CFATF

GAFIC

CARIBBEAN FINANCIAL
ACTION TASK FORCE

Fourth Follow-Up Report

Trinidad and Tobago

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TRINIDAD AND TOBAGO – FOURTH FOLLOW-UP REPORT

I. Introduction

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

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

Table 1; Ratings of Core and Key Recommendations

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

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

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

Partially Compliant (PC)	**Non-Complaint (NC)**
R. 2(ML offence – mental element and corporate liability)	R. 6 (Politically exposed persons)
R. 11(Unusual transactions)	R. 7 (Correspondent banking)
R. 14 (Protection & no tipping-off)	R. 8 (New technologies & non face-to-face business)
R. 15 (Internal controls, compliance & audit)	R. 9 (Third parties and introducers)
R. 18 (Shell banks)	R. 12 (DNFBP – R.5,6,8-11)
R. 19 (Other forms of reporting)	R. 16(DNFBP – R.13-15 & 21)
R. 30 (Resources, integrity and training)	R. 17 (Sanctions)
R. 31 (National co-operation)	R. 21 (Special attention for higher risk countries)
R. 32 (Statistics)	R.22 (Foreign branches & subsidiaries)

R.33 (Legal persons – beneficial owners)	R. 24 (DNFBP – regulation, supervision and monitoring)
	R. 25 (Guidelines & Feedback)
	R. 29 (Supervisors)
	R. 34 (Legal arrangements – beneficial owners)
	SR. VI (AML requirements for money value transfer services)
	SR. VII (Wire transfer rules)
	SR. VIII (Non-profit organizations)

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

Table 3: Size and integration of Trinidad and Tobago's financial sector
As at March 2010

		Banks	Other Credit Institutions*	Securities	Insurance	TOTAL
Number of institutions	Total #	8	18		33	59
Assets	US$Mn	16,123	2,091		5,436	23,650
Deposits	Total: US$					
	% Non-resident	% of deposits 1.63	1.21		n.a.	
International Links	% Foreign-owned:	% of assets 16.08	% of assets 26.24	% of assets	% of assets 9.98	% of assets
	#Subsidiaries abroad**	11	2		2	15

II. Scope of this Report

5. In Trinidad and Tobago's Second Follow-Up Report, it was noted that enactment of relevant legislation had addressed substantial deficiencies identified in fourteen (14) Core and Key Recommendations (R.1, R.3 – R.5, R.10, R.13, R.26, R. 40, and SR.I – SR.V) and seventeen other Recommendations (R.2, R.6 – R.8, R.11, R.12, R.14, R.15 – R.18, R.20, R.21, R.25, R.32, SR. VI and SR.VII) in Trinidad and Tobago's MER. Substantial deficiencies in one Key Recommendation (R.23,) and nine other Recommendations remained to be addressed.

6. In the Third Follow-Up Report it was reported that measures carried out by the authorities in Trinidad and Tobago appeared focused on initial steps in implementing a supervisory regime for DNFBPs through identifying and registering listed business and developing the Anti-Terrorism Regulations. The FIU had been engaged in providing training and awareness seminars for reporting entities and the SARs reporting system appeared to be increasing its scope. However, there was need for more details with regard to planned action and deadlines particularly with regard to the FIU's regulatory function.

7. It was also noted that developments with proposed legislation i.e the Credit Union Bill and the Securities Bill appeared to have slowed. This is particularly important in relation to supervision for compliance with AML/CFT obligations for credit unions and the securities sector. Additionally, there was need for information on the implementation of AML/CFT supervision for money remitters by the Central Bank. While a confiscation/forfeiture regime with regard to terrorist financing had been legally established, there was need to demonstrate implementation. Based on the foregoing this report will focus on the Recommendations that remain outstanding and to which there have been new developments since the Third Follow-Up Report.

8.

III. Summary of progress made by Trinidad and Tobago

9. Shortly after the mutual evaluation visit of Trinidad and Tobago in June 2005, the Anti-Terrorism Act, 2005 (ATA) was passed on September 13, 2005. In an effort to address some of the major recommended actions made by the examiners, the authorities in Trinidad and Tobago enacted on October 9, 2009 the Proceeds of Crime (Amendment) Act, 2009 (POCAA), the Financial Intelligence Unit of Trinidad and Tobago Act, 2009 (FIUTTA) and the Financial Obligations Regulations, 2009 (FOR). Additionally, the Anti-Terrorism (Amendment) Act, 2010 (ATAA) was enacted on January 21, 2010.

10. Since the Third Follow-Up Report on Trinidad and Tobago, the authorities have enacted the Financial Intelligence Unit of Trinidad and Tobago (Amendment) Act on February 8, 2011, the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011 (FIUTTR) on February 10, 2011 and the Financial Obligations (Financing of Terrorism) Regulations, 2011 (FOFTR).

11. The FIUTTR was enacted to provide specific provisions for the functions of the FIU in particular the collection of financial intelligence and information, the receiving of suspicious transaction/activity reports, the storage of financial intelligence and information, information analysis, feedback and dissemination, periodic reports, supervisory authority and compliance program. The FOFTR was enacted to extend the requirements of the FOR on financial institutions and listed businesses to include the financing of terrorism. Other legislative measures are also being prepared i.e. the Credit Union Bill or are due for debate in Parliament i.e. the Securities Bill. The authorities have been reviewing the organizational structure and staffing needs of certain law enforcement agencies. Statistics have been presented demonstrating the continuing implementation of the suspicious transaction reporting system.

12. The following report presents an analysis of the measures implemented since the Third Follow-Up Report in relation to the relevant outstanding

Core Recommendations

Recommendation 13

13. The situation as indicated in last follow-up report remains the same in relation to the legal provisions. The outstanding requirement is the exclusion of one-off transactions from the suspicious transaction reporting requirement. This was reported in the last follow-up as

being under review by the authorities. With regard to implementation, the following table incorporates the most recent statistics on the number of suspicious activity reports (SARs) submitted to the Financial Intelligence Unit (FIU) since the enactment of the FIUTTA in October 2009.

Table 4: No of SARs submitted to FIU since October 2009

Type of institution	SARs at 3rd Follow-Up Report	SARs since 3rd Follow-Up Report	Total
Banks	49	50	99
Mortgage company	5	8	13
Credit union	1	2	3
Investment company	15	11	26
Securities firm	1	0	1
Money remitter	23	26	49
Insurance Companies	0	7	7
Total	94	104	198

14. The table above shows a 10% increase in the number of suspicious transaction reports submitted to the FIU and the addition of reports from insurance companies. These figures suggests that awareness of AML/CFT obligations is growing. Information on the quality of the suspicious transactions reports that are submitted would be enhance assessment of the reporting regime.

Key Recommendations

Recommendation 3

15. As noted in the Third Follow-Up Report, the outstanding issue under Rec. 3 was the ineffective use of the provision for confiscation under POCA since no confiscation of assets under POCA for ML offence has been reported. The situation remains the same for this report. With regard to the examiners' recommendation for POCA to be amended so that where it is proven that property is obtained from the proceeds of crime it should not be necessary that a person be convicted of a predicate offence in order for the court to make a confiscation order in relation to such property, the authorities have submitted a legal opinion. The opinion noted that the above recommendation would suggest that the absence of civil

forfeiture legislation is a deficiency. However as stated in the opinion, this deficiency is not an essential criterion of Recommendation 3 and therefore cannot be a mandatory requirement. The argument as presented in the opinion is valid in the context of the Methodology. This recommendation is therefore no longer outstanding The authorities had advised in the last follow-up report that there was no civil forfeiture regime in Trinidad and Tobago. However, the utility of implementing a civil forfeiture regime was actively being researched.

Recommendation 23

16. The previous follow-up report indicated that relevant supervisory agencies had been designated only for AML obligations. The authorities had advised that the inclusion of CFT obligations in the above designation will be addressed in the Anti-Terrorism Regulations. Regulation 3(1) of the FOFTR stipulates that the obligations, prohibitions and offences contained in the FOR apply *mutatis mutandis* to a financial institution or a listed business, in relation to the financing of terrorism. Regulation 40 of the FOR details the responsibility of the supervisory authority to include ensuring compliance by the relevant financial institutions and listed businesses with the FOR. As such, the supervisory authorities will now be responsible for ensuring compliance with the obligations prohibitions and offences relating to the financing terrorism. While the application of *mutatis mutandis* effectively provides for inclusion of CFT obligations within the responsibility of the supervisory agencies, the authorities should be mindful that the blanket extension of AML obligations, prohibitions and offences to include financing of terrorism could result in inconsistencies which could affect implementation or form the basis for legal challenge. .

17. The authorities also advise that there is need for regulation 2(1)(a) of the FOR to be amended to allow for the Central Bank to be the designated supervisory authority for money transmission or remittance business. With regard to other examiners' recommendations for the Trinidad and Tobago Securities Exchange Commission (TTSEC) to apply the International Organization of Securities Commissions (IOSCO) Core principles the authorities indicated that the IOSCO Core principles had been included in the Securities Industries Bill which is presently in Parliament due for debate.

18. The examiners' recommendation for measures in the FIA to prevent criminals or their associates from gaining control or significant ownership of financial institutions to be duplicated in relevant legislation governing the supervision of other financial institutions is still largely outstanding. The authorities have advised that section 20 of the Insurance Act requires insurance companies give the Central Bank prior notification of any change in controllers or chief executive officers. Controllers are defined as controlling or significant shareholders owning one-third (1/3) or more of equity in an insurance company or a parent company of an insurance company. Controllers are required to be fit and proper on an ongoing basis and must satisfy Central Bank's requirement in this regard before assuming the role. Similar requirements for the security sector and credit unions are still outstanding.

19. Additionally, AML/CFT supervision of the securities sector and credit unions are dependent on enactment of the Securities Bill which as noted above is due for debate in Parliament and the Credit Union Bill. With regard to money transfer companies and cash couriers being subject to AML/CFT supervision the last report indicated that an appropriate framework for supervision was being developed. At present, the authorities advised that a draft framework for the regulation and supervision of money remitters was issued for comment in February 2011.

Recommendation 26

20. As reported in a previous follow-up report, most of the examiners' recommended measures were met with the enactment of the FIUTTA. These included implementation of a legislative framework with a view to gaining membership to the Egmont Group, introduction of periodic reports by the FIU on its operations and issuing of public reports and strengthening and restructuring of staff of the FIU. With regard to Egmont membership, the authorities advise at present that the FIU is at stage 7 of the membership procedure having been invited to attend as an observer at the Egmont Group Meeting in Aruba on March 14-17, 2011.

21. Concern about the autonomy of the FIU was indicated in the previous follow-up report with regard to employment of staff since final approval appears to rest with the Permanent Secretary of the Ministry of Finance. The authorities have advised that while the budget of the FIU is allocated by the Ministry of Finance, disbursement is at the FIU's discretion. At present the FIU budget is allocated by the Ministry of Finance for the year October 2010 to September 2011 but disbursement of funds is at the discretion of the FIU. While this demonstrates an acceptable level of financial autonomy, it was noted in the last follow-up report that information regarding the employment of staff and the level of autonomy that the FIU can exercise in this area needs to be provided. This is still outstanding.

Other Recommendations

Recommendation 8

22. The previous follow-up report noted that there was partial compliance with the examiners' recommendations. It was noted that, while regulation 23(1) of the FOR does provide for measures to deal with the use of new or developing technologies, it is limited to money laundering and does not include terrorist financing. Additionally, there were no provisions requiring financial institutions to have measures for managing risks including specific and effective customer due diligence (CDD) procedures that apply to non-face to face customers.

23. Regulation 7(1) of the FOFTR extends the requirement of regulation 23(1) of the FOR to include terrorist financing. With regard to the other outstanding recommendation for financial institutions to have measures for managing risks including specific and effective CDD procedures Regulation 23(2) of the FOR requires a financial institution or listed business to put special know-your-customer policies in place to address the specific concerns associated with non-face-to-face business relationships or transactions. It is noted that the examiners' recommendation specified that the above policies and procedures should apply when establishing customer relationships and conducting ongoing due diligence. Regulation 23(2) of the FOR does not include conducting ongoing due diligence. However, the enactment of the above provisions is sufficient to substantially improve the rating of this recommendation to a LC

Recommendation 15

24. The examiners' recommended measures with regard to internal controls, compliance, training and hiring procedures as noted in the last follow-up report were addressed in the FOR except for training in new developments in methods and trends in money laundering and financing of terrorism.

25. Regulation 3(1) of the FOFTR states that the obligations and offences contained in the FOR shall apply mutatis mutandis to a financial institution or a listed business in relation to the financing of terrorism. This effectively extends the requirements for internal controls and other measures under the FOR to the financing of terrorism. Additionally it is noted that regulation 4(1) of the FOFTR requires that directors and members of staff of financial institutions and listed businesses be trained on the subject of the financing of terrorism. Regulation 4(2) of the FOFTR stipulates that training programs should include a study of new developments in methods and trends in terrorist financing and that training should develop the ability to identify funds which may be linked or related to terrorist financing. Finally, training should be continuous to ensure that information and technology available to directors and staff are constantly updated.

26. The above regulations fully comply with the examiners' outstanding recommended measure and would result in a LC level of compliance.

Recommendation 17

27. The previous report noted that the examiners' recommendation for considering the amendment of the provisions for sanctions in the POCA to allow for penalties to be applied jointly or separately was dealt with under section 68(3) of the Interpretation Act which allows for the imposition of the stipulated fines in the penalties in POCA separately on companies.

28. With regard to the other outstanding recommendation for increasing the range of sanctions for AML/CFT non-compliance to include disciplinary sanctions and the power to withdraw, restrict or suspend the financial institution's licence where applicable, the Central Bank's range of sanctions for AML/CFT had been extended for banks and insurance companies under the FIA and the Insurance Amendment Act 2009 respectively.

29. The authorities have advised that section 10 and 12 of the FIA further provides for the Central Bank to issue AML/CFT guidelines and to be able to impose compliance directions or seek restraining orders for breaches of the guidelines. However, it is noted that the Securities Bill 2010 which has provisions to extend the disciplinary sanctions of the TTSEC for AML/CFT non-compliance is still in the legislative process as reported in the last follow-up report.

Recommendation 19

30. The previous follow-up report noted that with regard to the authorities considering the feasibility and utility of a large currency transaction reporting system, the FIU was considering a regime for the systematic reporting of foreign exchange transactions and cash transactions. No further information has been provided on this matter.

31. Another outstanding examiners' recommendation requires the Customs Division on discovery of an unusual international shipment of currency, monetary instruments, precious metals or gems etc, to consider notifying, as appropriate, the Customs Division or other competent authorities of the countries from which the shipment originated and/or to which it is destined, and to co-operate with a view toward establishing the source, destination, and

purpose of such shipment and toward the taking of appropriate action. The authorities advise that the Customs and Excise Division is a member of the World Customs Organization which has developed a global system for gathering data and information for intelligence purposes called the Customs Enforcement Network. As an active member of this network, the Customs and Excise Division regularly posts information concerning unusual international shipment of currency and precious gems, etc to this database as the means of notifying the Customs service from which the shipment originated and/or is destined with a view to taking appropriate action in accordance with each country international obligations.

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32. Additionally as members of the Caribbean Customs Law Enforcement Council (CCLEC) the Customs and Excise Division also regularly update the CCLEC's seizure intelligence database (SID) for the aforementioned purposes, including establishing the source destination and purpose of such shipments. Both databases rely on encryption technology to protect communications and data transfers

33. The authorities advised in the previous report that strict safeguards to ensure the proper use of information in Customs and Excise Division's computerized database of custom declaration forms had been implemented. Some of these measures include encryption technology to protect communication and data transfer and access being limited to only specific officers. While the above measures substantially comply with the examiners' recommended actions information with regard to the one essential criterion concerning the consideration of the feasibility and utility of a large currency transaction reporting system has not been provided.

Recommendation 21

34. As indicated in the previous follow-up report, all the examiners' recommended measures were addressed in POCAA and the FIUTTA except for the requirement for financial institutions to give special attention to business relationships with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF Recommendations. This recommendation remains outstanding.

35. The second follow-up report noted that the recommendation for effective measures to be put in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries was mandated by subsection 17(1)(a) of the FIUTTA requiring the FIU to publish a list of countries identified by the FATF as non-compliant or not sufficiently compliant. The authorities advise that the FIU website currently contains a list of jurisdictions that do not sufficiently comply with the FATF Recommendations.

Recommendation 24

36. With regard to the examiners' recommendation that gaming houses (or private member clubs), pool betting and the national lottery on line betting games should be subject to a comprehensive regulatory and supervisory regime, a previous follow-up report noted that the FIU was designated in the FOR as the competent authority responsible for ensuring compliance by listed businesses which includes DNFBPs, gaming houses (or private member clubs), pool betting and the national lottery on line betting game with only AML obligations.

The authorities had advised that the inclusion of CFT obligations with AML as part of the compliance functions of the FIU as the competent authority for listed businesses will be addressed in the Anti-Terrorism Regulations. This has been discussed under Recommendation 23 in this report where it was noted that supervisory agencies are now responsible under the FOFTR for ensuring compliance of financial institutions and listed businesses with the obligations, prohibitions and offences relating to the financing terrorism

37. Additionally the previous follow-up report noted that the process of identifying and registering listed businesses had begun and was ongoing. It is noted that regulation 28(1) of the FIUTTR requires supervised entities to register with the FIU within three (3) months of the FIUTTR coming into force. The FIUTTR came into force on February 10, 2011. Failure to register according to regulation 28(2) of the FIUTTR is liable on summary conviction to a fine of fifty thousand dollars ($50,000) and a further fine of five thousand dollars ($5,000) for each day that the offence continues.

38. In the previous follow-up report authorities advised that regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a gaming house (or private members club), pool betting and the national lottery on line betting games were to be addressed in the form of guidelines issued by the FIU under Regulations emanating from the FIUTTA. The policy to guide the regulations for the FIU was being considered along with possible criminal or administrative sanctions for breaches of the guidelines.

