



# Second Follow-Up Report

Guyana  
May 2012

© 2012 CFATF. All rights reserved.

No reproduction or translation of this publication may be made without prior written permission. Requests for permission to further disseminate reproduce or translate all or part of this publication should be obtained from the CFATF Secretariat at [CFATF@cfatf.org](mailto:CFATF@cfatf.org)



## GUYANA – SECOND FOLLOW-UP REPORT

### I. Introduction

1. This report presents an analysis of Guyana’s report to the CFATF Plenary regarding progress made to correct the deficiencies identified in its third round Mutual Evaluation Report (MER). The third round Mutual Evaluation Report of Guyana was adopted by the CFATF Council of Ministers in May 2011 in Honduras. Guyana was placed on expedited follow-up and required to report every Plenary. Guyana has submitted information in the attached matrix on measures taken since the Mutual Evaluation to comply with the examiners’ recommendations. Based on the review of actions taken by Guyana to meet the recommendations made by the examiners, a recommendation will be made as to whether Guyana should remain on expedited follow-up or be placed on regular follow-up. Guyana was rated partially compliant or non-compliant on 16 Core and Key Recommendations and 25 other Recommendations. The Core and Key Recommendations are indicated in italics in the table below.

**Table 1; Ratings of Core and Key Recommendations**

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

2. With regard to the remaining Recommendations, Guyana was rated partially compliant or non-compliant on twenty-seven (27) as indicated below:

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

<b>Partially Compliant (PC)</b>	<b>Non-Complaint (NC)</b>
R. 6 (Politically exposed persons)	R. 8 (New technologies & non face-to-face business)
R. 9 (Third parties and introducers)	R. 12 (DNFBP – R.5,6,8-11)
R. 15 (Internal controls, compliance & audit)	R. 16(DNFBP – R.13-15 & 21)
R. 17 (Sanctions)	R. 19 (Other forms of reporting)
R. 28 (Powers of competent authorities)	R. 21 (Special attention for higher risk countries)
R. 29 (Supervisors)	R.22 (Foreign branches & subsidiaries)
R. 33 (Legal persons – beneficial owners)	R. 24 (DNFBP – regulation, supervision and monitoring)
R. 39 (Extradition)	R. 25 (Guidelines & Feedback)
SR. VI (AML requirements for money value transfer services)	R. 27 (Law enforcement authorities)
SR. IX (Cross-border Declaration & Disclosure)	R. 30 (Resources, integrity and training)
	R. 31 (National co-operation)
	R. 32 (Statistics)
	R. 34 (Legal arrangements – beneficial owners)

## Guyana Second Follow-Up Report

	R. 37 (Dual criminality)
	R. 38 (MLA on confiscation and freezing)
	SR. VII (Wire transfer rules)
	SR. VIII (Non-profit organizations)

3. 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 Guyana.

**Table 3: Size and integration of the jurisdiction's financial sector  
As at December 31, 2011**

(US\$ Million)

		Banks	Other Credit Institutions*	Securities**	Insurance+	TOTAL
<b>Number of institutions</b>	Total #	6	6	2	13	27
<b>Assets</b>	US\$M	1,611	283	60	159	2,113
<b>Deposits</b>	Total: US\$	1,345	217	Nil	0	1,562
	% Non-resident	% of deposits 4	9		0	4
<b>International Links</b>	% Foreign-owned:	% of assets 54	% of assets 2	% of assets 0	% of assets 36	% of assets 44
	#Subsidiaries abroad	Nil	Nil	Nil	6	6

\* Includes other non-bank licensed financial institutions (LFIs)

\*\* Includes 1 stockbroker and 1 investment company which are also LFIs

+ Information submitted by the Insurance Supervision Department

Exchange Rate: US\$1.00 = G\$203.75 (BOG mid-rate)

## II. Summary of progress made by Guyana

4. Since the MER, the authorities in Guyana have been assessing various means to achieve compliance. Some of these measures under consideration include the issuing of directives to relevant financial institutions and appropriate training programs. The authorities advised that since the on-site visit the Anti-Money Laundering and Countering the Financing of Terrorism Regulations 2010 (AMLCFTR) was enacted in September 2010. The AMLCFTR was enacted to supplement the legislative provisions of the Anti-Money Laundering and Countering the Financing of Terrorism Act (AMLCFTA) and dealt with identification, record keeping, reporting, and training procedures. The Financial Intelligence Unit (FIU) has also been involved in providing training to relevant Government agencies, supervisory authorities and reporting entities to increase awareness and understanding of their respective responsibilities and obligations under the AMLCFTA and the AMLCFTR. Additionally, the human and physical resources of the FIU have been substantially increased as part of a plan to improve the capacity of the FIU to fulfill its legislative responsibilities. This report will assess measures that have been put in place to comply with the examiners' recommendations.

## Core Recommendations

### Recommendation 1

5. The first recommendation to amend money laundering offences in the AMLCFTA to include “assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions” in accordance with the Vienna and Palermo Conventions was referred to the Ministry of Legal Affairs which has advised that a recommendation to amend the AMLCFTA will be made to the relevant authority. .

6. As noted in the last Follow-Up Report the recommendation for illicit trafficking in stolen and other goods and smuggling to be criminalized as a serious offence and a predicate offence to ML has been met under section 236 of the Criminal Law (Offences) Act and section 218(d)(c) of the Customs Act.

7. The last recommendation stipulates that systems should be put in place to effectively implement the AMLCFTA and relevant Government entities made aware of the legislation and its applicability. The FIU has advised that it has been sensitizing the relevant Government entities on the legislation and its applicability through continuous trainings/discussions and follow-up meetings. In 2010, the FIU held 18 meetings, 5 training sessions and 1 AML/CFT workshop for the GRA, the GPF, licensed financial institutions, cambios, a casino and money transfer agencies. In 2011, there were 10 meetings and 4 training sessions with the GRA, the Central Bank of Guyana, licensed financial institutions, cambios, a casino and money transfer agencies. The above measure should help in implementing the AMLCFTA by increasing awareness of its requirements among Government entities and financial institutions. Given the above, one of the examiners’ recommendations has been met and the other remains partially outstanding.

### Recommendation 5

8. As noted in the last Follow-Up Report the first recommendation requiring the establishment of a threshold for the application of CDD measures for occasional transactions in accordance with FATF standards has been met by regulations 4(2) and 4(3) of the AMLCFTR which impose a threshold of one million Guyana dollars or more which is equivalent to US\$4,880. This requirement is more stringent than the FATF standard of US\$15,000.

9. The second recommendation requiring reporting entities to be obligated to obtain information on the ownership of customers who are legal persons or legal arrangements was also implemented by regulation (4) subsection (5) of the AMLCFTR and subsection 15(4)(c) of the AMLFTA as indicated in the previous Follow-Up Report. .

10. At present, the authorities have advised that the recommendation requiring reporting entities to determine the natural persons that ultimately own or control the customer has been referred to the Ministry of Legal Affairs which has indicated a recommendation to amend the AMLCFTA accordingly will be made to the relevant authorities. .

11. The recommendation requiring reporting entities to verify the legal status of specific legal arrangements such as trusts has been implemented by regulation 4 sub section (5) of the AMLCFTR as noted in the previous Follow-Up Report.

12. The recommendation for a definition of beneficial ownership in relation to legal entities to be set out in the AMLCFTA has been referred to the Ministry of Legal Affairs which has advised that a recommendation for an appropriate amendment to the AMLCFTA will be made to the relevant authority. The recommendation for reporting entities to be required to perform

## Guyana Second Follow-Up Report

enhanced due diligence for higher risk categories of customers has been forwarded to the Bank of Guyana (BOG) which has advised that the matter will be addressed by the issuance of Guidelines by the Supervisory Authority. The BOG will be receiving technical assistance from the US Department of Treasury to draft Guidelines on AML/CFT for licensees under the supervision of the BOG.

13. The recommendation stipulating reporting entities to be required to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers has been implemented by sections 15(2) and 15(3) of the AMLCFTA and regulation 4 subsection 3 of the AMLCFTR as noted in the previous Follow-Up Report.

14. The following recommendation requires reporting entities to be prohibited from opening an account or commencing a business relationship or performing a transaction in the absence of satisfactory evidence of identity as stipulates in criteria 5.3 to 5.6 and being required to consider making a suspicious transaction report. As noted in the last Follow-Up Report the authorities are of the view that the initial requirements for customer due diligence (CDD) measures as set out in sub sections 15(2) and 15(3) of the AMLCFTA comply with the recommendation in that it can be inferred that reporting entities are prohibited from opening accounts or commencing a business relationship or performing transactions without satisfactory evidence of identity. The requirements are applicable in circumstances of establishing a business relationship, conducting an occasional transaction or wire transfer or where there is suspicion of money laundering or doubts about the veracity or previously obtained identification data.

15. The above provision does not meet the recommendation since it only creates the obligation for CDD measures to be carried out and does not directly prohibit reporting entities as required in the examiners' recommendation.

16. The last recommendation stipulates that reporting entities be required to terminate a business relationship due to the inability to obtain information set out in criteria 5.3 to 5.6 and consider making a suspicious transaction report. In the previous Follow-Up Report the authorities refer to subsection 15(10)(c) of the AMLCFTA as complying with the recommendation since it requires in the case of existing customers at the time of the AMLCFTA coming into force where at the end of six months or further period up to three months, a reporting entity is unable to verify the identity of a customer, the reporting entity shall terminate the business relationship. The above provision is specific to existing customers at the time of the AMLCFTA coming into force and therefore does not cover any customers acquired since, particularly in instances where doubts about the veracity or adequacy of previously obtained customer identification data develop and does not specify criteria 5.3 to 5.6 or require consideration of making a suspicious transaction report. The analysis above reveals that while four recommendations have been met, four still remain outstanding.

### **Recommendation 10**

17. The only action recommended by the examiners was for all financial institutions to 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. As noted in the last Follow-Up Report regulation 9(1) of the AMLCFTR complies with the recommended measure.

### **Recommendation 13**

18. The examiners' first recommendation requires the criminalization of illicit trafficking in stolen and other goods and smuggling as serious offences and predicate offences for money laundering. This recommendation is dealt with under Recommendation 1 in this report.

19. With regard to the examiners' recommendation that the reporting requirement for terrorist financing in the AMLCFTA should include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organizations, the reporting requirement in the AMLCFTA refers to funds connected to terrorist financing offences. The authorities advise that the AMLCFTA defines terrorist financing to include "willfully providing or collecting funds, by any means, directly or indirectly, with the unlawful intention that they should be used or in the knowledge that they are to be used in full or in part-

- a) to carry out terrorist acts;
- b) by a terrorist organization; or
- c) by an individual terrorist"

20. The definition above with regard to funds intended to be used in full or part to carry out terrorist acts or by a terrorist organization meets part of the examiners' recommendation. The authorities advise that a recommendation will be made to amend the AMLCFTA to include funds suspected of being linked, or related to terrorism financing as part of the reporting obligation.

21. As reported in the last Follow-Up Report the other recommendation for the requirement to report suspicious transactions to apply regardless of whether they are thought, among other things to involve tax matters is being considered by the relevant authority. A further update is expected by June 30, 2012. Based on the above, this Recommendation remains substantially outstanding.

### **Special Recommendation II**

22. The first recommendation requires that the definition of property should include assets of every kind, whether tangible or intangible, legal documents or instruments in any form, including electronic or digital evidencing title to, or interest in assets of every kind.. At present, the authorities advise that a recommendation will be made to amend the AMLCFTA in accordance with the recommended action.

23. The recommendation for terrorist financing offences to be extended to any funds whether from a legitimate or illegitimate source is also being proposed as an amendment to the AMLCFTA by the relevant authority.

24. The next recommendation requires that a provision be inserted allowing for terrorist financing offences to apply regardless of whether the person alleged to have committed the offence is in the same country or a different one from where the terrorist(s)/terrorist organization is located or the terrorist act(s) occurred/will occur. In the last Follow-Up Report the authorities advised that section 7 of the AMLCFTA provides for offences created by the AMLCFTA to be tried, judged and sentenced in Guyana regardless of whether the offence occurred in Guyana or in another jurisdiction. This provision provides for extra-territorial jurisdiction and thereby complies with the examiners' recommendation.

## Guyana Second Follow-Up Report

25. With regard to the recommendation that the competent authorities should ensure that the relevant entities are aware and trained as to their obligations under the AMLCFTA to report and investigate SARs and where applicable prosecute those in breach of financing of terrorism (FT), the authorities advised that the FIU was in the process of sourcing competent persons to provide appropriate ML/FT training for staff of the Director of Public Prosecutions (DPP), the Guyana Police Force (GPF), the Customs Anti-Narcotics Unit (CANU) and the Guyana Revenue Authority (GRA). Given the above, all the examiners' recommendations except for one are outstanding.

### **Special Recommendation IV**

26. The authorities have advised that the recommendation for the reporting requirement for terrorist financing in the AMLCFTA to include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organizations will be proposed as an amendment to the AMLCFTA to the relevant authority.

27. With regard to the recommendation for the requirement to report suspicious transactions to apply regardless of whether they are thought, among other things to involve tax matters, the authorities have referred to section 18 of the AMLCFTA as a general provision which requires reporting of suspicious transactions in any circumstances thereby incorporating tax matters.

