necessary consider the finalization or not of the relation with such</i></p>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
				<p><i>correspondent.</i></p> <p><i>Fiscalized subject must have policies and procedures for the compliance herein stated and document accomplished limitations and management. Board of Directors or entity equivalent of the controlled subject must submit acceptance and modifications of the correspondent relations.</i></p>
8. New technologies & non face-to-face business	NC	<p>1. There are no rules covering the proposals of Recommendation 8, and requiring financial institutions to take steps to give special attention to the threats posed by new technologies that permit anonymity.</p> <p>2. The insurance industry does not apply AML/AFT procedures to prevent the improper use of new technologies in money laundering schemes and financing of terrorism.</p>	<ul style="list-style-type: none"> <li>Article 5 of the Rule of Law No. 8204 establishes that in order to provide services through Internet the client must always have physical contact with the officials of the providing financial institutions with the purpose of complying with the required identification of the client.</li> </ul>	<ul style="list-style-type: none"> <li>Change for article 6 (Regulation) For the provision of services (including Internet service) clients shall always physically appear before authorized personnel of the fiscalized subject to submit all information required for the opening of the account of the provision of the relevant service in order to guarantee the application of the policy of knowing clients in all of its scope</li> </ul>
11. Unusual transactions	PC	<p>i. There are financial activities not required to comply with anti-money laundering laws and regulations, such as insurance. These are not therefore required to pay particular attention to all complex, unusual or large transactions, or patterns of transactions with no apparent or visible economic or legal basis, or to examine and analyse them and keep the relevant documentation at the disposal of the authorities.</p>	<ul style="list-style-type: none"> <li>See response to recommendation 5, such deficiencies were rectified by means of the enactment of Law No. 8719 of March 16th, 2009</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications of 2009 advancement</li> <li></li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
12. 12. DNFBP–R.5, 6, 8-11	NC	i. The DNFBPs have implemented none of the CDD requirements set out in this Recommendation.	<ul style="list-style-type: none"> <li>• Law No. 8719 defined the Costa Rican Drugs Institute (Instituto Costarricense sobre Drogas) as the entity responsible for the supervision and control of the DNFBPs</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications of 2009 advancement</li> <li>• The new regulation contemplates 13 articles referring to acknowledged DNFBPs as obliged subjects by Article 15bis</li> </ul>
13. Suspicious transaction reporting	PC	<p>i. In the sector comprising insurance companies and credit card issuers that are not part of financial groups and are therefore not supervised, there is no Suspicious Transactions Reporting requirement.</p> <p>v. There is no requirement to report operations related to the financing of terrorism</p>	<ul style="list-style-type: none"> <li>• See response to recommendation 5, such deficiencies were rectified by means of the enactment of Law No. 8719 of March 16th, 2009. They are obliged to report any suspicious transactions according to Article 25 of Law No. 8204.</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications of 2009 advancement</li> </ul>
14. Protection & no tipping-off	NC	<p>1. It is not clear that there is provision for protection of financial institutions, their managers, officers and employees from criminal and civil liability for the Suspicious Transactions Reports that must be submitted to the respective Superintendencies, and are made without the necessary existence of formal notification of an investigation or of criminal legal proceedings, or of denunciation entered by any body.</p> <p>2. There is no express regulation forbidding managers, officers or employees, permanent or temporary, of a financial institution to disclose that a Suspicious Transaction Report has been</p>	<ul style="list-style-type: none"> <li>• Article 25 of Law No. 8204 establishes a secure harbour for the financial institutions, its directors, officials and employees that acting in good faith, make the respective suspicious transaction reports.</li> <li>• As for Article 18 of the same law, it establishes that the regulated institutions are not allowed to make known to or inform any person of the fact that information has been provided to a supervisory or auditing authority.</li> <li>• Article 81 section b) literal 5, establishes the administrative sanctions for non-compliance with Article 18.</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indicated in 2009 and advancement</li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
		made.		