39. In accordance with the above, regulation 30 (1) of the FIUTTR requires the FIU to provide guidelines and standards to supervised entities While there is a general provision in the FIUTTR for sanctions for financial institutions or listed businesses committing offences for which there in no specified penalty, breach of the guidelines issued under regulation 30(1) is not specified as an offence. The issuance of these guidelines would be in accordance with the recommended action to establish guidelines that will assist DNFBPs to implement and comply with their respective AML/CFT requirements. No deadline for the issuance of the guidelines has been given by the authorities. Given the above outstanding requirements, this recommendation remains largely outstanding.

Recommendation 25

40. A previous follow-up report noted that the recommendation that the designated authority/FIU should have a structure in place to provide financial institutions that are required to report suspicious transactions, with adequate and appropriate feedback, was met by section 10 of the FIUTTA.

41. With regard to the Central Bank AML/CFT Guidelines being enforceable and having sanctions for non-compliance the previous follow-up report noted that sections 10 and 86 of the FIA create a legal basis for the enforceability of the Central Bank AML/CFT Guidelines. However, effective implementation of this enforceability still has to be demonstrated by the Central Bank. The authorities advised that many of the requirements in Central Bank's 2005 Guidelines have been codified in the FOR 2010. As a result, the Central Bank issued revised draft Guidelines on April 15, 2011 to all registered entities for comments by June 10, 2011. .

42. With regard to the recommendation that guidelines similar to the CBTT AML/CFT Guidelines should be issued by the relevant authorities for all financial institutions and persons engaged in relevant business activity stipulated in the POCA, as already mentioned, regulation 30 (1) of the FIUTTR requires the FIU to provide guidelines and standards to supervised entities. No deadline for the issuance of the guidelines has been given by the authorities. Given the above outstanding requirements, this recommendation remains largely outstanding.

Recommendation 29

43. Concerning the recommended action that the Credit Union Supervisory Unit (CUSU) have adequate powers to supervise credit unions for compliance with AML/CFT obligations, the authorities advised in a previous follow-up report that a decision had been taken to place the supervision of credit unions under the Central Bank and that legislation was being developed to accommodate this change. The authorities advise that a credit union bill has been drafted and is under review. It is noted that until enactment of the proposed Credit Union Bill, the FIU is the designated supervisory authority for credit unions for AML obligations. Given the proposed legislation, the FIU has not implemented a supervisory regime for credit unions As such the two recommendations concerning adequate supervision of credit unions are still outstanding.

44. As noted in a previous follow-up report, the recommended actions for all supervisors to have adequate powers of enforcement and sanctions against financial institutions, their directors or senior management and the need to have systems in place for combating ML and FT and to review the effectiveness of these systems addressed specific deficiencies of the TTSEC and the CUSU. As already mentioned concerns about the CUSU are being dealt with by transferring supervisory responsibility to the Central Bank in new legislation. The authorities advised as in a previous follow-up report that the absence of adequate powers of enforcement and sanctions and an effective AML/CFT supervisory compliance regime will be addressed by the Securities Bill presently due for debate in Parliament. As such, all recommended actions under this Recommendation still remain outstanding.

Recommendation 30

45. The main recommended actions under this Recommendation address deficiencies in resources and training in the FIU, the DPP, the Magistracy, Customs Division, the Police, the Strategic Services Agency (SSA), TTSEC and CUSU. The authorities advised in the a previous follow-up report that the DPP was contemplating establishing a specialist Proceeds of Crime/Money Laundering Unit. A plan had been submitted to the Attorney General and was receiving favorable consideration. No additional information on this measure has been submitted.

46. It was also indicated in a previous follow-up report that the Financial Investigations Branch (FIB) of the Special Anti-Crime Unit of Trinidad and Tobago (SAUTT) dedicated to money laundering offences was operating with a complement of seven investigators and one manager. As part of SAUTT, the FIB had access to the technical and financial resources needed to effectively discharge its functions.

47. With regard to the FIU, it was noted in a previous follow-up report that a Director designate of the FIU had been appointed and staff from the former FIU transferred to the present FIU. The FIU had also been relocated to new offices. The authorities have advised

that since the establishment of the FIU, members of staff have attended the following workshops and training seminars:

a) Market Oversight in the Caribbean by the Caribbean Regional Technical Assistance Centre (CARTAC), US SEC and T&T SEC, March 2010.

b) IMF-CFATF Pre Assessment Workshop, July 2010.

c) Governance, Regulation and Financial Crime Prevention Forum for the Caribbean Region August 2010.

d) Catastrophic Computer Fraud and Business Technology, August 2010.

e) Specialized Training Workshop on Prevention and Fight Against Terrorism Financing, August 2010.

48. Additionally, the Specialized Training Workshop on Prevention and Fight Against Terrorism Financing, held in August 2010 was attended by prosecutors and judges.

49. In addition to the above the authorities advised in the last follow-up report that due to a change in government, the organizational structure and staffing complement of both the FIU and the FIB were being reviewed and new structures for the FIU and the FIB would be approved by November 2010. A similar review of the staffing requirements and appropriate training needs of the DPP was being conducted and was expected to be completed by December 2010.

50. The authorities advise that the organizational structure and staffing complement of the FIU was approved by Cabinet on 25 November 2010. No details on the structure or staff complement has been provided. Additionally a training policy was created in December 2010 for the FIU and financial provisions were made for staff training in the FIU's budget estimate for 2010 to 2011. No information on the organizational structure and staffing complement of the FIB or the staffing requirements and training needs of the DPP have been provided for this follow-up report

51. With regard to the recommendations concerning the training and shortage of staff at the Customs Division, the authorities advise that at present staff members of the Customs and Excise Division have access to Certified Fraud Detection and Investigation training and also training in financial investigation. Additionally, the Customs and Excise Division has adequate training and internal capacity to carry out their functions. No information in relation to the numbers of staff trained in the specified areas or the total number of staff have been provided. No information on the remaining recommendations dealing with staffing constraints faced by the Magistracy and staffing and training requirements of the TTSEC has been provided..

Recommendation 31

52. As reported in the previous follow-up report, the National Anti-Money Laundering Committee's focus in 2007 was in the area of legislative drafting. In 2008, the Committee was concerned with the adoption and subsequent ratification by Cabinet of a national

AML/CFT policy and a national AML/CFT strategy, both of which were approved by Cabinet and have been published. The Committee was also involved in the following:

- Canvassing with the relevant Ministerial Team for Government policy and legislative enactment.

- Advocating on the committee's behalf with the Prime Minister and Prime Contact for expediency in recommendation implementation.

- Making representations to Cabinet for the full staffing of the Prime Contact's Secretariat so that the Committee's work could be appropriately buttressed by a full time team of legal research experts.

- Making appropriate representations with line Ministries for the strengthening of representation on the AML/CFT Committee.

- Negotiating with the CFATF for assistance from international bodies such as the IMF/World Bank and CARTAC.

- Engagement of a full time legal drafting expert to promote the committee's legislative agenda in accordance with the Strategy priorities

53. At present the authorities advise that the Committee has been reconstituted to include a broader cross-section of stakeholders within the AML/CFT community and its terms of reference has been revised.

54. With regard to the recommendation for the introduction of MOU's between the CBTT, the TTSEC and the FIU, there has been no change since the previous follow-up report which indicated that while section 8(2) of the FIA 2008 allows the Central Bank to share information with the designated authorities under the POCA, the provision does not include the TTSEC as required by the recommended action.

55. In relation with the recommendation for improved co-operation amongst law enforcement and other competent authorities, the authorities advise at present on the following measures;

- In May 2010 the FIU signed an MOU with the Criminal Tax Investigation (CTIU). In November 2010 one (1) request for information was received from CTIU and the request was satisfied

- In October 2010 the Permanent Secretary of the Ministry of Finance approved the Exchange of Letter whereby the Customs & Excise Division will exchange relevant data with the FIU on cross-border currency declaration and cash seizures in accordance with the laws of Trinidad and Tobago. The structure and format of receiving the information is currently being addressed. In November 2010 the FIU under this agreement made a request for data on all cash seizures at Customs and Excise for 2010 and this request is currently being processed.

- An MOU was drafted with a view to allowing the FIU to obtain access to information held at the Registrar General's Department.

- Section 15 of FIUA requires the Director of FIU to submit a report to the Commissioner of Police (COP) after analysis of STR/SARs. A policy directive was established by the COP via departmental order being issued in November 2010 for the investigation of all reports sent to the COP from the FIU. A breach of the departmental order is an offence under the Police Service Act and the FIUA.

56. The examiners' recommended action also referred to cooperation amongst other competent authorities. Information with regard to this aspect of the recommended action has not been provided.

57. Concerning the last recommendation for the composition of the FIU to be expanded to include personnel from different relevant entities, in the last follow-up report the authorities advised that members of the Counter Drug and Crime Task Force had been transferred to the FIU and the FIB. At the time the FIU was carrying out an administrative role (collection, analysis and dissemination of intelligence and information) while the FIB was dedicated to the investigation of all financial crimes, in particular, money laundering and terrorist financing.

Special Recommendation VI

58. As noted in the last follow-up report, money or value transfer service operators were included as listed businesses in POCAA and therefore subject to the same AML/CFT requirements as financial institutions. Additionally, it was reported that the Central Bank was responsible for supervising money remitters and that an appropriate framework was being developed. The authorities advise that a regulatory and supervisory framework for money remitters has been drafted and was issued to the industry for comments in February 2011.

59. With regard to the examiners' recommended action requiring the implementation of a system of monitoring money transfer companies, the authorities advise that the Central Bank conducts AML/CFT on-site examinations on cambios and is preparing revised AML/CFT guidelines which will also be issued to cambios and money remitters. Information on the number of onsite AML/CFT inspections of cambios and money remitters carried out by the Central Bank would aid in assessing implementation of this recommendation.

60. The other outstanding recommendations requiring money transfer companies to maintain a current list of agents and the authorities to implement measures set out in the Best Practice Paper for SR VI remain as reported in the last follow-up report. At the time authorities advised that the National Anti-Money Laundering Committee and the Compliance Unit of the Ministry of National Security were reviewing them and would be proposing an appropriate amendment.

Special Recommendation IX

61. At the time of the mutual evaluation of Trinidad and Tobago in June 2005, Special Recommendation IX was not part of the Methodology and the country was not assessed for compliance with the Recommendation. However, the authorities have taken note of Special Recommendation IX and advised in a previous follow-up report that the ATAA provides for the seizure and detention of cash and bearer negotiable instruments. The definition of cash and bearer negotiable instruments are in accordance with FATF requirements. Subsection 38A(1) of the ATAA enables any customs officer or officer above the rank of a sergeant to seize and detain cash or bearer negotiable instruments on the basis of reasonable suspicion.

62. The authorities advise that under the Customs Act, all arriving and departing passengers are required to make a declaration to Customs with respect to currency and bearer negotiable instruments above a specified sum of US$5,000 or its equivalent in any other foreign currency and any sum in excess of TT$20,000. The authorities also indicate that the Customs and Excise Division has always applied effective, proportionate and dissuasive sanctions for false declarations or disclosures. However, no information on the type or nature of the sanctions or the legal provision for imposing such sanctions have been given. While the above measures comply with some of the criteria of Special Recommendation IX, substantial additional measures will have to be implemented to meet all the criteria of Special Recommendation IX.

IV. Conclusion

63. Overall, the measures put in place since the Third Follow-Up Report, in particular the enactment of the FIUTTR and the FOFTR appear focused on detailing the operational functions of the FIU and implementing a supervisory regime for DNFBPs through identifying and registering listed business. These measures have resulted in the level of compliance of Recs. 8 and 15 being considered LC. However, there is need for more details with regard to planned action and deadlines particularly with regard to the FIU's regulatory function, the issuance of guidelines both by the FIU and the Central Bank and the approved restructuring and staffing of both the FIU and the FIB.

64. As noted in the last follow-up report developments with proposed legislation i.e the Credit Union Bill and the Securities Bill have slowed since these are still outstanding This is particularly important in relation to supervision for compliance with AML/CFT obligations for credit unions and the securities sector. Additionally, while the Central Bank has reportedly begun AML/CFT inspections on money remitters, there is need for implementation figures. Finally while a confiscation/forfeiture regime with regard to terrorist financing has been legally established, there is need to demonstrate implementation. Based on the foregoing it is recommended that Trinidad and Tobago remain on expedited follow-up and be required to report back to the November 2011 Plenary.

Matrix with Ratings and Follow Up Action Plan 3rd Round Mutual Evaluation
Trinidad and Tobago

Forty Recommendations	Rating	Summary of factors underlying rating	Recommended Actions	Undertaken Actions
Legal systems				
1.ML offence	NC	• For money laundering offences the POCA only recognizes property as being the proceeds of crime where a person has been convicted of a predicate offence. • Terrorism, including terrorist financing and piracy is not covered under Trinidad and Tobago legislation as predicate offences; • Predicate offences for ML do not extend to conduct occurring in another jurisdiction that would have constituted an offence had it occurred domestically. • The Mission concluded that AML offences are not effectively investigated, prosecuted and convicted. There were no ML convictions to date of the on site visit. • The money laundering legislation does not appear to be effective as there have been no convictions in 6 years.	• Consider defining the term money laundering in the POCA and also, for completeness sake, broadening the scope of section 43 beyond drug trafficking to include "or a specified offence". • Terrorism, including terrorist financing, and piracy should be covered under Trinidad and Tobago legislation.	• The examiners' recommendation regarding the definition of the term money laundering being included in the Proceeds of Crime Act, 2000 (POCA) and broadening the scope of section 43 beyond drug trafficking to include "a specified offence" has been incorporated in the POCAA. • Section 43 of the Proceeds of Crime Act 2000 is amended by deleting the words "drug trafficking" and substituting the words "a specified offense", thereby broadening the scope of section 43 beyond drug trafficking. Accordingly, Section 43 of Proceeds of Crime Act 2000 has been amended by virtue of Section 22 of the Proceeds of Crime (Amendment) Act 2009 and states the following: • *"A person is guilty of an offence who conceals, disposes, disguises, transfers, brings into Trinidad and Tobago or removes from Trinidad and Tobago and money or other property knowing or having reasonable grounds to suspect that the money or other property is derived, obtained or realized, directly or indirectly from a specified offence"* • A specified offence has been defined in the POCAA to include an indictable offence and any act committed or omitted to be done outside of Trinidad and Tobago. • With regard to piracy, section 2 of the Criminal Offences Act Chapter 11:01 states that every offence which if done or committed in England, would amount to an offence in common law shall, if done or committed in Trinidad and Tobago, be taken to be an indictable offence and shall be punished in the same manner as it would be in England, under or by virtue of any special or general statute providing for the punishment of such offence, or if there be no such statute, by

				common law. In the UK, piracy is criminalized as the common law offence of piracy jure gentium and under section 2 of the Piracy Act 1837 as noted in the UK MER. In accordance with section 2 of the Criminal Offences Act, these provisions make piracy an indictable offence in Trinidad and Tobago. Additionally, section 6 of the Civil Aviation (Tokyo Convention) Act Chapter 11:21 provides for the jurisdiction of a Court in Trinidad and Tobago with respect to piracy committed on the high seas to be extended to piracy committed by or against an aircraft. • The financing of terrorism is criminalized under Section 22A. (1-4) of the Anti-Terrorism (Amendment) Act,2010 as follows: *22A. (1) Any person who by any means, directly or indirectly, willfully provides or collects funds, or attempts to do so, with the intention that they should be used or in the knowledge that they are to be used in whole or in part-* *(a) in order to carry out a terrorist act; or* *(b) by a terrorist; or* *(c) by a terrorist organisation, commits the offence of financing of terrorism.* *(2) An offence under subsection (1) is committed irrespective of whether -* *(a) the funds are actually used to commit or attempt to commit a terrorist act;* *(b) the funds are linked to a terrorist act ; and* *(c) the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred or will occur.* *(3) A person who contravenes this section commits an offence and is liable on conviction on indictment –* *(a)in the case of an individual, to imprisonment for twenty five years; or* *(b) in the case of a legal entity, to a fine of two million dollars.* *(4) A director or person in charge of a legal entity*

				who commits an offence under this section is liable on conviction on indictment be to imprisonment for twenty-five years
			• Predicate offences for ML in the POCA should also be extended to conduct occurring in another jurisdiction that would have constituted an offence had it occurred domestically.	• Predicate offences for money laundering under the POCA no.55 of 2000 are extended to conduct occurring in another jurisdiction that would have constituted an offense had it occurred domestically by expanding the meaning of specified offence under section 5 (g) to include, among other things; Any act committed or omitted to be done outside of Trinidad and Tobago which would constitute an indictable offence in Trinidad and Tobago;
			• Include in the POCA that where it is proven that property is obtained from the proceeds of crime it should not be necessary that a person be convicted of a predicate offence in order for the court to make a confiscation order in relation to such property.	• POCA as drafted meets the perceived deficiency. This conclusion is based on the fact that confiscation of proceeds can only occur on the basis of conviction for a specified offence. While this procedure does recognize proceeds of crime on the basis of a conviction, this is only absolutely necessary for confiscation purposes. • Sections 18 to 20 of POCA allows for restraint and charging orders to be made against realizable property prior to a person being charged with an offence under POCA. There is no specific provision in POCA requiring conviction of a specified offence as a pre-condition for the application for a restraint or charging order to be made against realizable property i.e. criminal proceeds. Applications for such orders are required to be supported by affidavits which may contain statements of information or belief with sources and grounds. • The above provisions would suggest that for money laundering offences under POCA it is not necessary that a person be convicted of a predicate offence to recognize property as being the proceeds of crime and thereby dealing with the deficiency which forms the basis for the recommended action.