28. Section 18 of the AMLCFTA requires reporting of transactions suspected of being connected to the proceeds of criminal activity, money laundering or terrorist financing. For the purposes of reporting, "proceeds of criminal activity" are defined as any property derived or realized directly or indirectly from a serious offence. Furthermore "serious offence" is defined to include offences punishable by death, life imprisonment or imprisonment of six (6) months or more and offences listed in the Second Schedule of the AMLCFTA. The listed offences in the Second Schedule do not include tax matters. Unless the authorities can provide documentation showing that tax offences are included in the penalty categories above, the examiners' recommendations remains outstanding. This Recommendation remains outstanding.

### **Key Recommendations**

#### **Recommendation 3**

29. The first recommendation requires the definition of property liable for confiscation in the AMLCFTA to be amended to include indirect proceeds of crime including income, profits or other benefits from proceeds of crime and property held by third persons and assets of every kind, whether tangible or intangible. At present, the authorities have advised that a recommendation for an appropriate amendment will be made to the relevant authority.

30. The other recommendation requires competent authorities to provide resources to ensure that the requisite agencies are trained under the recent legislation in order to enable effective implementation. The authorities advise that as part of an assistance package being provided by the United States under the Caribbean Basin Strategic Initiative (CBSI), training in accordance with the examiners' recommendation will be available to the Guyana Police Force (GPF) and CANU. The DPP will be taking the matter to Cabinet via the Minister of Legal Affairs. The Guyana Revenue Authority (GRA) will embark of training programmes with support from the FIU to ensure that staff are provided with AML/CFT training by June 30,2012. Given the above the examiners' recommendations have been partially met.

**Recommendation 4**

31. The recommendation for the Guyana Securities Council (GSC) to have power to access information relevant to AML/CFT matters from registrants of the Securities Industry Act (SIA) is proposed to be incorporated as an amendment to the AMLCFTA. The recommendation for the CCDO to be able to share information from a society registered under the CSA with local and international competent authorities is still being considered by the relevant authority. A further report is expected by June 30, 2012. This Recommendation remains outstanding.

**Recommendations 23**

32. At present, the Minister of Finance has initiated plans to develop proposals for the recommendation for a designated supervisory authority to be assigned to ensure that co-operative societies adequately comply with AML/CFT obligations. The recommendation for the Insurance Act (IA) to be amended to provide for the relevant authorities to take necessary measures to prevent criminal or their associates from holding or being beneficial owners of a significant or controlling interest in financial institutions is still being considered by the relevant authority. A further report is expected by June 30, 2012. The remaining recommendations were considered by the GSA and a report on its response is expected by June 30, 2012. As such, this Recommendation remains outstanding.

**Recommendation 26**

33. As a result of the examiners' recommendation for the FIU to issue guidelines in accordance with the AMLCFTA on the manner of STR reporting to all reporting entities and to consider issuing to the wider public a circular concerning money laundering and the financing of terrorism, the FIU with assistance from the US Government under the CBSI bilateral arrangements will be preparing guidelines and consider issuing a circular to the wider public as recommended.

34. The recommendation requiring the FIU to urgently implement its plans for new personnel and facilities and consider safeguards to reduce the vulnerability of its database was dealt with by measures set out in the last Follow-Up Report. These measures complied fully with this examiners' recommendation.

35. The recommendation for the authorities to reconsider their policy regarding the FIU releasing public reports and allowing for the issuing of periodic reports which include statistics, typologies and trends has been agreed by the relevant authority. No further information on implementation of this measure has been provided for this report. Given the above, two of the examiners' recommendations remain outstanding.

**Recommendations 35**

36. The examiners' recommendation for the competent authorities to take steps to fully implement the Vienna, Palermo and Terrorist Financing Conventions has been forwarded to the Ministry of Legal Affairs which will refer the matter to the relevant authority for consideration. The recommendation involves policy issues. This Recommendation is therefore outstanding.

**Recommendation 36**

37. The situation remains as reported in the last Follow-Up Report with the examiners' recommendations still being considered by the relevant authority. A further report is expected by June 30,2012. This Recommendation therefore remains outstanding.

**Recommendation 40**

38. The situation remains as reported in the last Follow-Up Report with the examiners' recommended actions still being considered by the relevant authority. As such, this Recommendation remains outstanding.

**Special Recommendation I**

39. The recommendation for the AML/CFT legislation to be amended to comply with S/RES/1267(1999) and S/RES/1373(2001) for freezing funds of designated persons/organizations has been referred to the Ministry of Legal Affairs which is due to make a recommendation to the relevant authority for the AMLCFTA to be amended accordingly. The recommendation for competent authorities to provide or issue guidance to financial institutions with regard to obligations to freeze assets of persons listed by the UNSCR 1267 Committee is still being considered by the relevant authority. A further report is expected by June 30,2012.

40. With regard to the recommendation for training for the relevant entities to be aware of their obligations under legislation, the authorities advised in the last Follow-Up Report that reporting entities have been benefitting from AML/CFT training conducted by the FIU as already mentioned under Rec. 30. Given the above most of the recommendations remain outstanding.

**Special Recommendation III**

41. The recommendation for the competent authorities to amend the legislation to comply with the requirements of S/RES/1267/(1999) and S/RES/1373(2001) for freezing funds of designated persons/organizations has been forwarded to the Ministry of Legal Affairs which has recommended to the relevant authority that the AMLCFTA be amended accordingly. All of the other examiners' recommendations except for one are still being considered by the relevant authority with a further report expected by June 30, 2012. . With regard to the recommendation for training for the relevant entities to be aware of their obligations under legislation, the authorities advised in the last Follow-Up Report that the FIU was in the process of sourcing competent persons to provide appropriate ML/FT training for staff of the DPP, the GPF, CANU and the GRA. At present, the authorities advise that this will be further addressed under the CBSI bilateral arrangement. Given the above most of the recommendations remain outstanding.

**Special Recommendation V**

42. The situation remains as reported in the last Follow-Up Report with the examiners' recommendation still being considered by the relevant authority. This Recommendation is therefore outstanding.

## **Other Recommendations**

### **Recommendation 6**

43. As noted in the last Follow-Up Report the examiners' recommendation that reporting entities be required to obtain senior management approval to continue a business relationship with a customer who is subsequently found to be a politically exposed person (PEP) or becomes a PEP still being considered by the relevant authority. A further report is due by June 30, 2012.

44. With regard to the recommendation for supervisory authorities to ensure that all financial institutions are aware of the legal requirements concerning PEPs the authorities advised in the last Follow-Up Report that on five occasions in November and December 2010, discussions were held specifically about the obligations concerning PEPs with representatives from respectively financial institutions, money transfer agencies, licensed cambio dealers and a casino. No further information on continuing discussions or training with regard to legal requirements concerning PEPs has been provided for this report. Given the above, the examiners' recommendations remain outstanding.

### **Recommendations 8**

45. The examiners' recommendations were forwarded to the Bank of Guyana which advised that the recommendations will be addressed by the issuance of Guidelines by the Supervisory Authority. All examiners' recommendations remain outstanding.

### **Recommendation 9**

46. The examiners' recommendations were referred to the Bank of Guyana which advised that the recommendations will be addressed by the issuance of Guidelines by the Supervisory Authority. All the examiners' recommendations remain outstanding.

### **Recommendation 12**

47. The recommended action with regard to the appointment of a designated supervisory authority to oversee the compliance of designated non-financial businesses and professions (DNFBPs) with the AML/CFT requirements was referred to the Ministry of Finance which has initiated plans for developing proposals to implement the recommendation accordingly. This recommendation remains outstanding.

### **Recommendation 15**

48. The authorities advise that they are considering issuing directives to address the recommendation that competent authorities should ensure that all financial institutions update their current policies and that the update versions are based on the AMLCFTA. The recommendation that the requirements of Rec. 15 be applicable to individuals who carry on business solely or with a staff and management of less than five persons is being considered by the relevant authority. A further report is due by June 30, 2012.

49. The recommendations that financial institutions should be required to ensure that their audit function is adequately resourced and independent and compliance testing of procedures, policies and controls include sample testing and the training obligation should be ongoing and

include new developments have been referred to the Central Bank of Guyana which has advised that these will be addressed by the issuance of Guidelines by the Supervisory Authority.

50. The remaining recommendation requires that the AMLCFTA provide that the compliance officer and appropriate staff have timely access to customer identification data and other CDD information, transaction records and other relevant information necessary to carry out all their functions. As noted in the last Follow-Up Report the authorities referred to section 19(2) of the AMLCFTA which stipulates that “A reporting entity shall enable any person identified in accordance with subsection (1)(a) to have reasonable access to information that may be relevant to determining whether sufficient basis exists to report the matter pursuant to section 16.” The reference to subsection (1) (a) in the above provisions concerns the appointment of a compliance officer which according to section 19(3) of the AMLCFTA is at management level responsible for the reporting of suspicious transactions. The above provision reads as limiting access to information solely to the compliance officer at management level and does not include appropriate staff. Additionally, reference is made to reporting a matter pursuant to section 16. However, section 16 deals with record keeping requirements rather than reporting obligations. The proper reference should be section 18 which deals with suspicious transaction reporting. At present, the authorities have cited sub-regulation 11(1) (e) of the AMLCFTR which requires reporting entities to ensure “that the Compliance Officer has reasonable access to any other information which may be of assistance to that Compliance Officer”. However, given the definition of compliance officer as set out in the AMLCFTA, this provision does not provide for appropriate staff to also have access to relevant information. Given the above, all recommendations remain outstanding.

#### **Recommendation 16**

51. The recommended action with regard to the appointment of a designated supervisory authority to oversee the compliance of DNFBPs with the AML/CFT requirements was referred to the Ministry of Finance which has initiated plans for developing proposals to implement the recommendation accordingly. This Recommendation remains outstanding.

#### **Recommendations 17**

52. The situation as noted in the last Follow-Up Report remains the same. The first recommendation requires that fines for corporate bodies for breaches of AML/CFT obligations under the AMLCFTA be more dissuasive. The authorities advised that section 3(6) of the AMLCFTA provides that a corporate body which contravenes this section is liable to fines ranging from two hundred million dollars to five hundred million dollars (US\$976,000 – US\$2,440,000). It is noted that the offence referred to in this section of the AMLCFTA is the general offence of money laundering. This was noted in the MER and the sanctions were accepted as being dissuasive for general money laundering and financing of terrorism offences. However, with regard to AML/CFT obligations under the AMLCFTA such as CDD, record-keeping, monitoring, reporting, internal controls and wire transfer requirements, and other offences such as tipping off, failure to comply with a production or a monitoring order or provide false documentation, sanctions for corporate bodies need to be more dissuasive.

53. With regard to the recommendation that sanctions of designated authorities under the AMLCFTA should be dissuasive, proportionate and effective and should be applicable to directors and senior management of reporting entities, the authorities advised that sanctions of the supervisory authorities are to be re-examined with a view to complying with the recommendation.

**Recommendation 19**

54. The examiners recommendation as noted in the last Follow-Up Report has been met.

**Recommendation 21**

55. Two of the examiners' recommended actions as noted in the last Follow-Up Report are still being considered by the relevant authority. A further report is due by June 30, 2012. The recommendation for provisions to allow for the application of countermeasures against countries that do not or insufficiently apply the FATF Recommendations has been referred to the Ministry of Legal Affairs which will make a recommendation to the relevant authority for the AMLCFTA to be amended accordingly. As such this Recommendation remains outstanding.

**Recommendation 22**

56. The first recommendation requires designated supervisory authorities to impose the obligations of section 22(2) of the AMLCFTA on their respective reporting entities. Section 22(2) of the AMLCFTA provides for the imposition of obligations on reporting entities to ensure that their foreign branches and subsidiaries adopt and enforce measures consistent with the Act to the extent that local laws and regulations so permit. The authorities advise that the FIU is in the process of preparing notices to all supervisory authorities instructing them to impose the obligations of section 22(2) of the AMLCFTA on their respective reporting entities. While this measure should improve the awareness of the supervisory authorities to this obligation, there is need for evidence of the implementation of this obligation by the supervisory authorities either through circulars or directives to their reporting entities.

57. With regard to the other recommendations, the Bank of Guyana has advised that these will be addressed by the issuance of Guidelines by the Supervisory Authority. As such this Recommendation remains outstanding.

**Recommendations 24**

58. The recommendation that casinos be subject to a comprehensive regulatory and supervisory regime that ensures effective implementation of AML/CFT measures was referred to the Ministry of Home Affairs which is considering the appointment of a supervisory authority and other relevant action to address this recommended action. With regard to the recommendation that the Gaming Authority be required to assess the integrity of an applicant, partner, shareholder, directors, office holders of an applicant and beneficial owner on the basis of fit and proper criteria on a regular basis, the authorities advise that the Gaming Authority has been and continues to assess an applicant's suitability to carry on licensed activities including investigating the integrity of the beneficial owners if necessary. The authorities' response is not clear as to whether assessment is carried out only when an applicant applies for a licence or continues on a regular basis after an applicant has been approved for a licence.