15. Internal controls, compliance & audit	PC	<p>1. There are rules requiring the supervised institutions to appoint Compliance Officers and indicate their position within the institution; standards, policies, procedures and internal controls for preventing money laundering have been developed, but there is no regulation concerning financing of terrorism.</p> <p>2. There are financial institutions such as insurance companies that are not under supervision.</p>	<ul style="list-style-type: none"> <li>See response to recommendation 5, such deficiencies were rectified by means of the enactment of Law No. 8719 of March 16th, 2009.</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications of 2009 advancement</li> </ul>
16. DNFBP–R.13-15 & 21	NC	<p>A) DNFBPs are not required to report any unusual or suspicious operation or transaction of a customer to a self-regulatory body or the Financial Analysis Unit (FAU).</p> <p>B) No provisions were discovered requiring particular attention to be paid to relationships with and transactions performed by persons residing in countries which do not comply with the FATF recommendations</p>	<ul style="list-style-type: none"> <li>See Article 15bis and 81 of Law No. 8204 (modified by Law No. 8719 of March 16th, 2009).</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications of 2009 advancement</li> </ul>
17. Sanctions	PC	1. No effective administrative sanctions for regulated institutions that fail to comply with AML/CFT (without	<ul style="list-style-type: none"> <li>See response to recommendation 2.</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications of 2009 advancement</li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
		warnings		
18. Shell banks	PC	<p>1. There are no regulations requiring financial institutions to make sure that the financial institutions in other countries with which they maintain commercial or business or correspondent relationships do not allow their accounts to be used by shell banks.</p> <p>2. The procedure used by the Superintendency General of Financial Institutions is not adequate to ensure that institutions do not have relationships with shell banks.</p>	<ul style="list-style-type: none"> <li>• See response to recommendation 7.</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications of 2009 advancement</li> </ul>
20. Other NFPB & secure transaction techniques	PC	<p>1. The country has not considered applying Recommendations: 5, 6, 8-11, 13-15, 17 and 21 to designated businesses and professions that are not financial, and there is therefore a risk of their being used for money laundering and terrorist financing.</p> <p>2. The banks and other financial businesses in Costa Rica are developing of their own accord initiatives (credit cards, ATM machines) for conducting financial transactions that are less vulnerable to money laundering. However, the country has not taken steps to promote the development and use of modern secure techniques to perform financial transactions that are less</p>	<ul style="list-style-type: none"> <li>• See Article 15bis and 81 of Law No. 8204 (modified by Law No. 8719 of March 16th, 2009).</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications of 2009 advancement</li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
		vulnerable to money laundering. 3. In addition, there are activities that may be at risk of being improperly used for money laundering and financing of terrorism, such as pawnbrokers, betting shops, auction houses, investment advisors, etc.		
21. Special attention for higher risk countries	NC	A) There are no rules requiring financial institutions to pay particular attention to relationships with persons in countries that do not apply the FATF Recommendations. B) There are no rules to ensure that the financial institutions are informed of concerns about the weaknesses in the AML/CFT systems of other countries. C) There are no counter-measures for countries that do not apply the FATF Recommendation, or apply them to an insufficient degree.	<ul style="list-style-type: none"> <li>Article 4 of the Rule of Law No. 8204 establishes that the financial institutions must establish risk classification systems of their clients that consider 20 criteria, among which is their nationality. This situation obliges the regulated entities to use the international standards to assign the corresponding weight to these valuation criteria, being the FATF standards the ones of most relevance.</li> </ul>	<ul style="list-style-type: none"> <li>New text</li> <li>Regulation</li> </ul> <p>Article 5. Criteria or variables for the analysis and description of the client risk profile. In the analysis and description of the risk profile of each client, controlled subjects must take into account the following criteria or variables:</p> <ol style="list-style-type: none"> <li>Nationality</li> <li>Country of origin (country of birth or country of constitution)</li> <li>Country of domicile</li> <li>Profession or occupation</li> <li>Geographic area of business activities of client including localization of counterparts with which it accomplishes transactions and makes business if linked with countries considered high risk according to recommendations of CFATF, International Monetary Funds, World Bank, Financial Action Group among other.</li> </ol> <p>....</p>
22. Foreign	NC	1. There are no laws, regulations or	<ul style="list-style-type: none"> <li>See Item 6 of response to</li> </ul>	<ul style="list-style-type: none"> <li>Throughout the latest years and as of</li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
branches & subsidiaries		standards requiring Costa Rican financial institutions to ensure that their branches and subsidiaries abroad comply with AML/CFT measures in accordance with the FATF Recommendations and the laws of Costa Rica, or that they should apply the highest standard when there are differences between Costa Rican laws and the laws of the host country, or that they must inform the country when a branch or subsidiary abroad is unable to comply with ALM/CFT measures because this is prohibited by the local laws, regulations and other measures of the host country.	recommendation 5.	regulations that have been applied financial institutions in Costa Rica have closed their off shore offices up to a point that from 10 existing offices in 2006 only 2 are currently maintained.
