



First Follow-Up Report

Anti-Money Laundering and Combating the Financing of Terrorism

04 March 2009

Haiti

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I. Introduction

1. Haiti underwent a Mutual Evaluation for the first time during the third round of Mutual Evaluations. This report is an analysis of the Haiti report back to the CFAFT Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The third round Mutual evaluation Report of Haiti was adopted by the CFATF Council of Ministers in St. Kitts in November of 2008, in St. Kitts and Nevis. Based on the review of the action taken by Haiti to meet the recommendations made by the Examiners, a recommendation would be made as to whether Haiti would remain on enhanced follow-up or be placed on regular follow-up. Haiti was rated partially compliant or non-compliant with 41 Recommendations as indicated below.

Partially Compliant	Non-Compliant
R.2 (Money laundering offence)	R.1 Money laundering offence
R.3 (Confiscation and provisional measures)	R.4 (Secrecy laws consistent with the Recommendations)
R.15 (Internal controls and compliance)	R.5 (Customer due diligence)
R.18 (Shell banks)	R.6 (Politically exposed persons)
R.26 (Financial Intelligence Unit)	R.7 (Correspondent banking)
R.27 (Law enforcement authorities)	R.8 (New Technologies and non-face-to-face banking)
R.28 (Powers of competent authorities)	R.9 (Third parties and business introducers)
R.29 (Supervisors)	R.12 (DNFBPs 6, 8-11)
R.31 (National cooperation)	R.13 (Suspicious transaction reporting)
R.38 (Mutual legal assistance on confiscation an freezing)	R.16 (DNFBPs 13-15 & 21)
	R.17 (Sanctions)
	R.20 (Other non-financial businesses and professions and secure transaction techniques)
	R.21 (Special attention for higher risk countries)
	R.22 (Foreign Branches and subsidiaries)
	R.23 (Regulation, supervision and monitoring)
	R.24 (DNFBPs regulation supervision and monitoring)
	R.25 (Guidelines and feedback)
	R.30 (Resources, integrity and training)
	R.32 (Statistics)
	R.33 (Legal persons – beneficial owners)
	R.35 (Conventions)
	R.40 (Other forms of cooperation)
	SR.1 (Implement UN instruments)

	SR.II (Criminalize terrorist financing)
	SR.III (Freeze and confiscate terrorist assets)
	SR.IV (Suspicious transaction reporting)
	SR.V (International cooperation)
	SR.VI AML/CFT requirements for money/value transfer services
	SR.VII (Wire transfer rules)
	SR.VIII (Non-profit organizations)
	SR.IX (Reporting/communication of cross border transactions).

II. Summary of progress made by Haiti

2. At the time of the Mutual Evaluation of Haiti, there were many deficiencies noted with regard to several areas of Haiti's AML/CFT regime. As at January 29th, 2009, Haiti's effort at curing the deficiencies noted by the Examiners have been the creation of a commission to review its AML/CFT legislation; the constitution of a "National Fund to Fight Drug"; the drafting of legislation, which has been submitted to Parliament; the increase, by 16 members, the staff of the Financial and Economic Investigation Bureau (BAFE) and the drafting of new customs legislation.

Recommendations 1, 2, 6, 12, 17, 20, 21, 24, SR.II, SR.III, SR.IV, SR.V, SR.VI, SR.VII, SR.VIII

3. Haiti has constituted a commission that has been charged with the responsibility of drafting anti-terrorism legislation, and reviewing existing AML laws to determine to what extent such laws meet the required standards for compliance with the Recommendations particularised above and where necessary to provide the necessary amendments as may be required. No products of the efforts of this commission have been adduced by Haiti. These Recommendations remain outstanding.

Recommendation 3

4. In September 2008, Haiti established a National Fund under the management of the Anti-Drug Commission (CONALD). CONALD reportedly is the agency legally responsible for the management of all assets either confiscated or seized under provisional measures. The examiners had recommended that funds seized by competent authorities should be managed by those same authorities. It is unclear therefore to what extent this centralisation of the management of seized assets complies with that recommendation.

Recommendations 4, 7, 8, 9, 15, 18, 22, 23, 33

5. Haiti's Ministry of Finance has drafted legislation aimed at curing the deficiencies in these Recommendations which were identified by the Examiners. This

draft legislation is currently awaiting passage before Haiti's Parliament. This legislation is currently not enacted and accordingly, these Recommendations remain outstanding.

Recommendation 5

6. In November of 2008, the Central Bank of Haiti issued a circular which sought to lower the customer identification threshold for wire transfers to US\$1,000.00. Additionally, drafted legislation, which is currently before the Haitian Parliament awaiting passage contains provisions to address the shortcomings identified by the Examiners. This legislation has not as yet been enacted and consequently the Recommendation is outstanding.

