

CARIBBEAN FINANCIAL ACTION TASK FORCE



**FOLLOW-UP REPORT: St. Vincent and  
the Grenadines 14th follow-up report**

XLVII Plenary and Working Group Meeting  
May 30<sup>th</sup>, 2018  
*Port of Spain, Trinidad and Tobago*

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## ST. VINCENT AND THE GRENADINES: FOURTEENTH FOLLOW-UP REPORT UPDATE AND FULL ANALYSIS

### I. INTRODUCTION

1. The third round [Detailed Assessment Report \(DAR\)](#) of St. Vincent and the Grenadines (SVG) was adopted by the CFATF Council of Ministers in July 2010 using the Round Robin process and SVG was placed in the expedited follow-up process. SVG reported back in March 2009 ([first follow-up report](#)); May 2011, ([second follow-up report](#)); November 2011 ([third follow-up report](#)); May 2012, ([fourth follow-up report](#)); November 2012, ([fifth follow-up report](#)). In May 2013, following the presentation of the ([sixth follow-up report](#)), SVG was placed in the first stage of the enhanced follow-up process and on July 4<sup>th</sup>, 2013, the Chairman of the CFATF wrote to the Jurisdiction drawing their attention to the non-compliance with the FATF Recommendations. In October 2013, following the presentation of the ([seventh follow-up report](#)), the Plenary considered graduating the Jurisdiction to the second stage of enhanced follow-up, in light of the fact that the action taken by the Jurisdiction, since May 2013, did not result in any of the outstanding Recommendations being positively affected. However, following that consideration, the decision was taken for SVG to be given another six months to enact the outstanding legislation. SVG reported in May 2014, ([eight follow-up report](#)); November 2014, ([ninth follow-up report](#)); May 2015, ([tenth follow-up report](#)); November 2015, ([eleventh follow-up report](#)); and June 2016, ([twelfth follow-up report](#)). In June 2016 the Plenary agreed that the Chairman of the CFATF should write a letter to SVG encouraging the country to pick up the pace of their improvement. In November 2016 an [update](#) was presented in-lieu-of a follow-up report. In May 2017 a follow-up report was not presented for SVG and following the presentation of an [update](#) on the progress by the country, the Plenary decided to advance the country to the second stage of enhanced follow-up which is a high-level mission to the Country. Following the Plenary decision, in August and October 2017 respectively, SVG further amended three laws and published procedures which fully enable the implementation of SR. III resulting in all of the Core and Key Recommendations being significantly improved to the extent that a decision was taken to cancel the high-level mission. SVG reported in November 2017, ([thirteenth follow-up report](#)).
2. This report is based on the CFATF procedure for removal from regular follow-up as agreed<sup>1</sup> by the CFATF plenary in May 2014. SVG has indicated that it believes it had met the criteria necessary for removal from the follow-up process. It contains a detailed description and analysis of the actions taken by SVG in respect of the Core and Key Recommendations rated partially compliant (PC) or non-compliant (NC) in the DAR, as well as a description and analysis of the other Recommendations rated PC or NC.

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<sup>1</sup> According to the decisions by the May 2014 Plenary, countries can apply to exit the follow-up process in the following cases:

- a. Countries who have achieved the level of C/LC in all of their Core and Key Recommendations that were rated PC/NC in their MERs to apply to exit the FUP; or
- b. Countries that have achieved the level of C/LC in all their Core Recommendations, but have one (1) or more Key Recommendations that were rated PC/NC and still have not achieved the level of C/LC in those recommendations to apply to exit once they have achieved **substantial compliance** (the large majority of non-Core and Key Recommendations have been addressed) in their non-Core or Key Recommendations that were rated PC/NC in their MER.



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3. The analyses in this report were predicated on the basis of information provided by SVG and is a desk evaluation that focused on Recommendations rated PC/NC, which means that only a part of the AML/CFT system was reviewed. The analyses consisted mainly of looking at the main laws, regulations and code along with other material provided by SVG. As this is a desk-based review, the level and nature of information provided and accepted in many instances are inherently different to that which would have been accepted during an onsite visit. Consequently, the conclusions of this report do not prejudice the results of any future assessments as they are based on information that was not verified through an onsite process.
4. SVG's Anti-Money Laundering/Combating Financing of Terrorism (AML/CFT) legal and regulatory framework are based on several laws with the main one being the Proceeds of Crime Act of 2013 which was enacted on December 5<sup>th</sup>, 2013 to repeal and replace the Proceeds of Crime and Money Laundering (Prevention) Act 2001, Chapter 181, and certain provisions in the Drug Trafficking Offences Act Chapter 173. The intent behind the enactment of the Proceeds of Crime Act of 2013 was to consolidate and update provisions relating to: confiscation orders in relation to persons who benefit from criminal conduct; restraint orders prohibiting dealing with property which is, or represents property obtained through unlawful conduct and for incidental and connected purposes. The Proceeds of Crime Act is bolstered by the Anti-Terrorist Financing and Proliferation Act; the Anti-Money Laundering and Terrorist Financing Regulations; and the Anti-Money Laundering and Terrorist Financing Code.
5. SVG was rated PC or NC on the following Recommendations:

<b>PARTIALLY COMPLIANT (PC)</b>	<b>NON-COMPLIANT (NC)</b>
<b>Core Recommendations</b>	
R.1 (Criminal Offence of ML) R.13 (Suspicious transactions reporting)	R.5 (CDD) SR. IV (Suspicious transactions reporting)
<b>Key Recommendations</b>	
R. 4 (Secrecy laws)	R. 23 (Regulation; supervision and monitoring) SR. I (Implement UN Instruments) SR. III (Freeze and confiscate terrorist assets)
<b>Other Recommendations</b>	
R. 8 (New technologies & non-face-to-face business) R. 11 (Unusual transactions) R. 15 (Internal controls, compliance & audit) R. 27 (Law enforcement authorities) R. 29 (Supervisors) R. 30 (Resources) R. 33 (Legal persons beneficial owners)	R. 6 (Politically exposed persons) R. 7 (Correspondent banking) R.9 (Third parties and introducers) R. 12 (DNFBP – R.5, 6, 8-11) R. 14 (Protection & no tipping-off) R. 16 (DNFBP – R.13-15 & 21) R. 17 (Sanctions) R. 18 (Shell banks) R. 21 (Special attention for higher risk countries)



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SR. VI (AML requirements for money/value transfer services)	R. 24 (Regulation, supervision and monitoring) R. 34 (Legal arrangements – beneficial owners) SR. VII (Wire transfer rules)
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## **II. MAIN CONCLUSIONS AND RECOMMENDATIONS TO THE PLENARY**

### **Core Recommendations:**

6. **Recommendation 1:** The offence of racketeering still has not been criminalized and the proposed amendments are currently before the Attorney General and the National Prosecution Service. Notwithstanding, SVG has criminalized all the other outstanding predicates (self-laundering, human trafficking and migrant smuggling) through the enactment of the POTPA and the amended Immigration (Restriction) Act. The compliance with R.1 is up to the level comparable to at minimum an LC.
7. **Recommendation 5:** Amendments to the POCA regulations; repealing of the old Guidance Notes; revision of the Criminal Code; and revision and publication of the Anti-Money Laundering and Terrorist Financing (Amendment) Regulations, 2017 inherently addressed the deficiencies thereby lifting the level of compliance comparable to LC.
8. **Recommendation 13:** The three noted deficiencies have been conclusively addressed through legislative intervention and the publication of updated SAR guidance. Also, SVG has been able to show that the concern which led to the other deficiency about the low reporting of SAR by offshore insurance and banks being flagged has been addressed through the increase in the number of SAR being reported by the specific sector. The compliance with R.13 is up to the level comparable to LC.
9. **Special Recommendation IV:** The lone deficiency was addressed through section 15 of the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015 thereby raising the level of compliance comparable at minimum to LC.

### **Key Recommendations:**

10. **Recommendation 4:** The country undertook a review of the sector specific legislation and deleted all references to confidentiality or limitations in access to information and which would sufficiently address the pending actions for this Recommendation. The level of compliance is now comparable at minimum to a LC.
11. **Recommendation 23:** SVG has systematically addressed all the deficiencies. The IFSA has been replaced with the more robust FSA and dedicated staff has been assigned to the supervision of the international mutual fund and insurance sectors. In August 2013, the FSA intervened and took control of the only building society in SVG and continues to monitor it under enhanced supervisory oversight. The level of compliance has been raised to the level comparable to LC.
12. **Special Recommendation I:** The ratification of the SFT and Palermo Conventions along with the enactment of the Anti-Terrorist Financing and Proliferation Act ensures that the level of compliance is now comparable to LC.
13. **Special Recommendation III:** The enactment of the Anti-Terrorist Financing and Proliferation Act and publication of the Guidance/Procedure for Implementing Targeted



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Financial Sanctions has addressed the lone deficiency sufficiently to raise SR. III to a level of compliance comparable to LC.

**Other Recommendations:**

14. Saint Vincent and the Grenadines has made significant progress in addressing the deficiencies in its non-core and key Recommendations that were rated PC/NC. The country's application for removal from the third-round follow-up process is based on its compliance with the Core and Key Recommendations that were rated PC/NC. Accordingly, this report will only provide a limited analysis on the 'Other' Recommendations which is detailed at section VI of this report.

**Conclusion**

15. The detailed analysis of SVG's actions to close the deficiencies noted in its 2010 3<sup>rd</sup> round DAR provides an overview of the progress relating to all Core and Key Recommendations that were rated PC/NC. This analysis indicates that SVG has addressed all the Core and Key Recommendations rated PC/NC (R. 1, 4, 5, 13, 23, SR. I, III & IV) to a level comparable to at least an LC. It was therefore recommended, and the Plenary agreed that SVG should be allowed to exit the third-round follow-up process.

**III. OVERVIEW OF THE MAIN CHANGES SINCE THE ADOPTION OF THE DETAILED ASSESSMENT REPORT (DAR)**

16. On November 15<sup>th</sup>, 2011, SVG enacted the Prevention of Trafficking in Persons Act, (POTPA), No. 27 of 2011 to address the criminalisation of human trafficking.
17. On November 22<sup>nd</sup>, 2011, the Financial Services Authority Act (FSAA) was enacted thereby paving the way for the formal establishment of the FSA. On November 12, 2012 the FSSA was proclaimed and the FSA became fully operational. Following this the FSA Board of Directors and Executive Director were appointed by Cabinet and a three- year Strategic Plan and Budget were prepared.
18. On April 5<sup>th</sup>, 2012 SVG enacted the Proceeds of Crime and Money Laundering (Prevention) (Amendment) Act 2012, (POCAA) to continue addressing weaknesses relating to Recommendation 1.
19. On May 16, 2013 SVG enacted the amendments to the FIU Act as Act No. 7 of 2013
20. On December 3, 2013, the Proceeds of Crime Act, No. 38 of 2013 was passed in Parliament, assented to by The Governor General on December 5, 2013 and was proclaimed on April 9, 2014. This Act repealed and replaced the Proceeds of Crime and Money Laundering (Prevention) Act of 2001 and addressed relevant recommendations noted in the DAR, as well as the revised FATF Recommendations. The Act bolstered SVG's cash forfeiture regime as it introduced full civil forfeiture provisions. This is especially relevant for Recommendation 3, which was rated as LC and for which it was recommended, among others that the authorities enacted the bill regarding civil forfeiture of all property and not only currency, as well as the subsequent implementation of the provisions.
21. In June 2014 The Financial Laws (Miscellaneous Amendment) Act No. 10 of 2014 was enacted to amend The International Business Companies (Amendment & Consolidation) Act; the Registered Agent and Trustee Licensing Act; the Limited Liability Companies Act and the Co-operative Societies Act. This action positively affected Recommendation 4.





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22. On August 6<sup>th</sup>, 2014 the Minister of Finance approved the Proceeds of Crime (Anti Money Laundering and Terrorist Financing) Regulations 2014, (POCA Regulations), which would have a positive effect on the level of compliance with several FATF Recommendations.
23. On August 18th, 2015, the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015, which would replace the United Nations (Anti-Terrorism Measures) Act 2002 (UNATMA) was enacted.
24. On May 9, 2017, the Prime Minister, Minister of Finance, National Security and Legal Affairs made the Anti-Money Laundering and Terrorist Financing (Amendment) Regulations 2017. Also, on May 9, 2017, the National Anti-Money Laundering Committee, which is provided with a specific statutory role of policy coordination, issued the Anti-Money Laundering and Terrorist Financing Code, No 24 of 2017.
25. On Friday August 4, 2017, St. Vincent and the Grenadines Gazetted the following laws:
  - i. Act No. 16 of 2017 – The Immigration (Restriction) (Amendment) Act, No 16 of 2017. This positively affected Recommendation 1.
  - ii. Act No. 17 of 2017 - The Anti-Terrorist Financing and Proliferation (Amendment) Act, 2017. This positively affected SR. III; and
  - iii. Act No. 18 of 2017- The Proceeds of Crime (Amendment) Act, 2017. This also positively addresses Recommendation 1.
26. On Thursday October 26, 2017, SVG published the Guidance/Procedure for Implementing Targeted Financial Sanctions 1. These procedures positively affected SRIII.

#### **IV. DETAILED ANALYSIS OF COMPLIANCE WITH THE CORE RECOMMENDATIONS**

##### **Recommendation 1 – PC**

**R1 (Deficiency 1): Certain offences in Section 41 of and the definition of ‘property’ in POCA are not consistent with the relevant articles of the Vienna and Palermo Conventions.**

27. This is now specifically addressed. The Proceeds of Crime (Amendment) Act, 2017, was enacted to amend the Proceeds of Crime Act of 2013. At section 2 of this amendment subparagraph (d) has been added to extend the definition of property to include “*legal documents or instruments in any form, including electronic or digital title to or interest in property*”. ***R.1 deficiency 1 is sufficiently addressed.***

**R. 1 (Deficiency 2): Self-laundering by way of simple possession of proceeds is not criminalized.**

28. The enactment of the POCA effectively implemented the Examiners recommendation that self-laundering by way of simple possession of proceeds be criminalized. The amended section 43 (1) of the POCA deleted the term “another person’s”. As a consequence of this amendment, a person who acquires, possesses or uses his own criminal proceeds commits an offence. ***R.1 deficiency 2 is sufficiently addressed.***

**R. 1 (Deficiency 3): Racketeering, human trafficking and migrant smuggling are not predicate offences.**

29. Racketeering has not yet been criminalized. An amendment to the Criminal Code has been drafted and forwarded to the Attorney General and National Prosecution Service. For





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human trafficking, SVG enacted the POTPA, No. 27 of 2011, which addressed this weakness. With the enactment of the Immigration (Restriction) (Amendment) Act, No. 16 of 2017, migrant smuggling was criminalised. At section 26B (1) of the said Immigration (Restriction) (Amendment) Act a person who intentionally, in order to obtain directly or indirectly a financial or other material benefit either for himself or for another person, engages in conduct for the purpose of facilitating or enabling a person who is not a national or resident of SVG to enter, transit across or be in SVG in breach of this said Immigration (Restriction) Act, or any other immigration law, commits an offence. The offence carries a penalty, on summary conviction, a fine of one hundred thousand dollars or to imprisonment for seven years or to both. ***This deficiency remains open on account of racketeering not yet being criminalised***

**Recommendation 1 overall conclusion**

30. Recommendation 1, though still missing the offence of racketeering as a predicate offence to money laundering, has been significantly improved. The compliance with R.1 is up to the level comparable to at minimum an LC.

**Recommendation 5 - NC**

31. The Assessors had flagged 19 deficiencies in the DAR relating mainly to weaknesses in the POCA and its Regulations. SVG's actions to close these deficiencies are detailed below:

**Deficiency 1- No implementation of CDD and other AML/CFT requirements for non-regulated lending operations.**

32. This deficiency was addressed given that Schedule 1 of the POCA Regulations clearly includes all lending activities as a "service provider" subject to AML/CFT regulations. SVG has explained that the previous schedule, under the POCA 2001, restricted the applicability of the Act to certain types of lending activity, and the new POCA Regulations extended the applicability of the Act and Regulations to persons who engage in any type of lending activity (previous definition referred to personal loans and current Schedule 1 clarifies that commercial, mortgage credit, are covered along with factoring and other types of lending). As such, the two lending institutions referred in paragraph 226 of the DAR seem to be captured under section 1(c) (i) of Schedule 1 of the Regulations. ***Recommendation 5 deficiency 1 is sufficiently addressed.***

**R.5 Deficiency 2: The POCA and the Regulations issued thereunder do not cover FT**

33. The POCA Regulations now explicitly cover FT by referring to the Anti-Terrorist Financing and Proliferation Act, 2014 which was enacted as Act No. 14 of 2015 and amended in 2017 as Act 17 of 2017. ***Recommendation 5 deficiency 2 is sufficiently addressed.***

**R.5 Deficiency 3: No prohibition against keeping anonymous or fictitious name accounts particularly those that were in existence before the POCA Regulations were issued.**



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34. This matter was addressed through Regulation 19 of the POCA Regulations which explicitly prohibits service providers from maintaining numbered or anonymous accounts, or accounts in a name which it knows or has reasonable grounds to suspect is fictitious. Additionally, SVG has explained that through onsite examinations of financial institutions has shown that there are no anonymous or fictitious accounts being held. Financial institutions have strictly applied the requirements of the POCA and its Regulations to ensure that the identity of all account holders is known. ***Recommendation 5 deficiency 3 is sufficiently addressed.***

**R.5 Deficiency 4: Full range of CDD (only identification verification) is not required for business relationships and one-off transactions**

35. Full CDD requirements are mandated under the POCA Regulations 6 (Customer due diligence measures) and 11 (Customer due diligence measures and ongoing monitoring), before establishing a business relationship or carrying out an occasional transaction. CDD measures would be applied to every customer, therefore leaving no exceptions because of it being a “one-off transaction. ***Recommendation 5 deficiency 4 is sufficiently addressed.***

**R.5 Deficiency 5: Threshold for one-off wire transfers significantly in excess of SRVII**

36. Regulations 31 and 33 of the POCA Regulations eliminated exemptions for one-off wire transfers and established the need for obtaining full originator information of the payee, in every/any funds transfer, without distinction of one-off transactions. They however created an exemption in the case of batch transfers and did not make specific reference to the batch file containing information on the beneficiary. This introduced deficiency was subsequently addressed by the Anti-Money Laundering and Terrorist Financing (Amendment) Regulations, SRO. No.24 of 2017 where the said exemption is now only applicable if the batch file contains the complete information on the payer and the beneficiary. ***Recommendation 5 deficiency 5 is sufficiently addressed.***

**R.5 Deficiency 6: Identification requirement when there is suspicion limited to ML and to one-off transactions.**

37. Regulation 11 (b) (i) of the POCA Regulations established the obligation to apply CDD measures in a broader number of cases, for example, whenever there is suspicion of ML or TF, and not only when there is suspicion of ML, as it was set before. Also, the concept of limiting CDD to one-off transactions (above a certain threshold) is no longer included. ***Recommendation 5 deficiency 6 is sufficiently addressed.***

**R.5 Deficiency 7: - No CDD requirement when there are doubts as to the veracity or adequacy of previously obtained customer identification data.**

38. This requirement is now included in Regulation 11 of the POCA Regulations. ***Recommendation 5 deficiency 7 is sufficiently addressed.***

**R.5 Deficiency 8: Exemptions from CDD in the GNs, to the extent implemented, go beyond the risk sensitive measures allowed under c. 5.3 and c. 5.9, and in some cases beyond the POCA Regulations.**

39. The country had indicated that this matter will be addressed through revised GNs and to be included in the AML/TF Code. It is relevant to mention however, that the GNs reviewed at the time of the DAR are no longer in place. ***Recommendation 5 deficiency 8 is sufficiently addressed.***



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**R.5 Deficiency 9: No explicit requirement to verify the identity of the ultimate natural persons who control an entity, and of persons authorized to act on behalf of a corporate entity, partnership or other legal arrangement, and provisions of power to bind entity limited to the power to open and operate accounts.**

40. This requirement is now included in several sections of the POCA Regulations (Regulation 6, especially sub regulation 1 (d) and Regulation 10; Regulation 4 also makes reference to the concept of beneficial ownership). *Recommendation 5 deficiency 9 is sufficiently addressed.*

**R.5 Deficiency 10: Insufficient requirements for identification of legal arrangements such as trusts/trustees, including measures to determine settlors, beneficiaries and other parties to a trust.**

41. This matter has been addressed in the AML/TF Code No 24 of 2017. At paragraph 10-13 of the said Code, measures have been codified to address identification information on trusts and trustees and the verification of the identity of trustees, settlors and beneficiaries, among other measures. *Recommendation 5 deficiency 10 is sufficiently addressed.*

**R.5 Deficiency 11: Narrow requirement to obtain information on the purpose and intended nature, limited to accounts and does not extend to the broader business relationship.**

42. This requirement is now specifically included in the new POCA Regulations, specifically for business relationships (Regulation 6, sub regulation 1 (f)). *Recommendation 5 deficiency 11 is sufficiently addressed.*

**R.5 Deficiency 12: Ongoing CDD requirements do not include update of CDD records particularly with respect to higher risk business relationships.**

43. The POCA Regulations refer to the need for periodic update of CDD records, at Regulation 23, according to the risk of the business relationship, subject to analysis. The country would also be establishing a limit to the time CDD records can remain without updates (i.e. one year) and specify that risk assessments should also be regularly updated (Regulation 13). *Recommendation 5 deficiency 12 is sufficiently addressed.*

**R.5 Deficiency 13: No requirements for enhanced CDD for higher risk clients and exemptions from identification verification go beyond the criteria for simplified CDD.**



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44. This matter was partially addressed through Regulations 14 and 16 of the POCA Regulations. However, it should be mentioned that provision in Regulation 16 (1) (a) (i) was considered too broad because it provided that services providers (stated in a generic manner) will not be subject to AML/CFT requirements and the concept of services provider goes beyond “financial institutions” mentioned in the standard as an example of cases where simplified due diligence applies. These broad provisions also covered DNFBPs. Also, with regard to Regulation 16 (1) (a) (ii), there was need to clarify how foreign regulated entities were to be addressed. With the enactment of the Anti-Money Laundering and Terrorist Financing (Amendment) Regulations, 2017, there is clarification that Regulation 16 exemptions are only with respect to: a service provider; a regulated person; a foreign regulated person; a company, the securities of which is listed on a recognized exchange and a public authority. Further, the exemptions are only applicable where the noted entities are subject to AML/CFT requirements; supervised for compliance with the FATF Recommendations; not considered high risk for ML or TF; and in the case of foreign regulated entities, are in compliance with national AML/CFT procedures and policies. ***Recommendation 5 deficiency 13 is sufficiently addressed.***

**R.5 Deficiency 14: No requirement to terminate an existing business relationship in the circumstances covered by c. 5.16.**

45. The POCA Regulations addressed this deficiency, particularly Regulation 12, which discusses ceasing a transaction or terminating a business relationship when a service provider is unable to complete the verification of identification of a customer, third party or beneficial owner or is unable to undertake ongoing monitoring. ***Recommendation 5 deficiency 14 is sufficiently addressed.***

**R.5 Deficiency 15: The identification exemptions in the POCA Regulations should not apply when there is suspicion of ML or FT.**

46. This matter has been fixed through the Anti-Money Laundering and Terrorist Financing (Amendment) Regulations, 2017, where the exemption does not apply if a service provider suspects money laundering or terrorist financing. ***Recommendation 5 deficiency 15 is sufficiently addressed.***

**R.5 Deficiency 16: No requirement to apply CDD requirements to customers’ existing at the date the POCA Regulations came into effect, on the basis of materiality and risk.**

47. This issue is solved with the risk management concepts that would be introduced by the POCA Regulations 11 (1) (c) whereby, service providers are required to apply CDD measures to existing customers at appropriate times, as determined on a risk sensitive basis, at least once every five years, and when there are changes in customer information or beneficial ownership or changes in third parties or beneficial ownership of third parties. Regulation 13 is also relevant, as it addresses the need for a risk-based approach and a customer risk assessment. ***Recommendation 5 deficiency 16 is sufficiently addressed.***

**R.5 Deficiency 17: Requirement to perform CDD on existing customers is limited to the beneficial owners of anonymous or fictitious name accounts, and no requirement to close such accounts existing at the time the POCA Regulations came into effect.**

48. This matter was addressed by POCA Regulations which introduce ongoing monitoring for existing customers (Reg. 11). Also, as explained above, a provision against anonymous or fictitious accounts was established. ***Recommendation 5 deficiency 17 is sufficiently addressed.***



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**R.5 Deficiency 18: The GNs only require the suspension, and not prohibition, of a new or existing business relationship or transaction when verification of identity cannot be completed.**

49. This matter was fixed by the prohibition of establishing a business relationship or carrying out a transaction without proper identification and verification, according to Regulation 12 of the POCA Regulations. *Recommendation 5 deficiency 18 is sufficiently addressed.*

**R.5 (Deficiency 19) General weaknesses in implementation of CDD, especially for beneficial owners and bearer share companies.**

50. This matter was fully resolved. Firstly, the Anti-Money Laundering and Terrorist Financing Code, No. 24 of 2017, at paragraphs 10-13, addressed the CDD requirements applicable to legal persons. At paragraph 10 (2), the identification requirements with which service providers are mandated to comply are detailed. These include: Identification information on those directors who have authority to give instructions to the service provider concerning the business relationship or occasional transaction; and Identification information on individuals who are the ultimate holders of 15% or more of the legal person. Paragraph 11 addresses the need for verification of the identity of the beneficial owners of the legal person whilst paragraph 12 speaks to the requirement for service providers to verify the identity of the director of the legal person. Secondly, regarding bearer shares, the International Business Companies Act, section 30, allows registered agents and approved custodians to immobilise bearer shares and as per enhanced onsite examinations SVG Authorities have been able to verify that this is done in practice. It is also important to mention that pursuant to section 29 of the same Act, registered agents have the obligation to keep certain information on the company issuing the share and the beneficial owner of the share, among others. Registered agents and approved custodians are the only entities authorized to do so. *Recommendation 5 deficiency 19 is sufficiently addressed.*

**Recommendation 5 overall conclusion**

51. SVG has addressed all 19 deficiencies identified in the DAR. The compliance with R.5 is up to the level comparable to at minimum an LC.

**Recommendation 13 - NC**

52. The Assessors had noted three deficiencies and two recommended actions aimed at curing them.

**R.13 (Deficiency 1) Deficiency 1- The two-part threshold for filing of SARs does not meet the requirement of R.13.**

53. It is important to clarify that according to paragraph 406 of the DAR, there was the need to modify article 46(3) of the previous POCA, which lead to the interpretation that only complex or unusual or similar transactions were to be disclosed or reported. Currently, section 127 of POCA 2013 provides for the making of disclosures to the FIU by Money Laundering Reporting Officers (MLROs) of service providers. MLROs are required to disclose knowledge, suspicion or reasonable grounds for such knowledge or suspicion that a person is engaged in money laundering, to the FIU as soon as reasonably practicable. In turn, MLROs receive information from any person or service provider in the same terms, that is, reports based on suspicion or reasonable grounds for knowledge or suspicion of a person being engaged in money laundering. *Therefore, this deficiency has been addressed.* In the same way, Section 15 of the Anti-Terrorist Financing and Proliferation Act No. 14 of





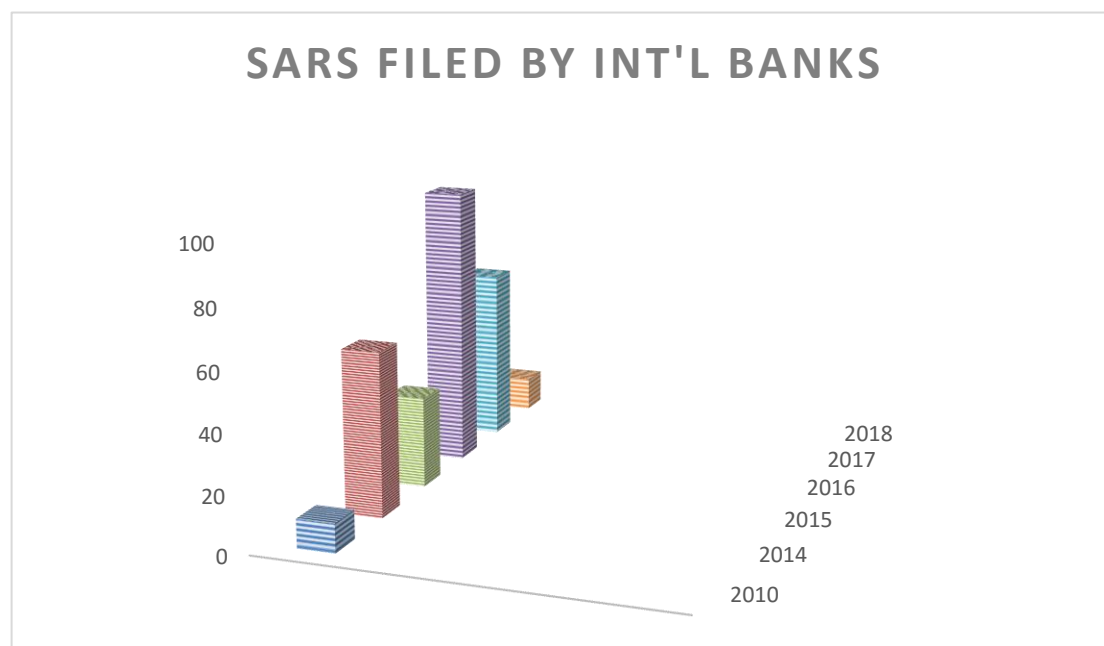
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2015, provides for the making of disclosures to the FIU where a person knows or suspects or has reasonable grounds for knowing or suspecting that another person has committed or attempted to commit a terrorist financing offence. The terrorist financing offence is defined in Part II, section 6-10 of the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015 and includes, inter alia, the provision and use of property for use in terrorism, using or possessing property with the intention that it is used for the purposes of terrorism, by a person. “Person” refers to any individual, group, undertaking, entity, organisation or body of persons according to section 2 of the Act. In this sense, the provision refers to filing a report in the case of funds where there are reasonable grounds to suspect or they are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. Though the definition of funds in the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015, can be considered not as broad (since it refers to “financial” assets primarily), as will be explained under Special Recommendations I and III. ***Recommendation 13 deficiency 1 is sufficiently addressed.***

**R.13 (Deficiency 2). Offshore insurance and banks are reporting at a very low level.**

54. With regard to this deficiency, the Authorities indicated that number of SARs filed by International Banks had gradually increased as demonstrated in Chart 1 below:

**Chart 1:**



55. ***Recommendation 13 deficiency 2 is sufficiently addressed***

**R.13 (Deficiency 3). SAR filing guidance is outdated, the last update was in 2004, contributing to low quality SARs.**

56. This matter has been fully addressed. On May 29, 2017, updated SAR filing guidance was published on the FIU website and can be found at [\(SVG SAR Guidance\)](#). Additionally, the SVG Authorities had previously indicated that a substantive amount of training has been provided to financial institutions and this has resulted in an increase in the number and quality of SAR reporting. Furthermore, all financial institutions are required to and do maintain AML/CFT manuals (policies and procedures) which include guidance on SARs



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and suspicious activity indicators. Also, SAR forms have been updated and made available through the SVG FIU Website. ***Recommendation 13 deficiency 3 is sufficiently addressed.***

**Recommendation 13 overall conclusion**

57. The three noted deficiencies have been conclusively addressed through legislative intervention and the publication of updated SAR guidance. Also, SVG has been able to show that the concern which led to the other deficiency being flagged has been addressed through the increase in the number of SAR being reported by the specific sector. The compliance with R.13 is up to the level comparable to LC.

**Special Recommendation IV - NC**

58. For SR. IV, there was a lone deficiency relating to the legislative requirement for the filing of SARs.

**SR. IV (Deficiency 1). There is no requirement in UNATMA or POCA to file SARs for transactions or financial activities that could constitute or be related to financing of individual terrorists or terrorist organizations.**

59. This matter was addressed through section 15 of the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015. Section 15(1) (a) (b) outlines the need to file a suspicious transaction report wherever a person has reasonable grounds for knowing or suspecting, that another person has committed or attempted to commit a terrorist financing offence. “Person” refers to any individual, group, undertaking, entity, organisation or body of persons according to subsection, section 2 of the Act. The terrorist financing offence on the other hand, covers fund-raising, organising or directing others to commit a fundraising offence and the use of possession of property for purposes of terrorism, as well as entering into any kind of funding arrangements which derive in property being made available to another. This therefore covers the requirement to file SARs for transactions or financial activities that could constitute or be related to financing of individual terrorists or terrorist organizations. POCA Regulation 25 also makes reference to both the obligation of reporting money laundering and terrorist financing and services providers do in fact provide quarterly reports on whether they have identified any activity related to terrorist financing. ***SR. IV deficiency 1 is sufficiently addressed.***

**Special Recommendation IV overall conclusion**

60. SVG has conclusively addressed the lone deficiency by enacting the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015. The compliance with SR. IV is up to the level comparable to at minimum an LC.





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## **V. DETAILED ANALYSIS OF COMPLIANCE WITH THE KEY RECOMMENDATIONS**

### **Recommendation 4 – NC**

61. For R.4 there were two deficiencies to be addressed and the assessors had recommended that the offending sections in the existing laws be amended accordingly.

**R.4 (Deficiency 1). Sectoral acts continue to have confidentiality and other limitations on access to information for regulators & R.4 (Deficiency 2). It is unclear that the repeal of the 1996 Confidentiality Law also repealed common law definitions of bank secrecy and confidentiality or whether these were restored by virtue of the repeal. If the latter, the common law secrecy laws would need to be assessed in light of the gateways provided.**

62. The examiners had recommended that each provision of confidentiality and limitation of access to information in sector specific acts, in particular Section 15(4) of the Registered Agents and Trustees Act, should be removed. Also, that the AG should provide a legal opinion on the meaning of “confidential” information in the light of the repeal of the Confidentiality Act 1996, in particular, to the extent to which such repeal restored the common law definitions of bank secrecy and confidentiality. In this sense, the country undertook a review of the abovementioned sector specific acts which basically deleted all references to confidentiality or limitations in access to information and which would sufficiently address the pending actions for this Recommendation. The opinion by the AG in specific, was no longer be necessary, as the AG’s input was provided during the preparation of the cited Bill. The Act as explained by SVG also introduced additional record keeping and accounting requirements which would facilitate exchange of information for investigative purposes. ***Recommendation 4 deficiencies 1 & 2 are sufficiently addressed.***

### **Recommendation 4 overall conclusion**

63. Both recommended actions were implemented by way of amended legislation. R.4 is now implemented to a level equivalent to a LC.

### **Recommendation 23 - NC**

64. The Examiners has noted eight deficiencies and nine cures to fix them.

**R. 23 (Deficiency 1). Ownership structures of some offshore institutions reduce transparency and may limit the ability of regular review fit and proper criteria.**

65. To cure this deficiency the examiners had recommended that the country *enhance supervision of ownership and control structures of some offshore institutions to increase transparency of fit and proper criteria*. At the time of the onsite the supervisor’s resources were limited and this in turn limited the ability to review compliance, especially in the instances with institutions whose mind and management were overseas. This matter was substantially addressed since the FSA, previously the International Financial Services Authority (IFSA), went through an extensive reform and refurbishment process which included increasing the number of staff members and the level of training. This enabled the FSA to carry out desk-based reviews and inspections of the international financial services sector, financial institutions such as money services businesses and the non-bank domestic institutions such as credit unions and building societies. The FSA’s staff is currently comprised of 25 persons (previously only 16 persons were assigned to the IFSA), inclusive of 15 suitably qualified and experienced regulatory staff. Of note are: (1) there is room for



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adding additional staff as required; (2) the FSA's Board of Directors comprises a plethora of multidisciplinary highly experienced skills in law, accounting, auditing banking, finance and actuarial science; (3) the FSA's Executive Director and Deputy Executive Director are experienced former heads of regulatory authorities; (4) the FSA has access to consultancy and expert advice from at least seven experts in the areas of banking, mutual funds, insurance, credit unions, general strategy and problem resolution and regulation. The FSA Act contains specific requirements in terms of the qualifications and experience that the Director and Executive Director of the FSA must possess, including a minimum of seven years experience in banking, insurance, economics, and law, among others, as explained by Authorities. The FSA also has implemented a Strategic Plan (2013 – 2015), which among outlined the appropriate experience and qualifications for the filling of positions within the FSA. SVG also indicated that the fitness and properness of the Directors are examined at the licensing stage. Due diligence is conducted on both Directors and Shareholders. External sources as well as information provided with the relevant application is used for that purpose and to determine suitability. Any changes after the initial review, must be filed and approved by the FSA. ***Recommendation 23 deficiency 1 is sufficiently addressed.***

**R. 23 (Deficiency 2). Systematically large building society not subject to effective AML/CFT Supervision.**

66. To cure this deficiency the examiners had recommended that SVG *implement enhanced AML/CFT supervision of the systemically large building society and credit union*. SVG reported that in keeping with the recommended action, onsite inspections of all credit unions on the island. Furthermore, in August 2013, the FSA intervened and took control of the only building society in SVG, the largest non-bank financial institution, because of liquidity and poor management problems. The mentioned building society continues to be monitored and is under enhanced supervisory oversight by the FSA. ***Recommendation 23 deficiency 2 is sufficiently addressed.***

**R. 23 (Deficiency 3). Infrequent focus on inherently high risk business areas such as e.g. correspondent banking, money remittance services and back-to-back loans.**

67. With regard to this matter, SVG has indicated that the FSA and the Eastern Caribbean Central Bank (ECCB) have focused on these issues with respect to international banks and domestic banks. Particular focus has been given towards ensuring that high risk business activities are being properly managed and that loan portfolios were not risky so as to pose an overall systemic threat to the banks. Regular onsite visits both full scope and prudential are undertaken by both the FSA and the ECCB to ensure that these issues are closely monitored. Authorities also explained that onsite inspections are conducted following a risk-based approach, prior to the onsite, to understand areas of focus, deficiencies identified in previous financial reports or visits performed. Prudential standards are also taken into account. ***Recommendation 23 deficiency 3 is sufficiently addressed.***

**R. 23 (Deficiency 4). Insufficient supervisory resources and understaffing to conduct effective ongoing supervision across all sectors, particularly in the non-domestic banking sector.**

68. The recommendation to cure this deficiency was for SVG to increase supervisory resources and understaffing to conduct effective ongoing supervision across all sectors including through the use of external auditors/consultants, particularly in the non-domestic banking sector. As explained above, the IFSA now FSA, has gone through a restructuring process that enabled the FSA to increase and continue to increase its resources. ***Recommendation 23 deficiency 4 is sufficiently addressed.***



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**R. 23 (Deficiency 5). No AML/CFT inspections/supervisions of the international mutual fund and insurance sectors.**

69. SVG reported that staff dedicated to the supervision of the international mutual fund and insurance sectors is in place and training is continuously provided, through collaboration with international organizations such as the European Union and Commonwealth Secretariat. The Authorities have electronic databases for mutual funds, international insurances and registered agents which can help in monitoring compliance levels of these entities *Recommendation 23 deficiency 5 is sufficiently addressed.*

**R. 23 (Deficiency 6). Lack of detailed AML/CFT inspection procedures for the non-domestic bank sectors.**

70. To cure this deficiency the recommended action was for SVG to *develop detailed sector-specific AML/CFT inspection procedures for the non-domestic bank sectors.* A detailed onsite examination programme has been undertaken to review the AML/CFT procedures of international banks, as per the inspection manual shared (section 11 for Banks). This has been in place since 2009. An onsite examination programme commenced in 2008, is ongoing and continues into 2018 where there has been six rounds of inspection of the sector which is comprised of five licensed active banks. The FSA's 2013 Annual Report was also illustrative of this point. *Recommendation 23 deficiency 6 is sufficiently addressed.*

**R. 23 (Deficiency 7). No AML/CFT supervision of money services business and possible existence of one unauthorized activity.**

71. This has been addressed, the FSA is in charge of supervising money services businesses and on-sites for these entities commenced in May 2014. *Recommendation 23 deficiency 7 is sufficiently addressed.*

**R. 23 (Deficiency 8). Lack of authorization and AML/CFT supervision regime for money lending business covered by the AML/CFT laws.**

72. This matter was addressed as explained for Recommendation 5 / Deficiency 1 (see discussion above). *Recommendation 23 deficiency 8 is sufficiently addressed.*

**Recommendation 23 overall conclusion**

73. SVG has systematically addressed all of the recommended actions aimed at fixing R.23 to the point that all the noted deficiencies were sufficiently addressed. The compliance with R. 23 up to a level comparable at minimum to an LC.

**Special Recommendation I - NC**

**SR. I (Deficiency 1).**

74. For Special Recommendation I there were two deficiencies along with three recommended actions to cure the NC rating. These have been addressed as follows:

**SR. I (Deficiency 1) No legal framework implemented to comply with UNSCRs 1267, 1373 and 1455.**

75. The recommended action was for the SFT and Palermo Conventions should be ratified and fully implemented. On December 31, 2001 SVG signed the SFT Convention and ratified it on March 18, 2002. On July 24, 2002 SVG signed the Palermo Convention and ratified it on October 19, 2010. This gap is closed following the enactment of the Anti-Terrorist



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Financing and Proliferation Act which implemented pending matters. *Special Recommendation I deficiency 1 is sufficiently addressed.*

**SR. I (Deficiency 2) The SFT Convention has not been fully implemented and the relevant law, UNATMA, does not include two of the conventions listed in the annex to the SFT Convention.**

76. There were two recommended actions to cure this deficiency. The first was for the UNATMA to be amended to include all conventions that define offenses to which the SFT Convention applies. This was achieved through the Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015, which was amended by Act. No. 17 of 2017. The Amended Act incorporates all Conventions to the SFT Convention in Schedule 3. The second recommended action was for the legal provisions and other measures to be adopted in order to implement the requirements in UNSCRs 1267 and 1373. In particular, a mechanism for freezing funds, assets, and other financial or economic resources of terrorists and terrorist organizations. With regard to this recommended action, Part VI of the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015 contains a freezing mechanism. Given that SVG did not have a freezing mechanism at the time of its DAR, compliance with all the different criteria were reviewed as part of the analysis of the country's compliance with SR.III requirements detailed below. *Special Recommendation I deficiency 2 is sufficiently addressed.*

**Special Recommendation I overall conclusion**

77. The two deficiencies have been fully addressed and SVG now has the domestic legislation with the required provisions, which are in line with the SFT Convention, needed to implement this special recommendation. SR. I is addressed to the level of LC.

**Special Recommendation III – NC**

78. For Special Recommendation III there was one deficiency. However, that lone shortcoming was related to missing statutory provisions required to implement the related UNSCRs. Contextually, the absence of those provisions left SVG without a mechanism for freezing funds, assets, and other financial or economic resources of terrorists and terrorist organizations.

**SR. III (Deficiency 1). Statutory provisions implementing relevant UNSCRs are largely absent.**

79. The recommended action was for SVG to take immediate action to implement the relevant UNSCRs, including, but not limited to UNSCRs 1267, 1373 and 1455, and any such provision of law should be flexible enough to apply as well to similar designations by other states as well as any future UNSCRs that require UN member states to freeze, seize and confiscate the assets of designated terrorists and terrorist organizations, as well as such designations by other member states in the future. SVG enacted of the Anti-Terrorist Financing and Proliferation Act and also published [Guidance/Procedure for Implementing Targeted Financial Sanctions](#). A full analysis of SVG's compliance with SR. III is detailed below:
- i. With regard to criterion III.1 and III.2, section 62 of the Anti-Terrorist Financing and Proliferation Act of 2014 prohibits the dealing of funds or economic resources that are owned, held or controlled by a designated person. NAMLC may make designations pursuant to section 59B of the Anti-Terrorist financing and Proliferation (Amendment) Act No. 17 of 2017, in respect of UN/RES1267 and section 56 of the Anti-Terrorist



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Financing and Proliferation Act of 2014, in respect of domestic designations. The freezing mechanism here was strengthened by the amended section 56 (2)(a) of the Anti-Terrorist financing and Proliferation (Amendment) Act No. 17 of 2017 where freezing can now take place within twenty-four hours and without prior notification to the person who is to be subject to the notification. SRIII.1 & SRIII.2 procedures for freezing funds S/RES/1267(1999) and S/RES/1373 (2001) are addressed at page 3 “Procedures for Designating persons under UNSCR 1373 and 1267” of the 2017 Guidance/Procedure for Implementing Targeted Financial Sanctions.

- ii. III.3 has been addressed through section 59A of the Anti-Terrorist financing and Proliferation (Amendment) Act No. 17 of 2017, which deals with designations based on external requests. Here external requests are made to the Attorney General and executed by the NAMLC. Persons for whom external designations can be made include: persons reasonably suspected of being involved in terrorism; persons meeting the criteria for designation under UN/RES1273; persons where proceedings for an offence has been commenced in the country from which the external request was made, and not concluded. The related procedures can be found at page 3 of the 2017 Guidance/Procedure for Implementing Targeted Financial Sanctions of under the heading “Procedure for designating persons under UNSCR 1373 and 1267.
- iii. For III.4, there is an amended section 2 which extends the definition of funds to include cash, cheques, claims on money, drafts, money orders and other payment instruments. Additionally, the new section 2a establishes the fact that funds or economic resources which are owned, held or controlled by a designated person jointly with another person or otherwise does not prevent those funds or economic resources from being treated as being owned, held or controlled by the designated person. Also, at the new section 2b, funds or economic resources being owned, held or controlled by a designated person includes a reference to them being owned, held or controlled directly or indirectly. For the avoidance of any doubt section 2 (3) provides that person includes any individual, group, undertaking, entity, organisation or body of persons thus ensuring that freezing actions can be extended to the funds of terrorists, those who finance terrorism and terrorist organisations.
- iv. Regarding III.5, within 24 hours of making a designation there is a requirement for the said designation to be published on the webpages of the Government of SVG; the FI; the Financial Services Authority and the Ministry responsible for foreign affairs, trade or commerce. Additionally, a copy of the designation must be published in the Gazette and two weekly newspapers which are currently in circulation in the Jurisdiction.
- v. For III.6, the 2017 Guidance/Procedure for Implementing Targeted Financial Sanctions was published on October 26, 2017. Also, SVG had previously advised that training sessions are carried out and followed by individual reminders on laws to comply with, which would include an update on TF legislation, as well as advisories are issued and published on the FIU Website.
- vi. For III. 7 and III. 8, sections 60 of the 2014 legislation provides for a designation to be varied or revoked whilst the related procedures can be found at page eight of the 2017 Guidance/Procedure for Implementing Targeted Financial Sanctions “Impact of De-listing or unfreezing on Service Providers and NRSPs” Here NSRPs are required to immediately unfreeze the funds or other assets of a person or entity where they are delisted.





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- vii. For III.9 and access to funds, the related procedures can be found at page 6 “Access to funds by or on Behalf of the Designated Persons/Entities”. Here the designated person may make an application to the Committee for a licence which allow him or her to access to economic funds.
- viii. With regard to III. 10, the appeal, along with the ability to review a decision on freezing (sections 78 and 79 of the Act) would also seem to be the only mechanism to challenge a freezing measure, however, this could be deemed sufficient under Special Recommendation III.

**Special Recommendation III overall conclusion.**

- 80. The implementation of Special Recommendation III was dependent on the new CFT legislation and has improved. This law makes provisions for the implementation of UNSCRs 1267, 1373 and 1455 and any future Resolutions which require action in relation to terrorists and their assets. The publication of the related procedures ensures that this Special Recommendation is now addressed to the level of LC.



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**VI. ANALYSIS OF MEASURES TAKEN IN RELATION TO OTHER  
RECOMMENDATIONS RATED NC OR PC**

81. SVG has taken the following measures to address the other Recommendations that were rated PC/NC. The information in this section is presented for information purposes only and is not to be taken into consideration for SVG's application to exit the follow-up process.

**PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS**

Recommendations 8, 11, 15, 29 and SR. VI were rated PC whilst Recommendations 6, 7, 8, 9, 17, 18, 21, and SR. VII were rated NC.

82. For **Recommendation 8** a **PC** rating was applied because there were no regulatory requirements to have policies or measures in place specifically to prevent misuse of technological developments for ML or TF, including non-face to face business relationships and transactions. POCA Regulation 20 sets out these requirements among the matters to be addressed in a service provider's policies and procedures. Also, paragraphs 18 and 25 of the AML/CTF Code have elaborated on Regulation 20 by requiring a service provider to establish, maintain and implement systems and controls and take such other measures as it considers appropriate to guard against the use of technological developments in money laundering or terrorist financing. Measures to specifically address non-face to face relationships were included in POCA Regulation 15. ***Recommendation 8 is now closed.***
83. For **Recommendation 11** there is specific requirement to examine "as far as possible" the background of complex, unusual, or unusual patterns of transactions and specially, to document findings in writing as required by examiner's recommendation. (POCA Regulations 20). ***Recommendation 11 is closed.***
84. For **Recommendation 15**, SVG has made significant progress addressed through POCA Regulation 20 which makes reference to services providers establishing, maintaining and implementing appropriate risk sensitive policies, procedures, systems and controls to prevent and detect money laundering and terrorist financing and lists possible (minimum) items. Also, at paragraph 33 of the AML/TF Code the training requirements for employees are detailed. At 33(2) (a) to (e) there are specific details of what the training is required to contain. Regulation 23 (1) mandates that service providers establish policies and procedures which include systems and controls relating to the screening of employees and paragraph 33 (1) (c) of the AML/TF Code which addresses service providers obligations to vet the competence and probity of employees.
85. **Recommendation 29** has been significantly improved with the only outstanding issue being the non-regulation and supervision of mutual fund underwriters.
86. **Recommendation 6**, which was rated **NC**, has fully addressed. POCA Regulation 14 explicitly establishes an obligation to perform, on a risk sensitive basis, enhanced due diligence and monitoring, in the case of PEPs and other high-risk relationships (clients or beneficial owners, or even third parties). The AML/TF Code at 6 (1) and 6 (3) now creates the mandatory requirements that business relationships should not be established or continued with a PEP unless prior approval of the board or senior management is obtained. ***Recommendation 6 is now closed.***
87. **For SR. VI**, the Ministry of finance ceased all authority in relation to licensing and regulation of financial entities including Money Services Businesses (money value transfer





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services). Regulations 36 of the Anti-Money Laundering Regulations 2014 provides that the FSA, the FIU and the Eastern Caribbean Central Bank (ECCB) are the Regulatory Supervisors in SVG for the purpose of AML/CFT Compliance. The FSA with responsibility for Regulating the Money Remittance Sector has done Onsite Inspections and continue to monitor those institutions for Compliance. Further, the FIU implemented an Annual Compliance programme which, both remittance businesses operating within SVG has commenced.