23. Regulation, supervision and monitoring	PC	<p>i. The Procurador General de la República has ruled that the supervisory agency has no access to information on foreign-based institutions.</p> <p>ii. There is no legislation on financing of terrorism, and therefore the Superintendencies carry out no assessment of compliance in this area.</p> <p>iii. Insurance companies and institutions such as credit card issuers are not required to comply with money laundering regulations, nor are they supervised by any of the Superintendencies in this area.</p>	<ul style="list-style-type: none"> <li>• See response to recommendation 5 on insurance, credit cards, off shore banking, which are duly regulated.</li> <li>• See Article 69bis of Law No. 8204, included through Law No. 8719, enacted on March 16th, 2009, in which terrorist financing is typified.</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications of 2009 advancement</li> </ul>
24. DNFBP - regulation,	NC	1. Costa Rica has not designated a competent authority to regulate and	<ul style="list-style-type: none"> <li>• See Article 15bis and 81 of Law No. 8204 (modified by Law No. 8719 of March</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications of 2009 advancement</li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
supervision and monitoring		<p>supervise AML/CFT systems of physical and virtual casinos.</p> <p>2. No evidence was discovered of controls for determining whether any of the shareholders, directors or managers of casinos are connected with ML or FT activities.</p>	<p>16th, 2009), which regulates those activities.</p>	
25. Guidelines & Feedback	PC	<p>1. There is no established procedure for adequate feedback to the supervised institutions.</p> <p>2. Insurance companies and institutions such as credit card issuers are not required to comply with the guidelines set out in the Rules for compliance with Act 8204.</p> <p>3. Since DNFBNs are not supervised in this area by any authority, they are not required to report to any self regulatory body or Financial Analysis Unit (FAU), and therefore there is no feedback.</p>	<ul style="list-style-type: none"> <li>• There is a plan for constant training with all the obliged entities in reference to the prevention and repression of AML/CFT.</li> <li>• See response to recommendation 5 regarding insurance, credit cards, off shore banking, which are duly regulated.</li> <li>• See Article 15bis and 81 of Law No. 8204 (modified by Law No. 8719 of March 16th, 2009), which regulates those activities.</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications of 2009 advancement</li> <li>• FIU has tailored statistics of 2007, 2008 and 2009 as well as typologies on cases prepared with this unit. This information is under graphic edition process for publication on march 2010</li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
29. Supervisors	PC	<p>2. There are no laws, rules or standards requiring Costa Rican financial institutions to ensure that their branches and subsidiaries abroad comply with AML/CFT measures.</p> <p>3. Supervisory agencies cannot request, from entities based abroad and carrying out operations through local banks, information on customers, or verify compliance with Costa Rican and regulations.</p>	<ul style="list-style-type: none"> <li>• See response to recommendation 5 regarding insurance, credit cards, off shore banking, which are duly authorized.</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications of 2009 advancement</li> </ul>
30. Resources, integrity and training	PC	<p>1. The FAU doest have sufficient staff and technical resources.</p> <p>2. It does not have enough physical space to do its work.</p> <p>3. Law enforcement authorities need financial, technical and human resources, including training, for their anti-money laundering and anti- terrorist financing work.</p> <p>4. Staff of the supervisory agencies should receive ongoing and more in-depth training on products, operations and services offered by the supervised entities, to prevent money laundering and financing of terrorism in them.</p>	<ul style="list-style-type: none"> <li>• Since May of the year 2007 the FIU moved</li> <li>• to another building and is presently located on the 3rd floor of the Costa Rican Drugs Institute (Instituto Costarricense sobre Drogas) the Forensic Auditors of the FIU have been equipped with new computer equipment and the latest technology. New servers were acquired, a new float of motor vehicles, they currently have 28 new officials that mainly carry out activities of Forensic Auditing as well as field investigation and analyst activities.</li> <li>• Presently there is a budget that has grown over 40% from the budget of the year 2007.</li> <li>• Computer equipment: servers, desktop computers and laptops, protection systems (Fire walls) Antivirus, and protection against hacking.</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications of 2009 advancement</li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
			<ul style="list-style-type: none"> <li>• Customized computer software to control and monitor cases.</li> <li>• Systems of Analysis and case relating Analyst’s Notebook (i2), Licensing of the Suite of Office Software (SoftWare Ofimática) and Operating Systems. (Investment of US\$150.000.00).</li> <li>• Additionally Law No. 8719 assigns to the FIU at least 20% of the funds generated by the imposition of the administrative sanctions established in Article 81 of Law No. 8204, also Article 35 of said law establishes that the omission or partial declaration of income or expenditure in cash or securities valued over US\$10,000.00 will bring the objective responsibility and the immediate loss of the values in favor of the Costa Rican Drugs Institute (Instituto Costarricense sobre Drogas) which will assign a percentage to the FIU according to Articles 85 and 87 of the said law.</li> </ul>	