Recommendation 13

7. With regard to the expansion of the scope of suspicious transaction reporting so as to include terrorism and its financing, Haiti has not as yet done so. The Central Bank through its supervision department has done onsite visits to all currency exchange agents in an effort to sensitize them about their STR reporting requirements. All the entities covered still have not been sensitized and consequently this Recommendation is outstanding.

Recommendations 16, 25, 26, 28, 29, 30, 32, 40

8. Haiti has not taken any steps towards ensuring that the recommendations proposed by the Examiners to cure the deficiencies unearthed. Consequently these Recommendations are still outstanding.

Recommendation 27

9. The Examiners recommendation that Haiti equip the Financial and Economic Investigation Bureau (BAFE) with a sufficient number of investigators and offer specialised training in the fight against money laundering has been complied with to the extent that the BAFE officers who were assigned to UCREF have, since May of 2008, been performing functions specifically related to BAFE. Also, 16 additional investigators have been assigned to BAFE and have received specialised training in techniques of economic and financial investigations. As a result 19 cases are currently being investigated, four cases, two of which have been sent to prosecutors, have been forwarded for further instructions, two vehicles have been seized and the pro-active investigation to identify the assets of 20 drug dealers is ongoing. The Examiners recommendations that a specialized, jurisdiction of national scope, to fight money laundering and terrorist financing has not been complied with. Additionally, adequate resources as well as the implementation of specialised techniques for investigating ML have not been provided. Consequently this Recommendation is still outstanding.

Recommendation 35

10. Haiti has taken some steps towards the implementation of the Palermo Convention. Palermo was ratified and the necessary instruments have been sent to the

Office of the President for assent. No other conventions have been signed or ratified. This Recommendation therefore is still outstanding.

Recommendation 38

11. Haiti is still in the process of preparing the process whereby it would be able to coordinate confiscation initiatives with other countries. This process is still ongoing and consequently this Recommendation is still outstanding.

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12. Haiti has reportedly placed the ratification of the 1999 UN International Convention for the Suppression of the Financing of Terrorism, on its legislative agenda for ratification during the month of February 2009. The Recommendation is therefore outstanding.

SR.IX

13. Haiti has drafted new customs legislation which was submitted to parliament for enactment. This legislation, when enacted into law, is expected to address the shortcoming identified by the Examiners. As a result of the draft status of this legislation, this Recommendation still remains outstanding.

III Conclusion

14. Action taken by Haiti is not significant enough to address the many shortcomings identified in its Mutual Evaluation Report. Consequently, it is recommended that Haiti be kept on enhanced follow-up and report back to the Plenary in October of 2009.

**Matrix with Ratings and Follow-up Action Plan 3rd Round Mutual Evaluation
Haiti**

Forty Recommendations	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
Legal systems				
1. Money laundering offence	NC	<ul style="list-style-type: none"> The criminalization of money laundering does not cover all of the serious offences listed by the FATF, such as corruption, smuggling, arms exports, counterfeiting, migrant smuggling, sexual exploitation, and terrorist financing. The criminal law policy on combating money laundering and terrorist financing is currently ineffective. 	<ul style="list-style-type: none"> Adopt a criminal law policy with regard to serious offences that takes account more systematically of the laundering of the proceeds from the offences being prosecuted, by raising the awareness of prosecutors, investigative magistrates, and the police. Take a census of the cases where money laundering is considered from the outset of the preliminary investigation or when criminal proceedings are started. In a subsidiary move, provide that, where the proceeds of crime are derived from conduct that occurred in another country, which is not an offence in that other country, but which would have constituted an offence in Haiti, this constitutes a money laundering offence in Haiti. 	The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report.
2. Money laundering offence – mental element and corporate liability	PC	<ul style="list-style-type: none"> The requirements for invoking the criminal liability of legal persons are too restrictive, notwithstanding the inherent weaknesses of the predicate offences and the offence of money laundering (see Recommendation 1). 	<ul style="list-style-type: none"> Reword the sentence about the liability of legal persons and lower the threshold for invoking legal persons' liability by removing the reference to the commission of an offence by a structure or a representative of the legal person. 	The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report.
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> System is ineffective due to confusion in the implementation and management of conservatory measures and seizures. 	<ul style="list-style-type: none"> Ensure that the funds seized by the competent authorities (Police, Customs) are managed by those same authorities pending a final court decision on whether the funds are to be released or confiscated by the State. Require courts, Government agencies, and departments concerned to keep accurate statistics about the conservatory measures taken and confiscations made by each of them. One authority 	<p>On September, 2008, the “National Fund to Fight Drug” was constituted. The account is being funded by proceeds of confiscations. To date, more than 20 million dollars in assets from drug traffickers have been seized.</p> <p>The Anti Drug Commission (CONALD) is, by law, in charge of the management of all assets either confiscated or under provisional measures. The National Fund is also managed by CONALD.</p>

¹ These factors are only required to be set out when the rating is less than Compliant.

