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Sixth Follow-Up Report

Turks & Caicos Islands

July 17, 2012

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TURKS & CAICOS ISLANDS: SIXTH FOLLOW-UP REPORT

I. Introduction

1. This report represents an analysis of the Turks and Caicos Islands' report back to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The third round Mutual Evaluation Report of the Turks and Caicos Islands was adopted by the CFATF Council of Ministers in October 2008 in St. Kitts & Nevis. The Turks and Caicos Islands presented its fifth follow-up report at the November 2011 Plenary in Venezuela, at which time it was determined that the Turks & Caicos Islands would be required to report at the May 2012 Plenary¹. Based on the review of actions taken by the Turks & Caicos Islands since its last follow-up report to meet the outstanding recommendations made by the Examiners, a recommendation would be made as to whether the Turks & Caicos Islands would remain on expedited follow-up or be placed on regular follow-up.
2. The Turks & Caicos Islands received ratings of PC or NC on twelve (12) of the sixteen (16) Core and Key Recommendations as follows:

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

3. With regard to the other non- core or key Recommendations, Turks and Caicos Islands was rated partially compliant or non-compliant, as indicated below.

Partially Compliant (PC)	Non-Compliant (NC)
R. 9 (Third parties and Introducers)	R. 6 (Politically Exposed Persons)
R. 15 (Internal controls, compliance & audit)	R. 7 (Correspondent banking)
R. 16 (DNFBP-R. 13-15 &21)	R. 8 (New technologies & non face-to-face business)
R. 17 (Sanctions)	R. 11 (Unusual transactions)
R. 18 (Shell banks)	R. 12 (DNFBPs – R. ,6,8-11)
R. 20 (Other NFBP & secure transaction techniques)	R. 19 (Other forms of reporting)
R. 29 (Supervisors)	R. 21 (Special attention for higher risk countries)
R. 31 (National cooperation)	R. 22 (Foreign branches & subsidiaries)
R. 32 (Statistics)	R. 24 (DNFBP-regulation, supervision and monitoring)
R. 33 (Legal persons – beneficial owners)	R. 25 (Guidelines and feedback)
R. 34 (Legal arrangements – beneficial owners)	R. 30 (Resources)

¹ Due to the late submission of TCI's matrix, the Sixth Follow-Up Report was not presented at the May Plenary. A brief report giving TCI's progress was presented instead. Plenary agreed however that the Sixth Follow-Up Report will be completed post Plenary and submitted for approval via the round robin process. Plenary also agreed that TCI would make a report at the November 2012 Plenary in the Virgin Islands.

R. 38 (Mutual legal assistance on confiscation and freezing)	SR. VII (Wire transfer rules)
SR. VI (AML requirements for money and value transfer services)	SR. VIII (Non-profit organizations)
	SR. IX (Cash couriers)

4. The following table is intended to assist in providing an insight into the level of risk in the main financial sectors in the Turks & Caicos Islands.

Size and integration of the jurisdiction's financial sector

		Banks	Other Credit Institutions ^{2*}	Securities	Insurance	TOTAL
Number of institutions	Total #	8	N/A	6	5,291	5305
Assets	US\$	1,727,729	N/A	58,759,242	N/A	60,486,971
Deposits	Total: US\$	1,005,416	N/A	58,759,242	N/A	59,764,658
	% Non-resident	34% of deposits	N/A	N/A	N/A	-
International Links	% Foreign-owned:	31 % of assets	% of assets	n/a% of assets	% of assets	% of assets
	#Subsidiaries abroad	5	N/A	0	0	5

II. Summary of progress made by the Turks & Caicos Islands

5. Since the fifth follow-up report, (FUR) the Authorities have enacted a new Partnership Ordinance, which came into force on November 1st, 2011. Amendments were made to the Anti-Money Laundering and Prevention of Terrorist Financing Regulations (AML/PTF Regulations) and the Proceeds of Crime Ordinance (POCO). Several pieces of legislation including the following are expected to be amended: the Confidential Relationships Ordinance; Companies Ordinance, which straddles both domestic and international business companies (IBC's); Trust Ordinance; Investment Dealers and Mutual Funds Ordinance; Proceeds of Crime (which includes Anti-Money Laundering provisions) and the Tax Information Exchange Ordinance. The Authorities have noted this update under R. 1³, which was previously fully complied with and so it is anticipated that the expected amendments will further enhance TCI's AML/CFT framework as a whole. A Bill and regulations establishing a distinct regulatory regime for NPOs has also been drafted.

Core Recommendations

² Savings and loans institutions, credit unions, financial cooperatives and any other depository and non-depository credit institutions are not regulated in the TCI and the TCI Authorities report that they are not aware of such institutions operating in the TCI.

³ The Authorities have noted with regard to this Recommendation that the prior decision of the MLRA to have specific legislation to deal with all aspects of CFT under an EU funded Law Reform Project was later taken out of the Project deliverables due to other pressing legislative initiatives. Accordingly, new resources will have to be identified. This does not affect compliance with R. 1

Recommendation 5

6. The outstanding deficiencies for R.5 pertain to E.C. 5.2 (C), 5.4 (a) and (b) and E.C. 5.5.2 (b). The Authorities have noted that the amendments to the AML/PFT Regulations provide for specific provisions for occasional transactions that are wire transfers in the circumstances covered by the INSR.VII and to ensure that all financial institutions and not just Money Services Businesses (MSBs) are required to undertake CDD as noted at E.C. 5.2. Regulation 5 of the AML/PFT Regulations as amended requires that a determination be made of the natural person who ultimately owns or controls customers that are legal persons or legal arrangements and to verify the legal status of the legal person or legal arrangement. There is also provision for CDD measures for determining who the natural person is that ultimately owns or controls the customer where the customer is not an individual. These measures meet compliance with E.C. 5.2 (c), 5.5.2(b) and 5.4 (b). The deficiency with regard to E.C. 5.3 remains outstanding to the extent that there is no provision with regard to financial institutions conducting CDD on legal arrangements.
7. Deficiencies with regard to E.C.5.8 (requirement for financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction – Regulations 11(40(a) and 13), E.C. 5.7.1 (requirement for financial institutions to conduct ongoing due diligence on existing customers – Regulations 5 and 11(13)), 5.7.2 (requirement for financial institutions to ensure that documents, data or information collected under the CDD process is kept up to date – Regulation 5(50(b)), and 5.15 (a) (requirement to terminate the business relationship if proper CDD cannot be conducted – Regulation 12) were noted as summary factors to R.5 and not listed as recommendations. The TCI It should be noted that the TCI Authorities have however addressed all these deficiencies in the AML/PFT Regulations, 2010 and the relevant citations have been noted in the brackets above.
8. The TCI continues on its sensitization campaign to make financial institutions aware of the benefits of meeting AML/CFT requirements. The FSC held AML/CFT training in November 2011 for industry practitioner which focused on the requirements of the new code and establishing a compliance manual. Training is also planned to be conducted before the end of 2012 During the November 2011 training, the FIU hosted a session. The FIU also conducted a two-hour of AML training with the staff at one of the local banks at the request of their Money Laundering Reporting officer. The FIU has proposed that consideration should be given by the MLRA at its next meeting scheduled for 19th July 2012, to issuing guidance in accordance with section 111(2) of the Proceeds of Crime Ordinance along the lines of the guidance issued by the Trinidad and Tobago FIU in 2011 (Customer Due Diligence Guide No. 1 of 2011).
9. Based on the aforementioned there is almost full compliance with R. 5

Recommendation 10

10. As noted in the previous follow-up report, the Examiners recommendation was fully met, the Authorities in an ongoing effort to ensure that all relevant record keeping measures have been addressed have enacted a new Partnership Ordinance, 2011. By virtue of

section 28(1) of the Ordinance, partners are bound to render true accounts and full information for all things that affect the partnership to any partner or his agents. Consequently, section 28(2) requires partners to keep proper books and accounts as they pertain to money received, sales and purchases of goods and assets and liabilities of the partnership. Pursuant to section 28(4), the books and accounts must be kept for a minimum period of five (5) years from the date on which they were prepared.

Recommendation 13

11. As noted in the previous report, this Recommendation was substantially complied with except for providing the regulated sector with guidance on the filing of unusual transactions. The TCI Authorities report that although guidance information is provided as a part of the Money Laundering Reporting Authority's Suspicious Transaction/Activity form, consideration is being given to the issuing of guidance notes under section 111(2) of the Proceeds of Crime Ordinance. This issue remains outstanding. It should be noted that the FIU Report for the period 2010/2011 shows an increase in the amount of STRs being reported. Additionally, it reflects a wide range of reporting sectors; banks, non-banks and DNFBPs.

Special Recommendations II and IV

12. With regard to meeting the recommendations made by the Examiners for SR. II, the TCI Authorities have indicated that a comprehensive anti terrorism legislation is hoped to be in place by September 1, 2012 that should bring the TCI into full compliance with SR II. Accordingly, the Examiners' recommendations for SR. II remain outstanding. With regard to SR. IV, the Examiners' recommendation with regard to the reporting of STRs including suspicion of terrorist organisations or those who finance terrorism has still not been met, but is expected to be addressed by the aforementioned legislation.

Key Recommendations

Recommendation 23

13. The recommendation pertaining to the inclusion of collective investment schemes 'Core Principles' in the FSC's supervisory framework, remains outstanding since as noted in the last report, there has been no indication that the investment schemes has been included in the supervisory framework. The TCI Authorities have indicated that the FSC is currently in the process of reviewing its securities legislation to bring it up to standard with IOSCO Core Principles and other internationally accepted best practices. A first draft of the legislation has been prepared however, it is recognized that a significant amount of work remains to be completed on the Bill itself and on the drafting of subsidiary legislation to compliment the Bill. Further, once this work has been completed the Bill has to undergo a period of consultation with the Industry. This is a lengthy process which is anticipated to be completed ambitiously, by the end of the first quarter of 2013 (March 2013). Additionally, the Money Transmitters Ordinance has been fully implemented. There are currently four licensed Money Transmitters. Of this number, one licensee was inspected last year and two (2) licensees have undergone onsite inspections since the beginning of this year. The FSC's Banking department has noted that it expects all Money Transmitters to have completed their risk assessment by the end of the

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financial year 2013. Detailed AML/CFT guidance for Money Transmitters is set out in the AML/PTF Code. Formal reporting for Money Transmitters was introduced in September 2010 with the mandatory reporting process commencing as at the end of the last quarter in 2010. Money Transmitters must report on and complete financial returns and supplemental reports which show inter alia, the largest transaction, the number of transactions and the value of transactions for each month in a quarter both for funds sent as well as for those received. Additionally, there are two other supplemental filings which require information on all single and aggregate transactions above USD \$5,000 in any one month for funds sent as well as for those received

Recommendation 26

14. With regard to the issue of the operational independence of the FCU, the Authorities have noted that the MLRA's sub-committee is considering the creation of a fully independent FIU/FCU under stand-alone legislation. As noted previously the Head of the FCU carries out all staff recruitment. Reports on the progress of this approach were made to the MLRA at its December 2011 and April 2012 meetings. It should be noted that this approach if undertaken will address the Examiners' recommendation with regard to affording the Head of the FCU more operational independence. It has also been noted in the current matrix that the FCU submitted statistics for 2010 at a ML Conference which was hosted by the FSC in November 2011. Additionally, the TCI Authorities provided a copy of the FIU's 'Report on FIU Activities for the years 2010/2011'. The report was very comprehensive and provided statistics and typologies, which included 'red flags' for the readers of the reports so that a better understanding could be gleaned of the typologies. Compliance with R. 26 has been substantially met except as noted above.

Recommendation 35

15. The situation remains the same, in that the Palermo and Financing of Terrorism Conventions have not been ratified by the United Kingdom on behalf of the Turks and Caicos Islands. Accordingly, the Examiners' recommendation has still not been met.

Recommendation 36

16. The Examiners' recommendation has been previously fully met. The TCI Authorities have noted that they are currently processing one (1) request for information from Australia.

Recommendation 40

17. The situation with regard to Recommendation 40 remains the same as it pertains to the stipulation of specific standard operating procedures for dealing with the execution of requests for assistance received by foreign competent authorities. This is the only outstanding recommendation.

Special Recommendation I

18. There has been no change in the status of this Recommendation. In the previous FURs, the Authorities has noted their intention to draft stand-alone legislation on CFT matters that the Bill on Terrorism would contain provision in line with the 1999 United Nations

International Convention for the Suppression of the Financing of Terrorism. Based on the foregoing, the Examiners' recommendation for the full implementation of the UNSCRs remains outstanding.

Other Recommendations⁴

Recommendation 7

19. As noted in the previous report, Regulation 16 of the AML/PTFR was amended to make it clear that the prohibition regarding entering into or continuing corresponding banking relationships with shell banks is applicable to all financial businesses. This Recommendation has been fully complied with.

Recommendation 8

20. The only outstanding recommendation pertains to a 'should consider' requirement as it pertains to the inclusion of mortgage lending under a licensing regime and thereby making it subject to AML/CFT requirements. The TCI Authorities have confirmed that the FSC will consider whether there is a need to bring the business of mortgage lending under a licensing regime and to this end will conduct a market survey, review and analyse the result of this survey by March 2013.