2.ML offence – mental element and corporate liability	PC	• There is no dissuasive criminal or administrative sanctions for money laundering against a company directly • The Mission concluded that AML offences are not effectively investigated, prosecuted and convicted. There were no ML convictions up to date of the on site visit.	• Fast track the Proceeds of Crime (Amendment) Bill 2005, which will seek to strengthen the application of the POCA. • Introduce the Financial Obligations Regulations to strengthen their AML regime.	• The Proceeds of Crime (Amendment) Act 2009 came into effect on 9th October, 2009 • The Financial Obligation Regulations were made by the Minister of Finance in January 2010.There are dissuasive criminal or administrative sanctions for money laundering against a company directly. • The corresponding underlying deficiency identified by the examiners in respect of a lack of dissuasive criminal or administrative sanctions for money laundering against a company directly has been addressed. • Section 68(3) of the Interpretation Act provides that where in any written law more than one penalty linked by the word "and" is prescribed, the penalties can be imposed alternatively or cumulatively. This provision therefore allows for the imposition of the stipulated fines in the penalties in POCA separately on companies. The penalties applicable under the POCAA through amendment of section 53(1) are for offences under sections 43, 44, 45 and 46 of POCA on conviction on indictment to a fine of twenty-five million TT dollars approximately US$3,950,000 and imprisonment for fifteen years and for offences under section 51 on summary conviction to a fine of five million TT dollars approximately US$790,000 and imprisonment for five years and offences under section 52 to a fine of TT$250,000 approximately US$39,500 and imprisonment for three years.
3. Confiscation and provisional measures	PC	• Confiscation is limited to persons convicted of predicate offence. Therefore, the courts cannot make a confiscation order where the property in question is found to be the proceeds of	• The T&T authorities should consider expanding/widening the scope of offences that are subject to production orders and search warrants by expanding the definition of a "specified offence"	• The definition of "a specified offence" in section 2 of POCA has been amended to include as noted above, an indictable offence thereby extending the range of offences subject to production and

		crime unless there is a conviction with respect to such property (s. 3 of POCA). • Provision for confiscation under the POCA is not widely used/implemented. There has been no confiscation of assets under POCA for ML offences. • Law enforcement agencies are limited in their powers to obtain production orders and search warrants under POCA in order to identify and trace property that may become subject to confiscation. Such orders can only be obtained for offences under the Dangerous Drug Act or Part 2 of POCA (ML offences) [pursuant to the definition of "specified offence" contained in section 2 of the POCA].	contained in section 2(1) of the POCA.	search orders. The scope of offenses that are subject to production orders and search warrants has been widened by expanding the definition of "specified offense" under section 2 POCA no55 2000. "Specified offence" now means: *(a) an indictable offence committed in Trinidad and Tobago whether or not the offence is tried summarily; No. 10 Proceeds of Crime (Amendment) 2009 5* *(b) any act committed or omitted to be done outside of Trinidad and Tobago, which would constitute an indictable offence in Trinidad and Tobago; or* *(c) or an offence specified in the Second Schedule.";* • It is submitted that under this recommendation confiscation without conviction is an additional element. At this point in time there is no civil forfeiture regime in Trinidad and Tobago. However the utility of implementing a civil forfeiture regime in Trinidad and Tobago is actively being researched by the Compliance Unit of the Ministry of National Security. The ICRG has accepted the legal opinion in respect of this matter and is no longer a deficiency. Please see Legal Opinion attached.
Preventive measures				
4. Secrecy laws consistent with the Recommendations	PC	▪ While most of the competent authorities have access to information, there are no measures allowing for the sharing of information locally and internationally. ▪ There are no measures for the sharing of information between financial institutions as required by Recommendations 7 and 9 and Special Recommendation VII.	• The mission recommends that the relevant competent authorities in Trinidad and Tobago be given the ability to share locally and internationally, information they require to properly perform their functions.	▪ Section 8 of the Financial Intelligence Unit of Trinidad and Tobago Act No. 11 of 2009, facilitates efficient execution of information sharing duties on the part of the competent authorities of Trinidad and Tobago. The sharing of information is achieved at the domestic and international level. This will be elaborated upon. Section 8 (3) (e) of Act no. 11 2009, empowers the FIU to engage in the exchange of financial intelligence with members of the Egmont Group Section 8 (3) (f) of Act no. 11 2009, empowers the FIU to disseminate at regular intervals, financial

			• It is recommended to amend the legislation to specifically require that no financial institution secrecy law will inhibit the implementation of the FATF Recommendations (or a similar requirement).	intelligence and information to local and foreign authorities and affiliates within the intelligence community, including statistics on recent money laundering practices and offences. • Sec 26. of the FIU Act 2009 states 'Notwithstanding any other law pertaining to the disclosure of personal information, the power of the FIU to collect, disseminate or exchange information under this Act, shall prevail. This in effect overrides any existing law regarding disclosure of information and ensures that the FATF recommendations can be implemented without inhibition • Section 8(2) of the Financial Institutions Act empowers Central Bank of Trinidad and Tobago to engage in information sharing practices with international regulatory bodies as well as the designated authority i.e. the FIU under Proceeds of Crime Act No 55 of 2000. Similar sharing of information provisions have been included in the new Insurance Bill and the draft Credit Union Bill. • Section 6 of the Insurance Act 1980 was amended by the Insurance Amendment Act of 2009 to facilitate sharing of information with any local or foreign regulatory agency or body that regulates financial institutions for purposes related to that regulation. • **Trinidad and Tobago Securities and Exchange Commission** (TTSEC) is currently awaiting the enactment of the Securities Bill. This Bill was being considered in the Parliament of Trinidad and Tobago; however the Bill lapsed when Parliament was prorogued. It is presently under the consideration of the Legislation Review Committee and will also provide for the sharing of information.
5.Customer due diligence	NC	• None of the CDD requirements are included in legislation, regulations or other enforceable	• The T&T authorities may wish to consider to set out measures in laws or implementing regulations with	

		means and existing requirements are only applicable to financial institutions supervised by the CBTT.	sanctions for non-compliance for the following: • Financial institutions should not be permitted to keep anonymous accounts or accounts in fictitious name • Financial institutions should be required to undertake customer due diligence measures when establishing business relations, carrying out occasional or linked transactions above US 15,000, carrying out occasional wire transfers as covered in Special Recommendation VII, when there is suspicion of ML or FT regardless of exemptions or amounts, and when there is doubt about the veracity or adequacy of previously obtained customer identification data. • Financial institutions should be required to identify the customer (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and verify that customer's identity using reliable, independent source documents, data or information. • Financial institutions should be required to verify that any person purporting to act on behalf of a legal person or legal arrangement is so authorised, and identify and verify the identity of that person.	• Regulation 19 (1) of the Financial Obligation Regulations, 2010, prohibits the keeping of anonymous accounts or accounts in fictitious names by financial institutions. Such institutions are compelled to identify and record the identity of customers. • Regulation 11 (1) of the Financial Obligation Regulations, 2010, requires financial institutions to apply customer due diligence procedures in the following instances: (a) pursuant to an agreement to form a business relationship; (b) as a one-off or occasional transaction of ninety thousand dollars or more; (c) as two or more one-off transactions, each of which is less than ninety thousand dollars but together the total value is ninety thousand dollars or more and it appears, whether at the outset of each transaction or subsequently that the transactions are linked; or (d) as a one-off or occasional wire transfer of six thousand dollars or more or two or more one-off transactions, each of which is less than six thousand dollars, but together the total value is six thousand dollars or more and it appears, whether at the outset of each transaction or subsequently that the transactions are linked, • Additionally sub regulation (11)(2) specifies that whenever a financial institution or listed business has reasonable grounds to suspect that the funds used for a transaction are or may be the proceeds of money laundering or any other specified offence, procedures and policies identified in the regulation should be applied. The procedures and policies referred to are requirements for customer due diligence as detailed in Part III of the FOR. • Regulation 11(2) does not deal explicitly with terrorist financing as required by E.C. 5.2, however the term specified offence with its definition in POCA including an indictable offence would incorporate terrorist financing.

				• The threshold of TT$90,000 for occasional transactions and TT$6,000 for occasional wire transfers are equivalent to US$14,285 and US$950 respectively. The stipulated thresholds are within the Methodology limits of US$15,000 and US$1,000. • With regard to the remaining requirement for customer due diligence whenever financial institutions have doubts about the veracity or adequacy of previously obtained customer identification data, regulation 18(1) of the FOR which requires financial institutions and listed businesses to perform due diligence procedures when there is doubt about the veracity of any information previously given by a customer, complies with the requirement. • The recommendation for financial institutions to identify the customer and verify that customer's identity using reliable, independent source documents is incorporated in regulation 11(3) which requires evidence of the identity of the customer in accordance with the compliance program established under regulation 7(a). This regulation requires that procedures governing customer identification, documentation and verification of customer information and other customer due diligence measures form part of a financial institution and listed business' compliance program. Specific information and documentation requirements for individuals, corporate entities and trust fiduciaries are detailed in regulations 15, 16 and 17. Regulation 15 requires full name, address and proof thereof, date and place of birth, nationality, nature and place of business/occupation where applicable, occupational income, purpose of proposed business relationship or transaction and source of funds and any other appropriate information. A valid photo identification document is also required as well as a bank reference for foreign customers. Only certified copies of unavailable original documents are acceptable.

				• Regulation 16 outlines the requirements for business customers. It is noted that regulation 16 states that the requirements in regulation 15 shall also be applicable to a business customer. Additionally, the regulation requires financial institutions and listed businesses to verify the identity of the directors and other officers of a company, partners of a partnership, account signatories, beneficial owners and sole traders by means of documentary evidence. Thus, Financial institutions and listed businesses are also required to obtain; • Certificates of Incorporation or Certificates of Continuance • Articles of Incorporation • Copy of the by-laws, where applicable • Management accounts for the last three years for self-employed persons and businesses in operation for more than three years • Information on the identity of shareholders holding more than ten per centum of the paid up share capital • Where management accounts are not available, other forms of proof of the integrity of the source of funds to be used for transactions can be requested. • With regard to trustees, nominees or fiduciary customers, regulation 17 stipulates in addition to the requirements outlined in regulation 15, financial institutions or listed businesses must obtain evidence of the appointment of the trustees by means of a certified copy of the Deed of Trust, information on the nature and purpose of the trust and verification of the identity of the trustee. Trustee in this regulation is defined to

				include the settlor, protector, person providing the trust funds, controller or any person holding power to appoint or remove the trustee. • The criterion for financial institutions to verify that any person purporting to act on behalf of a legal person or legal arrangement is so authorized, and identify and verify the identity of that person forms part of the customer due diligence (CDD) procedures for customers who are legal persons or legal arrangements. This criterion is addressed in regulation 12(2), which states that where a beneficial owner or customer is a legal person or where there is a legal arrangement, the financial institution or listed business shall: • verify that any person purporting to act on behalf of the legal person or legal arrangement is so authorized and identify and verify the identity of that person; • verify the legal status of the legal person or legal arrangement; • understand the ownership and control structure of the legal person or legal arrangement; and • determine who are the natural persons who have effective control over a legal person or legal arrangement. • Legal arrangement has been defined for this regulation to include an express trust in accordance with the Methodology. • In relation to the examiners' recommendation concerning the identification of beneficial owners, regulation 12(1) states that a financial institution or listed business should record the identity of the beneficial owner of any account held at the financial institution or listed business or potential account and shall request original identification documents, data or other
			• Financial institutions should be required to identify	

			the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner using relevant information or data. • Financial institutions should be required to determine the natural persons who ultimately own or control customers that are legal persons or legal arrangements. • Financial institutions should be required to conduct due diligence on the business relationship.	information from an applicant for business. Additionally, regulation 19(2) requires where a new account is opened or a new service is provided by a financial institution and the customer purports to be acting on his own behalf but the financial institution suspects otherwise, the institution shall verify the true identity of the beneficial owner and if not satisfied with the response, it should terminate relations with the customer. Beneficial owner is defined as a person who ultimately owns and controls an account or who exercises ultimate control over a legal person or arrangement. • The Compliance Unit has noted that regulation 19(2) refers only to financial institution and does not include listed businesses which would cover DNFBPs. This is a drafting error and a submission will be made to the Office of the Attorney General to correct this. • The examiners' recommendation that financial institutions should be required to determine the natural persons who ultimately own or control customers that are legal persons or legal arrangements is met by regulation 12(2)(d). (above). • With regard to the examiners' recommendation for financial institutions to conduct due diligence on business relationships regulation 12 (3) requires a financial institution to conduct on going due diligence on or continuous review of the business relationship and monitor transactions undertaken during the course of the relationship, to maintain up to date records of information and ensure consistency with their business and risk profile and where necessary its source of funds.. • Regulation 11 (5) specifies measures that should be taken when there is doubt about the veracity or adequacy of previously obtained customer

			• The T&T authorities may set out the following measures in laws, regulations or enforceable guidelines with sanctions for non-compliance: Financial institutions should be required to implement the other criteria of Recommendation 5 concerning remaining CDD measures, risk, timing of verification, failure to satisfactorily complete CDD and existing customers	identification data. In such cases the Financial Institution or listed business is compelled to discontinue the transaction and report same to the Compliance Officer in accordance with Regulation 7 (1) (b), (c) and (d). Regulation 7 speaks of the following: (a) procedures governing customer identification, documentation and verification of customer information, and other customer due diligence measures. (b) methods for the identification of suspicious transactions and suspicious activities (c) guidelines for internal reporting of suspicious transaction and suspicious activities (d) guidelines for adopting the risk-based approach to monitoring financial activity. This includes categories of activities or business that are considered to be of a high risk. Regulation 12 (2) considers that where the beneficial owner of an account is a legal person or a person acting pursuant to a legal arrangement, the Financial Institution or listed business shall: (a) verify that any person purporting to act on behalf of the legal person or legal arrangement is so authorized and identify and verify the identity of that person; (b) verify the legal status of the legal person or legal arrangement; (c) understand the ownership and control structure of the legal person or legal arrangement; and (d) determine who are natural persons who have effective control over a legal person or legal arrangement. Note that for the purpose of this Regulation, "beneficial owner" means the person who ultimately owns and controls an account, or who exercises ultimate control over a legal person or arrangement. Regulation 15 of the Financial Obligation Regulations, 2010, states that relevant identification records shall be obtained by the Financial Institution or listed business upon the initiation of a business relationship. The detailed information to be recorded are as follows: (a) full name of the applicant(s) (b) permanent address and proof thereof

				(c) date and place of birth (d) nationality (e) nature and place of business/ occupation where applicable, occupational income (f) signature (g) purpose of the proposed business relationship or transaction or source of funds (h) any other information deemed appropriate by the Financial Institution or listed business. • The following points are noteworthy: - a valid photo bearing identification shall be subject to scrutiny. For this purpose, identification documents may include a passport, a national identification card or a license to drive a motor vehicle. - where the above documents are not available in its original form, copies shall be acceptable only where they are certified. Further identification documents, which are easily obtainable (example birth certificates) shall not be accepted as a sole means of identification. - where there is foreign customer involvement reference shall be sought from the foreign customer's bank. • Section 10 of the FIA 2008 allows the Central Bank to issue guidelines to aid compliance in POCA, Anti Terrorism Act 2005 and the FOR 2010. Section 12 of the FIA allows the Central Bank to take action, for example, issue of compliance directions, for contravention of any guidelines issued under Section 10. Non-compliance with a compliance direction is an offence. • Section 65 of the Insurance Act 1980 as amended by the Insurance Amendment Act of 2009 allows the Central Bank to issue compliance directions to an insurer, intermediary, controller, officer, employee or agent for inter alia that has violated or is about to violate any of the provisions of any law or Regulations made thereunder; if it has failed to comply with any measure imposed by the Central Bank in accordance with the Act or Regulations; or if committing or pursuing unsafe and unsound practices. Consequently, the Central Bank can issue compliance directions to

				an insurer or intermediary for non-compliance with AML/ CFT requirements. A person who fails to comply with a compliance direction is liable on summary conviction to a fine of $5 million. • Part VII of the Financial Obligation Regulations, 2010, addresses the issue of penalties. Regulation 42 states that where a financial institution or listed business fails to comply with specific mandatory obligations (as outlined below), it shall be subject to penalties. These penalties are provided for by virtue of Section 57 (1) of the Proceeds of Crime Act No.55 of 2000, and carries the effect of imposing sanctions on any person who knowingly contravenes or fails to comply with the provisions. o These mandatory obligations are as follows: Regulation 3 makes the designation of a compliance officer mandatory. Detailed guidance regarding associated procedure is provided by the various sub-regulations. o Regulation 7 makes the establishment of a compliance programme mandatory. Detailed guidance regarding measures and guidelines to be included in such a compliance programme is provided in the sub-regulations. o Regulation 8 makes internal reporting mandatory. Detailed guidance regarding the precise rules which should underpin this exercise is provided in the sub-regulations that follow. o Part III of the Financial Obligation Regulations, 2010, makes customer due diligence practice mandatory. o Part IV of the Financial Obligation Regulations, 2010, provides for customer due diligence provisions that are applicable to the insurance sector. o Part V of the Financial Obligation Regulations, 2010, makes sound and reliable record-keeping practice mandatory. o Regulation 8 (2) of the Financial Obligation Regulations, 2010, states that the Financial Institution or listed business shall also ensure that the compliance officer and other

				employees, have timely access to customer identification data and other records and relevant information, to enable them to produce reports in a timely manner. o Part III of the Financial Obligation Regulations, 2009, addresses the application of customer due diligence in all ascertainable customer categories encompassed within the overall spectrum of customers.
6.Politically exposed persons	NC	• None of the requirements are included in legislation, regulations or other enforceable means and existing requirements are only applicable to financial institutions supervised by the CBTT.	• Financial institutions should be required to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a PEP.	• Regulation 20 of the Financial Obligation Regulations, 2010, 20. (1) defines "politically exposed person" as a person who is or was entrusted with important public functions in a foreign country such as — (a) a current or former senior official in the executive, legislative, administrative or judicial branch of a foreign government, whether elected or not; (b) a senior official of a major political party; (c) a senior executive of a foreign government-owned commercial enterprise; (d) a senior military official; (e) an immediate family member of a person mentioned in paragraphs (a) to (d) meaning the spouse, parents, siblings or children of that person and the parents, siblings and additional children of the person's spouse; and (f) any individual publicly known or actually known to the relevant financial institution to be a close personal or professional associate of the person mentioned in paragraphs (a) to (d). • In particular, the following sections are noteworthy: o Regulation 20(2) of the Financial Obligation Regulations, 2010 ensures that appropriate measures shall be put in place on the part of the financial institution or listed business to ascertain whether an applicant is in fact a Politically Exposed Person. o Regulation 20(3) of the Financial Obligation Regulations, 2010 imposes mandatory obligation to impose Enhanced