59. The recommended action with regard to the appointment of a designated supervisory authority to oversee the compliance of DNFBPs with the AML/CFT requirements was referred to the Ministry of Finance which has initiated plans for developing proposals to implement the recommendation accordingly. As noted in the last Follow-Up Report consideration is still being given to re-examining the sanctions of supervisory authorities with a view to making the sanctions more effective and applicable to directors and senior management of DNFBPs. As such this Recommendation remains outstanding.

**Recommendation 25**

60. The first recommendation requires that the AMLCFTA be amended to require either competent authorities or the FIU to provide financial institutions and DNFBSs that are required to report suspicious transactions with adequate and appropriate feedback having regard to the FATF Best Practices Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons. In the last Follow-Up Report the authorities have referred to sub section 9(4)(1) of the AMLCFTA which states that that the FIU “may periodically provide feedback to other supervisory authorities and other relevant agencies regarding outcomes relating to the reports or information given under the Act”. The above provision falls short of the FATF requirement in that it does not include reporting entities and it is discretionary rather than mandatory in nature. As such, the FIU is not directly required to provide general feedback i.e. statistics on STRs with appropriate breakdowns and results on disclosures, information on current techniques, methods and trends or specific feedback to reporting entities and other persons.

61. The other recommendation requires that guidelines to assist financial institutions to implement and comply with their respective AML/CFT requirements be issued. At present, the authorities advise that the FIU with assistance from the US Government under the CBSI bilateral arrangements will be preparing the recommended guidelines. Given the above, this Recommendation remains outstanding.

**Recommendations 27**

62. The examiners’ recommended action for written laws or measures authorizing the GPF to postpone or waive the arrest of suspected persons and/or the seizure of money for the purpose of identifying persons involved in money laundering or for evidence gathering has been forwarded to the Ministry of Legal Affairs which is presently considering the matter. This recommendation remains outstanding.

**Recommendation 28**

63. The recommendation for a law or measure to allow for the taking of witnesses’ statements for use in investigations and prosecutions of ML, FT and other underlying predicate offences or in related actions has been forwarded to the Ministry of Legal Affairs which will make a recommendation to the relevant authority for a provision to be inserted in the AMLCFTA as recommended. This recommendation remains outstanding.

**Recommendation 29**

64. The recommendation for the GSC to have the power to compel production or obtain access to all records, documents or information relevant to monitoring of compliance has been forwarded to the GSC which intends to inform the Ministry of Finance for the need to amend the AMLCFTA in accordance with the recommendation. This Recommendation remains outstanding.

**Recommendation 30**

65. The first recommendation is for the FIU to urgently implement its plan for new personnel and facilities. In the last Follow-Up Report the FIU advised that it had in its employ, one Director, one Legal Adviser, one Financial Analyst, one Database Administrator and one Administrative Officer. Since that report it has hired an additional financial analyst. Plans are in place to employ two (2) additional staff by the end of the first quarter in 2012.

66. With regard to the recommendations for the provision of trained financial investigators for the GPF and CANU and appropriate ML/FT training for the staff of the GPF and CANU, both the GPF and CANU advise that these will be addressed under the CBSI bilateral arrangements. . No details about these arrangements have been provided.

67. With regard to the recommendations for the authorities to consider measures to deal with the integrity problems of the GPF, the GPF has advised that measures to address integrity problems include an Office of Professional Integrity and vetted units that acquire intelligence and investigate organized crime. The capacity of the Office of Professional Integrity is to be developed. While the above measure is welcomed, there is need for information on the powers and functions of the Office of Professional Integrity and the results of its operation. Additionally, information on plans to develop its capacity should also be submitted to allow for an assessment of its effectiveness. .

68. The recommendation for the staff of the DPP to be provided with ML training has been referred to the DPP which has advised that the Ministry of Legal Affairs will be requested to raise the issue with Cabinet.

69. The recommendation for the authorities to consider increasing the number of Customs outposts to ensure security at borders will be implemented the GRA advises once resources are available. Three new fully operational outposts are to be established by April 30,2012.

70. In relation to the recommendation for relevant staff of the GRA to be provided with AML/CFT training, it was noted in the last Follow-Up Report that the FIU provided training to the GRA in August and October of 2010 and January 2011. Additionally, meetings had been held with senior personnel of the GRA to discuss the applicability of the AMLCFTA and the AMLCFTR in August, September and December of 2010 and May and August of 2011. As part of the provision of additional and continuous training to the GRA, the GRA has advised that its training division with support from the FIU will embark on training programmes to ensure that all relevant staff of the GRA are provided with AML/CFT training by June 30, 2012. As a result of the above measures three of the recommendations have been met and the others remain outstanding.

### **Recommendation 31**

71. The examiners' first recommendation was for the consideration of the establishment of a national body comprised of relevant AML/CFT agencies to facilitate co-operations and co-ordination in implementing AML/CFT policies. As noted in the last Follow-Up Report the authorities advised that a Task Force Committee on Money Laundering was set up to facilitate co-operation and co-ordination in implementing the Anti Money Laundering and Countering the Financing of Terrorism policy and to provide advice to Government and guidance to private entities in relation to Anti Money Laundering and Countering the Financing of Terrorism obligations. The task force comprises representatives from the FIU, the GPF, the DPP, CANU and the GRA (Intelligence Division). To date, the Task Force has reviewed a number of issues for increasing co-operation and creating general focus for addressing money laundering and terrorist financing. Information about the functioning and accomplishments of this Committee should be submitted in future follow-ups.

72. The recommendation that competent authorities should consider establishing explicit mechanisms for consultation between competent authorities, the financial and other sectors is still being considered by the relevant authority. Further report is expected by June 30, 2012.

**Recommendation 32**

73. The first recommendation requires the GRA to maintain statistics on the number of declarations collected and the number of false declarations detected and the amounts of currency involved or resultant cash seizures. In the last Follow-Up Report the authorities advised that the GRA regularly submits reports to the FIU on the number of declarations made, false declarations detected etc. The table below shows the number of declaration forms submitted by the GRA to the FIU on a yearly basis.

**Table 4: No of Declarations Forms Submitted by GRA to FIU from Jan 2009 – Sept 2011**

Year	No of Declaration Forms Collected
2009	1087
2010	1416
Jan-Sept 2011	887
TOTAL	3390

74. No reports of false declarations or cash seizures were submitted to the FIU during the above period. At present, the GRA advises that information on all the categories mentioned in the last Follow-Up Report are still maintained and information on cash seizures will be recorded from January 2, 2012. The above figures demonstrate that measures are in place to comply with the examiners' recommendation. Information on these measures should be submitted at each Follow-Up Report to demonstrate continued implementation. All other recommendations requiring the maintenance of statistics for various activities are still being considered by the relevant authorities and are expected to be implemented by June 30, 2012.. As such, these recommendations remain outstanding.

**Recommendation 33**

75. The recommendation that the Companies Act be amended to provide the Registrar of Companies with the requisite legal authority to ascertain the beneficial ownership of all companies and to ensure that information about beneficial ownership in the register of companies is adequate, accurate and current was referred to the Ministry of Legal Affairs which will make appropriate representations to the relevant authority to implement the recommendation. The other recommendation is still being considered by the relevant authority and a further report is due by June 30, 2012. This Recommendation remains outstanding.

### **Recommendation 34**

76. The recommendation that Guyana should implement measures to ensure that its commercial laws require adequate transparency concerning the beneficial ownership and control of trusts and other legal arrangements has been referred to the Ministry of Legal Affairs which has identified it as a policy issue and referred it to the relevant authority. The other recommendation is still being considered by the relevant authority and a further report is due by June 30, 2012. This Recommendation remains outstanding.

### **Recommendations 37**

77. The situation is the same as noted in the last Follow-Up Report with the examiners' recommendations still being considered by the relevant authority. A report is expected by June 30, 2012. This Recommendation is therefore outstanding.

### **Recommendation 38**

78. The recommendation for guidelines or procedures in regard to timelines to facilitate an expeditious response to mutual legal assistance to be developed and implemented has been referred to the Ministry of Legal Affairs which has identified it as a policy issue and referred it to the relevant authority. The other recommended actions are still being considered by the relevant authorities which are due to report by June 30, 2012.

79. The examiners' recommended action requires that procedures or measures be put in place to facilitate the timely response to requests for extradition and proceedings relating to ML and FT and to ensure such requests are handled without undue delay. The authorities advise that under the auspices of the Fugitive Offenders Act adequate arrangements are in place for the expeditious handling of extradition requests and proceedings relating to ML and FT. While these measures were noted in the MER there were no statistics to verify whether these measures operated in an expeditious manner. Given the above, the authorities should provide relevant statistics to demonstrate timely response to extradition requests and proceedings relating to ML and FT. Consequently, this recommendation remains outstanding.

### **Special Recommendations VI**

80. The first recommendation requires that a system for monitoring money transfer agencies/agents for compliance with AML/CFT requirements be implemented as soon as possible. The Central Bank of Guyana has advised that a system for monitoring money transfer agencies/agents was implemented since 2011 and that all money transfer agencies and a few agents have been inspected. Information on the numbers of agencies and agents inspected and the results of these examinations relating to AML/CFT breaches and the imposition of any sanctions should be provided to demonstrate implementation.

81. With regard to the recommendation that money transfer agencies be required to maintain a current list of their agents which must be made available to the designated competent authority, the Central Bank of Guyana has required money transfer agencies to submit a current list of agents when applying for the renewal of their licences. Additionally, all money transfer agents are required under section 8 of the Money Transfer Agencies (Licensing) Act (MTALA) to be registered with the Central Bank of Guyana. Given the above, this recommendation is met.

82. The last recommendation requires the amendment of the penalties in the MTALA to make them dissuasive, proportionate and applicable to directors and senior management of money transfer agencies. The Bank of Guyana has advised that it considers the range of sanctions in the MTALA to be proportionate and applicable to any person at any level who acts in contravention of the legislation.

83. As noted in Guyana's MER, there are three sanctions for breaches in the MTALA. Section 11 provides for the BOG to suspend or revoke a licence or certificate of registration for contravention or failure to comply with any provision of the AMLCFTA or the MTALA. Additionally, subsection 17(2) stipulates that any person who contravenes any provision of the Act for which no penalty has been specified is liable on summary conviction to a fine of G\$500,000 (US\$2,440) and imprisonment for one year. The only provision that has a specific sanction is subsection 17(1) which imposes a penalty on summary conviction of a fine of G\$250,000 (US\$1,220) and imprisonment for 6 months for the failure of any licensee, money transfer agents or any of their directors, managers, officers or employees to submit any accounts, books, records, documents, electronic data or other relevant information requested during an examination by the BOG. The above sanctions are limited and include only minimal fines and terms of imprisonment to suspension, or revocation of the licence or certificate of registration. There is no provision for graduated sanctions. While the fines and imprisonment are applicable to both natural and legal persons and therefore could be applicable to directors and senior management, the levels are not dissuasive particularly in relation to legal persons or corporate entities. As such, this recommended action is only partially met.

84. Given the above, there has been substantial improvement in compliance with this Recommendation.

#### **Special Recommendation VII**

85. Four of the examiners' recommended actions are still being considered by the relevant authorities with further reports expected by June 30, 2012. The other two recommendations have been referred to the Central Bank which has advised that they will be addressed by the issuance of Guidelines by the Supervisory Authority. As a result this Recommendation remains outstanding.

#### **Special Recommendation VIII**

86. The situation is the same as noted in the last Follow-Up Report with the examiners' recommendations still being considered by the relevant authority. A report is expected by June 30, 2012. This Recommendation is therefore outstanding..

#### **Special Recommendation IX**

87. The recommendation for the extension of the implementation of the cross-border declaration system to include bearer negotiable instruments was forwarded to the Ministry of Legal Affairs which has advised that a recommendation to amend the AMLCFTA to include bearer negotiable instruments will be made to the relevant authority.

88. With regard to the recommendation that sanctions for false declarations should be extended to legal persons, their directors and senior management and should be dissuasive, proportionate and effective, the Ministry of Legal Affairs advises that in the laws of Guyana reference to any person includes a reference to a legal person by virtue of the Interpretation Act. However as noted in the MER, section 6(5) of the Foreign Exchange (Miscellaneous Provisions) Act, (FEMPA) which deals with failure to disclose or willfully making a false declaration refers

specifically to a traveler which would suggest that liability for this offence is strictly limited to natural persons and cannot be extended to legal persons and their directors who have consented or connived in the offence. As such, the provision does not reference a person and therefore does not include legal persons. With regard to amending the penalty to make it dissuasive, the Ministry of Legal Affairs advises that this is a policy issue for further consideration by the relevant authority.

89. The recommendation for Guyana to enhance its ability to freeze the assets of persons designated pursuant to S/RES/1267/(1999) and S/RES/1373/(2001) as recommended in section 2.4 of the MER to ensure that it can do so effectively in the cross-border context is still being considered by the relevant authority and a report is expected by June 30,2012. Consequently, this Recommendation remains outstanding.

### **III. Conclusion**

90. The overall situation as noted in the last Follow-Up Report has changed little except for the substantial improvement in the level of compliance with SR VI. While the authorities in Guyana have commenced to comply with some of the recommendations in the MER, these measures are still minimal. There is need to formulate specific measures on a priority basis with timelines for the large majority of the recommendations that are presently under consideration. Additionally, information with regard to available statistics to demonstrate implementation needs to be submitted. Given the above, it is recommended that Guyana remain in expedited follow-up and be required to report to the next Plenary in November 2012.