Recommendations 9

21. Although R. 9 has been fully met with regard to the Examiners' recommendations, the Authorities have noted that Regulation 14 of the AML/PFT Regulations specifically includes the wording of E.C. 9.1, which pertains to CDD requirements for financial institutions relying on a third party. This measure further supplements the provision at section 27 of the AML/CFT Code.

Recommendation 12

22. Based on a review of the actions taken by the TCI to meet the Examiners' recommendations, the recommendations pertaining to the regulation of market participants so that AML/CFT compliance can be monitored has been addressed through the amendment to Regulation 24 of the AML/PFT. This regulation now specifies that there shall be a separate part of the NRFB Register for each category of non-regulated financial businesses (DNFBPs). The recommendation with regard to adequate training for the gaming inspectors and the role and legal authority in the implementation and oversight of the AML/CFT framework remains outstanding. The role of the Gaming Inspectorate and the FCU in the implementation of the AML/CFT framework is still ongoing. The Authorities have noted that in September 2011, the Gaming Inspectorate and the Permanent Secretary, Finance attended the MLRA meeting, where they were both briefed on the recommended improvements and provided with copies of relevant documents. As a result, the Permanent Secretary, Finance agreed to place the required improvements to the Gaming Inspectorate on the agenda of Ministry of Finance's work

⁴ Recommendations 6, 7, 9, 11, 22, and 19 have been fully met. Accordingly, the recommendations have been presented in this Report.

plan so that it can be prioritised in the Government's budget for the new financial year. The TCI Authorities report that the FSC will engage the Bar Association by September 2012, through its executive body, the Bar Council, to formalize the use of that body for the delivery of AML Training. Based on the aforementioned there is only partial compliance with the Examiners' recommendations for R. 12.

Recommendation 15

23. There has been no further action taken with regard to the outstanding issues for R. 15 and so based on the status of the previous report, the Examiners' recommendations remain partially met. The recommendations that still have to be addressed pertain to the provision of guidance by the FSC on the implementation of an independent audit function to test AML/CFT compliance; the implementation of the requirement to keep training logs. While it is noted that the FSC has included the review of training logs as part of its onsite inspection regime, there has been no indication as to how the implementation of this measure has been progressing. Additional information should also be provided on the CFT awareness raising role of the FSC. The TCI Authorities indicate that as apart the FSC's continuing efforts to enhance its supervisory regime, the FSC is working to issue guidelines to financial institutions on the internal audit function. These guidelines will include information on AML/CFT compliance. It is anticipated that a first draft will be prepared and published by the end of the third quarter of 2012 (September).

Recommendation 16

24. Based on the review in the last report, R. 16 still has two outstanding deficiencies that have not been addressed by the TCI Authorities. These pertain to the training of DNFBPs with regard to the filing of STRs and the issuance of guidelines and instructions on the drawing up and maintaining of internal frameworks for AML/CFT compliance. The TCI Authorities have noted that the FSC has been identified as the NRFB Supervisor under the POCO and the TCI Authorities indicate that the FSC is currently reviewing its supervisory capacity to determine what additional resources are required to undertake this new area of responsibility including the employment of additional staff. This has an implication on the current staff housing of offices both in Grand Turk and Providenciales which must first be resolved. Once the aforementioned issues are settled the FSC will be in a position to take an additional staff for the position of NRFB Supervisor and additional compliance officers as necessary. The FSC has already commenced a system of registration which will continue on resolution of resources and capacity issues. It is anticipated that these issues will be settled by the end of the first quarter in 2013 (March 2013).

Recommendation 17

25. Compliance with this Recommendation has been substantially met. The continuing issue relates to the effective implementation of enforcement actions by the FSC. The FSC continues to foster compliance among licensees and in this regard, had a vigorous enforcement programme during 2011. The TCI Authorities provided a table and detailed list of the enforcement action undertaken over the year. A review of the information provided reveals that the FSC has taken a total of 138 enforcement actions during 2011. The majority have been against insurance companies, with a few trust and, company managers and one money remitter. The majority of actions (89) have involved a 'notice

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of intention to revoke licence'. During the period, there was the suspension of a licence and the surrender of a licence.

Recommendation 18

26. The amendment to Regulation 16 of the AML/PFT Regulations which expands the correspondent banking provisions to include all financial institutions and not just banks meets the requirements of the Examiners' recommendations. The recommendations have been fully met.

Recommendation 20

27. The Authorities have indicated that the MLRA's sub-committee with regard to assessing the risk of the construction industry being misused for ML and FT purposes is due to report to the MLRA on its finding by 1st September 2012. Accordingly, this recommendation remains outstanding.

Recommendation 21

28. The TCI Authorities report that the MLRA has deliberated on the Examiner's recommendations to consider the appropriate counter measures for the TCI to take against countries that do not or insufficiently apply the FATF Recommendations and decided that the FSC will create an advisory on its website regarding carrying on business with countries which do not sufficiently meet the FATF standards and provide a link to the FATF list of countries which do not sufficiently meets its standards. This will be completed by August 2012. The recommendation with regard to the promotion of an effective implementation of a risk management regime by the FSC has only been partially met through the requirement of risk assessments in the AML/PFT Code. Accordingly, as noted in the previous report, the Examiners' recommendations remain partially met.

Recommendation 24

29. As noted earlier in the report, the Gaming Inspectorate and the Permanent Secretary, Finance attended the September 2011 MLRA meeting and they were both briefed on the recommended improvements and provided with the relevant documentation. It is expected that the matters will be prioritised in the Government's budget for the financial year 2012/13 which commenced in April 2012. This Recommendation remains not substantially complied with.

Recommendation 25

30. Based on the previous report, the Examiners' recommendation pertaining to sector specific guidelines, the issuance of trends and typologies, consideration of the issuance of lists or information on terrorist, terrorist organisations to regulated entities; and the establishment of written instructions to regulated entities and the issuance of sector specific guidelines were not met. In the attached matrix, the Authorities have noted that the details of a trend involving the use of attorneys as collection agencies was publicized through the issuance of a public notice warning by the FCU. A press release was also made. The MLRA also recommended that a notice be sent to the Bar Council. The

- issuance of this trend information is a positive step with regard to increasing awareness amongst industry practitioners about the possible risk of ML/TF. It is hoped that other trends and typologies can also be issued by the FSC in keeping with the Examiners' recommendations. It has also been noted that the FCU has agreed to provide quarterly reports on trends and typologies to the MLRA. While this is commendable, this type of feedback should also be provided to the regulated entities in order to increase their capacity to detect and deter ML and TF as recommended by the Examiners. The Authorities have also noted the formation of a joint industry-government coordinating committee for the promotion of the financial services sector. It is expected that one of the outcomes of this committee would be the building of the image of the TCI financial services sector as 'a transparent regulatory system that fully meets international standards.
31. The FSC is currently reviewing its supervisory capacity with a view to ensuring that it secures the necessary resources to effectively implement a DNFBP regulatory regime. Once this has been established the FSC anticipates contacting and this sector to implement a framework for AML/CFT compliance and STR Reporting. Training will be conducted with various stakeholders in this sector by the end of the first quarter of 2013 (March 2013) to assist in establishing compliance the new framework. Additionally, work is to commence on the issuing of guidelines for this sector. This work should be completed by April 2013. The FSC anticipates updating its website to provide links to lists and information on terrorist which is published periodically by the UNSC and other reputable body by August 2012. A notice advising all financial institutions of the publication and the requirement to assess their client base against the list, will be circulated in tandem with the availability of the information on the FSC's website. The FSC is also currently reviewing the need for sector specific guidelines and will attempt to source relevant technical assistance to implement this initiative including guidelines relating to DNFBP's. Provided that the FSC is able to source technical assistance for this project by the end of the third quarter of this year (September 2012) it would anticipate completing this work by March 2013. There is still a substantial lack of compliance with R. 25 as it pertains to implementation measures.

Recommendation 29

32. The TCI Authorities have not provided an update with regard to R. 29 and accordingly, the Examiners' recommendations remain partially met as noted in the previous FUR. The outstanding element of the Examiners' recommendation pertains to the fact that the Financial Services (Financial Penalties) Regulations, 2010 do not have sanctioning power against directors or senior management, but only against the licensee.

Recommendation 30⁵

33. The situation with regard to the Gaming Inspectorate has been noted above in the discussion of R. 24. The Authorities have confirmed that four (4) members of the FCU along with two (2) Customs Officers commenced attending training in the United

⁵ Please note that the conclusion that the Examiners' recommendations were substantially met as noted in the Fifth Follow-Up report was a typographical error and the word 'not' should have been inserted after the word 'been' in the last sentence.

Kingdom in financial intelligence and financial investigation from May 25, 2012. As at the date of this report, two (2) FIU investigators, one (1) Customs officer and one (1) Fraud Unit officer had completed or were completing their training with the others to follow. This is a good step in furtherance of the Examiners' recommendation to have AML/CFT training for competent authorities. There has still however been no training with regard to the Gaming Inspectorate or for Judges and magistrates. The staffing of law enforcement agencies and the autonomy of the FCU (See. R.26 discussion above) is still outstanding. The Authorities noted that the FCU was awarded 2nd place in the 'Best Money Laundering Case' in the worldwide competition among policing agencies. Based on the aforementioned the Examiners' recommendations have not been substantially met.

Recommendation 31

34. In keeping with the Examiners' recommendation to expand the membership of the MLRA as it pertains to relevant officers of the Attorney General's Chambers, the MLRA has invited the Deputy Director of Public Prosecutions (designate). This decision was recently confirmed at the MLRA's April 2012 meeting. With regard to the development of policies and activities to combat ML/FT by the MLRA there has been no further update on its status and accordingly the Examiners' recommendation in that regard remains not met. With regard to evidence of national cooperation, the Authorities have noted that as a result of a joint investigation between the Customs Department and the FCU, US\$28,000 was intercepted whilst being smuggled into the Islands without being declared. There is overall substantial compliance with Rec. 31.

Recommendation 32

35. There has been no change since the last report with regard to measures towards compliance with this Recommendation. The publication of the MLRA's Annual Report with statistics has still not occurred and as noted in previous follow-up reports, while this is positive progress with regard to the maintenance of statistics, it does not address the issue of comprehensive statistics not being maintained by all competent authorities or the review of these statistics to determine the effectiveness of the AML/CFT systems. Accordingly, the Examiners' noted deficiencies still remain partially addressed.

Recommendation 33

36. The FSC's paper on bearer shares still awaits a decision by the MLRA following completion of the industry consultation process. Accordingly, the Examiners' recommendations as they pertain to the development of guidelines and procedures for dealing with bearer shares have not been met. With regard to the training of all legal persons, the FCU conducted AML/CFT training for the staff of the International Banking Group on April 19, 2012. Training is an ongoing process and so there is partial compliance with this recommendation. The Examiners' recommendations remain substantially outstanding.

Recommendations 34

37. There continues to be no update with regard to compliance with this Recommendation. Accordingly, the Examiners' recommendations still have not been met.

Recommendation 38

38. The recommendation for the establishment of administrative guidelines for dealing with mutual legal assistance has still not been addressed and so remains outstanding. The Authorities have however provided evidence of implementation of mutual legal assistance with regard to the seizure of US\$187,000 from a Taiwanese national who was indicted in the Taiwan for bribery and illegal arms dealing and had transferred funds through The Bahamas and into TCI. It should also be noted that the matter arose as a result of a SAR. The Authorities also note the granting of a confiscation order in the amount of US\$21M on April 25, 2012 in the matter involving David Smith (Jamaican national) and his company Olint TCI and other regional companies. This Smith matter was as a result of a joint effort between the FCU and the Attorney General's Chambers. The Authorities also noted that requests for assistance from Jamaica in the matter were not provided.

Special Recommendation VI

39. The current matrix has not provided any update to compliance with SR. VI. However, the TCI Authorities indicate that the FSC has commenced a programme of onsite review of Money Transmitters and during the financial year ending March 31, 2012 it conducted two (2) onsite examinations. A component of these examinations related to the licensees AML/CFT compliance. The Management Report produced by the FSC sets out recommendations to improve compliance levels and states timelines by which these must be achieved. With regard to the development of guidelines, issuance of instructions and the provision of training to guide MSPs in the effective execution of their responsibilities under the legislation, there has been no development or issuance of guidelines in this regard and the training of MSPs was last undertaken in 2010. Appropriate resourcing of the FSC to undertake the work with regard to MSPs has not been addressed. Accordingly, there is still only partial compliance with SR.VI.

Special Recommendation VII

40. There has been no update with regard to measures recent measures taken to comply with SR. VII. As noted in the previous report, Part 9 of the AML/PTF Code deals with wire transfers. Specifically, with regard to the Examiners' recommendations it provides a comprehensive legislative framework to deal with domestic cross-border transfers, for intermediary and beneficial financial institutions handling wire transfers. The relevant sections provide that originator information accompany all wire transfers. The issues with regard to monitoring for compliance by financial institutions and the implementation of effective, proportionate and dissuasive sanctions with non-compliance with SR. VII have not been addressed. Accordingly, the Examiners' recommendation still remains partially outstanding.

Special Recommendation VIII

41. A Bill and regulations on NPOs has been drafted by the European Union funded Law Revision Project that concluded at the end of May 2012 in the TCI. The Authorities have noted that the drafts provide the framework for the regulations of NPO's in the TCI. As a part of its sensitization campaign for the introduction of the new legislation, the FSC will advise on the potential risk for an NPO to be used in TF activities.