88. **Recommendation 7** was addressed mainly through the POCA Regulations. Regulation 28 (1) requires regular customer due diligence measures to be applied on respondent banks applying a risk-based approach. Regulation 28 (1) (f) the requirements to assess the AML/CFT controls of respondent institutions. Regulation 28 (1) (g) mandates that a SVG bank should not enter into a new correspondent banking relationship unless it has prior senior management approval. Regulation 29 now addresses requirements applicable in the case of payable through accounts. ***Recommendation 7 is now closed.***
89. At **Recommendation 9** there is now the mandatory requirement to immediately obtain CDD information from introducers, and service providers must have written assurance from the third party that information will be available upon request (POCA Regulation 17 (2)). Additionally, provisions that ultimate responsibility for customer identification and verification lies with the SVG has been introduced by virtue of the POCA Regulation 17 (4) whereby services providers remains liable for any failure to apply customer due diligence measures. ***Recommendation 9 is now closed.***
90. For **Recommendation 17** the sanctions regime has been improved through the Proceeds of Crime Act of 2003.
91. **Recommendation 18 has been fully addressed** All International Banks have appointed the relevant personnel to ensure that the meaningful mind and management is present in SVG; the POCA Regulation 28 which includes prohibition to establish relationships with shell banks or with a bank that is known to permit its accounts to be used by a shell bank. Also, Regulation 28 cited above, includes a range of measures that should be taken with regard to the respondent bank, including measures to ensure respondent in other countries are not used by shell banks.
92. **Recommendation 21** remains outstanding on account of there are no provisions to apply counter-measures against countries that do not or insufficiently apply the FATF Recommendations. There has however been much improvement for this Recommendation whereby requirement to pay special attention to transactions and relationships with persons from countries that do not or insufficiently apply the FATF Recommendations has been addressed through paragraph 27 of the Anti-Money Laundering and Terrorist Financing Code, No 24 of 2017. Also, even though there is no formal mechanism, the FIU and FSA have both issued advisories on jurisdictions or persons of interest from FATF or other similar bodies. ***Recommendation 21 is outstanding.***
93. For **Special Recommendation VII** the POCA Regulations 31-35 provide a broad list of requirements for wire transfers including: requiring full originator information and requiring verification of identity of originator for wire transfers of EC 2,500 or more (approximately 925 USD). Also, Regulation 32 (4) sets out a description of “electronic money” for the purposes of the Regulation; that is electronic money is money as represented by a claim on the issuer which is stored on an electronic device; is issued on



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receipt of funds of an amount not less in value than the monetary value issued; and is accepted as means of payment by persons other than the issuer, for which there are value and reloading ability limitations in place. SR. VII is the subject of ongoing implementation because the deficiency noted by the examiners regarding the partial implementation of SR. VII standards by banks and money transmitters cannot be assessed from a desk-based point of view, though this aspect is partially covered by the provisions above.

### **PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS**

Recommendations 12, 16, and 24 were all rated NC.

94. **Recommendations 12, 16 and 24** are still outstanding, in that most of the examiner's recommendations still are. However, as provided for in Section 151 and 152 of the POCA, POCA Regulation 36 designates the FIU as a supervisory authority for DNFBPs for AML/CFT purposes. This is a significant advancement. The Authorities had indicated that the AML/TF Code, would also have an impact in compliance with these Recommendations but no information was provided. Regarding RAs supervision, marked as one of the deficiencies for R.12, SVG previously indicated that on-site examinations are regularly undertaken for all services providers, since 2009 onwards, typically every 12-18 months.

### **LEGAL SYSTEMS & RELATED INSTITUTIONAL MATTERS**

Recommendation 27 was rated PC.

95. For **Recommendations 27** there is explicit authority for applying POCA investigative and prosecutorial measures for FT included in the law (sections 27-37 of the Anti-Terrorist Financing and Proliferation, Act No. 14 of 2015). Law enforcement authorities' integration into the AML/CFT framework is now more detailed and formalized. Pursuant to Section 3 (2) of the Financial Intelligence Unit (FIU) Act, the FIU is comprised of, inter alia, "*such number of police appointed by the Minister on the recommendation of the Commissioner of Police...*" The functions of the FIU, as set out in Section 4 (1) of the Act include, inter alia, the receiving, analysing, obtaining and disseminating information relating to the proceeds of offences created by POCA and UNATMA. By virtue of Act No. 7 of 2013, Section 4(2) of the FIU Act was amended to specify that the FIU "*may, where it appears to the Director that there are reasonable grounds to suspect that a relevant offence has been committed...require the production of information from law enforcement bodies...as the FIU considers necessary for the purpose of investigating the relevant offence or analysing the SAR*". In addition, the FIU has, on June 17, 2009, executed an MOU with the Royal St. Vincent and the Grenadines' Police Force and the Immigration Department. ***Recommendation 27 is now closed.***

### **LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANISATIONS**

Recommendation 33 was rated PC whilst Recommendation 34 was rated NC.

96. **Recommendation 33, though still outstanding** has been enhanced through the introduction of the Anti-Money Laundering and Terrorist Financing Regulations, 2014 which has strengthened the regulation of bearer shares (Regulation 14 (2) (f) (ii)). For **Recommendation 34** there has been enhancements through paragraph 10-17 of the Code makes provision for legal persons and arrangements.



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**OTHER ISSUES**

Recommendations 30 was rated PC.

97. The deficiency regarding the use of contracts in the judiciary has not been addressed. The IFSA now FSA went through a restructuring process which included providing it with more staff and a continuous training program; on November 2012 the FSA became the supervisor for the building and loan society. The FIU is now the supervisor for DNFBPs. The FIU acquired additional analytical software and staff to address the issue relating to the analytical and investigative staff inability to assess the SARs and other financial intelligence it collects. Both the AG and DPP Office have increased their resources. In staff of the DPP Office was increased from four to six Crown Counsels. The Customs and Excise Department together with the Royal SVG Police Force have been recipients of ongoing training and awareness on AML/CFT in general and specifically, effective AML/CFT detection and investigation.



# FOLLOW-UP REPORT: St. Vincent and the Grenadines 14th follow-up report

June 12, 2018

## Report and Submission to CFATF for Removal from Follow-up Process St. Vincent & the Grenadines (May 2018)

40+9Recommendations	Rating	Recommended Action	Undertaken Action	Action to be undertaken
Legal systems				
1. ML offense	PC	<ul style="list-style-type: none"> <li>Relevant laws should be strengthened to provide that:</li> <li>The offenses set forth in Section 41 are consistent with the Vienna and Palermo Conventions;</li> <li>Self-laundering by way of simple possession of proceeds should be criminalized; and</li> <li>Racketeering, human trafficking and migrant smuggling should be enacted into law as criminal offenses and covered by POCA as predicate offenses.</li> <li>Efforts should be made by competent authorities to increase the number of prosecutions and convictions for ML and related predicate crimes.</li> </ul>	<p>Amendments to POCA which address these issues have been drafted and submitted to the Hon. AG for consideration.</p> <p>This matter is still pending as the Bill has not yet been tabled as envisioned. The matter is presently before the Hon. Attorney General.</p> <p>Relevant amendments to the FIU Act will be tabled before Parliament in November 2011 and the POCA Amendments would be enacted by the end of the first quarter 2012.</p> <p><u>Update:</u></p> <p>Amendments to POCA have been finalized, including an amendment to criminalize self-laundering by way of simple possession. The Bill was tabled before Parliament at its sitting on February 28, 2012 and was passed. It is currently awaiting the Governor General's Assent which should take place very shortly.</p> <p><u>Update - August 2012</u></p> <p>The Amendments to POCA have been published as Act No. 3 of 2012 and are attached hereto.</p> <p>Amendments to the FIU Act are expected to be tabled in Parliament in April 2012.</p> <p><u>Update - August 2012</u></p> <p>Amendments to the FIU Act have not yet been tabled as expected but will be tabled at the August 2012 sitting as a matter of priority.</p> <p><u>Update-October 2012</u></p>	<p><a href="#">Criminalisation of the offence of Racketeering in the Criminal Code. The provisions were already drafted and forwarded to the Attorney General and the National Prosecution Service who is the lead agency in relation to the amending of the Criminal Code.</a></p>



# **FOLLOW-UP REPORT: St. Vincent and the Grenadines 14th follow-up report**

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			<p>The Amendments to the FIU Act have not yet been tabled as expected. It is anticipated that this will occur before the end of 2012.</p> <p><u>Update-February 2013</u> The amendments to the FIU Act have not yet been tabled before Parliament.</p> <p><u>Update-August 2013</u> The amendments to the FIU Act have been passed in Parliament on May 16, 2013 as Act No. 7 of 2013 and now specifies, inter alia, the FIU's authority to obtain appropriate law enforcement and other governmental information needed to develop intelligence and analysis. The amendment is attached hereto.</p> <p>A Bill on Human Trafficking has been drafted for adoption.</p> <p><u>Update:</u> The Prevention of Trafficking in Persons Act, No. 27 of 2011 has been assented to and was proclaimed on 23<sup>rd</sup> January, 2012 is now in effect in St. Vincent and the Grenadines.</p> <p>Consultations continue with a view to drafting legislation on migrant smuggling and racketeering.</p> <p>There has been consultation with the Hon. Attorney General, DPP, Police, customs and immigration officers, prosecutors and other law enforcement officers and relevant stakeholders facilitated by the Organization of American States (OAS) in collaboration with the Ministry of National Security in St. Vincent and the Grenadines as it relates to Human Trafficking.</p> <p><u>Update-February 2013</u> A draft bill on Migrant Smuggling is currently being reviewed by the Hon Attorney General.</p> <p>In October 2010 the competent authorities laid ML charges against <b>four (4)</b> individuals.</p>	
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		<p><u>Case 1</u> October 14th – concealment and importation of the proceeds of criminal conduct.</p> <p>October 15th - concealment and importation of the proceeds of criminal conduct</p> <p><u>Case 2</u> October 22nd – concealment and disguising of the proceeds of criminal conduct.</p> <p>The Court returned a not guilty verdict in favour of two of the Defendants. The last matter has been adjourned to February 2012.</p> <p><u>Update:</u></p> <p>The case commenced on February 8, 2012 and the prosecution has called twenty (20) witnesses thus far. The matter has been adjourned to July 2012.</p> <p><u>Update -August 2012</u> This money laundering case (Case 2) remains part-heard as above and has been further adjourned to October 2012.</p> <p>One of the Defendants challenged the admissibility of his statement and the Court has ruled that it is inadmissible.</p> <p>The Prosecutions’ case will continue in October 2012 and it is anticipated that the Defence will file a no-case submission at that time also.</p> <p>Update-October 2012</p> <p>This case is scheduled to recommence on October 18, 2012 before the Serious Offences Court.</p> <p><u>Update –February 2013</u></p> <p>This case resumed on October 18, 2012. The prosecution closed its case and a no case submission was made by the Defence.</p>	
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			<p>On December 6, 2012 the Chief Magistrate overruled the no-case submission and adjourned the matter for January 15, 2013. The matter was called up for hearing on that date and was further adjourned to June 2013 where the Defence will put forward its case.</p> <p><u>Update-August 2013</u> The Defence commenced its case on June 27, 2012 and called three (3) witnesses. The prosecution presented written closing submissions on July 19, 2013 and the Defence on August 9, 2013. The Chief Magistrate will deliver her verdict on September 2, 2013.</p> <p><u>Update-February 2014</u> On September 2, 2013 the 2 Defendants were convicted. One Defendant was sentenced to 2 years imprisonment on each charge to run concurrently and the other Defendant was fined \$10,000; \$1000 to be paid forthwith and the remainder in 3 months.</p> <p>US\$39,050 was forfeited to the State (Confiscated Assets Fund) as part of sentencing. Both Defendants indicated their intention to appeal conviction and sentencing.</p> <p><u>Case3</u> In addition, 3 additional money laundering charges, were laid in 2008</p> <p>This trial was adjourned to August 3, 2011 and has been part-heard to date. The next hearing date is listed for October 18, 2011.</p> <p>The money laundering trial incorporates charges against 3 Defendants stemming from the same set of facts.</p> <p>2 Defendants have been jointly charged with the offences of concealing another person's proceeds of criminal conduct and bringing it into St. Vincent and the Grenadines contrary to Sections 41 (2) (a) and (b) of POCA respectively.</p> <p>The third Defendant has been charged with concealing his proceeds of criminal conduct and bringing it into St. Vincent and the Grenadines contrary to Section 41(1) (a) and (b) of POCA respectively.</p> <p>The prosecution's case was completed on October 21, 2011 and the next</p>	
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			<p>hearing date is listed for November 25, 2011.</p> <p><u>Update:</u></p> <p>The case commenced on February 8, 2012 and the prosecution has called twenty (40) witnesses thus far. The Chief Magistrate handed down a guilty verdict on March 9<sup>th</sup> 2012 in relation to two of the defendants and one was found not guilty. The matter has been sent to the High Court for sentencing. A confiscation application has been filed in the High Court by the FIU. This case signifies the successful conviction of SVG's top money launderer.</p> <p><u>Update -August 2012</u></p> <p>The sentencing and confiscation hearing remain pending before the High Court and are likely to be heard in October at the criminal assizes.</p> <p><u>Update-February 2013</u></p> <p>The hearing date for the confiscation proceedings will be set by way of case management with the High Court on Friday March 1, 2013. Sentencing has been adjourned until the outcome of the confiscation hearing.</p> <p><u>Update-August 2013</u></p> <p>The confiscation hearing was set for July 10, 2013 and, upon the request of the defence, is adjourned to October 2013. Realizable assets likely to be confiscated in this matter amount to approximately EC\$10 million.</p> <p>The main Defendant was sentenced on July 22, 2013 to ten (10) years each on two (2) counts of money laundering, to run concurrently.</p> <p>The Second Defendant's sentencing is postponed to October 8, 2013 during the October assizes as his St. Lucian Attorney was not present at the sentencing hearing on July 22, 2013.</p> <p><u>Update- February 2014</u></p>	
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			<p>(i)<u>Sentencing</u> The Second defendant was sentenced on October 8, 2013 to five and a half years imprisonment. He had been imprisoned since April 8, 2008 therefore his time served was credited and he was released.</p> <p>(ii)<u>Confiscation</u> On October 9, 2013, the Defence again requested an adjournment of the Confiscation proceedings to December 2013. At the December hearing Senior Counsel was unavailable and a further adjournment was sought to February 2014. As a result of the decision of the Court of Appeal in January (as set out below), a further adjournment was granted in these proceedings to June 2014, so that the Court of Appeal may address issues of conviction and sentence.</p> <p>The main Defendant has applied to the Court of Appeal for leave to appeal his conviction and sentencing out of time. In January 2014 the Court of Appeal agreed to traverse the matter to the next sitting of the Court of Appeal in SVG in the week of May 26, 2014.</p> <p><u>UPDATE-August 2014</u> In May 2014 the Court of Appeal granted leave to the Defendant to appeal his conviction and sentencing out of time. The Appeal is likely to be heard at the September 2014 sitting of the Court of Appeal in SVG.</p> <p>As a direct result, the Confiscation proceedings have been stayed pending the determination of the appeal proceedings.</p> <p>St. Vincent and the Grenadines continues to prosecute and convict persons for ML offences as highlighted in the following statistics: 2012- 2 convictions 2013-2 convictions</p> <p><u>UPDATE – FEBRUARY 2015</u> Money Laundering Prosecutions: <u>Case 1</u> - On November 21<sup>st</sup>, 2014 two (2) charges were laid against a Defendant in respect of (i) Bringing in Criminal Property to the State and (ii) Possession of criminal property. The matter was heard on November 24<sup>th</sup>, 2015 &amp; the Defendant pleaded guilty to both charges and was fined EC\$5,000 in respect of each charge (EC\$10,000 in total) to be paid forthwith or 9 months imprisonment. The</p>	
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			<p>sum of EC\$27,000 &amp; €25 was also forfeited as part of sentencing.</p> <p><u>Case 2</u> – On January 28<sup>th</sup> and 29<sup>th</sup>, 2015, eight (8) charges were laid against a Defendant in respect of the offences of (i) Acquiring criminal property &amp; (ii) Bringing in Criminal Property to the State. This matter is set for trial on April 30<sup>th</sup>, 2015.</p> <p>Update- August 2015</p> <p><u>Case 2</u></p> <p>The trial of the matter would commence on the 2<sup>nd</sup> of November 2015 in the serious offences court, Kingstown St. Vincent.</p> <p>POCA:</p> <p>The <i>Proceeds of Crime Act, No. 38 of 2013</i> was proclaimed on April 8<sup>th</sup>, 2014 and came into effect on April 9<sup>th</sup>, 2014.</p> <p><b><u>UPDATE- MAY 2016:</u></b></p> <p><b><u>Migrant Smuggling and Racketeering:</u></b></p> <p>No legislation has been passed that specifically deals with migrant smuggling and racketeering. However, Section 26 of the Immigration (restriction) Act makes it an offence to land any immigrants into the state of St. Vincent and the Grenadines.</p> <p>Section 26 of the Act provides that:</p> <ol style="list-style-type: none"> <li>(1) any master of a vessel who knowingly suffers any prohibited immigrant who arrives in such vessel to land therefrom contrary to the provisions of this Act, is guilty of offence and liable to a fine of two thousand five hundred dollars,</li> <li>(2) Any prohibited immigrant who knowingly and wilfully lands, or suffers himself to be landed, and any person who knowingly lands, or procures to be landed, or who aids or assists in landing, any prohibited immigrant, contrary to the provisions of this Act is guilty of an offence and liable to a fine of Two thousand five hundred dollars.</li> <li>(3) The master of a ship of any vessel may, on the desertion of any seaman or the landing of any stowaway or prohibited immigrant on board his vessel, apply to a justice of the peace who shall grant such application, unless there are</li> </ol>	
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			<p>special reasons for not doing so, for a warrant to arrest and convey back on board the vessel such seaman, stowaway or prohibited immigrant, and on so doing such master shall be held harmless of all pains and penalties at law for so doing.</p> <p>In default of the fine a person may be subject to up to 5 years imprisonment according to section 26 and 29 of the Criminal Code. According to the Section 26 (c) the court in its discretion may direct that in default of payment of fine the offender shall suffer imprisonment for a term not exceeding the maximum term specified in section 29 in relation to that fine: According to Section 29 any fine exceeding \$500 would attract a maximum period of 1 year imprisonment in default. Since the penalty outlined in Section 26 of the Immigration (Restriction) Act is a fine of Two Thousand Five Hundred Dollars (\$2500) then the maximum term of imprisonment in default of such payment would be 5 years imprisonment. It therefore means that this would be a predicate offence according to the definition of criminal conduct found in the Proceeds of Crime Act, No.38 of 2014. The interpretation section (s.2) of the Act stipulates that criminal conduct is “conduct which constitutes an offence or would constitute an offence if it occurred in the State.” Further, Section 2 outline the definition of an offence to be: “an indictable offence or an offence that may be tried summarily and for which, if the offence was to be committed by an individual, the maximum penalty would be a term of imprisonment of 1 year or more.”</p> <p><u>Case 2</u> This matter was withdrawn. The matter is expected to go back before the courts pending the clarification of pertinent issues.</p> <p><u>Case 1 for 2016:</u> On January 18<sup>th</sup> ,2016 charges were laid against a Defendant for concealing criminal property to wit Twenty Thousand, One Hundred and Twenty six Eastern Caribbean Dollars and Seventy Five dollars which he did knowingly or suspect that the property in whole or in part constituted his benefit from criminal conduct. The matter is scheduled to be heard on the 28<sup>th</sup> of April.</p>	
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			<p><b><u>UPDATE AUGUST 2017</u></b></p> <p><b><u>Definition of property in POCA consistent with Vienna and Palermo Conventions</u></b></p> <p>Pursuant to the Proceeds of Crime (Amendment) Act, No. 18 of 2017, effective August 4, 2017, the definition of property has been extended to include the following subparagraph (d) in Section 2:</p> <p><i>“(d) legal documents or instruments in any form, including electronic or digital title to or interest in property referred to in paragraph (a),(b) or (c).”</i></p> <p><b><u>Migrant Smuggling Criminalised</u></b></p> <p>The Immigration (Restriction) (Amendment) Act No. 16 of 2017 was passed and provides for the criminalisation of migrant smuggling. This Act was assented to and takes effect from August 4, 2017.</p> <p>“child” means a person under the age of eighteen years;</p> <p>“commercial carrier” means a person who engages in the transportation of persons or goods for commercial gain;</p> <p>“financial or other material benefit” includes any type of financial or non-financial inducement, payment, bribe, reward, advantage, privilege or service (including sexual or other services);</p> <p>“immigration law” means any written law relating to immigration, exclusion, deportation or expulsion of aliens from Saint Vincent and the Grenadines;</p> <p>“organised criminal group” means a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more offences under sections 26B to 26E;</p> <p>“public official” means –</p> <p>(a) a person holding a legislative, executive, administrative or judicial office, whether–</p> <p>(i) appointed or elected;</p> <p>(ii) permanent or temporary;</p> <p>(iii) paid or unpaid;</p> <p>irrespective of that person’s seniority; or</p> <p>(b) a person who –</p> <p>(i) performs a public function, including for a public body or a public enterprise; or</p> <p>(ii) provides a public service;</p>	
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			<p>“smuggled immigrant” means a person who has been the object of conduct criminalised under sections 26B to 26E regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted;  “travel documents” mean any document that can be used for travel between States such as –</p> <ul style="list-style-type: none"> <li>(a) a passport as defined in section 5 (2);</li> <li>(b) a visa;</li> <li>(c) a tourist card; or</li> <li>(d) an airline ticket.</li> </ul> <p>Section 26B</p> <p>(1) A person who intentionally, in order to obtain directly or indirectly a financial or other material benefit either for himself or for another person, engages in conduct for the purpose of facilitating or enabling a person who is not a national or resident of Saint Vincent and the Grenadines to enter, transit across or be in Saint Vincent and the Grenadines in breach of this Act or any other immigration law, is guilty of an offence.</p> <p>(2) A person who is guilty of an offence under subsection (1) is liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for seven years or to both.</p> <p>(3) Proceedings may be instituted under this section even if the unauthorised immigrant did not enter Saint Vincent and the Grenadines or was brought into Saint Vincent and the Grenadines.”</p> <p><b>Aggravating circumstances</b></p> <p>26C. (1) Where a person is convicted of an offence under section 26B, the court before which he is convicted shall determine whether any of the aggravating circumstances specified in subsection (2) are present in the course of committing the offence and if so, having regard to those circumstances the court may impose, in addition to the penalty prescribed under section 26B (2), an additional term of imprisonment of up to ten years.</p> <p>(2) The aggravating factors to be taken into account by the court are –</p> <ul style="list-style-type: none"> <li>(a) the offence involved circumstances that endangered or were likely to endanger the life or safety of the smuggled immigrant or a third person;</li> <li>(b) the offence involved circumstances that entailed inhuman or degrading treatment, including exploitation of the smuggled immigrant;</li> <li>(c) the offence involved serious injury or death of the</li> </ul>	
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			<p>smuggled immigrant or another person, including death as a result of suicide;</p> <ul style="list-style-type: none"> <li>(d) the convicted person abused a position of vulnerability or dependency of a person for financial or material gain;</li> <li>(e) the convicted person has been previously convicted of an offence under sections 26B to 26D or 26E;</li> <li>(f) the offence was committed as part of the activity of an organised criminal group;</li> <li>(g) the convicted person used drugs, medications or weapons in committing the offence;</li> <li>(h) the convicted person was, at the relevant time, a public official;</li> <li>(i) the convicted person abused his position of authority or position as a public official in the commission of the offence;</li> <li>(j) the smuggled immigrant is a child;</li> <li>(k) the convicted person used a child as an accomplice or participant in committing the offence;</li> <li>(l) the smuggled immigrant is pregnant;</li> <li>(m) the smuggled immigrant has an intellectual or physical disability;</li> <li>(n) the convicted person used or threatened to use any form of violence against the smuggled immigrant or his family;</li> <li>(o) the convicted person confiscated, destroyed or attempted to destroy the travel or documents of the smuggled immigrant.</li> </ul> <p>(3) The factors specified in subsection (2) are in addition to any other factors or matters that are required or permitted to be taken into account by the court under any rule of law.</p> <p><b>Abuse of smuggled immigrant</b></p> <p>26D. A person who intentionally abuses another person, whose vulnerability or dependence is obvious or known to the first person, including vulnerability or dependency that arises from –</p> <ul style="list-style-type: none"> <li>(a) having entered or being in Saint Vincent and the Grenadines without proper documentation or in breach of this Act or any other immigration law;</li> <li>(b) pregnancy;</li> <li>(c) physical or mental disease; or</li> <li>(d) disability or reduced capacity to form judgments by virtue of</li> </ul>	
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			<p>being a child, for financial or other material benefit, is guilty of an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars or to imprisonment for seven years or to both.</p> <p><b>Duty of commercial carriers</b></p> <p>26E. (1) A commercial carrier that fails to verify that every passenger on the carrier possesses the travel documents required to enter Saint Vincent and the Grenadines or any transit State, is guilty of an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars.</p> <p>(2) A commercial carrier that fails to notify the Chief Immigration Officer that a person has attempted to or has travelled on that carrier without the travel documents required to enter Saint Vincent and the Grenadines or any transit State knowing that the person was, or reckless as to whether the person was, a smuggled immigrant, is guilty an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars.</p> <p>(3) A commercial carrier is not guilty an offence and is not liable to be convicted under this section if –</p> <ul style="list-style-type: none"> <li>(a) there were reasonable grounds to believe that the documents that the transported person has are the travel documents required to enter Saint Vincent and the Grenadines;</li> <li>(b) the transported person possessed the travel documents when he boarded, or when he last boarded, the commercial carrier to travel to Saint Vincent and the Grenadines;</li> <li>(c) the entry into Saint Vincent and the Grenadines occurred only because of circumstances beyond the control of the commercial carrier; or</li> <li>(d) the entry into Saint and the Grenadines resulted from a rescue.</li> </ul> <p>(4) A commercial carrier is not liable under this section when a person the carrier transported was provided protection against refoulement or granted a permit in accordance with this Act.</p> <p><b>Ancillary powers of the court</b></p> <p>26F. In addition to any penalty imposed under this Act on a person convicted of an offence under sections 26B to 26E and without prejudice to any other power of the court, the court before which the person is convicted may –</p> <ul style="list-style-type: none"> <li>(a) order the person to make restitution to the victim of the offence; or</li> <li>(b) order any other non-custodial measure the court thinks appropriate.</li> </ul>	
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			<p><b>Liability of smuggled immigrant</b> 26G. A smuggled immigrant is not liable to be prosecuted for an offence under sections 26B to 26E for the fact of having been the object of conduct criminalised by those sections.</p> <p><b>“Offence by body corporate</b> 27A. Where a body corporate is guilty of an offence under this Act and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –</p> <p>The Proceeds of Crime Act No. 18 of 2017 was amended to delete the definition of offence. The definition of offence to be used is that found in the <u>Interpretation and General Provisions Act</u> Cap 14 of the Revised Laws of Saint Vincent and the Grenadines 2009. The Act defines “offence” as “any contravention or other breach of, or failure to comply with, any written law for which a penalty is provided. Pursuant to this provision, the offence of migrant smuggling is a predicate offence to money laundering</p> <p><b><u>Money Laundering Prosecutions</u></b></p> <p><b><u>Update on ML conviction arising from 2008 charge</u></b> On April 5, 2017 the Court of Appeal dismissed the Defendant’s appeal against conviction for the offences of concealing, transferring and bringing into the State US\$1.73 million or EC\$4,600,000.00 contrary to section 41 (1) (a) &amp; (b) of the <u>Proceeds of Crime Money Laundering Prevention Act 2001</u>.</p> <p>On May 22, 2017, the Defendant lodged an application for leave to appeal to Her Majesty in Council. This application will be heard by the Court of Appeal at the January 2018 sitting in Saint Vincent and the Grenadines.</p> <p><b><u>Confiscation</u></b> On June 29, 2017 the Prosecution served an Amended Prosecutor’s Statement on the Defendant’s Attorneys. At a hearing on July 4, 2017, the High Court Judge opted not to proceed to hear Confiscation until the Court of Appeal made a decision whether to grant leave to Her Majesty in Council. He however set a timetable stipulating that the Defence must file a response to the Prosecutor’s Statement by September 29, 2017 and the Prosecution to file its reply, if any, by November 30, 2017. The Defendant’s benefit from criminal conduct is estimated to be approximately <b>EC\$9,513,689.76</b> and the estimated approximate value of</p>	
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			<p>the realizable assets identified is <b>EC\$ 7,947,906.58.</b></p> <p><b><u>Case 1 for 2016 (update)</u></b> This matter remains before the Court. Several adjournments were granted at the Serious Offences Court throughout 2016. In January 2017 the Defendant opted for the matter to be heard indictably. As such, the matter proceeded by way of paper committal and was sent to the High Court for a date to be listed for trial. It is anticipated that the matter will be heard in the next sitting of the criminal assizes.</p> <p><b><u>Case 1 for 2017</u></b> Three (3) Defendant were charged in July 2017 for the following money laundering offences:</p> <ol style="list-style-type: none"> <li>1. Possession of criminal property contrary to Section 125(1)(c) of POCA 2013.</li> <li>2. Entering into an arrangement to acquire, retain, use or control criminal property contrary to Section 124(1) of POCA 2013.</li> <li>3. Possession of criminal property contrary to Section 125(1) (c)</li> </ol> <p>All matters have been adjourned to September 15, 2017 for reporting.</p> <p><b><u>Update for 2018</u></b></p> <p><b><u>Case 1 for 2017</u></b> All defendants pleaded guilty after their third appearance before the Court and were convicted for the charges outline under the last update.</p>	
2. ML offense—mental element and corporate liability	C			
3. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> <li>• The relevant laws should be strengthened: <ul style="list-style-type: none"> <li>• To provide for an explicit provision subjecting to confiscation indirect proceeds of crime,</li> </ul> </li> </ul>	<p>See Recommendation 1</p> <p>All cases are strong ones for confiscation as there are instances of clear benefit from the offences as well as realisable property to be confiscated.</p>	<p><b>There are no outstanding issues in relation to this Recommendation.</b></p>



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		<p>including income, profits or other benefits;</p> <ul style="list-style-type: none"> <li>To provide for an explicit provision to allow competent authorities to take steps to prevent or void actions, whether contractual or otherwise, where, as a result of the actions of third parties, the authorities would be prejudiced in their ability to recover property subject to confiscation; and</li> <li>To provide in Section 3(4) of POCA for gifts that represent a value that is less than the value of the property, rather than “significantly less” under current law, to be subject to confiscation;</li> <li>In addition, efforts should be made by competent authorities to increase the number and value of both cash forfeitures and confiscations of property;</li> <li>The authorities should consider timely enactment of the bill currently under review by parliament that would provide for civil forfeiture of all</li> </ul>	<p>In one case there is US\$1.76 million in cash detained and approximately EC\$3.5 million in property restrained and in another case US\$67,540 in cash is detained.</p> <p>In 2010 there were 23 successful forfeiture applications which resulted in forfeiture of EC\$292,151.94.</p> <p>Cumulatively to date, between 2010- 2011, EC\$519,741.25 was forfeited to the Confiscated Assets Fund. A further EC\$212,041.13 remains pending for forfeiture.</p> <p><u>Update:</u></p> <p>A total of EC\$925,924.55 was forfeited in 2011. For 2012 thus far EC\$97,499.97 has been ordered forfeited by the Chief Magistrate at the Serious Offences Court.</p> <p><u>Update - August 2012</u></p> <p>Additional updates of cash forfeited pursuant to POCA are provided as follows:</p> <p>2010- EC\$274,091.94 2011-EC\$957,213.45 2012-EC\$369,283.37 2013-EC\$128,043.37 (update as at February 2013) 2013-EC\$267,971.47 (update as at August 2013)</p> <p><u>Update-February 2014</u> 2013-EC\$397,505.13 (TOTAL) 2014-EC\$79,939.20 (Update as at February 2014) 2014-\$EC\$103,572.92 (Update as at August 2014)</p> <p><u>Update - August 2012</u></p> <p>The Authorities are currently engaged in the review of a draft POCA Bill which may repeal and replace the current Act and which contains provisions addressing civil forfeiture. This draft Bill is modeled on</p>	
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		<p>property, not just currency, as well as the subsequent implementation of such forfeiture provisions.</p> <p>Anguilla's POCA.</p> <p><u>Update February 2013</u> Since the start of 2013, EC\$128,043.37 has been ordered forfeited by the Chief Magistrate at the Serious Offences Court.</p> <p><u>Update-August 2013</u> The Authorities have completed review of the draft POCA Bill and have made recommendations for revisions to the Consultant. There is a complete Part (Part III) on Civil Recovery which encompasses all property. This therefore circumvents the need for SVG to implement separate legislation on Civil Forfeiture solely.</p> <p><u>Update-February 2014</u> The Proceeds of Crime Act, No. 38 of 2013 was passed in the House of Parliament on December 5, 2013.</p> <p>Sections 61-106 make provision for the Civil Recovery Authority (the Honourable Attorney General) to recover in civil proceedings property obtained through unlawful conduct or property that has been used in, is intended to be used in or in connection with unlawful conduct.</p> <p><u>UPDATE – FEBRUARY 2015</u> POCA: The <i>Proceeds of Crime Act, No. 38 of 2013</i> was proclaimed on April 8<sup>th</sup>, 2014 and came into effect on April 9<sup>th</sup>, 2014.</p> <p>Cash Forfeited pursuant to POCA:</p> <ul style="list-style-type: none"> <li>• 2014 – EC\$422,354.08</li> <li>• 2015 – EC\$198,201. 97 (as at February, 27<sup>th</sup>)</li> </ul> <p>Update: Cash forfeited</p> <ul style="list-style-type: none"> <li>• 2015 – EC\$484,627,64 ( as at September 30<sup>th</sup>)</li> </ul> <p><u><b>UPDATE : FEBRUARY 2016</b></u></p>	
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			<ul style="list-style-type: none"> <li>Indirect proceeds of crime is subject to confiscation under the Proceeds of Crime Act, no.38 of 2013. The act provides in section 7 that realizable property in relation to confiscation proceedings means “any property held by the defendant and any property held by the recipient of a tainted gift.” The Act defines property to mean property of every kind, whether situated in the State or elsewhere, and includes; (a) money, (b) all form of real or personal and heritable or moveable property; (c) things in action and other intangible or incorporeal property”. Further the Interpretation and General Provisions Act cap 14 of the Revised Laws of SVG defines property to mean” money, goods, choses in action, land and every other description of property, whether moveable or immovable, and all obligation, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of, or as incident to, property as hereby defined;”</li> </ul> <p>Further a tainted gift is defined in Section 11 of the Act amongst other things to mean “a gift if it was made by the defendant at any time and was of property: (a) which was obtained by the defendant as a result of or in connection with his general criminal conduct; or (b) which, in whole or part and whether directly or indirectly, represented in the defendant’s hands property obtained by him as a result of or in connection with his general criminal conduct.</p> <p>These provisions cover both indirect and direct proceeds that are generated from criminal conduct.</p> <p>Cash Forfeited – February 2016</p> <ul style="list-style-type: none"> <li>October- 25<sup>th</sup> February 2016 –EC\$224,084.71</li> </ul> <p><u><b>UPDATE AUGUST 2017</b></u></p>	
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			<p>Confiscation proceedings were initiated against a Defendant in 2015 after he was convicted for the possession of 4,299 grammes of cannabis with intent to supply to another contrary to 7(3) of the <i>Drugs Prevention and Misuse Act</i>. The court found that the Defendant had benefited from his criminal lifestyle in the sum of <b>Six Hundred Eighty-six Thousand One Hundred Eighteen Dollars and Sixty-three cents (EC\$686,118.63)</b>. The Director of Public Prosecutions and the Defendant, who was represented by Counsel agreed to the payment of <b>One Hundred Nine Thousand Four Hundred Fifty Nine Dollars and Thirty Eight cents (EC\$109,459.38)</b>, which represented the realisable amount available to the Defendant at the time of the Confiscation Order. The state has successfully collected the agreed sum from the Defendant.</p> <p>Cash forfeited –August 2017</p> <ul style="list-style-type: none"> <li>• 68,543.49</li> </ul> <p><u>UPDATE FEBRUARY 2018</u></p> <p>Confiscation proceedings were initiated against a Defendant on the 11<sup>th</sup> of December, 2012. The Defendant appealed his sentence and conviction which was dismissed by the Court of Appeal on April 15<sup>th</sup> 2017. An amended Prosecution Statement was filed on the 29<sup>th</sup> of June 2017 which assessed the Defendants benefit from criminal activities to be EC\$9,795,727.77 and his estimated realizable assets identified are EC\$7,883,824.59. The Defendant filed a motion to obtain leave to appeal to the Privy Council and the confiscation application was adjourned to 28<sup>th</sup> January, 2018. The Defendant withdrew the motion to obtain leave at the sitting of the Court Appeal on the 15<sup>th</sup> of January, 2018. The DPP is awaiting a date for the hearing of the Confiscation Order.</p> <p>The Proceeds of Crime Act, 2013 as amended by the Proceeds of Crime Act No. 18 of 2017 provides for the civil forfeiture of property other than cash. Section 61- 106 makes provision for property to be frozen and forfeited where it can be proved that the property was the proceeds of unlawful conduct on a balance of probabilities.</p>	
Preventive				



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measures				
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> <li>Each provision of confidentiality and limitation of access to information in sector specific acts, in particular Section 15(4) of the RAs and Trustees Act, should be removed from law;</li> </ul> <p>The AG should provide a legal opinion on the meaning of “confidential” information in light of the repeal of the Confidentiality Act 1996, in particular the extent to which such repeal restored the common law definitions of bank secrecy and confidentiality.</p>	<p>All sector specific Acts are being reviewed so as to determine all amendments which are necessary in view of the recommendations of the IMF Assessors. The present DAR shows that numerous recommendations have been made for laws to reflect certain requirements. The review of our legislation is therefore being co-ordinated with the need to implement the Assessors’ recommendations as well as the desirability to update all the specific international financial sector Acts. In order to avoid several amendments at different times, amendments to each piece of legislation are being undertaken. A review of some Acts is ongoing by members of IFSA and some Acts are presently in the hands of Consultants.</p> <p>The review referred to above has been completed and recommended legislative amendments have been submitted to the Hon AG.</p> <p><u>Update-August 2013</u> The amendments are at draft stage. SVG does not however apply any secrecy provisions, notwithstanding their presence in the law.</p> <p><u>Update April 2014</u></p> <p>The Financial Laws (Miscellaneous Amendment) Bill 2014 has been finalized and is in fact scheduled to be presented before Parliament in May 2014. This Bill is hereto attached and makes amendments to the following legislation:</p> <ul style="list-style-type: none"> <li>- <i>International Business Companies (Amendment &amp; Consolidation) Act</i></li> <li>- <i>Registered Agent and Trustee Licensing Act</i></li> <li>- <i>Limited Liability Companies Act</i></li> <li>- <i>Co-operative Societies Act</i></li> </ul> <p><u>UPDATE-August 2014</u> The Financial Laws (Miscellaneous Amendment) Act No. 10 of 2014 was passed in June 2014 (see attached).</p> <p>The Financial Laws (Miscellaneous Amendments) Act, <i>inter alia</i>, introduced specific additional accounting record keeping requirements on financial and registered entities. It introduces stricter accounting obligations and facilitates a more cohesive exchange of information framework for investigative purposes.</p>	<b>No outstanding issues in relation to this Recommendation.</b>



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			<p><u>Update- August 2015</u></p> <p>The new Financial Laws (Miscellaneous Amendment) Act is being implemented by way of onsite examinations, where particular attention is paid to verifying that the required accounting records are kept and maintained by the entities required to maintain such records.</p> <p><b><u>UPDATE-FEBRUARY 2016</u></b></p> <p>The implementation of the Financial Laws (Miscellaneous Amendment) Act is proceeding and verified at onsite examinations.</p> <p><b><u>UPDATE-AUGUST 2017</u></b></p> <p>This matter continues to be assessed at onsite examinations. The FSA has no major concerns as it relates to the implementation of the obligations under the Financial Laws (Miscellaneous Amendment) Act.</p>	
5. customer due diligence	NC	<ul style="list-style-type: none"> <li>Consider explicitly covering of mutual fund administrators and managers, and of insurance agents and brokers in the POCA; Extend the POCA and the Regulations to explicitly cover FT;</li> <li>Explicitly prohibit anonymous or fictitious name accounts particularly those that were in existence before the POCA Regulations were issued;</li> <li>Extend the full range of CDD (only identification verification) for business relationships and one-off transactions;</li> <li>Reduce the threshold for one-off wire transfers to comply with SRVII;</li> <li>Extend the identification requirement when there is suspicion beyond one-off transactions and cover FT;</li> </ul>	<p>The decision has been taken to explicitly cover mutual fund administrators in the revised Mutual Funds Act. A legal Consultant is engaged in redrafting a Mutual Funds Act, Mutual Fund Regulations and a Code. The said revision is incorporating the recommendations of the IMF's DAR.</p> <p>The Consultant has provided a draft Mutual Fund Bill, which has been reviewed and is being finalized. The Regulations and Code are still being drafted and would be finalized based on the provisions of the finalized version of the Mutual Fund Act.</p> <p>The Mutual Fund Bill would be circulated to the industry for their comment once an updated finalized draft is returned from the Consultant. The Consultant has committed to providing the finalized Bill, inclusive of changes requested by SVG, by the end of October 2011.</p> <p>The Bill will then be placed before the industry for their comments to be returned to IFSA by the end of November. Recommendations if accepted would be implemented and the Bill sent to the Attorney General for her</p>	<p>No outstanding issues in relation to this Recommendation. All outstanding deficiencies were addressed and closed.</p>