## Guyana Second Follow-Up Report

### Matrix with Ratings and Follow Up Action Plan 3rd Round Mutual Evaluation Guyana

Forty Recommendations	Rating	Summary of factors underlying rating	Recommended Actions	Undertaken Actions
<b>Legal systems</b>				
1. ML offence	PC	<ul style="list-style-type: none"> <li>• ML offences in the AMLCFTA are not consistent with the requirements of the Vienna and the Palermo Conventions.</li> <li>• Illicit trafficking in stolen and other goods and smuggling are not criminalized as a serious offence and are therefore not a predicate offence to ML.</li> <li>• The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation.</li> </ul>	<ul style="list-style-type: none"> <li>• Amend the ML offences in the AMLCFTA to include “assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions” in accordance with the Vienna and Palermo Conventions.</li> <li>• Illicit trafficking in stolen and other goods and smuggling should be criminalized as a serious offence and a predicate offence to ML.</li> </ul>	<ul style="list-style-type: none"> <li>• This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for Section 3(1) (d) of the AMLCFT Act to be amended to include these provisions.</li> <li>• (a) In Guyana, illicit trafficking in stolen and other goods falls under the offence of ‘Receiving where principal is guilty of felony’. The Criminal Law (Offences) Act Cap. 8:01 provides at s.236               <ul style="list-style-type: none"> <li>(1) <i>“Everyone who receives any chattel, money, valuable security, or other property, the stealing, taking, extortion, obtaining, embezzling, or otherwise disposing whereof amounts to a felony, either at common law or by virtue of this Act or of any other written law for the time being in force, knowing it to have been feloniously stolen, taken, extorted, obtained, embezzled, or disposed or, shall be guilty of felony, and may be indicted and convicted wither as an accessory after the fact, or for a substantive felony; and, in the latter case, whether the principal felony has or has not been previously convicted or is or is not amenable to justice.</i></li> <li>(2) <i>Every receiver aforesaid, however convicted, shall be liable to imprisonment for fourteen years.”</i></li> </ul> </li> <li>• (b) The offence of smuggling falls under the Customs Act Cap. 82:01 of the Laws of Guyana. s.218(d)(e) provides <i>“Every person who knowingly acquires possession of or is in any way knowingly concerned in carrying, removing, depositing, concealing, or in any manner dealing with any goods with intent to defraud the revenue of any duties thereon, or to evade any prohibition or restriction of or</i></li> </ul>

Guyana Second Follow-Up Report

			<ul style="list-style-type: none"> <li>• Systems should be put in place to effectively implement the AMLCFTA and relevant Government entities made aware of the legislation and its applicability</li> </ul>	<p><i>applicable to such goods; or is in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any import or export duties of customs, or of the laws, and restrictions of the customs relating to the importation, unloading, warehousing, delivery, removal, loading and exportation of goods, shall be liable for each such offence to a fine of treble the value of the goods or ten thousand dollars at the election of the Comptroller; and to imprisonment for one year and all goods in respect of which any such offence shall be committed shall be forfeited.”</i></p> <p>As evident from the above, the penalties for the above offences are imprisonment for fourteen years, and a fine of treble the value of the goods or ten thousand dollars ...and to imprisonment for one year and all goods in respect of the offence being forfeited, respectively. These are therefore serious offences under the AMLCFTA which states “<i>“serious offence” means a serious offence against a provision of-</i></p> <p><i>(a) any law in Guyana, for which the maximum penalty is death or imprisonment for life or other deprivation of liberty of not less than six months;</i></p> <p><i>(b) any offence listed in Second Schedule ; or</i></p> <p><i>(c) a law of a foreign state, in relation to an act or omission, which had it occurred in Guyana, would have constituted an offence for which the maximum penalty is death, or imprisonment for life or other deprivation of liberty for a period of not less than six months and includes money laundering and terrorist financing or an offence listed in the Second Schedule”.</i></p> <ul style="list-style-type: none"> <li>• FIU has been sensitizing the relevant Government entities on the legislation and its applicability through continuous trainings/discussions and follow up meetings (See Appendix I)</li> </ul>
--	--	--	--	--

## Guyana Second Follow-Up Report

2. ML offence – mental element and corporate liability	LC	i. The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation and minimal resources limit implementation.		
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> <li>• The definition of property liable for confiscation does not include assets of every kind, whether tangible or intangible, or indirect proceeds of crime including income, profits or other benefits from proceeds of crime or property held by third persons.</li> <li>• Unable to assess effective implementation since there has been no restraint, forfeiture or production orders or search warrants granted under the AMLCFTA due to its recent enactment</li> </ul>	<ul style="list-style-type: none"> <li>• The definition of property liable for confiscation in the AMLCFTA be amended to include indirect proceeds of crime including income, profits or other benefits from proceeds of crime and property held by third persons and assets or every kind, whether tangible or intangible.</li> <li>• The competent authorities should provide resources to ensure the requisite agencies are trained under the recent legislation in order to enable effective implementation.</li> </ul>	<ul style="list-style-type: none"> <li>• This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for the definition of property to be amended to include indirect proceeds of crime.</li> <li>• This recommendation was referred to the <b>Guyana Police Force (GPF), CANU, the Director of Public Prosecutions (DPP), and the Guyana Revenue Authority (GRA)</b>, their responses are as follows – <ul style="list-style-type: none"> <li><b>GPF</b> - The United States Government, under the CBSI Bilateral arrangements, is currently engaging the Government of Guyana on an assistance package in this area. The action recommended is likely to be a subset of the package offered and timelines for specific actions are expected to be arrived at during the engagements.</li> <li><b>CANU</b> – Will be considered under the CBSI Bilateral arrangements.</li> <li><b>DPP</b> - Will write to the Minister of Legal Affairs to take issue to Cabinet.</li> <li><b>GRA</b> - The GRA’s training Division with support from the FIU will embark on Training Programmes to ensure that the relevant staff of GRA are provided with AML/CFT training by June 30, 2012.</li> </ul> </li> </ul>
<b>Preventive measures</b>				

## Guyana Second Follow-Up Report

<p>4. Secrecy laws consistent with the Recommendations</p>	<p>PC</p>	<ul style="list-style-type: none"> <li>• No provision for the GSC to access information relevant to AML/CFT matters from registrants of the SIA.</li> <li>• No provision for the CCDO to share information from a society registered under the CSA with local and international competent authorities</li> </ul>	<ul style="list-style-type: none"> <li>• The GSC should have the power to access information relevant to AML/CFT matters from registrants of the SIA.</li> <li>• The CCDO should be able to share information from a society registered under the CSA with local and international competent authorities.</li> </ul>	<ul style="list-style-type: none"> <li>• This recommended was referred to the <b>Guyana Securities Council</b> and the Council has responded as follows - The GSC intends to inform the Honourable Minister of Finance of the need for the AML / CFT to be amended to empower the GSC to access information, records and documents from their Registrants for the purposes of the AML / CFT Act..</li> <li>• The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>
<p>5. Customer due diligence</p>	<p>PC</p>	<ul style="list-style-type: none"> <li>• Threshold for the application of CDD measures for occasional transactions has not been prescribed, leaving such determination to the discretion of the reporting entities.</li> <li>• No requirement for reporting entities to obtain information on the ownership of customers who are legal persons or legal arrangements.</li> <li>• No requirement for reporting entities to determine who are the natural persons that ultimately own or control the customer.</li> <li>• No requirement for the verification of legal status of specific legal arrangements such as trusts.</li> <li>• No definition of beneficial ownership with regard to legal entities.</li> <li>• No requirement for reporting entities to perform enhanced due diligence for higher risk categories of customers.</li> <li>• No requirement that reporting entities verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers.</li> <li>• No requirement prohibiting reporting entities</li> </ul>	<ul style="list-style-type: none"> <li>• A threshold for the application of CDD measures for occasional transactions should be prescribed in accordance with the FATF standard.</li> <li>• Reporting entities should be required to obtain information on the ownership of customers who are legal persons or legal arrangements.</li> </ul>	<ul style="list-style-type: none"> <li>• Regulation 4(2) (b) already makes provision for this recommendation. It stipulates “<i>Customers shall include persons, whether natural, legal, or legal arrangements, who are or who seek to be engaged in one or more occasional transactions with the reporting entity when the total value of the transactions equals or exceeds one million dollars.</i>”</li> <li>• (See Appendix III)</li> <li>• S. 15(4)(a-c) of the AMLCTFA already makes provision for REs to obtain information on the ownership of customers who are legal persons or legal arrangements. This section provides “<i>Without limiting the generality of subsection (2), a reporting entity shall-</i> <ol style="list-style-type: none"> <li>(a) <i>when establishing a business relationship, obtain information on the purpose and nature of the business relationship;</i></li> <li>(b) <i>if the transaction is conducted by a natural person, ....</i></li> <li>(c) <i>if the transaction is conducted by a legal entity, adequately identify the beneficial owner, take reasonable measures to identify and verify its beneficial ownership and control structure, including information relating to-</i> <ol style="list-style-type: none"> <li>(i) <i>the customer's name, legal form, address and directors;</i></li> <li>(ii) <i>the principal owners and beneficiaries and control structure;</i></li> <li>(iii) <i>provisions regulating the power to bind the entity; and to verify that any</i></li> </ol> </li> </ol> </li> </ul>

## Guyana Second Follow-Up Report

		<p>from opening an account or commencing a business relationship or performing a transaction in the absence of satisfactory evidence of identity as stipulated in criteria 5.3 to 5.6 and being required to consider making a suspicious transaction report.</p> <ul style="list-style-type: none"> <li>• Except in the case of customers at the time of the enactment of the AMLCFTA, there is no requirement for financial institutions to terminate a business relationship due to the inability to obtain information set out in criteria 5.3 to 5.6 and consider making a suspicious transaction report.</li> </ul>	<ul style="list-style-type: none"> <li>• Reporting entities should be required to determine who are the natural persons that ultimately own or control the customer.</li> <li>• Reporting entities should be required to verify the legal status of specific legal arrangements such as trusts.</li> <li>• A definition of beneficial ownership with regard to legal entities should be set out in the AMLCFTA.</li> <li>• Reporting entities should be required to perform enhanced due diligence for higher risk categories of customers.</li> </ul>	<p style="text-align: center;"><i>person purporting to act on behalf of the customer is so authorised, and identify those persons.”</i></p> <ul style="list-style-type: none"> <li>• This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for the AMLCFT Act to be amended to fulfil the requirement of this recommendation.</li> <li>• Regulation 4(5)(a) &amp;(c) of the Regulations made under AMLCFTA already makes provision for the verification of legal status of specific arrangements such as trusts. It provides that “<i>A reporting entity shall ensure that it knows the true identity of its customers...For customers who are legal persons or legal arrangements, the reporting entity shall obtain and verify –</i> <ul style="list-style-type: none"> <li>(a) <i>the customer’s name and legal form, including obtaining proof of incorporation or similar evidence of establishment or existence such as a certificate of incorporation or a trust instrument.”</i></li> <li>(b) ...</li> <li>(c) <i>the legal provisions that set out the power to bind the customer such as the memorandum and articles of association or trust instrument...”</i></li> </ul> </li> <li>• This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for a definition of beneficial ownership to be inserted in the interpretation section of the AMLCFT Act.</li> <li>• This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - The recommendations made by the Caribbean Financial Action Task Force in the Mutual Evaluation Report will be comprehensively addressed by the issuance of Guidelines by the Supervisory Authority.</li> </ul>
--	--	--	--	---

## Guyana Second Follow-Up Report

			<ul style="list-style-type: none"> <li>Reporting entities should be required to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers.</li> </ul>	<p>The Bank of Guyana (BOG) will be receiving technical assistance from the US Department of Treasury to, inter alia, draft Guidelines on Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) for licencees under the Financial Institutions Act 1995, Money Transfer Agencies (Licensing) Act 2009, Dealers in Foreign Currency Act 1998 and the Insurance Act 1998.</p> <ul style="list-style-type: none"> <li>S.15(2) of the AMLCTFA provides “<b>Reporting entities shall establish and verify the identity of any customer of the reporting entity by requiring the applicant to produce an identification record or such other reliable, independent source document as the Financial Intelligence Unit may request</b>”</li> </ul> <p>The phrase “establish and verify the identity of <u>any customer</u> of the reporting entity” is all-inclusive and thereby includes ‘occasional customers conducting transactions.’ Further, Regulation 4(2)(b) of the Regulation made under the AMLCTFA defines a customer thus “<b>Customers shall include persons, whether natural, legal, or legal arrangements, who are or who seek to be engaged in one or more occasional transactions with the reporting entity.</b>”</p>
			<ul style="list-style-type: none"> <li>Reporting entities should be prohibited from opening an account or commencing a business relationship or performing a transaction in the absence of satisfactory evidence of identity as stipulated in criteria 5.3 to 5.6 and being required to consider making a suspicious transaction report.</li> </ul>	<ul style="list-style-type: none"> <li>S. 15.(2) and (3) of the AMLCTFA provides: <ul style="list-style-type: none"> <li>(2) <b>Reporting entities shall establish the identity and verify the identity of any customer of the reporting entity by requiring the applicant to produce an identification record or such other reliable, independent source documents as the Financial Intelligence Unit may request.</b></li> <li>(3) <b>The requirements of subsection (2) shall apply where-</b> <ul style="list-style-type: none"> <li>(a) <b>a reporting entity establishes a business relationship;</b></li> <li>(b) <b>in the absence of such a relationship, a reporting entity conducts-</b></li> </ul> </li> </ul> </li> </ul>