Additionally the drafts seek to provide for a system of registration which requires that information on the purpose and objectives of the NPO's stated activities and on the persons who own or control or direct those activities be contained in an NPO Register maintained by the NPO Supervisor and that this information will be available to the public. The drafts also include sanctions against NPOs that do not comply with AML/CFT requirements. The FSC is also working with the FCU to ensure that all NPOs are aware of the revised procedures with regard to the reporting of suspicious transactions. Since there are still no enacted measures to address the Examiners' recommendations the majority of their recommendations remain outstanding. The extent of the efforts to advise NPOs on the revised suspicious reporting measures is unclear and so there is a lack of substantial compliance with SR. VIII.

Special Recommendation IX

42. There has been no change in the level of compliance with the Examiners' recommendations for SR.IX. As noted in the fifth follow-up report, there is only partial compliance with the SR.IX recommendations.

III. Conclusion

43. The Turks and Caicos Islands have made some additional progress with regard to attaining compliance with the outstanding Examiners' recommendations based on the recent amendment of the AML/PFT Regulations. With regard to the Core Recommendations, as noted previously Recommendations 1 and 10 have been fully met, R. 5 has been very substantially complied with, R. 13 remains substantially met, SR. II has not been met and SR.IV has been partially met. For the Key Recommendations the TCI has fully met Rec. 36. There remain outstanding deficiencies with regard to Recs. 23, 26, 40 and SR. I. With regard to the non-Core or Key Recommendations, there is now full compliance with Recs.6, 7, 9, 11, 18, 19 and 22. There remain outstanding deficiencies with Recs.8, 12, 15, 16, 17, 20, 21, 24, 25, 29, 30, 31, 32, 33, 34, and 38, SR.s VI, VII, VIII and IX.
44. Based on the aforementioned, TCI is again urged to deal with some of the longer outstanding issues especially as they pertain to implementation and it is recommended that they report back to the November 2012 Plenary.

Legal Systems				
1. ML offense	PC	<p>The exact scope of what the POCO appeals, amends and saves is ambiguous.</p> <p>Schedule 1 of the POCO refers to offences which are not defined in the laws of the TCI, namely directing terrorism, people trafficking and arms trafficking.</p> <p>The FATF 20 Designated Categories of Offences are not fully reflected in the laws of the TCI.</p> <p>All the precursor chemicals under Article 3 (c)(ii) of the Vienna Convention are not covered by TCI law and there is no precursor chemical legislation.</p> <p>The effectiveness of TCI's legal framework is difficult to assess since there have no money laundering convictions since 2002.</p> <p>The defence to the ML offence at section 119(2) of the POCO provides a criminal with the opportunity to escape liability merely by showing that the property was obtained for adequate consideration.</p>	<ul style="list-style-type: none"> The POCO should clearly reflect what it is intended to save, repeal or amend and consolidate of the pre-existing law in relation to anti money laundering, as sections 150 and 151 of the POCO do not effectively achieve this. Omissions contained in Schedules 5 and 6 of the POCO should also be addressed in order to fully reflect what the POCO seeks to do. In addition, the enabling provisions for the offences of directing terrorism, arms trafficking and human trafficking listed in Schedule 1 should be clearly defined. TCI should fully comply with Article 3(1)(c) in relation to the precursor chemicals requirements. The FATF 20 Designated Offences should also be fully incorporated in the laws of the Islands. 	<p>New Regulations converting the Code into regulations have been prepared and made. The Proceeds of Crime (Amendment) Ordinance 2009 and Proceeds of Crime (Amendment) Ordinance 2010 came into force on December 8, 2009 and May 24, 2010 respectively. The omissions in Schedules 5 and 6 have been addressed. What is intended to be saved, repealed and amended are all now clearly indicated.</p> <p>In essence the Control of Drugs Trafficking Ordinance and former Proceeds of Crime Ordinance are repealed.</p> <p>However, transitional provisions keep them in force in respect of matters falling under the former legislation.</p> <p>The offences of “drug trafficking offence” and “money laundering offence” have been defined in the amendments to section 2.</p> <p>Section 119(2) is amended to require that, in addition to obtaining adequate consideration, the defendant must show that he did not know or suspect that the property was criminal property.</p> <p>The MLRA at its meeting held on January 21, 2011 decided to have specific legislation drafted to cover all of the required areas relating to CFT in one place. An EU funded Law Reform Project underway in the TCI is tasked with this work. This work was later taken out of the Project deliverables due to other pressing legislative initiatives and new resources will need to be identified.</p> <p>A number of existing legislation is expected to be amended in the law review and reform exercise and some new laws drafted. These include:</p> <p>the Confidential Relationships Ordinance;</p> <p>the Companies Ordinance, which straddles both domestic and international business companies (IBC"s);</p> <p>an International Trusts Ordinance;</p>

				<p>the Investment Dealers and Mutual Funds Ordinance; Proceeds of Crime, which includes Anti-Money laundering provisions; and</p> <p>the Tax Exchange of Information Ordinance.</p>
2. ML offense–mental element and corporate liability	LC	<p>The penalties for money laundering upon summary conviction are lenient and therefore are not dissuasive sanctions.</p> <p>The efficacy of implementation of the anti-money laundering regime is uncertain, particularly in view of the very low incidence of ML prosecutions.</p>	<ul style="list-style-type: none"> The penalty for the primary money laundering offences (sections 117, 118 and 119) upon summary conviction should be sufficiently dissuasive, so as not to limit prosecution of money laundering at the magisterial level to the most trivial of cases 	<p>The Proceeds of Crime (Amendment) Ordinance 2010 amends the penalties under sections 117 to 119 by raising the penalties from twelve months imprisonment to two years minimum and the fines from \$40,000 to \$200,000.</p>
3. Confiscation and provisional measures	LC	<p>Forfeiture or confiscation of instrumentalities intended for use in or used in ML/FT offences are not clearly covered by the POCO.</p>	<ul style="list-style-type: none"> The POCO should be amended to provide for the confiscation and/or forfeiture of instrumentalities intended for use in or used in ML/FT offences. 	<p>The Proceeds of Crime (Amendment) Ordinance 2010 amends Part III of POCO to provide for the recovery of instrumentalities intended for use in or in connection with <u>unlawful conduct</u> through civil forfeiture. It includes new sections on freezing orders.</p> <p>In particular, section 59 now contains as an additional objective of the civil forfeiture regime, the recovery of property which is, or represents “property that has been used in, or in connection with, or is intended to be used in, or in connection with, unlawful conduct”. A new definition of tainted property is also included.</p> <p>There are a number of sections that amend various sections in PART III to give effect to the recovery of tainted property.</p>
Preventive measures				
4. Secrecy laws consistent with the Recommendations	C	<p>This Recommendation is fully observed.</p>		

<p>5. Customer due diligence</p> <p>DRAFT</p>	<p>NC</p> <p>There are no requirements in the POCO and AMLR which prohibit financial institutions from keeping anonymous accounts or accounts with fictitious names.</p> <p>No requirement for the conduct of CDD measures where the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.</p> <p>No requirement for financial institutions to conduct CDD on legal persons or legal arrangements.</p> <p>No requirement for financial institutions to verify that any person purporting to act on behalf of a customer who is a legal person is so authorized, and identify and verify the identity of that person.</p> <p>No requirement for financial institutions to verify the legal status of the legal person or legal arrangement.</p> <p>No requirement for financial institution perform enhanced due diligence for higher risk categories of customer, business relationship or transaction.</p> <p>No requirement for financial institutions to conduct ongoing due diligence on existing customers.</p> <p>No requirement for financial institutions to perform enhanced due diligence on high risk customers.</p> <p>No requirement for financial institutions to undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII.</p> <p>No requirement to terminate the business relationship if proper CDD cannot be conducted.</p> <p>No requirement for financial institutions to ensure that documents, data or information collected under the CDD process is kept up to date.</p> <p>Lack of guidance on matters such as PEPs, risk based approach and reduced CDD impacts on the effectiveness of the TCI's AML/CFT regime.</p> <p>The scope of AML/CFT legislation in the TCI does not cover financial institutions that engage in mortgage lending.</p> <p>No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.</p>	<ul style="list-style-type: none"> • Legislation should be enacted or amended to require that financial institutions: undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII; verify that any person purporting to act on behalf of legal persons or legal arrangements is so authorised and identify and verify the identity of that person; take reasonable measures to determine the natural persons that ultimately own or control legal persons or legal arrangements. • Legislation should be enacted or amended to prohibit financial institutions from keeping anonymous accounts or accounts with fictitious names. • Legislation should be enacted or amended to require that financial institutions conduct CDD measures whereby the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. • Legislation should be enacted or amended to require that financial institutions conduct CDD on legal persons or legal arrangements. • There seemed to be a high level of dependence on personal relationships between financial institutions and clients which results in CDD measures not being carried out. During interviews with financial institutions these institutions typically indicated that the reason for limited or no CDD measures is a result of the small size of the local industry and the fact that everyone knows each other. Such scenarios may open the TCI to a higher risk of financial institutions being used for money laundering and financing of terrorism. Therefore, TCI authorities should develop a sensitization campaign whereby financial institutions are made aware of the benefits and requirement to do relevant CDD. 	<p>Section 111 of POCO has been amended and provides for the issuance by the Reporting Authority of Codes and Guidance.</p> <p>The new section 111(5) provides that a Code issued under section 111 is subsidiary legislation and has full legislative effect.</p> <p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations were enacted on July 29, 2010. Part II deals with Customer Due Diligence. Regulation 11 requires a financial business to conduct CDD. Any person that contravenes that regulation may be liable to a fine up to \$50,000.00. The Regulations also provides for enhanced due diligence.</p> <p>Regulation 16 deals with shell banks and anonymous numbered accounts. It provides for a penalty of up to \$100,000.00 if a financial business sets up or maintains an anonymous account.</p> <p>Schedule 2 of the Regulations contains the meaning of financial business. Included are persons engaged in lending, including consumer credit and mortgage credit, accountants, auditors, legal professionals, and financial/investment advisors.</p> <p>The Anti-Money Laundering and Prevention of Terrorist Financing Code 2011 came into force on 6 May 2011. Part III of the Code deals with Customer Due Diligence and a summary of the principal requirements with respect to customer due diligence is set out on pages 25 to 27 of the Code and comprehensively addresses the recommendations of the Assessors.</p> <p>The AML/PTF Regulations was amended on 1st December 2011to provide for specific provisions for occasional transactions that are wire transfers and to ensure that the requirements of EC 5.2 apply to all financial institutions and not just Money Service Businesses.</p> <p>The AML/PTF Regulations (regulation 5) was amended on 1st December 2011to require the determination of the natural person who ultimately owns or controls customers that are legal persons or legal arrangements. (EC 5.5.2(b)) and to require the verification the legal status of the legal person or legal arrangement (EC 5.4(b))</p> <p>Regulation 5, now provides that customer due diligence measures include measures for determining who are the natural persons that ultimately own or control the customer where the customer is not an individual.</p> <p>The TCI continues on its sensitization campaign to make financial institutions aware of the benefits of meeting AML/CFT requirements. The FSC held AML/CFT training in November 2011 for industry practitioner, which focused on the requirements of the new code and establishing a compliance manual. Training is also planned to be conducted before the end of 2012 During the November 2011 training, the FIU hosted a session. The FIU also conducted a two-hour of AML training with the staff at one of the local banks.</p>
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6. Politically exposed persons	NC	<p>No requirements concerning PEPs are applicable to regulated persons at present.</p> <p>No requirement for senior management approval of a relationship with a customer who is found to be a PEP.</p> <p>No requirement for senior management approval to continue a relationship with a customer who is subsequently found to be a PEP or who subsequently becomes a PEP.</p> <p>Little awareness of the requirements in relation to the performance of enhanced CDD measures on high risk customers who are PEPs.</p> <p>No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.</p>	<ul style="list-style-type: none"> Financial institutions should be required to seek senior management approval for a relationship with a customer who is found to be a PEP and to continue a relationship with a customer who is subsequently found to be a PEP or who subsequently becomes a PEP. The FSC should consider issuance of guidance with regard to financial institution's handling of relationships with PEPs. 	<p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations contain provisions relating to PEPs. PEPs are defined in regulation 6. Regulation 13 requires enhanced due diligence and ongoing monitoring on PEPs and imposes a fine of up to \$50,000.00 if that regulation is contravened</p> <p>The Financial Services Commission issued guidance in relation PEPs in August 2009.</p> <p>The Anti Money Laundering and Prevention of Terrorist Financing Code addresses the requirements of E.C 6.2 in section 13(1) and (3). Approval by senior management of a financial institution is required for the continuation of the financial institution's relationship with a customer who is found to be a PEP and to continue a relationship with a customer who is subsequently found to be a PEP or who subsequently becomes a PEP.</p> <p>AML/PTF Regulation 13(2)(d) also requires enhanced CDD for PEPs.</p>
7. Correspondent banking	NC	<p>No requirement to determine the reputation of a respondent and the quality of supervision.</p> <p>No provision to obtain senior management approval before establishing new correspondent relationships.</p> <p>No provision to document respective AML/CFT responsibilities in correspondent relationships.</p> <p>No requirement for financial institutions with correspondent relationships involving "payable-through accounts" to be satisfied that the respondent financial institution has performed all normal CDD obligations on its customers that have access to the accounts.</p> <p>No requirement for the financial institution to be satisfied that the respondent institution can provide reliable customer identification data upon request.</p> <p>No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.</p>	<ul style="list-style-type: none"> TCI authorities should consider issuing more guidance to financial intuitions on matters relating to AML/CFT. 	<p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations provide that no bank operating in or from the islands shall enter into or continue a correspondent banking relationship with a shell bank or a bank that is known to permit its accounts to be used by a shell bank.</p> <p>Regulation 16 provides for a fine of up to \$100,000.00 if a bank acts in contravention to the regulation.</p> <p>With regard to Rec. 7, Sections 42 and 43 of the Code, deals will correspondent banking. Regulation 16 was amended to extend it to all financial institutions in accordance with a decision taken by the MLRA in its meeting in December 2010. Regulation 16 was amended on 1st December 2011 to make it clear that the prohibition regarding entering into or continuing corresponding banking relationships with shell banks applies to all financial business.</p>