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	<ul style="list-style-type: none"> <li>• Introduce a CDD requirement for cases when there are doubts as to the veracity or adequacy of previously obtained customer identification data;</li> <li>• Remove/amend the provisions in the POCA Regulations that allow exemptions from for customer identification, and review similar exemptions contained in the GNs; Introduce: (i) an explicit requirement to verify the identity of the person authorized to act on behalf of a corporate entity, partnership or other legal arrangement; and (ii) expand the verification requirement of provisions</li> <li>• regarding the power to bind entity, beyond the power to open and operate accounts;</li> <li>• Enhance requirements for identification of legal arrangements such as trusts/trustees, including measures to identify settlors, beneficiaries and other parties to a trust;</li> <li>• Extend the scope of the requirement to obtain information on the purpose and intended nature beyond accounts to include business relationships;</li> <li>• Extend the ongoing CDD requirements to include update of CDD records particularly with respect to higher risk business relationships;</li> <li>• Introduce enhanced CDD requirements for higher risk clients and review/delete exemptions from identification verification as they go beyond the criteria for simplified CDD;</li> </ul>	<p>consideration and adoption. It is expected that the Bill would be enacted by the end of the first quarter of 2012.</p> <p>The Consultant is working on finalizing the Regulations and Code and the target for adoption is the same – end of the first quarter 2012.</p> <p><u>Update:</u></p> <p>The Consultant has provided a second Draft of the Bill, which has been accepted by IFSA and has been forwarded to the Attorney General for her consideration for adoption.</p> <p>The Consultant is using this finalized Bill as the basis for finalizing the Regulations and Code and the target for adoption is the same of the Bill, Regulations and the Code – end of the second quarter 2012.</p> <p><u>Update-August 2013</u> The second draft of Mutual Fund Bill which was submitted by the Consultant and has since been reviewed and comments have been sent to the Consultant. See attached.</p> <p><u>Update – February 2014</u> The Mutual Fund Bill is expected to be finalized by the third quarter of 2014.</p> <p><u>Update- August 2015</u></p> <p>The Mutual Funds Bill is in the final stages of completion and is expected to be presented to Parliament before the end of 2015.</p> <p>With respect to the other recommendations relating to Customer Due Diligence, all sector specific Acts are being reviewed with the objective of implementation of the recommendations of the DAR. The POCA and its Regulations are also being reviewed with this aim.</p> <p>Recommendations for legislative amendments to sector specific Acts have been submitted to the Hon AG. It is expected that such amendments once enacted, would result in full compliance with the FATF Recommendations and recommendations of the DAR.</p>	
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	<ul style="list-style-type: none"> <li>Require termination of existing business relationships in the circumstances covered by c. 5.16, subject to any directions from the FIU/competent authorities in case of suspicion or other reason;</li> <li>Remove the identification exemptions in the POCA Regulations especially for cases when there is suspicion ML or FT;</li> <li>Introduce a requirement to apply CDD requirements to customers' existing at the date the POCA Regulations came into effect, on the basis of materiality and risk. This may be also be relevant for any future changes to the POCA Regulations and other applicable laws;</li> <li>Extend the requirement to perform CDD on existing customers beyond the beneficial owners of anonymous of fictitious name accounts, and require termination of such accounts immediately to the extent that they may exist;</li> <li>Review the provisions of the GNs that only require the suspension, and not prohibition, of a new or existing business relationship or transaction when verification of identity cannot be completed;</li> <li>Enhance supervision and enforcement of compliance to address weaknesses across most sectors in implementation of CDD, including with regards to beneficial owners and bearer/nominee share companies.</li> <li>Review the Schedule to the POCA to explicitly cover (i) mutual fund</li> </ul>	<p>The Attorney General has indicated that these amendments would be enacted by the end of the first quarter 2012.</p> <p><u>Update:</u></p> <p>These amendments are targeted for enactment by the end of the second quarter of 2012. The delay in enacting same has been largely due to the fact that there were several other pressing Bills and amendments which required urgent passage through Parliament, including but not restricted to the Financial Services Authority Act 2011 and the International Cooperation (Tax Information Exchange) Act 2011.</p> <p>Anti-Money Laundering and Counter Financing of Terrorism Guidance Notes have been drafted by an external Consultant and it is expected that these more elaborate Guidance Notes, which have taken into account the recommendations of the DAR, will replace the present Guidance Notes and will have effect as other enforceable means.</p> <p>IFSA and the FIU have reviewed the drafts produced and the said Guidance Notes are at the stage where it is to be circulated to the regulated sector and other stakeholders for comment after being reviewed by the IMF. The IMF through the Team Leader of the IMF Mission has kindly agreed to review the drafts produced. There has been a delay in getting the drafts to the IMF as sections of the Guidance Notes were still being reviewed by the AML/CFT Expert/Consultant with the objective of incorporating SVG's comments.</p> <p>The proposed unlike the existing Guidance Notes, addresses Terrorist Financing thoroughly. It also requires full CDD for Charities and Trusts. There are standard requirements which are now required for Trust such as full name of the Trust and its objective etc all the names of all beneficial owners are required.</p> <p>Financial Institutions would be required to conduct risk assessment on all clients, all high risks clients would be subject to enhanced due diligence. The uses of anonymous accounts are not permitted for new or existing clients.</p> <p>The new Guidance Notes now have a detailed section on PEPs all accounts to be opened by persons who are categorize as PEPs must under Enhanced Due Diligence and any such business transaction with PEPs must be</p>	
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		<p>administrators, managers and underwriters; and (ii) insurance intermediaries i.e. agents and brokers;</p> <ul style="list-style-type: none"> <li>• Implement an oversight and AML/CFT compliance regime for non-regulated lending operations;</li> <li>• Extend the Regulations to explicitly cover FT consistent with the requirements of Section 46 of POCA.</li> </ul>	<p>approved by senior management.</p> <p>The draft AML/CFT Guidance Notes have been submitted to the IMF Team leader for review.</p> <p>The IMF team leader regrettably was unable to assist with an informal review of the Guidance Notes, and also indicated that the IMF is unable to undertake such review owing to other commitments and constraints. He has recommended that the CFATF or certain CFATF countries be approached to obtain technical assistance in this regard. This process is currently being undertaken.</p> <p><u>Update:</u></p> <p>The CFATF has agreed to assist with the finalization of SVG's AML/CFT Guidance Notes by sourcing a consultant. Dialogue is ongoing with Mr. Calvin Wilson (CFATF) in relation to technical assistance which may be given to SVG for this project, from the Commonwealth Secretariat.</p> <p>Amendments to POCA have been drafted and have incorporated the recommendations of the DAR. Such amendments are presently before the Attorney General.</p> <p>The Attorney General has indicated that these amendments would be enacted by the end of the first quarter 2012.</p> <p><u>Update:</u></p> <p>Amendments to POCA have been finalized, including an amendment to Schedule 1 which now includes reference to Mutual Fund Administrators and Managers and Insurance intermediaries including Agents and Brokers. The Bill was tabled before Parliament at its sitting on February 28, 2012 and was passed. It is currently awaiting the Governor General's Assent which should take place very shortly.</p> <p><u>Update- August 2012</u></p> <p>See Act No. 3 of 2012 as mentioned above.</p> <p><u>Update-February 2013</u></p>	
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		<ul style="list-style-type: none"> <li> <p>The Consultant provided a draft of the Proceeds of Crime and Money Laundering Regulations, which includes PEPs and terrorist financing, to the SVG FSA and FIU for review.</p> <p>The draft contains all recommended amendments made by the IMF as well as the FATF recommendations.</p> <p>The Consultant is progressing with completing both the POCA Regulations and the Guidance Notes. The Consultant is working closely with the relevant stakeholders to complete the GN's by March 31, 2013.</p> <p><u>Update-August 2013</u></p> <p>A review of the POCA and the AML/CFT Regulations has been completed. The Regulations will encompass TF as well as AML requirements.</p> <p>CDD requirements are enhanced and extended and provision is made for applying a risk-based approach and conducting customer risk assessment and allows for simplified and enhanced due diligence to be conducted depending on the level and materiality of the risk of the customer. CDD and other measures will apply to ML as well as TF.</p> <p>Provision is made to strictly prohibit anonymous accounts with criminal sanctions applicable for financial institutions who fail to comply.</p> <p>In addition the threshold amount in relation to wire transfers has been reduced to EC\$2,500, less than the required USD\$1000 stipulated by the FATF in Recommendation 16 (formerly SRVII).</p> <p>Comments on the Draft POCA Regulations have been submitted to the <u>consultant</u> and a final draft is currently being awaited. See attached.</p> <p>The consultant has also undertaken a revision of the Proceeds of Crime (Money Laundering) Act to address the Revised 40 recommendations and other recommendations stated herein, the draft was submitted to and is presently before the Attorney General. It is expected that the Bill will be placed before Parliament at the November 2013 sitting. See attached.</p> <p>The Consultant is also working on finalising the Guidance Notes which will be in the form of a Code to enable enforceability.</p> </li> </ul>	
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		<p><u>Update-February 2014</u> Draft AML/CFT Regulations are in the final stages and, pursuant to Section 168 of POCA, No. 38 of 2013, shall be made by the Minister (of Finance) after consulting with the National Anti-Money Laundering Committee and Cabinet.</p> <p><u>Update April 2014</u> The Regulations will be passed in May 2014. The Regulations do not require the sanctioning of Parliament, as indicated above, the Minister will authorise the Regulations to be made law.</p> <p><u>CDD</u> CDD requirements are extensively addressed in Part 2 (Regulations 10-17) of the AML/CFT Regulations and provision made for applying a risk-based approach and conducting customer risk assessment and allows for simplified and enhanced due diligence to be conducted depending on the level and materiality of the risk of the customer.</p> <p>i.Regulation 13 stipulates that, where a service provider is unable to complete the verification of the identity of a customer, third party or beneficial owner after the establishment of a business relationship, the service provider shall terminate the business relationship with the customer.</p> <p>Regulation 15 stipulates that a service provider shall, on a risk-sensitive basis, apply enhanced due diligence measures and undertake enhanced ongoing monitoring where a customer, transaction or business relationship involves companies which have nominee shareholders or shares in bearer forms</p> <p><u>Anonymous Accounts</u> Regulation 22 explicitly prohibits the existence of anonymous or fictitious accounts with a penalty of a term of imprisonment not exceeding 2 years or a fine not exceeding \$100,000 for breach of this provision.</p> <p><u>Wire Transfers</u> The threshold amount in relation to wire transfers has been reduced to EC\$2,500, less than the required USD\$1000 stipulated by the FATF in Recommendation 16 (formerly SRVII).</p> <p><u>UPDATE-August 2014</u></p>	
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			<p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014 (see attached), as the necessary secondary legislation to the POCA 2013.</p> <p><u>UPDATE –February 2015</u></p> <p>A second draft of the <u>Mutual Funds Bill</u> was provided by the Consultant is February 2015. The Bill will be placed before the Attorney General for finalization and subsequent submission to Parliament. It is anticipated that the Mutual Funds Bill will be passed by the end of the second quarter of 2015.</p> <p>The Regulations and Code are still being drafted and would be finalized based on the provisions of the finalized version of the Mutual Fund Act.</p> <p><u>Update- August 2015</u></p> <p>The Mutual Funds Bill is in the final stages of completion and is expected to be presented to Parliament before the end of 2015.</p> <p>The <u>AML/TF Code</u> which includes the Guidance Notes is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The <u>Anti-Terrorist Financing and Proliferation Bill</u> has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4<sup>th</sup> quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – FEBRUARY 2015:</u> <u>Anti-Terrorist Financing and Proliferation Bill 2015</u> was forwarded to the clerk of the House of Assembly for the next sitting of Parliament on Tuesday 3<sup>rd</sup> March, 2015.</p> <p><u>UPDATE – AUGUST 2015</u></p>	
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			<ul style="list-style-type: none"> <li>• The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18<sup>th</sup>, 2015</li> <li>• As stated above, CDD is extensively covered in Regulations 10 – 19</li> </ul> <p><b><u>UPDATE- FEBRUARY 2016</u></b></p> <ul style="list-style-type: none"> <li>• <b>The AML/CFT code has been reviewed by the Attorney General and the appropriate agencies involved and further improvements were submitted. The changes encompassed more comprehensive provisions being included in the Code to ensure the greatest level of compliance with the Revised FATF Recommendations. A copy of the Drafted code is attached for review. However it must be noted that this code will be further updated so it's not the final version.</b></li> <li>• The passage of the Mutual Funds Bill has been delayed owing to Regulations still being finalized due to the desirability of passing the Bill and Regulations simultaneously. The bundle of laws, namely the Bill, Regulations and Code are targeted for passage in 2016. The Bill has been extensively revised and the Regulations are extremely comprehensive and detailed. At the same time the present law, the Mutual Funds (Amendment) Act applied in conjunction with the Financial Services Authority Act as well as AML/CFT law, provides for a cohesive regulatory framework for mutual funds and all intermediaries relevant to SVG.</li> </ul> <p><b><u>UPDATE AUGUST 2017</u></b></p> <p>The Anti- Money Laundering and Counter Terrorist Financing Code No. 24 of 2017 (the code) was passed and makes provisions for identification of legal arrangements such as trusts/trustees, including measures to identify settlors, beneficiaries and other parties to a trust. These provisions are found in the paragraph 10-13 of the Code.</p> <p><b>10.</b> (1) this paragraph and paragraphs 11 and 12 apply to legal person other than a foundation (2) A service provider shall obtain the following identification information</p>	
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			<p>with respect to a legal person that it is required by the regulations or this code to identify:</p> <ul style="list-style-type: none"> <li>(a) The full name of the legal person and any trading names that it uses;</li> <li>(b) The date of the incorporation, registration or formation of the legal person;</li> <li>(c) Any official identifying number;</li> <li>(d) The registered office or, if it does not have a registered office, the address of the head office of the legal person;</li> <li>(e) The mailing address of the legal person;</li> <li>(f) The principal place of business of the legal person;</li> <li>(g) The names of the directors of the legal person;</li> <li>(h) Identification information on those directors who have authority to give instructions to the service provider concerning the business relationship or occasional transaction; and</li> <li>(i) Identification information on individuals who are the ultimate holders of 15% or more of the legal person</li> </ul> <p>(3) Where a service provider determines that a legal person that it is required to identify presents a higher level of risk, the service provider shall obtain such additional identification information with respect to the legal person as it consider appropriate.</p> <p>(4) Where subparagraph (3) applies, but without limiting it, a service provider shall obtain identification information on every director of the legal person.</p> <p>(5) Where identification information on an individual, as a director or beneficial owner, is required to be obtained, paragraph 8 applies.</p> <p><b>11.(1)</b> A service provider shall:</p> <ul style="list-style-type: none"> <li>(b) verify the identity of a legal person where required by the Regulations to do so; and</li> <li>(c) take reasonable measures to verify the identity of the beneficial owners of the legal person.</li> </ul> <p>(2) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a low risk, the service provider shall,</p>	
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			<p>using evidence from at least one independent source verify:</p> <ul style="list-style-type: none"> <li>(b) the name of the legal person;</li> <li>(c) the official identifying number; and</li> <li>(d) the date and country of its incorporation, registration or formation.</li> </ul> <p>(3) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a higher level of risk, the service provider shall verify:</p> <ul style="list-style-type: none"> <li>(b) the address of the registered office, or head office, of the legal person, as applicable; and</li> <li>(c) the address of the principal place of business of the legal person, if different from its registered office or head office.</li> </ul> <p>(4) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a high level of risk, the service provider shall verify such other components of the legal person's identification as it considers appropriate.</p> <p>(5) A document used to identify the identity of a legal person or its beneficial owners must be in a language understood by those employees of the service provider who are responsible for verifying their identity.</p> <p><b>12.</b>(1) A service provider shall in all cases verify the identity of any director of the legal person specified in paragraph <b>10</b>(2) (h).</p> <p>(2) Where the service provider determines that the legal person presents more than a low level of risk, it shall verify such additional components of the identity of the legal person as it considers appropriate.</p> <p>(3) Where subparagraph (2) applies, but without limiting it, a service provider shall verify the identity of each director and each beneficial owner of the legal person.</p> <p>(4) Where the identity of an individual, as director or beneficial owner, is required to be verified, paragraph <b>8</b> applies.</p> <p><b>13.</b>(1)[Subject to subsection (2)], where a service provider is required by</p>	
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			<p>the Regulations or this Code to identify a trust, it shall:</p> <ul style="list-style-type: none"> <li>a. obtain the following identification information: <ul style="list-style-type: none"> <li>i. the name of the trust,</li> <li>ii. (the date of the establishment of the trust,</li> <li>iii. (any official identifying number,</li> <li>iv. identification information on each trustee of the trust,</li> <li>v. the mailing address of the trustees,</li> <li>vi. identification information on each settlor of the trust,</li> <li>vii. Identification information on each beneficiary or class of beneficiaries of the trust, except a trust to which subparagraph (2) or (3) applies.</li> <li>viii. identification information on each protector or enforcer of the trust;</li> <li>ix. Identification of any other natural person(s) exercising ultimate effective control over the trust; and</li> </ul> </li> <li>b. obtain confirmation from the trustees that they have provided all the information requested and that they will update the information in the event that it changes.</li> </ul> <p>(2) In the case of a discretionary trust or a trust with one or more types or classes of beneficiaries, the service provider shall obtain information concerning the type or class of beneficiary that is sufficient to enable the identity of a beneficiary to be established at the time the beneficiary receives any property or benefit from the trust or exercises a vested right.</p> <p>(3) In the case of a charitable trust or purpose trust, the service provider must obtain information on the objects of the trust.</p> <p>(4) For the purpose of this Code, “settlor” includes a person who, as settlor, established the trust and any person who has, at any time, subsequently settled assets into the trust.</p> <p>(5) Identification information required to be obtained on any person under this paragraph shall be obtained in accordance with paragraph 8 if the person is an individual, paragraph 10 if the person is a legal person, other than a foundation, or paragraph 31 if the person is a foundation.</p> <p><b>14.</b> Where a service provider is required by the Regulations or this Code to verify the identity of a trust, it shall verify:</p> <ul style="list-style-type: none"> <li>(b) the name and date of establishment of the trust;</li> </ul>	
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			<p>(c) the identity of each trustee, settlor and protector or enforcer of the trust; and</p> <p>(d) the appointment of the trustee and the nature of his duties.</p> <p>(2)Where a service provider determines that a trust, the identity of which it is required to verify, presents a higher level of risk, the service provider shall:</p> <p>take reasonable measures to verify the identity of each person specified in paragraph (3) Where a service provider determines that a legal person that it is required to identify presents a higher level of risk, the service provider shall obtain such additional identification information with respect to the legal person as it consider appropriate.</p> <p>(4) Where subparagraph (3) applies, but without limiting it, a service provider shall obtain identification information on every director of the legal person.</p> <p>(5) Where identification information on an individual, as a director or beneficial owner, is required to be obtained, paragraph 8 applies.</p> <p><b>11.</b>(1) A service provider shall:</p> <p>(d) verify the identity of a legal person where required by the Regulations to do so; and</p> <p>(e) take reasonable measures to verify the identity of the beneficial owners of the legal person.</p> <p>(2) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a low risk, the service provider shall, using evidence from at least one independent source verify:</p> <p>(e) the name of the legal person;</p> <p>(f) the official identifying number; and</p> <p>(g) the date and country of its incorporation, registration or formation.</p> <p>(3) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a higher level of risk, the service provider shall verify:</p>	
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			<p>(d) the address of the registered office, or head office, of the legal person, as applicable; and</p> <p>(e) the address of the principal place of business of the legal person, if different from its registered office or head office.</p> <p>(4) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a high level of risk, the service provider shall verify such other components of the legal person's identification as it considers appropriate.</p> <p>(5) A document used to identify the identity of a legal person or its beneficial owners must be in a language understood by those employees of the service provider who are responsible for verifying their identity.</p> <p><b>12.(1)</b> A service provider shall in all cases verify the identity of any director of the legal person specified in paragraph <b>10(2)</b> (h).</p> <p>(2) Where the service provider determines that the legal person presents more than a low level of risk, it shall verify such additional components of the identity of the legal person as it considers appropriate.</p> <p>(3) Where subparagraph (2) applies, but without limiting it, a service provider shall verify the identity of each director and each beneficial owner of the legal person.</p> <p>(4) Where the identity of an individual, as director or beneficial owner, is required to be verified, paragraph <b>8</b> applies.</p> <p>(b) <b>13(5); and</b></p> <p>(c) verify such other components of the legal person's identification as it considers appropriate.</p> <p>(3)A document used to verify the identity of a trust or a person specified in this paragraph must be in a language understood by those employees of the service provider who are responsible for verifying the identity of the trust or person concerned.</p> <p>(4)A person whose identity is required by this paragraph to be verified shall:</p> <p>(b) if the person is an individual, be verified in accordance with</p>	
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			<p>paragraph 9; (c) if the person is a legal person, be verified in accordance with paragraph 11; or (d) if the person is a foundation, be verified in accordance with paragraph 34.</p> <p>The Anti-Money Laundering and Terrorist Financing Regulations No. 25 of 2017 have been amended.</p> <p>“Subject to paragraph (1a), a service provider is not required to apply customer due diligence measures before establishing a business relationship or carrying out an occasional transaction where</p> <p>(a) he has reasonable grounds for believing that the customer is-</p> <p>i. a service provider;</p> <p>ii. a regulated person;</p> <p>iii. a foreign regulated person;</p> <p>iv. A company, the securities of which are listed on a recognized exchange</p> <p>v. A public authority in the State; or</p> <p>(b) In the case of life insurance, the product is a life insurance contract where the annual premium is no more than \$2000 or where a single premium of no more than \$5,000 is paid.</p> <p>(1a) Subparagraph (1) (a) only applies to the persons referred to in subparagraphs (i) (II) (III) and (Iv) if the persons are-</p> <p>i. subject to requirements to combat money laundering and terrorist financing consistent with the FATF Recommendations;</p> <p>ii. supervised for compliance with the said</p>	
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			<p>Recommendations;</p> <p>iii. are not considered high risk for money laundering or terrorist financing activities; and</p> <p>iv. In the case of a foreign regulated person that they are in compliance with their national Anti-Money Laundering and Terrorist Financing laws, procedures and policies.</p> <p>Subregulation 3 (a) was amended to insert “there is a suspicion of money laundering or terrorist financing”.</p> <p>The sections were amended so that only a service provider that is not subject to subparagraph (1a) would be exempted from ordinary customer due diligence consistent with the requirements of the FAFT Recommendation and Interpretative Note.</p> <p>Regulation 33(2) was amended to insert the words “and the beneficiary” after the word “payer”. This section calls on the payee to provide beneficiary information.</p> <p><b><u>Mutual Fund Bill</u></b></p> <p>The Mutual Fund Bill is presently before that Attorney General as priority legislation for passage in 2017.</p>	
6. PEPs	NC	<ul style="list-style-type: none"> <li>Require FIs to conduct additional and enhanced CDD measures, or to obtain senior management approval, for on new and/or existing PEPs relationships.</li> </ul>	<ul style="list-style-type: none"> <li>IFSA and the FIU working in conjunction with a regulatory and AML/CFT Expert/Consultant to address this issue in the re-drafted Guidance Notes. There are specific provisions dealing with Enhanced Due Diligence for PEPs.</li> </ul> <p>This has been addressed in the revised AML/CFT Guidance Notes which are to be OEM.</p> <p><u>Update-August 2013</u></p> <p>The draft AML/CFT Regulations contain provisions addressing PEPs stipulating that financial institutions and other regulated persons shall ensure that no business relationship is established or continued with a PEP unless the prior approval of the board or senior management has been obtained. This applies equally to foreign and domestic PEPs.</p>	No outstanding issues in relation to this Recommendation.



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			<p><u>Update-February 2014</u> Draft AML/CFT Regulations are in the final stages and, pursuant to Section 168 of POCA, No. 38 of 2013, shall be made by the Minister (of Finance) after consulting with the National Anti-Money Laundering Committee and Cabinet.</p> <p>Regulations 18 and 19 stipulate that service providers shall ensure that no business relationship is established or continued with a PEP (both foreign and domestic) unless the prior approval of the board or senior management has been obtained.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014 (see attached), as the necessary secondary legislation to the POCA 2013.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>• Regulation 14(2) (d) &amp; (e) A service provider shall, on a risk-sensitive basis, apply enhanced due diligence measures and undertake enhanced ongoing monitoring – ... (d) where the service provider has or proposes to have a business relationship with, or to carry out an occasional transaction with, a foreign politically exposed person or a family member of a close associate of a foreign politically exposed person;</li> <li>(e) where any of the following is a foreign politically exposed person or a family member or close associate of a foreign politically exposed person; (i)a beneficial owner of the customer; (ii)a third party for whom a customer is acting; (iii)a beneficial owner of a third party for whom a customer is acting; (iv)a person acting, or purporting to act, on behalf of the customer.</li> </ul> <p><u>UPDATE- FEBRUARY 2016</u></p>	
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			<p>The AML/CFT code has been reviewed by the Attorney General and The appropriate agencies involved and further improvements were submitted. The changes encompassed more comprehensive provisions being included in the Code to ensure the greatest level of compliance with the Revised FATF Recommendations. A copy of the Drafted code is attached for review. However it must be noted that this code will be further updated so it's not the final version.</p> <p><b><u>UPDATE- AUGUST 2017</u></b></p> <p>The AML/CFT code was passed and the above mentioned provisions in the 2016 update are now implemented. Please see the document attached hereto.</p>	
7. Correspondent banking	NC	<ul style="list-style-type: none"> <li>Require FIs to for perform, inter alia, additional and enhanced CDD on correspondent banking relationships, assess the AML/CFT controls of respondent institutions, and obtain senior management approval before establishing correspondent account relationships;</li> <li>Introduce requirements with respect to the provisions of correspondent payable-through accounts;</li> <li>Enhance supervision of risk management practices and compliance with R.7 by domestic banks that provide correspondent/nested correspondent banking facilities to international (offshore) banks in breach of R.7 and the ECCB's prudential guidelines on correspondent banking (March 2001).</li> </ul>	<p>AML/CFT Guidance Notes have been redrafted by a regulatory and AML/CFT Expert/Consultant. IFSA and the FIU have reviewed very comprehensive drafts produced and the said Guidance Notes are at the stage where it is to be circulated to the regulated sector and other stakeholders for comment after being reviewed by the IMF. The IMF through the Team Leader of the IMF Mission has kindly agreed to review the drafts produced. There has been a delay in getting the drafts to the IMF as all sections to be reviewed were not completed by the AML/CFT Expert/Consultant. It is expected that the Guidance Notes will be shortly sent to the IMF.</p> <p>As indicated, the IMF was unable to review the Guidance Notes and SVG was unable to fund consultancy services in order to complete this task. SVG is to seeking technical assistance for the required review.</p> <p><u>Update:</u></p> <p>The CFATF has agreed to provide technical assistance in the finalization of SVG's AML/CFT Guidance Notes. A suitable consultant has been sourced and the agreed target date for completion is June 2012.</p> <p><u>Update - August 2012</u></p> <p>The AML/CFT Guidance Notes are not yet completed. The consultant is</p>	No outstanding issues in relation to this Recommendation.



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		<p>expected to come to SVG to consult on the Guidance Notes. The Consultant has extended his completion date for review of the AML/CFT Guidance Notes to the end of August 2012.</p> <p><u>Update-February 2013</u></p> <p>The Consultant provided a draft of the Proceeds of Crime and Money Laundering Regulations, which includes PEPs and terrorist financing, to the SVG FSA and FIU for review.</p> <p>The draft contains all recommended amendments made by the IMF as well as the FATF recommendations.</p> <p>The Consultant is progressing with completing both the POCA Regulations and the Guidance Notes. The Consultant is working closely with the relevant stakeholders to complete the GN's by March 31, 2013.</p> <p><u>Update-August 2013</u></p> <p>The draft AML/CFT Regulations contains provisions addressing correspondent banking relationships.</p> <p><u>Update-February 2014</u></p> <p>Draft AML/CFT Regulations are in the final stages and, pursuant to Section 168 of POCA, No. 38 of 2013, shall be made by the Minister (of Finance) after consulting with the National Anti-Money Laundering Committee and Cabinet.</p> <p>Part 7 (Regulations 46-48) address correspondent banking and introduces, inter alia, the issue of payable through accounts and that appropriate risk-based measures are adopted in conducting enhanced due diligence to these relationships.</p> <p><u>UPDATE-August 2014</u></p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be</p>	
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			<p>brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – AUGUST 2015</u> Part 5 of the Regulations addresses Correspondent Banking Reg 28 (1) A SVG Bank that is, or that proposes to be, a correspondent bank shall –</p> <ul style="list-style-type: none"> <li>(a) Not enter into or maintain relationships with any respondent bank that is a shell bank;</li> <li>(b) Not maintain relationships with any respondent bank that itself provides correspondent banking services to shell banks;</li> <li>(c) Shall take appropriate measures to ensure that it does not enter into, or continue, a correspondent banking relationship with a bank that is known to permit its accounts to be used by a shell bank;</li> <li>(d) Apply customer due diligence measures on respondent banks using a risk-based approach that takes into account, in particular the respondent bank's – (i) domicile; (ii) ownership and management structure; and (iii) customer base, including its geographic location, its business, including the nature of services provided by the respondent bank to its customers, whether or not relationships are conducted by the respondent on a non-face-to-face basis and the extent to which the respondent bank relies on third parties to identify and hold evidence of identity on, or to conduct other due diligence on, its customers;</li> <li>(e) Determine from publicly available sources the reputation of the respondent bank and the quality of its supervision;</li> <li>(f) Assess the respondent bank's AML and TF systems and controls to ensure that they are consistent with the requirements of the FATF Recommendations;</li> <li>(g) Not enter into a new correspondent banking relationship unless it has the prior approval of senior management;</li> <li>(h) Ensure that the respective AML and CFT responsibilities of each party to the correspondent relationship are understood and properly documented;</li> <li>(i) Ensure that the correspondent relationship and its transactions are subject to annual review by senior management;</li> <li>(j) Be able to demonstrate that the information obtained in compliance with the requirements set out in this regulation is held for all existing and new correspondent relationships; and</li> </ul>	
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			<p>(k) Not enter into a correspondent banking relationship where it has knowledge or suspicion that the respondent or any of its customers is engaged in money laundering or the financing of terrorism.</p> <ul style="list-style-type: none"> <li>Payable through accounts – Regulation 29 Where a correspondent bank provides customers of a respondent bank with direct access to its services, whether by way of payable through accounts or other means, it shall ensure it is satisfied that the respondent bank – <ul style="list-style-type: none"> <li>(a) Has undertaken appropriated CDD and, where applicable, enhanced CDD in respect of the customers that have direct access to the correspondent bank's services; and</li> <li>(b) Is able to provide relevant CDD information and verification evidence to the correspondent bank upon request.</li> </ul> </li> <li>Regulation 30 Regulations 28 and 29 also apply to a financial business that – <ul style="list-style-type: none"> <li>(a) Undertakes securities transactions or funds transfers on a cross-border basis; or</li> <li>(b) Provides finance to facilitate international trade.</li> </ul> </li> </ul> <p><b><u>UPDATE: FEBRUARY 2016</u></b></p> <ul style="list-style-type: none"> <li>The AML/CFT code (para. 4-22) provides for more enhancements through stipulating the type of CDD that should be done by Financial Institutions as it relates to identification and verification of legal persons. All matters identified by the DAR was addressed by the Regulations along with the prudential guidelines of the established Regulator-ECCB. The draft code is attached for ease of reference</li> </ul> <p><b><u>UPDATE- AUGUST 2017</u></b></p> <p>The AML/CFT code was passed and the above mentioned provisions in the 2016 update are now implemented. Please see the document attached hereto.</p>	
8. New technologies	PC	Require FIs to have policies or measures in place to prevent misuse of technological	AML/CFT Guidance Notes have been re-drafted. There are penalties attached for failure to do the necessary due diligence checks on these	There are no outstanding issues with this Recommendation.



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<p>&amp; non face-to-face business</p>		<p>developments for ML or FT, including non-face to face business relationships and transactions, and review the exemptions provided in the GNs for this type of business.</p>	<p>customers.</p> <p>IBID – re : Status of AML/CFT Guidance Notes</p> <p><u>Update-August 2013</u></p> <p>Comments on the Draft POCA Regulations have been submitted to the consultant and a final draft is currently being awaited. See attached.</p> <p>The consultant has also undertaken a revision of the Proceeds of Crime (Money Laundering) Act to address the 40 recommendations and other recommendations stated herein, the draft was submitted to and is presently before the Attorney General. It is expected that the Bill will be placed before Parliament at the November 2013 sitting. See attached.</p> <p>The Consultant is also working on finalising the Guidance Notes which will be in the form of a Code to enable enforceability.</p> <p><u>Update-February 2014</u></p> <p>Draft AML/CFT Regulations are in the final stages and, pursuant to Section 168 of POCA, No. 38 of 2013, shall be made by the Minister (of Finance) after consulting with the National Anti-Money Laundering Committee and Cabinet.</p> <p><u>UPDATE-August 2014</u></p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>• The exemptions in the previous GNs no longer apply. New GNs have been drafted and are being finalised. Now in Regulation 32</li> <li>• Non face-to-face business – Regulation 15</li> </ul>	
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			<p>Where a service provider applies CDD measures to, or carries out ongoing monitoring with respect to, an individual who is not physically present, the service provider, in addition to complying with regulation 14, shall –</p> <ul style="list-style-type: none"> <li>(a) Perform at least one individual check designed to mitigate the risk of identity fraud; and</li> <li>(b) Apply such additional enhanced CDD measures or undertake enhanced ongoing monitoring, as the service provider considers appropriate (if any).</li> </ul> <p>Regulation 14(2)(a) : A service provider shall, on a risk-sensitive basis, apply enhanced due diligence measures and undertake enhanced ongoing monitoring – where the customer has not been physically present for identification purposes.</p> <p><b><u>UPDATE-FEBRUARY 2016</u></b></p> <ul style="list-style-type: none"> <li>• The AML/CFT Code makes further provision in relation to non-face-to-face businesses. Paragraph 18 makes provision for non-face-to-face business while the guidance details the measures that can be used to facilitate adherence to the Regulations and the code. Please see referenced paragraphs in the attached AML/CFT code.</li> <li>• The draft AML/CFT code provides that “ a service provider must establish and maintain and implement systems and controls and take such other measures as it considers appropriate to guard against the use of technological developments in money laundering and terrorist financing” (paragraph 25(2)).</li> <li>• Onsite examinations by FSA on financial entities and service providers have verified that the provisions of the law are being implemented.</li> </ul> <p><b><u>UPDATE- AUGUST 2017</u></b></p> <p>The AML/CFT code was passed and the above mentioned provisions in the 2016 update are now implemented. Please see the document attached hereto.</p> <p>In addition, the Financial Services Authority continues to monitor the implementation of the provisions of the relevant anti-money laundering legislation by registered agents and financial entities as part of their compliance framework.</p> <p><b><u>UPDATE- JANUARY 2018</u></b></p>	
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			<p><u>Regulation 20 of the AMLTF Regulations provides that</u></p> <p>20. (1) subject to subregulation (5) , a service provider shall establish, maintain and implement appropriate risk-sensitive policies, procedures, systems and controls to prevent and detect money laundering and terrorist financing, including policies, systems and controls relating to-</p> <ul style="list-style-type: none"> <li>a) Customer due diligence measures and ongoing monitoring;</li> <li>b) The reporting of disclosures;</li> <li>c) Record-keeping;</li> <li>d) The screening of employees;</li> <li>e) Internal controls;</li> <li>f) Risk assessment and management; and</li> <li>g) The monitoring and management of compliance with and the internal communication of, it policies, systems and controls to prevent and detect money laundering and terrorist financing, including those specified in paragraphs (a) to (f)</li> </ul> <p>(2) The policies, systems and controls referred to in subregulation (1) must include policies, systems and controls, which provide for –</p> <ul style="list-style-type: none"> <li>a) The identification and scrutiny of- <ul style="list-style-type: none"> <li>I. Complex or unusually large transactions;</li> <li>II. Unusual patters of transactions which have no apparent economic or visible lawful purpose; and</li> <li>III. Any other activity which the service provider regards as particularly likely by its nature to be related to the risk of money laundering or terrorist financing;</li> </ul> </li> <li>b) <u>the taking of additional measures, where appropriate to prevent the use of money laundering or terrorist financing of products and transactions which are susceptible to anonymity; and</u></li> <li>c) determining whether- <ul style="list-style-type: none"> <li>I. a customer, any third party for whom the customer is acting and any beneficial owner of the customer or third party, is a politically exposed person or a family member or close associate if a politically exposed person;</li> <li>II. a business relationship or transaction, or proposed business, relationship or transaction, is with a person connected with a country that does not apply, or insufficiently applies, the</li> </ul> </li> </ul>	
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			<p align="center"><b>III. FATF Recommendations ;or</b>  <b>A business relationship or transaction, or proposed business relationship or transaction, is with a person connected with a country that is subject to measures for purposes connected with the prevention and detection of money laundering or terrorist financing, imposed by one or more countries or sanctioned by the European Union or the United Nations.</b></p> <p><u>Paragraph 25 (2) of the Anti-Money Laundering and Terrorist Financing Code, 2017 provides that:</u></p> <p><b>(2) A service provider shall establish, maintain and implement systems and controls and take such other measures as it considers appropriate to guard against the use of technological developments in money laundering or terrorist financing.</b></p>	
9. Third parties and introducers	NC	<p>FIs should be required to:</p> <ul style="list-style-type: none"> <li>immediately obtain CDD information from introducers;</li> <li>ensure that documentation can and will be available promptly on request;</li> <li>limit the eligibility of introducing institutions to those FIs and DNFBPs covered by the FATF standard, consistent with the provisions given in the GNs;</li> </ul> <p>Explicitly state that ultimate responsibility for customer identification and verification lies with the SVG FI and not the introducer. The exemptions allowed for by the POCA Regulations and GNs are not consistent with this requirement.</p>	<p>The POCA and its Regulations are being reviewed with the objective of addressing these issues pointed out by the IMF Assessors.</p> <p>All necessary amendments to the POCA are being co-ordinated as a repeal of the POCA and/or its Regulations may be required to effect the many changes.</p> <p>Recommendations for the required legislative amendments have been submitted to the Hon AG. It is expected that such amendments once enacted, would result in full compliance with the FATF Recommendations and recommendations of the DAR.</p> <p><u>Update-August 2013</u></p> <p>A review of the POCA and the AML/CFT Regulations has been completed. The Regulations will encompass TF as well as AML requirements.</p> <p><u>Update-February 2014</u></p> <p>ii. The Regulations include adequate provisions on reliance of third parties and introducers and financial institutions and other regulated businesses are required, before relying on an introducer or intermediary, to obtain adequate assurance in writing from the intermediary or introducer that</p>	<b>There are no outstanding issues in relation to this Recommendation.</b>



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			<p>the intermediary or introducer has applied the customer due diligence measures for which the regulated person intends to rely on . is required to keep, and does keep, a record of the evidence of identification relating to each of the customers of the intermediary or introducer and will, without delay, provide the information in that record to the regulated person at the financial institution/regulated person's request.</p> <p>iii. In addition, provision is contained to the effect that, where a financial institution/regulated person relies on an introducer or an intermediary to apply customer due diligence measures in respect of a customer, third party or beneficial owner, the regulated person shall immediately obtain from the introducer or intermediary, the customer due diligence information concerning the customer, third party or beneficial owner.</p> <p>iv. Further, it is clearly stated that, where a financial institution/regulated person relies on an introducer or intermediary to apply customer due diligence measures, the financial institution/regulated person remains liable for any failure to apply those measures.</p> <p>As Above. Regulations 20 and 21 address introducers and intermediaries.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – AUGUST 2015</u> The previous GNs no longer apply.</p> <p>Introducers and intermediaries are covered by Regulations 17 and 18</p>	
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			<p>17 (2) : Before relying on an introducer or intermediary to apply CDD measures with respect to a customer, third party or beneficial owner, a service provider shall obtain adequate assurance in writing from the intermediary or introducer that the intermediary or introducer –</p> <p>a) Has applied the CDD measures for which the service provider intends to rely on it;</p> <p>b) Is required to keep, and does keep, a record of the evidence of identification relating to each of the customers of the intermediary or introducer;</p> <p>c) Will, without delay, provide the information in that record to the service provider at the service provider's request; and</p> <p>d) Will, without delay, provide the information in the record for provision to the supervisory authority.</p> <p>17 (3): where a service provider relies on an introducer or an intermediary to apply CDD measures in respect of a customer, third party or beneficial owner, the service provider shall immediately obtain from the introducer or intermediary, the CDD information concerning the customer, third party or beneficial owner.</p> <p>17 (4): Where a service provider relies on an introducer or intermediary to apply CDD measures, the service provider remains liable for any failure to apply those measures.</p> <p><b><u>UPDATE-FEBRUARY 2016</u></b></p> <p><b>The Proceeds of Crime Act no. 38 of 2013 does not make any provision for a list of eligible introducers or intermediaries. The list was repealed under the old Act and never re-enacted under the new Act. Further, the POCA Regulations of 2014 does not make any provisions for such. The drafted AML/CFT code that is attached does not provide a list of eligible persons but rather sets out the conditions consistent with the FATF standards that should be applied prior to relying on third parties. Thus the provisions outlined above in earlier updates that outlines the applicable conditions that must be applied before relying on third parties are the only applicable law as it relates to the eligibility of third parties as introducers or intermediaries.</b></p>	
10. Record-keeping	LC	<ul style="list-style-type: none"> <li>Clarify in the regulations the provisions to keep records longer than the minimum period when required by</li> </ul>	<p>The position is as set out at Rec. 9 above.</p> <p>IBID – re : Submission of the required amendment to the Hon AG.</p>	There are no outstanding issues with this Recommendation.





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		<p>the FIU, consistent with the GNs;</p> <ul style="list-style-type: none"> <li>• Explicitly require FIs to retain business correspondence;</li> <li>• Review for and remove potentially conflicting recordkeeping requirements between the POCA/POCA Regulations and the DTOA and with some of the provisions in GNs 102-110;</li> <li>• Review recordkeeping arrangements by some FIs that operate and keep records outside of SVG to ensure adequate compliance supervision and efficient access by competent authorities.</li> </ul>	<p><u>Update-August 2013</u></p> <p>The draft AML/CFT Regulations contain extensive provisions on record keeping requirements including a retention period of seven (7) years for all documents establishing identity and for applying CDD measures, the supporting documents, data or information that have been obtained in respect of a business relationship or occasional transaction which is the subject of customer due diligence measures or ongoing monitoring, record containing details relating to each transaction carried out by the regulated person in the course of any business relationship or occasional transaction, account files, and all business correspondence relating to a business relationship or an occasional transaction.</p> <p>Further, the Regulations include provisions which enables the FIU by way of written notice to specify a period longer than the minimum retention period of 7 years and that the period as is specified in the notice shall apply instead of the period of 7 years.</p> <p><u>Update-February 2014</u></p> <p>As Above. Part 4 (Regulation 29-37) address record keeping requirements.</p> <p><u>UPDATE-August 2014</u></p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>Update- February 2016</u></p> <ul style="list-style-type: none"> <li>• The previous Guidance Notes are no longer in effect. Further, the relevant section (section 30- Retention of Records of Financial Institutions) that charged financial institutions with the responsibility of retaining records under the Drug Traffic Offences Act (DTOA) was repealed.</li> </ul>	
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			<p>by section 173(1) of the Proceeds of Crime Act No.38 of 2013. Section 173 (2) provides that “the acts specified in schedule 6 are amended to the extent specified in that schedule.” Schedule 6 under the heading “Drug Trafficking Offences Act Cap. 173’ states that the Act is amended as follows: section 2 (e) repeals section 20 to 33 of the DTOA.</p> <ul style="list-style-type: none"><li>• Onsite examinations by the FSA on financial entities and service providers have verified that the provisions of the law in relation to record keeping are being implemented.</li></ul> <p><b><u>UPDATE-AUGUST 2017</u></b></p> <p>The Financial Services Authority continues to monitor the implementation of the provisions of the relevant anti-money laundering legislation by registered and financial entities as part of their compliance framework.</p>	
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11. Unusual transactions	PC	<ul style="list-style-type: none"> <li>The POCA Regulations should be amended to require explicitly that reporting entities be required to examine as far as possible the background and purpose of such transactions and to set forth their findings in writing;</li> <li>The POCA Regulations should be amended to require that the written findings of reporting entities on their examination be subject to the POCA record keeping requirements;</li> <li>POCA should be amended to provide for direct administrative sanctions for reporting parties that fail to adhere to the requirements for monitoring transactions, including failure to implement procedures to monitor, prepare written findings and maintaining records on such monitoring.</li> </ul>	<p>The Regulations are currently under review to ensure that there is compatibility between the new Guidance Notes and the Regulations. Once the Guidance Notes are finalised for adoption the Regulations will be amended accordingly.</p> <p>The position above still prevails.</p> <p>Consideration is being given in the Guidance Notes to authorise competent authorities to impose administrative sanctions for failure to adhere to the requirements for monitoring transactions, including failure to implement procedures to monitor, prepare written findings and maintaining records on such monitoring.</p> <p>The issue of sanctions has been found to be more suitable for inclusion in the POCA Regulations and the FSA Act rather than the Guidance Notes, thus work is ongoing towards this objective.</p> <p><u>Update:</u></p> <p>The FSA Act was enacted in November 2011 and provides for administrative sanctions as well as criminal sanctions.</p> <p><u>Update-February 2013</u></p> <p>The FSA Act was proclaimed on November 12, 2012.</p> <p>The Consultant provided a draft of the Proceeds of Crime and Money Laundering Regulations, which includes PEPs and terrorist financing, to the SVG FSA and FIU for review.</p> <p>The draft contains administrative sanctions for failure to comply with AML/CFT requirements</p> <p>The Consultant is progressing with completing both the POCA Regulations and the Guidance Notes. The Consultant is working closely with the relevant stakeholders to complete the GN's by March 31<sup>st</sup>, 2013.</p> <p><u>Update-August 2013</u></p> <p>Two and a half months after its establishment, the FSA intervened and took management and control the only building society in SVG, the largest and most iconic non bank financial institution. Prior to intervention, this</p>	<p>There are no outstanding issues with this Recommendation.</p>
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			<p>financial institution was experiencing severe liquidity problems and poor management. The FSA has seconded some of its staff to assist with the day to day activities of the institution , which is now well on its way to financial stability. This intervention has been a test of the FSA's capabilities and capacity, both at a legislative and human resources level, and has illustrated that the FSA is well equipped to carry out its very important regulatory functions. Notwithstanding the ongoing crisis management in relation to the building society being undertaken by the FSA, the FSA has simultaneously also undertaken extensive work in the Credit Union Sector to ensure that the sector is effectively supervised and that the financial condition of all the country's credit unions is intact. Onsite examinations of all credit unions have now been undertaken.</p> <p>Comments on the Draft POCA Regulations have been submitted to the consultant and a final draft is currently being awaited. See attached.</p> <p>The consultant has also undertaken a revision of the Proceeds of Crime (Money Laundering) Act to address the 40 recommendations and other recommendations stated herein, the draft was submitted to and is presently before the Attorney General. It is expected that the Bill will placed before Parliament at the November 2013 sitting. See Attached.</p> <p>The Consultant is also working on finalising the Guidance Notes which will be in the form of a Code to enable enforceability.</p> <p><u>Update-February 2014</u></p> <p>i.Regulation 23 of the Draft AML/CFT Regulations stipulates that a service provider shall establish, maintain and implement appropriate risk-sensitive policies, systems and controls to prevent and detect money laundering and terrorist financing, including policies, systems and controls, which provide for the identification and <i>scrutiny</i> of complex or unusually large transactions, unusual patterns of transactions which have no apparent economic or visible lawful purpose and any other activity which the service provider regards as particularly likely by its nature to be related to the risk of money laundering or terrorist financing.</p> <p>"Scrutiny" is defined as including scrutinising the background and purpose of transactions and activities.</p> <p>Regulations 33 and 34 sets out that service providers shall maintain all records pertaining to suspicious transactions reports, records concerning reviews of complex or unusually large transactions, unusual patterns of</p>	
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			<p>transactions which have no apparent economic or visible lawful purpose and of systems, policies and controls for a period of 7 years.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>Onsite inspection of Credit Unions</u></p> <p>Six (6) on-site inspections were carried out by the FSA that covered AML/CFT issues. These inspections are carried out every twelve to eighteen to twenty four months – based on the risk profile of the Credit Union</p> <p>Three of the six credit unions provide agency services on behalf of the money remittance company, Western Union”.</p> <p>On-site examinations were done using a risk-based approach with the objective of evaluating the safety and soundness of the Credit Union, including compliance with laws and regulation. The main areas of concentration are protection; effective financial structure; asset growth; rates of return and costs; liquidity; and management and ML/CFT.</p> <p>The results of the onsite inspections were mixed where two credit unions were classified as low risk; two were considered medium risk; and two high risk.</p> <p>Based on the on-site examination, three credit unions were required to prepare re-capitalisation plans; one was required to signed a memorandum of agreement with Financial Statements; and recommendations were given to the others so that corrective action can be taken on areas of weakness</p>	
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		<p>identified.</p> <p><u>UPDATE – February 2015</u> The second round of onsite examinations of credit unions and building societies to assess prudential as well as AML/TF requirements will commence in the second quarter of 2015.</p> <p>The second and third rounds of onsite examinations of Money Services Businesses and Insurance Companies will commence in the second quarter of 2015.</p> <p><u>Update- August 2015</u> Two on site examinations have been completed so far in the second round for the credit unions and Building societies. The other three examinations will be completed by November 2015.</p> <p>With respect to Money Services Businesses the second round of onsite examinations will commence in the first quarter of 2016.</p> <p><u>FSA Capacity Building:</u> the FSA staff has been exposed to a number of training opportunities offered by regional agencies including CARTAC, the most recent being the, CARTAC sponsored training on Risk-Based Supervision in February, 2015. The FSA's Annual report 2013 (<i>attached hereto for reference</i>) illustrates the accomplishments and developments of the FSA. This report was provided to the CFATF and many other CFATF member countries.</p> <p><u>UPDATE – FEBRUARY 2015</u> Supervision &amp; Sanctions: POCA 2013 – Part VII addresses Regulation, Supervision &amp; Enforcement in Sections 151 to 159</p> <p>Section 151 states that the Anti-Money Laundering and Terrorist Financing Regulations shall designate: (a) a person or body as the supervisory authority for regulated service providers; and (b) one or more persons or bodies, which may include the Financial Services Authority and the Financial Intelligence Unit, as the supervisory authorities for externally regulated service providers and non-regulated service providers.</p>	
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			<p>Section 152 and Schedule 4 of POCA 2013 addresses the functions, powers and duties of the supervisory authorities.</p> <p>Section 152 (1) states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations.</p> <p>In the Schedule, Section 3- Power to require information and production of documents; Section 5 – Compliance visits; Section 9 – Offences; and Section 10 – Enforcement action.</p> <p>The list of Service Providers is found in Schedule 1 of the AML &amp; TF Regulations, 2014 and Externally Regulated Service Providers are found at Schedule 2.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>• The previous GNs are no longer in operation.</li> <li>• Regulation 3(6): the service provider's supervisory authority or the FIU may, by written notice, specify a period longer than 7 years for the purposes of sub regulation (5), and such longer period as is specified in the notice shall be considered to be the minimum retention period instead of the period of 7 years.</li> <li>• Regulation 22 – Records required to be kept 22(1)(e): The records specified for the purposes of regulation 21 are – all business correspondence relating to a business relationship or an occasional transaction.</li> <li>• Regulation 20 (3): A service provider with any subsidiary or branch that carries on a relevant business shall communicate to that subsidiary or branch whether in or outside the State, the service provider's policies and procedures maintained in accordance with this regulation.</li> </ul> <p>Regulation 21(1): Subject to subregulation (2), a service provider shall keep the records specified in regulation 22 and such other records as may be specified in the Code –</p> <p>(a) In a form that enables them to be made available on a timely basis, when lawfully required, to the supervisory authority, the FIU or law enforcement authorities in the</p>	
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			<p>State; and</p> <p>(b) For at least the minimum retention period.</p> <p>Regulation 27(1)(a): the AML/CFT reporting officer and the AML/CFT compliance officer shall – be an employee of the service provider or of a company in the same group as the service provider and shall be based in the state.</p> <p><b><u>UPDATE- FEBRUARY 2016:</u></b></p> <ul style="list-style-type: none"> <li>• The POCA regulation of 2014 provides that financial institutions should have in place policies, procedures, systems and controls, record keeping and training programmes (regulation 20). The said programmes must include policies, systems and controls which provide for the identification and scrutiny of complex or unusually large transactions, unusual pattern of transactions and any other activity which the service provider regards as particularly likely by its nature to be related to the risk of money laundering or terrorist financing. The institution is obligated further to take additional measures (regulation 20(2) (b)) where appropriate to prevent the use of money laundering or terrorist financing. Regulation 20-23 then requires the institutions to keep records containing details relating to each transaction carried out by the service provider in the course of any business relationship or occasional relationship. These records are to be kept in a manner so that they can be assessed by the supervisory authority and internal and external auditors for effectiveness in preventing and detecting money laundering and terrorist financing (regulation 23(c)).</li> <li>• The above regulations have the effect of creating a duty on the service providers to ensure ALL records are kept, including those relating to background checks into the purpose and nature of unusual transactions.</li> <li>• The second round of onsite examinations of credit unions since 2013, which assess prudential as well as AML/TF requirements have been completed. A third round commences in the second quarter 2016. An onsite examination of the sole Building Society was conducted in September 2015. The second round of MSBs since 2014 will</li> </ul>	
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			<p>commence in April 2016.</p> <p><u>UPDATE-AUGUST 2017</u></p> <p>Onsite inspections of the credit union sector and the sole building society in SVG have commenced for 2017 to assess and identify prudential and compliance matters.</p> <p><u>UPDATE-JANUARY 2018</u></p> <p>Part 3- Guidance Notes – Policies, Systems and Controls of the Code</p> <p>(xii) Regulation 20 of the Regulations set out broad requirements with respect to the risk-sensitive money laundering and terrorist financing policies, procedures, systems and controls that must be established, maintained and implemented by a service provider. The matters required to be covered by the AML/CFT policies, procedures, systems and controls include the following:</p> <ul style="list-style-type: none"><li>(a) Customer due diligence measures and ongoing monitoring;</li><li>(b) The reporting of suspicious activities;</li><li>(c) Record-keeping;</li><li>(d) Screening of employees;</li><li>(e) Internal controls</li><li>(f) Risk assessment and management;</li><li>(g) The monitoring and management of compliance</li><li>(h) The internal communication of its policies, procedures systems and controls;</li><li>(i) <u>the identification and scrutiny of:</u><ul style="list-style-type: none"><li>i. <u>The back ground of complex or unusually large transactions;</u></li><li>ii. <u>The background of unusual patterns of transactions which have no apparent economic or visible lawful purpose; and</u></li><li>iii. <u>Any other activity which the service provider regards as particularly likely by its nature to be related to the risk of money laundering or terrorist financing;</u></li></ul></li></ul> <p>As far as possible and document all findings in writing;</p> <ul style="list-style-type: none"><li>(j) <u>The taking of additional measures, where appropriate, to</u></li></ul>	
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			<p>prevent the use for money laundering or terrorist financing of products and transactions which are susceptible to anonymity.</p> <p>Service Providers are required to keep records of supporting documents data or information in respect of customer due diligence or ongoing measures in accordance with <u>Regulation 21-22 of the AMLTF Regulations</u>. The Regulation provides:</p> <p>21 (1) subject to subregulation (2), a service provider shall keep records specified in regulation 22 and such other records as may be specified in the Code-</p> <ul style="list-style-type: none"> <li>a) In a form, that enables them to be made available on a timely basis, when lawfully requires, to the supervisory authority, the financial Intelligence Unit or law enforcement authorities in the State; and</li> <li>b) For at least the minimum retention period.</li> </ul> <p>The minimum retention period is seven years (Regulation 3 (5))</p> <p>22 (1) (b) The records specified for the purposes of the Regulation 21 are-</p> <ul style="list-style-type: none"> <li>(a) <u>The supporting documents, data or information that have been obtained in respect of a business relationship or occasional transaction which is the subject of customer due diligence measures or ongoing monitoring;</u></li> </ul> <p><u>Paragraph 27 of the Code</u></p> <p>27. (1) The ongoing monitoring policies, procedures, systems and controls established by a service provider in accordance with regulation 20 of the Regulations shall:</p> <ul style="list-style-type: none"> <li>a) provide for a more thorough scrutiny of higher risk customers;</li> <li>b) be designed to identify unusual and higher risk activity or transactions and require that special attention is paid to higher risk activity and transactions;</li> <li>c) require that any unusual or higher risk activity or transaction is examined by an appropriate person to</li> </ul>	
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			<p>determine the background and purpose of the activity or transaction;</p> <p>d) require the collection of appropriate additional information</p> <p>e) be designed to establish whether there is a rational explanation, an apparent economic or visible lawful purpose, for unusual or higher risk activity or transactions identified, and require a written record to be kept of the service provider's conclusions.</p> <p>(2) When conducting ongoing monitoring, a service provider shall regard the following as presenting a higher risk:</p> <p>a) complex transactions;</p> <p>b) unusual large transactions;</p> <p>c) unusual patterns of transactions, which have no apparent economic or lawful purpose;</p> <p>d) activity and transactions:</p> <p>i. connected with countries which do not, or insufficiently apply, the FATF Recommendations; or</p> <p>ii. which are the subject of United Nations or European Union countermeasures; and</p> <p>(e ) activity and transactions that may be conducted with persons who are the subject of United Nations or European Union sanctions and measures.</p> <p>38. (1) A service provider shall keep for a period of 7 years from the date a business relationship ends, or for 7 years from the date that an occasional transaction was completed, records containing, with respect to that business relationship or transaction:</p> <p>a) any internal suspicious activity reports and supporting documentation;</p> <p>b) the decision of the AML/CFT reporting officer concerning whether to make a suspicious activity report to the Financial Intelligence Unit and the basis of that decision;</p> <p>c) details of any reports made to the Financial Intelligence Unit; and</p> <p>d) <u>records concerning reviews of:</u></p>	
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			<p><u>(i) complex transactions,</u></p> <p><u>(ii) unusual large transactions,</u></p> <p><u>(iii) unusual patterns of transactions, which have no apparent economic or visible lawful purpose, and</u></p> <p><u>(iv) Customers and transactions connected with countries which do not apply, or insufficiently apply, the FATF Recommendations or are the subject of United Nations or European Union countermeasures</u></p>	
12. DNFBP–R.5, 6, 8–11	NC	<ul style="list-style-type: none"> <li>Casinos should be regulated and supervised;</li> <li>All DNFBPs should be examined more systematically for CDD compliance;</li> <li>IFSA on-site examinations should be more frequent and thorough, especially for RAs and trustees;</li> <li>Some arrangement should be</li> </ul>	<p>At the time of the Mission, there were 28 RAs licensed and operating in SVG. That number has since been reduced to 18. Since the IMF visit to St. Vincent and the Grenadines between February - March, 2009, IFSA has carried out on-site inspections of fourteen (14) of the eighteen (18) remaining Registered Agent/ Trustee licensed entities. Four (4) Registered Agents were visited prior to the IMF's visit.</p> <p>The purpose of the visits were to review and assess the company's compliance with the Act and Regulations and the proper implementation of procedures stipulated in the Proceeds of Crime and Money Laundering (Prevention) Act, 2001. A list of International Business Companies and other entities files were examined to ascertain customer due diligence procedures and proper record keeping of their client's files. It was found</p>	<p>The FIU is currently preparing to conduct on-site examinations of DNFBP's pursuant to its supervisory role. The following remains outstanding:</p> <ul style="list-style-type: none"> <li>Examination of DNFBP's</li> <li>Arrangement for inspection of lawyers</li> <li>Supervision of Casino's (currently there are no casinos)</li> </ul>



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		<p>introduced for inspection of lawyers for compliance. Other DNFBPs should be subject to spot checks of files;</p> <ul style="list-style-type: none"> <li>Additional training should be undertaken, particularly for lawyers but also for RAs in their procedures for relying on third-parties for CDD compliance</li> </ul>	<p>that the large majority of the Registered Agents/Trustees records adhered to proper procedures such as completing due diligence questionnaire and obtaining identification on their client. Of note also is that the Registered Agents/ Trustees kept all their client's records in St. Vincent and the Grenadines. Issues of non compliance were discussed and directives given to the RA to rectify the problem.</p> <p>Follow up examinations for certain RAs are being scheduled.</p> <p>As of 30th March, 2011 the number of RAs licensed and operating have been further reduced to 16 as a result of IFSA's efforts to have only fully compliant RAs. IFSA completed a full on-site visit of all its licensed RAs in 2010 and has already commenced another round of onsite visits for the current year.</p> <p>To date IFSA has completed the second round of onsite examinations of nine (9) out of sixteen (16) Registered Agents/Trustees. The remaining onsite examinations are scheduled to be completed by January 2012.</p> <p><u>Update:</u></p> <p>IFSA has undertaken onsite inspections of fourteen (14) Registered Agents as at the 16th January, 2012. These entities have been found to have made significant progress since the last round of onsite inspections which were undertaken between late 2009 and 2010.</p> <p>IFSA is expected to complete onsite inspections of the final two (2) Registered Agents/ Registered Trustees, during the second quarter of this year.</p> <p>Altogether, IFSA has undertaken 2 rounds of onsite inspections of RAs in the past 3 and a half years. The number of Registered Agents operating is SVG has reduced from 28 at the time of the assessment to 16 at present owing to efforts by IFSA to monitor and ensure full compliance of the law by Registered Agents.</p> <p><u>Update- August 2012</u></p> <p>The onsite inspection of the St.Vincent Trust Service Limited and the St. Vincent Trust Company Limited is scheduled to take place from September 24<sup>th</sup> to September 27<sup>th</sup> at the companies' head office in Liechtenstein. Two members of IFSA's staff will comprise the inspection team.</p>	
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			<p><u>Update October 2012</u></p> <p>The onsite inspection of the Two Registered Agents and Trustees was completed at their European offices as scheduled. As such, the 16 Registered Agents and Trustees licensed in SVG have undergone a second round of onsite inspections in four years.</p> <p><u>Update-February 2013</u></p> <p>The Consultant provided a draft of the Proceeds of Crime and Money Laundering Regulations, which includes PEPs and terrorist financing, to the SVG FSA and FIU for review.</p> <p>The draft contains all recommended amendments made by the IMF as well as the FATF recommendations.</p> <p>The Consultant is working on bringing DNFBPs within the scope of the POCA Regulations. The list of “Financial Institutions” that will be subject to the AML/CFT obligations is intended to be amended to include DNFBPs. As such, they will be subject to undergo onsite examination to test their CDD and AML/CFT procedures</p> <p>The Consultant is progressing with completing both the POCA Regulations and the Guidance Notes. The Consultant is working closely with the relevant stakeholders to complete the GN’s by March 31, 2013.</p> <p><u>Update-August 2013</u></p> <p>The FSA has commenced another round of onsite inspection of International Banks and Registered Agents. There are currently 17 Registered Agents and 5 international Banks in SVG. Most Lawyers who operate in the international financial services sector are holders of Registered Agent and Trustee Licences and are subject to the enhanced onsite inspection carried out by the FSA every 12-18 months.</p> <p>The FIU has continued to conduct training in AML/CFT with the DNFBPs and other financial institutions in SVG.</p> <p>The FIU, FSA and the National Anti-Money Laundering Committee have completed review of the draft POCA Bill and AML/CFT Regulations.</p> <p>Provision has been made for the FIU to assume responsibility for</p>	
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			<p>monitoring and enforcing AML/CFT compliance by those DNFBPs that are not now subject to supervision by the FSA. This will require a further amendment to the FIU Act in the future as the FIU does not currently engage in supervisory functions.</p> <p><u>Update-February 2014</u> As indicated above, the FIU will undertake supervisory functions in relation to DNFBPs in particular. This will be finalized in the draft AML/CFT Regulations.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The FIU is the supervisory authority for DNFBPs for AML/TF purposes.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – FEBRUARY 2015</u> POCA 2013 – Part VII addresses Regulation, Supervision &amp; Enforcement in Sections 151 to 159</p> <p>Section 152 (1) states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations. (see above)</p> <p>Section 151 states that the Anti-Money Laundering and Terrorist Financing Regulations shall designate: ...(b) one or more persons or bodies, which may include the Financial Services Authority and the Financial Intelligence Unit, as the supervisory authorities for externally regulated service providers and non-regulated service providers.</p> <p>The Financial Intelligence Unit had been designated as the body to supervise these entities.</p> <p>The list of Service Providers is found in Schedule 1 of the AML &amp; TF</p>	
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			<p>Regulations, 2014.</p> <p><b><u>UPDATE- FEBRUARY 2016:</u></b></p> <p><b>Onsite examinations on financial entities and service providers are regularly undertaken. The statement ‘Infrequent and insufficiently detailed monitoring of CDD compliance of RAs’ is very outdated and no longer valid as onsite examinations have regularly taken place from 2009 onwards, typically every 12- 18 months.</b></p> <p><b><u>UPDATE-AUGUST 2017</u></b></p> <p>The Financial Services Authority continues to monitor the implementation of the provisions of the relevant anti-money laundering legislation by registered agents as part of their compliance framework.</p>	
13. Suspicious transaction reporting	PC	<ul style="list-style-type: none"> <li>Amend POCA (Section 46(3)) to require FIs to report all suspicion with respect to funds that are the proceeds of criminal conduct, not only those described under Section 46(2).</li> <li>Either POCA or UNATMA should be amended to require the filing of SARs for transactions or financial activities that are suspected to constitute or be related to the financing of individual terrorists or terrorist organizations;</li> </ul>	<p>Amendments to POCA have been drafted and submitted to the Hon. AG for consideration. It is however intended that all amendments to POCA can be taken to Parliament together. The UNODC has endeavoured to provide technical assistance to redraft UNATMA and is in consultation with the Hon. AG on this matter.</p> <p>This matter is presently before the Hon. Attorney General.</p> <p>The Attorney General has indicated that these amendments would be enacted by the end of the first quarter 2012.</p> <p><u>Update:</u></p> <p>Having reviewed POCA, it is felt that the current wording of Section 46(3) is sufficient to require the reporting of <u>all</u> suspicion and not only those specified in Section 46(2). Subsection (3) is as follows:</p> <p><i>“Upon suspicion that the transactions described in subsection (2) or any other transaction or financial activity could constitute or be related to money laundering or the proceeds of criminal conduct, a financial institution or person engaged in a relevant business activity shall report the suspicious transactions to the FIU.....”</i></p> <p>The <i>Proceed of Crime (Money Laundering) Act</i> Chapter 181 of the Revised Laws of St. Vincent and the Grenadines, 2009 (attached hereto) includes the amendment to section 46(3). This amendment was made by Act No. 25</p>	No outstanding issues in relation to this Recommendation.