			• Financial institutions should be required to obtain senior management approval for establishing or continuing business relationships with a PEP. • Financial institutions should be required to take reasonable measures to establish the source of wealth and funds of PEPs • Financial institutions should be required to conduct enhanced ongoing monitoring of business relationships with PEPs.	Due Diligence Procedures when dealing with a politically exposed person. The sub-regulations provide detailed guidance regarding the various groups of persons that may be deemed high-risk and may warrant the application of customer due diligence procedures. • Regulation 20 (4) of the Financial Obligation Regulations, 2010, stipulates that before entering into a business relationship with a politically exposed person, a financial institution or listed business must obtain the permission of a senior management official within the said institution. • Regulation 20 (5) of the Financial Obligation Regulations, 2010, stipulates that where the institution or business has entered into a business relationship with the politically exposed person, reasonable measures should be taken to ascertain the source of wealth. • Regulation 20 (5) of the Financial Obligation Regulations, 2010, stipulates that where the institution or business has entered into a business relationship with the politically exposed person, it shall conduct enhanced on-going monitoring of that relationship.
7.Correspondent banking	NC	• None of the requirements are included in legislation, regulations or other enforceable means and existing requirements are only applicable to financial institutions supervised by the CBTT.	• Financial institutions should be required to gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine the reputation of the institution and the quality of the supervision, • including whether it has been subject to a ML or TF investigation or regulatory action.	• Regulation 21 (2) (a) of the Financial Obligation Regulations, 2010, imposes mandatory obligations upon a correspondent bank to collect sufficient information about its respondent bank to understand fully the nature of the business which it is required to undertake and shall only establish correspondent accounts with a foreign bank, after determining that it is effectively supervised by the competent authorities in its • Regulation 21 (4) states that A correspondent bank shall also ascertain whether the respondent bank has been the subject of money laundering investigations or other regulatory action in the country in which it is incorporated or in any other country. It is to be noted that this provision does not include terrorist financing investigations; however this will be addresses in Anti-Terrorism

			• Financial institutions should assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective. • Financial institutions should obtain approval from senior management for establishing new correspondent relationships. • Financial should document the respective AML/CFT responsibilities of each institution in the correspondent relationship. • In the case of "payable-through accounts", financial institutions should be satisfied that the respondent institution has performed all the normal CDD measures set out in Rec. 5 on customers using the accounts of the correspondent and the respondent institution is able to provide relevant customer identification data upon request to the correspondent.	Regulations. The policy in respect of the Anti-Terrorism Regulations is to be presented to Cabinet and when approved thereafter they will be drafted. • Regulation 21 (2) (b) of the Financial Obligation Regulations, 2010, imposes mandatory obligations obligation upon a correspondent bank to collect sufficient information about its respondent bank to assess the anti-money laundering controls of the respondent bank. • Regulation 21 (3a) of the Financial Obligation Regulations, 2010, imposes mandatory obligations on a correspondent bank to obtain approval from senior management before establishing new correspondent relationships. • Regulation 21 (3b) of the Financial Obligation Regulations, 2010, imposes mandatory obligation on a correspondent bank to record the respective responsibilities of the correspondent and respondent banks. • Regulation 21 (3d) of the Financial Obligation Regulations, 2010, imposes mandatory obligation on a correspondent bank to satisfy itself that the respondent bank has verified the identity of and performed on-going due diligence on the customer with respect to "payable-through accounts".
8.New technologies & non face-to-face business	NC	• None of the requirements are included in legislation, regulations or other enforceable means and existing requirements are only applicable to financial institutions supervised by the	• Financial institutions should be required to have policies in place or take such measures to prevent the misuse of technological developments in ML or TF schemes.	• Regulation 23 (1) of the Financial Obligation Regulations, 2010, imposes mandatory obligation on a financial institution or listed business to pay special attention to any money laundering patterns that may arise with respect to

		CBTT.	• Financial institutions should be required to have policies and procedures in place to address specific risks associated with non-face to face business relationships or transactions. These policies and procedures should apply when establishing customer relationships and conducting ongoing due diligence. • Financial institutions should be required to have measures for managing risks including specific and effective CDD procedures that apply to non-face to face customers.	technological developments in the following respects: (a) new or developing technology that might favor anonymity (b) use of such technology in money laundering offences, and shall take appropriate measures to treat such patterns. • Regulation 23 (2) of the FOR 2010 states that A financial institution or listed business shall put special know-your-customer policies in place to address the specific concerns associated with non-face-to-face business relationships or transactions. • The Financial Obligations (financing of terrorism) Regulations 2011 have been made by the Honourable Minister of National Security and have been laid in Parliament. These Regulations prescribe the policies that financial institutions must require to have in place to pay attention to any TF patterns that may arise as a result of new technological advancements. Regulations are attached
9.Third parties and introducers	NC	• The requirements in place are not mandatory and are applicable only to the financial institutions supervised by the Central Bank.	The T&T authorities may set out the following measures in laws, regulations or enforceable guidelines with sanctions for non-compliance: • Financial institutions relying upon a third party should be required to immediately obtain from the third party the necessary information concerning the elements of the CDD process in criteria 5.3 to 5.6. • Financial institutions should be required to take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay. • Financial institutions should be required to satisfy themselves that the third party is regulated and supervised and had measures in place to comply with the CDD requirements set out in Recommendations 5 and 10. • Competent authorities should determine in which	• Regulation 13 and 14 of the Financial Obligations Regulations were drafted to meet Recommendation 9 of the FATF. • However, it has been recognized that the scope of these regulations are unclear and as such they are being reviewed by the Compliance Unit of the Ministry of National Security.

			countries third parties meet the conditions by taking into account information available on whether these countries adequately apply the FATF Recommendations. • The ultimate responsibility for customer identification and verification should remain with the financial institution relying on the third party.	
10.Record keeping	NC	▪ The requirements in place are not mandatory and are applicable only to the financial institutions supervised by the Central Bank.	• The T&T authorities may wish to introduce the proposed Financial Obligation Regulations as soon as possible and include the following; • Financial institutions should be required to maintain all necessary records on transactions, both domestic and international, for at least five years following the completion of the transaction (or longer if requested by a competent authority in specific cases and upon proper authority). This requirement applies regardless of whether the account or business relationship is ongoing or has been terminated. • Transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. • Financial institutions should be required to maintain records of the identification data, account files and business correspondence for at least five years following the termination of an account or business	• Regulation 31 (1) of the Financial Obligation Regulations, 2010, imposes a mandatory obligation on a Financial Institution or listed business to retain records of- (a) all domestic and international transactions; (b) identification data updated through the customer due diligence process. These records shall be maintained in either electronic format or in written form for a period of six years. This enables the financial institution or listed business to immediately and efficiently action lawful requests for information from auditors, other competent authorities and law enforcement authorities that request these records. These records may be used for the purpose of criminal investigations or the prosecution of persons charged with criminal offences. • Regulation 32(1) specifies the contents of transaction and identification records to be maintained including original documents and details of a transaction such as amount and type of currency and copies of evidence of identity as required under regulations 15 to 17. The above records are to be maintained to allow financial institutions and listed businesses to comply with requests for information from auditors, other competent authorities and law enforcement authorities. • Regulation 32 (2) of the Financial Obligation Regulations, 2010, requires that records be retained for a period of six years. The six year period is calculated as follows: (a) In the case where a financial institution or listed business and an applicant for business have formed a business relationship, at least six years from the date on which relationship ended. (b) in the case of a one-off transaction, or a series

			relationship (or longer if requested by a competent authority in specific cases upon proper authority). • Financial institutions should be required to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority.	of such transactions, at least six years from the date of the completion of the one-off transaction or, as the case may be, the last of the series of such transactions. • Regulation 31 (3) of the Financial Obligation Regulations, 2010, states that all transaction records shall be- (a) kept in the format specified by the FIU, and with sufficient detail to permit reconstruction of individual transactions. • Regulation 31 (3) (b) of the Financial Obligation Regulations, 2010, imposes obligations on a financial institution or listed business to make transaction records available to the FIU upon its request. This capability to ensure availability and efficient transfer of records to the FIU upon request is achieved by virtue of Regulation 8 (2) of the Financial Obligation Regulation, 2009, which ensures that the Compliance Officer and other employees of the financial institution or listed business have timely access to customer identification data and other records and relevant information. This enables them to produce reports in a timely manner.
11.Unusual transactions	PC	▪ There is no requirement for financial institutions to examine the background and purpose of all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose, to set forth their findings in writing, and to keep such findings for competent authorities and auditors for at least five years.	• The POCA should be amended to require financial institutions to examine and record their findings in writing on the background and purpose of all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose, and to keep such findings available for competent authorities and auditors for at least five years.	• The Proceeds of Crime (Amendment) Act 10 of 2009, amends Section 55 of the Proceeds of Crime Act No 55 of 2000. By virtue of Section 30 (2)(a) (ii) every financial institution or listed business shall pay special attention to all complex, unusual, or large transactions, whether completed or not, to, all unusual patterns of transactions and to insignificant but periodic transactions which have no apparent economic or visible lawful purpose. Further, Section 30 (2)(b) states that all complex, unusual or large transactions shall be reported to the FIU. • There is a requirement under section 55(2)(c) for the examination of the background and purpose of all transactions which have no economic or visible legal purpose. However a drafting error occurred as this section refers to transactions covered in (a)(i) rather than

				(a)(ii) which deals with complex, unusual large transactions . This drafting error is presently being reviewed by the Compliance Unit of the Ministry of National Security, with a view to addressing this error.
12.DNFBP – R.5, 6, 8-11	NC	• The DNFBP's are not supervised or regulated for AML compliance. • Lawyers, notaries, other independent legal professionals, accountants and trust and company service providers are not subject to AML/CFT obligations. • Casino's, real estate agents, and jewellers have been designated under the law, but none of the requirements set out in Recommendations 5 – 10 have been implemented. • No requirement to examine the background and purpose of the transactions and no requirement to keep the findings for DNFBP's. • No requirement to pay special attention to complex – unusual large transactions or unusual patterns of transactions for DNFBP's.	• Lawyers, notaries, other independent legal professions, accountants and trust and company service providers should be subject to AML/CFT FATF requirements.	• The first schedule of the Proceeds of Crime Act No 55 of 2000 provided a limited list of businesses which conduct relevant business activity to be subject to AML/CFT FATF requirements. This list was later revised, by virtue of the Proceeds of Crime (Amendment) Act 10 of 2009, to include a wider spectrum of listed businesses to be subject to AML/CFT FATF compliance. Accordingly, The relevant business activity are now ascertained as follows: Real Estate Business Motor Vehicle Sales Gaming Houses Jewelers Pool Betting National Lottery On-line betting games Money or Value Transfer Services A Private Members' Club An Accountant, an Attorney-at-Law or other independent legal professional An Art Dealer Trust and Company Service Provider
			• DNFBPs and persons engaged in relevant business activities should be supervised for AML/CFT compliance	• Section 34 of The Proceeds of crime (Amendment) Act10 of 2009 states that until regulations are made under section 56 for the selection of the Supervisory Authority, the FIU shall be the supervisory authority for financial institutions and listed businesses.
			• The requirements of Recommendations 5 to 10 should be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendation 12.	• Currently, the overall threshold value of ninety thousand dollars and over is extrapolated in the context of pool betting, National Lottery On-line betting games and Private Members' Clubs.

			• Government should put more effort in educating and informing the DNFBPs and persons engaged in relevant business activities about their responsibilities under the legislation and about other relevant AML/CFT issues and developments.	• The FATF requirement that casinos should be subject to above Recommendations when their customers engage in financial transactions equal to or above USD3,000 has not been included in the enacted legislation and at present the applicable transaction threshold for gaming houses, pool betting, national lotteries on-line betting games and private members' clubs is the same as all financial institutions and listed businesses i.e. TTS90,000 and over or US$14,285 for one-off transactions. • This is presently under review and policy direction in this respect is expected from the AML/CFT Compliance Unit of the Ministry of National Security in November 2010. • The FIU is tasked with the education and training of DNFBP's. A training session was conducted with the Association of Real Estate Agents in April 2010 by the FIU in collaboration with the Compliance Unit of the Ministry of National Security. In May 2010 and June 2010 the FIU conducted training with a money remittance company and real estate company respectively. Post the passage of the legislation the FIU has trained 1816 participants which includes 5 insurance companies, 1 Bank, 3 Investment companies, 2 Real Estate Agencies, 1 Remittance Company With regards to outreach to the Listed Business (DNFBPs) the FIU had newspapers ads (6th 9th and 16th of May 2010) informing them of their obligations under the POCA and FOR concerning Compliance and STR/SAR reporting. The Ministry of National Security hosted the International Governance and Risk Institute (GovRisk) Regional Symposium from 12th – 16th August, 2010. This symposium was aimed at building institutional capacity and knowledge in the field of money laundering.

			• The requirements of Recommendations 11 and 21 should be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendations 12 and 16.	Technical assistance was sought by the Ministry of National Security from **the United Nations Office on Drugs and Crime** (UNODC) and a specialized workshop on the Prevention and fight against Terrorism Financing was held from 24 to 27 August 2010. This workshop targeted listed businesses, financial institutions, prosecutors and judges in Trinidad and Tobago. On September 14, 2010 the FIU hosted an AML/CFT training seminar specifically geared at Private Members' Clubs (PMCs). • DNFBP's are defined as "listed business" and have been subjected to the same AML/CFT requirements as financial institutions in POCA, the FIUTTA, the FOR and the ATAA Thus, the requirements of Recommendations 5, 6 and 8-11 are applicable to all the listed businesses
13.Suspicious transaction reporting	NC	• The reporting agency is the designated authority rather than the FIU and suspicion is based on illicit activities rather than all predicate offences • No requirement to report suspicious transactions related to terrorist financing • No requirement to report suspicious transactions regardless of whether they involve tax matters.	• The POCA should be amended to require reporting to the FIU rather than the designated authority of suspicious transactions related to the proceeds of all ML predicate offences as defined in FATF Recommendation1.	• The recommendation for suspicious transaction reporting to the FIU is set out in section 55(3) of POCA as amended in POCAA and requires financial institutions and listed businesses on knowing or having reasonable grounds to suspect that funds being used for the purpose of a transaction to which subsection (2) refers are the proceeds of a specified offence, to make a suspicious transaction or suspicious activity report to the FIU. Specified offence is defined under the POCAA as an indictable offence committed in Trinidad and Tobago whether or not the offence is tried summarily. The enactment of the ATAA criminalized the financing of terrorism making it an indictable offence and therefore a predicate offence for money laundering. As noted with regard to the examiners' recommended action under Recommendation 1, piracy has also been criminalized as an indictable offence. The Proceeds of Crime (Amendment) Act No 10 of 2009, deletes the words "Designated Authority" as mentioned under POCA No 55 of

			• The requirement to report should be applied regardless of the amount of the transaction and if it involves tax matters.	2000 wherever they occur and substitutes it with the word "FIU". • Sec 55 (3D) of the POCA Amendment states a report shall be made irrespective of the type of specified offence from which the funds may be generated including offences under the income Tax Act, the Corporation Tax Act and the Value Added Tax Act. In reviewing the above, we recognize that the legislative requirement in respect of Suspicious transaction reporting does not include one-off transactions. This is presently under the review of the AML/CFT Compliance Unit of the Ministry of National Security and recommendations will be made to address this discrepancy.
14.Protection & no tipping-off	PC	• No prohibition of disclosure of the reporting of a suspicious transaction to the designated authority/FIU.	• The POCA should be amended to prohibit the disclosure of reporting to the designated authority/FIU as stipulated in Section 55 (3) of the POCA.	• The recommendation for POCA to be amended to prohibit the disclosure of reporting to the designated authority/FIU as stipulated in section 55(3) of POCA has been enacted in POCAA by inserting section 55(3A) which makes the disclosure by the director or staff of a financial institution or listed business of the submission of a suspicious transaction or suspicious activity report to the FIU an offence liable on summary conviction to a fine of TT$250,000 approximately US$39,500 and imprisonment for three years. The Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009 addresses the ramifications of disclosure of information in two key respects: -on the part of any person and-on the part of an FIU officer. These will be elaborated upon. With respect to the disclosure of information on the part of any person other than an FIU officer, Section 23 (1) of Act NO 11 of 2009 states that any person other than an FIU officer, who, in the course of his business obtains or receives information from the FIU about the commission of an offence, commits an offence if he