8. New technologies & non face-to-face business	NC	No provision for financial institutions to have in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes.	<ul style="list-style-type: none"> Financial institutions should have in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes. TCI authorities should consider bringing the business of mortgage lending under a licensing regime which will make it subject to AML/CFT requirements. 	<p>Regulation 13 of the Anti-Money Laundering and Prevention of Terrorist Financing Regulations requires enhanced due diligence and ongoing monitoring where the customer has not been physically present for identification</p> <p>Section 6(2) of the Code covers EC. 8.1 which requires that financial institutions should have measures in place to deal with the misuse of technological developments</p> <p>Section 24 of the Code covers EC 8.2 which requires that policies and procedures be in place to address any specific risks associated with non-face to face business relationships or transactions</p> <p>The FSC will consider whether there is a need to bring the business of mortgage lending under a licensing regime and to this end will conduct a market survey, review and analyse the result of this survey by March 2013.</p>
9. Third parties and introducers	PC	<p>No requirement for all financial institutions relying on a third party to immediately obtain from the third party the necessary information concerning elements of the CDD process covering identification and verification of customers and beneficial owners and the purpose and intended nature of the business relationship.</p> <p>No provision requiring financial institutions to satisfy themselves that the third party is regulated and supervised (in accordance with Recommendations 23, 24 and 29) and has measures in place to comply with the CDD requirements set out in Recommendations 5 and 10.</p>	<ul style="list-style-type: none"> Financial institutions relying on a third party should be required to immediately obtain from the third party the necessary information concerning elements of the CDD process covering identification and verification of customers and beneficial owners and the purpose and intended nature of the business relationship. Financial institutions should be required to satisfy themselves that the third party is regulated and supervised (in accordance with Recommendations 23, 24 and 29) and has measures in place to comply with the CDD requirements set out in Recommendations 5 and 10. Financial institutions relying on third parties should be ultimately responsible for customer identification and verification. TCI authorities should make more explicit requirements for financial institutions to immediately obtain from the third party all the necessary information concerning certain elements of the CDD process and for financial institutions to accept 	<p>Regulation 14 of the Anti-Money Laundering and Prevention of Terrorist Financing Regulations provides that a financial institution may only rely on introducers and intermediaries who are a regulated person or a foreign regulated person. The regulation requires introducers and intermediaries to have carried out CDD and to maintain records of that information which would be available upon request from the financial business or the Commission. It also provides that the financial business will be liable for any failure to apply CDD measures by the introducer or intermediary.</p> <p>Regulation 14 of the AML/PFT Regulations was amended on 1st December 2011 to include the specific wording of EC 9.1 that Financial institutions relying upon a third party should be required to immediately obtain from the third party the necessary information concerning certain elements of the CDD process (verifying the customers identity and the ultimate beneficial owner, who is a natural person). This is also reflected in section 27 of the Code</p>

			introducers pursuant to its assessment of AML/CFT adequacy.	
10. Record keeping	PC	There are no requirements for financial institutions to maintain records of the identification data, account files and business correspondence for at least five years following the termination of an account or business relationship (or longer if requested by a competent authority in specific cases upon proper authority).	<ul style="list-style-type: none"> It is recommended that the TCI review its legislative and regulatory provisions to take consideration of all requirements of Recommendation 10 particularly as it pertains to the retention of records and that appropriate legislation should be enacted as soon as possible. 	<p>Regulations 18 and 19 of the Anti-Money Laundering and Prevention of Terrorist Financing Regulations require records to be kept for at least five years. These records include CDD, account files and transaction records sufficient to enable a reconstruction of the individual transactions.</p> <p>Failure to comply with that regulation will result in a fine up to \$100,000.00.</p> <p>Part VII of the Code comprehensively deals with the Assessors' recommendations with regard to Record Keeping and the Guidance on pages 83 and 84 of the Code describe the obligations of financial businesses in respect of Record Keeping.</p> <p>Additionally, in respect of accounting records the Companies (Amendment) Ordinance 2011 and the Limited Partnerships (Amendment) Ordinance 2011 amended section 57 of the Companies Ordinance and section 10 of the Limited Partnerships Ordinance respectively to expand the record keeping obligations in respect of companies and Limited Partnerships and to create an offence for failure to maintain such records. The fine imposed in each case is an amount not exceeding \$50,000. Both amendments came into force on 29th July 2011.</p> <p>A new Partnerships Ordinance was made in October 2011 and came into force on 1st November 2011. This new Ordinance codifies the law relating to partnership. Under the common law legal system, the basic form of partnership is a general partnership in which all partners manage the business and are personally liable for its debts. A partnership is defined as the relationship which subsists between persons carrying on business with a view of profit.</p> <p>A key feature of a partnership is that it does not have a legal personality of its own. In the eye of the law, a partnership is merely a way of describing the individual partners who make up the partnership. Thus unlike companies where a</p>

				<p>member of the company is to a large extent insulated from liabilities of the company, in a partnership, each partner is held responsible not just for the liabilities caused by his actions, but also for liabilities incurred by each partner.</p> <p>By virtue of section 28(1), partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his agents. Under section 28(2), a partnership must keep or cause to be kept proper books of accounts including day books of accounts and underlying documentation including contracts and invoices, with respect to—</p> <p>(a) all sums of money received and expended by the partnership and the matter in respect of which the receipt and expenditure take place;</p> <p>(b) all sales and purchases of goods by the partnership; and</p> <p>(c) the assets and liabilities of the partnership.</p> <p>For the purpose of subsection (2) proper books of accounts do not satisfy the statutory requirement to be kept if there are not kept such books as are necessary to give a true and fair view of the state of the partnership's affairs and to explain its transactions. (section 28(3))</p> <p>Every partnership must keep all books of accounts required to be kept under subsection (2) for a minimum period of five years from the date on which they are prepared. (section 28(4))</p> <p>Any partner who knowingly contravenes, permits or authorizes the contravention of the provisions of subsection (2) or (4) commits an offence and is liable on summary conviction to a fine not exceeding \$50,000.(section 28(5))</p>
11. Unusual transactions	NC	<p>No requirements for special attention to be paid to characteristics of size and purpose of transactions.</p> <p>No requirement to put findings in writing that result from a closer investigation of complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful</p>	<ul style="list-style-type: none"> • TCI authorities should expand the scope of attention for unusual transaction patterns to include characteristics of size and purpose as addressed in Rec. 11 (essential criterion 11.1). • Financial institutions should be required to 	<p>Regulation 17 of the Anti-Money Laundering and Prevention of Terrorist Financing Regulations requires financial businesses to establish, maintain and implement appropriate risk-sensitive policies, systems and controls to prevent and detect money laundering and terrorist financing which provide for identification and scrutiny of complex or unusually large transactions and other activities.</p>

		<p>purpose.</p> <p>No minimum record retention period applies for the findings resulting from a closer investigation of unusual transaction patterns.</p> <p>No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.</p>	<p>set forth in writing any findings related to a closer examination of the background and purpose of unusual transaction patterns.</p> <ul style="list-style-type: none"> The record retention policy addressed under section 7 of the AMLR should be expanded to provide for the retention of records related to a closer investigation of the background and purpose of unusual transactions. 	<p>The Code addresses these requirements. Section 28 of the Code requires financial businesses to keep a written record of transactions including unusual transactions. Section 37 requires a financial business to maintain records concerning reviews of and the conclusions reached in respect of such records for a period of at least five years.</p>
12. DNFBP–R.5, 6, 8-11	NC	<p>For the majority of the DNFBPs that have not been subjected to the TCI AML/CFT legislative framework, it remains unclear how TCI authorities will ensure proper compliance with recommendation 5, 6 and 8 through 11 of the FATF. Except for trust and company service providers which are considered financial institutions, effective implementation of Rec. 12 lacks for all remaining groups of DNFBP's.</p> <p>No contact has been established with dealers in precious metals or precious stones to inform them of the AML/CFT legislative changes and the consequences thereof for the relevant industry.</p> <p>TCI Authorities have not determined yet who will be responsible for the compliance oversight of the dealers in precious metals and precious stones.</p> <p>TCI Authorities have not defined the targeted risk that it aims to manage with the inclusion of dealers in goods of any description involving a cash payment of \$50,000 or the equivalent in any currency, under the definition of relevant businesses, and consequently, TCI authorities are unable to develop an implementation plan for this specific group of DNFBPs.</p> <p>There is a lack of information to the real estate industry, about the AML/CFT changes in the legislation and its implications for the sector.</p>	<ul style="list-style-type: none"> Contact the relevant new businesses and professions that have been subjected to AML/CFT rules and regulations due to the recently enacted legislation and inform them of the consequences of these changes for their respective industries. Define the major risk area targeted under the group of DNFBP's categorized as "dealers in goods of any description involving a cash payment of \$50,000 or the equivalent in any currency". Determine who will be responsible for the oversight of the precious metals and precious stones industry and the industry labelled as "dealers in goods of any description involving a cash payment of \$50,000 or the equivalent in any currency" Where not regulated, TCI should regulate market participants in order to be able to monitor compliance by these market players with applicable AML/CFT rules and regulations; Determine who will be responsible for the regulatory oversight of the relevant DNFBP's; In light of client privileges issues that might arise relative to the implementation of an oversight regime for legal advisers, it is advisable that a structure be maintained for these DNFBP's, where their duties relative to financial or real estate transactions on 	<p>The POCO has been amended to include provisions for a Non Regulated Financial Business Supervisor. These businesses are now required to be registered with the NRFB Supervisor. The NRFB Supervisor has the power to take enforcement action against a non-regulated financial business, issue directives and take disciplinary action.</p> <p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations also contain provisions relating to non-regulated financial businesses in Part V. The POCO provides that the Commission is the NRFB (DNRFB) Supervisor. The FSC has issued notices to all NRFBs other than casinos requiring them to register their beneficial ownership, place of business, types of business and other details with the FSC on or before 1st January 2011.</p> <p>The Anti Money and Prevention of Terrorist Financing (Amendment) Regulations 2011 come into operation on 1st December 2011. These Amendment Regulations amended regulation 24, to specify that there shall be a separate part of the NRFB Register for each category of non-regulated financial business (DNFBPs).</p> <p>Training for the Bar Association on DNFBPs is being planned. The FSC will engage the Bar Association by September 2012, through its executive body, the Bar Council, to formalize the use of that body for the delivery of AML Training.</p> <p>The role and functions of the Gaming Inspectorate was tabled for discussion at the January 2011 meeting of the MLRA and it was decided to list it for further discussion at the next meeting of the MLRA scheduled for September</p>

		<p>The TCI real estate sector is currently not regulated, thereby imposing a constraint to the effective implementation of an AML/CFT oversight regime for the relevant sector.</p> <p>No implementation plan has been developed yet for the regulatory oversight of the legal practitioners' industry or the accounting/auditing industry relative to their compliance with AML/CFT rules and regulations.</p> <p>The gaming industry lacks the implementation of an AML/CFT compliance supervisory regime.</p> <p>The role of the Gaming Inspectorate and the FCU in the implementation of the AML/CFT framework is not clearly defined.</p>	<p>behalf of their clients is legally and physically separated from their other legal proceedings assistance duties.</p> <ul style="list-style-type: none"> • TCI should consider the use of the Bar Association as a channel for the training of industry practitioners. • TCI should define the role of respectively, the Gaming Inspectorate and the FCU, in the implementation of the AML/CFT framework, in order to avoid inefficiencies. • Adequate training should be provided to gaming inspectors and their role and legal authority in the implementation and oversight of the AML/CFT framework for the gaming industry should be clearly defined. 	<p>2011, at which time Gaming Inspectorate officials were in attendance.</p> <p>The Gaming Inspectorate and the Permanent Secretary, Finance attended the September 2011 meeting of the MLRA and both were briefed on the recommended improvements and provided with copies of the relevant documents and information. The Permanent Secretary, Finance agreed to place the required improvements to the Gaming Inspectorate on the agenda of the Ministry of Finance' work plan so that they can be prioritised in the Government's budget for the new financial year.</p> <p>Sections 2, 111,116, 120, 121,148F, 148Q and 148M of POCO were amended to reflect the correct name of the AML Regulations. This amendment came into force on 1st December 2011.</p>
13. Suspicious transaction reporting	PC	<p>The guidance provided for the effective execution of the suspicious transaction reporting requirement is not considered sufficient</p> <p>The broad time frame given by the POCO has been interpreted by the industry to be time periods that seem quite long. (24 to 30 days).</p> <p>The awareness amongst financial institutions for the misuse of TCI's financial system for the financing of terrorist is low thereby affecting the effectiveness of the CFT regime.</p> <p>The deficiencies identified within R 1 as it pertains to predicate offences not defined in the TCI laws; specifically directing terrorism, people trafficking and arms trafficking are also applicable here.</p>	<ul style="list-style-type: none"> • TCI Authorities should provide for more guidance in the process of reporting unusual transactions. In this regard, standardized STR-forms that meet the requirements of the industry should be issued. Furthermore, the means through which STRs should be filed with the FCU should be standardized. • TCI Authorities should consider issuing guidelines on the filing of STRs which includes information on the requirement for timely filing to ensure a prompt reporting behaviour. 	<p>The standardized reporting form has been improved.</p> <p>This was published at a presentation to the industry by way of a two-hour presentation, including power point, copies of which were distributed.</p> <p>A revised form has since been circulated with guidance notes attached. Although guidance information is provided as a part of the Money Laundering Reporting Authority's Suspicious Transaction/ Activity form, consideration is being given to the issuing of guidance notes under section 111(2) of the Proceeds of Crime Ordinance.</p> <p>Part 5 of the Code contains requirements for the timely filing of SARs, including a prescribed timeframe (within 24 hours) (See section 120 in the POCO).</p>
14. Protection & no tipping-off	C	This Recommendation is fully observed.		
15. Internal controls, compliance & audit	PC	Applicable requirements for the implementation of an internal control framework do not address the issue of CFT.	<ul style="list-style-type: none"> • The FCS should screen the Policy Manuals of all supervised financial institutions, to ensure compliance with CFT. • The FSC should play a more active role in 	<p>The FSC screens policy manuals both at the point where an entity applies for licensing and also during onsite examinations.</p> <p>The FSC has included a review of training logs as a part of</p>