## Guyana Second Follow-Up Report

			<ul style="list-style-type: none"> <li>Reporting entities should be required to terminate a business relationship due to the inability to obtain information set out in criteria 5.3 to 5.6 and consider making a suspicious transaction report.</li> </ul>	<p>(i) <i>any transaction in an amount equal to or above the amount prescribed by the Minister, whether conducted as a single transaction or several transactions that appear to be linked and where the amount of the transaction is unknown at the time of the transaction, the identification and verification shall be undertaken as soon as the amount becomes known or the threshold is reached;</i></p> <p>(ii) <i>any wire transfer as set out in section 20;</i></p> <p>(c) <i>there is a suspicion of money laundering or terrorist financing; or</i></p> <p>(c) <i>the reporting entity has doubts about the veracity or adequacy of previously obtained customer identification data.”</i></p> <p>From the above it can be inferred that reporting entities are prohibited from opening accounts or commencing a business relationships or performing transactions in the absence of satisfactory evidence of identity. In this instance therefore, there would be no need for the reporting of a suspicious transaction report.</p> <ul style="list-style-type: none"> <li>S. 15.(10)(c) of the AMLCTFA makes provision for this recommendation. It provides “<i>In the case of an existing customer at the time of this Act coming into force where at the end of the six months or further period of up to three months, as the case may be, a reporting entity is unable to verify the identity of a customer, the reporting entity shall terminate the business relationship with such a customer.</i>”</li> </ul>
6. Politically exposed persons	PC	<ul style="list-style-type: none"> <li>No requirement for reporting entities to obtain senior management approval to continue a business relationship with a customer or beneficial owner who is subsequently found to be a PEP or becomes a</li> </ul>	<ul style="list-style-type: none"> <li>Reporting entities should be required to obtain senior management approval to continue a business relationship with a customer who is subsequently found to be a PEP or becomes a PEP.</li> </ul>	<ul style="list-style-type: none"> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>

## Guyana Second Follow-Up Report

		<p>PEP.</p> <ul style="list-style-type: none"> <li>Limited awareness by financial institutions about the legal requirements concerning PEPs.</li> </ul>	<ul style="list-style-type: none"> <li>The supervisory authorities should ensure that all financial institutions are aware of the legal requirements concerning PEPs</li> </ul>	<ul style="list-style-type: none"> <li>Financial institutions are continuously being sensitized on various sections of the legislation (particularly s.15 (4)(d)), as well as the AMLCFT Regulations, hence these institutions are aware of the legal requirements concerning PEPs. (See Appendix IV)</li> </ul>
7. Correspondent banking	LC	<ul style="list-style-type: none"> <li>No requirement for financial institutions to ascertain whether a respondent institution has been subject to a money laundering or terrorist financing investigation or regulatory action.</li> <li>No requirement for financial institutions to ascertain for themselves that the AML/CFT controls of a respondent institution are adequate and effective.</li> </ul>	<ul style="list-style-type: none"> <li>Financial institutions should be required to ascertain whether a respondent institution has been subject to a money laundering or terrorist financing investigation or regulatory action.</li> <li>Financial institutions should have to ascertain for themselves that the AML/CFT controls of a respondent institution are adequate and effective.</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows – This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.</li> <li>This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.</li> </ul>
8. New technologies & non face-to-face business	NC	<ul style="list-style-type: none"> <li>No requirement for financial institutions to have policies in place or take such measures to prevent the misuse of technological developments in ML or TF schemes.</li> <li>No requirement for financial institutions to have policies and procedures in place to address specific risks associated with non-face to face business relationships or transactions.</li> </ul>	<ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>Financial institutions should also be required to have measures for managing risks including specific and effective CDD procedures that apply to non-face to face customers.</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.</li> <li>This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.</li> <li>This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.</li> </ul>
9. Third parties and introducers	PC	<ul style="list-style-type: none"> <li>Authorities have issued no guidance in relation to which countries third parties that meet FATF conditions can be based.</li> <li>Financial institutions are not required to satisfy themselves that third parties are regulated and supervised in accordance with</li> </ul>	<ul style="list-style-type: none"> <li>Financial institutions should be required to satisfy themselves that third parties are regulated and supervised in accordance with Recommendations 23, 24 and 29 and have measures in place to comply with CDD requirements set out in Recommendation 5.</li> <li>Competent authorities should determine and inform</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.</li> <li>This recommendation was referred to the <b>Bank</b></li> </ul>

## Guyana Second Follow-Up Report

		Recommendations 23, 24 and 29 and have measures in place to comply with CDD requirements set out in Recommendation 5.	financial institutions in which countries third parties that meet the conditions can be based by taking into account information available on whether these countries adequately apply the FATF Recommendations	<b>of Guyana</b> and the Bank has responded as follows - This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.
10. Record keeping	PC	i. No requirement for financial institutions to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority.	i. All 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	<ul style="list-style-type: none"> <li>Regulation 9(1) of the Regulations made under AMLCFTA makes provision for reporting entities to ensure that any records required to be maintained under these Regulations are capable of retrieval in legible form without undue delay.</li> </ul> <p>In addition, the FIU has since 2006, implemented a system whereby when requesting information from reporting entities, such information is required within seven (7) days from the date of request. (See Appendix V)</p> <p>Further, s. 9(4)(o) of the AMLCFTA provides <i>“The Financial Intelligence Unit- shall, in respect of the entities for which it has been designated, exercise the powers set out in section 18 and in relation to this, may enter the premises of any reporting entity during ordinary business hours to inspect any record kept by the reporting entity, and ask any question relating to such record, make notes and take copies of whole or any part of the record.”</i></p>
11. Unusual transactions	LC	<ul style="list-style-type: none"> <li>Findings on complex, unusual, large transactions or unusual patterns of transactions with no apparent or visible economic or lawful purpose are available only to the FIU and not all competent authorities and auditors.</li> <li>No requirement that findings on background and purpose of transactions should be kept available for at least five years..</li> </ul>	i. Guyana should amend its legislation so as to require financial institutions to make the findings on complex, unusual, large transactions or unusual patterns of transactions with no apparent or visible economic or lawful purpose available to all competent authorities and auditors for at least five years.	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for the AMLCFT Act to be amended to include this provision.</li> </ul>
12. DNFBP – R.5, 6, 8-11	NC	i. The deficiencies identified in section 3 in relation to Recs. 5, 6 and 8 – 11 are also applicable to DNFbps.	i. It is recommended that a designated supervisory authority be appointed as soon as possible for the DNFbps to oversee compliance with the requirements of the AMLCFTA.	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Finance</b> and the Ministry has responded as follows – The Minister of Finance is in agreement with this recommendation and is currently in the process of initiating plans to</li> </ul>

## Guyana Second Follow-Up Report

				determine the roles/modus operandi/guidelines and responsibilities for the posts as well as plans for the appointment of supervisory authorities for the various DNFBPs.
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> <li>Requirement to make a STR does not apply to funds from the designated predicate offence of illicit trafficking in stolen or other goods and smuggling.</li> <li>Reporting requirement for terrorist financing does not include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organisations</li> <li>No provision specifying that the requirement to report suspicious transactions should apply regardless of whether they are thought, among other things, to involve tax matters.</li> <li>Unable to assess effectiveness of the reporting system due to the unavailability of statistics on suspicious transaction reporting.</li> </ul>	<ul style="list-style-type: none"> <li>Illicit trafficking in stolen and other goods and smuggling should be criminalized as a serious offence and a predicate offence to ML.</li> <li>Reporting requirement for terrorist financing in the AMLCFTA should include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organisations.</li> <li>The requirement to report suspicious transactions should apply regardless of whether they are thought, among other things, to involve tax matters.</li> </ul>	<ul style="list-style-type: none"> <li><b>Already dealt with at No. 1(ii) above- offences are criminalized as serious offences in Guyana.</b></li> <li>This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for the AMLCFT Act to be amended to include funds linked, etc. to terrorism.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>
14. Protection & no tipping-off	LC	i. No specific requirement that the protection of staff of financial institutions for reporting STRs is available even if the staff of financial institutions did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.	i. The protection of staff of financial institutions for reporting STRs should be explicitly available even if the staff of financial institutions did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.	<ul style="list-style-type: none"> <li>S. 11(2) of the AMLCFTA offers protection to staff of reporting entities. Financial institutions are no exception. It provides “<i>No civil or criminal liability action may be brought nor may any professional sanction be taken against any person or agent of any reporting entity for breach of any restriction on disclosure who in good faith transmits information or submits reports to the Financial Intelligence Unit.</i>”</li> </ul>
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> <li>No requirement for individuals who carry on business solely or with a staff and management of less than five persons to comply with the requirements of Rec. 15.</li> <li>Access to information is restricted to the reporting function and only to compliance officers appointed at management level rather than to all appropriate staff engaged in the compliance function.</li> </ul>	<ul style="list-style-type: none"> <li>The competent authorities should ensure that all financial institutions update their current policies and that the updated versions are based on the AMLCFTA.</li> <li>The requirements of Rec. 15 should be applicable to individuals who carry on business solely or with a staff and management of less than five persons.</li> </ul>	<ul style="list-style-type: none"> <li>We are considering issuing directives to financial institutions regarding the updating of their policies based on AMLCFTA.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>

## Guyana Second Follow-Up Report

		<ul style="list-style-type: none"> <li>No requirement for the audit function of financial institutions to be adequately resourced and independent and compliance testing of procedures, policies and controls to include sample testing.</li> <li>The training obligation of financial institutions is not ongoing and does not include new developments, including information on current ML and FT techniques, methods and trends; clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD.</li> </ul>	<ul style="list-style-type: none"> <li>The AMLCFTA should provide that the compliance officer and appropriate staff have timely access to customer identification data and other CDD information, transaction records and other relevant information necessary to carry out all their functions.</li> <li>Financial institutions should be required to ensure that their audit function is adequately resourced and independent and compliance testing of procedures, policies and controls include sample testing.</li> <li>The training obligation of financial institutions should be ongoing and include new developments, including information on current ML and FT techniques, methods and trends; clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD.</li> </ul>	<ul style="list-style-type: none"> <li>S. 19(2)(a) of the AMLCFTA provides “A reporting entity shall enable any person identified in accordance with subsection (1)(a) to have reasonable access to information that may be relevant to determining whether sufficient basis exists to report the matter pursuant to section 16.”</li> <li>It is therefore inferred that staff acting on the instructions/directions of the compliance officer would also have such access.</li> <li>This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.</li> <li>This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.</li> </ul>
16. DNFBP – R.13-15 & 21	NC	i. The deficiencies identified in section 3 in relation to Recs. 13, to 15, and 21 are also applicable to DNFbps	i. It is recommended that a designated supervisory authority be appointed as soon as possible for the DNFbps to oversee compliance with the of requirements of the AMLCFTA	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Finance</b> and the Ministry has responded as follows – The Minister of Finance is in agreement with this recommendation and is currently in the process of initiating plans to determine the roles/modus operandi/guidelines and responsibilities for the posts as well as plans for the appointment of supervisory authorities for the various DNFbps.</li> </ul>
17. Sanctions	PC	<ul style="list-style-type: none"> <li>Fines applicable to corporate bodies for breaches of AML/CFT obligations under the AMLCFTA are not dissuasive.</li> <li>Sanctions of designated supervisory authorities under the AMLCFTA are not dissuasive, proportionate or effective and are not applicable to directors and senior management of reporting entities</li> </ul>	<ul style="list-style-type: none"> <li>Fines applicable to corporate bodies for breaches of AML/CFT obligations under the AMLCFTA should be dissuasive.</li> <li>Sanctions of designated supervisory authorities under the AMLCFTA should be dissuasive,</li> </ul>	<ul style="list-style-type: none"> <li>S. 3(6) of the AMLCFTA provides that a corporate body who contravenes this section commits an offence and shall be liable to a fine of not less than two hundred million dollars nor more than five hundred million dollars. In Guyana, the minimum sum of US\$1m is considered dissuasive.</li> <li>Consideration is being given for the level of sanctions of supervisory authorities to be re-</li> </ul>