			• The POCA should be amended to ensure that the confidentiality requirement in Subsections 55(8) and (9) also applies to the personnel of the FIU.	knowingly discloses— (a) the information to any person; or (b) the fact that an analysis has been recommended by the FIU, is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for three years. • With respect to the disclosure of information on the part of a FIU officer, Section 24 of Act No 11 of 2009 states that a FIU officer or other person who discloses the fact that an investigation into a suspicious transaction or suspicious activity report has been recommended by the FIU or that an investigation has commenced, otherwise than in the proper exercise of his duties, is guilty of an offence, and is liable on summary conviction, to a fine of two hundred and fifty thousand dollars ($ 250,000) and to imprisonment for three (3) years. • Section 22 (1) of the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009 states that a FIU Officer who discloses information that has come into his possession as a result of his employment in the FIU to a person otherwise than in the proper exercise of his duties, commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment for three years.
15.Internal controls, compliance & audit	PC	• Internal controls requirements are too general and do not include FT. • No requirement for the designation of a compliance officer at management level • No requirement for AML/CFT compliance officer and other appropriate staff to have access to relevant information • Employee training is limited to the identification of suspicious transactions • No requirement for financial institutions to place screening procedures when	The T&T authorities may wish to amend legislative provisions for internal controls and other measures to include the following: Internal procedures, policies and controls to prevent ML and FT covering inter alia CDD, record retention, detection of unusual and suspicious transactions and the reporting obligation. • Appropriate compliance management arrangements should be develop to include at a minimum the designation of an AML/CFT compliance officer at management level.	• These recommendations have been addressed in regulations 3 to 8 of the FOR. • Regulation 7 provides for the establishment of a compliance programme to include procedures, methods and guidelines covering CDD, record retention, identification of suspicious transactions and suspicious activities and internal reporting obligations. • Regulation 3(1) requires financial

		hiring employees.	• The AML/CFT compliance officer and other appropriate staff should have timely access to customer identification data and other CDD information, transaction records, and other relevant information.	institutions and listed businesses to designate a manager or official at managerial level as Compliance Officer. Regulation 4 details the functions of the Compliance Officer. • Regulation 8(2) requires financial institutions and listed businesses to ensure that the Compliance Officer and other employees have timely access to customer identification data and other records and relevant information to enable them to produce reports in a timely manner. Regulation 6 requires training for directors and all members of staff. Training is specified for obligations under the POCA, the FIUTTA, the FOR, the ATA and guidelines on the subject of money laundering issued in accordance with the FOR and understanding the techniques for identifying suspicious activity. Information on new developments in methods and trends in money laundering and financing of terrorism is not included. • Regulation 5(1) requires financial institutions and listed businesses to utilize the industry best practices in determining their staff recruitment policy in order to hire and retain staff of the highest level of integrity and competence. The above provisions comply with a substantial number of the examiners' recommendations. However, as noted the training obligation does not cover new developments in method and trends in money laundering and terrorist financing. • Regulation 4 (1) of the Financial Obligations Regulations 2010 imposes obligations on the designated compliance officer to ensure that the necessary compliance programme procedures and controls required by these regulations are in place with the financial institution or listed business. • Regulation 3 (1) of the Financial Obligations Regulations 2010, addresses the setting up of a sound compliance programme within an organization. Accordingly, a financial institution

			• Employee training should include information on new developments including current ML and FT techniques, methods and trends, clear explanations of all aspects of AML/CFT laws and obligations and requirements concerning CDD and suspicious transaction reporting.	or listed business shall for the purpose of securing AML/CFT compliance, designate a manager or official employed at managerial level as the Compliance Officer of that institution or business. - With respect to the designation of the compliance officer, the following criteria must be satisfied. - Where the financial institution or listed business employs five persons or less, the employee who occupies the most senior position, shall be the Compliance Officer. - Where the financial institution or listed business is an individual who neither employs nor acts in association with another person, that individual shall be the Compliance Officer. The Compliance Officer shall be trained by the financial institution or listed business. • Regulation 4 (4) of the Financial Obligation Regulations, 2010, requires that guidelines to financial institutions be issued. The guidelines shall indicate the circumstances that may be considered, in determining whether a transaction or activity is suspicious. • Regulation 6 of the Financial Obligation Regulations, 2010, provides guidance on specific training issues to be adequately covered by directors and by extension all members of staff. These are as follows: - the Proceeds of Crime Act No 55 of 2000; the Proceeds of Crime (Amendment) Act No 10 of 2009 - the Financial Intelligence Unit of Trinidad and Tobago Act, 2009; - these regulations; and - guidelines on the subject of money laundering In addition to this, Regulation 6 (1) (b) ensure that subsequent to the training staff should develop an

				overall understanding of the techniques for identifying any suspicious transactions or suspicious activities. Regulation 6 (2) outlines the envisaged effect of training. The essential idea here is that employees at all levels of the financial institution or listed business would become capable of detecting suspicious transactions and other suspicious activities. Regulation 6 (3) requires that records of the training programmes administered to its employees shall be kept.
			• Financial institutions should be required to put in place screening procedures to ensure high standards when hiring employees	• Regulation 5 (1) of the Financial Obligation Regulations, 2010, requires that the best practices of industry to be utilized with a view of determining its staff recruitment policy. It is intended that this approach ensures that staff of the highest levels of integrity and competence shall be hired and retained. In an attempt to achieve high standards regarding screening procedures of staff to be potentially hired, Regulation 5 (2) requires the following specific information to be maintained for a period of six years and made available to the Central Bank, the FIU and any Supervisory Authority when necessary: - the name - addresses - position titles and - other official information pertaining to staff appointed or recruited by the financial institution or listed business.
			• The AML/CFT compliance officer and other appropriate staff should have timely access to customer identification data and other CDD information, transaction records, and other relevant information.	• Regulation 8 (2) of FOR 2010 states that The financial institution or listed business shall also ensure that the Compliance Officer and other employees have timely access to customer identification data and other records and relevant information to enable them to produce reports in a timely manner. The **Financial Obligations (financing of terrorism) Regulations** have been made by the

				Honourable Minister of National Security and have been laid in Parliament. The Financial Obligations (financing of terrorism) Regulations applies mutatis mutandis to the Financial Obligations Regulations and as such the requirements for internal controls and other measures under the FOR now extend to the financing of terrorism.
16.DNFBP – R.13-15 & 21	NC	• No SAR's from DNFBP's have been submitted to the Designated Authority/FIU. • No evidence that the DNFBP's are complying with legislated requirements of Rec. 15. • See section 3.7.3 for factors relevant to Recs. 13 and 14. • See section 3.8.3 for factors relevant to Rec. 15.	• The requirements of Recommendations 13 and 14 as detailed in section 3.7.2 of this report should be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendation 16. • The requirements of Recommendations 15 as detailed in section 3.8.2 of this report should be imposed on all DNFBPs as stipulated in the circumstances detailed in Recommendation 16	• The first schedule of the Proceeds of Crime Act No 55 of 2000 provides a limited list of businesses which conduct relevant business activity to be subject to AML/CFT FATF requirements. The relevant business activity are ascertained as follows: ▪ - Real Estate Business ▪ -Motor Vehicle Sales ▪ -Courier Services ▪ -Gaming Houses ▪ -Jewellers ▪ -Pool Betting ▪ -National Lottery On-line betting games • This list was later revised, by virtue of the Proceeds of Crime (Amendment) Act 10 of 2009, to include a wider spectrum of listed businesses to be subject to AML/CFT FATF compliance. Accordingly, the following listed businesses is included for the purposes of compliance with AML/CFT FATF requirements: ▪ - Money or Value Transfer Services ▪ - A Private Members' Club ▪ -An Accountant, an Attorney-at-Law or other independent legal professional ▪ -An Art Dealer ▪ -Trust and Company Service Provider As previously stated listed businesses are subject to the same AML requirements as financial institutions and as such the requirements detailed in Recommendations 13, 14 and 15 apply equally to DNFBP's • Number of SAR's submitted post passage of the FIU Act 2009:- 94 200

				Breakdown of Submission • 99 Banks • 13 Mortgage Companies • 3 Credit Union • 26 Investment cCompanies • 1 Securities • 49 Money Remitters • 7 Insurance Companies Listed businesses will be mandated to register with the FIU. See regulations attached.
17.Sanctions	NC	• No provisions in legislation to withdraw restrict or suspend the license of the financial institution for non-compliance with AML/CFT requirements. • The requirements set out in Rec. 17 are included in the POCA 2000, but there are no provisions in the legislation to withdraw, restrict or suspend the license of the DNFBP.	• The authorities should consider amending the provisions for sanctions in the POCA to allow for penalties to be applied jointly or separately. • The authorities should consider increasing the range of sanctions for AML/CFT non-compliance to include disciplinary sanctions and the power to withdraw, restrict or suspend the financial institution's license, where applicable.	• The recommendation for considering the amendment of the provisions for sanctions in the POCA to allow for penalties to be applied jointly or separately was due to the examiners' concern that all penalties in the POCA include both a term of imprisonment and a fine with no indication that the penalties could be applied separately. This raised questions as to the applicability of the penalties to legal persons. As noted before, section 68(3) of the Interpretation Act provides that where in any written law more than one penalty linked by the word "and" is prescribed, the penalties can be imposed alternatively or cumulatively. This provision therefore allows for the imposition of the stipulated fines in the penalties in POCA separately on companies. • The Financial Obligation Regulations, 2010, ensures that any financial institution or listed business which does not comply with any of its obligations under these regulations commits an offence and is liable on summary conviction or on conviction on indictment, to the penalty prescribed in section 57 of the Proceeds of Crime Act No 55 of 2000. • Regulation 40 of the Financial Obligations Regulations allows the Supervisory Authority be it the Central Bank, the TTSEC or the FIU to use the regulatory measures as outlined in the legislation that governs the supervised entities to bring about compliance with AML/ CFT requirements. Therefore the FIA enhances the

				powers of the Central Bank by providing for administrative fines; the enforcement of directions by court order and restraining order or other injunctive or equitable relief. Section 86 of the FIA gives the Inspector of Financial Institutions power to issue compliance directions or seek restraining orders for actions violating any provision of the FIA and associate regulations, measures imposed by the Central Bank or unsafe or unsound practice in conducting the business of banking. Unsafe and unsound practice is defined to include without limitation any action or lack of action that is contrary to generally accepted standards of prudent operation and behaviour. This definition allows for the Inspector of Financial Institutions to exercise the above power with regard to AML/CFT breaches. In addition, section 10 of the FIA gives the Central Bank the power to issues Guidelines to inter alia aid compliance with the POCA, ATA or any other written law relating to the prevention of money laundering and combating the financing of terrorism. Section 12 of the FIA also allows the Central Bank to issue a compliance direction or take any other action under section 86 for contravention of a guideline referred to in section 10. • Section 23 of the FIA mentions the restriction and revocation of a license. (1) The Board may revoke a license where— *(g)* the licensee fails to comply with a direction under section 24 or 27 or with a compliance direction issued by the Central Bank under section 86. Section 65 of the Insurance Act was amended by section 8 of the Insurance Amendment Act 2009. The amendment allows the Central Bank to issue compliance directions to a registrant, controller, officer, other employee, agent of a registrant etc under the Insurance Act where they have:- o committed, is committing, or is about to commit an act, or is pursuing or is about to

				pursue any course of conduct, that is an unsafe and unsound practice; o committed, is committing, or is about to commit, an act, or is pursuing or is about to pursue a course of conduct, that may directly or indirectly be prejudicial to the interest of policyholders; o violated or is about to violate any of the provisions of any law or Regulations made thereunder; o breaches any requirement or failed to comply with any measure imposed by the Central Bank in accordance with the Act or Regulations made thereunder. • In addition to issuing compliance direction, the Central Bank may seek a restraining order or other injunctive relief. • Disciplinary sanctions for AML\CFT non-compliance have been included in the Securities Bill 2010.
18.Shell banks	PC	• There are no provisions to prevent financial institutions to enter, or continue, correspondent banking relationships with shell banks. • There are no provisions to require that financial institutions should satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.	• Shell banks should be prohibited by law. • Financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks; • Financial institutions should be required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.	• Trinidad and Tobago acknowledges that there is no express prohibition in the Financial Institutions Act 2008 against shell banks. • However, The Basel Committee on Banking Supervision defines shell banks as banks that have no physical presence (i.e. meaningful mind and management) in the country where they are incorporated and licensed and are not affiliated to any financial services group that is subject to effective consolidated supervision. Trinidad and Tobago therefore contends that the provisions in the FIA 2008 relating to the process of licensing and supervision of banks, whether locally incorporated or branches of foreign international banks implicitly prohibit shell banks. In this regard, we draw attention to the following:- • All licensed banks must have a physical presence in Trinidad and Tobago as a locally incorporated bank or subsidiary or as a foreign branch. For a foreign branch the principal representative must be ordinarily resident in Trinidad and Tobago and must be the branch of an international bank that is subject to effective supervision in its home country.

				• All licensed banks are subject to the same prudential requirements. A foreign branch must satisfy the same capital and other requirements as a locally incorporated bank or subsidiary. • The locally incorporated bank or foreign branch must maintain at its offices all records and books pertaining to its operations and must be able to immediately provide same to the Inspector upon his request. • All subsidiaries or foreign branches of banks must be subject to supervision of both home regulators in other jurisdictions and Trinidad and Tobago as host regulator. • Locally incorporated banks and foreign branches must submit all returns and annual audited financial statements to the Central Bank. • Where a licensee is part of a financial group the financial group must be so structured and managed that it may be supervised by the Central Bank or by an equivalent supervisor in its home jurisdiction. • Persons are prohibited from conducting banking business or business of a financial nature without a licence being issued in accordance with the FIA. It is therefore our view that these provisions serve to prohibit shell banks in Trinidad and Tobago. • Further regulation 22. (1) of the FOR states that a bank shall not enter or continue a correspondent banking relationship with a bank— (a) incorporated in a jurisdiction in which it has no physical presence; or (b) Which is unaffiliated with a financial group regulated by a supervisory authority in a country where the Recommendations of the Financial Action Task Force are applicable. • Regulation 22 (2) of the Financial Obligation Regulations, 2010, states that a financial institution or listed business shall ensure that the respondent financial institution or business in a foreign country, does not permit a shell bank to use its accounts.

19.Other forms of reporting	PC	• No indication that the authorities considered implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national central agency with a computerized database. • No indication that when the Customs Division discovers an unusual international shipment of currency, monetary instruments, precious metals or gems etc, it considers notifying, as appropriate, the Customs Service or other competent authorities of the countries from which the shipment originated and/or to which it is destined, and co-operates with a view toward establishing the source, destination, and purpose of such shipment and toward the taking of appropriate action.	• The authorities should consider the feasibility and utility of implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national agency with a computerized data base. • When the Customs Division discovers an unusual international shipment of currency, monetary instruments, precious metals or gems etc, it should consider notifying, as appropriate, the Customs Division or other competent authorities of the countries from which the shipment originated and/or to which it is destined, and should co-operate with a view toward establishing the source, destination, and purpose of such shipment and toward the taking of appropriate action. • The Customs Division's computerized database of Customs Declaration Forms should be subject to	• Regulation 31 and 32 of the FOR states that financial institutions and listed businesses retain records of all domestic and international transactions in electronic or written form. • The FIU is presently considering a regime for the systematic reporting of; - Foreign exchange transactions - Cash transactions - Money transactions • The Customs and Excise Division is a member of the World Customs Organization which has developed a global system for gathering data and information for intelligence purposes called the Customs Enforcement Network. As an active member of this network we regularly post information concerning unusual international shipment of currency and precious gems, etc to this database as the means of notifying the Customs service from which the shipment originated and/or is destined with a view to taking appropriate action in accordance with each country international obligations. Additionally as members of the Caribbean Customs Law Enforcement Council (CCLEC) we regularly update the CCLEC's seizure intelligence database (SID) for the aforementioned purposes, including establishing the source destination and purpose of such shipments. Both databases rely on encryption technology to protect communications and data transfers. All payment of duties and taxes to the Comptroller of Customs and Excise on any one day by any one consignee in excess of TT$5,000.00 can only be made by a certified Manager's cheque. • The Customs and Excise database also relies on encryption technology to protect communication

			strict safeguards to ensure proper use of the information that is recorded.	and data transfer and access is limited to only specific Officers
20.Other NFBP & secure transaction techniques	LC	• The only measure taken by the Government of Trinidad and Tobago to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to ML has been not issuing large denomination banknotes.	• Authorities should consider applying the relevant FATF Recommendation to non-financial businesses and professions (other than DBFBP's) that are at the risk of being misused for ML or TF. • Measures should be taken to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to ML	• The AML/CFT regime in Trinidad and Tobago is applicable to financial institutions and listed business. Listed business is defined in the POCAA to mean a business or profession listed in the First Schedule. Section 35 of the POCAA has amended the First Schedule to include not only DNFBPs but also motor vehicle sales and the business of an art dealer which are now subject to AML obligations. This provision satisfies the examiners' recommended action above. • To further strengthen this system, the Government of Trinidad and Tobago has requested technical assistance from the International Monetary Fund to undertake a risk assessment of its relevant sectors to ascertain their risk of being misused for ML or TF. This was to be conducted in tandem with the Fourth Round Mutual Evaluation which has been postponed. • The AML/CFT Compliance Unit of the Ministry of National Security is currently conducting the national risk assessment of the SIP framework. The aim of this exercise is to measure the risks of non-financial businesses and professions being used for ML & TF.
21.Special attention for higher risk countries	NC	• Financial institutions are not required to give special attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries, which do not or insufficiently apply the FATF Recommendations.	• The POCA should be amended to require financial institutions to give special attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF Recommendations	• Section 55 of POCA has been amended by POCAA by substituting section 55(2) (a) (i) which requires financial institutions and listed businesses to pay special attention to all business transactions with persons and financial institutions in or from other countries which do

		• There is no legal requirement for the background and purpose of transactions having no apparent economic or visible lawful purpose with persons from or in countries which do not or insufficiently apply the FATF Recommendations to be examined and written findings made available to assist competent authorities and auditors. • Only the Central Bank circulates the NCCT list to the financial institutions it supervises.	• Effective measures should be put in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries. • The background and purpose of transactions having no apparent economic or visible lawful purpose with persons from or in countries which do not or insufficiently apply the FATF Recommendations should be examined and written findings made available to assist competent authorities and auditors. • That the Government Trinidad and Tobago have in place arrangements to take the necessary countermeasures where a country continues not to apply or insufficiently applies the FATF Recommendations.	not or insufficiently comply with the recommendations of the FATF • Section 17(1)(a) of the FIUTTA requires the FIU to publish as frequently as necessary, by notices in the Gazette and in at least two newspapers in daily circulation in Trinidad and Tobago, a list of countries identified by the FATF as non compliant or not sufficiently compliant with their recommendations. Section 55(2) (c) requires financial institutions and listed businesses to examine the background and purpose of all transactions which have no economic or visible legal purpose under paragraph (a)(i) and make available to the Supervisory Authority, written findings after its examination where necessary. • Section 55 (2) C of POCA as amended states 55 (2) Every financial institution or listed business shall- (c) examine the background and purpose of all transactions which have no economic or visible legal purpose • The Financial Obligation Regulations, 2010, and the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009 both address the issue of special attention. Accordingly, special attention is afforded to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF Recommendations. These will be elaborated upon. Regulation 7 of the Financial Obligation Regulations, 2010, states that any ascertainable compliance programme shall contain measures which include the compilation of a listing of countries which are non-compliant, or do not sufficiently comply with the recommendations of the Financial Action Task Force.