			should be designated to centralize the statistics.	
Preventive measures				
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> Bank secrecy too broad in scope and excessively restrictive, thus undermining the effectiveness of the anti-money laundering mechanism Excessive access to bank information by UCREF, apt to result in defiance by informant entities and create legal risks harmful to judicial proceedings 	<ul style="list-style-type: none"> Revise the obligations pertaining to bank secrecy so that the current restrictions, which pose a potential impediment to the fight against money laundering (scope and depth of banking supervision, domestic and international cooperation), are lifted. In addition, ensure that UCREF's practices regarding access to banking information are performed in full compliance with the letter and spirit of the law of 2001 	The Ministry of Finance has already submitted to the parliament a draft legislation, which is about to be voted in Parliament. This legislation contains provisions to address this issue. The AML CFT revisions are also aimed at providing modifications to address this issue.
5. Customer due diligence	NC	<ul style="list-style-type: none"> Too limited scope of the ban on anonymous accounts and accounts in fictitious names; lack of risk-based identification mechanism for customers predating 2001 (or 1994 for bank deposit accounts) Identification threshold too high for customers performing wire transfers Legal uncertainties about the identification threshold for occasional customers Absence of an identification requirement, independent of the threshold, when there is a suspicion of money laundering or terrorist financing Absence of requirements to identify and verify the identity of beneficial owners and to understand the way in which the ownership and control of a legal person are organized Absence of a requirement to collect information on the purpose and nature of the business relationship, and to ensure due diligence (including the updating of identification data) Absence of a requirement of enhanced diligence for high risks Lack of objective data on the effectiveness of the requirements of due diligence 	<ul style="list-style-type: none"> Strengthen the bans on anonymous accounts and accounts in fictitious names Lower the customer identification threshold for wire transfers to US\$1,000 Clarify the legal identification threshold for occasional transactions in forms consistent with the anti-money laundering law of 2001 Clarify the customer identification requirement in occasional transactions, independent of the threshold, when there is a suspicion of money laundering or terrorist financing Institute a requirement to identify and to verify the identity of beneficial owners, based in particular on a requirement that financial institutions understand the way in which ownership and control of a legal person are organized Establish a requirement to collect information on the purpose and nature of the business relationship and to update identification data on a regular basis Implement a risk management approach for the highest risks Based on a risk analysis, consider adopting flexible requirements for demonstrably low risks 	<p>The Central bank has emitted in November 2008 a circular increasing the threshold of declaration of transactions with USD 10,000 and lowering the threshold to USD 1,000 for wire transfers.</p> <p>The Ministry of Finance has already submitted to the parliament a draft legislation, which is about to be voted in Parliament. This legislation contains provisions to address this issue.</p>

			<ul style="list-style-type: none"> Set in place a risk-based customer identification mechanism for business relationships predating 2001, in connection with a stronger and more direct requirement regarding anonymous accounts and accounts in fictitious names 	
6. Politically exposed persons	NC	<ul style="list-style-type: none"> Absence of a requirement of enhanced diligence toward foreign politically exposed persons 	<ul style="list-style-type: none"> Institute requirements of enhanced diligence toward politically exposed persons 	The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report.
7. Correspondent banking	NC	<ul style="list-style-type: none"> Absence of requirements pertaining to the establishment of correspondent banking or equivalent relationships 	<ul style="list-style-type: none"> Institute specific and enhanced requirements for establishing correspondent banking or equivalent relationships 	The Ministry of Finance has already submitted to the parliament a draft legislation, which is about to be voted in Parliament. This legislation contains provisions to address this issue.
8. New technologies and non face-to-face business	NC	<ul style="list-style-type: none"> Absence of requirements pertaining to business relationships conducted at a distance or risks associated with new technologies 	<ul style="list-style-type: none"> Institute requirements proportional to risk for business relationships conducted at a distance and with no face-to-face contact 	The Ministry of Finance has already submitted to the parliament a draft legislation, which is about to be voted in Parliament. This legislation contains provisions to address this issue.
9. Third parties and business introducers	NC	<ul style="list-style-type: none"> Absence of obligations on the part of intermediaries and business introducers; lack of certainty regarding the ultimate responsibility of the financial institution to meet the requirements of due diligence. 	<ul style="list-style-type: none"> Clarify the requirements of due diligence in situations where a financial institution provides a role to third parties or business introducers, specifically by indicating the conditions (regarding obligations to fight money laundering) that must be met by the intermediary and by affirming the principle that responsibility for the customer identification process always falls to the financial institution 	The Ministry of Finance has already submitted to the parliament a draft legislation, which is about to be voted in Parliament. This legislation contains provisions to address this issue.
10. Record keeping	LC	<ul style="list-style-type: none"> Lack of a legal basis for authorities to request an extension of the length of time that records must be held Lack of objective data on the effectiveness of the system in place, and delays in transmitting records 	<ul style="list-style-type: none"> Ensure that it is possible for competent authorities to request an extension of the length of time that records must be held. 	The Ministry of Finance has already submitted to the parliament a draft legislation, which is about to be voted in Parliament. This legislation contains provisions to address this issue.
11. Unusual transactions	LC	<ul style="list-style-type: none"> Existence of a (monetary) threshold that triggers requirements for unusual or complex transactions Uncertain implementation of the requirements 	<ul style="list-style-type: none"> Revise the requirements pertaining to unusual and complex transactions to eliminate the threshold of 200,000 gourdes, below which there is no requirement at present. 	The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report