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
32. Statistics	NC	<p>1. The competent authorities do not keep statistics on investigations and verdicts relating to money laundering sufficiently ample, updated and organized to enable them to carry out periodic reviews of the effectiveness of their AML/CFT systems.</p> <p>2. Although the Costa Rican authorities provided statistics on goods derived from drug trafficking that had been frozen and forfeited, no specific figures were provided on money and goods derived from money laundering that had been frozen or forfeited.</p> <p>3. The Mission was unable to obtain from the FAU statistics indicating from which institutions suspicious operations reports were received, or which of these reports have led to verdicts in money laundering cases.</p> <p>4. The insurance market and entities such as credit card issuers are not regulated, and it was therefore not possible to assess prevention procedures, since they do not exist. Nor are there any statistics on ML or FT in these sectors.</p> <p>5. Statistics provided do not indicate national cooperation provided by the different law enforcement agencies.</p> <p>6. The FAU and the law enforcement authorities do not keep statistics on national cooperation received and provided, including information on whether they were denied or accepted,</p>	<ul style="list-style-type: none"> <li>• There are judicial statistics available from investigations, as well as reports from the Superintendencies to determine the corresponding statistics.</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications of 2009 advancement</li> <li>• FIU has tailored statistics of 2007, 2008 and 2009 as well as typologies on cases prepared by this unit; this information is in process of graphic edition for publication in March 2010.</li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
		<p>and the time taken to respond.</p> <p>7. Costa Rica (the Ministerio Público) does not keep statistics of mutual legal assistance requests.</p> <p>8. Statistics on requests for active extradition; requests rejected; requests by geographical area; crimes for which extradition was sought; response time, etc. are not kept.</p>		

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
33. Legal persons–beneficial owners	NC	<p>1. Legal persons do not update information on their shareholders (the country has taken no adequate steps in this regard, nor is it mandatory).</p> <p>2. The information in the National Register of shareholders is not updated. This results in registration that is not transparent or adequate regarding beneficial ownership and control of legal persons.</p> <p>3. In the case of a court order, the information in the shareholders Register kept by each legal person is not accurate, reliable or up to date.</p>	<ul style="list-style-type: none"> <li>• See Article 16 of Law No. 8204 sections C and F which require the duly identification of the physical or legal persons on whose benefit an account is opened or a service is required. It is prohibited for the financial institutions to maintain or open accounts of legal persons with bearer shares. This also applies to the opening or maintenance of accounts of foreign legal persons with their capital represented through shares or stock holdings whose physical holders or owners cannot be clearly identified. With this provisions this recommendation is fully complied with.</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indications in 2009 advancement</li> <li>• New tests</li> <li>• Regulation</li> </ul> <p>Article 21. Verification. Upon starting a new commercial relation with new clients catalogued as high risk or in cases when there is doubt of the existence of business, institutions or enforced subjects must carry out a visual verification and material confirmation of the activity generating the funds in order to evidence real existence and capacity to produce goods or provide services. Such management must be evidenced in the client’s file</p> <p>In case of legal persons whether national or foreign, the entity must obtain through notary public or registry certificate that updated identification data of legal representatives as well as the corporate capital composition until reaching the owner physical persons of the capital. For foreign legal persons such certificate must comply with legal requirements for the formalization of foreign documents.</p> <p>Such certificate must not exceed three month of issue upon the start of the commercial relation with the enforced subject</p> <p>Regulation Article 7 (...)</p>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