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		<p>of 2002.</p> <p><u>Update-August 2013</u> The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA.</p> <p>It is anticipated that the new legislation will contain provision requiring the filing of SARs for transactions or financial activities that are suspected to constitute or be related to the financing of individual terrorists or terrorist organization.</p> <p><u>Update-February 2014</u> The draft Counter-Financing of Terrorism of Legislation intended to repeal and replace UNATMA remains pending. However it is anticipated that the provisions will adequately address the Examiners' comments and it is anticipated that it will be passed prior to the May 2014 Plenary.</p> <p><u>Update April 2014</u> Section 127 of POCA 2013 provides for the making of disclosures to the FIU by Money Laundering Reporting Officers (MLROs) of Service Providers. MLROs are required to disclose knowledge, suspicion or reasonable grounds for such knowledge or suspicion that a person is engaged in money laundering, to the FIU as soon as reasonably practicable.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p>	
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			<p><u>UPDATE – FEBRUARY 2015</u></p> <p>The <i>Anti-Terrorist Financing and Proliferation Bill 2015</i> was forwarded to the clerk of the House of Assembly for the next sitting of Parliament on Tuesday 3<sup>rd</sup> March, 2015.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>• The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18<sup>th</sup>, 2015</li> <li>• Section 15 – Duty to report information</li> <li>• Where a person –</li> <li>• Has reasonable grounds for knowing or suspecting, that another person has committed or attempted to commit a terrorist financing offence; and</li> <li>• The information or other matter which gives reasonable grounds for such knowledge or suspicion came to him in the course of a relevant business,</li> </ul> <p>He shall report the information or other matter to the relevant Money Laundering Reporting Officer or to the FIU.</p> <ul style="list-style-type: none"> <li>• Section 71 – Reporting obligations of relevant businesses</li> <li>• A relevant business shall inform the FIU as soon as practicable if –</li> <li>• It holds an account for a person, has entered into dealings or an agreement with a person or has been approached by or on behalf of a person;</li> <li>• It knows, or has reasonable cause to suspect, that the person –</li> <li>• Is a designated person; or</li> <li>• Has committed an offence under section 63(1), 64(1), 65(1), 66(1), 67(1), 69 of 70; and</li> <li>• The information or other matter on which the knowledge or reasonable cause for suspicion is based came to it in the course of carrying on its business.</li> </ul> <p>“designated person” means –</p> <ul style="list-style-type: none"> <li>• A person specified in Schedule 1 as a designated person; or</li> <li>• A person who is the subject Of a designation under this Act;</li> </ul> <p><b>UPDATE-FEBRUARY 2016:</b></p>	
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			<ul style="list-style-type: none"> <li>• The “SAR Filing Guidance “referred to in the Detail Assessment Report (DAR) of 2009 appears to make reference to updating the SAR form and the Guidance Notes. The Guidance Notes are currently being reviewed towards further enhancement.</li> <li>• However, it must be noted that comprehensive training related to identifying suspicious transactions relevant to every category of Service Providers is done annually. These presentations identifying high risk transactions along with updates and advisories relating to new typologies and trends are normally shared with the financial institutions.</li> <li>• Further, the SAR form has been updated from the 2004 structure providing more guidance for the institutions as to what should be included on the Form.</li> </ul> <p><b><u>UPDATE-AUGUST 2017</u></b> Guidance on Suspicious Activity Reports, including the filing of SARs, have been published by the FIU on its website for the attention and guidance of all service providers in the jurisdiction.</p> <p><b><u>UPDATE FEBRUARY 2018</u></b> Paragraphs 29-32 of the Anti-Money Laundering and Terrorist Financing Code 29. (1) A service provider shall establish and maintain reporting procedures that:</p> <ol style="list-style-type: none"> <li>a) communicate the identity of the AML/CFT reporting officer to its employees</li> <li>b) require that a report is made to the AML/CFT reporting officer to any information or other matter coming to the attention of any employee handling relevant business which, in the opinion of that person, gives rise to knowledge, suspicion or reasonable grounds for knowledge or suspicion that another person is engaged in money laundering or terrorist financing.</li> <li>c) ( c) require that a report is considered promptly by the AML/CFT reporting Officer in the light of all other relevant information for the purpose of determining whether or not the information or other matter contained in the report gives rise to knowledge, suspicion or reasonable grounds for knowledge or suspicion of money laundering or terrorist financing.</li> <li>d) allow the AML/CFT reporting officer to have access to all other</li> </ol>	
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			<p>information which may be of assistance in considering the report.</p> <p>e) Require the information or other matter contained in a report to be disclosed as soon as is reasonably practicable by the AML/CFT reporting officer to the Financial Intelligence Unit in writing, where the AML/CFT reporting officer knows, suspects that another person is engaged in money laundering or terrorist financing; and</p> <p>f) Require the AML/CFT reporting officer to report to the Financial Intelligence Unit attempted transactions and business that have been refused (regardless of the amount of the attempted transaction or the value of the refused business), where the attempted transaction or refused business gives rise to knowledge, suspicion or reasonable grounds for knowledge or suspicion of money laundering or terrorist financing.</p> <p>(2) For the purposes of this paragraph, AML/CFT reporting officer includes any deputy AML/CFT reporting officer that may be appointed.</p> <p>30. (1) A service provider shall establish internal; reporting procedures that require:</p> <p>a) That, where a customer fails to supply adequate customer due diligence information, or adequate documentation verifying identity (including the identity of any beneficial owners), consideration should be given to making suspicious activity report;</p> <p>b) The reporting of attempted transactions and business that has been refused, regardless of the amount of the attempted transaction or the value of the refused business, where the attempted transaction or refused business gives rise to knowledge, suspicion or reasonable grounds for knowledge or suspicion of money laundering or terrorist financing;</p> <p>c) Employees to make internal suspicious activity reports containing all relevant information in writing to the AML/CFT reporting officer as soon as it is reasonably practicable after the information comes to their attention;</p> <p>d) Suspicious activity reports to include as full a statement as possible of the information giving rise to knowledge or reasonable grounds for suspicion of money laundering or terrorist financing activity and full details of the customer;</p> <p>e) That reports are not filtered out by the supervisory staff or managers so that they do not reach the AML/CFT reporting officer;</p> <p>f) Suspicious activity reports to be acknowledged by the</p>	
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			<p align="center">AML/CFT reporting officer.</p> <p>(2) A service provider shall establish and maintain arrangements for disciplining any employee who fails, without reasonable excuse, to make an internal suspicious activity report where he or she has knowledge or reasonable grounds for suspicion of money laundering or terrorist financing.</p> <p>31. A service provider shall ensure that:</p> <ul style="list-style-type: none"> <li>a) All relevant information is promptly made available to the AML/CFT reporting officer on request so that internal suspicious activity reports are properly assessed;</li> <li>b) Each suspicious activity report is considered by the AML/CFT reporting officer in light of all relevant information; and</li> <li>c) The AML/CFT reporting officer documents the evaluation process followed and reasons for the decision to make a report or not to make a report to the financial intelligence Unit.</li> </ul> <p>32. (1) A service provider shall require that AML/CFT reporting officer to make external suspicious activity reports directly to the financial Intelligence Unit as soon as practical, and in any event within 14 days after the information or other matter comes to the AML/CFT compliance officer's attention, that:</p> <ul style="list-style-type: none"> <li>a) Include the information specified in subparagraph (2); and</li> <li>b) Are in such form as may be prescribed or specified by the Financial Intelligence Unit.</li> </ul> <p>(2) the information required to be included in a report to the Financial Intelligence Unit for the purposes of subparagraph (1) is:</p> <ul style="list-style-type: none"> <li>a) Full details of the customer and as full a statement as possible of the information giving rise to knowledge, suspicion or reasonable grounds for knowledge or suspicion;</li> <li>b) If a particular type of criminal conduct is suspected , a statement of this conduct;</li> <li>c) Where a service provider has additional relevant evidence that could be made available, the nature of this evidence; and</li> <li>d) Such statistical information as the Financial Intelligence Unit may require.</li> </ul> <p><b>Update April 2018</b></p>	
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			<p><b>The amount of SARS reported from 2014 by the then existing Offshore Banks amounted to 57 in 2014, 32 in 2015, 98 in 2017, 61 in 2017 and 12 thus far in 2018. The numbers are reflect an upwards surge from the time of the Onsite in 2010 where there were Four Offshore Banks in existence and only 10 SARs were submitted in total.</b></p>	
14. Protection & no tipping-off	NC	<p>POCA Section 45 should be amended to prohibit tipping off of the fact of the filing of the SAR itself;</p> <p>The defense in POCA Section 45(4) should be removed;</p> <p>UNATMA and/or POCA should be amended to prohibit the tipping of the filing of SARs and any related disclosure of information to a police officer of suspected terrorist financing activities or transactions.</p>	<p>Amendments to POCA have been drafted and submitted to the Hon. AG for consideration. It is however intended that all amendments to POCA can be taken to Parliament together.</p> <p>This matter is still pending as the Bill has not yet been tabled as envisioned. The matter is presently before the Hon. Attorney General.</p> <p><u>Update:</u></p> <p>Amendments to POCA have been finalized, including an amendment to Section 45 to prohibit tipping-off of the fact of the filing of a SAR itself. The Bill was tabled before Parliament at its sitting on February 28, 2012 and was passed. It is currently awaiting the Governor General's Assent which should take place shortly.</p> <p><u>Update- August 2012</u></p> <p>See Act No. 3 of 2012 (Proceed of Crime Amendment (2)) as attached.</p> <p><u>Update-August 2013</u></p> <p>The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA.</p> <p>It is anticipated that the new legislation will contain provision requiring the filing of SARs for transactions or financial activities that are suspected to constitute or be related to the financing of individual terrorists or terrorist organization.</p>	No outstanding issues in relation to this Recommendation.



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			<p><u>Update-February 2014</u> Tipping Off-Section 129 of POCA 2013 adequately addresses the examiners' comments regarding this offence.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – FEBRUARY 2015</u> The <i>Anti-Terrorist Financing and Proliferation Bill 2015</i> was forwarded to the clerk of the House of Assembly for the next sitting of Parliament on Tuesday 3<sup>rd</sup> March, 2015.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>• The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18<sup>th</sup>, 2015</li> <li>• Section 18 – Tipping off             <ol style="list-style-type: none"> <li>(1) Subject to section 19, a person is guilty of an offence if-                 <ol style="list-style-type: none"> <li>(a) He knows or suspects that a relevant disclosure is being or has been made, whether by himself or another person;</li> <li>(b) He discloses the fact that a relevant disclosure is being or has been made; and</li> <li>(c) His disclosure is likely to prejudice any investigation that might be conducted following the relevant disclosure.</li> </ol> </li> </ol> </li> </ul>	
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			<p>(2) Subject to section 19, a person is guilty of an offence if-</p> <p>(a) The person discloses that an investigation into allegations of terrorist financing, is being contemplated or is being carried out; and</p> <p>(b) The disclosure is likely to prejudice that investigation.</p> <ul style="list-style-type: none"> <li>POCA 2013 does not contain the same provisions as the old Act as it relates to PCMLPA section 45</li> </ul> <p>Section 129(2) POCA – Subject to section 130, a person is guilty of an offence if:</p> <p>(a) He knows or suspects that a relevant disclosure is being or has been made, whether by himself or another person;</p> <p>(b) He discloses the fact that a relevant disclosure is being or has been made;</p> <p>(c) His disclosure is likely to prejudice any investigation that might be conducted following the relevant disclosure referred to in subsection (2); and</p> <p>(d) The information concerning the relevant disclosure came to him in the course of a relevant business</p> <p><b><u>UPDATE-February 2016:</u></b></p> <ul style="list-style-type: none"> <li><b>The deficiencies identified here were fully addressed.</b></li> </ul>	
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> <li>Enhance the requirements for FIs to have comprehensive policies, and consider revising the compliance and independent audit requirements under POCA Regulations 8 (narrower) to make them consistent with those under Section 46 of the POCA (broader);</li> <li>Require FIs to train staff on current ML and FT trends, typologies, techniques, etc.;</li> <li>Clarify the scope of the training</li> </ul>	<p>In the revised Guidance Notes there are special chapters which allow for the establishment and maintenance of procedures to prevent ML and TF which includes internal controls, risk assessment and management, the monitoring and management of compliance with such policies and procedures and internal communication of such policies and procedures. It also requires senior management accountability including allocation to a director or senior management, the overall responsibility for the establishment and maintenance of effective AML systems and controls and the appointment of a person with adequate seniority and experience as the Compliance officer or reporting officer.</p> <p>There is also a chapter on staff awareness that emphasizes the need for regulated entities to ensure that staff is competent, remains so and is appropriately supervised and that their competence is regularly reviewed and they are trained in AML and CFT. This includes systems of ongoing</p>	<ul style="list-style-type: none"> <li>➤ Specific Training continues for high risk areas, such as wire transfers, correspondent banking, back-to-back loans and card operations annually to all relevant service providers including DNFBPs.</li> <li>➤ All other issues identified have been addressed.</li> </ul>





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		<p>requirement to ensure that the term “relevant” employees, i.e., to those that have/may have access to information that can be relevant to determine the existence of ML, does not restrict the training requirement;</p> <ul style="list-style-type: none"> <li>• Require FIs to properly screen employees for fit and proper criteria to ensure high standards;</li> <li>• Supervise and require FIs to ensure that compliance officers devote sufficient time and seniority to AML/CFT, and avoid inherent conflicts when multi-tasking such officers;</li> <li>• FIs, especially banks, should emphasize AML/CFT training for high risk areas e.g. money remittance business, correspondent accounts, wire transfers, back-to-back loans, and credit card operations.</li> </ul>	<p>monitoring of staff and proper screening that should go beyond simple reference checks. There are consequences for breaching these policies.</p> <p>There are specific chapters in the Guidance Notes that tell DNFBPs how to keep records and identify suspicious transactions. The said Notes are at the stage where they are being informally reviewed by the IMF Team Leader and upon feedback being obtained, the Guidance Notes will be circulated to the industry.</p> <p>The IMF team leader regrettably was unable to undertake an informal review of the Guidance Notes, and also indicated that the IMF is unable to undertake such review owing to other commitments and constraints. He has recommended that the CFATF or certain CFATF countries be approached to obtain technical assistance in this regard. This process is currently being undertaken.</p> <p><u>Update:</u></p> <p>The CFATF has agreed to assist with the finalization of SVG’s AML/CFT Guidance Notes by sourcing a consultant. Dialogue is ongoing with Mr. Calvin Wilson (CFATF) in relation to technical assistance which may be given to SVG for this project, from the Commonwealth Secretariat.</p> <p>The CFATF has agreed to provide technical assistance in the finalization of SVG’s AML/CFT Guidance Notes. A suitable consultant has been sourced and the agreed target date for completion is June 2012.</p> <p><u>Update -August 2012</u></p> <p>The Risk and Compliance Department of the Bank of Saint Vincent and the Grenadines (formerly National Commercial Bank (SVG) Limited) designated the month of June 2012 as AML/CFT month. During this month a number of activities were undertaken with a view to increasing employees’ awareness on AML/CFT issues. In addition the FIU was invited to participate in a panel discussion on the topics of the FATF and its Recommendations and AML/CFT Regulations and Guidance Notes.</p> <p>Additionally the FIU has also engaged in AML/CFT Training exercises with more financial institutions, credit unions, money remitters and insurance agencies during the months March-July 2012. Training will</p>	
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		<p>continue through the end of 2012.</p> <p>The AML/CFT Guidance Notes are not yet completed. The consultant is expected to come to SVG to consult on the Guidance Notes. The Consultant has extended his completion date for review of the AML/CFT Guidance Notes to the end of August 2012.</p> <p><u>Update October 2012</u></p> <p>The main problem with the re-drafting of SVG's Guidance Notes (GN) is that the first Consultant appointed to update and revise the GN produced work which was incomplete and inadequate to be proposed for implementation. Another Consultant had to be retained after very extensive but inadequate GN were produced.</p> <p>Another external Consultant was retained to draft the Guidance Notes and his recommendation was for a new draft to be produced. This Consultant has worked successfully in other jurisdictions and has provided comprehensive details on his work and also provided updates on his progress. He has however exceeded the stipulated deadline for completion and explained that the undue delay is as a result of a 'prolonged unforeseen circumstance'. SVG has already gone through certain stages in the process of having the Guidance Notes redrafted by this Consultant and it would be very inconvenient to change yet another Consultant at this stage. The Consultant has committed to providing a revised draft of the Guidance Notes by end of October 2012. The Consultant is simultaneously providing draft amendments to the AML Regulations to more fully capture all Core FATF Requirements and taking into consideration the FATF Revised Recommendations of 2012.</p> <p><u>Update-February 2013</u></p> <p>The Consultant has provided a draft of the Proceeds of Crime and Money Laundering Regulations, which includes PEPs and terrorist financing, to the SVG FSA and FIU for review.</p> <p>The draft contains all recommended amendments made by the IMF as well as the FATF recommendations.</p> <p>The Consultant is progressing with completing both the POCA Regulations and the Guidance Notes. The Consultant is working closely with the relevant stakeholders to complete the GN's by March 31<sup>st</sup>, 2013.</p>	
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			<p><u>Update-August 2013</u></p> <p>Comments on the Draft POCA Regulations have been submitted to the consultant and a final draft is currently being awaited. See attached.</p> <p>The consultant has also undertaken a revision of the Proceeds of Crime (Money Laundering) Act to address the 40 recommendations and other recommendations stated herein, the draft was submitted to and is presently before the Attorney General. It is expected that the Bill will be placed before Parliament at the November 2013 sitting. See Attached.</p> <p>The Consultant is also working on finalising the Guidance Notes which will be in the form of a Code to enable enforceability.</p> <p><u>Update-February 2014</u></p> <p>Draft AML/CFT Regulations are in the final stages and, pursuant to Section 168 of POCA, No. 38 of 2013, shall be made by the Minister (of Finance) after consulting with the National Anti-Money Laundering Committee and Cabinet.</p> <p><u>UPDATE-August 2014</u></p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – FEBRUARY 2015</u></p> <p>Training: The Financial Intelligence Unit commenced training of Service Providers on February 2<sup>nd</sup>, 2015. These AML/CFT workshops will run from February to April, 2015. Letters were sent to all Service Providers operating within the jurisdiction and to date, training has been scheduled with 90% of them.</p> <p>Annual Compliance Report: In 2012, the FIU implemented this tool to ensure compliance with</p>	
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			<p>obligations under the various AML and TF legislation.</p> <p>From the reports submitted, the FIU would then undertake an assessment of the Service Provider to ascertain whether or not it is adhering to the provisions of the aforementioned Legislation. Entities are urged to assess whether these areas were strengthened and any deficiencies highlighted were cured. They are also advised to make the requisite improvements to their systems to ensure that all suspicious transactions are reported to the FIU and to safeguard themselves from sanctions for non-compliance.</p> <p>Annual Compliance Reporting has the following stages:</p> <ul style="list-style-type: none"> <li>• Phase 1- Completing questionnaire on Compliance Structure</li> <li>• Phase 2- Completing questionnaire on Risk Based Assessment</li> <li>• Phase 3- Submission of Compliance Manuals</li> <li>• Phase 4- Completing questionnaire on Customer Due Diligence and Know Your Customer</li> <li>• Phase 5- Completing questionnaire on Monitoring and Reporting</li> </ul> <p>Service Providers have been providing their Reports under this mechanism and this has greatly aided in identifying deficiencies and correcting them at the earliest opportunity. Based on the ratings obtained from their reports, entities are assigned a risk level as it relates to the threat they may pose in in facilitating AML and TF.</p> <p>Further, Section 30 of the <i>Anti-Money Laundering and Terrorist Financing Code</i> which will soon be implemented, states that annual compliance reports and quarterly reports must be submitted by all institutions. Failure to submit same carries with it a fine of EC\$100,000.</p> <p><u>UPDATE – AUGUST 2015</u> The old Regulations no longer have effect</p> <ul style="list-style-type: none"> <li>• Regulation 20 addresses Policies, Procedures and Controls, Record Keeping and Training Regulation 20 (7) states that a service provider who contravenes subregulation 1 (policies, procedures, systems and controls); 3 (subsidiary's compliance with regulation); or 4 (procedures for monitoring and testing effectiveness); is guilty of an offence and is liable on summary conviction to a fine of \$100,000.</li> <li>• Regulation 24 – Training</li> </ul>	
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			<p>(1) A service provider shall take appropriate measures for the purposes of making employees whose duties relate to the provision of relevant business aware of –</p> <p>(a) The AML &amp; CTF policies, procedures, systems and controls maintained by the service provider in accordance with these Regulations and the Code;</p> <p>(b) The law of the State relating to ML and TF offences; and</p> <p>(c) These Regulations, the Code and any Guidance issued by the Committee.</p> <p>(2) A service provider shall provide employees specified in subregulation (1) with training in the recognition and handling of –</p> <p>(a) Transactions carried out by or on behalf of any person who is or appears to be engaged in ML or TF; and</p> <p>(b) Other conduct that indicates that a person is or appears to be engaged in ML or TF.</p> <p>(3) For the purposes of subregulation (2), training shall include the provision of information on current ML and TF techniques, methods, trends and typologies.</p> <p>(4) A service provider who contravenes subregulation (1), (2) or (3) is guilty of an offence and is liable on summary conviction, to a fine of \$100,000.</p> <p>The definition of relevant business is found in Regulation 3 - the interpretation section and states that: “relevant business” means a business which, if carried on by a person, would result in that person being a service provider. (service providers are listed in Schedule 1 of the Regulations)</p> <ul style="list-style-type: none"> <li>• Regulation 1(d) – screening of employees</li> <li>• Regulations 25 – 27 : Compliance and Reporting Obligations</li> </ul> <p><b><u>UPDATE-FEBRUARY 2016:</u></b></p> <ul style="list-style-type: none"> <li>• Along with the Sections noted above in earlier updates found in the POCA Regulations of 2014 the FIU is currently undergoing training with all financial institutions and high risk service providers which include money remittance agents and businesses, banks, credit unions, insurance companies and cooperative societies. They are being trained</li> </ul>	
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			<p>in relation to developing trends and typologies in their respective businesses.</p> <p>The drafted AML/CFT code provides in paragraph 33 for the training of employees' of Service Providers'.</p> <p>(1) It provides that a service provider shall:</p> <p>(a) provide appropriate basic AML/CFT awareness training to employees whose duties do not relate to the provision of relevant business;(b) establish and maintain procedures that monitor and test the effectiveness of its employees' AML/CFT awareness and the training provided to them;(c) vet the competence and probity of employees whose duties relate to the provision of relevant business at the time of their recruitment and at any subsequent change in role and ensure that their competence and probity is subject to ongoing monitoring; (d) provide training, to temporary and contract staff and, where appropriate, the staff of any third parties fulfilling a function in relation to a service provider under an outsourcing agreement; and (e) provide employees with adequate training in the recognition and handling of transactions at appropriate frequencies.</p> <p>(2) The training provided by a service provider shall:</p> <p>(a) be tailored to the business carried out by the service provider and relevant to the employees to whom it is delivered, including particular vulnerabilities of the service provider; (b) explain the meaning of "money laundering" for the purposes of the Act, the Regulations and this Code and the meaning of "terrorist financing", cover the legal obligations of employees to make disclosures under section 126 of the Act and section 17 of the Anti-Terrorist Financing and Proliferation Act and explain the circumstances in which such disclosures are required to be made;(c)explain the risk-based approach to the prevention and detection of money laundering and terrorist financing; (d) highlight to employees the importance of the contribution that they can individually make to the prevention and detection of money laundering and terrorist financing; and (e) be provided to employees as soon as practicable after their appointment.</p> <p>34. A service provider who contravenes paragraph 32 is guilty of an offence and is liable on summary conviction to a fine of three thousand</p>	
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			<p>dollars.</p> <p>Please see attached AML/CFT Code for ease of reference.</p> <p><u>UPDATE JANUARY 2018</u></p> <p><u>Paragraph 25 (3) of the Anti-Money Laundering Terrorist Financing Code provides:</u></p> <p>(3) <u>A Service provider must establish and maintain an adequately resources and independent audit function to test compliance, including by sample testing, with the policies, procedures, systems and controls established under the Regulation and this Code.</u></p>	
16. DNFBP– R.13–15 & 21	NC	<ul style="list-style-type: none"> <li>While the overall volume of business conducted by DNFBPs is low, many transactions, particularly cross-border transactions, are vulnerable to ML and FT risk. In this context, SAR reporting by DNFBPs is very low, suggesting a need for additional training and/or stricter oversight of compliance in this area;</li> <li>Need to strengthen internal compliance programs and supervision of the same, especially with respect to the larger DNFBPs. With the limited exception of some RAs, the adequacy of internal compliance programs has not been examined by supervisors;</li> <li>Need to assign responsibility for oversight of the reporting and internal AML/CFT compliance programs of lawyers, accountants, real estate agents, jewelers and car dealers.</li> </ul>	<p>Revised Guidance Notes tells all institutions that they need to have the proper compliance structure in place and requires them to conduct risk assessments and put systems in place to protect against the identified vulnerabilities.</p> <p>There is also included a self-assessment questionnaire which allows entities to evaluate their compliance systems.</p> <p>IBID – re: Status of AML/CFT Guidance Notes.</p> <p>As part of its mandate for training and awareness-raising, the FIU periodically sends out newsletters to financial institutions and DNFBPs on trends and typologies on ML and TF offences.</p> <p>In addition, the FIU intends to conduct onsite training with DNFBPs within the last quarter of 2011.</p> <p><u>Update:</u></p> <p>In the latter half of 2011 the FIU sent letters to all Financial Institutions and Relevant Businesses including DNFBPs to ascertain their training needs and to coordinate proposed dates and topics for training. While not all entities have responded, the FIU has commenced training in February 2012 and has conducted training to date with a local Bank, a Credit Union, an Insurance Company and a Money Remitter. Training will continue into 2012 until every Scheduled business and institution under POCA has received AML/CFT training.</p>	<p>The FIU is currently preparing to conduct on-site examination of DNFBP's on a Risk-sensitive basis pursuant to its supervisory role. The following remains outstanding:</p> <ul style="list-style-type: none"> <li>Examination of adequacy of internal compliance programs; and</li> <li>The Deficiencies identified at Recommendation 12 and 16 in relation to the supervision of DNFBPs.</li> </ul>



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			<p><u>Update -August 2012</u></p> <p>The FIU has engaged in AML/CFT Training exercises with more financial institutions, credit unions, money remitters and insurance agencies during the months March-July 2012. Training will continue through the end of 2012.</p> <p><u>Update-October 2012</u></p> <p>In response to the examiners comments Paragraph 16 above, the training conducted by the FIU includes training of all Registered Business as listed in Schedule 1 of POCA which includes DNFBPs. It is anticipated that additional training of this sector will lead to increased SAR reporting.</p> <p><u>Update-August 2013</u></p> <p>The FIU, FSA and the National Anti-Money Laundering Committee have completed review of the draft POCA Bill and AML/CFT Regulations.</p> <p>Provision has been made for the FIU to assume responsibility for monitoring and enforcing AML/CFT compliance by those DNFBPs that are not now subject to supervision by the FSA. This will require a further amendment to the FIU Act in the future as the FIU does not currently engage in supervisory functions.</p> <p><u>Update-February 2014</u></p> <p>As indicated above, the FIU will undertake supervisory functions in relation to DNFBPs in particular. This will be finalized in the draft AML/CFT Regulations.</p> <p><u>UPDATE-August 2014</u></p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The FIU is the supervisory authority for DNFBPs.</p> <p><u>UPDATE – February 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p>	
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		<p><u>UPDATE – FEBRUARY 2015</u></p> <p>Training: Training was done with a number of DNFBPs in 2013</p> <ul style="list-style-type: none"> <li>• Car Dealers – May: four (4) (onsite) June: workshop for all car dealers operating in the jurisdiction</li> <li>• Real Estate Agents – June: Workshop for all real estate agents operating in the jurisdiction</li> </ul> <p>The Financial Intelligence Unit commenced training of Service Providers on February 2<sup>nd</sup>, 2015. These AML/CFT workshops will run from February to April, 2015. Letters were sent to all Service Providers operating within the jurisdiction</p> <p>Supervision: POCA 2013 – Part VII addresses Regulation, Supervision &amp; Enforcement in Sections 151 to 159</p> <p>Section 152 (1) states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations. (see above)</p> <p>Section 151 states that the Anti-Money Laundering and Terrorist Financing Regulations shall designate: ...(b) one or more persons or bodies, which may include the Financial Services Authority and the Financial Intelligence Unit, as the supervisory authorities for externally regulated service providers and non-regulated service providers.</p> <p>The Financial Intelligence Unit had been designated as the body to supervise these entities.</p> <p>The list of Service Providers is found in Schedule 1 of the AML &amp; TF Regulations, 2014.</p> <p><b>UPDATE JANUARY-2018:</b></p> <p>Training was done with the following DNFBP's in 2017</p> <p>➤ <b>Jewellers</b></p>	
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			<ul style="list-style-type: none"> <li>➤ Real Estate Agents</li> <li>➤ Car Dealers</li> <li>➤ Accountants</li> </ul> <p><b>Standards Training from the CFATF December 2017:</b> <b>One person from All relevant DNFBPs was invited and Thirty Four (34) persons were in attendance representing the sector.</b></p>	
SSanctions	NC	<p>Amend regulatory laws to ensure that the full range of administrative sanctions powers for violations of POCA and the POCA Regulations are available to regulatory bodies; such sanctions powers should be harmonized across regulatory laws to ensure consistency. Administrative sanctions should include, at a minimum: written warnings; orders or directives to comply with specific instructions; removal of controlling shareholders, directors and senior management officials; ordering regular reports; administrative fines for non-compliance (possibly on a daily basis); barring individuals from employment within any regulated sector; replacing or restricting powers of managers, directors, or controlling owners; imposing conservatorship; and suspension, revocation or withdrawal of the license; Amend POCA and the POCA Regulations to explicitly authorize all regulatory bodies and agencies, including IFSA with respect to international banks, mutual funds, insurance companies and RAs; the Ministry of Finance with respect to local banks, MSBs and insurance companies, and the Comptroller of Cooperatives with respect to credit cooperatives, to impose administrative sanctions referred to above for violations of POCA and the POCA Regulations; Amend regulatory laws to authorize regulators to recommend to the DPP that a criminal proceeding be initiated for serious violations of POCA and the POCA</p>	<p>The offences under POCA are set out in the proposed Guidance Notes highlighting the sanctions for failure to comply. Consideration is being given in the Guidance Notes to authorize competent authorities to impose administrative sanctions for failure to adhere to the requirements. In particular, a single regulatory unit is being established whereby IFSA, the Supervisory and Regulatory Division of the Ministry of Finance and the Co-operatives Division will be merged. This unit entitled the 'Financial Services Authority' has not yet been established but is expected to be established before the end of 2011. The Financial Services Authority Bill governing the establishment, structure and functions of the FSA is in its final stage of review.</p> <p><u>Update:</u></p> <p>The Financial Services Authority (FSA) Act was enacted on November 22<sup>nd</sup> 2011. The formal establishment of the FSA is targeted for April 2012. The Act provides for administrative sanctions as well as criminal sanctions.</p> <p>An Amendment to Section 23 of the International Banks Act to include POCA regulations and to initiate enforcement for breaches of AML/CFT legislation has been sent to AG for consideration.</p> <p>Recommended administrative sanctions for violations of POCA and POCA regulations have been sent to AG for consideration.</p> <p>General recommendations made by IMF assessors have been submitted to the AG for consideration under the FSA Act.</p> <p>There has been a delay in the establishment of the FSA owing to national general elections in SVG which took place in December 2010. There were therefore disruptions in how quickly this entity could be established due to delays prior to and subsequent to elections when other matters of State took priority.</p> <p>The Financial Services Authority (FSA) has not yet been established but is expected to be established before the end of 2011. The Financial Services</p>	(3)