12. Designated non-financial businesses and professions – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> Absence of coverage, under the mechanism to fight money laundering and terrorist financing, of many of the designated non-financial businesses and professions, and (except for casinos) identification of activities that are covered, and not of professions that are covered for a given range of activities. Absence of enforcement of existing legal provisions for non-financial businesses and professions covered by the law. Absence of awareness-raising efforts and lack of monitoring of the enforcement of prevention and detection obligations for casinos and real estate transactions. 	<ul style="list-style-type: none"> Expand the anti-money laundering and anti-terrorist financing obligations to include other designated non-financial businesses and professions, especially notaries, accountants, independent legal professionals, lawyers, traders of precious metals and stones, art dealers – for all the activities listed by FATF (for each of these professions). Consideration should be given, based on an analysis of the gravity of money laundering risks, to the possibility of including other non-financial professionals, such as traders of assets of value (luxury automobiles in particular). Enforce the obligations already stipulated by law for casinos and real estate transactions, specifically through a major effort to mobilize and train the professionals involved. 	The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report.
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> Absence of suspicious transaction reporting regarding terrorist financing Virtual absence of implementation of the system of suspicious transaction reporting by financial institutions 	<ul style="list-style-type: none"> Expand the scope of suspicious transaction reporting to include terrorism and its financing Make all persons covered by the 2001 law aware of suspicious transaction reporting and automatic transaction reporting 	The supervision Department of the Central Bank has already done onsite visits to all Currency Exchange Agents in order to make them sensitive about the need to file STRs.
14. Protection and no tipping-off	C			
15. Internal controls and compliance	PC	<ul style="list-style-type: none"> Lack of information regarding internal control obligations, both general and specific to anti-money laundering efforts, on the following points: access to customer information by compliance auditors; capacity of internal auditors to undertake verification of samples; verification of staff backgrounds prior to recruitment; minimum content of compulsory training 	<ul style="list-style-type: none"> Clarify internal control obligations, based on the 2001 law and the circular on internal controls, especially as regards: access to customer information by compliance auditors; capacity of internal auditors to undertake verification of samples; verification of staff backgrounds prior to recruitment; minimum content of compulsory training. Adopt stronger administrative sanctions as a way to enhance the effectiveness of internal control obligations. 	The Ministry of Finance has already submitted to the parliament a draft legislation, which is about to be voted in Parliament. This legislation contains provisions to address this issue.
16. Designated non-financial businesses and professions – R.13-15 & 21	NC	<ul style="list-style-type: none"> Weaknesses of the suspicious transaction reporting mechanism (cf. Recommendation 13) Overly restrictive coverage of designated non-financial businesses and professions Absence of suspicious transaction reporting by 	<ul style="list-style-type: none"> Make sure that non-financial businesses covered by the anti-money laundering law meet their obligations with respect to detecting and reporting suspicious transactions. In addition, they should expand the suspicious transaction reporting obligation to include all designated non-financial businesses and 	The DNFPB's integration process is pending a risk-based study. This will be undertaken by the AML Commission.