				<p>Certification extended by a Notary Public recorded on shareholding book with a term not exceeding three months upon relation or should during the update process it is considered necessary detailing the name of the shareholders and shareholding interest for those who have more than 10 percent of the shares or in absence thereof majority shareholder.</p> <p>In case that the partners be legal persons with a share equal or exceeding ten percent of the corporate capital information on all the partners that appear in the ownership structure must be provided until the final level of the physical person (as minimum request information required on paragraph c to l of the physical person)</p> <p>Excluded from this requirement whenever the legal person of partners be a public or government institution or financial entity subject to the regulations of CONASIF in terms of capital legalization and terrorism financing and intergovernmental entity or companies, the total shares of which are listed in a foreign or national organized market, for those companies that are listed only for part of their corporate capital in an organized market that own more than 10% of the shares that are not quoted in an organized market must be identified.</p> <p>For legal persons that are identified as associations, cooperatives, foundations and similar, the controlled subject must request</p>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
				equivalent documents in each case to those requested in this paragraph
34. Legal arrangements – beneficial owners	NC	<p>4. The law is without effect. Registration of beneficial owners and controllers of legal arrangements is not carried out.</p> <p>5. The competent authorities are not able to obtain, or have timely access to, adequate, accurate and up-to-date information on trusts in Costa Rica.</p>	<ul style="list-style-type: none"> <li>• Rectified with the approval of Law No. 8719, Law for the Strengthening of the Legislation against Terrorism.</li> <li>• Article 16 of Law No. 8204 establishes:</li> <li>• Obtain and keep information about the true identity of the persons in whose name an account has been opened or a transaction is made, when there is doubt about whether such clients may not be acting on their own benefit, especially in the case of legal persons that do not carry out any commercial, financial nor industrial operations in the country in which they have their headquarters or domicile.</li> <li>• Maintaining nominative accounts; they will not be able to keep anonymous accounts, coded accounts nor accounts under false or inaccurate names.</li> <li>• Register and verify by irrefutable means the identity, representation, domicile, legal capacity, occupation or the social object of the person, as well as other information about the person's identity whether they are occasional or habitual</li> </ul>	<ul style="list-style-type: none"> <li>• Complied in accordance with indicated in 2009 and advancement</li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
			<p>clients. This information must be documented in a form which must be signed by the client. In the case of legal persons classified as risky, according to parameters established by the National Supervision Counsel (Consejo Nacional de Supervisión), the financial entities must require documents certified by a Notary Public regarding the judicial and extrajudicial representation of the company.</p> <ul style="list-style-type: none"> <li>• Likewise Article 16 of the Rule of Law No. 8204 establishes:</li> <li>• Article 16.- Operations of trust funds or administration of resources. All operations regarding trust funds or administration that involve those related with the acting on behalf of and in the name of a third party for the handling of the management of financial assets, that is, of fixed assets investments such as shares, bonds, certificates of investments and any other type of obligations will be subject to the dispositions of Law No. 8204. Likewise within the margins of that law are included the trust funds or the administration of any hard currency, independently if it is national or foreign, or its representation by titles or negotiable securities in an online account or in any other means that may serve for their</li> </ul>	

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
			<p>identification, transfer or negotiation.</p> <ul style="list-style-type: none"> <li>This obliges the financial institutions to know all the participants in a determined trust fund.</li> </ul>	
35. Conventions	PC	<p>3. The Convention on Financing of Terrorism has not been implemented. Financing of Terrorism has not been criminalized in Costa Rica.</p> <p>4. The Vienna Convention has not been fully implemented, mainly with regard to money laundering and its subsidiary offences. In practice money laundering is not seen as a principal, autonomous and independent offence, in spite of the fact that the criminal law describes it as such. The offence is not being effectively prosecuted, since in the great majority of cases only the predicate offence is prosecuted, and there have been very few verdicts handed down for money laundering.</p>	<ul style="list-style-type: none"> <li>Rectified by the enactment of Law No. 8719, Law for the Strengthening of the Legislation against Terrorism.</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications of 2009 advancement</li> </ul>