## Guyana Second Follow-Up Report

			proportionate and effective and should be applicable to directors and senior management of reporting entities.	examined with a view of making the sanctions more effective and applicable to directors and senior management of reporting entities.
18. Shell banks	LC	i. No requirement that financial institutions satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks	<ul style="list-style-type: none"> <li>• 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.</li> <li>• In order to remove any ambiguity with regard to the possible establishment of shell banks in Guyana provision allowing for the registration of shell banks in the Company Act should be repealed.</li> </ul>	<ul style="list-style-type: none"> <li>• We believe that s.15(7)(c) of the AMLCFTA makes provision for the recommendation made. It states “<b><i>Banks or financial institutions shall not maintain any business relationship with other banks that do not maintain a physical presence under the laws of which they were established, unless they are part of a financial group subject to effective consolidated supervision</i></b>”. We are however; still examining the AMLCFTA to be absolutely positive.</li> <li>• This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - The Companies Act requires that both local and external companies should have a physical presence in Guyana. Section 5 (1) requires a registered office to be situated in Guyana and sections 310 (2) (a) and (d) and 316 (1) (l) require an external company to have a principal office in Guyana from which it regularly transacts its business. Section 8 of the Financial Institutions Act prohibits the use of the word “bank” in business names, unless an entity is licensed by the Bank of Guyana to conduct banking business and the Registrar of Companies is aware of this. The onsite examination by the Bank of Guyana and ongoing documentary requirements banks are required to satisfy, would not allow for the operation of a shell bank.</li> </ul>
19. Other forms of reporting	NC	i. No documentary evidence of the decision not to implement a system for the reporting of all currency transactions above a fixed threshold to a national central agency..	i. The authorities should provide documentation recording the decision not to implement a system for the reporting of all currency transactions above a fixed threshold to a national central agency.	<ul style="list-style-type: none"> <li>• There was no decision not to implement a system for the reporting of all currency transactions above a fixed threshold to a national central agency. For example, Regulation 12 of the Regulations made under the AMLCFTA (which was enacted after the MEV) provides:  <i>(3) Without prejudice to the generality of the foregoing provisions, a reporting entity shall report to the Financial Intelligence Unit as soon as practicable - where the reporting entity is a money</i></li> </ul>

## Guyana Second Follow-Up Report

				<p><i>transfer agency, any money transfer over two hundred thousand dollars; where the reporting entity is a cambio, a purchase over four hundred thousand dollars and a sale over one million dollars; and</i></p> <p><i>(c) any cash transaction over two million dollars.</i></p>
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> <li>• There are no measures in place to ensure that financial institutions are notified about AML/CFT weaknesses in other countries.</li> <li>• Only complex, unusual large transactions with no apparent economic or visible lawful purpose from countries which do not or insufficiently apply the FATF Recommendations are examined and written findings kept.</li> <li>• There are no provisions in place that allow the authorities to apply counter measures to countries that do not or insufficiently apply the FATF Recommendations</li> </ul>	<ul style="list-style-type: none"> <li>• Effective measures should be established to ensure that financial institutions are advised of concerns about AML/CFT weaknesses in other countries.</li> <li>• The background and purpose of all 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.</li> <li>• There should be provisions to allow for the application of countermeasures to countries that do not or insufficiently apply the FATF Recommendations.</li> </ul>	<ul style="list-style-type: none"> <li>• The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012</li> <li>• The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>• This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for Section 18 of the AMLCFT Act to be amended to include this provision to allow authorities to apply counter measures.</li> </ul>
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> <li>• Supervisory authorities have not imposed the requirements for foreign branches and subsidiaries of section 22(2) of the AMLCFTA on their respective reporting entities.</li> <li>• No requirement for financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with FATF Recommendations to the extent that host country laws and regulations permit.</li> <li>• No requirement for financial institutions to pay particular attention that the principle stated in section 22(2) of the AMLCFTA is observed with respect to branches and subsidiaries in countries which do not or insufficiently apply the FATF</li> </ul>	<ul style="list-style-type: none"> <li>• Designated supervisory authorities should impose the obligations stipulated in section 22(2) of the AMLCFTA on their respective reporting entities.</li> <li>• Financial institutions should be required to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with FATF Recommendations to the extent that host country laws and regulations permit.</li> <li>• Financial institutions should be required to pay particular attention that the principle stated in section 22(2) of the AMLCFTA is observed with respect to branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations.</li> </ul>	<ul style="list-style-type: none"> <li>• The FIU is in the process of preparing notices to all supervisory authorities instructing them to impose the obligations stipulated in section 22(2) of the AMLCFTA on their respective reporting entities.</li> <li>• This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.</li> <li>• This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows – This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.</li> </ul>

## Guyana Second Follow-Up Report

		<p>Recommendations.</p> <ul style="list-style-type: none"> <li>No requirement for financial institutions to ensure that branches and subsidiaries in host countries apply the higher standard where minimum AML/CFT obligations of home and host countries differ.</li> </ul>	<ul style="list-style-type: none"> <li>Financial institutions should be required to ensure that branches and subsidiaries in host countries apply the higher standard where minimum AML/CFT obligations of home and host countries differ.</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.</li> </ul>
23. Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>No designated supervisory authority has been assigned to ensure that co-operative societies adequately comply with AML/CFT requirements.</li> <li>The SIA and the CSA do not provide for their relevant authorities to take necessary measures to prevent criminals or their associates from holding or being the beneficial owners of a significant or controlling interest or holding a management function in financial institutions.</li> <li>The IA does not provide for necessary measures to prevent criminals or their associates from holding or being the beneficial owners of a significant or controlling interest in financial institutions.</li> <li>The SIA and the CSA do not provide for directors and senior management of financial institution to be evaluated on the basis of “fit and proper” criteria.</li> <li>Neither the COI, the GSC or the DCFS have implemented AML/CFT supervision for their relevant financial institutions</li> </ul>	<ul style="list-style-type: none"> <li>A designated supervisory authority should be assigned to ensure that co-operative societies adequately comply with AML/CFT obligations.</li> <li>The SIA and the CSA should be amended to provide for their relevant authorities to take necessary measures to prevent criminals or their associates from holding or being the beneficial owners of a significant or controlling interest or holding a management function in financial institutions.</li> <li>The IA, should be amended to provide for the relevant authorities to take necessary measures to prevent criminals or their associates from holding or being the beneficial owners of a significant or controlling interest in financial institutions.</li> <li>The SIA and the CSA should be amended to provide for directors and senior management of financial institution to be evaluated on the basis of “fit and proper” criteria.</li> <li>The COI, the GSC and the DCFS should implement AML/CFT supervision for their relevant financial institutions</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Finance</b> and the Ministry has responded as follows – The Minister of Finance is in agreement with this recommendation and is currently in the process of initiating plans to determine the roles/modus operandi/guidelines and responsibilities for this post as well as plans for the appointment of the supervisory authority.</li> <li>Recommendations (ii), (iv) and (v) were referred to the <b>Guyana Securities Council</b> and the Council has since responded. However the Council’s response is currently being reviewed. A full report is expected by June 30, 2012.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>
24. DNFBP – regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>Casinos are not subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the</li> </ul>	<ul style="list-style-type: none"> <li>Casinos should be subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Home Affairs</b> and the Ministry has responded as follows - Guyana supports this recommendation which is being given active</li> </ul>

## Guyana Second Follow-Up Report

		<p>FATF Recommendations.</p> <ul style="list-style-type: none"> <li>The provision for the Gaming Authority to assess the integrity of an applicant is discretionary, limited to licensing, does not include beneficial owners, and does not specify fit and proper criteria.</li> <li>No designated supervisory authority appointed for DNFbps to oversee compliance with AML/CFT requirements.</li> <li>Sanctions of designated supervisory authorities under the AMLCFTA are not dissuasive, proportionate or effective and are not applicable to directors and senior management of DNFbps</li> </ul>	<p>Recommendations.</p> <ul style="list-style-type: none"> <li>The Gaming Authority should be required to assess the integrity of an applicant, partner, shareholder, directors, office holders of an applicant and beneficial owner on the basis of fit and proper criteria on a regular basis.</li> <li>A designated supervisory authority should be appointed for DNFbps to oversee compliance with AML/CFT requirements as soon as possible.</li> <li>Sanctions of designated supervisory authorities under the AMLCFTA should be dissuasive, proportionate and effective and applicable to directors and senior management of DNFbps.</li> </ul>	<p>consideration for the appointment of the supervisory authority and other relevant actions to support this recommendation.</p> <ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Home Affairs</b> and the Ministry has responded as follows- As part of the process of granting licences, the Gaming Authority has been and will continue to assess the applicant’s suitability to carry on licensed activities including investigating the integrity of the beneficial owners if necessary.</li> <li>This recommendation was referred to the <b>Ministry of Finance</b> and the Ministry has responded as follows – The Minister of Finance is in agreement with this recommendation and is currently in the process of initiating plans to determine the roles/modus operandi/guidelines and responsibilities for the posts as well as plans for the appointment of supervisory authorities for the various DNFbps.</li> <li>This recommendation was referred to the <b>Ministry of Home Affairs</b> and the Ministry has responded as follows - This recommendation is accepted by the Government of Guyana and is under consideration for implementation.</li> </ul>
<p>25. Guidelines &amp; Feedback</p>	<p>NC</p>	<ul style="list-style-type: none"> <li>No requirement for competent authorities or the FIU to provide financial institutions and DNFbps that are required to report suspicious transactions with adequate and appropriate feedback.</li> <li>No guidelines to assist financial institutions and DNFbps to implement and comply with their respective AML/CFT requirements have been issued</li> </ul>	<ul style="list-style-type: none"> <li>The AMLCFTA should be amended to require competent authorities or the FIU to provide financial institutions and DNFbps that are required to report suspicious transactions with adequate and appropriate feedback having regard to the FATF Best Practices Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.</li> <li>Guidelines to assist financial institutions to implement and comply with their respective AML/CFT requirements should be issued</li> </ul>	<ul style="list-style-type: none"> <li>S.9(4)(l) of the AMLCFTA already makes provision for FIU to provide feedback to the bodies required under the Act to report suspicious transaction. It provides that “<i>The Financial Intelligence Unit may periodically provide feedback to other supervisory authorities and other relevant agencies regarding outcomes relating to the reports or information given under the Act.</i>”</li> <li>The FIU is in agreement with this recommendation and with assistance from the US Government under the CBSI bilateral arrangements will be preparing the</li> </ul>

## Guyana Second Follow-Up Report

Institutional and other measures				recommended guidelines.
26. The FIU	NC	<ul style="list-style-type: none"> <li>• No guidelines regarding the manner of STRs reporting have been issued to financial institutions and other reporting entities.</li> <li>• Minimal security arrangements for custody of information with the main vulnerability being IT support provided by personnel not in the employ of the FIU.</li> <li>• No requirement to publicly release periodic reports to include statistics, typologies and trends.</li> <li>• While lack of statistics limits assessment of effectiveness, the operations of the FIU are adversely affected by lack of resources.</li> </ul>	<ul style="list-style-type: none"> <li>• In accordance with the AMLCFTA requirement the FIU should issue guidelines on the manner of STRs reporting to all reporting entities. A circular to the wider public concerning money laundering and financing of terrorism could also be considered.</li> <li>• The FIU should urgently implement its plans for new personnel and facilities and consider safeguards to reduce the vulnerability of its database.</li> <li>• The authorities should reconsider their policy regarding the FIU releasing public reports and allow for the issuing of periodic reports which include statistics, typologies and trends.</li> </ul>	<ul style="list-style-type: none"> <li>• The FIU is in agreement with this recommendation and with assistance from the US Government under the CBSI bilateral arrangements will be preparing the recommended guidelines. Further, the FIU has also considered issuing a circular to the wider public as recommended.</li> <li>• The FIU currently has in its employ an IT Specialist; hence the vulnerability of its database is no longer at risk. <b>(See Appendix VI)</b></li> <li>• The authorities have considered this recommendation and have agreed that the FIU should commence the practice of releasing public reports and allowing for the issuing of periodic reports which include statistics, typologies and trends.</li> </ul>
27. Law enforcement authorities	NC	<ul style="list-style-type: none"> <li>• No written laws or measures authorising the GPF to postpone or waive the arrest of suspected persons and/or the seizure of money for the purpose of identifying persons involved in money laundering or for evidencing gathering.</li> <li>• Lack of trained financial investigators limits effective implementation of ML/FT investigations.</li> </ul>	<ul style="list-style-type: none"> <li>i. There should be written laws or measures authorising the GPF to postpone or waive the arrest of suspected persons and/or the seizure of money for the purpose of identifying persons involved in money laundering or for evidencing gathering.</li> </ul>	<ul style="list-style-type: none"> <li>• This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows - This is a policy issue – to be given further consideration.</li> </ul>
28. Owners of competent authorities	PC	<ul style="list-style-type: none"> <li>i. No written law or measure for the taking of witnesses' statements for use in investigations and prosecutions of ML, FT and other underlying predicate offences or in related actions.</li> </ul>	<ul style="list-style-type: none"> <li>i. There should be a law or measure to allow for the taking of witnesses' statements for use in investigations and prosecutions of ML, FT and other underlying predicate offences or in related actions.</li> </ul>	<ul style="list-style-type: none"> <li>• This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for a provision to be inserted in the AMLCFT Act as recommended.</li> </ul>
29. Supervisors	PC	<ul style="list-style-type: none"> <li>• GSC does not have power to compel production or obtain access to all records, documents or information relevant to monitoring of compliance.</li> </ul>	<ul style="list-style-type: none"> <li>• GSC should have the power to compel production or obtain access to all records, documents or information relevant to monitoring of compliance.</li> </ul>	<ul style="list-style-type: none"> <li>• This recommendation was referred to the <b>Guyana Securities Council</b> and the Council has responded as follows - The GSC intends to inform the Honourable Minister of Finance of the need for the AML / CFT to be amended to empower the GSC to compel the</li> </ul>