		<p>Policy manuals of entities supervised by the FSC do not include CFT.</p> <p>No requirements in place for the appointment of an independent audit function to test compliance with procedures, policies and controls on AML/CFT.</p> <p>No effective implementation of the AMLR requirement to keep training records of employees.</p> <p>No requirement to have financial institutions put in place screening procedures to ensure that high standards apply when hiring new employees.</p>	<p>creating awareness amongst financial institutions with regard to the issue of CFT.</p> <ul style="list-style-type: none"> The TCI should provide guidance for financial institutions on the implementation of an independent audit function to test compliance with AML/CFT procedures, policies and controls. TCI should take appropriate action to implement the recently enacted AMLR requirement to keep employees training records. The TCI should amend its requirement for screening relevant personnel upon hiring, to the screening of all employees to fully comply with essential criterion 15.4. <p>Financial institutions should be required to have their screening policy for new personnel formalized and documented for review by the FSC.</p>	<p>its onsite inspection regime.</p> <p>The FSC is to do compliance guidelines, which is to include provisions on how the audits are to be conducted.</p> <p>Sections 6 and 30 of the Code deal with internal reporting procedures and includes a provision in similar terms to EC 15.2.</p> <p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations now provide that a financial business must maintain policies regarding the screening of employees and internal controls. Contravention the regulation may result in the financial business being fined up to \$50,000.00.</p> <p>As part of the FSC's continuing efforts to enhance its supervisory regime, the FSC is working to issue guidelines to financial institutions on the internal audit function. These guidelines will include information on AML/CFT compliance. It is anticipated that a first draft will be prepared and published by the end of the third quarter of 2012 (September).</p>
16. DNFBP–R.13-15 & 21	NC	<p>There is a lack of implementation of the AML/CFT legislative framework for DNFBPs</p> <p>To date no STRs have been filed with the FCU by any category of DNFBP, except for Trust and company service providers.</p> <p>No training of DNFBPs on the filing of STRs.</p> <p>DNFBPs have not implemented an internal framework for the compliance with AML/CFT rules and regulations.</p>	<ul style="list-style-type: none"> TCI should ensure an effective implementation of the recently enacted AML/CFT legislative framework for DNFBPs, including the requirement for the filing of STRs. TCI Authorities should consider training for DNFBPs on the filing of STR's to promote a compliant regime within the relevant industries. The relevant supervisory authorities per category of DNFBP should issue guidelines and instructions on the drawing up and maintaining of internal frameworks for compliance with AML/CFT rules and regulations. 	<p>The FCU has met with and advised stakeholders in this area of the requirements for filing STR's.</p> <p>The NRFB Supervisor is was to conduct training, by the end of July 2011, for DNFBPs on the filing of STRs to promote a compliant regime within the relevant industries; and issue guidelines for each category of DNFBP.</p> <p>The FSC has been identified as the NRFB Supervisor under the POCO and is currently reviewing its supervisory capacity to determine what additional resources are required to undertake this new area of responsibility including the employment of additional staff. This has an implication on the current staff housing of offices both in Grand Turk and Providenciales. That issue must first be resolved. The FSC will then be in a position to take on additional staff for the position of NRFB Supervisor and additional compliance officers as necessary. The FSC has already commenced a system of registration, which will continue on resolution of resources and capacity issues. It is anticipated that these issues will be settled</p>

				by the end of the first quarter in 2013 (March 2013).
17. Sanctions	PC	<p>The sanctions in the legislative framework are not effective or dissuasive.</p> <p>Financial sanctions cannot be applied by the supervisory without a court order.</p> <p>The sanctions applicable in case of non-compliance with provisions of the AMLR in respect of regulation 10 are not defined in the respective legislation.</p>	<ul style="list-style-type: none"> The TCI supervisory authority should promote an effective implementation of enforcement actions in order to increase the dissuasiveness of the existing sanctions framework. This can be improved amongst other methods through improvement of the follow up provided by the supervisory authority relative to outstanding issues with regard to the compliance with AML/CFT rules and regulations by financial institutions. The TCI Authorities should make appropriate adjustments to its legislative framework to provide for the FSC to impose financial sanctions without court order in case of non-compliance with AML/CFT rules or regulations. The TCI should include in the AMLR the sanctions applicable to an offence under AMLR section 10(1). 	<p>The FSC takes enforcement action and issues administrative penalties against licensed entities in accordance with the Financial Services (Financial Penalties) Regulations made on October 29, 2010.</p> <p>Since its enactment the FSC has undertaken several disciplinary actions under the Regulations, which have been dissuasive and resulted in compliance without the relevant financial institutions having to be fined, save in one case.</p> <p>In continuing to foster compliance among licensees and in this regard, the FSC had a vigorous enforcement programme during 2011. A table and detailed enforcement action taken during the year was supplied to the CFATF. The information reveals that the FSC has taken a total of 138 enforcement actions during 2011. The majority have been against insurance companies, with a few trust and, company managers and one money remitter. The majority of actions (89) have involved a 'notice of intention to revoke licence'. During the period, there was the suspension of a licence and the surrender of a licence.</p>
18. Shell banks	PC	Although the Code appropriately addresses shell banks it cannot be properly enforced.	<ul style="list-style-type: none"> Financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks. Financial institutions should be required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. 	<p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations provide that no bank operating in or from the islands shall enter into or continue a correspondent banking relationship with a shell bank or a bank that is known to permit its accounts to be used by a shell bank.</p> <p>Regulation 16 deals with shell banks and provides for a fine up to \$100,000.00 if a bank acts in contravention to the regulation.</p> <p>Regulation 16 prohibits banks from carrying on business with a shell bank. Regulation 16 and Part 8 of the Code are to be amended to extend their application to all financial institutions.</p>
19. Other forms of reporting	NC	It appears that the TCI Authorities have not considered the feasibility and utility of implementing a system where financial institutions are required to report all transactions above a fixed threshold.	<ul style="list-style-type: none"> We advise that the TCI consider the implementation of a system where all (cash) transactions above a fixed threshold are required to be reported to the FCU. In this 	TCI Authorities considered and decided against the use of a system where all (cash) transactions above a fixed threshold require reporting to the FCU.

			regard TCI should include as part of their considerations the possible increase of STRs filed, the size of this increase compared to resources available for analyzing the information and the effectiveness of the additional intelligence in the process of intercepting illicit activities.	
20. Other NFBP & secure transaction techniques	PC	<p>TCI has not considered the risk of other non-financial businesses and professions being misused for the purpose of ML/ FT.</p> <p>TCI Authorities have not considered or taken adequate steps to ensure that the money laundering risk associated with the large volumes of cash at the casinos are reduced.</p>	<ul style="list-style-type: none"> TCI should consider if there are other non-financial businesses and professions that are at risk of being misused for ML or FT. In this regard, TCI should specifically assess the risk of ML and FT in the construction industry, considering the amount of cash turnover in this industry. TCI Authorities should consider taking an intermediary role in the process of establishing proper communications between local banks and the casino, in order to assure that credit card facilities for casino clients are available at the casinos place of business in order to reduce the amount of cash in circulation in the casino. 	<p>POCO has been amended to include a regime for a Non Regulated Financial Businesses and a Non Regulated Financial Business Supervisor and actions have been taken to register NRFBs since January 1st 2011.</p> <p>The MLRA, at its meeting in December 2010 decided to have a sub-committee assess the risk of the construction industry being misused for ML and FT purposes and prepare a paper for consideration of the MLRA. The sub-committee is due to report to the MLRA on its finding by 1st September 2012.</p> <p>Credit card facilities are now available in casinos.</p>
21. Special attention for higher risk countries	NC	<p>The majority of financial institutions do not observe the level of compliance of the foreign jurisdiction when establishing international business relationships.</p> <p>No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.</p>	<ul style="list-style-type: none"> The FSC should promote an effective implementation of a country risk management regime with regard to AML/CFT. In this regard, the FSC should promote an effective implementation of provisions 4.18 and 4.23 of the Code amongst licensed institutions. It is not a conclusive requirement to issue a blacklist containing countries that do not or insufficiently apply the FATF standards. However, if a particular jurisdiction continues to impose a high risk for ML or TF on the financial services industry of the TCI, the FSC should consider applying its powers under the FSCO to issue additional guidance on the subject. In this respect, the FSC might consider for example issuing a list of countries that do not or insufficiently apply the FATF standards and for which 	<p>The MLRA has deliberated on the Examiner's recommendations to consider the appropriate counter measures for the TCI to take against countries that do not or insufficiently apply the FATF Recommendations and decided that the FSC will create an advisory on its website regarding carrying on business with countries which do not sufficiently meet the FATF standards and provide a link to the FATF list of countries which do not sufficiently meets its standards. This will be completed by August 2012.</p> <p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations require enhanced CDD and enhanced ongoing monitoring on a risk-sensitive basis when the financial business proposes to have a business relationship with a person connected with a country that does not apply or insufficiently applies the FATF recommendations.</p>

			transactions originating from these countries should be subject to a higher degree of scrutiny.	The Money Laundering Reporting Authority is presently giving consideration to appropriate counter measures to be applied against countries who do not or insufficiently apply the FATF recommendations
22. Foreign branches & subsidiaries	NC	There are currently no provisions in place pertaining to the regulation of compliance with AML/CFT rules and regulations by TCI financial institutions' subsidiaries in foreign jurisdictions.	<ul style="list-style-type: none"> Although, the TCI does not have any local financial institution, with foreign branches and/or subsidiaries, TCI should consider including regulations pertaining to possible TCI financial institutions' subsidiaries in foreign jurisdictions. Particularly in light of the envisioned growth of the financial services industry. 	<p>The Anti-Money Laundering and Prevention of Terrorist Financing Regulations contain provisions for the application of the Regulations outside of the Islands. Specifically Regulation 10 provides that a branch or subsidiary of relevant financial business located in or incorporated in a country outside the Islands shall comply with the regulations and Code, to the extent that the laws of that country permit.</p> <p>Section 6 of the Code requires all branches and subsidiaries to be compliant with the established policies systems and controls.</p>
23. Regulation, supervision and monitoring	PC	<p>The integrity component to the "fit and proper" testing of relevant persons is not clearly specified by the FSC.</p> <p>There was no evidence that Collective investment Schemes' Core Principles (IOSCO) apply for Mutual Funds in TCI.</p> <p>The recently enacted legislative framework providing for the licensing and supervision of MVT is not yet effective.</p>	<ul style="list-style-type: none"> The FSC should develop clear procedures for the assessment of integrity of relevant persons, as part of its execution of the "fit and proper" testing requirement. The TCI should consider the relevance of including collective investment schemes "Core Principles" in their supervisory framework. The TCI should develop an approach and set clear terms for the effective implementation of the recently enacted MTO. In this regard, the TCI should consider its resources and where required take action to support an effective implementation of a supervisory regime for MVTs 	<p>The FSC has issued fit and proper guidelines to the industry which covers these matters.</p> <p>The FSC is currently considering including these principles in its supervisory framework.</p> <p>The MTO is now effective with an established licensing regime which continues to grow.</p> <p>The FSC will be including collective investment schemes 'Core Principles' in their supervisory framework. The FSC is also actively working on its membership into IOSCO, which the TCI hopes will be considered soon by IOSCO.</p> <p>The FSC is currently in the process of reviewing its securities legislation to bring it up to standard with IOSCO Core Principles and other internationally accepted best practices. A first draft of the legislation has been prepared however, it is recognized that a significant amount of work remains to be completed on the Bill itself and on the drafting of subsidiary legislation to compliment the Bill. Further, once this work has been completed the Bill has to undergo a period of consultation with the Industry. This is a lengthy process, which is anticipated to be completed ambitiously, by the end of the first quarter of 2013 (March 2013). Additionally, the Money Transmitters Ordinance has been fully implemented. There are</p>