				Section 17 (1) of the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2010, imposes a) as frequently as is necessary, the obligation of publishing notices in the Gazette and in at least two newspapers in daily circulation in Trinidad and Tobago, a list of the countries identified by the Financial Action Task Force, as noncompliant or not sufficiently compliant with its recommendations; and b) periodically, information on trends and typologies of money laundering, locally and internationally, as well as appropriate statistics and any other information that would enhance public awareness and understanding of the nature of money laundering and its offences. - In Section 17 (2) of Act No 11 of 2000, the need for the FIU to set out measures that may be utilized by a financial institution or listed business, against such countries is addressed. These measures may be set out by Order. The FIU website currently contains a list of jurisdictions that do not sufficiently comply with the FATF 40+9 Recommendation.
22.Foreign branches & subsidiaries	NC	• No legal requirements for financial institution to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with FATF standards.	The T&T authorities may wish to introduce legislation or enforceable regulations to include the requirements for financial institutions to: • pay particular attention that their branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations observe the AML/CFT requirements consistent with home country requirements and the FATF Recommendations; • apply the higher standard, to the extent that local (i.e. host country) laws and regulations permit, where the minimum AML/CFT requirements of the home and host countries differ; • inform their home country supervisor when a foreign branch or subsidiary is unable to	• There is currently no specific requirement in law or regulations that address this issue. However, the Central Bank is currently revising its AML/ CFT Guideline and this matter will be addressed therein. Central Bank's AML/ CFT Guidelines are considered other enforceable means. In addition, the Bank's licensing procedures are being updated to reflect this Recommendation.

			observe appropriate AML/CFT measures because this is prohibited by local (i.e. host country) laws, regulations or other measures.	
23.Regulation, supervision and monitoring	NC	• Relevant supervisory agencies have not been designated as responsible for ensuring the compliance of their supervised financial institutions with AML/CFT requirements. • The TTSEC does not apply the requirements of the IOSCO Principles for the supervision of the securities sector with regard to AML/CFT. ▪ Only the financial institutions supervised by the CBTT are subject to AML/CFT regulation and supervision. ▪ Only financial institutions under the FIA are subject to all measures necessary to prevent criminals and their associates from gaining control or significant ownership of financial institutions. ▪ The securities sector, credit unions, money transfer companies and cash couriers are not subject to AML/CFT supervision. ▪ Money transfer companies and cash couriers are not licensed, registered or appropriately regulated	• Authorities should formally designate the relevant supervisory agencies with the responsibility for ensuring compliance by their licensees with AML/CFT obligations.	• In POCAA, supervisory authority has been defined as the competent authority for ensuring compliance by financial institutions and listed businesses with requirements to combat money laundering. Regulation 2(1) of the FOR specifies the supervisory authority for different types of financial institutions as follows; a) Central Bank – financial institutions licensed under the FIA, insurance companies and intermediaries under the Insurance Act, authorized dealers (cambios and bureaus de change) under the Exchange Control Act, or a person who is registered to carry on cash remitting services under the Central Bank Act b) TTSEC – persons licensed as a dealer or investment advisor under the Securities Industries Act. c) FIU – other financial institutions and listed business. d) The Commissioner of Co-operative Development has the powers of general supervision of the affairs of societies and shall perform the duties of registrar of societies (including credit union societies). (Cooperative Societies Act 1971). With respect to (a) above the ambit of the Central Bank is to supervise money transmission or remittance business generally and is not limited to cash remitting services. This is a drafting error in the Financial Obligations Regulations and is in need of amendment. We have recognized that the above definition does not include the combating of terrorism, but this will be addressed in the Anti-Terrorism Regulations. The policy to guide the Anti-Terrorism Regulations is currently being drafted by the Compliance Unit of the

				Ministry of the National Security and will be submitted to Parliament. Trinidad and Tobago Securities and Exchange Commission (TTSEC) is the supervisory body for the securities sector. For the purposes of AML/CFT compliance in the securities sector, the Proceeds of Crime (Amendment) Act No 10 of 2009, provides a definition of "security" as including the following: - any document, - instrument or - writing evidencing ownership of, or - any interest in the capital, - debt property, -profits, - earnings or -royalties of any person or - enterprise and - without limiting the generality of the foregoing, includes any— - bond, debenture, note or other - evidence of indebtedness; - share, stock, unit or unit certificate, - participation, certificate, certificate of share or interest; - document, instrument or writing - commonly known as a security; document, instrument or writing evidencing an option, subscription or other interest in respect of— - a financial institution; - a credit union within the meaning of the Co-operative Societies Act; or - an insurance company; - investment contract; - document, instrument or writing constituting evidence of any interest or participation in— - a profit-sharing arrangement or - agreement; - a trust; or - (iii) an oil, natural gas or mining lease, claim or royalty or other mineral rights
			• The TTSEC should apply the requirements of the IOSCO Core Principles for the supervision of the securities sector with regard to AML/CFT. • The measures in the FIA to prevent criminals or their associates from gaining control or significant ownership of financial institutions should be	• The IOSCO Core principles have been included in the Securities Industries Bill which is presently

			duplicated in the relevant legislation governing the supervision of other financial institutions under the POCA. • The securities sector and credit unions should be subject to AML/CFT supervision. Money transfer companies and cash couriers should be licensed, registered, appropriately regulated and subject to AML/CFT supervision.	before the Legislation Review Committee. The TTSEC Bill have been laid in Parliament and would be debated in due course • Section 33(2) of the FIA state that; *A person who—* a) *has been convicted by a court for an offence involving fraud, dishonesty, a contravention of the Proceeds of Crime Act or any regulations made thereunder or such other statutory provision in relation to the prevention of money laundering and the combating of terrorist financing as may be in force from time to time;* *b) is or was convicted of an offence under this Act; or* *c) is not a fit and proper person in accordance with the criteria specified in the Second Schedule, shall not act or continue to act as a director or officer of, or be concerned in any way in the management of a licensed Institution or financial holding company.* • Insurance companies under the Insurance Act are also required to notify the Central Bank of any change to controllers (i.e. controlling shareholders or significant shareholders owning 33 1/3% of more, CEO etc). Controllers are required to be fit and proper on an ongoing basis and must satisfy Central Bank's requirements in this regard. Section 20 of the Insurance Act refers. • Money or value transfer services are provided for as financial institutions and listed business in the first schedule of the Proceeds of Crime (Amendment) Act No 10 of 2009. The Central Bank was given the power to supervise the operations of money transmission and remittance business via an amendment to the Central Bank Act in 2008. A draft framework for the regulation and supervision of money remitters will be issued for comment in February 2011.

24. DNFBP – regulation, supervision and monitoring	NC	• There is no legal requirement to ensure that the gaming houses (or private member clubs), pool betting and the national lottery on line betting games are subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF Recommendations. • There are no legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a Gaming House (or Private Member Club), Pool Betting and the National Lottery on line Betting Games. • There is no designated competent authority or SRO responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements.	• Gaming houses (or private member clubs), pool betting and the national lottery on line betting games should be subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF Recommendations.	• Regulation 2(1) of the FOR specifies the FIU as the supervisory authority for other financial institutions and listed businesses. Listed businesses as defined in POCA include DNFBPs. The FIU is presently responsible for supervising DNFBPs but only for AML compliance Section 2 of POCA has been amended by POCAA to include gaming houses (or private member clubs), pool betting and the national lottery on line betting games as listed businesses and thereby subject to AML requirements. Under Section 34 of POCAA the FIU has been named as the Supervisory Authority for listed businesses until regulations for the selection of a Supervisory Authority are made. The Supervisory Authority has been defined in the POCAA as the competent authority responsible for ensuring compliance by financial institutions and listed business with AML obligations. The process of identifying and registering listed businesses has begun and is ongoing. The first advertisement mandating registration of listed businesses has been published in the local newspapers. The Inland Revenue VAT registration office and the Port of Spain High Court is providing assistance in this process. Once this has been completed an appropriate supervisory and regulatory regimes will be established and implemented.
			• Legal or regulatory measures should be taken to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a gaming house (or private member club), pool betting and the national lottery on line betting games.	• The Financial Intelligence Unit Regulations 2011 that have been enacted allows for the FIU to issue guidelines accordingly. See FIU Regulations attached. • Under Section 34 of POCAA the FIU has been named as the Supervisory Authority for listed businesses until regulations for the selection of a Supervisory Authority are made. The Supervisory Authority has been defined in the POCAA as the competent authority responsible

			• A competent authority or SRO should be designated as responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements. • Competent authorities should establish guidelines that will assist DNFBP's to implement and comply with their respective AML/CFT requirements	for ensuring compliance by financial institutions and listed business with AML obligations. Regulation 2(1) of the FOR specifies the FIU as the supervisory authority for other financial institutions and listed businesses. Listed businesses as defined in POCA include DNFBPs. The FIU is presently responsible for supervising DNFBPs but only for AML compliance. In respect of Counter financing of terrorism compliance this will be addressed in the Anti-Terrorism Regulations. • Further section 55 of POCA states that '*Every financial institution or listed business shall develop and implement a written compliance program, approved by the FIU'*. Therefore all DNFB's are required to submit a compliance programme to the FIU which they are to adhere and comply. • The Financial Intelligence Unit Regulations 2011 have been enacted. The Regulations mandate the registration of listed businesses with the FIU within three (3) months of the coming into effect of the Regulations. See FIU Regulations attached. • The Financial Obligations (financing of terrorism) Regulations have been made by the Honourable Minister of National Security and have been laid in Parliament. These Regulations prescribe the policies that financial institutions must require to have in place to pay attention to any TF patterns that may arise as a result of new technological advancements.
25. Guidelines & Feedback	NC	• The Designated Authority/FIU does not provide feedback to financial institutions that are required to report suspicious transactions. • The CBTT AML/CFT Guidelines are applicable only to banks and insurance companies. • There are no guidelines to assist	• The designated authority/FIU should have a structure in place to provide financial institutions that are required to report suspicious transactions, with adequate and appropriate feedback. • The CBTT AML/CFT Guidelines should be	• Section 10 of the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009, imposes a requirement on the FIU that feedback shall be provided in writing to the financial institution or listed business regarding suspicious transaction or suspicious activity report received from the same. • Section 10 of the FIA states that the Central Bank

		DNFBPs to implement and comply with their respective AML/CFT requirements".	enforceable and have sanctions for non-compliance. • Guidelines similar to the CBTT AML/CFT Guidelines should be issued by the relevant authorities for all financial institutions and persons engaged in relevant business activity stipulated in the POCA.	may issue guidelines on any matter it considers necessary to, inter alia, aid compliance with POCA, the ATA, or any law relating to AML/CFT. Although contravention of a guideline referred to in section 10 does not constitute an offence, the Central Bank or the Inspector of Financial Institutions may take action under section 86 of the FIA. Section 86 of the FIA gives the Inspector of Financial Institutions power to issue compliance directions or seek restraining orders for actions violating any provision of the FIA and associate regulations, measures imposed by the Central Bank or unsafe or unsound practice in conducting the business of banking. Unsafe and unsound practice is defined to include without limitation any action or lack of action that is contrary to generally accepted standards of prudent operation and behavior. This definition should allow for penalties to be applied for breaches of the CBTT AML/CFT Guidelines and therefore make them enforceable. While the above provisions create a legal basis for the enforceability of the CBTT AML/CFT Guidelines, effective implementation of this enforceability still has to be demonstrated by the Central Bank. • Further it should be noted that many of the present requirements in the Central Bank's 2005 Guideline have been codified in law in the FOR 2010. As a consequence, the Central Bank is in the process of revising its Guidelines from a principles based guideline (i.e based on FATF's principles) to a more process based guideline that would provide clarification to banks, insurance companies, insurance intermediaries, money remitters, bureau de change etc on what is required to fulfil the requirements of the FOR, ATAA, POCAA and FIUATT etc. • This Financial Intelligence Unit Regulations 2011 deals with this issue. See FIU Regulations attached.
Institutional and other measures				

26.The FIU	NC	• There is no (legally established) FIU that receives, analyses and disseminates financial information (FIU legislation not introduced to clearly indicate the powers of this entity). • The FIU lacks the legal authority to obtain and disseminate financial information. • Operational independence and more autonomous structure (reconsider "designated authority structure) of the FIU is needed • The FIU does not prepare and publish periodic reports of operations, typologies, trends and its activities for public scrutiny**.**	• Proceed quickly to enact FIU legislation. The required Legislative framework should be implemented with the view to gain membership to the Egmont Group of FIUs. • Introduce Periodic reports prepared by the FIU in relation to its operation in order to test its growth and effectiveness. This report should also serve to show ML and TF trends. • Consider strengthening and restructuring the staff of the FIU so as to encourage self-sufficiency and operational independence.	• The FIUTTA has been enacted. Part III of the FIUTTA provides for the functions and powers of the FIU. These include the collection, analysis and dissemination of financial intelligence and information among local and foreign law enforcement authorities, the ability to request necessary financial information from reporting entities, the ability to share financial intelligence with local and foreign authorities, the establishment of reporting standards and the publication of annual and periodic reports. Concerning the Egmont membership procedure the FIU is at stage 7 having been invited as an Observer to the Egmont Group (LWG & OWG) Meeting in Aruba 14-17 March 2011. • Section 18(1) of the FIUTTA requires the Director of the FIU to submit an annual report to the Minister of Finance on the performance of the FIU, including statistics on suspicious activity reports, the results of any analyses of these reports, trends and typologies of money laundering activities or offences. • With regard to staffing, section 3(2) of the FIUTTA states as follows: - The FIU shall consist of such number of suitably qualified public officers including a Director and Deputy Director as may be necessary, for the performance of its functions and may include- - public officers, appointed, assigned, seconded or transferred from another Ministry or statutory corporation to the FIU; and - Officers and other persons appointed on contract by the Permanent Secretary of the Ministry of Finance. In order to demonstrate its growth and effectiveness, checks and balances are installed at three (3) levels. **a) Maintenance of Statistics**

				Section 9 of the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009, specifically requires the FIU to implement a system for monitoring the effectiveness of its anti-money laundering policies by maintaining comprehensive statistics on— (a) suspicious transaction or suspicious activity reports received and transmitted to law enforcement; (b) money laundering investigations and convictions; (c) property frozen, seized and confiscated; and (d) International requests for mutual legal assistance or other co-operation. The above statistics will provide information regarding ML and TF trends. **b)The Installation of a Reporting Mechanism within the FIU** Section 18 (1) of the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009 requires that annual reports be prepared to capture the above information. Accordingly, the Director of the FIU shall submit within sixty days of the end of the financial year an annual report to the Minister on the performance of the FIU. This includes statistics on suspicious transaction and suspicious activities reports, the results of any analyses of these reports, trends and typologies of money laundering activities or offences. **c) Accountability to Parliament** Subsequently, Section 18 (2) imposes an obligation on the Minister to lay the report in Parliament within thirty days of receipt of a report from the Director. Section 17 (1) of the Financial Intelligence Unit of Trinidad and Tobago Act No 11 of 2009, imposes an obligation on the FIU to publish a list of the countries identified by the Financial Action Task Force, as noncompliant or not sufficiently compliant with its recommendations. This exercise shall be undertaken as frequently as is necessary, through the use of Notices placed in the

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<td>• The FIU should consider publicizing periodic reports for the wider public.</td>
<td>Gazette and in at least two newspapers in daily circulation in Trinidad and Tobago

d) Autonomy and Independence

Section 22A (1) states, “The Director shall not disclose or cause to be disclosed to the Minister (Finance) or to any other person, except in accordance with this Act, the personal or financial details pertaining to an individual or business.

The FIU budget is allocated by the Ministry of Finance for the year October 2010 to September 2011. Disbursement of funds is at the FIU’s discretion.