		<p>non-financial professions</p> <ul style="list-style-type: none"> • Absence of enforcement of existing legal provisions 	<p>professions</p>	
17. Sanctions	NC	<ul style="list-style-type: none"> • Absence of a dissuasive, proportionate, and effective system of sanctions • Lack of implementation of the current system of sanctions 	<ul style="list-style-type: none"> • Revise the system of sanctions for breaches of anti-money laundering and anti-terrorist financing obligations, particularly by (a) rebalancing criminal and administrative sanctions and (b) establishing a wider scale of (administrative) sanctions and a broader definition of breaches triggering these sanctions; • Adopt a more proactive approach in supervising these obligations, especially in the case of non-bank financial institutions. 	<p>The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report</p>
18. Shell banks	PC	<ul style="list-style-type: none"> • Absence of any obligation for Haitian financial institutions to ascertain that their correspondent banks are not shell banks and that their correspondent banks do not allow shell banks to use their correspondent accounts 	<ul style="list-style-type: none"> • Require Haitian financial institutions to ascertain that their correspondent banks are not shell banks and that their correspondent banks do not allow shell banks to use their correspondent accounts 	<p>The Ministry of Finance has already submitted to the parliament a draft legislation, which is about to be voted in Parliament. This legislation contains provisions to address this issue.</p>
19. Other forms of reporting	LC	<ul style="list-style-type: none"> • No access to the computerized database by authorities other than UCREF 	<ul style="list-style-type: none"> • Provide for access to the UCREF data base for other authorities involved in the fight against money laundering and terrorist financing 	<p>UCREF is ready to share its information with the authorities involved in the AML/CFT field. With the help of the OTA, UCREF is working toward modifying its database so that the authorities involved can have access to it. In the meantime, the new Financial Investigation Unit (BAFE) enjoys a good relationship with UCREF and received all information it requires from UCREF.</p>
20. Other non-financial businesses and professions and secure transaction techniques	NC	<ul style="list-style-type: none"> • Absence of attention given to expanding the anti-money laundering and anti-terrorist financing system to include non-financial businesses and professions based on the specific risk level in Haiti • Ineffective mechanisms for promoting the use of other payment instruments besides cash 	<ul style="list-style-type: none"> • Consider expanding (based on risk) the anti-money laundering and anti-terrorist financing system to include other non-financial businesses and professions (cf. also the recommendation under Recommendation 12) • Review the provisions aimed at promoting the use of other payment instruments besides cash, in view of the present ineffectiveness of such provisions 	<p>The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report</p>
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> • Absence of a legal framework and operational mechanism enabling Haiti to guard against countries with weak systems for combating money laundering 	<ul style="list-style-type: none"> • Develop mechanisms to inform financial institutions about the shortcomings of certain systems to combat money laundering and terrorist financing, as well as a legal framework that will enable them to enforce countermeasures against countries that continue to not adequately implement the FATF Recommendations 	<p>The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the</p>

				ME Report
22. Foreign branches and subsidiaries	NC	<ul style="list-style-type: none"> Absence of obligations aimed at foreign branches and subsidiaries of Haitian financial institutions, relative to their capacity to implement satisfactory measures to fight money laundering and terrorist financing 	<ul style="list-style-type: none"> Establish obligations aimed at the foreign branches and subsidiaries of Haitian financial institutions, relative to their capacity to implement satisfactory anti-money laundering mechanisms in their host country. 	The Ministry of Finance has already submitted to the parliament a draft legislation, which is about to be voted in Parliament. This legislation contains provisions to address this issue.
23. Regulation, supervision, and monitoring	NC	<ul style="list-style-type: none"> Absence of requirements of integrity and competence for many pillars of the financial sector, particularly money changers, insurance companies, and microfinance institutions Absence of coverage of beneficial owners under the obligations of integrity and competence for the banking sector and savings and loan cooperatives Existence of an unregulated, informal sector of money/value transfer services 	<ul style="list-style-type: none"> Strengthen the obligations of integrity and competence for the entire financial sector and for beneficial owners, business introducers, shareholders, and senior officials of financial institutions, by incorporating, in particular, professional disqualification in the event of a conviction for money laundering or terrorist financing; 	The Ministry of Finance has already submitted to the parliament a draft legislation, which is about to be voted in Parliament. This legislation contains provisions to address this issue.
24. Designated non-financial businesses and professions – regulation, supervision, and monitoring	NC	<ul style="list-style-type: none"> Inadequate framework of supervision for non-financial businesses and professions Lack of monitoring and oversight of legal obligations of non-financial professions at present covered by the mechanism 	<ul style="list-style-type: none"> Set in place the necessary mechanisms to ensure the execution of obligations related to money laundering prevention by non-financial professions, especially casinos, and provide oversight of proper implementation of these mechanisms. 	The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report.
25. Guidelines and feedback	NC	<ul style="list-style-type: none"> BRH guidelines not widely distributed and not well known to the financial professions; no feedback from UCREF to the financial professions Absence of guidelines issued for the entire financial sector Absence of guidelines for designated non-financial businesses and professions Absence of any mechanism for feedback from UCREF (DNFPBs) 	<ul style="list-style-type: none"> Provide information to, and raise the awareness of, financial and non-financial entities subject to the legal obligations of the anti-money laundering law, by issuing guidelines and particularly money laundering typologies, so as to enable these entities to fulfill their obligations under optimal conditions. Similarly, strengthen the training of private and public actors involved in preventing and cracking down on money laundering 	The Central Banks guidelines will be widely distributed to all the financial institutions before the May plenary.
Institutional and other measures				
26. Financial Intelligence Unit	PC	<ul style="list-style-type: none"> Ambiguities (especially in practice) as regards the operational independence and autonomy of UCREF Lack of mobilization of all professions subject to the law Absence of status reports and reliable statistics Ambiguity in the practices followed for 	<ul style="list-style-type: none"> Clearly redefine UCREF's scope of action in line with the anti-money laundering law of 2001 Build awareness on the part of professions subject to the suspicious transaction reporting requirement Ensure that UCREF exchanges information only with persons authorized to receive same (foreign 	<p>The new administration of UCREF is working on that matter so that UCREF always respects the measures that have been taken by the law of February 21, 2001.</p> <p>With the participation of the Central Bank, UCREF already held discussions with the financial institutions so that they would provide useful information. Meetings had already been organized between the administration of UCREF and the compliance officers. Mails have already</p>