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		<p>Regulations; and Amend regulatory laws to ensure that civil fines and criminal penalties are substantially increased along the lines of those found in the Banking Act (see chart above) or in Section 47 of POCA.</p>	<p>Authority Bill governing the establishment, structure and functions of the FSA is in its final stage of review. There is still strong commitment to establish the FSA. The lease arrangement for the targeted premises for the FSA is being finalized.</p> <p>The Bill was presented in Parliament on October 18<sup>th</sup> 2011 and is slated to be enacted by November 18<sup>th</sup> 2011 after a Select Committee Review. The Minister of Finance has confirmed publicly that the FSA would be set up thereafter in January 2012. The lease arrangement for rental of premises for the FSA has been finalized.</p> <p><u>Update:</u></p> <p>The Financial Services Authority (FSA) Act was enacted on November 22<sup>nd</sup> 2011. The formal establishment of the FSA is targeted for April 2012. The physical location of the FSA has already been finalized as well as lease arrangements previously mentioned.</p> <p>Meetings are ongoing with the Director General/Finance and Planning and other representatives of the Ministry of Finance (Single Regulatory Division (SRD)) to address all logistics of the establishment of the FSA. The IFSA, SRD and Cooperatives Division are expected to be merged into the FSA and upon the request of the Director General, has now each assessed its human resources to determine competency of staff in order to facilitate the transition of competent staff and requisite skills into the FSA.</p> <p>A World Bank Consultant has been assigned through an Eastern Caribbean TA Project, to assist SVG in the establishment of the FSA. The Consultant is working with IFSA, SRD and the Co-operatives Division, to give strategic direction to the commencement phase of the FSA and work in ongoing to finalize a Business Plan for the first year of operation of the FSA. The first annual Budget is also being finalized and the organizational chart has been finalized.</p> <p><u>Update- August 2012</u></p> <p>The FSA Board of Directors and Executive Director have been appointed by Cabinet. A three (3) year Strategic Plan and Budget have been prepared. Other logistics are being sorted pending the imminent establishment of the FSA. The FSA is expected to be established during the latter half of 2012.</p> <p><u>Update October 2012</u></p> <p>The FSA Board has been working on logistical and administrative matters</p>	
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			<p>with respect to the establishment of the FSA.</p> <p>The FSA Board has held several meetings and made significant progress in finalizing administrative matters to ensure the smooth transition of three distinct regulatory bodies into the FSA and to ensure that the FSA would be fully operational on the date the FSA Act is proclaimed. The date set for proclamation is November 1st 2012.</p> <p>Extensive work was carried out to finalize a comprehensive Strategic Plan including an Organizational Structure and Plan, and a Three Year Operating Budget. Salary Scales for the FSA are included in the said Budget and this required in depth research and discussions locally with relevant stakeholders.</p> <p>Formal recommendations by heads of the three regulatory bodies have been made and accepted for the transition of staff into the FSA.</p> <p>Recruitments for additional staff required as per a finalized Organization Chart, is ongoing.</p> <p>The location of the FSA is very appropriate and has been secured however, is temporarily being occupied by the Ministry of Finance due to a fire in the latter's premises. The Ministry of Finance will be in a position to vacate the said premises in December 2012. The design for the physical premises of the FSA has been accepted and can readily be adapted to what already exists. The FSA will operate from the departments of the three regulatory bodies with IFSA being the main office until the physical move is made.</p> <p>All logistical details relevant to the FSA's formal establishment on November 1st are being addressed – official seals, stamps, stationery, websites, email and IT and other like matters, are all being purpose enhanced for the FSA.</p> <p>The groundwork for the liquidation of IFSA is also ongoing.</p> <p><u>Update February 2013</u></p> <p>The Financial Services Authority (FSA) Act was proclaimed on November 12<sup>th</sup>, 2012. The FSA is now fully functional.</p> <p>Section 5(1) (g) of the FSA Act requires the FSA to monitor and ensure compliance by financial entities and registered entities and by such other persons as are subject to them, with such Act, Regulations, Codes or</p>	
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			<p>Guidelines relating to Money Laundering or the financing of terrorism.</p> <p>(The FSA Act is hereto attached for information)</p> <p><u>Update-August 2013</u></p> <p>Two and a half months after its establishment, the FSA intervened and took management and control the only building society in SVG, the largest and most iconic non bank financial institution. Prior to intervention, this financial institution was experiencing severe liquidity problems and poor management. The FSA has seconded some of its staff to assist with the day to day activities of the institution, which is now well on its way to financial stability. This intervention has been a test of the FSA's capabilities and capacity, both at a legislative and human resources level, and has illustrated that the FSA is well equipped to carry out its very important regulatory functions. Notwithstanding the ongoing crisis management in relation to the building society being undertaken by the FSA, the FSA has simultaneously also undertaken extensive work in the Credit Union Sector to ensure that the sector is effectively supervised and that the financial condition of all the country's credit unions is intact. Onsite examinations of all credit unions have now been undertaken.</p> <p><u>Update-February 2014</u></p> <p>Three of the six credit unions provide agency services on behalf of the money remittance company, Western Union".</p> <p>On-site examinations were done using a risk-based approach with the objective of evaluating the safety and soundness of the Credit Union, including compliance with laws and regulation. The main areas of concentration are protection; effective financial structure; asset growth; rates of return and costs; liquidity; and management and ML/CFT.</p> <p>The results of the onsite inspections were mixed where two credit unions were classified as low risk; two were considered medium risk; and two high risk.</p> <p>Based on the on-site examination, three credit unions were required to prepare re-capitalisation plans; one was required to signed a memorandum of agreement with the FSA; and recommendations were given to the others so that corrective action can be taken on areas of weakness identified.</p> <p><u>UPDATE – February 2015</u></p> <p>The second round of onsite examinations of credit unions and building societies, which assess prudential as well as AML/TF requirements will commence in the second quarter of 2015.</p> <p>The second and third rounds of onsite examinations of Money Services Businesses and Insurance companies will commence in the second quarter</p>	
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		<p>of 2015.</p> <p><u>Update- August 2015</u> Two on site examinations have been completed so far in the second round for the credit unions and Building societies. The other three examinations will be completed by November 2015.</p> <p>With respect to Money Services Businesses the second round of onsite examinations will commence in the first quarter of 2016.</p> <p><u>FSA Capacity Building:</u> the FSA staff has been exposed to a number of training opportunities offered by regional agencies including CARTAC, the most recent being the, CARTAC sponsored training on Risk-Based Supervision in February, 2015. The FSA's Annual report 2013 (<i>attached hereto for reference</i>) illustrates the accomplishments and developments of the FSA. This report was provided to the CFATF and many other CFATF member countries.</p> <p><u>UPDATE – FEBRUARY 2015</u> POCA 2013 – Part VII addresses Regulation, Supervision &amp; Enforcement in Sections 151 to 159</p> <p>Section 151 states that the Anti-Money Laundering and Terrorist Financing Regulations shall designate: (a) a person or body as the supervisory authority for regulated service providers; and (b) one or more persons or bodies, which may include the Financial Services Authority and the Financial Intelligence Unit, as the supervisory authorities for externally regulated service providers and non-regulated service providers.</p> <p>Section 152 and Schedule 4 of POCA 2013 addresses the functions, powers and duties of the supervisory authorities.</p> <p>Section 152 (1) states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations.</p> <p>In the Schedule, Section 3- Power to require information and production of documents; Section 5 – Compliance visits; Section 9 – Offences; and Section 10 – Enforcement action.</p> <p>The list of Service Providers is found in Schedule 1 of the AML &amp; TF Regulations, 2014 and Externally Regulated Service Providers are found at Schedule 2.</p>	
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			<p align="center"><b>UPDATE MARCH 2018</b></p> <p><u>Section 152-156 of the Proceeds of Crime Act, 2013 makes provision for the Supervisory Authorities in St. Vincent and the Grenadines. The sections provide thus:</u></p> <p>“Service Providers Supervisory authorities</p> <p><b>151.</b> The Anti-money Laundering and Terrorist Financing Regulations shall designate:</p> <p>(a) a person or body as the supervisory authority for regulated service providers; and</p> <p>(b) one or more persons or bodies, which may include the Financial Services Authority and the Financial Intelligence Unit, as the supervisory authority or supervisory authorities for externally regulated service providers and non-regulated service providers.</p> <p>Objective, functions and powers of the supervisory authorities</p> <p><b>152.</b> (1) The objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations.</p> <p>(2) The functions of a supervisory authority are:</p> <p>(a) to monitor the compliance of relevant service providers with their AML/CFT obligations;</p> <p>(b) to take appropriate enforcement action against relevant service providers for breaches of, or non-compliance with, their AML/CFT obligations;</p> <p>(c) in the case of a supervisory authority for externally regulated or non-regulated service providers, to:</p> <p>(i) determine applications for registration in accordance with the Externally and Non-Regulated Service Providers Regulations, and</p> <p>(ii) to take appropriate action against relevant service providers who carry on relevant business without being registered in accordance with the Externally and Non-Regulated Service Providers Regulations; and</p> <p>(d) to perform such other functions, and exercise such powers:</p> <p>(i) as may be assigned to the supervisory authority by this Act, any regulations made under this Act or any other law; or</p> <p>(ii) that are ancillary to its objective.</p> <p>(3) In implementing its objective and in performing its functions, a supervisory authority has the information gathering, enforcement and other powers provided for in Schedule 4.</p> <p>(4) In determining the enforcement action to be taken against a relevant service provider for a breach of, or failure to comply with, its AML/CFT obligations, a supervisory authority must have regard for the</p>	
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			<p>need to ensure that the enforcement action taken is effective, proportionate and dissuasive.</p> <p>(5) Where a breach of the Anti-money Laundering and Terrorist Financing Regulations constitutes an offence, the taking of enforcement action by a supervisory authority does not prevent the service provider being also prosecuted for the offence.</p> <p>Duty to cooperate</p> <p><b>153.</b> (1) A supervisory authority shall take such steps as it considers appropriate to co-operate with:</p> <ul style="list-style-type: none"> <li>(a) the Financial Intelligence Unit;</li> <li>(b) law enforcement agencies in the State; and</li> <li>(c) any other supervisory authorities.</li> </ul> <p>(2) Co-operation may include the sharing of documents and information, which the supervisory authority is not prevented by this or any other law from disclosing.</p> <p>Limitation of liability of supervisory authorities</p> <p><b>154.</b> (1) No person or body to whom this section applies is liable in damages for anything done or omitted in the discharge or purported discharge of any function under, or authorized by or under, this Act unless it is proved that the act or omission was in bad faith.</p> <p>(2) This section applies to:</p> <ul style="list-style-type: none"> <li>(a) each supervisory authority;</li> <li>(b) any member of a supervisory authority or any person who is, or is acting as, a board member, officer, employee or agent of the supervisory authority or who is performing any duty or exercising any power on behalf of the supervisory authority.</li> </ul> <p>Prohibition on carrying on relevant business if not registered</p> <p><b>155.</b> (1) Subject to subsection (2), a person shall not carry on any type of relevant business in or from within the State unless that person has been registered for that type of relevant business by the appropriate supervisory authority in accordance with the Externally and Non-regulated Service Providers Regulations.</p> <p>(2) Subsection (1) does not apply to a regulated service provider.</p> <p>(3) A service provider who contravenes subsection (1) is guilty of an offence and is liable:</p> <ul style="list-style-type: none"> <li>(a) on summary conviction, to imprisonment for a term of 12 months or to a fine of \$20,000 or to both;</li> <li>(b) on conviction on indictment, to imprisonment for a term of 5 years or to a fine of \$100,000 or to both.</li> </ul> <p>Regulations, externally regulated and non-regulated service providers</p> <p><b>156.</b> (1) The Minister shall, after consulting the Committee and Cabinet, make regulations providing for:</p> <ul style="list-style-type: none"> <li>(a) the registration of externally regulated and non-regulated service providers;</li> </ul>	
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			<p>(b) the de-registration of externally regulated and non-regulated service providers;</p> <p>(c) the imposition by relevant supervisory authorities of administrative penalties against externally regulated and non-regulated service providers for any contravention of their AML/CFT obligations, including the basis for fixing those penalties;</p> <p>(d) the payment of fees to the relevant supervisory authorities by externally regulated and non-regulated service providers, including the categories of fee payable and the basis for the assessment of the amount of those fees; and</p> <p>(e) such other matters relating to externally regulated and non-regulated service providers as this Act may require or permit.</p> <p>(2) Without limiting subsection (1), the Regulations made under this section may provide for:</p> <p>(a) types or levels of registration;</p> <p>(b) applications for registration;</p> <p>(c) the criteria for determining applications for registration;</p> <p>(d) the grant or refusal of an application for registration; and</p> <p>(e) such other matters as the Minister considers appropriate generally for giving effect to this Part or to Schedule 4.</p> <p>(3) The regulations made under this section may:</p> <p>(a) make different provision in relation to different persons, circumstances or cases; and</p> <p>(b) prescribe offences against the regulations and prescribe a term of imprisonment not exceeding 2 years, a fine not exceeding \$100,000 or both in respect of any one offence.</p> <p>(4) Fees and penalties paid to a relevant supervisory authority under regulations made in accordance with subsection (1) shall be used by the supervisory authority for the purposes of undertaking its functions.</p> <p><b><u>Section 36 of the Anti-Money Laundering and Terrorist Financing Regulations makes provision for the Following Supervisory Authorities in St. Vincent and the Grenadines:</u></b></p> <p>“The following are designated as supervisory authorities for the purposes of section 151 of the Act:</p> <p>(a) the Financial Services Authority, established by the Financial Services Authority Act of 2011 is designated as the supervisory authority for regulated persons;</p> <p>(b) the Financial Intelligence Unit is designated as the supervisory authority of non-regulated service providers;</p> <p>(c) the Eastern Caribbean Central Bank is designated as the supervisory authority for externally regulated service providers who hold a</p>	
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			<p>licence granted under the Banking Act; and</p> <p>(d) the Eastern Caribbean Securities Regulatory Commission is designated as the supervisory authority for externally regulated service providers who hold a licence granted under the Securities Act. “  <u><b>All Supervisory Authorities are equipped with a plethora of administrative sanctions as provided for in Schedule 4 of the Proceeds of Crime Act 2013.</b></u>  <b>SCHEDULE 4 [Section 152(3)]</b>  <b>POWERS AND DUTIES OF SUPERVISORY AUTHORITIES</b>  <b>Scope of this Schedule</b></p> <p>1. This Schedule sets out the powers and duties of the supervisory authorities designated by the Anti-money Laundering and Terrorist Financing Regulations in accordance with section 151.</p> <p><b>Interpretation</b></p> <p>2. (1) In this Schedule:</p> <p>“affiliate”, in relation to a company (the first company), means a company that is in the same group as the first company;</p> <p>“director”, in relation to a company, means a person appointed to direct the affairs of the company and includes:</p> <p>(a) a person who is a member of the governing body of the company; and</p> <p>(b) a person who, in relation to the company, occupies the position of director, by whatever name called;</p> <p>“former relevant service provider” means a person who at any time has been a relevant service provider, but who has ceased to be a relevant service provider;</p> <p>“group”, in relation to company (the first company), means the first company and any other company that is:</p> <p>(a) a parent of the first company;</p> <p>(b) a subsidiary of the first company;</p> <p>(c) a subsidiary of a parent of the first company;</p> <p>(d) a parent of a subsidiary of the first company;</p> <p>(e) a company in which the first company, or a company specified in paragraphs (a) to (d) has a significant interest;</p> <p>“parent”, in relation to a company (the first company), means another company that:</p> <p>(a) is a member of the first company and whether alone, or under an agreement with other members, is entitled to exercise a majority of the voting rights in the first company;</p> <p>(b) is a member of the first company and has the right to appoint or remove the majority of the directors of the first company;</p> <p>(c) has the right to exercise a dominant influence over the management and control of the first company pursuant to a provision in the constitutional documents of the first company; or</p>	
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			<p>(d) is a parent of a parent of the first company;  “registered service provider” means a service provider who is registered under the Externally and Non-Regulated Service Provider Regulations;  “significant interest” has the meaning specified in the Anti-money Laundering and Terrorist Financing Regulations;  “subsidiary”, in relation to a company (the first company) means a company of which the first company is a parent;  “unregistered service provider” means a service provider who is not registered under the Externally and Non-Regulated Service Provider Regulations.</p> <p><b>Power to require information and production of documents</b></p> <p>3. (1) Where reasonably required for the discharge of its functions under this Act, Anti-money Laundering and Terrorist Financing Regulations or a Code issued under this Act, a supervisory authority may, by written notice given to a person specified in subparagraph (2), require the person:</p> <p>(a) to provide specified information or information of a specified description; or  (b) to produce specified documents or documents of a specified description.</p> <p>(2) A notice under subparagraph (1):</p> <p>(a) may be issued to:</p> <p>(i) a relevant service provider,  (ii) a former relevant service provider,  (iii) an affiliate of a relevant service provider or a former relevant service provider,  (iv) a director of a relevant service provider or a former relevant service provider that is a company,  (v) a partner of a relevant service provider or a former relevant service provider that is a partnership,  (vi) a senior employee of a person specified in subparagraph (i), (ii), (iii), (iv) or (v), or  (vi) in the case of a notice requiring the production of documents, any person who the supervisory authority reasonably believes is in possession, or has control, of the documents;</p> <p>(b) may require that the information is to be provided to, or the documents are to be produced to, such person as may be specified in the notice; and</p> <p>(c) must specify the place where, and the period within which, the information or documents must be provided or produced.</p> <p>(3) A supervisory authority may:</p> <p>(a) require:</p> <p>(i) any information provided or documents produced under this paragraph to be provided or produced in such form as it may specify,</p>	
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			<p>(ii) any information provided or document produced under this paragraph to be verified or authenticated in such manner as it may reasonably specify, and</p> <p>(iii) that the information is to be provided to, or the documents are to be produced to, a person specified in the notice; and</p> <p>(b) take copies or extracts of any document produced under this paragraph.</p> <p>(4) Where a person claims a lien on a document, its production under this paragraph is without prejudice to his lien.</p> <p><b>Search warrant</b></p> <p>4. (1) The Magistrate's Court may issue a search warrant under this paragraph if satisfied on information on oath or affirmation given on behalf of a supervisory authority that there are reasonable grounds for believing that one or more of the conditions specified in subparagraph (2) have been satisfied.</p> <p>(2) The conditions referred to in subparagraph (1) are:</p> <p>(a) that a person has failed to fully comply with a notice of a supervisory authority issued under paragraph 3(1) within the time period specified in the notice and that on the premises specified in the warrant:</p> <p>(i) there are documents that have been required to be produced, or</p> <p>(ii) there is information that has been required to be provided;</p> <p>(b) that:</p> <p>(i) a notice could be issued by a supervisory authority under paragraph 3(1) against a person,</p> <p>(ii) there are documents, or there is information, on the premises specified in the warrant in respect of which a notice under paragraph 3(1) could be issued, and</p> <p>(iii) if a notice under paragraph 3(1) was to be issued, it would not be fully complied with or the documents or information to which the notice related would be removed, tampered with or destroyed; or</p> <p>(c) that:</p> <p>(i) an offence under this Act, any other law relating to money laundering or the financing of terrorism, the Anti-money Laundering and Terrorist Financing Regulations or the Externally and Non-Regulated Service Provider Regulations has been, is being or may be committed by a person,</p> <p>(ii) there are documents, or there is information, on the premises specified in the warrant that evidence the commission of the offence, and</p> <p>(iii) if a notice under paragraph 3(1) was to be issued, it would not be complied with or the documents or information to which the notice related would be removed, tampered with or destroyed.</p> <p>(3) A warrant issued under this paragraph shall authorise a named representative of the supervisory authority, together with a police officer and any other person named in the warrant:</p>	
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			<p>(a) to enter the premises specified in the warrant at any time within 1 week from the date of the warrant;</p> <p>(b) to search the premises and take possession of any documents or information appearing to be documents or information of a type in respect of which the warrant was issued or to take, in relation to such documents or information, any other steps which appear to be necessary for preserving or preventing interference with them;</p> <p>(c) to take copies of, or extracts from, any documents or information appearing to be documents or information of a type in respect of which the warrant was issued;</p> <p>(d) to require any person on the premises to provide an explanation of any document or information appearing to be documents or information of a type in respect of which the warrant was issued or to state where such documents or information may be found; and</p> <p>(e) to use such force as may be reasonably necessary to execute the warrant.</p> <p>(4) Unless the Court, on the application of a supervisory authority, otherwise orders, any document of which possession is taken under this paragraph may be retained:</p> <p>(a) for a period of 3 months; or</p> <p>(b) if, within a period of 3 months, proceedings for a criminal offence to which the document is relevant are commenced against any person, until the conclusion of those proceedings.</p> <p>(5) In this paragraph, “premises” includes a vehicle, vessel or aircraft.</p> <p><b>Compliance visits</b></p> <p>5. (1) A supervisory authority may, for the purposes of monitoring, assessing and enforcing compliance by a relevant service provider with its AML/CFT obligations:</p> <p>(a) enter and inspect any premises, whether in or outside the State, owned, occupied or used by the service provider or any subsidiary or parent of the service provider;</p> <p>(b) review and inspect the business and activities of the service provider, including its policies, procedures, systems and controls;</p> <p>(c) examine and make copies of documents belonging to or in the possession or control of the service provider, or any subsidiary or parent of the service provider, that, in the opinion of a supervisory authority, are relevant to the service provider’s business or to its AML/CFT obligations; and</p> <p>(d) seek information and explanations from the officers, employees, agents and representatives of the service provider, whether orally or in writing, and whether in preparation for, during or after a compliance visit.</p> <p>(2) Subject to subparagraph (3), a supervisory authority shall give reasonable notice to a relevant service provider of its intention to exercise</p>	
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			<p>its powers under subparagraph (1).</p> <p>(3) Where it appears to a supervisory authority that the circumstances so justify, the supervisory authority may exercise its powers under subparagraph (1) without giving notice of its intention to do so.</p> <p>(4) A relevant service provider and its subsidiaries and parents shall permit any employee of a supervisory authority, or person appointed by the supervisory authority for the purpose, to have access during reasonable business hours to any premises specified in paragraph (1)(a) to enable that person to undertake a compliance visit.</p> <p>(5) A person who contravenes subparagraph (4) is guilty of an offence and is liable:</p> <p>(a) on summary conviction, to imprisonment for a term of twelve months or to a fine of \$25,000 or to both; or</p> <p>(b) on conviction on indictment, to imprisonment for a term of three years or to a fine of \$50,000 or to both.</p> <p><b>Privileged information</b></p> <p>6. (1) A person shall not be required to disclose information or produce, or permit the inspection of, a document under this Schedule if the information or document is privileged material within the meaning of paragraph 132.</p> <p>(2) Notwithstanding subparagraph (1), a professional legal adviser may be required, pursuant to a power under this Schedule, to provide the name and address of his client.</p> <p><b>Admissibility of statements</b></p> <p>7. (1) Subject to subparagraph (2), a statement made by a person in compliance with a request made by a supervisory authority under paragraph 3 is admissible in evidence in any proceedings, provided that it also complies with any requirements governing the admissibility of evidence in the circumstances in question.</p> <p>(2) A statement made by a person in compliance with a requirement imposed under this Schedule may only be used in evidence against him in criminal proceedings if:</p> <p>(a) that person has himself introduced the statement in evidence; or</p> <p>(b) the prosecution of that person relates to:</p> <p>(i) a failure or refusal by that person to produce documents or give assistance in accordance with this Act,</p> <p>(ii) an omission by that person to disclose material which should have been disclosed or the provision by that person of false or misleading information, or</p> <p>(iii) an untruthful statement by that person.</p> <p><b>Protection for disclosure</b></p> <p>8. A person, including a director, officer or employee of a relevant service provider, who discloses information or produces documents to a supervisory authority, as permitted or required by this Schedule, is deemed</p>	
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			<p>not to be in contravention of any law, rule of law, agreement or professional code of conduct to which that person is subject and no civil, criminal or disciplinary proceedings shall lie against him, or against the service provider, in respect thereof.</p> <p><b>Offences</b></p> <p>9. (1) A person is guilty of an offence if, without reasonable excuse he fails to comply with a notice issued under paragraph 3(1). (2) A person who, in purported compliance with a notice issued by a supervisory authority under paragraph 3(1): (a) provides information which he knows to be false or misleading in a material respect; or (b) recklessly provides information which is false or misleading in a material respect; is guilty of an offence. (3) A person who, for the purpose of obstructing or frustrating compliance with a notice issued by a supervisory authority under paragraph 3(1) destroys, mutilates, defaces, hides or removes a document is guilty of an offence. (4) A person who is guilty of an offence under this paragraph is liable: (a) on summary conviction, to imprisonment for a term of two years or to a fine of \$30,000 or to both; or (b) on conviction on indictment, to imprisonment for a term of five years or to a fine of \$100,000 or to both.</p> <p><b>Enforcement action</b></p> <p>10. A supervisory authority is entitled to take enforcement action under this Schedule against a relevant service provider if, in the opinion of the supervisory authority, the relevant service provider: (a) has contravened or is in contravention of any of its AML/CFT obligations; (b) has failed to comply with a directive given to it by the supervisory authority under paragraph 11; (c) is in breach of any term or condition of its registration; (d) has provided the supervisory authority with any false, inaccurate or misleading information, whether on making application for registration or subsequent to its registration; (e) has refused or failed to co-operate with the supervisory authority on a compliance visit under paragraph 4; (f) has refused or failed to co-operate with an investigator appointed under paragraph 12; or (g) is carrying on any type of relevant business without being registered for that type of relevant business under the Externally and Non-Regulated Service Provider Regulations.</p> <p><b>Directives</b></p> <p>11. (1) Where a relevant supervisory authority is entitled to take</p>	
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			<p>enforcement action against a service provider, it may by written notice issue such directives to the relevant service provider as it considers appropriate.</p> <p>(2) Without limiting subparagraph (1), a directive may:</p> <p>(a) require the service provider to take, or not to take, such action or measures as the supervisory authority considers appropriate;</p> <p>(b) impose a prohibition, restriction or limitation on the business or activities of the service provider;</p> <p>(c) require that any director, key employee or person having functions in relation to the service provider be removed and replaced by another person acceptable to the supervisory authority; or</p> <p>(d) require that any individual:</p> <p>(i) not perform a specified function or functions for,</p> <p>(ii) not engage in specified employment by,</p> <p>(iii) not hold a specified position in the business of, the service provider.</p> <p>(3) A directive issued under this paragraph may be of unlimited duration or of a duration specified in the notice of the directive.</p> <p>(4) The power to issue a directive under this paragraph includes the power, whether on the application of the relevant service provider or on the volition of the relevant supervisory authority, to vary or withdraw any directive.</p> <p>(5) A notice of a directive must:</p> <p>(a) specify the reasons for giving the directive; and</p> <p>(b) specify when the directive is to take effect.</p> <p>(6) A service provider who, fails to comply with a directive issued under this paragraph is guilty of an offence and is liable on summary conviction, to imprisonment for a term of twelve months or to a fine of \$25,000 or to both.</p> <p><b>Appointment of investigator</b></p> <p>12. (1) A supervisory authority may appoint one or more competent persons as investigators to conduct an investigation on its behalf:</p> <p>(a) with respect to a relevant service provider:</p> <p>(i) if it appears to the supervisory authority on reasonable grounds that there are, or may be, grounds for taking enforcement action, or</p> <p>(ii) the supervisory authority is of the opinion that it is desirable to appoint an investigator to undertake a money laundering and terrorism financing risk assessment in relation to the service provider; and</p> <p>(b) with respect to a former relevant service provider, if the supervisory authority would have been entitled to appoint an investigator under paragraph (a), but for the person ceasing to be a service provider.</p> <p>(2) An investigator appointed under subparagraph (1) shall be appointed to investigate one or more of the following in respect of the person being investigated:</p>	
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			<p>(a) the current or past compliance of the service provider with its AML/CFT obligations;</p> <p>(b) the money laundering and terrorism financing risks to which the service provider is exposed;</p> <p>(c) the capacity and willingness of the service provider to identify, mitigate and manage the money laundering and terrorism financing risks to which the service provider is exposed; and</p> <p>(d) whether there are grounds for the taking of enforcement action against the service provider.</p> <p>(3) Subject to subparagraph (4) and as far as reasonably required to conduct his investigation, an investigator appointed under this paragraph has the powers of the supervisory authority:</p> <p>(a) to require the provision of information or documents under paragraph 3; and</p> <p>(b) to apply to the Magistrate under paragraph 4 for a search warrant;</p> <p>(c) under paragraphs (a) to (d) of paragraph 5(1).</p> <p>(4) A supervisory authority may give directions to the investigator:</p> <p>(a) limiting the powers of the investigator; and</p> <p>(b) concerning any one or more of the following:</p> <p>(i) the scope of the investigation,</p> <p>(ii) the period for the conduct of the investigation, and</p> <p>(iii) the manner in which the investigator shall report to the supervisory authority.</p> <p>(5) An investigator appointed under subparagraph (1) may, if he considers it necessary for the purposes of his investigation, on giving written notice to the person concerned, also investigate the business of any person who is, or at any relevant time has been:</p> <p>(a) an affiliate of the person under investigation; or</p> <p>(b) a partnership of which the person under investigation is a member.</p> <p>(6) An investigator shall submit a report of his investigation to the supervisory authority that appointed him.</p> <p>(7) A supervisory authority may direct that the service provider pay the costs, or such part of the costs as it may specify, of an investigation conducted under this paragraph.</p> <p>(8) The Externally and Non-Regulated Service Provider Regulations may provide for:</p> <p>(a) the notice to be given to a person to be investigated under this paragraph;</p> <p>(b) the conduct of an investigation; and</p> <p>(c) the payment of remuneration to the investigator.</p> <p>(9) A person who fails to provide all assistance reasonably required by an investigator appointed under this paragraph is guilty of an offence</p>	
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			<p>and is liable:</p> <p>(a) on summary conviction, to imprisonment for a term of two years or to a fine of \$30,000 or to both; or</p> <p>(b) on conviction on indictment, to imprisonment for a term of five years or to a fine of \$100,000 or to both.</p> <p><b>Public statements</b></p> <p>13. (1) Subject to subparagraph (5), a supervisory authority may issue a public statement in such manner as it considers fit setting out enforcement action that the supervisory authority intends to take, or has taken, against a relevant service provider or a former relevant service provider.</p> <p>(2) A public statement issued under subparagraph (1) may include such information as the supervisory authority considers appropriate, including:</p> <p>(a) the reasons for the enforcement action taken or to be taken; and</p> <p>(b) the nature of the enforcement action taken or to be taken.</p> <p>(3) Where it considers it in the public interest to do so, a supervisory authority may issue a public statement in such manner as it considers fit with respect to:</p> <p>(a) any person who the supervisory authority has reasonable grounds to believe is carrying on, has carried on, intends to carry on or is likely to carry on any type of relevant business without being registered under the Externally and Non-Regulated Service Provider Regulations in respect of that type of relevant business; and</p> <p>(b) any matter relating to the risks of money laundering or terrorist financing.</p> <p>(4) Subject to subparagraph (5), where a public statement is to be issued under this paragraph in relation to a relevant service provider or a former relevant service provider, the supervisory authority shall give the service provider 7 days written notice of its intention to issue the public statement and the reasons for the issue of the statement.</p> <p>(5) If the supervisory authority is of the opinion that it is in the public interest that subparagraph (4) should not have effect or that the period referred to in that subparagraph should be reduced, the supervisory authority may issue the public statement without notice to the relevant service provider or a former relevant service provider or with such shorter period as it considers appropriate.</p> <p><b>Restrictions on disclosure of information</b></p> <p>14. (1) Subject to paragraph 15, for the purposes of this paragraph, “protected information” means information which:</p> <p>(a) relates to the business or other affairs of any person; and</p> <p>(b) is acquired by a person falling within subparagraph (2), for the purposes of, or in the discharge of, his or its functions under this Act or under any regulations made or Code issued under this Act.</p> <p>(2) Paragraph (1)(b) applies to the following persons:</p>	
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			<p>(a) a supervisory authority;</p> <p>(b) an officer or employee of a supervisory authority;</p> <p>(c) any person acting under the authority of the service provider;</p> <p>and</p> <p>(d) an officer or employee of a person specified in paragraph (c).</p> <p>(3) Information is not protected information:</p> <p>(a) if the information is or has been available to the public from any other source; or</p> <p>(b) where the information is disclosed in a summary or in statistics expressed in a manner that does not enable the identity of particular persons to whom the information relates to be determined.</p> <p>(4) Subject to paragraph 6, protected information shall not be disclosed by a recipient of that information, whether the recipient of the information is a person specified in subparagraph (2) or a person who has directly or indirectly received the protected information from a person specified in subparagraph (2), without the consent of:</p> <p>(a) the person from whom he obtained the information; and</p> <p>(b) if different, the person to whom it relates.</p> <p>(5) A person who contravenes subparagraph (4) is guilty of an offence and is liable:</p> <p>(a) on summary conviction, to a fine of \$10,000; or</p> <p>(b) on conviction on indictment, to a fine of \$50,000 or to imprisonment for a term of 3 years or to both.</p> <p><b>Gateways for the disclosure of information</b></p> <p>15. Paragraph 14 does not apply to a disclosure:</p> <p>(a) by any person where the disclosure is:</p> <p>(i) required or permitted by, and made in accordance with, an order of any Court of competent jurisdiction in the State,</p> <p>(ii) required or permitted by this Act or any other law,</p> <p>(iii) made to the Attorney General,</p> <p>(iv) made to the Financial Intelligence Unit,</p> <p>(v) made to a law enforcement agency in the State,</p> <p>(vi) made to another supervisory authority,</p> <p>(vii) in the case of a disclosure that relates to an externally regulated service provider, made to the appropriate external supervisor, or</p> <p>(viii) in the case of a disclosure that relates to a service provider, made to:</p> <p>(A) a professional body or association, whether in or outside the State, of which the service provider is a member,</p> <p>(B) a supervisor or self-regulatory organisation, whether in or outside the State, that has responsibility for the supervision of the service provider;</p> <p>(b) by a person specified in paragraph 14(2), where the disclosure is made to any person for the purpose of discharging any function or</p>	
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			<p>exercising any power under this Act or a financial services enactment, in either case, whether the function or power is of the person disclosing the information or of the supervisory authority; or</p> <p>(c) by a person, other than a supervisory authority, where the disclosure:</p> <p>(i) is made with the written consent of the supervisory authority, and</p> <p>(ii) could lawfully have been made by the supervisory authority.</p> <p>Further, the Financial Services Authority Act, 2011 provides for various sanctions that can be applied by that Authority. These can be found in sections 26, 27, 37, 38 and 54 of the Act. The Act is attached for your ease of reference.</p> <p>The Director of Public Prosecution as authorised by the Constitution of St. Vincent and the Grenadines is the authorised entity/person to initiate all criminal offences in St. Vincent and the Grenadines. However, there are certain statutory bodies established who have inherent powers to prosecute criminal matters in their own right (eg. The Customs and Excise Department, The Inland Revenue Department and the Immigration Department). Moreover, the National Anti-Money laundering Committee as set out in section 118 of the Proceeds of Crime Act is constituted by representatives of all Supervisory Bodies along with the DPP. At these meetings all department are required to give a report and provide updates on all issues concerning AML/CFT Compliance. Since Authorities are all task with the duty of monitoring and ensuring compliance by financial and non-financial entities and registered entities with the AML/CFT laws of St. Vincent and the Grenadines, where an offence is committed by a Service Provider in relation to the Proceeds of Crime Act or the Criminal Code, the FSA, ECCB and the FIU by national policy, where they are of the belief that sufficient evidence exist, are obligated to forward such evidence to the Director of Public Prosecutions. Please find attached the Code of Prosecutors adopted in 2010.</p> <p><b><u>The list of Regulated entities to be regulated by the FSA can be found at Schedule 3 of the Anti-Money Laundering Regulations and Schedule 2 of the Financial Services Authority Act, 2011.</u></b></p> <p>Schedule 3 of the Regulations provides:</p> <p><b>SCHEDULE 3</b></p> <p><b>REGULATORY LICENCES</b></p> <p>The following are specified as “regulatory licences” for the purposes of the Act and these Regulations:</p> <p><b>Cap. 99</b> (a) a licence issued under the International Banks Act;</p> <p><b>Cap. 87</b> (b) a licence issued under the Banking Act;</p> <p><b>Cap. 154</b> (c) a licence issued under the Mutual Funds Act;</p> <p><b>Cap. 307</b> (d) a licence issued under the International Insurance Act (Amendment and Consolidation) Act;</p> <p><b>Cap. 105</b> (e) a licence issued under the Registered Agent and</p>	
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			<p>Trustee Licensing Act;  <b>No.12 of 2012</b> (f) a registration authorized under the Co-operative Societies Act, 2012;  <b>Cap.306</b> (g) a registration authorized under the Insurance Act;  <b>Cap.261</b> (h) a licence issued under Part 4 or Part 9 of the Securities Act;  <b>Cap.260</b> (i) a registration authorized under the Money Services Business Act.                      Section 5(1) of the Financial Services Authority, 2011 provides that “the Authority shall-                      be responsible for the administration of the specified enactments including the licensing of financial entities...                      (3)Supervise and regulate the operation of financial entities....”                      Section 2 of the Act provides that-                      Specified enactments “ means –                      the Acts specified in Schedule 2 and those and any subsidiary legislation made under those Acts, and                      the cooperatives Societies Act and the subsidiary legislation made under that Act in so as those enactments relate to a credit union.”                      Schedule 2 Provides that –                      Specified Enactments (section 2)                      Friendly Societies Act                      Building Societies Act                      Registered Agents and Trustees License Act                      Mutual Funds Act                      International Insurance (amendment and Consolidation) Act                      Insurance Act                      International Banks Act”                      Money Services Businesses Act</p>	
			<b>Civil Fines and Criminal Penalties:</b>	



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			<p><u>The Financial Services Authority Act:</u></p> <p>Section 34 of the FSA Act provides a fine of One hundred Thousand or 5 years imprisonment or both on conviction on indictment of the offence of Tampering with evidence.</p> <p>Section 38 of the FSA Act provides for a fine of Two Hundred Thousand or 5 years imprisonment or both on indictment of the offence of Obstruction.</p> <p>Section 56 of the FSA Act provides for the imposition of fines for breaches of the Act.</p> <p><u>The Anti-money Laundering and Terrorist Financing Regulations:</u></p> <p>Regulation 11 (6) provides for a fine of One Hundred Thousand on Summary conviction for contravening Regulation 11 (1) (2) or (5) in relation to Customer Due diligence and ongoing monitoring requirements.</p> <p>Regulation 12 (7) provides for a fine of One Hundred Thousand on Summary conviction for contravening Regulation 12 (1) (2) or (3) in relation to terminating a business relationship or ceasing transactions</p> <p>Regulation 19 (2) provides for a fine of One Hundred Thousand on Summary conviction for contravening Regulation 19 (1) in relation to keeping anonymous accounts.</p> <p>Regulation 20 (7) provides for a fine of One Hundred Thousand on Summary conviction for contravening Regulation 12 (1) (3) or (4) in relation to implementing policies, procedures and systems.</p> <p>Regulation 26(7) provides for a fine of One Hundred Thousand on Summary conviction for contravening Regulation 25 in relation to failure to appoint an AML/CFT Compliance Officer.</p> <p>Regulation 21 (6) provides for a fine of One Hundred Thousand on Summary conviction for contravening Regulation 21 in relation to Record Keeping requirements.</p> <p>Regulation 24(4) for a fine of One Hundred Thousand on Summary conviction for contravening Regulation 24 (1) (2) or (3) in relation to</p>	
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			<p>Training requirements.</p> <p>Regulation 25(7) provides for a fine of One Hundred Thousand on Summary conviction for contravening Regulation 25 in relation to failure to appoint AML/CFT Reporting Officer requirements.</p> <p><u>Proceeds of Crime Act 2013</u></p> <p>Section 123 (4) of the Act provides for the offence of transferring, brining in, converting, disguising, removing and concealing criminal property. On summary conviction is 5 years imprisonment or Five hundred Thousand or both and on indictment an unlimited fine or 20 years imprisonment.</p> <p>Section 124 (3) of the Act provides for the offence of arrangement to facilitate the acquisition, use, retention and control of criminal property. On summary conviction is 5 years imprisonment or Five hundred Thousand or both and on indictment an unlimited fine or 20 years imprisonment.</p> <p>Section of 125 (4) of the Act provides for the offence of use, acquisition and possession of criminal property. On summary conviction is 5 years imprisonment or Five hundred Thousand or both and on indictment an unlimited fine or 20 years imprisonment.</p> <p>Section of 126 (8) of the Act provides for the offence of contravening section 126 in relation to reporting suspicious activity. On summary conviction is 5 years imprisonment or Five hundred Thousand or both and on indictment an unlimited fine or 10 years imprisonment.</p> <p>Section of 127 (5) of the Act provides for the offence of contravening section 126 in relation to reporting suspicious activity. On summary conviction is 5 years imprisonment or Five hundred Thousand or both and on indictment an unlimited fine or 10 years imprisonment.</p> <p>Section of 128 (4) of the Act provides for the offence of contravening section 128 in relation to prejudicing an investigation. On summary conviction is 5 years imprisonment or Five hundred Thousand or both and on indictment an unlimited fine or 10 years imprisonment.</p> <p>Section of 129 (4) of the Act provides for the offence of contravening section 129 in relation to tipping off. On summary conviction is 5 years imprisonment or Five hundred Thousand or both and on indictment</p>	
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18. Shell banks	NC	<ul style="list-style-type: none"><li>• Review the physical presence of all offshore banks against the meaningful mind and management criteria of FATF Rec. 18 above and prohibit the continuation of any shell banks;</li><li>• Introduce explicit prohibitions against entering into, or continuing correspondent banking relationships with shell banks, consistent with the ECCB's prudential guidelines;</li><li>• Require FIs to satisfy themselves that respondents in other countries are not used by shell banks;</li><li>• Require domestic banks to comply with Rec. 18, the ECCB's prudential guidelines and the GNs with respect to correspondent banking facilities;</li></ul>	<p>an unlimited fine or 10 years imprisonment.</p> <p><u>The CODE:</u></p> <p>Paragraph 22 of the Code provides for the following penalties for contravening part 2 of the Code in relation to all Customer Due Diligence Requirements. For a body corporate the sum of 4000.00, partnership the sum of 2500 and for an individual the sum of 1500 per offence.</p> <p>Paragraph 28 of the Code provides for the following penalties for contravening part 3 of the Code in relation to all risk assessment, responsibilities of the board, policies and procedures, outsourcing and ongoing monitoring requirements. For a body corporate the sum of 4000.00, partnership the sum of 2500 and for an individual the sum of 1500 per offence.</p> <p>Paragraph 22 of the Code provides the penalty of Three thousand dollars for contravening paragraph 33 of the Code in relation to training and vetting obligations.</p>	<p>There are no outstanding issues in relation to this recommendation.</p>
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			<p>All six banks in operation at the time of the Mission have been reviewed in keeping with the recommendation of the Assessors.</p> <p>At present only two active (2) international banks remain operating in SVG as one is in liquidation, two went into voluntary liquidation ( liquidator approved by IFSA) and one is in controllership.</p> <p><u>Update</u></p> <p>There are currently four (4) international banks in SVG. Two (2) licences were approved in 2010 and 2011 respectively, but these Banks became operational in the latter half of 2011.</p> <p>SVG shall continue to closely monitor all international banks operating in SVG and submit that there are no shell banks so operating.</p> <p>The other aspects of the IMF's Recommendations under Rec. 18 need to be addressed by amendment and this will be part of the revision of the POCA Regulations and Guidance Notes.</p> <p>At present there are still only two active (2) international banks which remain in operation in SVG as <u>two</u> are in liquidation and two went into voluntary liquidation ( liquidator approved by IFSA).</p> <p>SVG continues to closely monitor all international banks operating in SVG</p>	
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			<p>and reiterates that there are no shell banks so operating. Enhanced monitoring of existing international banks and enhanced vetting of applications are being diligently carried out by IFSA.</p> <p><u>Update:</u></p> <p>IFSA has undertaken 3 rounds of onsite inspections all offshore banks operating in SVG in the past three and a half years as a result of enhanced monitoring.</p> <p>Altogether, IFSA has undertaken 2 rounds of onsite inspections of RAs in the past 3 and a half years. The number of Registered Agents operating in SVG has reduced from 28 at the time of the assessment to 16 at present owing to efforts by IFSA to monitor and ensure full compliance of the law by Registered Agents.</p> <p><u>Update- August 2012</u></p> <p>The number of Registered Agents has arisen in the past month to 17, with the licensing of one new Registered Agent in July, 2012.</p> <p><u>Update – October 2012</u></p> <p>IFSA continues to closely supervise the operations of all its international banks and confirms that there are no shell banks operating in SVG.</p> <p><u>Update February 2013</u></p> <p>The fourth round of onsite inspection of international banks is scheduled to commence during the second quarter of 2013.</p> <p><u>Update-August 2013</u></p> <p>The FSA has commenced another round of onsite inspection of International Banks and Registered Agents. There are currently 17 Registered Agents and 5 international Banks operating in SVG.</p> <p><u>Update-February 2014</u></p> <p>Onsite inspections of SVG's Four (4) International Banks which now comprises the entire sector, and Five (5) Registered Agents have been</p>	
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			<p>completed since the last round on onsite inspections began. This is the fourth round of onsite inspections since 2009.</p> <p><u>UPDATE-August 2014</u> Onsite inspections of SVG's twelve (12) of sixteen (16) Registered Agents and four (4) International Banks which now comprises the entire international banking sector, have been completed since the last round of onsite inspections began. This is the third and fourth round of onsite inspections of Registered Agents and Banks respectively since 2008.</p> <p><u>UPDATE – February 2015</u> The fourth round of onsite examinations of International Banks and Registered Agents and Trustees are ongoing and are scheduled to be completed by the 2<sup>nd</sup> Quarter of 2015.</p> <p><u>UPDATE – February 2015</u> The fifth round of onsite examinations of international banks will commence in the fourth quarter of 2015. The fourth round of onsite examinations of Registered Agents and Trustees are ongoing and scheduled to be concluded in 2016.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>• Regulation 28 – Restrictions on correspondent banking             <ol style="list-style-type: none"> <li>(1) A SVG bank that is, or that proposes to be, a correspondent bank shall –                 <ol style="list-style-type: none"> <li>(a) not enter into or maintain relationships with any respondent bank that is a shell bank;</li> <li>(b) not maintain relationships with any respondent bank that itself provides correspondent banking services to shell banks;</li> <li>(c) shall take appropriate measures to ensure that it does not enter into, or continue, a correspondent banking relationship with a bank that is known to permit its accounts to be used by a shell bank;</li> </ol> </li> </ol> </li> </ul> <p><u>UPDATE-FEBRUARY 2016:</u></p>	
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			<b>The deficiencies identified hereunder were fully addressed.</b>	
17. Other forms of reporting	C			
18. Other NFBP & secure transaction techniques	C	The authorities should keep under review evolving opportunities for reducing the use of cash in the economy.		
19. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> <li>Require FIs to pay special attention to transactions and relationships with persons from countries that do not or insufficiently apply the FATF Recommendations;</li> <li>Implement a formal mechanism to advise FIs of AML/CFT concerns with other countries and where necessary advise FIs of such concerns;</li> <li>Introduce provisions and procedures that would require SVG to apply counter-measures against countries that do not or insufficiently apply the FATF Recommendations.</li> </ul>	<p>The Guidance Notes instructs the Compliance Officer to take account of FATF reports whether it be MEV or findings of the IMF or World Bank, to assess the ML and TF risk posed by jurisdictions that they may be dealing with and that high risk jurisdictions or jurisdictions with outstanding advisory notices and that they should take account of the risk associated with these jurisdictions.</p> <p>Notifications received by the FIU with reference to releases and advisories and updates on jurisdictions or persons of interest from FATF or other similar bodies are forwarded to those institutions regulated under the <i>Proceeds of Crime and Money Laundering Prevention</i> and the <i>United Nations Anti-Terrorism Measures</i> legislation.</p> <p>IFSA has updated its website to direct visitors to the <i>News and Events</i> section of the FATF's website where all publications and notices will be readily available to them for perusal. These would include advisories on jurisdictions and persons of interests.</p> <p><u>Update-August 2013</u> The Authorities have completed review of the draft POCA Bill and AML/CFT Regulations. This recommendation is adequately provided for in the scope of the AML/CFT Regulations which states that any financial institution with foreign branches or subsidiaries should comply with SVG's Regulations for the purpose of any business conducted within SVG by the local branch.</p> <p><u>Update-February 2014</u> Regulations 55-58 adequately addresses this concern and makes provision</p>	<b>The development of further Guidance and procedures outlining Counter-measures that the State will take against countries that are deemed higher risk jurisdiction by the FATF and CFATF and the United Nation.</b>



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			<p>for directions to be issued by the National Anti-Money Laundering Committee (NAMLC) to regulated businesses in relation to transactions or business relationships with the government of, or any person or persons carrying on business in, or resident, incorporated, constituted or formed in countries in which the FATF has advised that measures should be taken in relation to the country because of the risk that money laundering or terrorist financing is being carried on in the country, by the government of the country, or by persons resident in the country. Sanctions are applied for failing to comply with any directions issued by the Committee.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE - AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>• Regulation 14 (2) (b) A service provider shall, on a risk-sensitive basis, apply enhanced due diligence measures and undertake enhanced ongoing monitoring – Where the service provider has, or proposes to have, a business relationship with, or proposes to carry out an occasional transaction with, a person connected with a country that does not apply, or insufficiently applies, the FATF Recommendations; ...</li> <li>• Regulation 20 (1) &amp; (2)</li> <li>• Regulation 28(1)(f) &amp; (h) A SVG bank that is, or that proposes to be, a correspondent bank shall –</li> </ul> <p>(f) Assess the respondent bank’s AML and TF systems and</p>	
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			<p>controls to ensure that they are consistent with the requirements of the FATF recommendations;</p> <p>---</p> <p>(h) ensure that the respective AML and CFT responsibilities of each party to the correspondent relationship are understood and properly documented;</p> <p><b><u>UPDATE: FEBRUARY 2016</u></b></p> <p>The AML/CFT code has been reviewed by the Attorney General and The appropriate agencies involved and further improvements were submitted. The changes encompassed more comprehensive provisions being included in the Code to ensure the greatest level of compliance with the Revised FATF Recommendations. A copy of the Drafted code is attached for review. However it must be noted that this code will be further updated so it's not the final version.</p> <p><b><u>UPDATE-AUGUST 2017</u></b></p> <p>The AML/CFT Code has been passed and is attached hereto for reference which demonstrates measures addressing outstanding deficiencies.</p> <p><b><u>UPDATE-JANUARY 2018</u></b></p> <p><b><u>Paragraph 27 of the Code</u></b></p> <p>27. (1) The ongoing monitoring policies, procedures, systems and controls established by a service provider in accordance with regulation 20 of the Regulations shall:</p> <ul style="list-style-type: none"> <li>f) provide for a more thorough scrutiny of higher risk customers;</li> <li>g) be designed to identify unusual and higher risk activity or transactions and require that special attention is paid to higher risk activity and transactions;</li> <li>h) require that any unusual or higher risk activity or transaction is examined by an appropriate person to determine the background and purpose of the activity or transaction;</li> <li>i) require the collection of appropriate additional information</li> <li>j) be designed to establish whether there is a rational explanation, an apparent economic or visible lawful purpose, for unusual or higher risk activity or transactions identified, and require a</li> </ul>	
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			<p>written record to be kept of the service provider's conclusions.</p> <p>(2) When conducting ongoing monitoring, a service provider shall regard the following as presenting a higher risk:</p> <ul style="list-style-type: none"> <li>e) complex transactions;</li> <li>f) unusual large transactions;</li> <li>g) unusual patterns of transactions, which have no apparent economic or lawful purpose;</li> <li>h) activity and transactions: <ul style="list-style-type: none"> <li>iii. <u>connected with countries which do not, or insufficiently apply, the FATF Recommendations; or</u></li> <li>iv. <u>which are the subject of United Nations or European Union countermeasures; and</u></li> </ul> </li> </ul> <p>(e ) activity and transactions that may be conducted with persons who are the subject of United Nations or European Union sanctions and measures.</p> <p>38. (1) A service provider shall keep for a period of 7 years from the date a business relationship ends, or for 7 years from the date that an occasional transaction was completed, records containing, with respect to that business relationship or transaction:</p> <ul style="list-style-type: none"> <li>e) any internal suspicious activity reports and supporting documentation;</li> <li>f) the decision of the AML/CFT reporting officer concerning whether to make a suspicious activity report to the Financial Intelligence Unit and the basis of that decision;</li> <li>g) details of any reports made to the Financial Intelligence Unit; and</li> <li>h) records concerning reviews of: <ul style="list-style-type: none"> <li>(i) complex transactions,</li> <li>(ii) unusual large transactions,</li> <li>(iii) unusual patterns of transactions, which have no apparent economic or visible</li> </ul> </li> </ul>	
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			<p>lawful purpose, and</p> <p>(v) <u>Customers and transactions connected with countries which do not apply, or insufficiently apply, the FATF Recommendations or are the subject of United Nations or European Union countermeasures.</u></p> <p>There is a sufficient provisions in the laws that allows for countermeasures to be applied to countries that are considered higher risk in accordance with the FATF Recommendations.</p>	
20. Foreign branches & subsidiaries	LC		<p>The relevant amendments are being investigated under the revision of the POCA Regulations.</p> <p><u>Update February 2013</u> The draft POCA Regulations and Guidance Notes are currently being revised to include these matters.</p> <p><u>Update-August 2013</u> The Authorities have completed review of the draft POCA Bill and AML/CFT Regulations. This recommendation is adequately provided for in the scope of the AML/CFT Regulations which states that any financial institution with foreign branches or subsidiaries should comply with SVG's Regulations for the purpose of any business conducted within SVG by the local branch.</p> <p><u>Update-February 2014</u> See Regulation 2, of the draft AML/CFT Regulations which sets out the scope of the AML/CFT Regulations which states that any financial institution with foreign branches or subsidiaries should comply with SVG's Regulations for the purpose of any business conducted within SVG by the local branch.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p>	





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			<p><u>UPDATE – February 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p>	
23. Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>Enhance supervision of ownership and control structures of some offshore institutions to increase transparency of fit and proper criteria;</li> <li>Implement enhanced AML/CFT supervision of the systemically large building society and credit union;</li> <li>Strengthen onsite inspections FIs across all sectors, particularly in the non-domestic banking sectors;</li> <li>Enhance oversight of inherently high risk business areas across all the relevant sectors esp. correspondent banking, money remittance services, wire transfers and back-to-back loans;</li> <li>Increase supervisory resources and understaffing to conduct effective ongoing supervision across all sectors including through the use of external auditors/consultants, particularly in the non-domestic banking sector;</li> <li>Prioritize development and implementation of a comprehensive AML/CFT inspections/supervision program</li> </ul>	<p>IFSA has been involved in a full scope review of all its regulated entities. Extensive work has been done at IFSA with the assistance of three Consultants under the auspices of a Technical Assistance Project sponsored by the European Union. Please see Appendix 1 for a summary of this regulatory and institutional capacity building project.</p> <p>The Building and Loan Society as well as all credit unions will be regulated by the FSA which is scheduled to be established by January 2011. This legislation is currently being refined by the Legal Drafter of the Hon. Attorney General's Chambers as relevant stakeholders have already reviewed the draft Bill and made their contributions.</p> <p>The intention is to hire skilled and qualified staff so as to ensure high level staff and of note is that the transition of IFSA's staff into the FSA is automatic while staff from the merging entities will be vetted to ensure that they possess the requisite the requisite capabilities to meet the staffing requirements of the FSA.</p> <p>Of note too is that the insurance sector will be regulated by the FSA.</p> <p>The Financial Services Authority (FSA) has not yet been established but is expected to be established before the end of 2011. The Financial Services Authority Bill governing the establishment, structure and functions of the FSA is in its final stage of review.</p> <p>The FSA Bill was presented in Parliament on October 18th 2011 and is slated to be enacted by November 18th 2011 after a Select Committee Review. The Minister of Finance has confirmed publicly that the FSA would be set up thereafter in January 2012. The lease arrangement for rental of premises for the FSA has been finalized.</p> <p><u>Update:</u></p>	<p>The deficiencies here were all addressed. There is no action to be undertaken in regards to addressing this Recommendation.</p>