## Guyana Second Follow-Up Report

		<ul style="list-style-type: none"> <li>• CCDO does not have enforcement or sanctioning powers for failure of co-operatives to comply with AML/CFT obligations</li> </ul>	<ul style="list-style-type: none"> <li>• The CCDO should have enforcement or sanctioning powers for failure of co-operatives to comply with AML/CFT obligations</li> </ul>	<p>production of and access to records, documents and other pertinent information from our Registrants for the purposes of the AML / CFT Act.</p> <ul style="list-style-type: none"> <li>• This recommendation was forwarded to the Ministry of Labour for consideration. Further report is expected by June 30, 2012.</li> </ul>
<p>30. Resources, integrity and training</p>	<p>NC</p>	<ul style="list-style-type: none"> <li>• Lack of trained financial investigators in the GPF and CANU</li> <li>• No ML training of staff of the DPP</li> <li>• NO ML/FT training of staff of GPF and CANU</li> <li>• Integrity of GPF is in doubt</li> <li>• GSC and DCFS do have adequate staff and resources to carry out their functions.</li> <li>• Staff of GSC and DFSC have not received AML/CFT training.</li> <li>• Insufficient AML/CFT training of staff of BOG.</li> <li>• The FIU is inadequately staffed.</li> </ul>	<ul style="list-style-type: none"> <li>• The FIU should urgently implement its plans for new personnel and facilities.</li> <li>• The authorities should provide trained financial investigators for the GPF and CANU.</li> <li>• The authorities should consider measures to deal with the integrity problems of the GPF.</li> <li>• Staff of the GPF and CANU should be provided with appropriate ML/FT training.</li> </ul>	<ul style="list-style-type: none"> <li>• FIU has already commenced implementation of its plans for new personnel and facilities. To date FIU has in its employ, one Director, one Legal Adviser, two Financial Analysts, one Database Administrator and one Administrative Officer. Further plans are in place to employ two (2) additional staff by the end of the first quarter in 2012.</li> <li>• This recommendation was referred to the <b>Guyana Police Force (GPF)</b> and <b>CANU</b> and their responses are as follows – <b>GPF</b> - Will be addressed under the CBSI bilateral arrangements. <b>CANU</b> - Will be addressed under the CBSI bilateral arrangements.</li> <li>• This recommendation was referred to the <b>Guyana Police Force (GPF)</b> and this Agency has responded as follows – The Police have several measures in place to address integrity problems which include an office of Professional Responsibility and vetted units that acquire intelligence and investigate organised crimes. Efforts will be made to develop the capacity of the Office of Professional of Responsibility.</li> <li>• This recommendation was referred to the <b>Guyana Police Force (GPF)</b> and <b>CANU</b> and their responses are as follows – <b>GPF</b> - Will be addressed under the CBSI bilateral arrangements. <b>CANU</b> - Agreed this would be vital for most narcotics investigations. Will be addressed under the CBSI arrangements.</li> </ul>

## Guyana Second Follow-Up Report

			<ul style="list-style-type: none"> <li>• Staff of the DPP should be provided with ML training.</li> <li>• The authorities should consider increasing the number of Customs outposts to ensure security at borders.</li> <li>• Relevant staff of the GRA should be provided with AML/CFT training.</li> </ul>	<ul style="list-style-type: none"> <li>• This recommendation was referred to the <b>DPP</b> and this Agency has responded as follows –Will write to the Minister of Legal Affairs to take issue to Cabinet.</li> <li>• This recommendation was referred to the <b>Guyana Revenue Authority</b> and this Agency has responded as follows – The GRA can establish more Customs outposts once the resources become available. Fully operational outposts will be established at Mabura, Kurupukari and Morawhanna by April 30, 2012.</li> <li>• This recommendation was referred to the <b>Guyana Revenue Authority</b> and this Agency has responded as follows -The GRA’s training Division with support from the FIU will embark on Training Programmes to ensure that the relevant staff of GRA are provided with AML/CFT training by June 30, 2012.</li> </ul>
31. National co-operation	NC	i. There is no structured coordination and cooperation between the policy makers, the FIU, law enforcement and supervisors and other agencies concerning the development and implementation of policies and activities to combat money laundering and terrorist financing.	<ul style="list-style-type: none"> <li>• The authorities should consider the establishment of a national body comprised of relevant AML/CFT agencies to facilitate co-operation and co-ordination in implementing AML/CFT policy and to provide advice to Government and guidance to private entities in relation to AML/CFT obligations.</li> <li>• The competent authorities should consider establishing explicit mechanisms for consultation between competent authorities, the financial sector and other sectors (including DNFBP) that are subject to AML/CFT laws, regulations, guidelines or other measures.</li> </ul>	<ul style="list-style-type: none"> <li>• A Task Force Committee on Money Laundering was established comprising representatives from FIU, GPF, DPP, CANU, and GRA. (See <b>Appendix VIII</b>)</li> <li>• The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>
32. Statistics	NC	<ul style="list-style-type: none"> <li>• No regular review of the effectiveness of the AML/CFT systems.</li> <li>• No statistics on formal requests for assistance made or received by the FIU or the supervisory authorities or spontaneous referrals are maintained.</li> <li>• No statistics on extradition are maintained.</li> <li>• No statistics on mutual legal assistance or</li> </ul>	<ul style="list-style-type: none"> <li>• GRA should maintain statistics on the number of declarations collected and the number of false declarations detected and the amounts of currency involved or resultant cash seizures.</li> <li>• The authorities should implement a regular review</li> </ul>	<ul style="list-style-type: none"> <li>• This recommendation was referred to the <b>Guyana Revenue Authority</b> and this Agency has responded as follows - The GRA maintains statistics concerning declarations processed along with other information but not for some of the categories indicated such as cash seizures. Statistics will continue to be maintained and will take into consideration the indicated categories from January 2, 2012.</li> <li>• The recommended action was considered and</li> </ul>

## Guyana Second Follow-Up Report

		<p>other international requests for co-operation are maintained.</p> <ul style="list-style-type: none"> <li>No statistics in reference to any of the requirements in SR IX were available.</li> <li>No statistics on the number of STRs received or disseminated by the FIU or the number of times information was exchanged with authorities in other countries were available.</li> </ul>	<p>of the AML/CFT systems in Guyana.</p> <ul style="list-style-type: none"> <li>The authorities should maintain statistics on mutual legal assistance or other international requests for co-operation.</li> <li>The authorities should maintain statistics on extradition.</li> <li>Statistics on formal requests for assistance made or received by the FIU or the supervisory authorities or spontaneous referrals should be maintained.</li> </ul>	<p>will be implemented by June 30, 2012.</p> <ul style="list-style-type: none"> <li>The recommended action was considered and will be implemented by June 30, 2012.</li> <li>The recommended action was considered and will be implemented by June 30, 2012.</li> <li>The recommended action was considered and will be implemented by June 30, 2012.</li> </ul>
33. Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> <li>The Registrar of Companies does not have legal authority to ensure that adequate, accurate and complete information about beneficial owners is available to them or to law enforcement authorities.</li> <li>No restrictions on the use of nominee shareholders and directors in the Companies Act nor is it possible for the Registrar of Companies to determine if nominees are being used.</li> </ul>	<ul style="list-style-type: none"> <li>The CA should be amended to provide the Registrar of Companies with the requisite legal authority to ascertain the beneficial ownership of all companies and to ensure that information about beneficial ownership in the register of companies is adequate, accurate and current.</li> <li>The authorities should consider the prohibition of the use of nominee shareholders and directors unless measures are taken to ensure that adequate, accurate and complete beneficial information is made available to the Registrar of Companies.</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows - a recommendation will be made to the relevant authority for the CA to be amended to include these provisions.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>
34. Legal arrangements – beneficial owners	NC	<ul style="list-style-type: none"> <li>No legal requirement under the AMLCFTA for the verification of the legal status of trusts.</li> <li>No standard requirement for the recording of beneficial ownership information on trusts, so the nature of information collected will vary.</li> <li>Lawyers and accountants are not subject to monitoring for their AML/CFT obligations and it is not clear how reliable their information on trusts would be.</li> </ul>	<ul style="list-style-type: none"> <li>It is recommended that Guyana should implement measures to ensure that its commercial laws require adequate transparency concerning the beneficial ownership and control of trusts and other legal arrangements.</li> <li>Measures should also be implemented to ensure that adequate, accurate and timely information is available to law enforcement authorities concerning the beneficial ownership and control of trusts.</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – to be referred to the relevant authority for further consideration. This is a policy issue.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>
<b>International Co-operation</b>				
35. Conventions	PC	i. The Vienna, Palermo and Terrorist Financing	i. The competent authorities in Guyana should take	<ul style="list-style-type: none"> <li>This recommendation was referred to the</li> </ul>

## Guyana Second Follow-Up Report

		Conventions have not been fully implemented	steps to fully implement the Vienna, Palermo and Terrorist Financing Conventions.	<b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – to be referred to the relevant authority for further consideration. This is a policy issue.
36. Mutual legal assistance (MLA)	NC	<ul style="list-style-type: none"> <li>Range of MLA provided for under Part VI of the AMLCFTA only applies to countries that have in force a bi-lateral or multi-lateral MLA Treaty with Guyana, thus Guyana does not provide the widest range of mutual legal assistance.</li> <li>Range of possible mutual legal assistance does not include freezing, seizure or confiscation of assets of corresponding value.</li> <li>No clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delay.</li> <li>Unable to assess effectiveness due to lack of statistics and the recent enactment of the AMLCFTA</li> </ul>	<ul style="list-style-type: none"> <li>Range of possible mutual legal assistance should include freezing, seizure or confiscation of assets of corresponding value.</li> <li>Clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delay should be developed and implemented.</li> </ul>	<ul style="list-style-type: none"> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>
37. Dual criminality	NC	<ul style="list-style-type: none"> <li>No provisions which allow for the granting of mutual legal assistance in the absence of dual criminality for less intrusive and non-compulsory measures.</li> <li>No measures for technical differences in categorisation and denomination of offences in laws of other countries not to impede the provision of mutual legal assistance.</li> <li>No provisions which allow for extradition in the absence of dual criminality for less intrusive and non-compulsory measures.</li> </ul>	<ul style="list-style-type: none"> <li>There should be provisions which allow for the granting of mutual legal assistance in the absence of dual criminality for less intrusive and non-compulsory measures</li> <li>There should be measures to ensure that technical differences in categorisation and denomination of offences in laws of other countries do not impede the provision of mutual legal assistance.</li> <li>There should be provisions which allow for extradition in the absence of dual criminality for less intrusive and non-compulsory measures</li> </ul>	<ul style="list-style-type: none"> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>
38. MLA on confiscation and freezing	NC	<ul style="list-style-type: none"> <li>No guidelines or procedures in regard to timelines to facilitate an expeditious response to MLA.</li> <li>No provisions dealing with requests relating</li> </ul>	<ul style="list-style-type: none"> <li>Guidelines or procedures in regard to timelines to facilitate an expeditious response to MLA should be developed and implemented.</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – to be referred to the relevant authority for further consideration. This is a policy issue.</li> </ul>

## Guyana Second Follow-Up Report

		<p>to property of corresponding value.</p> <ul style="list-style-type: none"> <li>No arrangements regarding co-ordinating seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters.</li> <li>Unable to assess effectiveness due to lack of statistics and the recent enactment of the AMLCFTA.</li> </ul>	<ul style="list-style-type: none"> <li>There should be provisions allowing for requests relating to property of corresponding value.</li> <li>The authorities should put in place arrangements regarding co-ordinating seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters.</li> <li>The authorities in Guyana should consider establishing an asset forfeiture fund into which all or a portion of confiscated property will be deposited and will be used for law enforcement, health, education or other appropriate purposes.</li> <li>Authorities should consider a provision under Guyana law that provides for sharing of confiscated assets where confiscation directly or indirectly results from co-ordinated law enforcement efforts between jurisdictions</li> </ul>	<ul style="list-style-type: none"> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>
39. Extradition	PC	<p>i. Unable to assess effectiveness due to the lack of statistics on extradition</p>	<p>i. Procedures or measures should be put in place to facilitate the timely response to requests for extradition and proceedings relating to ML and FT and to ensure such requests are handled without undue delay.</p>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Home Affairs</b> and the Ministry has responded as follows - According to section 108 of the AMLCFT Act, money laundering and the financing of terrorism are offences for the purposes of extradition. Therefore, under the auspices of the Fugitive Offenders Act 1988, Act No. 15 of 1988 (as amended by the Fugitive Offenders (Amendment) Act 2009, Act No. 30 of 2009) adequate arrangements are in place for these requests to be handled expeditiously by the Ministry of Foreign Affairs, Ministry of Home Affairs, Director of Public Prosecutions and the Guyana Police Force in order to ensure timely response and action.</li> </ul>
40. Other forms of co-operation	PC	<ul style="list-style-type: none"> <li>No procedure for spontaneous exchange of information.</li> <li>The COI does not have confidentiality requirements that include exchanged information.</li> </ul>	<ul style="list-style-type: none"> <li>Procedures for spontaneous exchange of information should be developed.</li> <li>The COI should have confidentiality obligations that include exchanged information</li> </ul>	<ul style="list-style-type: none"> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>