		<p>exchanging information with foreign authorities</p> <ul style="list-style-type: none"> • Absence of a policy on employee integrity and appropriate training • Ineffectiveness of the Financial Intelligence Unit due to its atypical functioning, pursuant to a broad interpretation of its legal framework 	<p>counterparts)</p> <ul style="list-style-type: none"> • Reinforce UCREF's operational independence in relation to CNLBA and establish real functional autonomy in relation to BRH • Charge UCREF with publishing a periodic status report • Bring Haitian law in line with the conditions required for membership in the Egmont Group 	<p>been sent to the banks and other financial institutions relative to this matter.</p> <p>UCREF is always ready to share its information with the authorities concerned whether there are national or international.</p> <p>UCREF has already discussed this matter with CNLBA so that it could be independent from BRH in terms of water, building and electricity.</p> <p>UCREF took the decision to submit reports each three months and/or each six months to CNLBA as the Haitian law has mandated it. We are also reinforcing our unity in order to realize the work more effectively.</p> <p>Actually, UCREF is working on establishing other laws that will be submitted to the Haitian Government so that they could be applied in Haiti.</p>
<p>27. Law enforcement authorities</p>	<p>PC</p>	<ul style="list-style-type: none"> • Lack of mobilization and utilization of police services in criminal investigations of money laundering • Lack of implementation of specific investigative techniques appropriate to the fight against money laundering, particularly delivery surveillance, undercover operations, and interception of communications • Absence of a group devoted to investigations of personal property or assets suspected to be of criminal origin 	<ul style="list-style-type: none"> • Equip the Financial and Economic Investigation Bureau (BAFE) of DCPJ with a sufficient number of investigators and offer specialized training in the fight against money laundering. Examine the total or partial reassignment of original BAFE investigators attached to UCREF since its creation. • Create a specialized jurisdiction of national scope to fight against money laundering and terrorist financing. • Provide DCPJ with adequate financial and material resources, as well as pre-service and in-service training to implement special techniques for investigating money laundering, such as interception of telephone calls, delivery surveillance, and infiltration of criminal groups to track their management of funds from their activities. • Perform a property investigation for investigations of drug trafficking and other crimes falling within the scope of enforcement of the crime of money laundering. • Undertake a rigorous monitoring and centralization of legal actions and results of money laundering investigations within the Ministry of Justice, along with the development of statistics. Centralize and 	<p>All BAFE investigators that were seconded to the UCREF are exclusively related to BAFE since, May 2008. The numbers of BAFE investigators are 20 now. (An increase of 16 members). These investigators have received training in special techniques of economic and financial investigations from 09 to 13 June 2008 by American investigators.</p> <p>It should be noted that the BAFE benefit from technical assistance provided by the US treasury Department and the FBI, OTA and World Bank.</p> <p>Regarding the implementation of special techniques for interception of telephone calls and delivery surveillance, the DCPJ needs greater support because the legal, technical, equipment and logistical support are badly lacking in this area and is crucial to how it works.</p> <p>Starting since June of 2008, the BAFE has sent several "dossiers" to prosecutors. About, 4 cases have been forwarded to the Cabinet for Instruction, 2 to prosecutors and 1 transferred to the USA. It has put 2 houses sealed, confiscated 2 vehicles, has 19 cases under treatment and is currently working to identify properties of 20 drug dealers.</p>