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		<p>for the international mutual fund and insurance sectors, including through development of cross-border supervisory cooperation mechanisms;</p> <ul style="list-style-type: none"> <li>• Develop detailed sector-specific AML/CFT inspection procedures for the non-domestic bank sectors;</li> <li>• Implement AML/CFT supervision of money services business and review and enforce licensing laws with respect to possible existence of one unauthorized activity;</li> <li>• Review and if necessary implement an authorization and AML/CFT supervisory regime for the existing money lending businesses covered by the AML/CFT laws.</li> </ul>	<p>The Financial Services Authority (FSA) Bill was enacted on November 22<sup>nd</sup> 2011. The formal establishment of the FSA is targeted for April 2012.</p> <p>Meetings are ongoing with the Director General/Finance and Planning and other representatives of the Ministry of Finance (Single Regulatory Division (SRD)) to address all logistics of the establishment of the FSA. The IFSA, SRD and Cooperatives Division are expected to be merged into the FSA and upon the request of the Director General, has now each assessed its human resources to determine competency of staff in order to facilitate the transition of competent staff and requisite skills into the FSA.</p> <p>A World Bank Consultant has been assigned to assist SVG in the establishment of the FSA, has met with IFSA, SRD and the Co-operatives Division, to give strategic direction to the commencement phase of the FSA and work in ongoing to finalize Business Plan for the first year of operation of the FSA. The first annual Budget is also being finalized and the organizational chart has been finalized.</p> <p><u>Update- August 2012</u></p> <p>The FSA Board of Directors and Executive Director have been appointed by Cabinet. A three (3) year Strategic Plan and Budget have been prepared. Other logistics are being sorted pending the imminent establishment of the FSA. The FSA is expected to be established during the latter half of 2012.</p> <p><u>Update October 2012</u></p> <ul style="list-style-type: none"> <li>• The FSA Board has been working on logistical and administrative matters with respect to the establishment of the FSA.</li> <li>• -The FSA Board has held several meetings and made significant progress in finalizing administrative matters to ensure the smooth transition of three distinct regulatory bodies into the FSA and to ensure that the FSA would be fully operational on the date the FSA Act is proclaimed. The date set for proclamation is November 1st 2012.</li> <li>• Extensive work was carried out to finalize a comprehensive Strategic Plan including an Organizational Structure and Plan, and a Three Year Operating Budget. Salary Scales for the FSA are included in the said Budget.</li> </ul>	
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			<p>and this required in depth research and discussions locally with relevant stakeholders.</p> <ul style="list-style-type: none"> <li>• Formal recommendations by heads of the three regulatory bodies have been made and accepted for the transition of staff into the FSA.</li> <li>• Recruitments for additional staff required as per a finalized Organization Chart, is ongoing.</li> <li>• The location of the FSA is very appropriate and has been secured however, is temporarily being occupied by the Ministry of Finance due to a fire in the latter's premises. The Ministry of Finance will be in a position to vacate the said premises in December 2012. The design for the physical premises of the FSA has been accepted and can readily be adapted to what already exists. The FSA will operate from the departments of the three regulatory bodies with IFSA being the main office until the physical move is made.</li> <li>• All logistical details relevant to the FSA's formal establishment on November 1st are being addressed – official seals, stamps, stationery, websites, email and IT and other like matters, are all being purpose enhanced for the FSA.</li> <li>• The groundwork for the liquidation of IFSA is also ongoing.</li> </ul> <p><u>Update February 2013</u></p> <p>The Financial Services Authority (FSA) Act was proclaimed on November 12, 2012. The FSA is now fully functional.</p> <p>The FSA is responsible for, among others, AML/CFT supervision of the international financial services sector, financial institutions such as money services businesses and the non- bank domestic institutions such as Credit Unions and Building Societies.</p> <p><u>Update August-2013</u></p>	
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			<p>Two and a half months after its establishment, the FSA intervened and took management and control the only building society in SVG, the largest and most iconic non bank financial institution. Prior to intervention, this financial institution was experiencing severe liquidity problems and poor management. The FSA has seconded some of its staff to assist with the day to day activities of the institution, which is now well on its way to financial stability. This intervention has been a test of the FSA's capabilities and capacity, both at a legislative and human resources level, and has illustrated that the FSA is well equipped to carry out its very important regulatory functions. Notwithstanding the ongoing crisis management in relation to the building society being undertaken by the FSA, the FSA has simultaneously also undertaken extensive work in the Credit Union Sector to ensure that the sector is effectively supervised and that the financial condition of all the country's credit unions is intact. Onsite examinations of all credit unions have now been undertaken.</p> <p>Onsite inspection of Credit Unions</p> <p>Three of the six credit unions provide agency services on behalf of the money remittance company, Western Union".</p> <p>On-site examinations were done using a risk-based approach with the objective of evaluating the safety and soundness of the Credit Union, including compliance with laws and regulation. The main areas of concentration are protection; effective financial structure; asset growth; rates of return and costs; liquidity; and management and ML/CFT.</p> <p>The results of the onsite inspections were mixed where two credit unions were classified as low risk; two were considered medium risk; and two high risk.</p> <p>Based on the on-site examination, three credit unions were required to prepare re-capitalisation plans; one was required to signed a memorandum of agreement with the FSA; and recommendations were given to the others so that corrective action can be taken on areas of weakness identified.</p> <p>IFSA has been involved in extensive and comprehensive AML/CFT training through the auspices of the EU Technical Assistance Programme and specifically the services of an AML/CFT Consultant. Programs and operating procedures have been developed for inspections and ongoing</p>	
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		<p>supervision through this training for all regulated entities – banks, mutual funds, international insurance and the registered agents. AML/CFT training has also focused on trusts and the use of international business companies. Since IFSA will be spearheading the FSA, all work with respect to AML/CFT will be shared with all staff and entities which will be part of the FSA. It is expected that the FSA in implementing the new AML/CFT Guidance Notes and training received, would address all AML/CFT concerns in the DAR with respect to the inspection and supervision of international banks and non bank financial institutions. The ECCB will continue to regulate the local banking sector.</p> <p>International Insurance Companies:</p> <p>Extensive training was provided to the Authority in the area of insurance through the initiative of an EU Technical Assistance programme for a four month period (May to August 2010). This was facilitated through case studies, class-room style presentations and role playing. IFSA's capacity for insurance supervision was heightened tremendously from this project including through the enhancement of its AML/CFT approach to insurance, its onsite and offsite supervisory techniques and the areas of focus such as risk management.</p> <p>IFSA has been approved as a member of the International Association of Insurance Supervisors opening training opportunities and assistance with the further building of its supervisory capacity.</p> <p>The Authority has since strengthened its supervision of these entities by ensuring that all outstanding non compliance issues were addressed in a timely manner. The Authority has been working along with each Insurance Company to ensure that these are complied with and deadlines were given for same. It was also required that a standard questionnaire seeking additional information on each entity be completed to update the Authority on the International Insurance environment it regulated. Financial data is also being reviewed. The Authority continues to work assiduously to ensure that all Insurance Companies are fully compliant.</p> <p>At October 2010, there are six active (6) insurance companies, one insurance broker and manager. One insurance company is in the process of winding up its operations.</p> <p>The liquidation of the previously mentioned insurance company has been completed with no outstanding/unresolved claims. One (1) insurance</p>	
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		<p>company has been suspended:-</p> <p><u>Update:</u></p> <p>As at March 30<sup>th</sup>, 2012, there are four (4) International Insurance Companies, one (1) Insurance Broker, one (1) Insurance Manager licensed in SVG.</p> <p><b>Mutual Funds:</b></p> <p>Extensive training was also provided to the Authority in the area of mutual funds through the initiative of the EU Technical Assistance Project.</p> <p>The Authority has been closely monitoring its Mutual Fund entities. This includes ensuring compliance with the legislation and the review of financial data. A data base of Mutual Fund entities has been created to facilitate continuous follow up with outstanding matters.</p> <p>Enhanced monitoring of mutual funds including enhanced vetting of new applications being completed particularly enhanced review and vetting of private funds being done.</p> <p>Two new staff members have been hired by IFSA to continue with its efforts to build on regulatory and supervisory capacity, namely a senior analyst and legal officer with very relevant qualifications and experience.</p> <p>Two other temporary staff members have been hired by IFSA to assist in reviewing and updating its registry systems to ensure efficiency and accuracy of records and statistics.</p> <p>The review and update of IFSA's registry systems as previously described have been successfully completed. The accuracy of records by both hard and electronic copy has been verified and has already resulted in more efficient record keeping systems, statistics and generation of reports.</p> <p>IFSA's recent associate membership in the Caribbean Group of Banking Supervisors (CGBS), allows for increased training opportunities and assistance with the further building of its supervisory capacity.</p> <p>Approval has also been obtained for IFSA to join the International Association of International Supervisors (IAIS), however IFSA has requested deferment of membership so that costs of membership can be</p>	
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			<p>shared under the proposed FSA.</p> <p>Like the CGBS, the IAIS offers further opportunities for collaboration and training on regulatory and supervisory best practices and the sharing of relevant information.</p> <p><u>Update:</u></p> <p>The two new staff members –a Senior Analyst and a Legal Officer – have both successfully complemented and enhanced the regulatory capacity of IFSA.</p> <p>The electronic databases for Mutual Funds, International Insurances and Registered Agents have been reviewed and updated to enable IFSA to ensure the accuracy of records and to more efficiently monitor compliance by these entities.</p> <p><u>Update- August 2012</u></p> <p>A two part training programme has been provided to the International Financial Services Authority (IFSA) in the area of mutual funds and financial services regulation. This was made possible through the initiative of the Commonwealth Secretariat.</p> <p>The first part of the training involved two senior personnel from the Gibraltar Financial Services Commission conducting a one week training workshop at the office of the IFSA on mutual fund regulation from June 18<sup>th</sup> to June 22<sup>nd</sup>, 2012.</p> <p>The second part of the training involves two members of the staff of the SVG International Financial Services Authority doing a two week work attachment at the Gibraltar Financial Services Commission from September 10<sup>th</sup> to September 21<sup>st</sup>, 2012.</p> <p>It is expected that the SVG IFSA will benefit greatly from this training as we are seeking to enhance the regulation and supervision of international financial entities in SVG.</p> <p><u>Update October 2012</u></p> <p>The scheduled training at the Gibraltar FSC was successfully completed by two members of the SVG IFSA regulatory staff. The training received was detailed and comprehensive and focused not only on mutual funds and</p>	
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			<p>trustees but on overall regulatory oversight and best practices. As a result of this training, a number of policies and procedures of the SVG IFSA will undergo review and possible change to achieve enhanced supervision and regulation of the international financial sector in SVG. The benefits of the training derived will be carried over to the FSA.</p> <p><u>Update-February 2013</u></p> <p>Several new employees with the relevant expertise and training have been recruited to enhance the regulatory capacity of the FSA.</p> <p><u>Update March 2014</u></p> <p>the FSA staff has been exposed to a number of training opportunities offered by regional agencies including CARTAC, the most recent being the, CARTAC sponsored training on Risk-Based Supervision in February, 2015. The FSA's Annual report 2013 (<i>attached hereto for reference</i>) illustrates the accomplishments and developments of the FSA. This report was provided to the CFATF and many other CFATF member countries</p> <p><u>UPDATE- FEBRUARY 2016</u></p> <p>The Anti-Money Laundering and Terrorist Financing Regulations, 2014 entered into force in August 2014. This legislation requires the ownership structures of international business entities to be revealed. International entities are required to disclose their beneficial ownership.</p> <p>Regulation 4 (1) (a) defines “beneficial owners” any person who exercises ultimate control over the management of a legal person, partnership or legal arrangement, whether alone or jointly with any other person or persons. Regulation 4 (1) (b) additionally captures the exercise of ultimate control over the management of the legal person, partnership, or legal arrangement, whether alone or jointly with any other person or persons. This therefore enhances the ability to determine whether a particular person is fit and proper.</p> <p>The FSA has conducted onsite inspections on its licensed entities which includes the AML/CFT aspect of their business.</p>	
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			<p>Registered Agents are currently undergoing their 4<sup>th</sup> round of on-sites.</p> <p>Since the establishment of the FSA, there has been one round of inspection of all Money Services Business which was held during July - September, 2014. The second round of on-sites would be conducted from March - November, 2016. Additionally, Credit Unions would be undergoing a third round of examinations which commenced in 2013. The Third Round examinations started February, 2016 and it is expected to conclude in September, 2016.</p> <p>The sole Building and Loan Society continues to be under enhanced supervision and an onsite examination was conducted in September, 2015 and the second phase is scheduled for 2017.</p> <p>The fifth round of inspections of International Banks since 2008 would be done throughout the course of 2016 with the first inspection schedule to be started in March.</p> <p>Onsite examinations have been conducted on all insurance companies and the second round since 2013 are ongoing</p> <p>Prudential Guidelines have been issued for Banks, Insurance companies and intermediaries, credit unions and Friendly Societies. FSA Regulations and a Corporate Governance Code have been submitted to the Attorney General for passage into law.</p> <p>Any AML/CFT Deficiencies which are noted are sited in external letters and time periods are given for compliance with legislative requirements. Follow-up reviews are conducted to determine the level of compliance with directives given by the FSA. Licensees are required to comply with the new legislation</p>	
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		<p>especially as it relates to implementing a risk based assessment of their respective Clients. These requirements are checked during onsite inspections to determine the required level compliance.</p> <p>The FSA has made considerable progress in promoting a cohesive regulatory framework. The Annual Report of the FSA 2014 is herewith provided.</p> <p><u><a href="#">UPDATE JANUARY 2018 (FSA)</a></u></p> <p>The FSA continues to closely supervise the various sectors under its remit. Onsite visits are scheduled for each sector on an annual basis.</p> <p>Registered Agents and International Banks will be undergoing their 6<sup>th</sup> round of inspections in 2018, Money Services Businesses are undergoing their 2<sup>nd</sup> round of onsite of inspection and Credit Unions and Insurance Companies will be undergoing their 3<sup>rd</sup> round of inspections in 2018.</p> <p>Work is ingoing with all sectors to address AML/CFT deficiencies identified in their operations and where necessary directives have been issued demanding resolution of the issues within a specific framework.</p> <p>The Staff of the FSA are trained on an ongoing basis in areas such as prudential supervision, AML/CFT and general supervisory matters.</p>	
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			The 2016 Annual Report of the FSA is hereto annexed demonstrates the significant work and progress of the FSA.	
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<p>24. DNFBP - regulation, supervision and monitoring</p>	<p>NC</p>	<ul style="list-style-type: none"> <li>• Procedures for licensing casinos should be regularized and regulation of casinos should be introduced;</li> <li>• A regulator with the adequate skills and capacity should be assigned to oversee and enforce compliance by casinos with their AML/CFT obligations;</li> <li>• The apparent exemption in the RAs Act barristers and solicitors and accountants from being licensed for Overseas Representation services should be eliminated;</li> <li>• Section 4 of the RAs Act should be repealed;</li> <li>• IFSA policies and procedures for on-site examination and supervision of RAs' compliance with AML/CFT obligations should be enhanced, including additional staff and additional training;</li> <li>• Given its responsibilities for regulation of the entire international sector, the number of IFSA examiners –four–is too few;</li> <li>• Authority of the IFSA Executive Director to delegate examination responsibility should be included in the Overseas</li> </ul>	<p>The Registered Agents and Trustees (Licensing) Act, 1996 is being reviewed in its entirety to update same as well as to address the recommendations of the DAR.</p> <p>IFSA policies and procedures for on-site examination and supervision of RAs' compliance with AML/CFT obligations has been considerably enhanced. A full scope review of all RAs against the compliance requirements of the The Registered Agents and Trustees (Licensing) Act, 1996 as well as AML/CFT Requirements was undertaken following the IMF evaluation and IFSA has been involved in ongoing discussions with the RAs on same. Since the Mission's visit, the remaining onsite examinations of all RAs were completed. Licenses were suspended or revoked by IFSA or surrendered by the RA when RAs could not meet certain obligations. Consequently out of 28 RAs at the time of the Mission, 18 RAs are in operation.</p> <p>On-site inspections of RAs for 2011 have commenced in keeping with IFSA's increased and comprehensive review of RAs. An On-site checklist is being utilized and particular focus being placed on ensuring evidence of bearer share immobilization being verified.</p> <p>As of 30th March, 2011 the number of RAs licensed and operating have been further reduced to 16 as a result of IFSA's efforts to have only fully compliant RAs. IFSA completed a full on-site visit of all its licensed RAs in 2010 and has already commenced another round of onsite visits for the current year.</p> <p><u>Update:</u></p> <p>(1) IFSA has undertaken onsite inspections of fourteen (14) Registered Agents as at the 16th January, 2012. These entities have been found to have made significant progress since the last round of onsite inspections which was undertaken between late 2009 and 2010.</p> <p>IFSA is expected to complete onsite inspections of the final two (2) Registered Agents/ Registered Trustees, during the second quarter of this year.</p>	<ul style="list-style-type: none"> <li>• The FIU, the designated supervisory DNFBPs is in the process of finalizing a risk-sensitive approach in conducting onsite examination.</li> <li>• Guidelines for conducting On-site examinations</li> <li>• Finalizing and enacting the Regulations</li> </ul>
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		<p>Finance Authority Act;</p> <ul style="list-style-type: none"> <li>• IFSA should adopt written internal policies and procedures for approving approved custodians;</li> <li>• Policies and procedures should be put in place by IFSA for retrospectively approving bearer share custodians who were authorized by RAs between 2002 and 2007, or for revoking such custodianship and establishing new, approved arrangements;</li> <li>• Policies and procedures, including if necessary, changes in laws or regulation, should be adopted to ensure that the extensive overseas business activities of some RAs do not create structures not subject to effective supervision. A variety of approaches are possible;</li> <li>• A supervisory authority (or authorities), with adequate powers and capacity, should be appointed to monitor and enforce compliance by other DNFBPs with their AML/CFT obligations;</li> </ul>	<p><u>Update – August 2012</u></p> <p>The number of Registered Agents has arisen in the past month to 17, with the licensing of one new Registered Agent in July, 2012.</p> <p>The onsite inspection of the St.Vincent Trust Service Limited and the St. Vincent Trust Company Limited is scheduled to take place from September 24<sup>th</sup> to September 27<sup>th</sup> at the companies' head office in Liechtenstein. Two members of IFSA's staff will comprise the inspection team.</p> <p><u>Update October 2012</u></p> <p>The onsite inspection of the Two Registered Agents and Trustees was successfully completed at their European offices as scheduled. As such, the 16 Registered Agents and Trustees licensed in SVG have undergone a second round of onsite inspections in four years.</p> <p>(2) The FSA Act was enacted in November 2011 and this Act contains comprehensive oversight powers for the regulatory authority and requirements on the registered and regulated entities, including DNFBPs. The FSA is expected to be operational by April 2012.</p> <p>Additional staff has been undertaken by IFSA (refer to Appendix 2 for IFSA's updated Organizational Chart) and appropriate additional training has been given to staff of IFSA as well as staff of the RA by IFSA.</p> <p>The IFSA Act will be repealed by the FSA Act and the appropriate powers for the Authority to access information are addressed in this said Act. The FSA shall have appropriate sanctioning powers with respect to AML/CFT oversight.</p> <p>IFSA has addressed the issue of approval of Custodians of bearer shares by implementing a standard operating procedure for such approval.</p> <p>A review of the position taken between 2002 – 2007</p>
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		<p>under the old legislation is still to be completed.</p> <p>Of significance is that a three year TA project has begun, spearheaded by the ECCB and funded by the World Bank, with respect to strengthening accountability in the non-bank financial sector in all OECS countries. IFSA and the Ministry of Finance have been actively participating in discussions with ECCB in keeping with the Action Plan pertaining to this Project.</p> <p><u>Update February 2013</u></p> <p>The Financial Services Authority (FSA) Act was proclaimed on November 12, 2012. The FSA is now fully functional.</p> <p>The FSA is responsible for, among others, AML/CFT supervision of the international financial services sector, financial institutions such as money service businesses and the non- bank domestic institutions such as Credit Unions and Building Societies.</p> <p><u>Update-August 2013</u></p> <p>Two and a half months after its establishment, the FSA intervened and took management and control the only building society in SVG, the largest and most iconic non bank financial institution. Prior to intervention, this financial institution was experiencing severe liquidity problems and poor management. The FSA has seconded some of its staff to assist with the day to day activities of the institution , which is now well on its way to financial stability. This intervention has been a test of the FSA's capabilities and capacity, both at a legislative and human resources level, and has illustrated that the FSA is well equipped to carry out its very important regulatory functions. Notwithstanding the ongoing crisis management in relation to the building society being undertaken by the FSA, the FSA has simultaneously also undertaken extensive work in the Credit Union Sector to ensure that the sector is</p>
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		<p>effectively supervised and that the financial condition of all the country's credit unions is intact. Onsite examinations of all credit unions have now been undertaken.</p> <p>Update- February 2014</p> <p>Three of the six credit unions provide agency services on behalf of the money remittance company, Western Union".</p> <p>On-site examinations were done using a risk-based approach with the objective of evaluating the safety and soundness of the Credit Union, including compliance with laws and regulation. The main areas of concentration are protection; effective financial structure; asset growth; rates of return and costs; liquidity; and management and ML/CFT.</p> <p>The results of the onsite inspections were mixed where two credit unions were classified as low risk; two were considered medium risk; and two high risk.</p> <p>Based on the on-site examination, three credit unions were required to prepare re-capitalisation plans; one was required to signed a memorandum of agreement with the FSA; and recommendations were given to the others so that corrective action can be taken on areas of weakness identified.</p> <p>The Authorities have completed review of the draft POCA Bill and AML/CFT Regulations. Provision has been made for the FIU to assume responsibility for monitoring and enforcing AML/CFT compliance by those DNFBPs that are not now subject to supervision by the FSA. This will require a further amendment to the FIU Act in the future as the FIU does not currently engage in supervisory functions.</p> <p>Update-February 2014</p> <p>As indicated above, the FIU will undertake supervisory functions in relation to DNFBPs in particular. This will</p>	
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		<p>be finalized in the draft AML/CFT Regulations.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The FIU is the supervisory authority for DNFBPs for AML/TF purposes.</p> <p><u>UPDATE – March 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – MARCH 2015</u> Supervision &amp; Sanctions: POCA 2013 – Part VII addresses Regulation, Supervision &amp; Enforcement in Sections 151 to 159</p> <p>Section 151 states that the Anti-Money Laundering and Terrorist Financing Regulations shall designate: (a) a person or body as the supervisory authority for regulated service providers; and (b) one or more persons or bodies, which may include the Financial Services Authority and the Financial Intelligence Unit, as the supervisory authorities for externally regulated service providers and non-regulated service providers.</p> <p>Section 152 and Schedule 4 of POCA 2013 addresses the functions, powers and duties of the supervisory</p>	
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		<p>authorities.</p> <p>Section 152 (1) states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations.</p> <p>In the Schedule, Section 3- Power to require information and production of documents; Section 5 – Compliance visits; Section 9 – Offences; and Section 10 – Enforcement action.</p> <p>The list of Service Providers is found in Schedule 1 of the AML &amp; TF Regulations, 2014 and Externally Regulated Service Providers are found at Schedule 2.</p> <p><u>UPDATE – AUGUST 2014</u></p> <ul style="list-style-type: none"> <li>• Non-Regulated Service Providers Regulations have been drafted and submitted to the office of the AG and should be gazetted before year end.</li> <li>• The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18<sup>th</sup>, 2015</li> </ul> <p><u>UPDATE – FEBRUARY 2015</u></p> <ul style="list-style-type: none"> <li>• The AML/CFT code has been reviewed by the Attorney General and the appropriate agencies involved and further improvements were submitted. The changes encompassed more comprehensive provisions being included in the Code to ensure the greatest level of compliance with the Revised FATF Recommendations. A copy of the Drafted code is attached for review. However it must be noted that</li> </ul>
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			<p align="center"><b>this code will be further updated so it's not the final version</b></p> <p><u><a href="#">UPDATE- JANUARY 2018</a></u></p> <p><b>The FIU has drafted Non-Regulated Service Providers Regulations which are under review. The Regulations are attached for your perusal.</b></p>	
25. Guidelines & Feedback	LC	<p>Updated guidance should be issued, with additional material applicable to the operations of DNFBPs</p>	<p>Revised Guidance Notes stipulate to all institutions that they need to have the proper compliance structure in place and requires them to conduct risk assessments and put systems in place to protect against the identified vulnerabilities.</p> <p>There is also included a self assessment questionnaire which allows entities to evaluate their compliance systems.</p> <p><u><a href="#">UPDATE-August 2014</a></u></p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u><a href="#">UPDATE – March 2015</a></u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u><a href="#">UPDATE – AUGUST 2015</a></u></p>	<p><b>The FIU has drafted DNFBPs Guidance to be issued by the National Anti-Money Laundering Committee (NAMLC).</b></p>



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			<ul style="list-style-type: none"> <li>The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18<sup>th</sup>, 2015</li> </ul> <p><b>UPDATE – FEBRUARY 2015</b></p> <ul style="list-style-type: none"> <li>The AML/CFT code has been reviewed by the Attorney General and the appropriate agencies involved and further improvements were submitted. Included in the Code are the relevant guidelines corresponding with the Acts, regulations and Code provisions. The changes encompassed more comprehensive provisions being included in the Code and the Guidelines to ensure the greatest level of compliance with the Revised FATF Recommendations.</li> </ul>	
Institutional and other measures				
26. The FIU	LC	<ul style="list-style-type: none"> <li>The FIU should strengthen its analytical function including through enhanced staff capacity;</li> <li>The FIU Act should provide broad based authority to obtain information from other governmental authorities to conduct analysis for financial intelligence purposes;</li> <li>The FIU should issue additional and comprehensive guidance</li> </ul>	<p><u>Analytical Function</u> The FIU has undertaken several measures to enhance its analytical capacity including providing additional analytical software. Further the FIU is likely to take up an offer from the Bermuda FIU of a secondment program for analyst.</p> <p><u>Update:</u> While the Secondment of the analyst to the Bermuda FIU has not yet taken place, it is an opportunity which the FIU hopes to be able to utilize in the near future.</p> <p><u>Update February 2014</u> The FIU's Financial Analyst is attending a "Strategic</p>	



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		<p>to reporting parties on SAR filings to increase the quality and consistency of reports;</p> <ul style="list-style-type: none"> <li>• The FIU should publish an annual report on its operations. In this regard, sanitized information on trends and typologies should be regularly included in a public document. The FIU should consider creating a website with information on its operations, SAR forms and instructions for reporting entities, and information for requesting authorities on the FIUs exchange of information procedures;</li> <li>• The FIU should consider entering into MOUs with counterparts in other countries, especially where SVG registered institutions and entities operate.</li> </ul>	<p>Analysis Course for Financial Intelligence Units” in Miami from March 3-7, 2014. This course approaches the subject of strategic analysis of financial information from both the theoretical and practical perspectives and is geared towards promoting strategic analysis as a new perspective for analyzing and disseminating the information gathered by FIUs.</p> <p><u>FIU Act</u></p> <p><u>Update:</u></p> <p>While the FIU considers its authority far reaching. Consideration has been given to an amendment to the legislation to provide more explicit powers.</p> <p>Amendments have been drafted to the FIU Act which provides the FIU with authority to obtain information from governmental authorities. Amendments to the FIU Act are expected to be tabled in Parliament in April 2012.</p> <ul style="list-style-type: none"> <li>• The FIU continues to undertake training sessions with Regulated Financial Institutions and Businesses including providing guidance on circumstances under which SARs should be filed. Information is also readily available on the website <a href="http://svgfiu.com">svgfiu.com</a></li> <li>• Since the report the annual and quarterly reports all include trends and typologies. Further, a newsletter with trends and typologies was also published in 2010.</li> </ul> <ul style="list-style-type: none"> <li>- The FIU’s website, in operation since May 2010, is updated periodically with trends and typologies. The website also provides downloadable SAR forms and information on identifying suspicious transactions which is sector specific.</li> <li>- Newsletters are also periodically sent to all entities-financial institutions and persons engaged in relevant business activities.</li> </ul>
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			<p><u>MOUS</u></p> <ul style="list-style-type: none"> <li>- In 2010 the FIU signed MOUs with its counterparts in San Marino, Grenada and Barbados. In 2011 to date the FIU has signed MOUs with its counterparts in St. Lucia and Poland. An MOU is expected to be executed in the coming months between the FIU and its counterparts in Australia and Cayman Islands.</li> </ul> <p><u>Update:</u></p> <p>To date, the FIU has finalized an MOU with its counterpart in the Cayman Islands. An MOU has been recently signed by the FIU and sent via courier for signature by the Turks &amp; Caicos FIU. The MOU with AUSTRAC, the Australian FIU is in its final review stages by the Australian Government and is expected to be finalized by the second quarter of 2012.</p> <p><u>Update -August 2012</u></p> <p>The MOU with the FIU of Turks &amp; Caicos has been finalized. The MOU with AUSTRAC remains pending.</p> <p>The FIU has entered into negotiations with the FIUs of Taiwan, India and Liechtenstein for signature. The FIU of Taiwan has indicated its interest in entering into a more formal Agreement for the exchange of financial information as opposed to a non-legally binding MOU.</p> <p><u>Update-February 2013</u></p> <p>The Agreement between the SVG FIU and the Taiwan FIU was finalized in December 2012.</p> <p><u>Update-August 2013</u></p> <p>The FIU has executed MOUs with its counterparts in Dominica, Trinidad and Tobago and Saint Maarten thus far for 2013.</p> <p><u>Update-February 2014</u></p> <p>Three (3) MOUs in total were signed in 2013 by the FIU and its Regional Counterparts as listed above. No</p>	
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			<p>MOUs have been signed thus far for 2014.</p> <p><u>UPDATE – MARCH 2015</u></p> <ul style="list-style-type: none"> <li>• <u>Analytical Function</u> <ul style="list-style-type: none"> <li>- Members of the Unit received training in i2 and iBase in September 2014 from a certified expert in that field. This has aided in the more efficient analysis of SARs and better feedback to reporting entities.</li> <li>- A greater number of the FIU staff now engage in SAR analysis</li> <li>- An additional Financial Investigator joined the staff of the FIU in January 2015 and one of her core functions is SAR analysis</li> <li>- SAR feedback is issued more regularly</li> </ul> </li> <li>• <u>MOUs</u> <p>In 2014 two (2) MOUs were signed with counterparts in Japan and Australia</p> </li> <li>• <u>FIU Act</u> <p><i>Financial Intelligence Unit Act, Cap 174 of the Laws of St. Vincent &amp; the Grenadines, Revised Edition 2009 as amended by Act No. 7 of 2013</i></p> </li> </ul> <p>Section 4 (2) (b) (ii) : Without limiting the foregoing and notwithstanding any other law to the contrary the Financial Intelligence Unit may, where it appears to the Director that there are reasonable grounds to suspect that a relevant offence has been committed or that information is required for the analysis of suspicious transaction reports, require the production of information (excluding information subject to legal professional privilege) from law enforcement bodies, Governmental bodies and domestic regulatory authorities as defined in the Exchange of Information Act, as the Financial Intelligence Unit considers necessary for the purpose of investigating the relevant</p>	
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			<p>offence or analysing the suspicious transaction report;</p> <p>Subsection 4 states that for the purposes of subsection (2)(b) "governmental bodies" includes-</p> <p>(a) the Immigration Department, (b) the Inland Revenue Department, (c) the Electoral Office, (d) the Ministry responsible for foreign affairs and trade, (e) the National Insurance Services</p> <ul style="list-style-type: none"> <li>• <u>ML Cases</u></li> </ul> <p>- On January 28<sup>th</sup> and 29<sup>th</sup>, 2015, eight (8) charges were laid against a Defendant in respect of the offences of (i) Acquiring criminal property &amp; (ii) Bringing in Criminal Property to the State. This matter is set for trial on April 30<sup>th</sup>, 2015. These charges were as a result of SARs filed by a money remittance business</p> <p>- There are currently three (3) other cases being developed with a view to charging before the end of the first half of 2015.</p> <p><b><u>UPDATE – FEBRUARY 2015</u></b></p> <p><b><u>FIU PERSONNEL:</u></b></p> <ul style="list-style-type: none"> <li>• Two (2) new lawyers joined the FIU team on the 15<sup>th</sup> of September 2015. They are both serving as Legal Officers specialising in different areas. One of the said Legal Officers is directly responsible for matters relating to compliance with the FATF Recommendations, training, drafting and reviewing of legislation amongst others. The Other Legal Officer's primary duties relate to all matters involving Civil Recovery, that is cash seizures, forfeiture matters, civil</li> </ul>	
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			<p>recovery cases and training law enforcement officers</p> <ul style="list-style-type: none"> <li>• Additionally, another financial Investigator joined the FIU on the 18<sup>th</sup> of January 2016. One of his primary duties involved the analysis of SARs.</li> <li>• A new Division was created at the Unit, called Civil Asset Recovery Division (CARD). This Division was set up in collaboration with the International Narcotics and Law Enforcement Affairs. Attached to this unit is a Financial Investigator and a Legal Officer.</li> </ul> <p><u>MOUs-</u></p> <ul style="list-style-type: none"> <li>• In 2015 four (4) MOUs were signed. One with our counterpart in Belize, another with the Office of National Drug and Money Laundering Control Policy of Antigua and Barbuda, the other with the Federal Financial Money Services (Russian Federation) of Russia and the other with the Financial Investigation Agency of the British Virgin Islands.</li> <li>• An MOU with the Money Laundering and Reporting Authority of Montserrat is in the process of being finalised.</li> </ul> <p><u>ML CASES</u></p> <ul style="list-style-type: none"> <li>• On January 18<sup>th</sup> ,2016 charges were laid against a Defendant for concealing criminal property to wit Twenty Thousand, One Hundred and Twenty six Eastern Caribbean Dollars and Seventy Five dollars which he did knowingly or suspect that the property in whole or in part constituted his benefit from criminal conduct.</li> </ul>	
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27. Law enforcement authorities	PC	<ul style="list-style-type: none"> <li>Specific FT-related authority should be incorporated either in UNATMA or by amending POCA to directly include any FT offense;</li> <li>Law enforcement authorities' designation and integration into the AML/CFT framework, including relative to the FIU, should be detailed and formalized;</li> <li>Resources for the DPP's office should be enhanced and consideration should be given to formally deputizing FIU lawyers as assistant DPPs.</li> </ul>	<ul style="list-style-type: none"> <li>The Office of the DPP has received an additional Attorney-at-Law, who before his admittance to the Bar was a member of the Royal St. Vincent and the Grenadines Police Force. The Office of the DPP is presently staffed with 4 lawyers.</li> </ul> <p><u>Update -August 2012</u></p> <p>An additional Crown Counsel has been appointed to the Office of the DPP which is now staffed with five (5) lawyers.</p> <p><u>Update-February 2013</u></p> <p>An Assistant Director of Public Prosecution was appointed in December 2012 to the Office of the DPP.</p> <p>The office of the DPP is now staffed with six (6) Crown Counsels and the DPP and the Assistant DPP.</p> <p><u>Update April 2014</u></p> <p>i) In addressing the recommendation that specific FT-related authority should be incorporated either in UNATMA or by amending POCA to directly include any FT offense, we submit the following:</p> <p>Sections 29-37 of the Anti-Terrorist Financing and Proliferation Bill, 2014 provides for the search, seizure, detention and forfeiture of terrorist cash in summary proceedings. Further, Section 40 of the Bill provides for the forfeiture of terrorist property, following the conviction of individuals for a terrorist financing offence.</p> <p>The Bill provides for the making of Restraint Orders (Sections 44-49) where a criminal investigation has been started with regard to a terrorist financing offence,</p>	<ul style="list-style-type: none"> <li></li> </ul>
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		<p>proceedings have been instituted in the State and not concluded and either a forfeiture order has been made or it appears to the Court that a forfeiture order may be made.</p> <p>A ‘criminal investigation’ is defined in Section 44(3) as <i>“an investigation which law enforcement or other persons have a duty to conduct with a view to it being ascertained whether a person should be charged with an offence.”</i></p> <p><u>UPDATE-August 2014</u></p> <p>The Anti-Terrorist Financing and Proliferation Act, 2014 was been placed before Parliament in August 2014. Parliament directed a ‘Select Committee’ to be convened for further discussion of this Bill. It is anticipated that the Bill will be enacted at the next sitting of Parliament in October 2014.</p> <p>Further, pursuant to POCA 2013, applications for Restraint Orders (Section 42-43) may extend to FT offences by virtue of the definition of criminal conduct, which means conduct which constitutes an offence or would constitute an offence if it had occurred in the State.</p> <p>Pursuant to Section 134 of POCA 2013 Production Order may also be applied for where there are reasonable grounds for suspecting that, in the case of a criminal recovery investigation, that the person subject to the investigation has benefitted from his criminal conduct, hence an extension to FT offences also.</p> <p>(ii)In addressing the recommendation of Law enforcement authorities’ integration into the AML/CFT framework being detailed and formalized note the following:</p> <p>Pursuant to Section 3 (2) of the Financial Intelligence</p>	
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		<p>Unit (FIU), the FIU comprises of, inter alia, “<i>such number of police appointed by the Minister on the recommendation of the Commissioner of Police...</i>”</p> <p>The functions of the FIU, as set out in Section 4 (1) of the Act include, inter alia, the receiving, analyzing, obtaining and disseminating information relating to the proceeds of offences created by POCA and UNATMA.</p> <p>By virtue of Act No. 7 of 2013, Section 4(2) of the FIU Act was amended to specify that the FIU “<i>may, where it appears to the Director that there are reasonable grounds to suspect that a relevant offence has been committed.....require the production of information from law enforcement bodies... as the FIU considers necessary for the purpose of investigating the relevant offence or analysing the SAR</i>”.</p> <p>In addition, the FIU has, on June 17, 2009, executed an MOU with the Royal St. Vincent and the Grenadines’ Police Force and the Immigration Department.</p> <p><u>UPDATE – March 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>• The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was</li> </ul>	
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			<p>passed in Parliament on August 18<sup>th</sup>, 2015</p> <p>Sections 27 – 37 : Recovery and Forfeiture of Terrorist cash in Summary Proceedings</p> <p>Sections 38 – 44 : Forfeiture of Terrorist Property</p> <p>Sections 45 – 51 – Restraint Orders</p> <p>Part VI – Freezing of terrorist property</p> <p><u>UPDATE-JANUARY 2018</u></p> <p>Since its last update under this Recommendation, the FIU has hired two other staff members, a Financial Analyst who commenced work on the 31<sup>st</sup> of May 2017 and a Legal Officer who commenced work on the 15<sup>th</sup> of November, 2016, responsible for preparing and advocating civil applications before the court (Detention orders, Production Orders, Restraint Orders, Forfeiture Orders, MLA Requests etc..)</p>	
28. Powers of competent authorities	C			
29. Supervisors	PC	<ul style="list-style-type: none"> <li>Make explicit provision for regulators to supervise and enforce compliance with the AML/CFT legislation including the application of administrative sanctioning powers in the financial laws;</li> <li>Develop the legal and</li> </ul>	<p>A single regulatory unit is being established whereby IFSA, the Supervisory and Regulatory Division of the Ministry of Finance and the Co-operatives Division will be merged. This unit entitled the 'Financial Services Authority' is expected to be established by January 2011. A Bill to establish the FSA has been drafted and clear provisions are contained to give the FSA the power to impose administrative sanctions. This Bill is expected to be enacted in November 2010.</p>	<p>The following actions that remain outstanding be addressed by the State through the enactment of the Mutual Funds Bill. The Act is presently before the Attorney General.....:</p> <ul style="list-style-type: none"> <li>a) The regulation and supervision of fund underwriters</li> <li>b) Amendment of section 35 of the Mutual Funds Act to remove the apparent exemption from supervision and enforcement of AML/CFT issues.</li> </ul>



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		<p>regulatory regime for regulators to supervise, inspect and enforce AML/CFT compliance for building societies and presently unauthorized money lending operations;</p> <ul style="list-style-type: none"> <li>• Introduce explicit legal provisions for other regulators (functionally the ECCB, IFSA, and Ministry of Finance), to supervise, inspect and enforce compliance by FIs broadly similar to those for international banks and money services business, in the POCA, POCA Regulations and UNATMA. These should include the power to initiate enforcement proceedings under these laws;</li> <li>• Extend the AML/CFT compliance obligations under the International Banks Act and Money Services Business Act to the POCA Regulations in order to provide broader regulatory scope for monitoring and enforcing compliance;</li> <li>• Develop and implement a regulatory and supervisory regime for mutual fund underwriters that would include AML/CFT, similar to that for fund</li> </ul>	<p>AML/CFT oversight is expected to be strengthened as a result of a unified, consistent and more comprehensive AML/CFT approach under the FSA. The Building and Loan Society will fall under the regulatory ambit of the FSA, hence subject to a higher level of AML/CFT supervision.</p> <p>The proposed FSA Act also provides for access to information by the Authority.</p> <p>AML/CFT oversight has been strengthened resulting from implementation of recommendations from the DAR and training obtained from IFSA's EU TA Project (already reported on in the last Follow Up Report) with the enhanced and more comprehensive approach to on-site inspections.</p> <p>Relevant amendments to the International Bank's Act regarding IMF recommendations have been submitted to the AG for consideration.</p> <p>The revised Mutual Fund Act, Regulations and a new Code are to be received by IFSA on 18<sup>th</sup> April 2011 which would capture amendments relating to IMF DAR recommendations.</p> <p>The Financial Services Authority (FSA) has not yet been established but is expected to be established before the end of 2011. The Financial Services Authority Bill governing the establishment, structure and functions of the FSA is in its final stage of review.</p> <p>The FSA Bill was presented in Parliament on October 18<sup>th</sup> 2011 and is slated to be enacted by November 18<sup>th</sup> 2011 after a-Select Committee Review. The Minister of Finance has confirmed publicly that the FSA would be set up thereafter in January 2012. The lease arrangement for rental of premises for the FSA has been finalized.</p>
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		<p>administrators;</p> <ul style="list-style-type: none"> <li>• Review the possible limitation under Section 8 of the IFSA Act with respect to scope of IFSA's supervisory and enforcement powers;</li> <li>• Remove the technical restrictions under Section 19(9) of the International Banks Act that limit access to the names, titles and confidential information about customers' accounts to the Executive Director;</li> <li>• Review and as appropriate revise the legal and operational framework for mutual funds, administrators and managers, and insurance companies and their managers, to ensure that IFSA has efficient and timely access to books, records and information of such institutions to enable effective AML/CFT supervision;</li> <li>• Review and if necessary amend the Mutual Funds Act and Regulations to deal with the ability of IBC funds to issue bearer shares (not immobilized) as this may limit CDD and compliance supervision;</li> <li>• Review/amend Section 35 of the Mutual Funds</li> </ul>	<p><u>Update:</u></p> <p>The Financial Services Authority (FSA) Bill was enacted on November 22<sup>nd</sup> 2011. The formal establishment of the FSA is targeted for April 2012.</p> <p>Meetings are ongoing with the Director General/Finance and Planning and other representatives of the Ministry of Finance (Single Regulatory Division (SRD)) to address all logistics of the establishment of the FSA. The IFSA, SRD and Cooperatives Division are expected to be merged into the FSA and upon the request of the Director General, has now each assessed its human resources to determine competency of staff in order to facilitate the transition of competent staff and requisite skills into the FSA.</p> <p>A World Bank Consultant has been assigned to assist SVG in the establishment of the FSA, has met with IFSA, SRD and the Co-operatives Division, to give strategic direction to the commencement phase of the FSA and work in ongoing to a Business Plan for the first year of operation of the FSA. The first annual Budget is also being finalized and the organizational chart has been finalized.</p> <p><u>Update- August 2012</u></p> <p>The FSA Board of Directors and Executive Director have been appointed by Cabinet. A three (3) year Strategic Plan and Budget have been prepared. Other logistics are being sorted pending the imminent establishment of the FSA. The FSA is expected to be established during the latter half of 2012.</p> <p><u>Update October 2012</u></p> <p>See update on the FSA above</p> <p><u>Update February 2013</u></p> <p>The Financial Services Authority (FSA) Act was proclaimed on November 12<sup>th</sup>, 2012. The FSA is now</p>
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		<p>Act that can exempt FIs from supervision and enforcement under the Act with implications for AML/CFT;</p> <ul style="list-style-type: none"> <li>• Amend the credit unions law to ensure full access to records by Registrar.</li> </ul>	<p>fully functional.</p> <p>The FSA is responsible for, among others, AML/CFT supervision of the international financial services sector, financial institutions such as money service businesses and the non- bank domestic institutions such as Credit Unions and Building Societies.</p> <p>Two and a half months after its establishment, the FSA intervened and took management and control the only building society in SVG, the largest and most iconic non bank financial institution. Prior to intervention, this financial institution was experiencing severe liquidity problems and poor management. The FSA has seconded some of its staff to assist with the day to day activities of the institution , which is now well on its way to financial stability. This intervention has been a test of the FSA's capabilities and capacity, both at a legislative and human resources level, and has illustrated that the FSA is well equipped to carry out its very important regulatory functions. Notwithstanding the ongoing crisis management in relation to the building society being undertaken by the FSA, the FSA has simultaneously also undertaken extensive work in the Credit Union Sector to ensure that the sector is effectively supervised and that the financial condition of all the country's credit unions is intact. Onsite examinations of all credit unions have now been undertaken.</p> <p>Update- February 2014</p> <p>Three of the six credit unions provide agency services on behalf of the money remittance company, Western Union".</p> <p>On-site examinations were done using a risk-based approach with the objective of evaluating the safety and soundness of the Credit Union, including compliance with laws and regulation. The main areas of concentration are protection; effective financial structure; asset growth; rates of return and costs;</p>
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			<p>liquidity; and management and ML/CFT.</p> <p>The results of the onsite inspections were mixed where two credit unions were classified as low risk; two were considered medium risk; and two high risk.</p> <p>Based on the on-site examination, three credit unions were required to prepare re-capitalisation plans; one was required to signed a memorandum of agreement with the FSA; and recommendations were given to the others so that corrective action can be taken on areas of weakness identified.</p> <p>Update April 2014</p> <p>Section 5 (g) and section 8 of the Financial Services Authority Act (FSAA) (attached hereto) when read together provides adequate provision for the supervision and enforcement of compliance with AML/CFT legislation by all Financial and Registered entities which fall under the supervision of the FSA. Section 8 provides several administrative sanctions as recommended. The deficiencies and ensuing recommendations relative to these entities have been addressed by the overarching FSAA. The Financial Laws (Miscellaneous Amendment) Bill (<i>attached hereto</i>), seeks also to address certain other recommendations to the sector specific legislation.</p> <p><u>UPDATE-August 2014</u> The Financial Laws (Miscellaneous Amendment) Act No. 10 of 2014, was passed in June 2014.</p> <p>SVG's regulatory regime adequately facilitates the effective supervision for AML/CFT compliance of the non-banking financial services sector. Onsite inspections, both full scope and prudential continues to be carried out on these institutions to ensure that there is compliance with all relevant laws of SVG including the AML/CFT laws. The Financial Services Authority Act provides the legislative platform to enforce compliance.</p>	
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			<p>Regulation 36 of the Proceeds of Crime (Anti Money Laundering and Terrorist Financing) Regulations provides for the supervisory authorities for the purpose of AML/CFT. The designated supervisory authorities are the FSA, the FIU and the ECCB. Section 152 and Schedule 4 of the Proceeds of Crime Act 2013, sets out the objectives, functions and powers of the supervisory authority.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p>With regards to Recommendation 30, previous follow-up.</p> <p><u>UPDATE – April 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>• The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18<sup>th</sup>,</li> </ul>	
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			<p align="center"><b>2015.</b></p> <p><u>UPDATE – FEBRUARY 2016</u></p> <ul style="list-style-type: none"> <li>• <b>The Mutual Funds Bill</b></li> <li>• <b>The AML/CFT code has been reviewed by the Attorney General and the appropriate agencies involved and further improvements were submitted. The changes encompassed more comprehensive provisions being included in the Code to ensure the greatest level of compliance with the Revised FATF Recommendations. A copy of the Drafted code is attached for review. However it must be noted that this code will be further updated so it's not the final version.</b></li> </ul>	
30. Resources, integrity, and training	PC	<p>Supervisors:</p> <ul style="list-style-type: none"> <li>• There is a need to strengthen the supervisory staff of IFSA's and the Ministry of Finance-SRD supervisory staff, including enhanced training on supervision and AML/CFT in particular;</li> <li>• The planned transfer of supervision for credit unions and building societies to the SRD will require enhanced resources and training for supervisors in these new sectors;</li> <li>• Supervisory authorities with adequate staff and resources should be assigned responsibility for monitoring and enforcing AML/CFT compliance by those DNFBPs that are not now subject to supervision by IFSA.</li> </ul>	<p>A single regulatory unit is being established whereby IFSA, the Supervisory and Regulatory Division of the Ministry of Finance and the Co-operatives Division will be merged. This unit entitled the 'Financial Services Authority' is expected to be established by January 2011. A Bill to establish the FSA has been drafted and clear provisions are contained to give the FSA the power to impose administrative sanctions. This Bill is expected to be enacted in November 2010.</p> <p>The Building and Loan Society will fall under the FSA's supervisory regime.</p> <p>There has been a delay in the establishment of the FSA owing to national general elections in SVG which took place in December 2010. There were therefore disruptions in how quickly this entity could be established due to delays prior to and subsequent to elections when other matters of State took priority.</p> <p>The Financial Services Authority (FSA) has not yet</p>	<p><b>The following action is yet to be undertaken:</b></p> <ul style="list-style-type: none"> <li>• <b>longer term contracts for magistrates at least five and up to ten years.</b></li> </ul>



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		<p>FIU:</p> <ul style="list-style-type: none"> <li>FIU needs additional training and resources to conduct core analytical functions, including accounting and forensic skills.</li> </ul> <p>DPP:</p> <ul style="list-style-type: none"> <li>Additional resources and training needed.</li> </ul> <p>Police:</p> <ul style="list-style-type: none"> <li>Police officers should receive regular and comprehensive training on ML and FT offenses and their linkages to predicate offenses;</li> <li>RSVGPF should have additional resources for technological and communication to improve the predicate crimes, ML and FT investigations.</li> </ul> <p>Customs:</p> <ul style="list-style-type: none"> <li>Additional AML/CFT training focusing on red flags and typologies should be provided to all Customs Department employees amounting to a total of at least two full days of training per year. The Department should consider coordinating with the FIU in researching, designing, and providing such additional training;</li> <li>Consideration should be given to adding airport scanners and permanent trace detector, as well</li> </ul>	<p>been established but is expected to be established before the end of 2011. The Financial Services Authority Bill governing the establishment, structure and functions of the FSA is in its final stage of review.</p> <p>The FSA Bill was presented in Parliament on October 18<sup>th</sup> 2011 and is slated to be enacted by November 18<sup>th</sup> 2011 after a Select Committee Review. The Minister of Finance has confirmed publicly that the FSA would be set up thereafter in January 2012. The lease arrangement for rental of premises for the FSA has been finalized.</p> <p><u>Update:</u></p> <p>Financial Services Authority (FSA) Bill was enacted on November 22<sup>nd</sup> 2011. The formal establishment of the FSA is targeted for April 2012.</p> <p>Meetings are ongoing with the Director General/Finance and Planning and other representatives of the Ministry of Finance (Single Regulatory Division (SRD)) to address all logistics of the establishment of the FSA. The IFSA, SRD and Cooperatives Division are expected to be merged into the FSA and upon the request of the Director General, has now each assessed its human resources to determine competency of staff in order to facilitate the transition of competent staff and requisite skills into the FSA.</p> <p>A World Bank Consultant has been assigned to assist SVG in the establishment of the FSA, has met with IFSA, SRD and the Co-operatives Division, to give strategic direction to the commencement phase of the FSA and work in ongoing to finalize a Business Plan for the first year of operation of the FSA. The first annual Budget is also being finalized and the organizational chart has been finalized.</p> <p>The FSA Act: a Brief Oversight:</p> <ul style="list-style-type: none"> <li>Financial entities' and</li> </ul>
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		<p>as mobile canine squads for ET Joshua Airport and the main seaport.</p> <p>Law Judiciary:</p> <ul style="list-style-type: none"> <li>• Consider longer term contracts for magistrates of at least five and up to ten years be used.</li> </ul>	<p>‘registered entities’ are clearly distinguished, as would be expected. The FSA has responsibility for the regulation and supervision of financial entities (international banks, mutual funds, insurances, money service businesses, registered agents and trustees, building and friendly societies and credit unions) and for the administration of registered entities (trusts, IBCs and LLCs).</p> <ul style="list-style-type: none"> <li>• Wide powers are vested in the FSA including suspension and cancellation of licenses and taking any action remedial or otherwise, as is necessary.</li> <li>• Express compliance provisions are stipulated as well as the responsibility to ensure compliance with the FSA Act, other sector specific legislation and AML/CFT law.</li> <li>• Powers of examination and investigation are detailed. The power to obtain freezing orders is provided, a power not previously held by any regulatory authority.</li> <li>• Access to information is provided to the FSA from financial and registered entities,</li> </ul>	
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			<p>auditors and from any person believed to have the information sought.</p> <ul style="list-style-type: none"> <li>• Administrative penalties as well as criminal offences have been provided.</li> <li>• An appeals procedure to an Appeal Tribunal is stipulated for appeals that would previously have been laid before the Court.</li> </ul> <p><u>Update- August 2012</u></p> <p>The FSA Board of Directors and Executive Director have been appointed by Cabinet. A three (3) year Strategic Plan and Budget have been prepared. Other logistics are being sorted pending the imminent establishment of the FSA. The FSA is expected to be established during the latter half of 2012.</p> <p><u>Update October 2012</u></p> <p>See update on the FSA above.</p> <p><u>Update February 2013</u></p> <p>The Financial Services Authority (FSA) Act was proclaimed on November 12, 2012. The FSA is now fully functional.</p> <p>The FSA is responsible for , among others, AML/CFT supervision of the international financial services sector, financial institutions such as money services businesses and the non- bank domestic institutions such as Credit Unions and Building Societies.</p> <p><u>Update-August 2013</u></p> <p>Two and a half months after its establishment, the FSA</p>	
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		<p>intervened and took management and control the only building society in SVG, the largest and most iconic non bank financial institution. Prior to intervention, this financial institution was experiencing severe liquidity problems and poor management. The FSA has seconded some of its staff to assist with the day to day activities of the institution , which is now well on its way to financial stability. This intervention has been a test of the FSA's capabilities and capacity, both at a legislative and human resources level, and has illustrated that the FSA is well equipped to carry out its very important regulatory functions. Notwithstanding the ongoing crisis management in relation to the building society being undertaken by the FSA, the FSA has simultaneously also undertaken extensive work in the Credit Union Sector to ensure that the sector is effectively supervised and that the financial condition of all the country's credit unions is intact. Onsite examinations of all credit unions have now been undertaken.</p> <p>Update-February 2014</p> <p>Three of the six credit unions provide agency services on behalf of the money remittance company, Western Union.</p> <p>On-site examinations were done using a risk-based approach with the objective of evaluating the safety and soundness of the Credit Union, including compliance with laws and regulation. The main areas of concentration are protection; effective financial structure; asset growth; rates of return and costs; liquidity; and management and ML/CFT.</p> <p>The results of the onsite inspections were mixed where two credit unions were classified as low risk; two were considered medium risk; and two high risk.</p> <p>Based on the on-site examination, three credit unions were required to prepare re-capitalisation plans; one was required to signed a memorandum of agreement</p>	
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			<p>with the FSA; and recommendations were given to the others so that corrective action can be taken on areas of weakness identified.</p> <p>The Authorities have completed a review of the draft POCA Bill and AML/CFT Regulations.</p> <p>Provision has been made for the FIU to assume responsibility for monitoring and enforcing AML/CFT compliance by those DNFBPs that are not now subject to supervision by the FSA. This will require a further amendment to the FIU Act in the future as the FIU does not currently engage in supervisory functions.</p> <p><u>Update-February 2014</u> As indicated above, the FIU will undertake supervisory functions in relation to DNFBPs in particular. This will be finalized in the draft AML/CFT Regulations.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The FIU is the supervisory authority for DNFBPS for AML/TF purposes.</p> <p><u>UPDATE – March 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p>	
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			<p>Two new staff members have been hired by IFSA to continue with its efforts to build on regulatory and supervisory capacity, namely a senior analyst and legal officer with very relevant qualifications and experience.</p> <p>Two other temporary staff members have been hired by IFSA to assist in reviewing and updating its registry systems to ensure efficiency and accuracy of records and statistics.</p> <p>IFSA's recent associate membership in the Caribbean Group of Banking Supervisors (CGBS), allows for increased training opportunities and assistance with the further building of its supervisory capacity.</p> <p>Approval has also been obtained for IFSA to join the International Association of International Supervisors (IAIS), however IFSA has requested deferment of membership so that costs of membership can be shared under the proposed FSA.</p> <p>IFSA regulatory staff member (Examiner with responsibility for AML/CFT) has commenced studies from the International Compliance Association (ICA) with the University of Manchester for a Diploma in AML/CFT due to be completed in September 2011.</p> <p>The final examination for the said AML/CFT Diploma was completed by IFSA's regulatory staff member in September 2011 and results are expected by November 2011.</p> <p><u>Update:</u></p> <p>IFSA's regulatory staff member was awarded a Diploma in Anti Money Laundering, with Merit, by the International Compliance Association (ICA) on November 30th 2011.</p> <p>Other noteworthy training</p>
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			<p>-Another of IFSA's regulatory staff successfully completed an examination at a Banking School and Analysis training programme which was held in December 2012.</p> <p>- Yet another member of IFSA's regulatory staff is pursuing accounting examinations to complement her legal qualifications.</p> <p>-The Deputy Director attended the Small Countries Financial Management Programme and received certification for this Programme from Isle of Man Small Countries Financial Management Centre and the Oxford University, England.</p> <p>- A member of the Registry staff is pursuing certification in Offshore Finance and Administration from the Institute of Chartered Secretaries Association (ICSA).</p> <p>A three year TA project has begun, spearheaded by the ECCB and funded by the World Bank, with respect to strengthening accountability in the non-bank financial sector in all OECS countries. IFSA and the Ministry of Finance have been actively participating in discussions with ECCB in keeping with the Action Plan pertaining to this Project.</p> <p><u>Update:</u></p> <p>IFSA and the Ministry of Finance continue to be involved in this Project. A World Bank Consultant has been providing assistance to SVG in the establishment stage of the FSA.</p> <p><u>Update February 2013</u></p> <p>Several new staff members with the requisite training and expertise have been recruited by the FSA to enhance the regulatory capacity of the FSA</p> <p><u>Update April 2014</u></p>	
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			<p>Aside from the legislative framework, major positive changes have taken place on the administrative side in the implementation of recommendations of the DAR 2009. SVG has made tremendous progress in improving its resources in key areas – regulatory authority(FSA), the DPP's Office, AG's Chambers and the FIU (attached document on Resources refers). The following is of note:</p> <ul style="list-style-type: none"> <li>• The resources of SVG's FSA are such that in its first year of establishment, it was able to undertake a ground breaking intervention into the country's sole building society (largest non bank financial institution, with a membership of one third of SVG's population) and successfully stabilize this institution. This was historic for the Eastern Caribbean and most of the larger Caribbean region. During this same period and to date, when it still continues its close oversight of the said building society, the FSA was/is able to execute all of its other regulatory functions and ensure that the other entities under its oversight were/are properly supervised (the IFS ( <i>international banks, mutual funds, international insurance and registered agents</i>), <i>insurances, credit unions and money service businesses</i>). This included but is not restricted to ensuring that the credit union sector posed no risks, AML/CFT</li> </ul>
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			<p>or otherwise to the financial sector of SVG. This was done by closely examining the credit unions' operations through offsite and onsite examinations.</p> <p>FSA became responsible for the supervision of credit unions in November 2012, and its available resources made progress possible. Likewise, in the insurance sector, full onsite examinations have commenced under the FSA's first year of existence notwithstanding its work with the leading society afore-mentioned, and its other priority focus is time on the credit union.</p> <ul style="list-style-type: none"> <li>• The significance of the progress which SVG has made on the regulatory front, in keeping with recommendations of the DAR, should not be underestimated - SVG has ensured the relevant governing legislation is in place with effective powers to the regulator (the FSA Act outlines <i>inter alia</i>, appropriate reporting requirements, sanctions, access to information powers, ETC) (power to intervene and assume management and control of a financial institution has already been successfully tested), ensured the appropriate administrative framework is in place by the physical setting up of the FSA, and significantly, ensured that the FSA is equipped with the appropriate human, financial and technical resources.</li> <li>• FSA's staff component of 25 persons inclusive of 15 suitably</li> </ul>	
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			<p>qualified and experienced regulatory staff, is sufficient to effectively carry out its mandate. Of note also are: (1) there is room for adding additional staff as required; (2) the FSA's Board of Directors comprises a plethora of multidisciplinary highly experienced skills in law, accounting, auditing banking, finance and actuarial science; (3) the FSA's ED and Dep ED are experienced former heads of regulatory authorities; (4) the FSA has access to consultancy and expert advice from at least 7 experts in the areas of banking, mutual funds, insurance, credit unions, general strategy and problem resolution and regulation.</p> <ul style="list-style-type: none"> <li>• It is worthy to underscore the fact that had SVG's regulatory resources NOT been sufficient to undertake an intervention which meant managing and controlling a major financial institution, it clearly would not have been able to assume this major responsibility successfully. This matter has already been the subject of a case study at a 2013 CARTAC Credit Union Regulators Workshop and is presently also the subject of a World Bank case study, as a positive 'turnaround' of a troubled institution.</li> </ul>	
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			<ul style="list-style-type: none"> <li>• The foregoing illustrates a strengthening of not only the country's regulatory framework but also its AML/CFT framework. AML/CFT supervision and enforcement is a legislated function of the FSA and a major component of the FSA's offsite and onsite supervision processes, thus, it is clear that implementation of an effective AML/CFT regime is being actively promoted by the work of the FSA.</li> <li>• The FIU has added to its resources and operating systems based on the DAR's recommendations. SVG's FIU has four (4) lawyers and this is innovatively proven to be very effective in obtaining positive results in relation to implementation of the AML/CFT law. These lawyers also engage in analytical work where applicable and as required, and also prosecution in conjunction with the DPP's Office, again where required and as applicable.</li> <li>• SVG's FIU is a forerunner in the Eastern Caribbean and wider Caribbean in relation to the results obtained in money laundering investigations and prosecutions, training to other FIUs on same, and actively obtaining production, restraint</li> </ul>	
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			<p>and forfeiture orders in order to carry out its mandate. The FIU has built a strong suspicious activity reporting regime, such that there is little or no likelihood that suspicious activities under the AML/CFT law would go undetected.</p> <ul style="list-style-type: none"> <li>• SVG FIU has been described as a 'centre of excellence' and model FIU and, in 2009, commenced a Secondment Programme, sponsored by the then UKSAT, to host and train participants from the OECS and Barbados. To date, we have hosted twenty (20) participants from six (6) countries which include St. Lucia, St. Kitts, Grenada, Antigua, Barbados and Dominica.</li> </ul> <p><u>UPDATE – MARCH 2015</u> To date there have been twenty four (24) participants from seven countries (7): St. Lucia, St. Kitts &amp; Nevis, Grenada, Antigua &amp; Barbuda, Barbados, Dominica and Montserrat</p> <ul style="list-style-type: none"> <li>• In January 2010, the FIU Dominica hosted a return Secondment Programme where a Financial Investigator travelled to Dominica for a three (3) week period and was involved in searches and interviews. He also assisted with the preparation of court documents such as</li> </ul>	
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			<p>Production Orders, Restraint Orders and Prosecution Statements.</p> <ul style="list-style-type: none"> <li>• In July 2013, the FIU was again hosted on a return secondment programme to Dominica. On that occasion Director of the Unit, Mr. Grenville Williams conducted two (2) Workshops, the first dealing with the implementation of the new cash seizure provisions contained within the recent amendments to the Proceeds of Crime Act (Dominica). Participants included members of the FIU, Police Force and Coastguard and Customs Department assigned to the Financial Intelligence Unit. The second Workshop included Magistrates and Lawyers from the Attorney General's Chambers and Prosecutors from the Office of the Director of Public Prosecution.</li> <li>• In April 2013, The FIU was invited to participate in a specialized training course hosted by the Republic of China, Taiwan. Four (4) members of the FIU attended, namely the Director Grenville Williams, a Legal Officer and two (2) Financial Investigators.</li> <li>• The objectives of the course were to provide participants with knowledge of the Legal and</li> </ul>	
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			<p>practical Framework operated within the Republic of China (Taiwan) to combat the crimes of money laundering, terrorist financing and other serious crimes and improve relations between both FIUs. The course covered the topics of AML/CFT laws and mechanism, STRs and CTRs E-reporting systems, Application of AML/CFT related systems, Financial Supervision, Financial Examination for FIs, FIs reporting procedure for STRs and CTRs, Reporting and Analysis of CTRs and Case Study, Reporting Procedure for Cross Border Transportation of Currency and Bearer Negotiable Instruments, Reporting and Analysis of STRs and Case Study, Mechanism of seizure and Confiscation of Proceeds of Crime.</p> <ul style="list-style-type: none"> <li>• In September 2013, the FIU was hosted on a return Secondment to Belize. On that occasion the Director and a Financial Investigator provided technical assistance to the FIU Belize. The focus was on developing Suspicious Activity Reports, strengthening cooperation between the Police and FIU, preparation of restraint and confiscation files and developing cash forfeiture and money laundering cases.</li> </ul>	
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			<p><u>UPDATE – MARCH 2015</u></p> <p>In September 2013, the FIU was hosted on a return Secondment to St. Lucia. On that occasion a Legal Officer was seconded for two (2) weeks to facilitate training of Police Officers and Prosecutors; assist with cases; and other matters relevant to Proceeds of Crime and Money Laundering legislation.</p> <ul style="list-style-type: none"> <li>• The FIU has since its inception been working closely with the DNFBPs in SVG on their AML obligations and compliance programme. It is thus best placed to advance to the position of assuming regulatory responsibility over DNFBPs. The FIU's resources are adequate to allow the desired level of regulatory supervision over DNFBPs and its supervision of same will be reviewed by the NAMLC within one year of the FIU undertaking this responsibility to ensure that adequate resources are in place.</li> </ul> <p><u>UPDATE – MARCH 2015</u></p> <p>Supervision &amp; Sanctions:</p> <p>POCA 2013 – Part VII addresses Regulation, Supervision &amp; Enforcement in Sections 151 to 159</p> <p>Section 151 states that the Anti-Money Laundering and Terrorist Financing Regulations shall designate: (a) a person or body as the supervisory authority for regulated service providers; and (b) one or more persons or bodies, which may include the Financial Services Authority and the Financial Intelligence Unit, as the supervisory authorities for externally regulated service providers and non-regulated service providers.</p>	
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			<p>Section 152 and Schedule 4 of POCA 2013 addresses the functions, powers and duties of the supervisory authorities.</p> <p>Section 152 (1) states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations.</p> <p>In the Schedule, Section 3- Power to require information and production of documents; Section 5 – Compliance visits; Section 9 – Offences; and Section 10 – Enforcement action.</p> <p>The list of Service Providers is found in Schedule 1 of the AML &amp; TF Regulations, 2014 and Externally Regulated Service Providers are found at Schedule 2.</p> <ul style="list-style-type: none"> <li>• Both the AG’s Office and the DPP’s Office have substantively added to its resources since the DAR 2009 (<i>Resources document refers</i>).</li> <li>• The Customs and Excise Department and the Royal SVG Police Force have been recipients of ongoing training and awareness raising on AML/CFT in general and specifically, effective AML/CFT detection and investigation, by the FIU. The Customs Department consistently sends representatives to the Financial Investigation Course by REDTRAC in Jamaica.</li> </ul>	
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			<p><u>UPDATE – MARCH 2015</u></p> <ul style="list-style-type: none"> <li>• The FIU has continued training of all arms of the Royal St. Vincent and the Grenadines Police Force including the Coast Guard, Rapid Response Unit and Narcotics Unit.</li> </ul> <p>Additionally, training by the FIU has been made a part of the curriculum of the Police Training School and the number of contact hours with recruits has been increased.</p> <ul style="list-style-type: none"> <li>• Following training received by the former Chief Magistrate in the United Kingdom, Police Officers play a greater role in application for Detention Orders thus necessitating a greater understanding of AML on their part. This has proven to be immensely beneficial</li> <li>• In January 2015 the FIU added an additional Financial Investigator who immediately attended a training course on core skills in financial investigation.</li> <li>• A greater number of the FIU staff now engage in the analysis of SARs</li> <li>• The entire FIU staff received training in i2 and iBase in September 2014 from a certified expert in that field. This has aided in the more efficient analysis of SARs and better feedback to reporting entities.</li> <li>• The office of the DPP has</li> </ul>	
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			<p>produces a procedures manual for prosecutors to ensure consistent and effective discharge of duties.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>• The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18<sup>th</sup>, 2015</li> <li>• High Court Judges received training in AML/CFT and more specifically Civil Recovery proceedings in February 2015</li> <li>• The Customs &amp; Excise Department receives funding annually from the Confiscated Assets Fund for AML/CFT training at REDTRAC.</li> </ul> <p><b>UPDATE-February 2016</b></p> <ul style="list-style-type: none"> <li>• The FIU added another Financial Investigator to Staff, whose primary duties include the analysis of SARs.</li> <li>• All Staff members trained in SARs analysis is presently involved in scrutinising and investigating SARs</li> <li>• The FIU has successfully executed it first batch of training with all the arms of the RSVGPF which are involved in any way with the investigation of money laundering and its predicate offences. There is a second batch of training scheduled for the month of March.</li> <li>• All regulatory staff at the FSA have been trained in Risk Based Supervision inclusive of an AML/CFT component as well as other sector specific training.</li> </ul> <p><u>UPDATE-JANUARY 2018</u></p>	
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			<ul style="list-style-type: none"> <li>• The FIU added another Financial Analyst to Staff, whose primary duties include the analysis of SARs and populating software to aid in the analysis of SARs.</li> <li>• Another Legal Officer was added to Staff, whose primary duties include the obtaining of civil applications which further assist with investigations emanating from SAR Reports.</li> <li>• The FIU continued its annual Money Laundering, Terrorist Financing and Civil Asset Recovery Training Workshops with all Law Enforcement departments and units within the Royal St. Vincent and the Grenadines' Police Force (RSVGPF).The FIU also conducted sessions on Confiscation and other auxiliary applications as part of the RSVGPF in house seminars.</li> <li>• DPP training The DPP conducted a workshop in collaboration with the RSS_ARU which included participants from the 7 RSS jurisdictions (6 OECS and Barbados) and all stakeholders in Saint Vincent and the Grenadines in relation to combatting crime with focus on asset recovery, money laundering and civil recovery.</li> </ul>	
31. National co-operation	LC	FIU Act should be amended to specify the FIU authority to obtain appropriate law enforcement and other governmental information needed to develop intelligence and analysis.	<p>An appropriate amendment submitted to Hon. AG for consideration.</p> <p>The NAMLC continues to play a strong/integral role as a forum for national co-operation of the competent authorities in SVG. Policy continues to be formulated at a national level and it is being considered by the authorities whether a statutory role is necessary for</p>	<b>There are no outstanding action to be undertaken in relation to this Recommendation.</b>