				currently four licensed Money Transmitters. Of this number, one licensee was inspected last year and 2 licensees have undergone onsite inspections since the beginning of this year. The FSC's Banking department has noted that it expects all Money Transmitters to have completed their risk assessment by the end of the financial year 2013. Detailed AML/CFT guidance for Money Transmitters is set out in the AML/PTF Code. Formal reporting for Money Transmitters was introduced in September 2010 with the mandatory reporting process commencing as at the end of the last quarter in 2010. Money Transmitters must report on and complete financial returns and supplemental reports which show inter alia, the largest transaction, the number of transactions and the value of transactions for each month in a quarter both for funds sent as well as for those received. Additionally, there are two other supplemental filings which require information on all single and aggregate transactions above USD \$5,000 in any one month for funds sent as well as for those received.
24. DNFBP - regulation, supervision and monitoring	NC	<p>No implementation plan in place addressing the relevant issues pertaining to the effective implementation of an AML/CFT oversight regime for the gaming industry.</p> <p>The due diligence performed on entities requesting a gaming license is not formally established, nor is it clear that all key personnel are subjected to scrutiny for the purpose of granting a gaming license.</p> <p>TCI authorities have not appointed oversight body(ies) that is/are responsible for monitoring compliance with AML/CFT rules and regulations by DNFBPs (except for trust and company service providers that fall under the supervision of the FSC).</p> <p>No effective implementation of the enforcement regime for DNFBPs.</p> <p>The Gaming Inspectorate does not have the ability to disclose information to overseas regulators and to domestic regulators.</p>	<ul style="list-style-type: none"> • TCI should draw up an implementation plan, for the AML/CFT supervisory regime for casinos. This plan should address the following: <ul style="list-style-type: none"> ◦ Who is responsible for the training of gaming inspectors in the area of AML/CFT compliance oversight; ◦ Who is responsible for informing the relevant sector of the AML/CFT changes and the respective implications for the relevant sector; ◦ Who is responsible for training of the gaming industry in the introductory phase; ◦ What are the tools required for an effective oversight of the industry's compliance with AML/CFT laws and regulations; ◦ Where necessary resources should 	<p>This is to be considered by the MLRA at its meeting scheduled for September 2011.</p> <p>Casinos are now covered in the definition of financial business in the Anti-Money Laundering and Prevention of Terrorist Financing Regulations.</p> <p>POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now include a regime for non-financial business persons.</p> <p>The MLRA has requested that a documented plan be produced for the AML/CFT supervisory regime for casinos which should include training of gaming inspectors, resources for the gaming inspectorate and oversight of the industry, cooperation with international authorities.</p> <p>The Gaming Inspectorate and the Permanent Secretary, Finance attended the September 2011 meeting of the MLRA and both were briefed on the recommended improvements and provided with copies of the relevant documents and information. The Permanent Secretary, Finance agreed to place the required improvements to the Gaming Inspectorate on the agenda of the Ministry of Finance' work plan so</p>

		.	<p>be sought to appropriately equip the Gaming Inspectorate for the effective AML/CFT oversight tasks.</p> <ul style="list-style-type: none"> • The due diligence process performed for the granting of a Gaming license should be formalized and TCI Authorities should determine the risk areas within gaming establishments and require that key personnel responsible for these risk areas be assessed by the Gaming Inspectorate. • The Gaming Inspectorate should possess the ability to disclose information to overseas regulators and to share information with domestic regulators. • TCI Authorities should appoint an oversight body for each of the category of DNFBPs (same oversight body might also supervise more than one category of DNFBP) in order to determine effective compliance by regulated entities with applicable AML/CFT laws and regulations. • Continuing on the effective compliance with laws and regulations, the oversight bodies have the responsibility to enforce sanctions where situations of non-compliance with AML/CFT laws are observed. In this regard, reference is made to section 3 where recommendations have been made relative to the AML/CFT non-compliance sanctioning/enforcement regime in place. 	<p>that they can be prioritised in the Government's budget for the new financial year.</p>
25. Guidelines & Feedback	NC	<p>The FSC has not issued any guidance relative to trends and typologies in ML/FT.</p> <p>The FSC has not promoted the issuance of lists containing names of terrorists and terrorist organizations to provide for FT screening of clientele by financial institutions.</p> <p>Other than the Code that provides general instructions</p>	<ul style="list-style-type: none"> • The FCU should provide more feedback to regulated entities in order to increase their capacity to detect and deter ML and TC practices. • TCI Authorities should consider contacting and working together with the relevant DNFBP's that have recently been included in the AMLR towards the implementation of 	<p>Typologies and risk trends are published on a regular basis in the local press – copies of which were supplied to evaluation team.</p> <p>The industry is small and in practical terms the head of the FCU liaises directly with compliance officers.</p> <p>Typologies and risk issues are also published on the FCU website – as pointed out to the evaluation team.</p>

	<p>to regulated sector, DNFBP's have not been provided with specific guidelines that address the respective industries' challenges in the implementation of an AML/CFT compliant regime.</p> <p>The FCU is currently not issuing reports on statistics, trends and typologies related to ML and TF to regulated entities</p> <p>Except for the Trust and Company Service Providers there is no effective AML/CFT framework in place for DNFBPs, consequently, STRs are currently not being filed by DNFBPs.</p> <p>Lack of training of the DNFBP sector is a major shortcoming in the process of implementing the new legislative framework that addresses the AML/CFT requirements for DNFBPs.</p> <p>The guidance provided so far to DNFBPs with regard to the introduction of the new AML/CFT requirements is insufficient.</p> <p>No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.</p>	<p>a framework for compliance with the established AML/CFT rules and regulations, including the reporting of STRs.</p> <ul style="list-style-type: none"> Guidelines should be issued, trainings should be provided and assistance should be given to the relevant DNFBPs to establish compliance with the new applicable AML/CFT requirements. The FSC should consider issuing trend and typologies relative to ML/FT schemes in order to increase awareness amongst industry practitioners and thereby increase their ability to effectively identify ML/FT activities. The FSC should provide for more guidance in the combating of the financing of terrorist. In this regard, the FSC should consider issuing lists/ information on terrorists and terrorist organization to regulated entities. The regulated entities will then be required to assess their client base against the relevant information. The FSC should make the appropriate adjustments in its structure, in order to increase productivity in the issuance of report of findings resulting from on-site examinations. The FSC should provide follow up to deficiencies identified and keep statistics on the outcome of these follow up actions. The FSC should establish instructions provided to regulated entities in general in writing in order to increase transparency of policy, enforceability and structural compliance with these instructions. TCI Authorities (oversight bodies) should consider issuing sector specific guidelines that deal with the relevant issues pertaining to the specific sectors and disregard requirements that are not applicable 	<p>At the April 2012 meeting of the MLRA, the FCU raised a concern about an apparent trend of attorneys being used as collection agencies where clients would send their attorneys cheques to deposit into their escrow accounts then simultaneously transferring the funds back to their clients is being watched. The FCU has send out a public notice warning the relevant persons and had also sent off a press release. The MLRA recommended that a notice also be sent to the Bar Council and the governing body of that self-regulating industry.</p> <p>The FCU agreed to provide quarterly reports on trends and typologies to the MLRA.</p> <p>Statistics were published by the MLRA and FCU in MLRA Annual Report for 2009 and 2010 in compliance with the POCO.</p> <p>The FSC has recently undergone an organizational review. The final report has already been approved by the FSC Directors and the FSC has commenced implementation of the report on a phase basis. Over the last year, the staff compliment in mid to senior level positions has increased by over 5 persons.</p> <p>The Governor attended a 'National Promotion Plan' workshop organised by the Financial Services Commission on Tuesday 8 May 2012. The event drew together representatives from the financial services industry, government officials, and an international expert from the British Virgin Islands to discuss ways of working together to better promote the TCI financial services sector and to provide opportunities for growth in the future.</p> <p>The workshop concluded with the formation of a joint industry-government co-ordinating committee for promotion of the financial services sector that will meet on a regular basis. The main aim of the committee will be to effectively represent the sector as it seeks to develop its product base and attract new clients to the Turks and Caicos Islands. The representation of both government and the private sector on the committee offers the opportunity to draw together policy ideas</p>
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			<p>considering the structure of the industry and/or the risks that the relevant industry activities impose.</p> <ul style="list-style-type: none"> • TCI Authorities and specifically the regulatory body for the specific industries once appointed should issue specific guidelines that address the respective DNFBPs industries' challenges in the implementation of an AML/CFT compliant regime. 	<p>and identify and overcome barriers to progress.</p> <p>Governor Damian Roderic Todd acting as Minister for Finance said that the committee would “should be aiming to build the image of the Turks and Caicos Islands financial services sector, as:</p> <ul style="list-style-type: none"> • An attractive, profitable place to do business; with, • A transparent regulatory system that fully meets international standards; and, • With the infrastructure to support future growth.” <p>The FSC has improved its onsite procedures to provide follow-up on deficiencies and continued monitoring.</p> <p>A new Part VIII has been added to POCO which provides for supervision and enforcement. The following new sections are relevant:</p> <p>Section 148F(2) provides for the appointment of a NRFB Supervisor (i.e. Supervisor for non-regulated financial businesses). This will be the new DNFBP Supervisor.</p> <p>Section 148F(3) sets out the responsibilities of the supervisory authority (i.e. monitoring compliance and taking enforcement action).</p> <p>Section 148H provides for the registration of non-regulated financial businesses.</p> <p>Section 148I enables the NRFB Supervisor to undertake compliance visits.</p> <p>Sections 148J to 148P set out the various types of enforcement action that can be taken by the NRFB Supervisor against non-regulated financial businesses. This includes disciplinary action, which is the imposition of an administrative penalty.</p> <p>Section 148 Q provides the NRFB Supervisor with the power to require information and the production of documents.</p> <p>The new sections 148F to 148Q therefore establish a</p>
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				<p>strong enforcement regime with respect DNFBPs.</p> <p>MLRA has directed that sector specific guidelines for financial institutions and DNFBPs be completed by the end of April 2011. This was tabled for further consideration at the MLRA's meeting in September 2011.</p> <p>The FSC is currently reviewing its supervisory capacity with a view to ensuring that it secures the necessary resources to effectively implement a DNFBP regulatory regime. Once this has been established the FSC anticipates greater contact with this sector to better implement a framework for AML/CFT compliance and STR Reporting. Training will be conducted with various stakeholders in this sector by the end of the first quarter of 2013 (March 2013) to assist in establishing compliance the new framework. Additionally, work is to commence on the issuing of guidelines for this sector. This work should be completed by April 2013. The FSC anticipates updating its website to provide links to lists and information on terrorist which is published periodically by the UNSC and other reputable body by August 2012. A notice advising all financial institutions of the publication and the requirement to assess their client base against the list, will be circulated in tandem with the availability of the information on the FSC's website. The FSC is also currently reviewing the need for sector specific guidelines and will attempt to source relevant technical assistance to implement this initiative including guidelines relating to DNFBP's. Provided that the FSC is able to source technical assistance for this project by the end of the third quarter of this year (September 2012) it would anticipate completing this work by March 2013.</p> <p>MLRA with the assistance of FCU will ensure that adequate feedback is given on STRs, typologies and trends.</p>
Institutional and other measures				
26. The FIU	PC	The FCU does not appear to have full operational independence and autonomy.	<ul style="list-style-type: none"> The Head of the FCU should be afforded more operational independence particularly with regard to matters such as staff 	These matters are under review; however, the head of the FCU has full operational independence when dealing with SAR's. The head of the FCU carries out all staff