			work up reliable statistics on money laundering investigations.	
28. Powers of competent authorities	PC	<ul style="list-style-type: none"> • Impossibility of assessing the effectiveness of the existing legal framework because of the absence of money laundering investigations completed to date. • Current laws relating to criminal procedure are vague with respect to procedures for submitting matters other than crimes <i>in flagrante delicto</i> to the police for investigation, and with respect to providing support to cases being investigated by the investigative magistrate. 	<ul style="list-style-type: none"> • Clarify the Criminal Investigation Code in order to expand and strengthen the legal bases for submitting cases to the DCPJ that involve money laundering, drug trafficking, and other crimes and offences sanctioned by law. Redefine and regulate more strictly, in relation to the functions of the national police officers who are officers of the court, the various frameworks for investigation, and in particular investigations of cases other than crimes <i>in flagrante delicto</i> or those providing support to the investigative magistrate. • Reconsider, in terms of how legal action is organized, the role of specialized police agencies as sole point of interface with magistrates in money laundering investigation. 	<p>Despite the fact that in the new local BAFE there is an Annexe of prosecutors in Port Au Prince in order to allow the smooth running of files. The problem of legal framework of DCPJ, BAFE and others services, depending of DCPJ, is the same. All of them are national institutions that impact and work to fight against crime, but they have considerable legal difficulties.</p> <p>The Criminal Investigation Code must clarify the DCPJ operation.</p>
29. Supervisors	PC	<ul style="list-style-type: none"> • Excessive restrictions on the ability of financial sector supervisors to gain access to all necessary records • Weaknesses in the ability of supervisors to impose sanctions on financial institutions, their directors, and their shareholders 	<ul style="list-style-type: none"> • Lift bank secrecy for inspectors involved in banking supervision; • Adopt a less formalistic approach to compliance with obligations related to the prevention and detection of money laundering and terrorist financing, particularly by placing greater emphasis on obligations regarding suspicious transaction reporting; 	This matter has been discussed during the plenary held in Haiti in May 2008. (Art 53, of the Law creating and regulating the Central Bank).
30. Resources, integrity, and training	NC	<ul style="list-style-type: none"> • Insufficient human and budget resources overall, and less than optimal use of same • Overly generalized training 	<ul style="list-style-type: none"> • Regularly ensure the integrity of UCREF employees and see to their training 	The new administration is ensuring that its employees feel at ease in their work and is planning to offer them some seminars that could help them accomplish their duties better.
31. National cooperation	PC	<ul style="list-style-type: none"> • Ineffectiveness of the coordinating body • Lack of operational coordination between Haitian actors involved in the fight against money laundering and the fight against terrorist financing 	<ul style="list-style-type: none"> • Ensure that the CNLBA fully plays its role 	The CNLBA has submitted a draft budget to the Ministry of Justice, which will allow it to fund a permanent secretariat which will enable it to better comply with this requirement.
32. Statistics	NC	<ul style="list-style-type: none"> • Absence of a reliable mechanism for collecting statistical data 	<ul style="list-style-type: none"> • Develop reliable statistics on UCREF activities 	UCREF is hiring for the next fiscal year a statistician to help handle this requirement. The database is also being repaired to allow for an effective tool. In addition, another backup database is being constituted.
33. Legal persons – beneficial owners	NC	<ul style="list-style-type: none"> • Ineffective system of transparency for legal persons, which does not allow for rapid access to reliable, up-to-date beneficial ownership and 	<ul style="list-style-type: none"> • Enable the authorities to monitor effectively and record any changes in the bearers of bearer shares of corporations. 	The Ministry of Finance has already submitted to the parliament a draft legislation, which is about to be voted in Parliament. This legislation contains provisions to address this issue.

		control information		
34. Legal arrangements – beneficial owners	NA	<ul style="list-style-type: none"> Absence of the concept of trusts in Haiti 		
International cooperation				
35. Conventions	NC	<ul style="list-style-type: none"> No implementation of the Vienna, Palermo, and Merida Conventions 	<ul style="list-style-type: none"> Take measures to implement the Vienna Convention; Ratify and implement the Palermo Convention; Sign, ratify, and take measures to implement the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism. 	The ratification of the Palermo Convention has already taken place. The instruments of ratification of the Palermo Conventions have been sent by the Office of the President to the Official Gazette for publication, before being submitted to the United Nations.
36. Mutual legal assistance	LC	<ul style="list-style-type: none"> Ineffectiveness of the legal system in place 	<ul style="list-style-type: none"> Set up a framework for mutual legal assistance concerning offences in the area of terrorist financing. 	With the assistance of the OTA, Haiti is working on a model treaty to be signed with countries interested in pursuing MLA matters. In the meantime, the legal framework provides for assistance to be given on a reciprocal basis, without the existence of a treaty.
37. Dual criminality	LC	<ul style="list-style-type: none"> Ineffectiveness of international mutual assistance on criminal matters Dual criminality required, but “similar” offences taken into account; absence of data on effective implementation 		
38. Mutual legal assistance on confiscation and freezing	PC	<ul style="list-style-type: none"> Absence of effective implementation of legal provisions and lack of a mechanism to coordinate seizure and confiscation actions with foreign jurisdictions 	<ul style="list-style-type: none"> Set up a mechanism for coordinating seizure and confiscation initiatives with other countries. 	With the assistance of the OTA, Haiti is preparing a mechanism to coordinate confiscation initiatives with other countries. The collaboration is already ongoing with the US.
39. Extradition	LC	<ul style="list-style-type: none"> Insufficient effectiveness of the legal mechanism in place 		
40. Other forms of cooperation	NC	<ul style="list-style-type: none"> Restrictions on international cooperation due to excessive requirements for lifting bank secrecy Incapacity of financial sector supervisory bodies to participate in international cooperation Absence of strict oversight of the exchange of financial information reserved for foreign counterpart intelligence units 	<ul style="list-style-type: none"> Clarify the possibility of exchanging financial information with UCREF non-counterpart foreign agencies. Authorize all the financial sector supervisory bodies to participate actively in international cooperation between supervisors. 	UCREF is ready to share information with the authorities involved in the AML fight, whether they are national or international.
Nine Special Recommendations	Rating	Summary of factors underlying rating		
SR.I Implement UN instruments	NC	<ul style="list-style-type: none"> No signature of the United Nations International Convention for the Suppression of the Financing of Terrorism 	<ul style="list-style-type: none"> Sign, ratify, and take measures to implement the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism 	This convention is on the legislative agenda for ratification and implementation on the month of February 2009.