## Guyana Second Follow-Up Report

		<ul style="list-style-type: none"> <li>Unable to assess effectiveness of international co-operations due to lack of statistics on formal requests for assistance made or received by the FIU or the supervisory authorities or spontaneous referrals and the recent enactment of the AMLCFTA</li> </ul>		
<b>Nine Special Recommendations</b>		<b>Summary of factors underlying rating</b>		
SR.I Implement UN instruments	PC	<p>i. The Guyana Authorities have not implemented S/RES/1267(1999) and S/RES/1373(2001)</p>	<ul style="list-style-type: none"> <li>The AMLCFT legislation should be amended to provide compliance with S/RES/1267(1999) and S/RES/1373(2001) for freezing funds of designated persons/organisations, and also develop and implement procedures for delisting requests and unfreezing of funds.</li> <li>The competent authorities should provide or issue guidance to financial institutions with respect to obligations to freeze assets of persons listed by the UNSCR 1267 Committee and the EU.</li> <li>There should be training for the relevant entities so that they are aware of their obligations under the legislation and in order for the legislation to be implemented effectively.</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for the AMLCFT Act to be amended as recommended.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>Reporting entities are benefitting from ongoing training on Anti-Money Laundering &amp; Countering the Financing of Terrorism facilitated by FIU as mentioned above.</li> </ul>
SR.II Criminalise terrorist financing	PC	<ul style="list-style-type: none"> <li>Definition of property does not include assets of every kind, whether tangible or intangible, legal documents or instruments in any form, including electronic or digital evidencing title to, or interest in assets of every kind.</li> <li>No provision in the legislation extending terrorist financing to funds whether from a legitimate or illegitimate source.</li> <li>No specific provision allowing for terrorist financing offences to apply regardless of whether the person alleged to have committed the offence is in the same country or a different one from where the</li> </ul>	<ul style="list-style-type: none"> <li>The definition of property should include assets of every kind, whether tangible or intangible, legal documents or instruments in any form, including electronic or digital evidencing title to, or interest in assets of every kind.</li> <li>Terrorist financing offences should extend to any funds whether from a legitimate or illegitimate source.</li> <li>A provision should be inserted allowing for terrorist financing offences to apply regardless of</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for the AMLCFT Act to be amended to facilitate the recommended action.</li> <li>This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for the AMLCFT Act to be amended to facilitate the recommended action.</li> <li>We believe that s. 7 of the AMLCFTA adequately provides for this recommendation. It</li> </ul>

## Guyana Second Follow-Up Report

		<p>terrorist(s)/terrorist organisation is located or the terrorist act(s) occurred/will occur.</p> <ul style="list-style-type: none"> <li>The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation.</li> </ul>	<p>whether the person alleged to have committed the offence is in the same country or a different one from where the terrorist(s)/terrorist organisation is located or the terrorist act(s) occurred/will occur.</p> <ul style="list-style-type: none"> <li>It is difficult to assess effectiveness as there were no prosecutions in regard to the FT and the competent authorities should ensure that the relevant entities are aware and trained as to their obligations under the AML/CFT to report and investigate SAR's and where applicable prosecute those in breach of FT</li> </ul>	<p>states “<i>Notwithstanding anything to the contrary contained in any other law, the offences created by this Act shall be tried, judged and sentenced by a court in Guyana regardless of whether or not the serious offence occurred in Guyana or in another territorial jurisdiction, but without prejudice to extradition when applicable in accordance with the law.</i>”</p>
SR.III Freeze and confiscate terrorist assets	NC	<ul style="list-style-type: none"> <li>The legislation does not include provisions for freezing funds of persons designated by the UN Al-Qaida and Taliban Sanctions Committee (S/RES/1267) or in the context of S/RES/1373;</li> <li>There are no procedures in place for delisting requests, unfreezing of funds or providing access to frozen funds in relation to S/RES/1267 or S/RES/1373;</li> <li>No guidance has been issued to FI's or the regulated sector in respect of obligations to comply with or implement measures concerning the freezing mechanisms required under S/RES/1267(1999) and S/RES/1373(2001).</li> <li>The AMLCFTA as it relates to freezing, seizing and forfeiture of funds of terrorists or terrorists' organisations has not been implemented.</li> </ul>	<ul style="list-style-type: none"> <li>The competent authorities in Guyana should amend the legislation to comply with the requirements of S/RES/1267(1999) and S/RES/1373(2001) for freezing funds of designated persons/organisations.</li> <li>The authorities should develop and implement procedures for delisting requests, unfreezing of funds and providing access to frozen funds.</li> <li>The competent authorities should provide or issue guidance to financial institutions with respect to obligations in taking action under the freezing mechanisms required by S/RES/1267/(1999) and S/RES/1373(2001).</li> <li>There should be training for the relevant entities so that they are aware of their obligations under the legislation and in order for the legislation to be implemented effectively.</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for the AMLCFT Act to be amended to facilitate the recommended action.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>FIU is in the process of sourcing competent resource persons to provide appropriate ML/FT training for staff of DPP, GPF, CANU and GRA. Will be further addressed under the CBSI bilateral arrangements.</li> </ul>
SR.IV Suspicious transaction reporting	PC	<ul style="list-style-type: none"> <li>Reporting requirement for terrorist financing does not include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist</li> </ul>	<ul style="list-style-type: none"> <li>Reporting requirement for terrorist financing in the AMLCFTA should include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for the AMLCFT Act to be amended to facilitate the</li> </ul>

## Guyana Second Follow-Up Report

		<p>organisations.</p> <ul style="list-style-type: none"> <li>No provision specifying that the requirement to report suspicious transactions should apply regardless of whether they are thought, among other things, to involve tax matters.</li> <li>Unable to assess effectiveness of the reporting system due to the unavailability of statistics on suspicious transaction reporting</li> </ul>	<p>organisations.</p> <ul style="list-style-type: none"> <li>The requirement to report suspicious transactions should apply regardless of whether they are thought, among other things, to involve tax matters.</li> </ul>	<p>recommended action.</p> <ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - Section 18 of the AML/CFT Act is a general provision which requires reporting of suspicious transactions in any circumstances</li> </ul>
SR.V International co-operation	NC	<ul style="list-style-type: none"> <li>The deficiencies noted with regard to Recs. 36, 37 and 38 are applicable in relation to terrorist financing.</li> <li>The deficiencies noted with regard to Recs. 39 and 37 are applicable in relation to terrorist financing.</li> <li>The deficiencies noted with regard to Rec. 40 are applicable in relation to terrorist financing.</li> </ul>	<p>i. Recommended actions noted with regard to Recs. 36, 37, 38, 39 and 40 should apply to terrorist financing.</p>	<ul style="list-style-type: none"> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>
SR VI AML requirements for money/value transfer services	PC	<ul style="list-style-type: none"> <li>No requirement for licensed or registered money transfer agencies to maintain a current list of their agents which must be made available to the BOG.</li> <li>No system for monitoring money transfer agencies/agents for compliance with AML/CFT requirements.</li> <li>Penalties under the MTALA are not dissuasive or proportionate and do not extend to the directors or senior management of money transfer agencies.</li> </ul>	<ul style="list-style-type: none"> <li>A system for monitoring money transfer agencies/agents for compliance with AML/CFT requirements be implemented as soon as possible.</li> <li>Money or value service providers should be required to maintain a current list of its agents, which must be made available to the designated competent authority.</li> <li>Penalties under the MTALA should be amended to be dissuasive and proportionate and applicable to the directors and senior management of money transfer agencies</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - The BOG has implemented a system since 2011 to monitor money transfer agencies (MTAs) and has since examined/ inspected all of the MTAs and a few of their agents.</li> <li>This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - The MTAs are required to submit a current list of agents to the BOG when applying for renewal of their licences.</li> <li>This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - Based on the current value of the G\$ the penalties were considered in 2009 when the legislation was enacted to be proportionate to the offence and the value of the G\$ has changed marginally since then. The applicability of the penalties is not limited but applies to any person at all levels who act in contravention of the legislation.</li> </ul>

## Guyana Second Follow-Up Report

SR VII Wire transfer rules	NC	<ul style="list-style-type: none"> <li>• No definition of originator information in the AMLCFTA.</li> <li>• No requirement for a receiving intermediary financial institution to keep a record of all the information received from an ordering financial institution in a situation where technical difficulties prevent the full originator information accompanying a cross-border wire transfer from being transmitted along with a related domestic wire transfer.</li> <li>• No requirement for financial institutions to have effective risk-based procedures in place to identify wire transfers lacking complete originator information.</li> <li>• No measures in place to effectively monitor compliance with the requirements of SR VII.</li> <li>• Sanctions for breaches of wire transfer provisions in section 20 of the AMLCFTA are neither dissuasive or proportionate and are not applicable to directors and senior management of reporting entities</li> </ul>	<ul style="list-style-type: none"> <li>• Originator information should be defined in the AMLCFTA in accordance with SRVII.</li> <li>• Subsections 20(3) and 20(4) of the AMLCFTA should be amended in accordance with the exemptions in SR VII.</li> <li>• Receiving intermediary financial institution should be required to keep a record for five years of all the information received from an ordering financial institution in a situation where technical difficulties prevent the full originator information accompanying a cross-border wire transfer from being transmitted along with a related domestic wire transfer.</li> <li>• Financial institutions should be required to have effective risk-based procedures in place to identify wire transfers lacking complete originator information.</li> <li>• Measures should be put in place to effectively monitor compliance with the requirements of SR VII.</li> <li>• Sanctions for breaches of wire transfer provisions in section 20 of the AMLCFTA should be dissuasive and proportionate and applicable to directors and senior management of reporting entities.</li> </ul>	<ul style="list-style-type: none"> <li>• The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>• The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>• This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.</li> <li>• This recommendation was referred to the <b>Bank of Guyana</b> and the Bank has responded as follows - This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority.</li> <li>• The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>• The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>
SR.VIII Non-profit organisations	NC	<ul style="list-style-type: none"> <li>• No review of the adequacy of laws and regulations that relate to NPOs or of the activities, size and other relevant features of NPOs in order to identify features and types of NPOs at risk of being misused for terrorist financing.</li> <li>• No outreach to NPO sector with a view to protecting the sector from terrorist financing abuse.</li> </ul>	<ul style="list-style-type: none"> <li>• The authorities should review the adequacy of laws and regulations that relate to NPOs and the activities, size and other relevant features of NPOs in order to identify features and types of NPOs at risk of being misused for terrorist financing.</li> <li>• An outreach programme to NPO sector with a view to protecting the sector from terrorist financing abuse should be implemented.</li> </ul>	<ul style="list-style-type: none"> <li>• The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>• The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>• The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>

## Guyana Second Follow-Up Report

		<ul style="list-style-type: none"> <li>Supervision and monitoring of NPOs under the FSA is not effective.</li> <li>No requirement for NPOs other than registered charities to maintain for a period of at least five years, records of domestic and international transactions and make them available to appropriate authorities.</li> <li>Limited measures for authorities to gather information and investigate NPOs;</li> <li>No appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs that are suspected of terrorist financing or other forms of terrorist support</li> </ul>	<ul style="list-style-type: none"> <li>The authorities should implement a system of effective supervision and monitoring of all NPOs.</li> <li>All NPOs should be required to maintain for a period of at least five years, records of domestic and international transactions and make them available to appropriate authorities.</li> <li>Measures should be established to ensure that competent authorities can gather information and investigate NPOs;</li> <li>Appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs that are suspected of terrorist financing or other forms of terrorist support should be designated.</li> </ul>	<p>considered by the relevant authority. Further report is expected by June 30, 2012.</p> <ul style="list-style-type: none"> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>
<p>SR.IX Cross Border Declaration &amp; Disclosure</p>	<p>PC</p>	<ul style="list-style-type: none"> <li>Requirements for cross-border declarations being implemented do not include bearer negotiable instruments</li> <li>Sanctions for false declarations do not extend to legal persons and are not dissuasive or proportionate.</li> <li>Deficiencies with regard to the absence of provisions for freezing of funds of persons pursuant to S/RES/1267(1999) and S/RES/1373(2001) as noted in section 2.4 are applicable.</li> <li>Unable to assess effectiveness due to lack of relevant statistics.</li> </ul>	<ul style="list-style-type: none"> <li>The authorities should extend the implementation of the cross-border declaration system to include bearer negotiable instruments.</li> <li>Sanctions for false declarations should be extended to legal persons, their directors and senior management and should be dissuasive, proportionate and effective.</li> <li>Guyana should enhance its ability to freeze the assets of persons designated pursuant to S/RES/1267/(1999) and S/RES/1373(2001) as recommended in section 2.4 of this report, to ensure that it can do so effectively in the cross-border context.</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – a recommendation will be made to the relevant authority for the AMLCFT Act to be amended to include bearer negotiable instruments.</li> <li>This recommendation was referred to the <b>Ministry of Legal Affairs</b> and the Ministry has responded as follows – in the Laws of Guyana, unless the context otherwise requires, any reference to a person include a reference to a legal person by virtue of our Interpretation Act. No amendment is necessary. Sanction is a policy issue – for further consideration by the relevant authority..</li> <li>The recommended action is still being considered by the relevant authority. Further report is expected by June 30, 2012.</li> </ul>

## Guyana Second Follow-Up Report