		<p>The FCU has not provided sufficient guidance to financial institutions and other reporting parties regarding the reporting of STRs.</p> <p>The FCU has not provided feedback to reporting parties in a formalized and timely manner. The FCU does not release periodic reports which include statistics on STRs, trends and typologies within the sector and an update of its activities.</p> <p>The building which houses the FCU does not appear to be properly secured.</p>	<p>recruitment and budget management.</p> <ul style="list-style-type: none"> • The FCU should provide guidance to relevant parties on the revised procedures for reporting STRs. • The FCU should provide feedback to reporting parties in a formalised and timely manner. • The FCU should produce and periodically release its own monthly reports which should contain statistics on STRs, trends and typologies within the sector and an update on its activities. • The security of the building which houses the FCU should be addressed as a matter of urgency. 	<p>recruitment.</p> <p>The MLRA's sub-committee looking at the creation of a fully independent FIU/FCU under stand alone legislation continues with it's work and reported to the MLRA at its meetings in December 2011 and April 2012.</p> <p>Typologies and risk trends are published on a regular basis in the local press – copies of which were supplied to the evaluation team.</p> <p>Every SAR is responded to with a strategy within most cases 24 hours. Successful outcomes of investigations are also reported.</p> <p>The industry is small and in practical terms the head of the FCU liaises directly with compliance officers.</p> <p>Typologies and risk issues are also published on the FCU website – as pointed out to the evaluation team.</p> <p>Statistics were published by the FCU in the annual report for the last calendar year and new statistics are now being prepared.</p> <p>While TCI is a low risk crime country the FCU is situated on the top floor of a converted hotel which otherwise houses the police. In addition to the steel door in place at the entrance to the office. Further steel doors have been erected at both ends of the corridor housing the unit. Unwanted visitors would now need explosives to enter.</p> <p>The MLRA at its meeting in January 2011 directed the FCU to produce and periodically release its own monthly reports which should contain statistics on STRs, trends and typologies within the sector and an update on its activities.</p>
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27. Law enforcement authorities	C	This Recommendation is fully observed.		
28. Powers of competent authorities	C	This Recommendation is fully observed.		
29. Supervisors	PC	<p>Written reports of findings resulting from on-site examinations of banking and insurance companies have not been issued to the respective companies.</p> <p>The report of findings relative to on-site examinations of the trust and company service providers industry have not been issued consistently (backlog).</p> <p>The FSC is limited in its potential to give follow up to deficiencies identified during on-site inspections.</p> <p>The FSC does not provide for sufficient written instruction to regulated entities.</p> <p>The FSC does not have the authority to impose financial sanctions independently (summary of convictions required)</p>	<ul style="list-style-type: none"> The Registrar of Insurance and the Registrar of Co-operative Societies should have adequate powers of enforcement and sanction against financial institutions and their directors or senior management for failure to comply with AML/CFT requirement. 	<p>POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now empowers the NFBP Supervisor to impose administrative sanctions on NFBPs.</p> <p>The Financial Services (Financial Penalties) Regulations came into operation on October 29, 2010. The regulations inter alia, provide the FSC with the authority to impose financial sanctions independently.</p>
30. Resources, integrity and training	NC	<p>AML/CFT related training is lacking at the Gaming Inspectorate</p> <p>Funding for the Gaming Inspectorate is dependent upon government funds (Ministry of Finance)</p> <p>The FSC is not properly structured. The current structure imposes a risk for conflict of interest.</p>		<p>The MLRA has recognized the need for an action plan with regard to the Gaming Inspectorate. In keeping with this Senior Officials from the Gaming Inspectorate and the Permanent Secretary, Finance attended the meeting of the MLRA held in September 2011.</p> <p>The Permanent Secretary, Finance agreed to place the required improvements to the Gaming Inspectorate on the agenda of the Ministry of Finance' work plan so that they can be prioritised in the Government's budget for the new financial year.</p>

		<p>Insufficient staff at the FSC to execute additional tasks pursuant to legislative changes, reference is in this regard made to the enactment of the MTO.</p> <p>The FCU lacks full operational independence and autonomy as it is one (1) of six (6) Departments within the overall TCI Police Force and does not have its own budget allocation.</p> <p>AML/CFT training for staff of competent authorities with few exceptions have not been adequate. AML/CFT training has not been provided to the judges, magistracy and court personnel. Only recently have staff of most of the competent authorities been sufficiently trained in ML/FT matters.</p> <p>Law enforcement agencies operate with clear monetary and manpower constraints. The Immigration Department in particular suffers from severe staffing constraints exacerbated by onerous illegal immigrants' issues.</p>		<p>The annual budget preparations are underway in the Islands and the MLRA, at its meeting held in April 2012 requested that a letter be sent to the new Permanent Secretary, Finance seeking a report on what progress has been made and the creation of an action plan for the Gaming Inspectorate.</p> <p>As a result of a process of organizational review, the FSC has reviewed existing posts, and created new posts. Some of these have been filled and it is anticipated that others will be filled shortly.</p> <p>The head of the FIU has full operational independence when dealing with SAR's. The head of the FCU carries out all staff recruitment.</p> <p>Judges and Magistrate underwent AML/CFT training during the latter part of 2009.</p> <p>There is serious strain on the local economy in keeping with the worldwide economic downturn. However, the MLRA is reviewing the situation in order to make appropriate recommendations to the Governor.</p> <p>The FCU/FIU was awarded 2nd place in the Best Money Laundering Case in the worldwide competition among policing agencies. The award was presented in Armenia in early 2012.</p> <p>Four members of the FCU/FIU along with two Customs Officers will participate in a two-week training in financial intelligence and financial investigation in the United Kingdom hosted by the National Police Improvement Agency. The training will take place from 25th May 2012 and is funded by the UK's Foreign and Commonwealth Office. As at the date of this update, two (2) FIU investigators, one (1) Customs officer and one (1) Fraud Unit officer had completed or were completing their training with the others to follow.</p> <p>The FSC's Bank and Trust Department (which also has oversight for money transmitters) and the Head of Insurance and the officer responsible for domestic insurance have been relocated to Providenciales which should ensure that there is adequate oversight and</p>
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				supervision of the relevant industries.
31. National cooperation	PC	<p>Implementation and coordination of local cooperation and efforts by the various units i.e. MLRA, SPICE or of the MOU involving Customs and Police are limited and must be strengthened.</p>	<ul style="list-style-type: none"> The MLRA should play a more active role in local cooperation and coordination and should aim to have a set minimum number of meetings each year, for example, once every quarter. The MLRA should develop and implement policies and activities to combat ML/FT on a regular basis. It is even more desirable for the MLRA to be able to monitor adherence to such policies and to be able to assess the effectiveness of operational systems which have been implemented further to the AML/CFT legislation. Since the Attorney General's Chambers has two distinct departments, the criminal and the civil side, it would be useful for the Principal Crown Counsel as Chief Prosecuting Counsel, to be a part of the MLRA or at the very least to attend some meetings when policy is being formulated or reviews undertaken. The members of the MLRA can agree to appoint persons to assist in the performance of its functions pursuant to section 108(5) of the POCO, and this therefore facilitates the attendance of other persons in the discretion of the MLRA. 	<p>These matters are under review by the MLRA. The MLRA meets frequently and has decided to meet, at a minimum, once every quarter.</p> <p>The MLRA and FSC conducted AML training in May and September 2010 for the industry.</p> <p>The MLRA has now invited the Deputy Attorney General, having overall oversight of the various departments of the Chambers as well as the Deputy Director of Public Prosecutions (designate), a Senior Crown Counsel, Civil as well as the Principal Legislative Drafter. This decision was recently affirmed at the meeting of the MLRA held in April 2012.</p> <p>The MLRA is developing and seeking to implement policies and activities to combat ML/FT on an ongoing basis.</p> <p>In a joint investigation between the Customs Department and the FCU/FIU, \$28,000 was intercepted by the Customs Department whilst being smuggled into the Islands without being declared and concealed in luggage.</p>
32. Statistics	PC	<p>The TCI does not review the effectiveness of its systems for combating money laundering and terrorist financing on a regular basis.</p> <p>Comprehensive statistics are not maintained by all competent authorities</p> <p>No data had been provided regarding AML/ CFT on-site examinations of financial institutions and, where appropriate, sanctions relative thereto.</p>		<p>The TCI has instituted a system for more comprehensive statistics. This has been reflected in the MLRA Annual Report for 2010. The 2011 Report was delayed to the technical problems but should be released shortly.</p>
33. Legal persons–beneficial owners	PC	<p>There is no evidence that any training occurred on matters relative to legal persons including the revised procedure for reporting of suspicious transactions.</p>	<ul style="list-style-type: none"> The TCI Authorities should develop guidelines that financial institutions must follow in the event that issued bearer shares 	<p>The FSC produced a paper on bearer shares including considerations on whether they should be prohibited or whether greater restrictions should be placed on them. The</p>

		The deficiencies identified in Rec. 5 with regard to beneficial ownership apply equally to Rec. 33.	<p>in a company for which they represent are held outside the TCI.</p> <ul style="list-style-type: none"> The FSC should develop procedures to deal with instances where bearer shares are held by an institution outside the TCI and where the TCI licensed Company Manager or Company Agent is required to submit a certificate issued by an authority as prescribe in 32E of the Companies Ordinance. The FCU should ensure that all legal persons are made aware of the requirements of the POCO and the Code regarding the procedure for reporting suspicious transactions. 	<p>MLRA reviewed that paper and directed that the paper be circulated among the industry for comment.</p> <p>The public consultation is concluded and the results have been tabled at the meetings of the MLRA in December 2011 and April 2012 but no decision has been taken to date on this issue.</p> <p>The FCU/FIU conducted AML/CFT training for the staff of the International Banking Group on 19th April 2012.</p>
34. Legal arrangements – beneficial owners	PC	<p>Persons associated with Legal Arrangements do not appear to be aware of the revised protocol for reporting suspicious transactions.</p> <p>There is no evidence that the FCU held training sessions on matters relative to Legal Arrangements.</p> <p>The deficiencies identified with regard to beneficial ownership at R5 apply to trustee services.</p>	<ul style="list-style-type: none"> The FCU should ensure that all persons associated with Legal Arrangements are made aware of the requirements of POCO and the MLRA Codes regarding the reporting of suspicious transactions. The FCU should review its training programme to include AML/ CFT training on matters relative to Legal Arrangements. 	<p>Training was arranged in London UK in September 2009 and again in February 2010 for the Judiciary, Prosecutors and key law enforcement officials.</p> <p>While the FCU is a law enforcement unit and there is some doubt that this falls within their area of responsibility, staff from the FCU have recently given presentations to the money remitters industry and the insurance industry.</p> <p>Now in planning stage for formalized presentation within the remaining industry.</p> <p>The FCU has been directed by the MLRA to ensure that all persons associated with Legal Arrangements are made aware of the requirements of the POCO and the MLRA Codes regarding the reporting of suspicious transactions.</p> <p>The FCU is to review its training programme to include AML/CFT training on matters relative to Legal Arrangements.</p>
International Cooperation				
35. Conventions	PC	The Palermo Convention and the Terrorism Financing Convention have not by extension been ratified on	<ul style="list-style-type: none"> TCI should recommend or propose ratification of the Palermo Convention and the Financing of Terrorism Convention on 	These matters were considered by the MLRA and a decision taken to recommend that a request be made to the UK Foreign Office to have these conventions extended to

		<p>behalf of the TCI.</p> <p>Not all relevant aspects of the Conventions have been implemented.</p>	<p>its behalf to the UK Government; particularly as the TCI has enabling legislation under these Conventions already in place and the UK Government has already ratified the said Conventions on its own behalf.</p>	<p>the TCI.</p> <p>The MLRA is to follow-up on its request to the UK FCO for the ratification of the Palermo Convention and the Financing of Terrorism Convention on behalf of the TCI.</p>
36. Mutual legal assistance (MLA)	PC	<p>Mutual legal assistance will not be provided by the TCI once tax or fiscal matters are involved which do not fall within certain exemptions.</p> <p>The effectiveness of implementation is difficult to assess due to the lack of statistical details.</p> <p>There are no formal administrative procedures except those implemented by the Chief Magistrate further to the MLAO, which would work towards ensuring that assistance would be given in a timely manner.</p>	<ul style="list-style-type: none"> The TCI should consider rendering mutual legal assistance for requests which deal solely or for those portions of the request which deal partially, with tax or fiscal matters. 	<p>TCI has signed sixteen Tax Exchange Information Agreements to date and are in active negotiations with a number of other OECD countries to sign additional TIEAs before the end of the year. An implementation Ordinance was made and brought into force in December 2009. In 2010, Orders giving effect to all of the TIEAs signed by the end of December 2010 were made and letters informing TIEA partner countries that all internal procedures had been completed.</p> <p>The TCI is processing one request for information from Australia.</p>
37. Dual criminality	C	This Recommendation is fully observed.		
38. MLA on confiscation and freezing	PC	<p>There are no administrative arrangements in place for coordinating actions relating to seizure and confiscation actions with other countries, neither are any arrangements in place in relation to the sharing of the assets resulting from such coordinated efforts.</p> <p>The effectiveness of implementation cannot be ascertained.</p>	<ul style="list-style-type: none"> The TCI Authorities should establish administrative guidelines to accompany legislated provisions which permit the rendering of international assistance by the TCI, so as to ensure that international assistance is given in a prompt and efficient manner. Time frames relative to each procedural step, and other administrative details with respect to the execution of international requests, should be formalised in written guidelines or standard operating procedures. Effectiveness should not depend solely on the commitment and efficiency of the entity or persons responsible for executing a request but on formal systems which can monitor and support such efficiency. 	<p>These matters will be tabled for consideration of the MLRA.</p> <p>Law Reform is currently on-going in the country. The MLRA has directed that the mutual legal assistance legislation be reviewed and if necessary new legislation or amendments will be made.</p> <p>The FCU/FIU and the Attorney General's Chambers working with the Government of Taiwan have successfully seized the amount of \$187,000 from a Taiwanese national who was indicted in Taiwan for bribery and illegal arms dealing and transferred funds through the Bahamas into the Islands. This matter arose as a result of a SAR.</p> <p>Additionally, a confiscation order in the amount of \$21 Million dollars was awarded on 25th April 2012 against David Smith, a Jamaican national convicted in relation to a regional 'ponzi scheme' run through his company Olint TCI and other regional companies. This was due to a joint effort between the FCU/FIU and the Attorney General's Chambers. Requests for assistance from Jamaica were not provided but many other countries assisted in this matter.</p>