SR.II Criminalize terrorist financing	NC	<ul style="list-style-type: none"> No legislation on the financing of terrorism No signature or ratification of the International Convention for the Suppression of the Financing of Terrorism 	<ul style="list-style-type: none"> Criminalize terrorist financing, in compliance with the Convention on the Financing of Terrorism. Ensure that the future criminalization of terrorist financing and the sanctions meet the standards set by the Convention 	The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report.
SR.III Freeze and confiscate terrorist assets	NC	<ul style="list-style-type: none"> No legal framework for freezing assets used for terrorist financing 	<ul style="list-style-type: none"> Introduce measures to provide for the freezing of assets used for terrorist financing, in accordance with the requirements of Resolutions 1267 and 1373. 	The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report.
SR.IV Suspicious transaction reporting	NC	<ul style="list-style-type: none"> The scope of suspicious transaction reporting does not cover terrorist financing 	<ul style="list-style-type: none"> Expand the scope of suspicious transaction reporting to include terrorism and its financing 	The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report
SR.V International cooperation	NC	<ul style="list-style-type: none"> Absence of criminalization of terrorist financing, blocking participation in international cooperation Restrictions on international cooperation due to excessive requirements for lifting bank secrecy Incapacity of financial sector supervisory bodies to participate in international cooperation 	<ul style="list-style-type: none"> Authorize all the financial sector supervisory bodies to participate actively in international cooperation between supervisors. Expand the existing mechanism for extradition to include the offence of terrorist financing, once it has been criminalized. 	The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report
SR.VI AML/CFT requirements for money/value transfer services	NC	<ul style="list-style-type: none"> See the summary of weaknesses of the Haitian system for Recommendations 4-11, 13-15, 21-23, and 17 and Special Recommendation VII 	<ul style="list-style-type: none"> Adopt a more proactive approach toward money transfer services currently provided in the informal sector. 	The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report
SR.VII Wire transfer rules	NC	<ul style="list-style-type: none"> Identification threshold set too high Absence of requirements regarding wire transfers 	<ul style="list-style-type: none"> Implement wire transfer regulations concerning the conveyance of identification data on the originator, in 	The Anti Money Laundering Committee has created a commission composed of many of the entities involved in

		(conveyance of identification data)	accordance with Special Recommendation VII – with specific attention (in view of the pattern of wire transfers in Haiti, where virtually all transfers are received, not sent) focused on the obligations of banks receiving cross-border wire transfers.	the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report
SR.VIII Nonprofit organizations	NC	<ul style="list-style-type: none"> • Absence of legal framework to combat terrorist financing • Ineffective supervision of nonprofit organizations from the perspective of the fight against terrorist financing • Absence of any assessment of the risks of Haitian nonprofit organizations being misused for terrorist financing purposes 	<ul style="list-style-type: none"> • Strengthen the oversight of the identity of founding members and directors, their operations in terms of implementation of their projects, and their financial position, in order to guarantee that this sector cannot be used for money laundering or terrorist financing purposes • Undertake a study of the risks of charitable organizations being misused for terrorist financing purposes should be conducted. • Raise awareness of the NGO Coordination Unit (UCAONG) on the problems of money laundering and terrorist financing and develop a preventive program of oversight in these areas. 	The Anti Money Laundering Committee has created a commission composed of many of the entities involved in the fight against ML to work on CFT legislation as well as to review the AML legislation for compliance with the requirements of the ME report. This commission meets on a regular basis to review the legislation and provide the modifications necessary to bring it to the standard of the CFATF 40+9 and to address the recommendations of the ME Report
SR.IX Reporting/communication of cross-border transactions	PC	<ul style="list-style-type: none"> • Ineffectiveness of the system due to its unsuitability to the Haitian context and, as a result, deficiencies in implementation • Absence of proportionate, deterrent, and effective penalties • Lack of coordination among authorities in charge of implementing the mechanism currently in place 	<ul style="list-style-type: none"> • Establish either a declaration system or a reporting system; • Incorporate this law into the customs code so as to ensure the legal basis for seizures and subsequent investigations; • Implement reporting arrangements among and between customs, the police, and UCREF concerning information gathered after funds are seized; • Establish penalties that tie the severity of punishment to the absence or presence of evidence of an illicit origin or destination for the funds. 	A NEW Customs Legislation has been drafted to address this issue. It has been submitted for comments to the AML Committee and other entities in charge of the AML/CFT fight. The legislation has been submitted to parliament.