• Section 17 (1) (b) enhances public awareness and understanding of the nature of money laundering and its offences. This section imposes an obligation on the FIU to publish, periodically, information on trends any typologies of money laundering, locally and internationally, as well as appropriate statistics and any other information.</td>
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<td>27.Law enforcement authorities</td>
<td>LC</td>
<td>• The lack of resources is hampering the ability of Law enforcement authorities to properly investigate ML and FT offences.</td>
<td>• Pay more attention to pursuing Money-Laundering offences based on received and analysed SAR’s.</td>
<td>• The FIB post passage of POCAA in October 2009:

o Confiscation investigation (1)
o Money laundering investigations (2)
o Production Orders obtained under POCA (5)
o Search Warrants obtained under POCA (1)

<u>On-going Money laundering and confiscation investigations 2010</u>

<table><tr><td><u>On-Going ML Investigations</u></td><td><u>On-going Confiscation Investigations</u></td></tr><tr><td>9</td><td>1</td></tr></table>
<u>Production Orders, Search Warrants and Confiscation orders obtained from 1st September 2010 to 10th December 2010</u>

<table><tr><td><u>Production Orders</u></td><td><u>Search Warrants</u></td><td><u>Cor</u></td></tr></table></td>
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				18	Nil	Nil
				Further, a procedure has been established to Identify money laundering offences and other offences from which proceeds are generated. To this end a mandatory template has been created to obtain financial information of all persons charged with a specified offence as defined in POCA. This can be accessed via a direct online database by the Financial Investigations Branch.		
			• The effectiveness of the system to combat AML(/CFT) offences should be improved.	• A formal administrative review of the laws, institutions and human resource needs of the security community is being undertaken to arrive at an assessment of where assets and personnel should be deployed. This review taken in conjunction with this Recommendation would be used to strengthen the resources needed by law enforcement. • The AML/CFT Compliance Unit of the Ministry of National Security is currently conducting an assessment of the AML/CFT architecture of Trinidad and Tobago by the use of the SIP framework. The aim of this exercise is to measure the risks of institutions being used for ML & TF as well as what crime types are most likely to lead to ML and TF threats.		
			• Enact the Police Service Reform Bill quickly in order to reform the Police Service with the view to improve efficiency and restore public trust.	• The Police Service Act was amended in 2006 (Police Services (Amendment) Act, 2007). The amended Act helps improve the efficiency within the Police Service. The enactment of the Police Complaints Authority Act, 2006, establishes the Police Complaints Authority to regulate the members of the police service against corruption and misconduct and is an attempt to restore public trust.		
			• Increase involvement of the Customs and Excise Division in combating money laundering and	• Throughout the year members of the Customs and Excise Division have been invited and		

			terrorist financing • The Customs and Excise Division should consider reviewing its policy in relation to the sharing of data. • The DPP office should continue to implement its special project on ML prosecutions.	attending workshops, training and conferences to understand their role in the AML/CFT regime and also increase their involvement in combating money laundering and terrorist financing. - GovRisk Conference 9th-13th August 2010 - UNODC Workshop 24-27th August. - Strategic Implementation Planning Framework Workshop held on 12-15 October 2010 In addition, the Comptroller of Customs and Excise is currently a member of the National AML/CFT Committee. This allows the Customs and Excise Division to have a great input into the structuring, organizing and implementation of Trinidad and Tobago's AML/CFT Regime. • The policy of the Customs and Excise Division includes the sharing of information and intelligence with approved law enforcement agencies nationally, regionally and internationally. The sharing of data is governed by existing laws and best practice, including forwarding to the Financial Intelligence Unit for analysis, all data collected from arriving passengers who have declared currency and bearer-negotiable instruments in excess of the specified sum. • **Under Law enforcement authorities**, The DPP office has implemented its special project on Money Laundering prosecutions. The office of the DPP is engaged on an ongoing basis in the prosecution of money laundering matters.
29.Supervisors	NC	• The Credit Union Supervisory Unit do not have the power to compel production of or to obtain access to all records, documents or information relevant to monitoring compliance. • The CUSU do not have the authority to conduct inspections of relevant financial institutions including on-site inspection to ensure compliance. • Supervisors do not have adequate powers of enforcement and sanction against financial institutions and their directors or senior management for failure to	• The CUSU should have the power to compel production or to obtain access to all records, documents or information relevant to monitoring compliance • The CUSU should have the authority to conduct inspections of relevant financial institutions including on-site inspection to ensure compliance.	• The decision has been made for the supervision of Credit Unions to fall under the remit of the CBTT. A Credit Union Bill has been drafted and is under review. It is envisaged that once this has occurred the CBTT will have the power : ○ To compel production or to obtain access to all records, documents or information relevant to monitoring compliance. ○ To conduct inspections of relevant financial institutions including on-site inspection to ensure compliance. Progress has also been made by the Securities &

		comply with AML/CFT requirements.		Exchange Commission with the creation of the Securities Act which is before the Legislation Review Committee and will specifically address the absence of adequate powers of enforcement and sanctions and an effective AML/CFT supervisory compliance regime of the TTSEC and CUSU. (This Act was previously being debated in Parliament, however given the change in government it is now before the LRC.)
			• All supervisors should have adequate powers of enforcement and sanction against financial institutions and their directors or senior management for failure to comply with the AML/CFT requirements.	• Section 2(1) of the FOR, 2010 defines Supervisory Authority as Central Bank of T&T responsible for financial institutions licensed under the FIA; T&T Securities and Exchange Commission for persons licensed under the SIA and the FIU responsible for other financial institutions (Credit Unions) and listed business. This is for AML/CFT compliance. • The Central Bank has a range of sanctions available for ensuring AML/ CFT compliance. For example, the FIA enhances the powers of the Central Bank by providing for administrative fines; the enforcement of directions by court order and restraining order or other injunctive or equitable relief. Section 86 of the FIA gives the Inspector of Financial Institutions power to issue compliance directions or seek restraining orders for actions violating any provision of the FIA and associate regulations, measures imposed by the Central Bank or unsafe or unsound practice in conducting the business of banking. Unsafe and unsound practice is defined to include without limitation any action or lack of action that is contrary to generally accepted standards of prudent operation and behaviour. This definition allows for the Inspector of Financial Institutions to exercise the above power with regard to AML/CFT breaches. In addition, section 10 of the FIA gives the Central Bank the power to issues Guidelines to inter alia aid compliance with the POCA, ATA or any other written law relating to the prevention of money laundering and combating the financing of terrorism. Section 12 of the FIA also allows the Central Bank to issue a compliance direction or take any

			• All supervisory authorities of financial institutions	other action under section 86 for contravention of a guideline referred to in section 10. • Section 23 of the FIA mentions the restriction and revocation of a license. • (1) The Board may revoke a license where— (g) the licensee fails to comply with a direction under section 24 or 27 or with a compliance direction issued by the Central Bank under section 86. • Section 65 of the Insurance Act was amended by section 8 of the Insurance Amendment Act 2009. The amendment allows the Central Bank to issue compliance directions to a registrant, controller, officer, other employee, agent of a registrant etc under the Insurance Act where they have:- - committed, is committing, or is about to commit an act, or is pursuing or is about to pursue any course of conduct, that is an unsafe and unsound practice; - committed, is committing, or is about to commit, an act, or is pursuing or is about to pursue a course of conduct, that may directly or indirectly be prejudicial to the interest of policyholders; - violated or is about to violate any of the provisions of any law or Regulations made thereunder; - breaches any requirement or failed to comply with any measure imposed by the Central Bank in accordance with the Act or Regulations made thereunder. In addition to issuing compliance direction, the Central Bank may seek a restraining order or other injunctive relief. It should also be noted that compliance directions can also be issued to directors or shareholders of the banking institution or insurance company or insurance intermediary. Alternatively, the Central Bank can take action through the Court. • The Central Bank conducts on-site examination of licensed financial institutions under the FIA and insurance companies under the IA to verify

			need to have systems in place for combating ML and FT and should review the effectiveness of these systems.	inter alia their compliance with AML/ CFT requirements as mandated in law (ie. FOR and POCA) and Central Bank's guidelines. Since 2008 the Central Bank has increased its focus on AML/ CFT compliance of licensed and registered financial institutions and an AML/ CFT scope exam has been included in all on-site examinations. Based on the on-site findings, recommendations are issued to the final institution to address the deficiency found. The Central Bank is of the view that a penalties regime should be instituted for AML/ CFT compliance and is working through the National AML/ CFT Committee to determine where such a regime should be placed in law.
30.Resources, integrity and training	PC	• Resources of the FIU, DPP, Customs and the Police Service are not sufficient for these agencies to perform their respective functions. More and continuous training is needed for these entities, including the Immigration service. ▪ Staff resources of the TTSEC and CUSU are insufficient for their task. ▪ AML/CFT training available for supervisory staff is insufficient. • The strength and structure of the FIU is inadequate to meet its needs. ▪ Ongoing training is necessary.	• Introduce provisions for continuous training for the Designated Authority, the Training Officer and other staff within the FIU. • Consider establishing a training program for staff of the FIU. Coordinating of workshops/ seminars. • Improve budgetary, staffing and physical accommodation of the FIU in order to improve its capabilities.	• The FIU has a training policy (document) which was created in December 2010. Additionally, financial provisions were made in the FIU's budget estimate for 2010 to 2011 for staff training, conferences and seminars. • Since the establishment of the FIU on February 9, 2010 members of staff have attended training workshop and training seminars: (i) Market Oversight in the Caribbean by CARTAC, US SEC and T&T SEC, March 2010. (ii) IMF-CFATF Pre Assessment Workshop, July 2010. (iii) Governance, Regulation and Financial Crime Prevention Forum for the Caribbean Region August 2010. (iv) Catastrophic Computer Fraud and Business Technology, August 2010. (v) Specialized Training Workshop on Prevention and Fight Against Terrorism Financing, August 2010. • The FIU is located at the Level 25, Tower D, International Financial Centre (IFC), 1A Wrightson Road, Port-of-Spain. Cabinet approval is presently being sought for the organisational structure and staffing compliment of FIU (May 2010).

			• More resources (law enforcement staff) should be dedicated to investigation of ML offences. • Immigration should also be included in AML/CFT training or awareness programs. • Provide training to specific Customs Officers for future attachment to the FIU. • Address quickly the current shortage of staff at the Customs Division to enhance efficiency. • Provide further training to Prosecutors, Magistrates and Judges to broaden their understating of the relevant legislations.	• There has been a change in government and consequently the organizational structure and staffing complement of the FIU is being reviewed. It is estimated that the structure will be approved by November 2010. On 25 November 2010, Cabinet approved the organizational structure and staffing complement of the FIU. • The Financial Investigations Branch of the Special Anti-Crime Unit of Trinidad and Tobago has a current complement of seven investigators and one manager dedicated to the investigation of money laundering offences. Administratively, the FIB is an integral part of the Special Anti-Crime Unit of Trinidad and Tobago (SAUTT). SAUTT is a highly specialized and technologically advanced organization tasked with investigating crimes of National Significance which include money laundering and terrorist financing. This strategic administrative arrangement allows the FIB to have access to the technical and financial resources that it requires for the effective discharge of its functions. There has been a change in Government and consequently the organizational structure and staffing complement of the FIB is being reviewed. It is estimated that the structure will be approved by November 2010. • At present, staff members at the Customs and Excise Division have access to Certified Fraud Detection and Investigations training and also training on financial investigating. • The Customs and Excise Division currently has the adequate training and internal capacity to carry out their functions.

			• Give considerable attention to Staffing constraints faced by the Magistracy and the Office of the DPP. • The TTSEC and CUSU should review their staffing requirements and consider appropriate AML/CFT training in the event of being designated the AML/CFT authority for their licensees.	• A specialized workshop on the Prevention and fight against Terrorism Financing hosted by **the United Nations Office on Drugs and Crime** (UNODC) was held from 24 to 27 August 2010, this was attended by prosecutors and judges. • During March 2008, a business plan for reform in the DPP's office which contemplated the setting up of a specialist Proceeds of Crime/Money laundering Unit. This was submitted to the Attorney General and is receiving favorable consideration. • In May 2010 there was a change in government and there is now a review of the staffing requirements and appropriate training needed. It is expected to be completed by December 2010.
31.National co-operation	PC	• NAMLC is not yet fully operational. • No MOU's for cooperation between supervisors and other competent authorities, which affects the level of cooperation.	• The T&T authorities should consider instituting the legal framework necessary to formalise the National Anti- Money Laundering Committee. This Committee should be given legal responsibility to gather competent authorities regularly in order to develop and implement policies and strategies to combat ML and FT. The Committee should also be given responsibility for sensitising the general public about T&T ML measures and encourage compliance with the relevant legislations.	• Since its inauguration in May 2006 the AML/CFT committee has been reporting periodically to Cabinet on steps being taken during intercessional meetings to implement the Recommendations made in Trinidad and Tobago's Mutual Evaluation Report. During 2007 the focus of the Committee was in the area of legislative drafting with support from the Chief Parliamentary Office. Additionally, the FIU reported to the Committee on a regular basis on its outreach initiatives with banks, insurance companies and other members of the regulated sectors. In 2008 the Chair presented to the Committee for adoption and subsequent ratification by Cabinet: i. A suggested text for a National AML/CFT Policy ii. A suggested text for a National AML/CFT Strategy comprising the elements of public outreach, national awareness and training, risk base approach, strengthening of law

				enforcement, promoting relationships with the CFATF and regional and international affiliates etc. The policy was approved by Cabinet and has been published. ▪ Canvassing with the relevant Ministerial Team for Government policy and legislative enactment. ▪ Advocating on the committee's behalf with the Prime Minister and Prime Contact for expediency in recommendation implementation. ▪ Making representations to Cabinet for the full staffing of the Prime Contact's Secretariat so that the Committee's work could be appropriately buttressed by a full time team of legal research experts. ▪ Making appropriate representations with line Ministries for the strengthening of representation on the AML/CFT Committee. ▪ Negotiating with the CFATF assistance from international bodies such as the IMF/World Bank and CARTAC. ▪ Engagement of a full time legal drafting expert to promote the committee's legislative agenda in accordance with the Strategy priorities. The AML/CFT Committee have been reconstituted which includes a broader cross-section of stakeholders within the AML/CFT community. The Committee's terms of reference have been revised. This is attached for consideration.
			• Trinidad and Tobago should consider introducing MOU's between the CBTT, the TTSEC and the Designated Authority / FIU of Trinidad and Tobago, which would enable them to cooperate, and where appropriate, coordinate domestically with each other concerning the development and implementation of policies and activities to combat money laundering and terrorist financing.	• Section 8(2) of the Financial Institutions Act 2008 allows the CBTT to share information with the designated authorities under the POCA, as part of the fight against money laundering and terrorist financing. This will address the recommended action of setting up MOU's among the designated authorities.

			• Co-operation amongst law enforcement and other competent authorities could be improved. Competent authorities need to be more proactive in their approach as contact is presently maintained in a haphazard manner, in particular when a need arises.	• In May 2010 the FIU signed an MOU with the Criminal Tax Investigation (CTIU). In November 2010 one (1) request for information was received from CTIU and the request was satisfied In October 2010 the Permanent Secretary of the Ministry of Finance approved the Exchange of Letter whereby the Customs & Excise Division will exchange relevant data with the FIU on cross-border currency declaration and cash seizures in accordance with the laws of Trinidad and Tobago. The structure and format of receiving the information is currently being addressed. In November 2010 the FIU under this agreement made a request for data on all cash seizures at Customs and Excise for 2010 and this request is currently being processed. An MOU was drafted with a view to allowing the FIU to obtain access to information held at the Registrar General's Department. Section 15 of FIU Act requires the Director of FIU to submit a report to the CoP after analysis of STR/SARs. A policy directive was established by the CoP via departmental order being issued in November 2010 for the investigation of all reports sent to the CoP from the FIU. A breach of the Departmental Order is an offence under the Police Service Act and the Financial Intelligence Unit Act.
			• The composition of the FIU could be expanded to include personnel from different relevant entities, which would not only strengthen cooperation but also enhance the human resource capability of the FIU.	• Section 3(2)(a) and (b) of the FIU Act identifies the staff composition of the FIU as public officers, appointed, assigned, seconded or transferred from another Ministry or statutory corporation to the FIU; and officers and other persons appointed on contract by the Permanent Secretary of the Ministry of Finance. Members of the Counter Drug and Crime Task Force have been transferred to the FIU and FIB. At present the FIU is carrying out the administrative role (collection, analysis and dissemination of intelligence and information)

				while the FIB is currently dedicated to the investigation of all financial crimes, in particular, money laundering and terrorist financing.
32.Statistics	PC	• There is no Review of effectiveness of AML/CFT systems on a regular basis.	• Review of the effectiveness of the FIU systems to combat ML and FT should be more thorough and should produce more tangible results also with regard to other relevant stakeholders involved. • Measures should be instituted to review the effectiveness of T&T's money laundering and terrorist financing systems. • Once all other supervisory authorities of financial institutions have implemented AML/CFT supervision, they should maintain comprehensive statistics on on-site examinations and requests for assistance. • T&T should also review the effectiveness of its system with regard to AML (CFT) extradition cases based on statistics and on a regular basis.	• Section 9 of the FIUTTA for the FIU to implement a system for monitoring the effectiveness of its anti-money laundering policies by maintaining comprehensive statistics on suspicious transaction or suspicious activity reports received and transmitted, money laundering investigations and convictions, property frozen, seized and confiscated and international requests for mutual legal assistance or other cooperation • Central Bank has developed a statistics report on its on-site visits during the period May to November 2008.
33.Legal persons – beneficial owners	PC	• Competent authorities have access to information stored by the Registrar of Companies, however it could not be ascertained if adequate, accurate and current information on beneficial ownership and control of legal persons is maintained in Trinidad and Tobago.	• It is recommended that Trinidad and Tobago authorities undertake a comprehensive review to determine ways in which it can ensure itself that adequate and accurate information on beneficial ownership may be available on a timely basis.	• Under Legal persons – beneficial owners, Input from the registrar of companies is being sought in considering the way forward.
34.Legal arrangements – beneficial owners	NC	• There is no mechanism to prevent the unlawful use of legal arrangements in relation to money laundering and terrorist financing by ensuring that its commercial, trust and other laws require adequate transparency concerning the beneficial ownership and control of trusts and other legal arrangements.	• The T&T authorities should take steps to implement a mechanism to prevent the unlawful use of legal arrangements in relation to money laundering and terrorist financing by ensuring that its commercial, trust and other laws require adequate transparency concerning the beneficial ownership and control of trusts and other legal arrangements.	• In the Financial Obligations Regulations 2010 "beneficial owner" means the person who ultimately owns and controls an account, or who exercises ultimate control over a legal person or legal arrangement; and "legal arrangement" includes an express trust. • Section 12 (1), (2), (3) & (4) of the Financial Obligations Regulations set out a mechanism in order to capture information on beneficial owners, maintain records and a reporting function to the FIU in the case of suspicious activity
International Co-operation				
35.Conventions	NC	• The relevant international conventions have not been implemented extensively.	• The T&T authorities may wish to continue taking steps towards enacting an Anti-Terrorism Bill and sign and ratify the United Nations International	• The United Nations International Convention for the Suppression of the Financing of Terrorism has been acceded on the 3 September 2009.