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		<p>policy to be made and implemented.</p> <p>Domestic regulatory cooperation will be enhanced legally and formally under the FSA. The FIU is in the process of establishing MOUs with IFSA and will be seeking to do same with the proposed FSA.</p> <p>The FIU has already signed MOUs locally with the Royal St. Vincent and the Grenadines Police Force and the Immigration Department.</p> <p>Draft MOUs between the FIU and IFSA, the FIU and the Customs and Excise Department, the FIU and the Inland Revenue Department, the FIU and the National Insurance Services have been sent to the Hon. AG for her advice and attention. These are expected to be signed in the coming months.</p> <p><u>Update:</u></p> <p>The Hon AG's office is still in the process of reviewing the local MOUs as mentioned above. It is expected that they will soon be finalized for signature.</p> <p><u>Update-August 2013</u></p> <p>The FIU Act has been amended as stated above (Act No. 7 of 2013) and now specifies the FIU's authority to obtain appropriate law enforcement and other governmental information needed to develop intelligence and analysis.</p> <p>The Hon AG has completed her review of the local MOUs and as such it is anticipated that the FIU will sign local MOUS with the following governmental departments within the next month:</p> <ul style="list-style-type: none"> <li>-Customs and Excise Department</li> <li>-Financial Services Authority</li> <li>-Inland Revenue Department</li> <li>-National Insurance Service</li> <li>-Electoral office</li> <li>-Commerce and Intellectual Property Office</li> </ul> <p><u>Update-February 2014</u></p>	
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			<p>Local MOUs have been circulated to the heads of the aforementioned departments for their perusal and comments, if any, prior to signature and execution.</p> <p><u>UPDATE - AUGUST 2015</u></p> <ul style="list-style-type: none"><li>• <i>Proceeds of Crime Act, No. 38 of 2013</i> Section 119 (1): The Committee (NAMLC) has the following functions:<ul style="list-style-type: none"><li>(a) To identify and assess the ML and TF risks to which the state is exposed;</li><li>(b) To periodically review and update the national ML and TF risk assessment carried out in accordance with paragraph (a);</li><li>(c) To coordinate national AML and TF policies;</li><li>(d) To advise the Minister:<ul style="list-style-type: none"><li>(i) in relation to the formulation of policies and on legislation and regulations concerning ML and TF; and</li><li>(ii) as to the participation of the State in the international effort against ML and TF;</li></ul></li><li>(e) To issue one or more Codes under section 169; and</li><li>(f) To perform such other functions, and exercise such powers;<ul style="list-style-type: none"><li>(i) As may be assigned or given to the Committee by the Act, any regulations made under this Act or any other law; or</li><li>(ii) That are ancillary to the functions set out in this section.</li></ul></li><li>(2) In undertaking its functions, the Committee shall take account of international standards and best practice in relation to the prevention and detection of ML and TF.</li></ul></li></ul> <p><u>UPDATE – February 2016</u></p> <ul style="list-style-type: none"><li>• The FIU Act was amended in 2013 to specify that the FIU can request and</li></ul>
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			<b>obtain appropriate law enforcement and other governmental information when needed. See the amendment attached.</b>	
32. Statistics	LC	<p>Supervisors:</p> <ul style="list-style-type: none"> <li>Inadequate and untimely statistics obtained by insurance supervisors with respect to e.g. life and investment linked insurance policies;</li> <li>Insufficient financial statistics received and generated by financial sector supervisor to assist them in risk-profiling FIs for ML/FT risks, including with respect to their money remittance business, back-to-back loans, etc.</li> </ul> <p>FIU/Police:</p> <p>The FIU and Police should maintain statistics on trends, vulnerabilities and typologies of ML and FT offenses, and predicate offenses that analyze and synthesize the information obtained separately by each agency.</p>	<p>IFSA has been reviewing all of its databases to ensure the maintenance of up to date and accurate statistics. IFSA shall soon be concluding a Full Scope Review of all its registered entities to ensure the accuracy and adequacy of its records. Additional staff and up dated software were sourced to properly carry out this task. A full audit of IFSA's IT systems was also completed and the recommendations of same are being implemented, also with the aim of maintaining, generating and utilizing accurate records and reports, to be used among other things, in various analyses.</p> <p>The Full Scope Review of all registered entities has been successfully completed and the objectives of undertaking this task were achieved (ref: Rec. 23 above).</p> <p>The FIU maintains statistics on trends and typologies and regularly includes same in its quarterly and annual reports post mission.</p> <p>With the implementation of its website in May 2010 the FIU periodically inputs statistics on trends and typologies of ML and FT offences.</p> <p><u>Update -August 2012</u></p> <p>The FIU continually updates its website and continues to post trends and typologies of ML and TF offences. These are also included in newsletters which are sent to all financial institutions and relevant businesses, and continue to be included in quarterly and annual reports.</p> <p><u>Update-August 2013</u></p> <p>Trends and typologies continue to be published in the FIU's quarterly reports as well as monthly newsletters.</p> <p><u>Update-February 2014</u></p> <p>As above.</p>	<b>No outstanding action to be undertaken in relation to this Recommendation.</b>





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			<p><u>UPDATE – MARCH 2015</u> The FIU submits quarterly statistics to the Police as it relates to monies seized, detained and forfeited under the relevant legislation. Information is also provided as it relates to money laundering charges and confiscation proceedings.</p> <p><u>UPDATE –FEBRUARY 2016:</u> The FSA Annual Report and Accounts is attached as well as its Insurance Report, both of which are completed on an annual basis. Financial entities are meeting their reporting requirements under the law.</p> <p><u>UPDATE –JANUARY 2018</u> The FIU developed statistical templates for AML/CFT purposes. The Statistical templates were shared with the NAMLC and is presently before the Committee for review with the aim of being distributed so that harmonious statistics are kept by all.</p>	
33. Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> <li>With respect to IBCs: (i) relevant laws should be amended to provide (a) that only RAs and approved custodians may immobilize bearer shares, (b) IFSA with the authority to strike off an IBC under Section 172 of the IBC Act for reasons of public policy along the lines of its authority under Section 34(1)(a) of the Insurance Act; (ii) measures should be taken by IFSA to verify, at a minimum, that (a) information about beneficial ownership of legal persons in the IBC Register is adequate, accurate and current,</li> </ul>	<p>Section 30 (1) of the International Business Companies (Amendment and Consolidation) Act, 2007 requires that the Registered Agent and Approved Custodian keep in their safe custody all share certificates issued in respect of all bearer shares and that the said certificates cannot be distributed. The Act also provides for the following:</p> <ol style="list-style-type: none"> <li>A penalty of EC\$10,000.00 for the unauthorized issue of, or conversion to or exchange for bearer shares by an IBC;</li> <li>A penalty of EC\$20,000.00 for the unauthorized issue of, or conversion to or exchange for bearer share by segregated cell company and;</li> </ol>	<p><u>The following actions remains outstanding undertaken by the State to address Recommendation:</u></p> <ol style="list-style-type: none"> <li><u>The revision of the Companies grant the registrar the legal authority to obtain beneficial ownership information in relation to companies registered under the Companies Act.</u></li> <li><u>The amendment of the IBC and Companies Act to prohibit nominee and</u></li> </ol>



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		<p>and consistent with such information about legal persons held by RAs, (b) AML/CFT procedures of both RAs and approved custodians are effective and comply with the laws of their home country as well as those of SVG, and (c) bearer shares are held in “safe custody” under the IBC Act and therefore have been properly immobilized by RAs and approved custodians, and that only approved custodians as defined by the IBC Act are authorized to immobilize bearer shares;</p> <ul style="list-style-type: none"> <li>• Consideration should be given to amending relevant laws administered by IFSA to require a wide range of effective, dissuasive and proportionate administrative and criminal sanctions against controlling shareholders, directors, officers and companies for failure to disclose material information to IFSA or to RAs or for misuse of any company in respect to ML, FT or any other predicate crime;</li> <li>• IFSA’s onsite inspection <u>procedures should be revised to ensure that it has access to and is verifying that adequate, accurate and complete information with respect to beneficial ownership of IBCs is being collected and maintained by RAs;</u></li> <li>• IFSA should develop policies and procedures for approving custodians to hold immobilized</li> </ul>	<p>c. A penalty of EC\$10,000.00 for failure to notify registrar of IBCs, failing or refusing to comply with immobilization provisions.</p> <p>Of the onsite inspections conducted since January 2009, seven were confirmed to be duly authorized to have issued bearer share certificates. All agents, inclusive of those who do not issue the said shares, have been made fully aware of their obligations in accordance with the Act. Any Agent who is found to be in breach of the Act would be fined accordingly if steps have not been taken to address the said matter.</p> <p>Procedure for Approving Custodians</p> <p>The Authority has approved one custodian - this was done in October, 2008. The procedure is as follows:</p> <ul style="list-style-type: none"> <li>• The Registered Agent makes a request to the Registrar of IBCs who then conducts in house due diligence checks using the search engines World compliance and World Check. The individuals CV and supporting evidence is also perused to fulfill the fit and proper test.</li> <li>• A summary report is then submitted to the Executive Director who further discusses the said matter with the Registrar. The Executive Director would the conduct further investigations with governing regulatory bodies to ensure that the individuals are indeed befitting the custody of the said certificates.</li> <li>• After this has been done, the</li> </ul>
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		<p>bearer shares;</p> <ul style="list-style-type: none"> <li>With respect to local companies, the Companies Act should be amended to (i) provide the Companies Registrar with the requisite legal authority to ascertain the beneficial ownership of all companies registered in SVG, and to ensure that information about beneficial ownership of legal persons in the Local Companies Registry is adequate, accurate and current, and (ii) consideration should be given to including a wide range of effective, dissuasive and proportionate administrative and criminal sanctions against controlling shareholders, directors, officers and companies for failure to disclose material information to the Companies Registrar and for misuse of any company in respect to ML, FT or any other predicate crime;</li> <li>The use of nominee and non-SVG corporate directors and shareholders should be prohibited in the IBC and Companies Acts unless <u>measures are taken to ensure that adequate, accurate and complete beneficial information is made available to IFSA and the Companies Registrar respectively and that the IBC and Companies Registers so reflect; and</u></li> <li>The Mutual Funds and <u>International Insurance Acts should be amended to prohibit</u></li> </ul>	<p>Executive Director would submit her findings to the Board of Directors of IFSA. The application would be subject to additional scrutiny and after careful deliberations and consideration of the jurisdiction of the applicants the Board would vote on whether the application is to be approved or declined.</p> <ul style="list-style-type: none"> <li>After this process has been done the Executive Director advised the Registrar of the decision and the Registrar or the Executive Director informs the Registered Agent of the approval or disapproval of the Custodian.</li> </ul> <p>This procedure requires the Board of Directors approval. The Board of Directors of IFSA is quite aware of the AML/CFT expertise required as the Executive Director, the Chairman and the Director of Finance and Planning are members of the National Anti- Money Laundering Committee.</p> <p>Amendments to the law so as to reflect recommendations of the IMF Assessors are being considered against a full scope review of all laws applicable to the IFS industry.</p> <p>Amendments have been submitted to the Hon. AG which addresses the deficiencies identified by the DAR under this section. For example:</p> <p>-Recommendation to amend the IBC Act to reflect the recommendations of the IMF assessors has been sent to the AG for consideration save for that of immobilizing bearer shares as this is already captured under the law.</p> <p>-Recommendation to amend definitions, Section 4 of the International Insurance Act and to amend Regulation 11 sent to AG for consideration.</p>	
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		<p><u>the use of bearer shares by licensees, and the Mutual Funds Regulations revised to reflect this change.</u></p>	<p><u>Update February 2013</u></p> <p>The amendments to the IBC Act and the Insurance Act are at the draft stage.</p> <p>IFSA's onsite examination procedures have been enhanced owing to implementation of recommendations of the IMF Assessors and further training carried out under the EU TA Project (previously reported upon). An essential component of every on site examination of registered agents is verification of procedures for the immobilization of bearer shares. This issue is ventilated with the RA and procedures verified on site and against IFSA's records.</p> <p>Proper immobilization of bearer shares is part of IFSA's written standard approach as a necessary check in a RA onsite examination.</p> <p>Another round of onsite examinations has commenced and Registered agents are currently being reviewed with particular emphasis being placed on evidencing the custody of bearer shares.</p> <p><u>Update February 2013</u></p> <p>The second round of onsite inspections of Registered Agents in four years was completed in September, 2012. Most Registered Agents were found to have proper AML/CFT procedures in place</p> <p><u>Update-August 2013</u></p> <p>The third round of onsite inspection has commenced for 2013 and is ongoing.</p> <p><u>Update-February 2014</u></p> <p>Onsite inspections of the Four (4) International Banks and Five (5) Registered Agents have been completed since the last round on onsite inspections began.</p>
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			<p><u>UPDATE-August 2014</u> The third round of onsite inspections since 2008 began in 2013 and to date twelve (12) of sixteen (16) Registered Agents have been examined, with the remaining 4 to be completed before year end.</p> <p>The fourth round of onsite inspections of international banks since 2008 began in 2013 and the onsite examinations of all four (4) International Banks have been completed.</p> <p><u>UPDATE – February 2015</u> The fifth round of onsite examinations of international banks will commence in the fourth quarter of 2015. The fourth round of onsite examinations of Registered Agents and Trustees are ongoing and scheduled to be concluded in 2016.</p> <p><u>UPDATE –April 2015</u> The second round of onsite examinations of credit unions and building societies, which assess prudential as well as AML/TF requirements will commence in the second quarter of 2015.</p> <p>The second and third rounds of onsite examinations of Money Services Businesses and Insurance companies will commence in the second quarter of 2015.</p> <p><u>Update- August 2015</u> Two on site examinations have been completed so far in the second round for the credit unions and Building societies. The other three examinations will be completed by November 2015.</p> <p>With respect to Money Services Businesses the second round of onsite examinations will commence in the first quarter of 2016.</p>	
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			<p><u>FSA Capacity Building:</u> the FSA staff has been exposed to a number of training opportunities offered by regional agencies including CARTAC, the most recent being the, CARTAC sponsored training on Risk-Based Supervision in February, 2015. The FSA's Annual report 2013 (<i>attached hereto for reference</i>) illustrates the accomplishments and developments of the FSA. This report was provided to the CFATF and many other CFATF member countries</p> <p><b><u>UPDATED: FEBRUARY 2016</u></b></p> <p>The introduction of the Anti-Money Laundering and Terrorist Financing Regulations, 2014 has strengthened the regulation of bearer shares. Regulation 14 (2) (f) (ii) of the aforementioned states that service providers are required to conduct enhanced customer due diligence and ongoing monitoring on a risk- sensitive bases for companies that have nominee shareholders or <u>shares in bearer form</u>. Additionally, they are required to keep records for a minimum retention period of seven years. Thus, the service provider is required to hold information on all beneficial owners and director owners of all of their clients. This requirement must be maintained whether or not the service provider has an approved custodian who holds customer due diligence information. Failure to comply this requirement is an offence on summary conviction and would result service provider would be liable to a fine of \$100,000 or two years imprisonment.</p> <p><b><u>UPDATE: JANUARY 2018</u></b></p>	
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			<p>The Staff of the FSA are trained on an ongoing basis in areas such as prudential supervision, AML/CFT and general supervisory matters.</p> <p>Registered Agents and International Banks will be undergoing their 6<sup>th</sup> round of inspections in 2018, Money Services Businesses are undergoing their 2<sup>nd</sup> round of onsite of inspection and Credit Unions and Insurance Companies will be undergoing their 3<sup>rd</sup> round of inspections in 2018.</p> <p>Work is ingoing with all sectors to address AML/CFT deficiencies identified in their operations and where necessary directives have been issued demanding resolution of the issues within a specific framework.</p>	
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<p>34. L egal arrangement s – beneficial owners</p>	<p>NC</p>	<ul style="list-style-type: none"> <li>• With respect to ITRs, relevant laws, regulations or other enforceable means should be amended to require registered trustees to identify beneficial owners of trusts (e.g. the settlor, trustee, beneficiaries and protector) and the IT Act should be amended to make clear that IFSA has the authority to request books, records and other information about beneficial owners of trusts;</li> <li>• With respect to ITRs, IFSA should conduct sufficient inspections of registered trustees so as to ensure that beneficial owners of trusts are identified;</li> <li>• With respect to local trusts, measures, including laws, regulations and other enforceable means, should be adopted to: (i) ensure that competent authorities have access to adequate, accurate and complete information about beneficial owners of trusts; (ii) prevent misuse of local trusts for purposes of ML and FT; and (iii) prevent use of companies as settlors, trustees or beneficiaries of trusts</li> </ul>	<p>All Registered Agents are also Registered Trustees and as such are subject to on-site inspections. The Authority has conducted onsite inspection of fourteen (14) Registered Agents over the period January 2009 to October, 2010. The Registered Trustee in accordance with the 63 (1) International Trust (Amendment) Act, 2002 is required to keep the following:</p> <ul style="list-style-type: none"> <li>(a) a copy of the instrument creating the trust and copies of any other instrument amending or supplementing such instrument;</li> <li>(b) a register in which the following information is set out: <ul style="list-style-type: none"> <li>(i) The name of the settlor and the name of the beneficiary or the beneficiaries and the names of the trustee or trustees and where applicable the name of the protector.</li> <li>(ii) if a purpose or charitable trust, a summary of the purposes of the trust and the name of the protector(s) of the trust, and</li> <li>(iii) Such documents as are necessary to show the true financial position of the trust, which shall be current as of one month following the close of each fiscal quarter.</li> </ul> </li> </ul> <p>Section 55 A &amp; B the International Trust (Amendment) Act, 2002 has given the Registrar of Trust the power to do the following:</p> <ul style="list-style-type: none"> <li>a) Require the Registered Trustee to provide the Authority; or any person acting on behalf of the Authority, at a time as may be</li> </ul>
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		<p>unless they can be adequately identified;</p> <ul style="list-style-type: none"> <li>• With respect to both ITRs and local trusts, relevant laws should be amended to prohibit use of companies as settlors, trustees or beneficiaries; and</li> <li>• With respect to both ITRs and local trusts, consideration should be given to amending relevant laws to provide competent authorities with effective, dissuasive and proportionate sanctions to ensure that requisite information on beneficial owners is being disclosed and that corporate vehicles are not being used for ML or FT.</li> </ul>	<p>specified, any information which the Registrar of Trusts may reasonably require for ensuring that the Trust complies with the provisions of this Act and any code of practice;</p> <p>b) Require the Registered Trustee to provide the Registrar of Trusts with a report prepared by the auditor or accountant of the Trust or any other person with the relevant professional skill, on a matter which the Registrar of Trusts may require under part (a) and the report must be prepared on a form as specified by the notice.</p> <p>In addition the Registrar of Trust has the power to require the production of documents as follows:</p> <p>The Registrar of Trusts may by notice in writing served on the Registered Trustee of the trust require the Registered Trustee:</p> <p>a) to produce within a time and place as may be specified in the notice, any document of a description as may be so specified;</p> <p>b) to provide to an officer, servant or agent of the Authority any information, or to produce to him any documents as he may specify which the Registrar of Trusts may reasonably require for ensuring that the Trust is complying with the provisions of this Act and any code of practice.</p> <p>While the Registrar may require the above information, the names of the settlor, beneficiaries and trust protectors are provided upon registration of all International Trusts.</p> <p>Amendments to the law so as to reflect recommendations of the IMF Assessors are being considered against a full scope review of all laws applicable to the IFS industry.</p> <p>Requests for amendments as outlined above have been</p>
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		<p>sent to the Hon. Attorney General.</p> <p>IFSA has completed inspections of all its RAs in 2010 and commenced its 2011 RA on-site inspections.</p> <p><u>Re: Registered Agents and Trustees:</u> As at September 28<sup>th</sup> 2011, nine onsite inspections were completed and the remaining five are expected to be completed by January 2012.</p> <p><u>Update:</u></p> <p>IFSA has undertaken onsite inspections of fourteen (14) Registered Agents as at 16th January, 2012. These entities have been found to have made significant progress since the last round of onsite inspections which was undertaken between late 2009 and 2010.</p> <p>IFSA is expected to complete onsite inspections of the final two (2) Registered Agents/ Registered Trustees, during the second quarter of this year.</p> <p><u>Update – August 2012</u></p> <p>The onsite inspection of the St.Vincent Trust Service Limited and the St. Vincent Trust Company Limited is scheduled to take place from September 24<sup>th</sup> to September 27<sup>th</sup> at the companies' head office in Liechtenstein. Two members of IFSA's staff will comprise the inspection team.</p> <p><u>Update October 2012</u></p> <p>The onsite inspection of the Two Registered Agents and Trustees was completed at their European offices as scheduled. As such, the 16 Registered Agents and Trustees licensed in SVG have undergone a second round of onsite inspections in four years.</p> <p><u>Update-August 2013</u></p> <p>The third round of onsite inspection has commenced for 2013 and is ongoing</p>	
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			<p><u>Update-February 2014</u> Onsite inspections of the Four (4) International Banks and of Five (5) Registered Agents have been completed since the last round on onsite inspections began in August 2013.</p> <p><u>UPDATE-August 2014</u> The third round of onsite inspections since 2008 began in 2013 and to date twelve (12) of sixteen (16) Registered Agents have been examined, with the remaining 4 to be completed before year end.</p> <p>The fourth round of onsite inspections of international banks since 2008 began in 2013 and the onsite examinations of all four (4) International Banks have been completed.</p> <p><u>UPDATE – February 2015</u> The fifth round of onsite examinations of international banks will commence in the fourth quarter of 2015. The fourth round of onsite examinations of Registered Agents and Trustees are ongoing and scheduled to be concluded in 2016.</p> <p><u>UPDATE – April 2015</u> The second round of onsite examinations of credit unions and building societies, which assess prudential as well as AML/TF requirements will commence in the second quarter of 2015.</p> <p>The second and third rounds of onsite examinations of Money Services Businesses and Insurance companies will commence in the second quarter of 2015.</p> <p><u>Update- August 2015</u> Two on site examinations have been completed so far in the second round for the credit unions and Building societies. The other three examinations will be completed by November 2015.</p>	
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			<p>With respect to Money Services Businesses the second round of onsite examinations will commence in the first quarter of 2016.</p> <p><u>FSA Capacity Building:</u> the FSA staff has been exposed to a number of training opportunities offered by regional agencies including CARTAC, the most recent being the, CARTAC sponsored training on Risk-Based Supervision in February, 2015. The FSA's Annual report 2013 (<i>attached hereto for reference</i>) illustrates the accomplishments and developments of the FSA. This report was provided to the CFATF and many other CFATF member countries.</p> <p><u>UPDATE: February 2016</u></p> <p><b>The Registered Trustees are in their fourth round of onsite inspections and are inspected every twelve to eighteen months. To date, satisfactory levels of compliance have been noted with respect to maintenance of Trust Registers. Registered Trusts are also required to comply with the due diligence requirement of the Anti-Money Laundering and Terrorist Financing Regulations, 2014.</b></p> <p><u>UPDATE JANUARY 2018</u></p> <p>Paragraph 10-17 of the Code makes provision for legal persons and arrangements.</p> <p>(1)This paragraph and paragraphs 11 and 12 apply to a legal person other than a foundation.</p> <p>(2)A service provider shall obtain the following identification information with respect to a legal person that it is required by the Regulations or this</p>	
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			<p><b>Code to identify:</b></p> <ul style="list-style-type: none"> <li>a) the full name of the legal person and any trading names that it uses;</li> <li>b) the date of the incorporation, registration or formation of the legal person;</li> <li>c) any official identifying number;</li> <li>d) the registered office or, if it does not have a registered office, the address of the head office of the legal person;</li> <li>e) the name and address of the registered agent of the legal person (or equivalent), if any;</li> <li>f) the mailing address of the legal person;</li> <li>g) the principal place of business of the legal person;</li> <li>h) the names of the directors of the legal person;</li> <li>i) identification information on those directors who have authority to give instructions to the service provider concerning the business relationship or occasional transaction; and</li> <li>j) identification information on individuals who are the ultimate holders of 15% or more of the legal person.</li> </ul> <p>(3)Where a service provider determines that a legal person that it is required to identify presents a higher level of risk, the service provider shall obtain such additional identification information with respect to the legal person as it consider appropriate.</p> <p>(4)Where subparagraph (3) applies, but without limiting it, a service provider shall obtain identification information on every director of the legal person.</p> <p>(5)Where identification information on an individual, as a director or beneficial owner, is</p>	
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			<p>required to be obtained, paragraph 8 applies.</p> <p>11.(1)A service provider shall:</p> <ul style="list-style-type: none"> <li>a) verify the identity of a legal person where required by the Regulations to do so; and</li> <li>b) take reasonable measures to verify the identity of the beneficial owners of the legal person.</li> </ul> <p>(2)Where a service provider determines that a legal person, the identity of which it is required to verify, presents a low risk, the service provider shall, using evidence from at least one independent source verify:</p> <ul style="list-style-type: none"> <li>a) the name of the legal person;</li> <li>b) the official identifying number; and</li> <li>c) the date and country of its incorporation, registration or formation.</li> </ul> <p>(3)Where a service provider determines that a legal person, the identity of which it is required to verify, presents a higher level of risk, the service provider shall verify:</p> <ul style="list-style-type: none"> <li>a) the address of the registered office, or head office, of the legal person, as applicable; and</li> <li>b) the address of the principal place of business of the legal person, if different from its registered office or head office.</li> </ul> <p>(4)Where a service provider determines that a legal person, the identity of which it is required to verify, presents a high level of risk, the service provider shall verify such other components of the legal person's identification as it considers appropriate.</p> <p>(5) A document used to identify the identity of a legal person or its beneficial owners must be in</p>	
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			<p>a language understood by those employees of the service provider who are responsible for verifying their identity.</p> <p>12.(1)A service provider shall in all cases verify the identity of any director of the legal person specified in paragraph 10(2) (h).</p> <p>(2)Where the service provider determines that the legal person presents more than a low level of risk, it shall verify such additional components of the identity of the legal person as it considers appropriate.</p> <p>(3)Where subparagraph (2) applies, but without limiting it, a service provider shall verify the identity of each director and each beneficial owner of the legal person.</p> <p>(4) Where the identity of an individual, as director or beneficial owner, is required to be verified, paragraph 8 applies.</p> <p>13.(1)[Subject to subsection (2)], where a service provider is required by the Regulations or this Code to identify a trust, it shall:</p> <p>(a) obtain the following identification information:</p> <ul style="list-style-type: none"> <li>i. the name of the trust,</li> <li>ii. the date of the establishment of the trust,</li> <li>iii. any official identifying number,</li> <li>iv. identification information on each trustee of the trust,</li> <li>v. the mailing address of the trustees,</li> <li>vi. identification information on each settlor of the trust,</li> <li>vii. identification information on each beneficiary or class of beneficiaries of the trust, except a trust to which subparagraph (2) or (3) applies.</li> <li>viii. identification information on each</li> </ul>	
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			<p>ix. protector or enforcer of the trust; Identification of any other natural person(s) exercising ultimate effective control over the trust; and</p> <p>(b) obtain confirmation from the trustees that they have provided all the information requested and that they will update the information in the event that it changes.</p> <p>(2) In the case of a discretionary trust or a trust with one or more types or classes of beneficiaries, the service provider shall obtain information concerning the type or class of beneficiary that is sufficient to enable the identity of a beneficiary to be established at the time the beneficiary receives any property or benefit from the trust or exercises a vested right.</p> <p>(3) In the case of a charitable trust or purpose trust, the service provider must obtain information on the objects of the trust.</p> <p>(4) For the purpose of this Code, “settlor” includes a person who, as settlor, established the trust and any person who has, at any time, subsequently settled assets into the trust.</p> <p>(5) Identification information required to be obtained on any person under this paragraph shall be obtained in accordance with paragraph 8 if the person is an individual, paragraph 10 if the person is a legal person, other than a foundation, or paragraph 31 if the person is a foundation.</p> <p>14.(1) Where a service provider is required by the Regulations or this Code to verify the identity of a trust, it shall verify:</p> <p>a) the name and date of establishment of the trust;</p> <p>b) the identity of each trustee, settlor and</p>	
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			<p>c) protector or enforcer of the trust; and the appointment of the trustee and the nature of his duties.</p> <p>(2)Where a service provider determines that a trust, the identity of which it is required to verify, presents a higher level of risk, the service provider shall:</p> <p>take reasonable measures to verify the identity of each person specified in paragraph (3) Where a service provider determines that a legal person that it is required to identify presents a higher level of risk, the service provider shall obtain such additional identification information with respect to the legal person as it consider appropriate.</p> <p>(4) Where subparagraph (3) applies, but without limiting it, a service provider shall obtain identification information on every director of the legal person.</p> <p>(5) Where identification information on an individual, as a director or beneficial owner, is required to be obtained, paragraph 8 applies.</p> <p>11.(1) A service provider shall:</p> <p>(f) verify the identity of a legal person where required by the Regulations to do so; and</p> <p>(g) take reasonable measures to verify the identity of the beneficial owners of the legal person.</p> <p>(2) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a low risk, the service provider shall, using evidence from at least one independent source verify:</p> <p>(h) the name of the legal person;</p> <p>(i) the official identifying number; and</p> <p>(j) the date and country of its incorporation,</p>	
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			<p align="center">registration or formation.</p> <p>(3) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a higher level of risk, the service provider shall verify:</p> <p>(f) the address of the registered office, or head office, of the legal person, as applicable; and</p> <p>(g) the address of the principal place of business of the legal person, if different from its registered office or head office.</p> <p>(4) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a high level of risk, the service provider shall verify such other components of the legal person's identification as it considers appropriate.</p> <p>(5) A document used to identify the identity of a legal person or its beneficial owners must be in a language understood by those employees of the service provider who are responsible for verifying their identity.</p> <p><b>12.(1)</b> A service provider shall in all cases verify the identity of any director of the legal person specified in paragraph <b>10(2) (h)</b>.</p> <p>(2) Where the service provider determines that the legal person presents more than a low level of risk, it shall verify such additional components of the identity of the legal person as it considers appropriate.</p> <p>(3) Where subparagraph (2) applies, but without limiting it, a service provider shall verify the identity of each director and each beneficial owner of the legal person.</p> <p>(4) Where the identity of an individual, as director or beneficial owner, is required to be verified, paragraph <b>8</b></p>	
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			<p>applies.</p> <p>a) <b>13(5)</b> and</p> <p>b) verify such other components of the legal person's identification as it considers appropriate.</p> <p>(3)A document used to verify the identity of a trust or a person specified in this paragraph must be in a language understood by those employees of the service provider who are responsible for verifying the identity of the trust or person concerned.</p> <p>(4)A person whose identity is required by this paragraph to be verified shall:</p> <p>a) if the person is an individual, be verified in accordance with paragraph 9;</p> <p>b) if the person is a legal person, be verified in accordance with paragraph <b>11</b>; or</p> <p>c) if the person is a foundation, be verified in accordance with paragraph <b>34</b>.</p> <p>15.(1) A service provider shall obtain the following identification information with respect to a foundation that it is required by the Regulations or this Code to identify:</p> <p>a. the full name of the foundation;</p> <p>b. the date and country of the establishment, registration, formation or incorporation of the foundation;</p> <p>c. any official identifying number;</p> <p>d. the registered address, or equivalent, of a foundation or, if a foundation does not have a registered address (or equivalent), the address of the head office of the foundation;</p> <p>e. the mailing address of the foundation, if different from its registered address or equivalent;</p> <p>f. the principal place of business of the</p>	
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			<p>foundation, if different from its registered address or equivalent;</p> <p>g. the name and address of the registered agent (or equivalent) of a foundation, if any;</p> <p>h. the name and address of the Secretary, or equivalent, of a foundation, if any;</p> <p>i. the names of the Foundation Council members (or equivalent) and, if any decision requires the approval of any other persons, the names of those persons;</p> <p>j. identification information on those Foundation Council members (or equivalent) who have authority to give instructions to the service provider concerning the business relationship or occasional transaction;</p> <p>k. identification information on the guardian of the foundation (or equivalent), if any;</p> <p>l. identification information on the founder or founders, on any other person who has contributed to the assets of the foundation and on any person to whom the rights of the founder or founders have been assigned.</p> <p>(2)Where a service provider determines that a foundation that it is required to identify presents a higher level of risk, the service provider shall obtain such additional identification information with respect to the foundation as it consider appropriate.</p> <p>(3)Where subparagraph (2) applies, but without limiting it, a service provider shall obtain identification information on:</p> <p>a) every Foundation Council member of the foundation, or equivalent;</p> <p>b) any other persons whose approval is required for any decision; and</p>	
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			<p>c) any beneficiaries of the foundation.</p> <p>(4) Identification information required to be obtained on any person under this paragraph shall be obtained in accordance with paragraph 8 if the person is an individual or paragraph 10 if the person is a legal person.</p> <p>16.(1) Where a service provider is required by the Regulations or this Code to verify the identity of a foundation, it shall:</p> <ul style="list-style-type: none"> <li>a) verify the identity of the foundation; and</li> <li>b) take reasonable measures to verify the identity of persons concerned with the operation of the foundation.</li> </ul> <p>(2) Where a service provider determines that a foundation the identity of which it is required to verify presents a low risk, the service provider shall, using evidence from at least one independent source, verify:</p> <ul style="list-style-type: none"> <li>a) the name of the foundation and any official identifying number; and</li> <li>b) the date and country of the foundation's establishment, registration, formation or incorporation.</li> </ul> <p>(3) Where a service provider determines that a foundation, the identity of which it is required to verify, presents a higher level of risk, the service provider shall verify:</p> <ul style="list-style-type: none"> <li>a) the registered address or head office of the foundation, or the equivalent, of in the case of an overseas foundation that does not have a registered address (or equivalent), the address of the head office of the foundation; and</li> <li>b) (the address of the principal place of business of the foundation, if different</li> </ul>	
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			<p align="center">from its registered office or head office.</p> <p>(4)Where a service provider determines that a foundation, the identity of which it is required to verify, presents a high level of risk, the service provider shall verify such other components of the foundation's identification as it considers appropriate.</p> <p>(5)A document used to identify the identity of a foundation or persons concerned with the foundation must be in a language understood by those employees of the service provider who are responsible for verifying their identity.</p> <p>(6)A person whose identity is required by this paragraph or paragraph 17 to be verified shall:</p> <ul style="list-style-type: none"> <li>a) if the person is an individual, be verified in accordance with paragraph 9; or</li> <li>b) if the person is a legal person, be verified in accordance with paragraph <b>11</b>.</li> </ul> <p>17. (1) A service provider shall in all cases verify the identity of:</p> <ul style="list-style-type: none"> <li>a) any Foundation Council member (or equivalent) specified in paragraph <b>31(1)(j)</b>;</li> <li>b) the founder or founders, or any other person who has contributed to the assets of the foundation and on any person to whom the rights of the founder or founders have been assigned; and</li> <li>c) the guardian of the foundation (or equivalent).</li> </ul> <p>(2)Where the service provider determines that the foundation presents a higher level of risk, it shall verify such additional components of the identity of</p>	
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			<p>the foundation as it considers appropriate.</p> <p>(3)Where subparagraph (2) applies, but without limiting it, a service provider shall verify the identity of:</p> <ul style="list-style-type: none"> <li>a) each Foundation Council member (or equivalent) of the foundation and, if any decision requires the approval of any other persons, those persons; and</li> <li>b) any beneficiaries of the foundation.</li> </ul>	
Internati onal Coopera tion				
35. Convent ions	LC	<ul style="list-style-type: none"> <li>• SFT and Palermo Conventions should be ratified and fully implemented;</li> <li>• UNATMA should be</li> </ul>	Between 25th and 29th May 2010 there was a Specialized Workshop on the Prevention and Fight against Terrorism and its financing facilitated by the UNODC and the Government of St. Vincent and the Grenadines. The UNODC has endeavoured to provide	



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		<p>amended to include all conventions that define offenses to which the SFT Convention applies;</p> <p>Legal provisions and other measures should be adopted in order to implement the requirements in UNSCRs 1267 and 1373. In particular, a mechanism for freezing funds, assets, and other financial or economic resources of terrorists and terrorist organizations.</p>	<p>technical assistance to redraft UNATMA and is in consultation with the Hon. AG on this matter.</p> <p>The consultation process between the Hon. AG and the UNODC continues with a view to redrafting the UNATMA.</p> <p><u>Update-August 2013</u></p> <p>Both Palermo and the SFT Convention have been ratified by St. Vincent and the Grenadines. The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA.</p> <p>It is anticipated that the new POCA and CFT legislation will more fully implement the provisions of both Conventions and UNSCRs 1267 and 1373.</p> <p><u>Update-February 2014</u></p> <p>The draft Counter-Financing of Terrorism of Legislation intended to repeal and replace UNATMA remains pending. However it is anticipated that the provisions will adequately address the Examiners' comments.</p> <p><u>UPDATE-August 2014</u></p> <p>The Anti-Terrorist Financing and Proliferation Act, 2014 was been placed before Parliament in August 2014. Parliament directed a 'Select Committee' to be convened for further discussion of this Bill. It is anticipated that the Bill will be enacted at the next sitting of Parliament in October 2014.</p> <p><u>UPDATE – March 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the</p>
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		<p>Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>• The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18<sup>th</sup>, 2015 Section 2 – “relevant Security Council Resolutions” means any resolution passed by the Security Council of the United Nations and listed in Schedule 2;</li> </ul> <p>Schedule 2 – United Nations Security Council Resolutions</p> <ol style="list-style-type: none"> <li>1. Security Council resolution 1267 (1999) and its successor resolutions;</li> <li>2. Security Council resolution 1373 (2001), including the determination that the relevant sanctions will be applied to the person or entity and the public communication of that determination;</li> <li>3. Security Council resolution 1718 (2006) and its successor resolutions;</li> <li>4. Security Council resolution 1737 (2006) and its successor resolutions; and</li> <li>5. Any future Security Council resolutions which impose targeted financial sanctions in the context of the financing of the proliferation of weapons of mass destruction.</li> </ol>
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			<p>Sections 27 – 37 : Recovery and Forfeiture of Terrorist cash in Summary Proceedings</p> <p>Sections 38 – 44 : Forfeiture of Terrorist Property</p> <p>Sections 45 – 51 – Restraint Orders</p> <p>Part VI – Freezing of terrorist property</p>	
36. MLA	LC			
37. Dual criminality	C			
38. MLA on confiscation and freezing	C			
39. Extradition	C			
40. Other forms of co-operation	C		<p>SVG has to date signed 20 Tax Information Exchange Agreements with several more in the pipeline widening its scope of international cooperation. Double Taxation Agreements are currently under consideration with Turkey and will be targeted for establishment with other countries.</p> <p>Negotiations are ongoing for the establishment of TIEAs with the Slovak Republic, Portugal, Spain and Romania.</p> <p>SVG is set to undergo its Global Forum Phase 1 peer review in the 2nd half of 2011 and are currently preparing. In preparing, it is reviewing all relevant legislation relating to the availability of information, access to information and the exchange of information as it relates to transparency for tax purposes which opens doors to greater access to information. This will provide the opportunity to further ensure that there are no legal or other impediments to access to relevant information.</p>	



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			<p>Update:</p> <p>SVG has completed Phase I of the OECD Phase 1 Peer Review. Two members of IFSA's staff (Executive Director and the Senior Analyst) attended the Meeting of the Peer Review Group of the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes, in Brazil from February 27th - March 2nd 2012, on behalf of SVG to defend the Country's report. The country's legislative and regulatory framework for the availability, access and exchange of information for tax purposes was evaluated in this Phase 1 Review. Out of nine elements assessed, SVG was found to have 8 elements in place. The Phase 1 Review Report on SVG will be published on the OECD website on April 5<sup>th</sup> 2012, having been formally adopted on March 30<sup>th</sup> 2012.</p> <p>SVG has successfully completed this Phase 1 Review and as such, moves to a Phase 2 Review in the latter half of 2013.</p> <p>Further, SVG is considered to have a favourable Phase 1 Review Report, as out of nine elements assessed, eight were found to be in place. Work is already ongoing to address the missing element and the other recommendations of the Report.</p> <p>SVG is presently undergoing its OECD Phase I Peer Review of its legal and regulatory framework for the transparency and exchange of tax information. SVG submitted the duly completed Questionnaire required for this Peer Review, to its Peer Assessors on October 28th 2011, thus meeting the stipulated deadline. A draft Phase 1 Peer Review Report was submitted to SVG on December 22nd 2011 which SVG has responded to, and which will be presented at a Meeting of the Peer Review Group of the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes, in Brazil from February 27th - March 2nd 2012. Two members of IFSA's staff will be representing SVG at the said Meeting when SVG's report is expected to be finalized.</p>	
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			<p>In order to strengthen its tax information exchange regime, SVG enacted the International Co-operation (Tax Information Exchange) Act 2011 on November 25th 2011. This Act focuses on ensuring that the appropriate legislative framework exists for giving effect to Tax Information Exchange Agreements and any other international arrangement for tax information exchange ( for example, Double Taxation Agreements 'DTAs') which SVG enters into.</p> <p>Main Provisions of the Act</p> <ol style="list-style-type: none"> <li>1. The Act ensures that the competent authority in SVG, namely the Minister of Finance or his authorized representative, has the necessary powers to access information requested pursuant to a TIEA or any other tax arrangement, and to exchange that information with the requesting country. It is obligatory for the person from whom information is requested, to make that information available to the competent authority.</li> <li>2. Procedures relative to the execution of requests for information and the instances when such requests may be declined by the competent authority are stipulated.</li> <li>3. Safety mechanisms for preserving the confidentiality of information received by the requesting country and by SVG are outlined.</li> <li>4. The Act seeks to ensure compliance by criminalizing two offences: failure to provide the information required, and tampering with or altering the information</li> </ol>	
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			<p>to be received by the competent authority.</p> <p>5. The rights of any person aggrieved by a decision of the competent authority are preserved by specifically referencing the facility of judicial review.</p> <p>SVG is pursuing the establishment of 3 DTAs with the UK, USA and Canada.</p> <p>The TIEAs being pursued with the Slovak Republic, Portugal, Spain and Romania have not yet been finalized.</p> <p>SVG was removed from France's 'Blacklist' of non cooperative tax jurisdictions or 'tax havens' as of January 2012. SVG had been removed from the OECD's Grey List of countries which had committed to the international tax standards but had not demonstrated its commitment, since March 2010. At that time, SVG had completed 18 TIEAs. At present, SVG has signed Exchange of Information agreements with 31 jurisdictions of which 22 have been brought into force. SVG has completed its internal procedures for the entry into force of all these EOI agreements. Those are not in force is due to the other party to the agreements not yet completing its own internal procedures.</p> <p>There have not been any complaints against SVG for being uncooperative in tax matters or any the international matters pertaining to the investigation and prosecution of criminal offences including money laundering and terrorism financing offences.</p> <p><u>Update February 2013</u></p> <p>Phase 2 of the OECD Peer Review assessment of SVG is schedule to commence in the latter half of 2013.</p> <p><u>Update-February 2014</u></p> <p>The OECD Global Forum Phase 2 Review of SVG commenced on December 16<sup>th</sup> 2013. The onsite visit</p>	
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		<p>by the Peer Assessment team took place from February 11<sup>th</sup> -13<sup>th</sup>, 2014. SVG anticipates positive results from this Review.</p> <p><u>UPDATE-August 2014</u> The OECD Global Forum will consider SVG's Draft Report at a meeting in Paris in September, 2014.</p> <p><u>UPDATE – March 2015</u> St. Vincent and the Grenadines was found to be “largely compliant” in its recent OECD Phase 2 Peer Review which concluded in September 2014. Please find attached the SVG Phase 2 Report.</p> <p><u>UPDATE: FEBRUARY 2016</u></p> <p>St. Vincent and the Grenadines submitted their Phase 2 Questionnaire on Confidentiality and Data Safeguards in December, 2015. An onsite visit has been scheduled in April, 2016 to conduct further assess the confidentiality and data safeguards systems within the state.</p> <p>In November, 2015 St. Vincent and the Grenadines became a signatory to the Multilateral Competent Authority Agreement to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.</p> <p>St. Vincent and the Grenadines has committed to becoming a signatory to the above-stated Convention and expects to have the Convention signed and ratified by August 2016.</p> <p>The Convention facilitates international co-operation for a better operation on national tax laws, while respecting the fundamental rights of tax payers. It also provides for all possible forms of administrative co-operation between states in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion. This co-operation ranges from exchange of information,</p>	
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			including automatic exchanges, to the recovery of foreign tax claims.	
Nine Special Recommendations				
SR.I Implement UN instruments	NC	<ul style="list-style-type: none"> <li>SFT and Palermo Conventions should be ratified and fully implemented;</li> <li>UNATMA should be amended to include all conventions that define offenses to which the SFT Convention applies;</li> <li>Legal provisions and other measures should be adopted in order to implement the requirements in UNSCRs 1267 and 1373. In particular, a mechanism for freezing funds, assets, and other financial or economic resources of terrorists and terrorist organizations.</li> </ul>	<p><u>Update-August 2013</u> Both Palermo and the SFT Convention have been ratified by St. Vincent and the Grenadines.</p> <p>The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA.</p> <p>It is anticipated that the new POCA and CFT legislation will more fully implement the provisions of both Conventions and UNSCRs 1267 and 1373.</p> <p><u>Update-February 2014</u> The draft Counter-Financing of Terrorism of Legislation intended to repeal and replace UNATMA remains pending. However it is anticipated that the provisions will adequately address the Examiners' comments and it is anticipated that it will be passed prior to the May 2014 Plenary.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18<sup>th</sup>, 2015</li> </ul> <p>Section 2 – “relevant Security Council Resolutions” means any resolution passed by the Security Council of the United Nations and listed in Schedule 2;</p> <p>Schedule 2 – United Nations Security</p>	There are no further action to be undertaken this Recommendation.