36. Mutual legal assistance (MLA)	PC	<p>7. The measures for handling mutual legal assistance requests concerning persons involved in money laundering and financing of terrorism are not clearly defined;</p> <p>8. There is a lack of fixed procedures to streamline and respond effectively to mutual legal assistance requests from other countries.</p>	<ul style="list-style-type: none"> <li>In the year 2004 Costa Rica published Decree No. 31806-MP-RREE, of June 3rd, of the same year, through which it appoints the Cost Rican Drugs Institute (Instituto Costarricense sobre Drogas) as the Central Authority to fulfill all the attributions and obligations imposed by the United Nations Convention Against the Illegal Trafficking in Narcotic Drugs and Psychotropic Substances of 1988, Law No. 7198; specifically the</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications of 2009 advancement</li> </ul>

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			<p>application for reciprocal judicial assistance</p> <ul style="list-style-type: none"> <li>• of Article 7 of the Convention or submit them to the competent authorities for their execution. As for Article 6, the authority in charge in Costa Rica of carrying out extradition processes is the Attorney General’s Office (Procuraduría General de la República) and for Article 17, on the subject of illicit trafficking by sea, the institution in charge is the National Coastguard Service of the Ministry of Public Security (Servicio Nacional de Guardacostas del Ministerio de Seguridad Pública). The Judicial Assistances in accordance with paragraph 7 of the Convention are generally required by the Prosecutor General’s Office of Costa Rica (Fiscalía General de la República de Costa Rica) or by the Central Authorities of other countries that are named in the UNODC. The ICD’s internal procedure regarding the requests does not take more than 3 days, once it has been established that the application possesses all the requirements of the Convention. The entity responsible for this process is the General Director Office of the ICD (Dirección General del ICD) and the Institute’s Legal Counsel (Asesoría Legal del Instituto); who issue a Resolution that is attached to the application for Assistance to be remitted to the interested</li> </ul>	

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
			<p>party. In 2008, 27 applications for Judicial Assistance have been processed half of which have been resolved.</p> <ul style="list-style-type: none"> <li>○ The Palermo Convention (Convención de Palermo): Prosecutor General's Office (Ministerio Público)</li> <li>○ Convention Against the Manufacturing of Arms (Convención contra la Fabricación de Armas), etc: Prosecutor General's Office (Ministerio Público).</li> <li>● This appointment was made on May 2008. As a data reference during the period this central authority has been in force regarding the Palermo Convention (Convención de Palermo), 9 passive and 11 active judicial assistances have been processed.</li> <li>● Furthermore, with the enactment of Law No. 8719 of March 16th, 2009, the implementation of Law No. 8204 is extended to cover the Financing of Terrorism, in international cooperation and further signed agreements by our country, through which such deficiencies are rectified.</li> </ul>	
38. MLA on confiscation and freezing	PC	3. Implementation is not effective owing to the lack of specific standards and/or procedures on the subject.	<ul style="list-style-type: none"> <li>● Rectified by Law No. 8719 which extends the implementation of Law No. 8204 to the crimes related to the Financing of Terrorism. Articles 33, 33bis, and from number 83 to 91 of such law.</li> </ul>	<ul style="list-style-type: none"> <li>● Complied in accordance with indications of 2009 advancement</li> </ul>
SR.I Implement UN	NC	C) The Convention on Financing of Terrorism has not been implemented.	<ul style="list-style-type: none"> <li>● See Law No. 8719, Law for the Strengthening of the Legislation against Terrorism of March 16th, 2009.</li> </ul>	<ul style="list-style-type: none"> <li>● Complied in accordance with indications of 2009 advancement</li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
instruments				
SR.II Criminalize terrorist financing	NC	D) Financing of terrorism is not criminalized	<ul style="list-style-type: none"> <li>Article 69bis of Law No. 8204, modified by Law No. 8719, Law for the Strengthening of the Legislation against Terrorism of March 16th, 2009.</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications of 2009 advancement</li> </ul>
SR.III Freeze and confiscate terrorist assets	NC	E) Costa Rica has no law criminalizing financing of terrorism and as an inescapable result confiscation or freezing of goods used for that purpose is impossible.	<ul style="list-style-type: none"> <li>Article 69bis of Law No. 8204, modified by Law No. 8719, Law for the Strengthening of the Legislation against Terrorism of March 16th, 2009.</li> <li>The freezing of funds is stipulated in Articles 33 and 33 bis of Law No. 8204.</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications of 2009 advancement</li> </ul>
SR.IV Suspicious transaction reporting	NC	f. Supervised entities are not required to submit reports on transactions related to financing of terrorism, since there are no rules on this subject.	<ul style="list-style-type: none"> <li>See Law No. 8719, Law for the Strengthening of the Legislation against Terrorism of March 16th, 2009. Article 25 of Law No. 8204, establishes the obligation to the obliged entities of presenting the corresponding STRs.</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications in 2009 advancement</li> </ul>