			Convention for the Suppression of the Financing of Terrorism.	The Anti-Terrorism (Amendment) Act,2010 was assented to on the 21st January 2010 and effect of criminalizing the financing of terrorism
36.Mutual legal assistance (MLA)	LC	• There are no mechanisms currently in place that deals with conflicts of jurisdiction. • Also, dual criminality is required in order to render mutual legal assistance. This would make mutual legal assistance on TF almost impossible	• T&T Should introduce legislation that deals with conflicts of jurisdiction. Also, dual criminality is required in order to render mutual legal assistance.	• The concern of the examiner in respect of dual criminality is that dual criminality is required to render mutual legal assistance and as such in the absence of the criminalization of the financing of terrorism this is impossible. This concern is now addressed given the fact that the financing of terrorism is an offence by virtue of the Anti-Terrorism Amendment Act 2010.
37.Dual criminality	LC	• Mutual legal assistance is not generally rendered in the absence dual criminality. However the authorities try and assist if they are able to obtain a voluntary statement.	• Dual criminality is required in order to render mutual legal assistance (TF not available).	• This concern is now addressed given the fact that the financing of terrorism is an offence by virtue of the Anti-Terrorism Amendment Act 2010.
38.MLA on confiscation and freezing	LC	• Financing of terrorism is not an offence and therefore not a predicate offence1.	• Trinidad & Tobago should strongly consider implementing legislation that would give greater effect to confiscation, seizing and freezing ability with regard to requests for assistance from foreign countries. • The asset forfeiture fund should be clearly established and utilized in T&T.	• Terrorist Financing is an indictable offence and the powers of seizing and freezing sets out under POCA amendment 2009 will apply • A seized Assets fund is prescribed in POCA. This Fund is already in existence and is maintained by the Comptroller of Accounts. The outstanding implementation aspect is that of the administration of the Fund by the Seized Assets Committee. In accordance with the provisions of POCA, the Minister with responsibility for Finance is engaged in the process of making regulations for the appointment of a seized assets committee which will administer the seized asset fund in accordance with POCA. The process of making regulations for the appointment of a seized assets committee is still under review.

1 Idem note 1

39.Extradition	LC	• T&T would be unable to extradite a fugitive for an offence relating to terrorist financing and piracy as such offences don't exist in T&T legislation.	• Dual criminality is required in order to affect extradition (TF not available).	• As previously indicated, piracy is a common law offence and the financing of terrorism is an offence by virtue of the Anti-Terrorism Amendment Act 2010.
40.Other forms of co-operation	PC	• The FIU has not established any effective gateways to facilitate the prompt and constructive exchange of information directly with its foreign counterparts. • T&T has not established any MOU's or other mechanism to allow financial supervisory bodies to cooperate with their foreign counterparts.	• The T&T authorities may wish to implement Legislations to enable Law Enforcement Agencies and other competent authorities to provide the widest range of international cooperation to their foreign counterparts in a timely and effective manner.	• Section 8 of the Financial Intelligence Unit of Trinidad and Tobago Act No. 11 of 2009 empowers the FIU to provide the widest range of international cooperation to their foreign counterparts in a timely and effective manner. Section 8 (3) (e) of the Financial Intelligence Unit of Trinidad and Tobago Act No. 11 of 2009, empowers the FIU to engage in the exchange of financial intelligence with members of the Egmont Group On the 4th March 2010, the Trinidad and Tobago FIU applied for membership with the Egmont Group. The application is being processed and will follow its due course. Section 8 (3) (f) of the Financial Intelligence Unit of Trinidad and Tobago Act No. 11 of 2009, allows the FIU to disseminate at regular intervals, financial intelligence and information to local and foreign authorities and affiliates within the intelligence community. This includes the dissemination of statistics on recent money laundering practices and offences
Nine Special Recommendations		Summary of factors underlying rating		
SR.I Implement UN instruments	NC	• The essential criteria have not been adhered to as Trinidad & Tobago do not have the relevant legislation in place in order to comply with SR.I.	• The T&T authorities may wish to continue taking steps towards enacting an Anti-Terrorism Bill and sign and ratify the United Nations International Convention for the Suppression of the Financing of Terrorism.	Trinidad and Tobago acceded to the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism on September 03, 2009. • Implementation of UN Security Council Resolutions: S/RES/1267 (1999), S/RES/1269 (1999), S/RES/1333 (2000), S/RES/1373 (2001) and S/RES/1390 (2001) has been captured under the Anti-Terrorism (Amendment) Act, 2010 (It is to be noted that the Act was passed with 3/5 majority) in Section 22 C (1) which states that:

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

				– (a)in the case of an individual, to imprisonment for twenty five years; or (b) in the case of a legal entity, to a fine of two million dollars. (4) A director or person in charge of a legal entity who commits an offence under this section is liable on conviction on indictment be to imprisonment for twenty-five years. It is to be noted that the financing of terrorism is an indictable offence and as such it is a predicate offence for the purpose of money laundering. • Section 2 of the Anti-Terrorism Act 2005 has been amended in Anti-Terrorism (Amendment) Act,2010 to define funds as follows: "property" or "funds" means assets of any kind, whether tangible or intangible, moveable or immovable, [whether from legitimate or illegitimate sources or] however acquired [and] legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit whether situated in Trinidad and Tobago or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property";
SR.III Freeze and confiscate terrorist assets	NC	• There is no legislation that deals with freezing or confiscating terrorists' funds in accordance with the relevant United Nations Resolutions	• Introduce diligently the proposed legislation criminalising the financing of terrorism, terrorist acts, terrorist organizations and make such offences money laundering predicate offences.	• Trinidad and Tobago through Section 9 of the Anti-Terrorism (Amendment) Act 2010 (ATA) has included a new Section 22 B to address the Essential Criteria of SRIII: These laws and procedures: o Freeze terrorist funds or other assets designated by the United Nations Taliban Sanction Committee (S/RES/1267/1999) 22B(1) o Freeze terrorist funds or other assets of

				persons designated in the context of S/RES/1373/2001 (Section 34(1) ATA) o Ensure that freezing mechanisms extend to funds or assets wholly or jointly owned or other assets derived or generated from or other assets owned or controlled directly or indirectly by designated persons; Section 5 (c) and 22B(1) o Communicate actions taken under the freezing mechanisms to the financial sector and the public upon taking such action (22B(5) ATA) o Provide clear guidance to financial institutions and other persons or entities that may be holding targeted funds other assets concerning their obligations in taking action under freezing mechanisms;(22B(5)ATA) o Ensure that there are legal procedures for considering de-listing requests and for unfreezing the funds or other assets of de-listed persons or entities in a timely manner consistent with international obligations;(22B(6) ATA) o Ensure that a legal procedure exists for unfreezing, in a timely manner, the funds or other assets of persons or entities inadvertently affected by a freezing mechanism upon verification that the person or entity is not a designated person;(22B(6) ATA; 22 B(9) ATA) o Ensure that a legislative procedure exists for authorising 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; (22B(4) ATA) o Ensure that there is an appropriate procedure 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.(22B(6)ATA; 22B(9) ATA) As a compliment to this process, Section 14 of the Financial Intelligence Unit Act allows the Director of the FIU the power to suspend the processing of a transaction for a period not exceeding three working days pending the completion of the analysis of a SAR. Section 22E(1) of the ATAA 2 of 2010 states: The FIU may instruct a financial institution or listed business in writing, to suspend the processing of a transaction for a period not exceeding three working days, pending the completion of an evaluation and analysis of a suspicious transaction or suspicious activity report. (2) Where those instructions are given, a financial institution, listed business or any other aggrieved person may apply to a judge to discharge the instructions of the FIU and shall serve notice on the FIU, to join in the proceedings, save however, that the instructions shall remain in force until the Judge determines otherwise. (3) After the FIU has concluded its evaluation and analysis of a suspicious transaction or suspicious activity report, and where the Director of the FIU is of the view that the circumstances warrant investigation, a report shall be submitted to the Commissioner of Police for investigation to determine whether an offence of financing of terrorism has been committed and whether the funds are located in Trinidad and Tobago or elsewhere. The definition of "terrorist act" in section 2 of the Anti-Terrorist Act, 2005 (the Act) refers also section 35(1) of the Act which makes provision for forfeiture. Although there is no explicit provision for "confiscation", It is to be noted the commission of a terrorist act is an indictable offence and as

			• Sign and ratify the Terrorist Financing Convention.	such the confiscation process as outlined in POCA applies mutatis mutandis to the commission of a terrorist act or any other indictable offence in respect of terrorism under the Anti-Terrorism Act. It is also to be noted that by virtue of the Interpretation Act Chapter 3:01 the attempt to commit a terrorist act is also included in the offence of committing a terrorist act and as such although it is not stated in the text of section 22B (b) it is included by virtue of the application of our laws. 1999 United Nations International Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention was ratified on September 3,2009 Trinidad and Tobago ratified the Inter-American Convention against Terrorism on December 02, 2005
SR.IV Suspicious transaction reporting	NC	• There are no requirements for financial institutions to report to the designated authority/FIU when they suspect or have reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations, regardless of the amount of the transaction and including attempted transactions or if tax matters are involved.	• The Anti Terrorism Bill should be enacted as soon as possible to require financial institutions to report to the designated authority/FIU when they suspect or have reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations, regardless of the amount of the transaction and including attempted transactions or if tax matters are involved	• The obligation of financial Institution and listed business to report STR's/SAR's which relate to terrorist financing, terrorism acts or by terrorist organisations or those who finance terrorism is captured in section 22 C (3) in Anti-Terrorism (Amendment) Act,2010 as follows: (3) Where a financial institution or listed business knows or has reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism, the financial institution or listed business shall make a suspicious transactions or a suspicious activity report to the FIU in the forms as set out in the Third Schedule to the Proceeds of Crime Act.

SR.V International co-operation	NC	• Financing of Terrorism is not an offence in T&T and therefore not an extraditable offence 2.	• Terrorist-Financing legislation should be implemented. • Financing of terrorism and Piracy should be made an offence in T&T and therefore an extraditable offence.	• Part VI (Section 28 to 31) of the Anti-Terrorism Act 2005 deals with Information Sharing, Extradition And Mutual Assistance • Disclosure and Sharing Information. Part VII Sections 32-33 of the Anti-Terrorism Act 2005 • With regard to piracy, section 2 of the Criminal Offences Act Chapter 11:01 states that every offence which if done or committed in England, would amount to an offence in common law shall, if done or committed in Trinidad and Tobago, be taken to be an indictable offence and shall be punished in the same manner as it would be in England, under or by virtue of any special or general statute providing for the punishment of such offence, or if there be no such statute, by common law. In the UK, piracy is criminalized as the common law offence of piracy jure gentium and under section 2 of the Piracy Act 1837 as noted in the UK MER. In accordance with section 2 of the Criminal Offences Act, these provisions make piracy an indictable offence in Trinidad and Tobago. Additionally, section 6 of the Civil Aviation (Tokyo Convention) Act Chapter 11:21 provides for the jurisdiction of a Court in Trinidad and Tobago with respect to piracy committed on the high seas to be extended to piracy committed by or against an aircraft.
SR VI AML requirements for money/value transfer services	NC	• None of the requirements are included in legislation, regulations or other enforceable means.	• A competent authority should be designated to register and/or licence money transfer companies and maintain a current list of their names and addresses and be responsible for ensuring compliance with licensing and/or registration requirements. • All MVT service operators should be subject to the applicable FATF Forty Recommendations and	• Money value transfer services are, pursuant to the POCA 2000 as amended in 2009, listed business. As listed business they are subject to all the requirements of the FIU Act 2009, POCA and the FOR 2010.

2 Idem note 1

			FATF Eight Special Recommendations. • A system for monitoring money transfer companies and ensuring that they comply with the FATF Recommendations should be implemented. The mission also recommends that the CBTT issue the AML/CFT Guidelines to the cambios and test compliance during onsite inspections. • Money transfer companies should be required to maintain a current list of its agents, which must be made available to the designated competent authority. • The measures set out in the Best Practices Paper for SR.VI should be implemented and Trinidad and Tobago authorities should take FATF R. 17 into account when introducing system for monitoring money transfer companies.	The Central Bank conducts AML/ CFT on-sites examinations on cambios. The Central Bank is revising its guidelines on AML/ CFT and the revised Guidelines will also be issued to cambios and money remitters. An amendment to the Central Bank Act 2008 gave the Central Bank the ability to supervise money remitters and an appropriate regulatory and supervisory framework has been drafted and will be issued to the industry for comment in February 2011. The AML/CFT Committee and the Compliance Unit of the Ministry of National Security is presently reviewing these provisions and will be making for an amendment shortly.
SR VII Wire transfer rules	NC	• The requirements in place are not mandatory and are applicable only to the financial institutions supervised by the Central Bank.	• The T&T authorities may wish to impose mandatory requirements on financial institutions dealing with the measures of SR VII covering domestic, cross-border and non-routine wire transfers, intermediary and beneficial financial institutions handling wire transfers and the monitoring of compliance with stipulated requirements.	• The Financial Obligations Regulations 2010 sections 33-35 deal with wire transfers which states: 33. (1) The information listed in regulation 34 concerning the originator and recipient of the funds transferred, shall be included on all domestic and cross border wire transfers. (2) A financial institution or listed business that participates in a business transaction via wire transfer shall relay the identification data about the originator and recipient of the funds transferred, to any other financial institution participating in the transaction. (3) Where the originator of the wire transfer does not supply the transfer identification data requested by the financial institution or listed business, the transaction shall not be effected and a suspicious activity report shall be submitted to the FIU. 34. (1) Domestic and cross-border wire transfers shall be accompanied by accurate and meaningful identification data on the originator of the transfer, which shall be kept in a format determined by the FIU.

				(2) Information accompanying a cross-border transfer shall consist of— (a) the name and address of the originator of the transfer; (b) a national identification number or a passport number where the address of the originator of the transfer is not available (c) the financial institution where the account exists; (d) the number of the account and in the absence of an account, a unique reference number; and (3) Information accompanying a domestic wire transfer shall be kept in a format which enables it to be produced immediately, to the FIU. (4) The financial institution or listed business shall put provisions in place to identify wire transfers lacking complete originator information so that the lack of complete originator information shall be considered as a factor in assessing whether a wire transfer is or related transactions are suspicious and thus required to be reported to the FIU. 35. A wire transfer from one financial institution to another, is exempted from the provisions of this Part, where both the originator and beneficiary are financial institutions acting on their own behalf. • This requirement has been satisfied by amendments contained in the Proceeds of Crime (Amendment) Act No. 10 of 2009. Section 5C of the amendment defines listed business as a business listed in the First Schedule. Under the First Schedule, a listed business is defined to include money remittance entities. The listed businesses are therefore now subject to the Financial Obligations Regulations 2010.
SR.VIII Non-profit organisations	NC	• There are no requirements in legislation, regulations or other enforceable means to comply with this recommendation.	• Authorities should review the adequacy of laws and regulations that relate to non-profit organizations that can be abused for the financing of terrorism. • Measures should be put in place to ensure that terrorist organizations cannot pose as legitimate non-profit organizations.	• The Anti-Terrorism (Amendment) Act,2010 will address Non-Profit Organisations as follows : 24C. (1) A police officer above the rank of sergeant may apply, ex parte to a judge for a monitoring order directing a financial

			• Measures should be put in place to ensure that funds or other assets collected by or transferred through non-profit organizations are not diverted to support the activities of terrorists or terrorist organizations.	institution, listed business or non-profit organization to provide certain information. (3) A monitoring order shall— (a) direct a financial institution, listed business or non-profit organization to disclose information it obtained relating to transactions conducted through an account held by a particular person with the financial institution, listed business or non-profit organization; Special Societies act will be amended to incorporated the provisions for non-profit organisations.
SR.IX Cross Border Declaration & Disclosure	NA			i. The Customs Act, Chapter 78:01, requires all arriving and departing passengers to make a declaration to Customs with respect to currency and bearer-negotiable instruments above a specified sum of US$5,000.00 or its equivalent in any other foreign currency and any sum in excess of TT$20,000.00 ii. In addition to the powers under the Custom Act Chapter 78:01 to stop or restrain currency or bearer negotiable instruments, The Anti-Terrorism (Amendment) Act,2010 deals with the issue of seizing and detention of cash or other bearer negotiable instruments under subsection 38A.(1) which states; Any customs officer or officer above the rank of sergeant may seize and detain part of or the whole amount of any cash or other bearer negotiable instruments where there are reasonable grounds for suspecting that it is – (a) intended for use in the commission of an offence under this Act; or (b) is terrorist property • The following definitions of cash and bearer negotiable instrument under section 38A (10) of

				Anti-Terrorism (Amendment) Act,2010 are as follows: (a) "cash" includes coins, notes and other bearer negotiable instruments in any currency; (b) "bearer negotiable instrument" includes monetary instruments in bearer form such as travelers cheques, negotiable instruments (including cheques, promissory notes and money orders) that are either in bearer form, endorsed without restriction made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; incomplete instruments including (cheques, promissory notes and money orders) signed, but with the payee's name omitted. iii. The Customs and Excise Division has always applied effective, proportionate and dissuasive sanction in every instance where the arriving and departing passenger makes false declaration or disclosure of cash or bearer-negotiable instruments. Notwithstanding the fact that we have never identified cases of false declarations or disclosers linked to terrorist financing, the penalty usually include confiscation of the subject currency or instrument without the need of a criminal conviction