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			<p>Council Resolutions</p> <ol style="list-style-type: none"> <li>6. Security Council resolution 1267 (1999) and its successor resolutions;</li> <li>7. Security Council resolution 1373 (2001), including the determination that the relevant sanctions will be applied to the person or entity and the public communication of that determination;</li> <li>8. Security Council resolution 1718 (2006) and its successor resolutions;</li> <li>9. Security Council resolution 1737 (2006) and its successor resolutions; and</li> <li>10. Any future Security Council resolutions which impose targeted financial sanctions in the context of the financing of the proliferation of weapons of mass destruction.</li> </ol> <p>Sections 27 – 37 : Recovery and Forfeiture of Terrorist cash in Summary Proceedings</p> <p>Sections 38 – 44 : Forfeiture of Terrorist Property</p> <p>Sections 45 – 51 – Restraint Orders</p> <p>Part VI – Freezing of terrorist property</p> <p><b><u>UPDATE-AUGUST 2017</u></b></p> <p>The Anti-Terrorist Financing and Proliferation (Amendment) Act, No. 17 of 2017 was assented to and took effect from August 4, 2017.</p> <p>Schedule 3 of the Amendment Act makes provision for the incorporation of the conventions annexed to the SFT Convention. The definition of terrorist financing was amended to include “(c) an offence within the scope of and as defined in one of the conventions listed</p>	
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			<p>in schedule 3”</p> <p>Conventions</p> <ol style="list-style-type: none"> <li>1. Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.</li> <li>2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.</li> <li>3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.</li> <li>4. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.</li> <li>5. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980.</li> <li>6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988.</li> <li>7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.</li> <li>8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.”</li> <li>9. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.</li> <li>10. International Convention for the Suppression of the Financing of Terrorism, done at New York on 19 December 1999</li> </ol>	
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SR.II  Crimina lize terrorist financin g	LC	<ul style="list-style-type: none"> <li>• The laws of SVG should be strengthened as follows:</li> <li>• Schedule II to UNATMA should be amended to add two conventions that are listed in the annex to the SFT Convention, as follows: The Convention on the Physical Protection of Nuclear Material (1980); and the International Convention for the Suppression of Terrorist Bombings (1997);</li> <li>• Section 3(4) of UNATMA should be amended to apply to individual terrorists, and not just terrorist acts and terrorist groups; and</li> <li>• The POCA Regulations should be amended to cover FT offenses.</li> </ul>	<p>Between 25th and 29th May 2020 there was a Specialized Workshop in the Prevention and Fight against Terrorism and its financing facilitated by the UNODC and the Government of St. Vincent and the Grenadines. The UNODC has endeavoured to provide technical assistance to redraft UNATMA and is in consultation with the Hon. AG on this matter.</p> <p>The Hon. AG and the UNODC are still in consultation with respect to the re-drafting of the UNATMA.</p> <p>The Attorney General has indicated that these amendments would be enacted by the end of the first quarter 2012.</p> <p><u>Update-February 2013:</u></p> <ul style="list-style-type: none"> <li>• The Hon Attorney General is presently reviewing a draft Anti-Terrorism bill with a view of repealing and replacing the UNATMA with one that is more current and adheres to all amended recommendations proposed by the IMF.</li> <li>• See update to POCA Regulations above.</li> </ul> <p><u>Update-August 2013</u> The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA. It is anticipated that the new legislation will include all the recommendations made herein including the application to individual terrorists.</p> <p>The new draft AML/CFT Regulations adequately addresses FT.</p> <p><u>Update-February 2014</u> The draft Counter-Financing of Terrorism of Legislation intended to repeal and replace UNATMA</p>	<b>There are no further action to be undertaken this Recommendation.</b>
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			<p>remains pending. However it is anticipated that the provisions will adequately address the Examiners' comments and it is anticipated that it will be passed prior to the May 2014 Plenary.</p> <p><u>UPDATE-August 2014</u></p> <p>The Anti-Terrorist Financing and Proliferation Act, 2014 was been placed before Parliament in August 2014. Parliament directed a 'Select Committee' to be convened for further discussion of this Bill. It is anticipated that the Bill will be enacted at the next sitting of Parliament in October 2014.</p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes will be established by October.</p> <p><u>UPDATE – March 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>• The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18<sup>th</sup>, 2015.</li> </ul>	
SR.III				There are no further actions to be implemented



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Freeze and confiscate terrorist assets	NC	<p>The authorities in SVG should take immediate action to implement the relevant UNSCRs, including, but not limited to UNSCRs 1267, 1373 and 1455, and any such provision of law should be flexible enough to apply as well to similar designations by other states as well as any future UNSCRs that require UN member states to freeze, seize and confiscate the assets of designated terrorists and terrorist organizations, as well as such designations by other member states in the future.</p>	<p><u>Update-August 2013</u> The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA. It is anticipated that provision will be made therein which allows for the implementation of UNSCRs 1267,1373 and 1455 and any future UNSCRs which require action in relation to terrorists and their assets.</p> <p><u>Update-February 2014</u> The draft Counter-Financing of Terrorism of Legislation intended to repeal and replace UNATMA remains pending. However it is anticipated that the provisions will adequately address the Examiners' comments and it is anticipated that it will be passed prior to the May 2014 Plenary.</p> <p><u>UPDATE-August 2014</u>  The Anti-Terrorist Financing and Proliferation Act, 2014 was been placed before Parliament in August 2014. Parliament directed a 'Select Committee' to be convened for further discussion of this Bill. It is anticipated that the Bill will be enacted at the next sitting of Parliament in October 2014.</p> <p><u>UPDATE – March 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for</p>	<p><a href="#">this Recommendation at this time.</a></p>
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		<p>passage.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18<sup>th</sup>, 2015.</li> </ul> <p>Section 2 – “relevant Security Council Resolutions” means any resolution passed by the Security Council of the United Nations and listed in Schedule 2;</p> <p>Schedule 2 – United Nations Security Council Resolutions</p> <ol style="list-style-type: none"> <li>Security Council resolution 1267 (1999) and its successor resolutions;</li> <li>Security Council resolution 1373 (2001), including the determination that the relevant sanctions will be applied to the person or entity and the public communication of that determination;</li> <li>Security Council resolution 1718 (2006) and its successor resolutions;</li> <li>Security Council resolution 1737 (2006) and its successor resolutions; and</li> <li>Any future Security Council resolutions which impose targeted financial sanctions in the context of the financing of the proliferation of weapons of mass destruction.</li> </ol> <p>Sections 27 – 37 : Recovery and Forfeiture of Terrorist cash in Summary Proceedings</p> <p>Sections 38 – 44 : Forfeiture of Terrorist Property</p> <p>Sections 45 – 51 – Restraint Orders</p>	
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			<p>Part VI – Freezing of terrorist property</p> <p><b><u>Update-August 2017</u></b></p> <p>The Anti-Terrorist financing and Proliferation (Amendment) Act No. 17 of 2017 was passed on the 4<sup>th</sup> of August 2017.</p> <p>The Amended Act makes provisions to freeze terrorist funds or other assets of persons designated by the United Nations Al-Qaida and Taliban Sanctions Committee in accordance with UNSCR 1267.</p> <p><b>Section 59B</b></p> <p>(1) subject to subsections (2) and (3), the Committee shall, on recommendations made by the Financial Intelligence Unit, make a proposal to the relevant Committee established pursuant to the United Nations Security Council Resolutions 1267 for designation of persons or entities that meet the specific criteria for designation, as set out in;</p> <ul style="list-style-type: none"> <li>(a) Security Council Resolution 1898 (2011) (on Al-Qaida) and related resolutions,</li> <li>(b) Security Council Resolution 1988(2011) (on Taliban and those associated with the Taliban in constituting a threat to peace, stability and security of Afghanistan) and related resolutions,</li> </ul> <p>(2) The committee shall make a proposal under subsection (1) where-</p> <ul style="list-style-type: none"> <li>(a) There are reasonable grounds to believe that the proposed person meets the criteria set out in Security Council Resolution 1898(2011) or Security Council Resolution</li> </ul>	
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			<p>1988(2011); and</p> <p>(b) There is sufficient evidence to satisfactorily support the criteria as set out in Security Council Resolution 1898(2011) or Security Council Resolution 1988(2011).</p> <p>(3) A proposal under subsection (1) shall be made in accordance with the procedures and standard forms adopted by the relevant United Nations Security Council Committee.</p> <p>(4) The Financial Intelligence Unit shall make recommendations under subsection (1) based on the list published by the United Nations Security Council or any other International Organisations of which Saint Vincent and the Grenadines is a member.</p> <p><b>Section 59C</b></p> <p>(1) The Committee shall develop a consolidated list containing-</p> <p>(a) the persons designated under sections 57,58 and 59A;</p> <p>(b) The designated persons specified in Schedule 1</p> <p>(c) Persons designated pursuant to the United Nations Security Council Resolutions set out in Schedule 2; and</p> <p>(d) Persons contained in a list made by an international organization of which Saint Vincent and the Grenadines is a member</p> <p>(2) The Committee shall publish the consolidated list in the same manner prescribed for the publication of a designation under 60(5)</p> <p>(3) Every three months, the Committee shall review the consolidated list so as to consider the justifiability of the person listed thereon in order-</p> <p>(a)</p> <p>to determine whether the circumstances for the designations continue to exist in respect of the designated persons or entities;</p> <p>(b) to recommend to the relevant United Nations Sanctions Committee the names of persons or entities who no longer meets the</p>	
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			<p>criteria under the relevant United Nations Security Council Resolution</p> <p>(4) The Committee shall publish the name of the person whose name has been removed from the consolidated list</p> <p>(5) A relevant business shall review the names of persons publicized under section 60 (1) and examine the consolidated list to determine whether the funds or economic resources of any person removed from the list was frozen</p> <p>(6) If upon examination of the consolidated list under subsection (5), a relevant business determines that a person whose funds or economic resources had been frozen by the relevant business was removed from the list, the relevant business shall-</p> <ul style="list-style-type: none"> <li>(a) remove the person from the relevant business' list of persons subject to financial restrictions;</li> <li>(b) defreeze the funds or economic resources and where applicable re-activate any account held by the person;</li> <li>(c) notify the person that the use of its funds or economic resources is no longer subject to financial restrictions; and</li> <li>(d) inform the financial Intelligence Unit, as soon as reasonably practicable, of all actions taken in relation to the person.</li> </ul> <p>➤ The legislation was amended to ensure that the freezing mechanism under Part V occurs without delay (a matter of hours) and without prior notification of the designated persons involved.</p> <p>The amended <b>Section 56 (2)(a)</b> reads "without prior notice to the person who is to be the subject of an interim designation, the Committee shall make an interim designation within twenty four hours after receiving the evidence establishing the existence of the conditions set out in subsection (1);"</p> <p>The amended <b>Section 57(2)</b> "Where an interim designation expires, the Committee must without delay-</p>	
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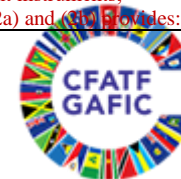




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		<p>“</p> <p>The amended <b>Section 58 (5)</b> “Without prior notice to the person who is to be the subject of a final designation, the Committee shall make a final designation within twenty four hours after receiving the evidence establishing the existence of the conditions set out in subsection (1)”</p> <ul style="list-style-type: none"> <li>➤ The legislation now makes provision to give effect to actions initiated under the freezing mechanisms of other countries or jurisdictions.</li> </ul> <p>The amendment inserted Section 59A</p> <ol style="list-style-type: none"> <li>(1) An external request for the designation of a person shall be made to the Attorney General.</li> <li>(2) Upon receiving an external request, the Committee, may without delay, make a final designation of a person where- <ol style="list-style-type: none"> <li>a. The Committee reasonably suspects that the person is involved in a terrorist activity;</li> <li>b. The person meets the criteria for designation under Security Council Resolution 1373;</li> <li>c. The Committee reasonably suspects that the person has funds or economic resources in the State which is identified in the external request; and</li> <li>d. Proceedings for an offence have been commenced in the country from which the external request was made, and not concluded.</li> </ol> </li> </ol> <ul style="list-style-type: none"> <li>➤ The legislation extends the meaning of funds so that the freezing mechanism extends to all types of funds.</li> </ul> <p>Section 2 was amended to include paragraph (a) “cash, cheques, claims on money, drafts, money orders and other payment instruments;”</p> <p>Section 63 (2a) and (3a) reads:</p>	
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			<p>“(2a)the fact that funds or economic resources are owned, held or controlled by a designated person jointly with another person or otherwise does not prevent those funds or economic resources being treated as being owned, held or controlled by the designated person for the purposes of this section and section 72”</p> <p>“(2b) A reference in this section and section 72 to funds or economic resources being owned, held or controlled by a designated person includes a reference to them being owned, held or controlled directly or indirectly.”</p> <p>➤ The legislation sets out clearer the mechanism for revoking or varying a designation.</p> <p>Section 61 was amended to include “(1) subject to subsection (1a), the Committee may vary or revoke a designation-</p> <p>(a) On the application of the designated person who is the subject of the designation; or</p> <p>(b) On its own initiative after consultation with the Minister responsible for National Security.</p> <p>(1a) The Committee may vary or revoke a designation under subsection (1) if the conditions that were satisfied under section 56 or 58 no longer exist in light of new evidence before the Committee.</p> <p>(2) Where the Committee varies or revokes a designation of a person the Committee must-</p> <p>a. give written notice of the variation or revocation to the person;</p> <p>b. publicise the variation or revocation; and</p> <p>c. take reasonable action to notify the persons who were informed of the designation under section</p>	
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			<p align="center">60 of the variation or revocation</p> <p>(4)The Committee shall publicise a variation or revocation of a designation under subsection (2) in the same manner prescribed for the publication of a designation under section 60(5)</p> <p>➤ The legislation makes provision for a mechanism to publicize the designation.</p> <p>Section 60(5) reads “The committee must publicise the designation in the following manner-</p> <p>(a) Within twenty four hours of the making of the designation, cause a copy of the designation to be published on the webpage of-</p> <ul style="list-style-type: none"> <li>i. The Government;</li> <li>ii. The Financial Intelligence Unit;</li> <li>iii. The Financial Services Authority established under the Financial Services Authority Act 2011;and</li> <li>iv. The Ministry responsible for foreign affairs, trade or commerce and</li> </ul> <p>(b) Cause a copy of the designation to be published in the Gazette and two weekly newspapers in circulation in the State.</p> <p>➤ The Act makes provision for access to funds makes provision for the granting of a license to persons under section 69.</p> <p>Section 69</p> <p>(1) Sections 63(1), 64(1), 65(1), 66(1) or 67(1) do not apply to anything done under the authority of a licence granted by the Committee under this section.</p> <p>(2) The Committee, after consulting the Minister responsible for National Security, may grant a licence in respect of a designated person.</p> <p>(3) A licence granted under this section-</p>	
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			<p>a. Shall specify the acts authorized by it;</p> <p>b. May be general or granted to a category of persons or to a particular person;</p> <p>c. May be unconditional or subject to conditions; and</p> <p>d. May be unlimited or limited in duration.</p> <p>(4) The Committee, after consulting the Minister responsible for National Security, may at any time vary or revoke a licence granted under this section.</p> <p>(5) On the grant, variation or revocation of a licence under this section, the Committee shall-</p> <p>a. In the case of a licence granted to a particular person, give written notice of the grant, variation or revocation to that person; or</p> <p>b. In the case of general licence or a licence granted to a category of persons, take such steps as the Committee considers appropriate to publicise the grant, variation or revocation of the licence.</p> <p>(6) A person who, for the purpose of obtaining a licence under this section, knowingly or recklessly-</p> <p>a. Provides information that is false in a material respect ; or</p> <p>b. Provides or produces a document that is not what it purports to be, commits an offence.</p> <p>(7) A person who contravenes subsection (6) is guilty of an offence and is liable-</p> <p>a. On summary conviction, to imprisonment for a term of one year or to a fine of \$100,00 or to both;</p> <p>b. On conviction on indictment, to imprisonment for a term of seven years or to an unlimited fine or to both.</p> <p>(8) A person who purports to act under the authority of a licence granted under this section but fails to</p>	
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			<p>comply with any condition to which the licence is subject is guilty of an offence and is liable-</p> <ul style="list-style-type: none"> <li>a. On summary conviction, to imprisonment for a term of one year or to a fine of \$100,00 or to both;</li> <li>b. On conviction on indictment, to imprisonment for a term of seven years or to an unlimited fine or to both.</li> </ul>	
SR.IV Suspicious transaction reporting	NC		<p><u>Update February 2013</u></p> <p>This issue is addressed in the revised draft of the POCA Regulations and will be elaborated upon in the Guidance Notes.</p> <p><u>Update-August 2013</u></p> <p>The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA. It is anticipated that a requirement to file SARs for transactions or financial activities that could constitute or be related to financing of individual terrorists or terrorist organizations will be included in the new legislation.</p> <p><u>Update-February 2014</u></p> <p>As Above</p> <p><u>UPDATE-August 2014</u></p> <p>The Anti-Terrorist Financing and Proliferation Act, 2014 was been placed before Parliament in August 2014. Parliament directed a 'Select Committee' to be convened for further discussion of this Bill. It is anticipated that the Bill will be enacted at the next sitting of Parliament in October 2014.</p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes will be enacted by October 2014.</p>	<p>No deficiencies remain outstanding in relation to this Recommendation. All deficiencies were addressed.</p>



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			<p><u>UPDATE – March 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>• The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18<sup>th</sup>, 2015</li> <li>• Section 15 – Duty to report information</li> <li>• Where a person –</li> <li>• Has reasonable grounds for knowing or suspecting, that another person has committed or attempted to commit a terrorist financing offence; and</li> <li>• The information or other matter which gives reasonable grounds for such knowledge or suspicion came to him in the course of a relevant business,</li> </ul> <p>He shall report the information or other matter to the relevant Money Laundering Reporting Officer or to the FIU.</p> <ul style="list-style-type: none"> <li>• Section 71 – Reporting obligations of relevant businesses</li> <li>• A relevant business shall inform the FIU as soon as practicable if –</li> <li>• It holds an account for a person, has entered into dealings or an agreement with a person</li> </ul>
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			<p>or has been approached by or on behalf of a person;</p> <ul style="list-style-type: none"> <li>• It knows, or has reasonable cause to suspect, that the person –</li> <li>• Is a designated person; or</li> <li>• Has committed an offence under section 63(1), 64(1), 65(1), 66(1), 67(1), 69 of 70; and</li> <li>• The information or other matter on which the knowledge or reasonable cause for suspicion is based came to it in the course of carrying on its business.</li> </ul> <p>“designated person” means –</p> <ul style="list-style-type: none"> <li>• A person specified in Schedule 1 as a designated person; or</li> <li>• A person who is the subject of a designation under this Act;</li> </ul> <p><b><u>UPDATE-February 2016:</u></b></p> <ul style="list-style-type: none"> <li>• The “SAR Filing Guidance “referred to in the Detail Assessment Report (DAR) of 2009 appears to make reference to updating the SAR form and the Guidance Notes. The Guidance Notes are currently being reviewed towards further enhancement.</li> <li>• However, it must be noted that comprehensive training related to identifying suspicious transactions relevant to every category of Service Providers is done annually. These presentations identifying high risk transactions along with updates and advisories relating to new typologies and trends are normally shared with the financial institutions.</li> <li>• Further, the SAR form has been updated from the 2004 structure providing more guidance for the institutions as to what should be included on the Form</li> </ul>	
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SR.V International cooperation	LC	<ul style="list-style-type: none"> <li>• The legal basis for conducting investigations and related prosecutorial measures for FT directly on behalf of foreign law enforcement should be specified in law;</li> <li>• The scope and definition of financial intelligence information that is subject to sharing by the FIU to foreign counterparts and to foreign law enforcement needs to be clearly defined.</li> <li>• Specific procedures should be established for expediting extradition requests.</li> <li>• Pursuant to MACMA, SVG should adopt regulations that will allow for bilateral MLA treaties to have the effect of law; the AG should issue a legal opinion that the discretion to reject requests for MLA in the absence of dual criminality would not be exercised in respect to ML, predicate offense and FT requests.</li> </ul>	<p><u>UPDATE FEBRUARY 2018</u></p> <p>Section 75-76 of Anti- Terrorist financing and Proliferation Act No 14 of 2015 provides:</p> <p>75. (1) The Financial Intelligence Unit may disclose any information that it obtains in exercise of its powers under this Part (including any document so obtained and any copy or extract made of any document so obtained)-</p> <ul style="list-style-type: none"> <li>a) To the Attorney General</li> <li>b) To a law enforcement officer;</li> <li>c) For the purpose of giving assistance or cooperation ,pursuant to the relevant security Council Resolutions, to_ <ul style="list-style-type: none"> <li>(i) any organ of the united Nations,</li> <li>(iii) any person in the service of the United Nations, the Council of the European Union, the European Commission or the Government of any country,</li> <li>(iv) Any organ or body of the Community, or</li> <li>(v) Any persons in the service of the community</li> </ul> </li> </ul> <p>76. (1) The Attorney General shall take such steps as he or she considers appropriate to co-operate with an investigation relating to the funds, economic resources or financial transactions of a designated person</p> <p>(2) The financial Intelligence Unit shall take such steps as it considers appropriate to co-operate with an investigation relating to the funds, economic</p>	There are no further actions to be undertaken under this Recommendation at this time.





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			<b>resources or financial transactions of a designated person.</b>	
SR.VI AML/CFT requirements for money/v alue transfer services	PC	<ul style="list-style-type: none"> <li>The Ministry of Finance should quickly develop policies, procedures and capacity for on-site compliance examinations and begin such examinations;</li> <li>Investigate the existence of unlicensed money remittance operations and take appropriate action</li> </ul>	<p><u>Update October 2012</u></p> <p>Money remitters will be subject to closer supervision and regulation by the FSA.</p> <p><u>Update-August 2013</u></p> <p>The Authorities have completed review of the draft POCA Bill and AML/CFT Regulations. Provision has been made for the FIU to assume responsibility for monitoring and enforcing AML/CFT compliance by those DNFBPs that are not now subject to supervision by the FSA. This will require a further amendment to the FIU Act in the future as the FIU does not currently engage in supervisory functions.</p> <p><u>Update-February 2014</u></p> <p>As indicated above, the FIU will undertake supervisory functions in relation to DNFBPs in particular. This will be finalized in the draft AML/CFT Regulations.</p> <p><u>UPDATE-August 2014</u></p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The FIU is the supervisory authority for DNFBPs for AML/TF purposes.</p> <p><u>UPDATE – March 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE-February 2016:</u></p> <ul style="list-style-type: none"> <li><b>The FSA has been responsible for the regulation of the non- bank financial sector in SVG since 2012 and comprehensive offsite and onsite</b></li> </ul>	There are no outstanding deficiencies under Recommendation.



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			<p>examinations have been undertaken since then on all relevant non -bank entities</p> <p><b><u>UPDATE MARCH 2018</u></b></p> <p>The Ministry of Finance as of 2011 ceased all authority in relation to licensing and regulation of financial entities including Money Services Businesses (money value transfer services). Regulations 36 of the Anti-Money Laundering Regulations 2014 provides that the Financial Services Authority, (FSA) the Financial Intelligence Unit (FIU) and the Eastern Caribbean Central Bank (ECCB) are the Regulatory Supervisors in SVG for the purpose of AML/CFT Compliance. The FSA is responsible for all Regulated entities which includes Trust Companies, IBCs and Offshore Banks, Money Remittance Businesses, Insurance Companies and brokers etc. , while the FIU is responsible for Non-Regulated Service Providers such as Car dealers, Lawyers, Accountants, Jewelers etc (Schedule 1 of the Regulations) and the ECCB with responsibility for externally regulated service providers (schedule 2 of the Regulations) (the Commercial and domestic banks). As provided in the Updates to SRVI the FSA with responsibility for Regulating the Money Remittance Sector has done Onsite Inspections and continue to monitor the Institutions for Compliance. Further, the FIU implemented an Annual Compliance programme which, both remittance businesses operating within SVG has commenced. The Western Union is at Phase 4 and Money gram at Phase 5 of Six Phases thus far. The annual compliance programme is a desk based review of service provider's written and operating policies in relation to Anti-Money Laundering and Counter Terrorist Financing measures.</p>
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			<p><u>The list of Regulated entities to be regulated by the FSA can be found at Schedule 3 of the Anti-Money Laundering Regulations and Schedule 2 of the Financial Services Authority Act, 2011 and includes Money Services Businesses</u></p> <p>Schedule 3 of the Regulations provides:</p> <p align="center"><b>SCHEDULE 3</b></p> <p align="center"><b>REGULATORY LICENCES</b></p> <p>The following are specified as “regulatory licences” for the purposes of the Act and these Regulations:</p> <p>Cap. 99 (a) a licence issued under the International Banks Act;</p> <p>Cap.87 (b) a licence issued under the Banking Act;</p> <p>Cap.154 (c) a licence issued under the Mutual Funds Act;</p> <p>Cap.307 (d) a licence issued under the International Insurance Act (Amendment and Consolidation) Act;</p> <p>Cap.105 (e) a licence issued under the Registered Agent</p>	
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			<p>and Trustee Licensing Act;</p> <p>No.12 of 2012 (f) a registration authorized under the Co-operative Societies Act, 2012;</p> <p>Cap.306 (g) a registration authorized under the Insurance Act;</p> <p>Cap.261 (h) a licence issued under Part 4 or Part 9 of the Securities Act;</p> <p>Cap.260 (i) a registration authorized under the Money Services Business Act.</p> <p>Section 5(1) of the Financial Services Authority, 2011 provides that</p> <p>“the Authority shall-</p> <p>(1) be responsible for the administration of the specified enactments including the licensing of financial entities...</p> <p>(3)Supervise and regulate the operation of financial entities....”</p> <p>Section 2 of the Act provides that-</p> <p>Specified enactments “ means –</p> <p>(a) the Acts specified in Schedule 2 and those and any subsidiary legislation made</p>	
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			<p align="center">under those Acts, and</p> <p align="center">(b) the cooperatives Societies Act and the subsidiary legislation made under that Act in so as those enactments relate to a credit union.”</p> <p>Schedule 2 Provides that – Specified Enactments (section 2)</p> <ol style="list-style-type: none"> <li>1. Friendly Societies Act</li> <li>2. Building Societies Act</li> <li>3. Registered Agents and Trustees License Act</li> <li>4. Mutual Funds Act</li> <li>5. International Insurance (amendment and Consolidation) Act</li> <li>6. Insurance Act</li> <li>7. International Banks Act”</li> </ol> <p>The FSA continues to closely supervise the various sectors under its remit. Onsite visits are scheduled for each sector on an annual basis.</p> <p>Money Services Businesses are undergoing their 2<sup>nd</sup> round of onsite of inspection and Credit Unions and Insurance Companies will be undergoing their 3<sup>rd</sup> round of inspections in 2018.</p> <p>Work is ingoing with all sectors to address AML/CFT deficiencies identified in their operations and where necessary directives have been issued demanding resolution of the issues within a specific framework.</p>	
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			<p><b>The Staff of the FSA are trained on an ongoing basis in areas such as prudential supervision, AML/CFT and general supervisory matters.</b></p> <p><b>The 2016 Annual Report of the FSA is hereto annexed demonstrates the significant work and progress of the FSA.</b></p>	
SR.VII Wire transfer rules	NC	<ul style="list-style-type: none"> <li>• Binding regulations should be adopted requiring all wire transfer service providers, including banks, money transmitters, and other FIs, to adhere to the wire transfer recommendations of FATF SR.VII;</li> <li>• All FIs subject to wire transfer requirements should be monitored for compliance by a supervisor with the authority and capacity to enforce compliance.</li> </ul>	<p><u>Update-August 2013</u> The AML/CFT Regulations contain extensive provisions on wire transfers in keeping with Recommendation 16 (formerly SR VII). All institutions which engage in wire transfers will be legally bound by the provisions of the Regulations and will face criminal sanctions for failing to do so.</p> <p><u>Update-February 2014</u> As indicated above the draft AML/CFT Regulations are in the final stages and, pursuant to Section 168 of POCA, No. 38 of 2013, shall be made by the Minister (of Finance) after consulting with the National Anti-Money Laundering Committee and Cabinet.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes will be enacted by October 2014.</p> <p><u>UPDATE – March 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p>	<p>There are no outstanding deficiencies under Recommendation.</p>



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			<p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> <li>Regulations 31 – 35 address Wire Transfers</li> </ul> <p>Definitions for, and scope of, regulations (3) Where a service provider determines that a legal person that it is required to identify presents a higher level of risk, the service provider shall obtain such additional identification information with respect to the legal person as it consider appropriate.</p> <p>(4) Where subparagraph (3) applies, but without limiting it, a service provider shall obtain identification information on every director of the legal person.</p> <p>(5) Where identification information on an individual, as a director or beneficial owner, is required to be obtained, paragraph 8 applies.</p> <p><b>11.</b>(1) A service provider shall:</p> <ul style="list-style-type: none"> <li>(h) verify the identity of a legal person where required by the Regulations to do so; and</li> <li>(i) take reasonable measures to verify the identity of the beneficial owners of the legal person.</li> </ul> <p>(2) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a low risk, the service provider shall, using evidence from at least one independent source verify:</p> <ul style="list-style-type: none"> <li>(k) the name of the legal person;</li> <li>(l) the official identifying number; and</li> <li>(m) the date and country of its incorporation, registration or formation.</li> </ul> <p>(3) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a higher level of risk, the service provider shall</p>	
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		<p>verify:</p> <p>(h) the address of the registered office, or head office, of the legal person, as applicable; and</p> <p>(i) the address of the principal place of business of the legal person, if different from its registered office or head office.</p> <p>(4) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a high level of risk, the service provider shall verify such other components of the legal person's identification as it considers appropriate.</p> <p>(5) A document used to identify the identity of a legal person or its beneficial owners must be in a language understood by those employees of the service provider who are responsible for verifying their identity.</p> <p><b>12.</b>(1) A service provider shall in all cases verify the identity of any director of the legal person specified in paragraph <b>10</b>(2) (h).</p> <p>(2) Where the service provider determines that the legal person presents more than a low level of risk, it shall verify such additional components of the identity of the legal person as it considers appropriate.</p> <p>(3) Where subparagraph (2) applies, but without limiting it, a service provider shall verify the identity of each director and each beneficial owner of the legal person.</p> <p>(4) Where the identity of an individual, as director or beneficial owner, is required to be verified, paragraph <b>8</b> applies.</p> <p><b>13 to 35</b></p> <p><b>31.</b> (1) For the purposes of regulations (3) Where a service provider determines that a legal person that it is required to verify presents a higher level of</p>	
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			<p>risk, the service provider shall obtain such additional identification information with respect to the legal person as it consider appropriate.</p> <p>(4) Where subparagraph (3) applies, but without limiting it, a service provider shall obtain identification information on every director of the legal person.</p> <p>(5) Where identification information on an individual, as a director or beneficial owner, is required to be obtained, paragraph 8 applies.</p> <p><b>11.</b>(1) A service provider shall:</p> <ul style="list-style-type: none"> <li>(j) verify the identity of a legal person where required by the Regulations to do so; and</li> <li>(k) take reasonable measures to verify the identity of the beneficial owners of the legal person.</li> </ul> <p>(2) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a low risk, the service provider shall, using evidence from at least one independent source verify:</p> <ul style="list-style-type: none"> <li>(n) the name of the legal person;</li> <li>(o) the official identifying number; and</li> <li>(p) the date and country of its incorporation, registration or formation.</li> </ul> <p>(3) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a higher level of risk, the service provider shall verify:</p> <ul style="list-style-type: none"> <li>(j) the address of the registered office, or head office, of the legal person, as applicable; and</li> <li>(k) the address of the principal place of business of the legal person, if different from its registered office or head office.</li> </ul>	
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			<p>(4) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a high level of risk, the service provider shall verify such other components of the legal person's identification as it considers appropriate.</p> <p>(5) A document used to identify the identity of a legal person or its beneficial owners must be in a language understood by those employees of the service provider who are responsible for verifying their identity.</p> <p><b>12.</b>(1) A service provider shall in all cases verify the identity of any director of the legal person specified in paragraph <b>10</b>(2) (h).</p> <p>(2) Where the service provider determines that the legal person presents more than a low level of risk, it shall verify such additional components of the identity of the legal person as it considers appropriate.</p> <p>(3) Where subparagraph (2) applies, but without limiting it, a service provider shall verify the identity of each director and each beneficial owner of the legal person.</p> <p>(4) Where the identity of an individual, as director or beneficial owner, is required to be verified, paragraph <b>8</b> applies.</p> <p><b>13 to 35</b></p> <p>a) "batch file transfer" means several individual transfers of funds which are bundled together for transmission to the same payment service providers, where or not they are intended for different payees;</p> <p>b) "full originator information", with respect to a payee, means the name and account number of the payer, together with:</p>	
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			<p>the payer's address; and</p> <p>either of the following</p> <p>(i)the payer's date and place of birth,</p> <p>(ii)the customer identification number or national identity number of the payer or, where the payer does not have an account, a unique identifier that allows the transaction to be traced back to that payer;</p> <p>(b) "intermediate payment service provider" means a payment service provider, neither of the payer nor the payee, that participates in the execution of transfer of funds;</p> <p>(c) "payee" means a person who is the intended final recipient of transferred funds;</p> <p>(d) "payer" means a person who holds an account and allows a transfer of funds from that account or, where there is no account, a person who places an order for the transfer of funds;</p> <p>(e) "payment service provider" means a person whose business includes the provision of transfer of funds services;</p> <p>(f) "transfer of funds" means a transaction carried out on behalf of a payer through a payment service provider by electronic means with a view to making funds available to a payee at a payment service provider, irrespective of whether the payer and the payee are the same person; and</p> <p>(g) "unique identifier" means a combination of letters, numbers or symbols determined by the payment service provider, in accordance with the protocols of the payment and settlement or messaging system used to effect the transfer of funds.</p> <p>(2)Subject to regulation (3) Where a service provider determines that a legal person that it is required to</p>	
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			<p>identify presents a higher level of risk, the service provider shall obtain such additional identification information with respect to the legal person as it consider appropriate.</p> <p>(4) Where subparagraph (3) applies, but without limiting it, a service provider shall obtain identification information on every director of the legal person.</p> <p>(5) Where identification information on an individual, as a director or beneficial owner, is required to be obtained, paragraph 8 applies.</p> <p><b>11.</b>(1) A service provider shall:</p> <ul style="list-style-type: none"> <li>(l) verify the identity of a legal person where required by the Regulations to do so; and</li> <li>(m) take reasonable measures to verify the identity of the beneficial owners of the legal person.</li> </ul> <p>(2) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a low risk, the service provider shall, using evidence from at least one independent source verify:</p> <ul style="list-style-type: none"> <li>(q) the name of the legal person;</li> <li>(r) the official identifying number; and</li> <li>(s) the date and country of its incorporation, registration or formation.</li> </ul> <p>(3) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a higher level of risk, the service provider shall verify:</p> <ul style="list-style-type: none"> <li>(l) the address of the registered office, or head office, of the legal person, as applicable; and</li> <li>(m) the address of the principal place of business of the legal person, if different from its</li> </ul>	
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			<p align="center">registered office or head office.</p> <p>(4) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a high level of risk, the service provider shall verify such other components of the legal person's identification as it considers appropriate.</p> <p>(5) A document used to identify the identity of a legal person or its beneficial owners must be in a language understood by those employees of the service provider who are responsible for verifying their identity.</p> <p><b>12.</b>(1) A service provider shall in all cases verify the identity of any director of the legal person specified in paragraph <b>10</b>(2) (h).</p> <p>(2) Where the service provider determines that the legal person presents more than a low level of risk, it shall verify such additional components of the identity of the legal person as it considers appropriate.</p> <p>(3) Where subparagraph (2) applies, but without limiting it, a service provider shall verify the identity of each director and each beneficial owner of the legal person.</p> <p>(4) Where the identity of an individual, as director or beneficial owner, is required to be verified, paragraph <b>8</b> applies.</p> <p><b>13.</b> the provisions concerning wire transfers apply to a transfer of funds in any currency which is sent or received by a payment service provider that is established in the State.</p> <p>Exemptions</p> <p><b>32.</b> (1) Subject to subregulation (2), a transfer of funds carried out using a credit or debit card is</p>	
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		<p>exempt from <del>the</del> this Part if:</p> <p>(a) the payee has an agreement with the payment service provider permitting payment for the provision of goods and services; and</p> <p>(b) a unique identifier, allowing the transaction to be traced back to the payer, accompanies the transfer of funds.</p> <p>(2) A transfer of funds is not exempt from the application of this Part if the credit or debit card is used as a payment system to effect the transfer.</p> <p>(3) A transfer of funds is exempt from this Part if the transfer is carried out using electronic money, the amount transacted does not exceed \$2,500 and where the device on which the electronic money is stored</p> <p>(h) (a) cannot be recharged, the maximum amount stored in the device is \$500; or</p> <p>(i) (b) can be recharged, a limit of \$7,500 is imposed on the total amount that can be transacted in a calendar year, unless an amount of \$2,500 or more is redeemed in that calendar year by the bearer of the device.</p> <p>(4) For the purposes of this regulation, electronic money is money as represented by a claim on the issuer which</p> <p>(j) (a) is stored on an electronic device;</p> <p>(k) <del>(b)</del> is issued on receipt of</p>	
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			<p>funds of an amount not less in value than the monetary value issued; and</p> <p>(l) (c) is accepted as means of payment by persons other than the issuer.</p> <p>(5) A transfer of funds made by mobile telephone or any other digital or of information technology device is exempt from this Part if:</p> <ul style="list-style-type: none"> <li>a) the transfer is pre-paid and does not exceed \$1,000 or the transfer is post-paid;</li> <li>b) the payee has an agreement with the payment service provider permitting payment for the provision of goods and services;</li> <li>c) a unique identifier, allowing the transaction to be traced back to the payer, accompanies the transfer of funds; and</li> <li>d) the payment service provider of the payee is a regulated person.</li> </ul> <p>(6) A transfer of funds is exempt if:</p> <ul style="list-style-type: none"> <li>a) the payer withdraws cash from the payer's own account;</li> <li>b) there is a debit transfer authorization between two parties permitting payments between them through accounts, provided a unique identifier accompanies the transfer of funds to enable the transaction to be traced back;</li> <li>c) it is made using truncated cheques;</li> <li>d) it is a transfer to the Government of, or a public body in, the State for taxes, duties, fines or charges of any kind; or</li> <li>e) both the payer and the payee are payment service providers acting on their own behalf.</li> </ul> <p>Payment service provider of payer</p>	
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			<p><b>33.</b> (1) Subject to regulation (3) Where a service provider determines that a legal person that it is required to identify presents a higher level of risk, the service provider shall obtain such additional identification information with respect to the legal person as it consider appropriate.</p> <p>(4) Where subparagraph (3) applies, but without limiting it, a service provider shall obtain identification information on every director of the legal person.</p> <p>(5) Where identification information on an individual, as a director or beneficial owner, is required to be obtained, paragraph 8 applies.</p> <p><b>11.</b>(1) A service provider shall:</p> <ul style="list-style-type: none"> <li>(n) verify the identity of a legal person where required by the Regulations to do so; and</li> <li>(o) take reasonable measures to verify the identity of the beneficial owners of the legal person.</li> </ul> <p>(2) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a low risk, the service provider shall, using evidence from at least one independent source verify:</p> <ul style="list-style-type: none"> <li>(t) the name of the legal person;</li> <li>(u) the official identifying number; and</li> <li>(v) the date and country of its incorporation, registration or formation.</li> </ul> <p>(3) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a higher level of risk, the service provider shall verify:</p> <ul style="list-style-type: none"> <li>(n) the address of the registered office, or head office, of the legal person, as applicable; and</li> <li>(o) the address of its principal place of business</li> </ul>	
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			<p>of the legal person, if different from its registered office or head office.</p> <p>(4) Where a service provider determines that a legal person, the identity of which it is required to verify, presents a high level of risk, the service provider shall verify such other components of the legal person's identification as it considers appropriate.</p> <p>(5) A document used to identify the identity of a legal person or its beneficial owners must be in a language understood by those employees of the service provider who are responsible for verifying their identity.</p> <p><b>12.</b>(1) A service provider shall in all cases verify the identity of any director of the legal person specified in paragraph <b>10</b>(2) (h).</p> <p>(2) Where the service provider determines that the legal person presents more than a low level of risk, it shall verify such additional components of the identity of the legal person as it considers appropriate.</p> <p>(3) Where subparagraph (2) applies, but without limiting it, a service provider shall verify the identity of each director and each beneficial owner of the legal person.</p> <p>(4) Where the identity of an individual, as director or beneficial owner, is required to be verified, paragraph <b>8</b> applies.</p> <p><b>13.</b> the payment service provider of a payer shall ensure that every transfer of funds is accompanied by the full originator payer information.</p> <p>(2) Subregulation (1) does not apply in the case of a batch file transfer from a single payer, where some or all of the payment service providers of the payees are situated outside the State, if:</p>	
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			<p>a) the batch file contains the complete information on the payer; and</p> <p>b) the individual transfers bundled together in the batch file carry the account number of the payer or a unique identifier.</p> <p>(3)The payment service provider of the payer shall, before transferring any funds, verify the full originator information on the basis of documents, data or information obtained from a reliable and independent source.</p> <p>(4)In the case of a transfer from an account, the payment service provider may deem verification of the full originator information to have taken place if it has complied with the provisions of these Regulations relating to the verification of the identity of the payer in connection with the opening of that account.</p> <p>(5)In the case of a transfer of funds not made from an account, the full originator information on the payer shall be deemed to have been verified by a payment service provider of the payer if:</p> <p>a) the transfer consists of a transaction of an amount not exceeding \$2,500.</p> <p>b) the transfer is not a transaction that is carried out in several operations that appear to be linked and that together comprise an amount exceeding \$2,500; and</p> <p>c) the payment service provider of the payer does not suspect that the payer is engaged in money laundering, terrorist financing or other financial crime.</p> <p>(6)The payment service provider of the payer shall keep records of full originator information on the payer that accompanies the transfer of funds for a period of at least 7 years.</p> <p>(7)Where the payment service provider of the payer and the payee are situated in the State, a transfer of</p>
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			<p>funds need only be accompanied by:</p> <ul style="list-style-type: none"> <li>a) the account number of the payee; or</li> <li>b) unique identifier that allows the transaction to be traced back to the payer, where the payer does not have an account number.</li> </ul> <p>(8)Where this regulation applies, the payment service provider of the payer shall, upon request from the payment service provider of the payee, make available to the payment service provider of the payee the full originator information within 3 working days, excluding the day on which the request was made.</p> <p>(9)Where a payment service provider of the payer fails to comply with a request to provide the full originator information within the period specified in subregulation (8), the payment service provider of the payee may notify the supervisory authority which shall require the payment service provider of the payer to comply with the request immediately.</p> <p>(10) Without prejudice to subregulation (9), where a payment service provider of the payer fails to comply with a request, the payment service provider of the payee may:</p> <ul style="list-style-type: none"> <li>a) issue such warning to the payment service provider of the payer as may be considered necessary;</li> <li>b) set a deadline to enable the payment service provider of the payer to provide the required full originator information;</li> <li>c) reject future transfers of funds from the payment service provider of the payer;</li> <li>d) restrict or terminate its business relationship with the payment service provider of the payer with respect to transfer of funds services or any mutual supply of services.</li> </ul> <p>Payment service provider of payee</p>	
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		<p><b>34. (1)</b> The payment service provider of the payee shall verify that fields within the messaging or payment and settlement system used to effect the transfer in respect of the full originator information on the payer have been completed in accordance with the characters or inputs admissible within the conventions of that messaging or payment and settlement system.</p> <p>(2)The payment service provider of the payee shall put in place effective procedures for the detection of any missing or incomplete full originator information.</p> <p>(3)In the case of batch file transfers, the full originator information is required only in the batch file and not in the individual transfers bundled together in it.</p> <p>(4)Where the payment service provider of the payee becomes aware that the full originator information on the payer is missing or incomplete when receiving transfers of funds, the payment service provider of the payee shall:</p> <ul style="list-style-type: none"> <li>a) reject the transfer,</li> <li>b) request for the full originator information on the payer, or</li> <li>c) take such course of action as the supervisory authority directs, after it has been notified of the deficiency discovered with respect to the full originator information of the payer, unless doing so would result in contravening a provision of the Act or the terrorist financing legislation.</li> </ul> <p>(5)Missing or incomplete information shall be a factor in the risk-based assessment of a payment service provider of the payee as to whether a transfer of funds or any related transaction is to be reported to the Financial Intelligence Unit as a suspicious transaction or activity with respect to money laundering or terrorist financing.</p> <p>(6)The payment service provider of the payee shall</p>	
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		<p>keep records of any information received on the payer for a period of at least 7 years.</p> <p>Intermediary payment service provider</p> <p><b>35.</b> (1) This regulation applies where the payment service provider of the payer is situated outside the State and the intermediary payment service provider is situated within the State.</p> <p>(2)An intermediary payment service provider shall ensure that any information it receives on the payer that accompanies a transfer of funds is kept with that transfer.</p> <p>(3)Where this regulation applies, an intermediary payment service provider may use a system with technical limitations, which prevents the information on the payer from accompanying the transfer of funds, to send a transfer to the payment service provider of the payee.</p> <p>(4)Where, in receiving a transfer of funds, the intermediary payment service provider becomes aware that information on the payer required under this Part is incomplete, the intermediary payment service provider may only use a payment system with technical limitations if the intermediary payment service provider (either through a payment or messaging system, or through another procedure that is accepted or agreed upon between the intermediary payment service provider and the payment service provider of the payee) provides confirmation that the information is incomplete.</p> <p>(5) An intermediary payment service provider that uses a system with technical limitations shall, if the payment service provider of the payee requests, within 3 working days after the day on which the intermediary payment service provider receives the request, make available to the payment service provider of the payee all the information on the payer that the intermediary payment service provider has received,</p>	
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			<p>whether or not the information is the full originator information.</p> <p>(6) An intermediary payment service provider that uses a system with technical limitations which prevents the information on the payer from accompanying the transfer of funds shall keep records of all the information on the payer that it has received for a period of at least 7 years.</p> <p><a href="#">UPDATE-JANUARY 2018</a></p> <p><a href="#">The Anti-Money Laundering and Terrorist Financing Regulations, 2017</a></p> <p><a href="#">Regulation 33 (2) (a) of the principal Regulations is amended by inserting the words “and the beneficiary” after the word payer</a></p>	
SR.VIII NP Os	LC	<ul style="list-style-type: none"> <li>The authorities should undertake a review of its laws and regulations as they relate to AML/CFT and the NPO sector;</li> <li>The Registrar of companies should establish policies and procedures to monitor financial filings of NPOs to verify that funds are being raised and disbursed in a manner consistent with the NPOs stated purpose;</li> <li>Financial reporting requirements should be broadened to including information on domestic and international sources</li> </ul>	<p><a href="#">Update-August 2013</a> The Authorities intend to implement Regulations which may be annexed to the AML/CFT Regulations and which will, inter alia, extend the powers of the Registrar of Companies to cover AML/CFT supervision of NPOs</p> <p><a href="#">Update-February 2014</a> Sections 157-159 of POCA 2013 address NPOs and stipulate that NPO Regulations shall designate a person or body as the NPO Supervisory Authority. These Regulations have not yet been finalized and consideration will be given whether to designate either the FSA or the FIU as NPO Supervisor.</p> <p><a href="#">UPDATE-August 2014</a> Work is ongoing on the NPO Regulations. It is anticipated that these regulations should be in place by the end of the Fourth quarter of 2014.</p> <p><a href="#">Update – March 2015</a></p>	



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		of funds and applications of funds.	<p>The NPO Regulations have been scheduled for completion by the second quarter of 2015.</p> <p><u>Update- August 2015</u></p> <p>The NPO Regulations have not been completed at the end of the second quarter as anticipated; however, efforts are being to have the Regulations completed by the end of 2015.</p> <p><b>UPDATE –FEBRUARY 2016:</b></p> <p><b>The NPO regulations are in the final stages of review and should be enacted into law during the year 2016 as part of the Legislative Agenda of the Attorney General. Please find attached a copy of the drafted Regulations.</b></p>
SR.IX Cr oss- Border Declarat ion & Disclosu re	LC	<ul style="list-style-type: none"> <li>The administrative process should be changed to allow the DPP, with the assistance of the FIU, to investigate, develop and prosecute criminal cases against suspects caught with undisclosed, suspicious or concealed currency;</li> <li>CCMA should be amended to increase administrative fines so that they are effective, dissuasive and proportionate;</li> <li>MOU between the Customs Department and the FIU should be signed.</li> </ul>	<p><u>Update -August 2012</u></p> <p>All outstanding MOUs between the FIU and its local stakeholders have been sent to the Honourable Attorney General for her input and advice prior to execution.</p> <p><u>Update-August 2013</u></p> <p>The FIU Act has been amended as stated above (Act No. 7 of 2013) and now specifies the FIU's authority to obtain appropriate law enforcement and other governmental information needed to develop intelligence and analysis.</p> <p>The Hon AG has completed her review of the local MOUs and as such it is anticipated that the FIU will sign local MOUS with the following governmental departments within the next month:</p> <p>-Customs and Excise Department -Financial Services Authority</p>



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			<ul style="list-style-type: none"><li>-Inland Revenue Department</li><li>-National Insurance Service</li><li>-Electoral office</li><li>-Commerce and Intellectual Property Office</li></ul> <p>Update-February 2014 Local MOUs have been circulated to the heads of the aforementioned departments for their perusal and comments, if any, prior to signature and execution.</p>	
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