39. Extradition	C	The Recommendation is fully observed	<ul style="list-style-type: none"> The TCI authorities should seek to have extradition requests transmitted directly from the UK Government to the TCI so as to ensure prompt and early attention to such requests. 	These matters will be tabled for consideration of the MLRA.
40. Other forms of co-operation	PC	<p>No MOUs in place between the FSC and other similar bodies or by the FCU with FIUs which require MOUs for the exchange of information</p> <p>It cannot be ascertained whether assistance by certain competent authorities including the Attorney General's Chambers and the FSC ,was given in a rapid, constructive and effective manner due to lack of statistical detail.</p> <p>Considerations which apply under the FSCO before regulatory assistance is given are onerous when taken conjunctively.</p>	<ul style="list-style-type: none"> The TCI Authorities should stipulate specific standard operating procedures inclusive of targeted time frames with regard to the execution of requests for assistance received by foreign competent authorities. The FSC should consider entering into MOUs with other foreign supervisory authority to ensure that the exchange of information to combat ML/FT can effectively be executed with other foreign jurisdictions. 	<p>The FSC Ordinance 2007 adequately allows for the exchange of information with foreign regulators. In 2009 the FSC dealt with four requests. These were handled expeditiously and no problems were encountered. The FSC is currently well advanced in negotiating MOU's with a number of jurisdictions.</p> <p>The FSC has now entered into five MOUs with foreign supervisory authorities including Canada, Panama, the Cayman Islands, Jamaica and a multinational MOU with several regional jurisdictions. The MOUs are posted on the FSC's website.</p> <p>The 2009 Tax Information Exchange Ordinance (as amended) also provides a regime for the exchange of information between competent authorities for tax matters.</p>
9 Special Recommendations				
SR.I Implement UN instruments	PC	The Terrorist Financing Convention has not been ratified or fully implemented.	<ul style="list-style-type: none"> All the provisions of the United Security Council Resolutions should be fully implemented, for example, authorising access to frozen funds for the purpose of meeting the defendant's basic expenses and certain fees in accordance with UNSCR 1452. 	<p>The MLRA has already agreed to request the extension of relevant sections of the UK Terrorist Financing Act and that was done by the UK Order in Council.</p> <p>Stand alone legislation on CFT is to be produced. Provisions in line with the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism will be included.</p>
SR.II Criminalize terrorist financing	PC	<p>Penalties for terrorist financing offences at the summary level are lenient.</p> <p>The elements of directing terrorism as required by Article 2(5) of the Terrorist Financing Convention, are undefined in the laws of the TCI.</p> <p>Inconsistent mens rea requirements for terrorism</p>	<p>I. The TCI Authorities should review the penalty for terrorism and terrorist financing offences at the summary level to determine whether it accords the spirit and intent of the anti-terrorism legislation and indeed if these sanctions are in fact effective punishment and hence sufficiently</p>	<p>The Counter-Terrorism (Terrorist Financing, Money Laundering and Certain Other Activities: Financial Restrictions) (Turks and Caicos Islands) Order 2010 came into force on March 18, 2010 and it includes provisions on CDD, reporting, enforcement, inspection, and offences.</p> <p>Comprehensive anti terrorism legislation is hoped to be in place by September 1, 2012 that should bring the</p>

		<p>offences.</p> <p>The effectiveness of the CFT regime is difficult to assess in the absence of any STRs or investigations on FT.</p>	<p>dissuasive.</p> <ul style="list-style-type: none"> Directing terrorism as an offence should be defined in the laws of the Turks and Caicos Islands. The TCI Authorities should consider amending the mens rea requirement for the offences in the Terrorism UN Order and the Al Qa'ida Order so that they are consistent with the description set out in the Anti-Terrorism Order. 	TCI into full compliance with SR II.
SR.III Freeze and confiscate terrorist assets	LC	<p>Ineffective implementation of a strong CFT regime:</p> <ul style="list-style-type: none"> no formal or administrative provisions to ensure that freezing of funds and assets will be carried out without delay; no procedures which apply directly to persons inadvertently affected by freezing orders; no procedures for authorizing access to frozen funds for incidental costs or expenses; and <p>no clear procedures for the communication of lists of suspected terrorists to the financial sector.</p> <p>De-listing procedures are not publicly known.</p>	<ul style="list-style-type: none"> The TCI should establish administrative systems, which complement the CFT legislative framework, such as standard operating procedures which outline time frames for certain processes to take place. Clear administrative guidelines as to who has responsibility for the lists of suspected or named terrorist and whether such lists are in fact circulated in the TCI in order to alert financial institutions of suspected terrorist whose accounts they may be holding, should be implemented. The TCI should also provide for authorizing access to frozen funds and assets for the payment of incidental expenses when a freezing order is made and a person inadvertently affected by a freezing order should have a clear process of redress. 	<p>The Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order 2011 which came into force on March 31, 2011 and extended Part 1 of the UK Terrorist Asset-Freezing etc. Act 2010 and Part 1 of Schedule 2 to that Act to the Turks and Caicos Islands. Under sections 2 and 6 of the Act as modified by the Order the Governor is responsible for designating persons connected to terrorist activities and provides a regime for notification of designations under sections 4 and 7. Access to frozen funds and assets may be done by the issue of a license issued by the Governor under section 17. Section 27 provides a procedure whereby any person affected by a decision pursuant to the Act (other than a designation) may seek redress.</p> <p>The TCI Authorities will keep this matter under review but are of the view that the POCO amply covers the freezing of funds for any criminal conduct. The Proceeds of Crime (Amendment) Ordinance 2010 amends Part III of POCO to provide for the recovery of instrumentalities intended for use in or in connection with <u>unlawful conduct</u> through civil forfeiture. It includes new sections on freezing orders</p> <p>Stand-alone legislation on CFT is to be produced. Consideration is being given to having such a provision covered in the new legislation.</p>
SR.IV Suspicious transaction reporting	PC	<p>The awareness amongst financial institutions for the misuse of TCI's financial system for the financing of terrorist is low thereby affecting the effectiveness of the CFT regime.</p>	<ul style="list-style-type: none"> The reporting of STRs with regard to terrorism and the financing of terrorism should include suspicion of terrorist organisations or those who finance 	<p>These matters are for ongoing consideration of the MLRA. However, the MLRA has already agreed to request the extension of relevant sections of the UK Terrorist Financing Act.</p>

			<p>terrorism.</p> <ul style="list-style-type: none"> The obligation to make a STR related to terrorism should include attempted transactions. 	<p>Counter-Terrorism (Terrorist Financing, Money Laundering and Certain Other Activities: Financial Restrictions) (Turks and Caicos Islands) Order 2010 came into force on March 18, 2010 and it includes provisions on reporting.</p> <p>Section 29 of the Code provides for the reporting of STR's where there are reasonable grounds for suspecting that a person is engaged or attempted to engage in terrorist financing.</p> <p>The proposed new comprehensive anti terrorism legislation is hoped to be in place by September 1, 2012 that should bring the TCI into full compliance with SR II including provisions to require the reporting of STRs with regard to terrorism and the financing of terrorism and suspicion of terrorist organisations or those who finance terrorism and to include an obligation to make a STR related to terrorism cover attempted transactions.</p>
SR.V International cooperation	LC	<p>There are no formal administrative procedures which have been established to ensure mutual legal assistance is given in a timely manner.</p> <p>Deficiencies noted with regard to Recs. 36 and 38 are also applicable to this Recommendation.</p>		<p>These matters will be tabled for consideration of the MLRA.</p> <p>Stand-alone legislation on CFT is to be produced. These issues are being considered for inclusion in the Bill.</p>
SR.VI AML requirements for money and value transfer services	PC	<p>Money service providers have not yet been licensed within the TCI.</p> <p>The AML/CFT legislative framework applicable to money service providers has not been effectively implemented.</p> <p>The deficiencies noted with regard to Rec. 5 as it pertains to customer identification such as lack of proper beneficial ownership requirements; Rec. 6 PEPs and Recs. 11 and 21 transaction monitoring also apply to money service providers.</p>	<ul style="list-style-type: none"> The FSC should establish contact with the money service providers' industry, to start the licensing process of the relevant companies. The FSC should assess the current level of compliance with AML/CFT rules and regulations by the money service provider and develop a plan to improve the current compliance level. The FSC should develop guidelines, issue instructions and provide for training to guide money service providers into the effective execution of their responsibilities under the recently enacted AML/CFT legislative framework. 	<p>The licensing of money service providers is ongoing</p> <p>A unit within the FSC's Banking Department has been created and is responsible for the effective implementation of money service providers under the legislative framework.</p> <p>POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now include a regulatory regime for NFBPs and a NFBP Supervisor.</p> <p>FSC has started the process of assessing the current level of compliance with AML/CFT rules and regulations by the MSP's and is developing a plan to improve the current compliance level.</p> <p>The FSC has provided training to guide MSP's into the</p>

			<ul style="list-style-type: none"> In order to execute the abovementioned, the FSC should appropriately resource a department within the Commission that is responsible for the effective execution of the MTO. 	<p>effective execution of their responsibilities under the recently enacted AML/CFT legislative framework. This is training was conducted in September 2010.</p> <p>The FSC has commenced a programme of onsite reviews of Money Transmitters and during the financial year ending March 31, 2012 it conducted two (2) onsite examinations. A component of these examinations related to the licensees AML/CFT compliance. The Management Report produced by the FSC sets out recommendations to improve compliance levels and states timelines by which these must be achieved.</p>
SR.VII Wire transfer rules	NC	<p>There are no measures in place to cover domestic, cross-border and non-routine wire transfers.</p> <p>There are no requirements for intermediary and beneficial financial institutions handling wire transfers.</p> <p>There are no measures in place to effectively monitor compliance with the requirements of SR VII.</p>	<ul style="list-style-type: none"> It is recommended that the TCI review its legislative and regulatory provisions to take consideration of all requirements of the recommendation particularly domestic, cross-border and non-routine wire transfers. Additionally, TCI should review its legislative and regulator framework to ensure that there is monitoring of compliance by financial insinuations and the implementation of effective, proportionate and dissuasive sanctions for non compliance with SR VII. Appropriate legislation should be enacted as soon as possible. 	<p>POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now includes a regulatory regime for NFBPs and a NFBP Supervisor.</p> <p>Part 9 of the Code gives effect to SRVII concerning wire transfers.</p>
SR.VIII Nonprofit organizations	NC	<p>TCI Authorities have not addressed the non-profit organizations that can be used for FT purposed in their legislative framework.</p> <p>There is no requirement for NPOs to maintain information on the nature of their activities or on the persons who control or direct their activities and to make this information available to the public.</p> <p>There are no sanctions against non-profit organisations for failure to comply with AML/CFT measures.</p> <p>There is no requirement for NPOs to maintain relevant information on domestic and international financial transactions for at least five (5) years and make such information available to the law enforcement authorities.</p>	<ul style="list-style-type: none"> TCI should consider the review of their legislative framework to provide for laws and regulations that relate to counter arrest the possible abuse of NPOs for the financing of terrorism. The TCI Authorities should ensure that regulatory bodies make their regulated entities vigilant of the risks for abuse of non-profit organizations for the purpose of financing terrorism. NPOs in the TCI should be required to maintain information on the purpose and objectives of their stated activities and on the persons who own or control or direct those activities and make such information available to the public. The TCI Authorities should ensure that there are sanctions in place against NPOs that do 	<p>A new section 148S has been added to POCO which provides for the appointment of an NPO Supervisor.</p> <p>A Bill on NPOs was drafted by the EU funded Law Revision Project currently underway in the TCI. The Bill includes sanctions against NPOs that do not comply with AML/CFT oversight measures.</p> <p>Working with the FSC, the FCU is to ensure that all NPOs are made aware of the revised procedures for reporting suspicious transactions.</p>

		<p>No measures to ensure that NPOs can be effectively investigated and that required information can be gathered.</p> <p>Regulatory bodies have not issued any guidance notes to regulated entities to increase awareness for the relevant risks of non-profit organizations as FT vehicles.</p> <p>The FCU has not provided any guidance to NPOs regarding the reporting of suspicious transactions.</p> <p>There has not been any training for NPOs.</p> <p>There is no point of contact with regard to obtaining international requests for information on NPOs.</p>	<p>not comply with AML/CFT oversight measures.</p> <ul style="list-style-type: none"> NPOs should be required to maintain the relevant required information on domestic and international financial transactions for a minimum period of five (5) years and make such information available to the relevant law enforcement authorities such as the FCU. The FCU should ensure that all NPOs are made aware of the revised procedures for reporting suspicious transactions. The FCU should revise its training programme to include AML/ CFT training for NPOs. A specific point of contact should be established with regard to international request for information on NPOs. 	<p>All known NPO's are aware of their responsibilities.</p>
SR.IX Cash Couriers	NC	<p>The recently enacted POCO has had no time to be effectively implemented.</p> <p>The Immigration Department has not established any MOUs with its counterparts abroad.</p> <p>There are no provisions for Authorities in the TCI to notify other countries when there is unusual movement of gold, precious metal and precious stones from their jurisdictions.</p>	<ul style="list-style-type: none"> The Immigration Department should seek to establish MOUs with Immigration Departments in other jurisdictions. The TCI Authorities should notify other countries when there is an unusual movement of gold, precious metals or precious stones from their jurisdictions 	<p>These matters are under review by the relevant Department.</p> <p>The MLRA at its January 2011 meeting recommended that the Immigration Department should seek to establish MOUs with Immigration Departments in other jurisdictions and that the Customs Department should notify other countries when there is an unusual movement of gold, precious metals or previous stones from their jurisdictions. This is being kept under review by the MLRA.</p>