SR.V International cooperation	NC	<p>g. The degree of effectiveness of application of measures for handling mutual legal assistance requests concerning persons involved in financing of terrorism or terrorist acts is not clearly defined.</p> <p>i. Under Article 3 (d) of the Extradition Act, a person may not be extradited to another country if he is accused of financing of terrorism, since that is not criminalized in Costa Rica.</p> <p>i. Costa Rica does not have FT criminalized as a serious offence.</p>	<ul style="list-style-type: none"> <li>The crime of Financing Terrorism has already been typified see Article 69bis. Also the terrorism act or the act of financing terrorism could be tried in Costa Rica, regardless the place where the crime was committed.</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications of 2009 advancement</li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
SR.VI AML requirements for money and value transfer services	PC	3. Businesses providing money transfer services have been regulated persons since April 2005, but this provision is just beginning to be implemented and refers only to money laundering and not to financing of terrorism.	<ul style="list-style-type: none"> <li>Rectified by Law No. 8719, Law for the Strengthening of the Legislation against Terrorism.</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications in 2009 advancement</li> </ul>
SR.VII Wire transfer rules	PC	<p>4. Although there is AML legislation that enables institutions to keep information on wire transfers, there is no legislation for prevention and suppression of financing of terrorism, specifically as regards Special Recommendation VII.</p> <p>5. There are no preventative measures to enable batch transfers to be given the necessary attention.</p>	<ul style="list-style-type: none"> <li>Rectified with the enactment of Law No. 8719, Law for the Strengthening of the Legislation against Terrorism.</li> </ul>	<ul style="list-style-type: none"> <li></li> </ul>
SR.VIII Non-profit organizations	PC	1. Insufficient regulation and supervision of non-profit organizations.	<ul style="list-style-type: none"> <li>Article 4 of the Rule of Law No. 8204 establishes that the financial institutions must establish risk classification systems of their clients that consider 20 criteria, among which is their commercial activity. This situation obliges the regulated entities to use the international standards to assign the corresponding weight to these valuation criteria, being the FATF standards the ones of most relevance.</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications in 2009 advancement</li> </ul>
SR.IX Cash Couriers	NC	2. Costa Rica has machinery for detecting the physical transport of cash. This consists in the customs declaration form. However, it does not have effective legislative means of stopping or	<ul style="list-style-type: none"> <li>Article 35 of Law No. 8204 establishes:</li> <li>“Any person, national or foreigner, coming in or going out of the country will be obliged to declare the hard currency or security titles that they may be carrying, if</li> </ul>	<ul style="list-style-type: none"> <li>Complied in accordance with indications in 2009 advancement</li> </ul>

FATF 40 Rec.	Rating	Factors underlying rating	Actions Informed by Country in 2009	Progress 2010
		<p>impounding money suspected of links to financing of terrorism or money laundering.</p> <p>3. Costa Rica did not provide the evaluation team with information sufficient to demonstrate adequately the functional relationship with the FAU in this area, coordination between customs, immigration and other relevant agencies, and international cooperation; or on procedures for combating illegal cross-border transactions, including those involving metals and precious stones. Nor was information provided on record keeping in this area.</p>	<p>the quantity is equal or superior to ten thousand dollars currency of the United States of America (U.S \$10,000.00) or its equivalent in another currency. In declaring the person must use the official forms assigned for that purpose which will be made available to the person by the competent officials of the Customs Administration at the migratory points.</p> <ul style="list-style-type: none"> <li>• Non-compliance whether it be total or partial to that established in the paragraph above will bring about as consequence the objective responsibility and the immediate loss of the money or the values in favor of the Costa Rican Drugs Institute (Instituto Costarricense sobre Drogas) where it will be assigned for the fulfillment of its purposes in accordance with what is established in Articles 85 and 87 of the this Law. The loss will be based on the simple fact of non-compliance with the obliged declaration and will be declared by the Department of Treasury (Ministerio de Hacienda).</li> <li>• The competent Customs Administration officers will be obliged to verify through passport or any other document of identification, the veracity of the personal information stated in the declaration form. The declaration will be written in an affidavit form and the forms will be</li> </ul>	

<b>FATF 40 Rec.</b>	<b>Rating</b>	<b>Factors underlying rating</b>	<b>Actions Informed by Country in 2009</b>	<b>Progress 2010</b>
			<p>remitted to the Costa Rican Drugs Institute (Instituto Costarricense sobre Drogas) for the corresponding analysis. The unjustified non-compliance by the competent officials of the Customs Administration with regards to what has been prescribed in this article will be considered as a grave fault within an administrative process without prejudice of the possible criminal responsibilities.”</p>	