CARIBBEAN FINANCIAL ACTION TASK FORCE

Eleventh Follow-Up Report

Turks & Caicos Islands

December 3, 2014

TURKS & CAICOS ISLANDS: ELEVENTH 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 (3rd MER). The 3rd MER 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 10th follow-up report (FUR) at the May Plenary in Miami. It was determined that the Turks & Caicos Islands would be required to report at the November 2014 Plenary in El Salvador. Based on the review of actions taken by the Turks & Caicos Islands since its last follow-up report, a recommendation would be made as to whether the Turks & Caicos Islands would remain on enhanced follow-up or be placed in 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 owners0	R. 25 (Guidelines and feedback)
R. 34 (Legal arrangements – beneficial owners)	R. 30 (Resources)
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 organizations0
	SR. IX (Cash couriers0

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 ($000)

		Banks	Other Credit Institutions	Securities**	Insurance**	TOTAL
Number of institutions	Total #	7	N/A	7	19	33
Assets	US$	1,808,704	N/A	623,041,791	38,943,000	663,793,495
Deposits	Total: US$	1,075,291	N/A	623,041,791	15,085,000	639,202,082
	% Non-resident	33% of deposits	N/A	N/A	71.30%	
International Links	% Foreign-owned:	81%* of assets	-	N/A	65.6%	79% of assets
	#Subsidiaries abroad	5	N/A	0	0	5

* With the exception of one (1) licensee all other values were at March 31, 2013
** Reflects information for domestic insurance companies only.

II. Scope of this Report

5. This report will focus on the Turks and Caicos Islands' (TCI) Core, Key and Other Recommendations that were rated 'PC' and 'NC' and for which there are still outstanding Examiners' recommendations. Based on a review of the last report, the following Recommendations will be reviewed: Core and Key R. 1, 26, 35, SR. 1, II and IV. Non-Core and Key R. 12, 15, 20, 24, 25, 29, 30, 32, 33, 34, 38, SR. VII, VIII and IX.

III. Summary of progress made by the Turks & Caicos Islands since May 2014

6. The Prevention of Terrorism Ordinance (No. 9 of 2014) (PTO) was passed in the House of Assembly on May 22nd, 2014 and the Financial Intelligence Agency Ordinance, 2014 was passed by the House of Assembly on June 12th, 2014 and both Ordinances came into effect on October 17, 2014. The PTO is expected to improve compliance with R. 3 and SR. III and V. The Tax Information (Exchange and Mutual Administrative Assistance) (Convention on Mutual Administrative Assistance in Tax Matters) Order, 2014 was made by the Acting Governor on February 4th, 2014 and came into effect on 7th February, 2014. The Order seeks to give effect to the Convention on Mutual Administrative Assistance in Tax Matters as amended by its Protocol (the Convention). The United Kingdom extended the Convention to the Turks and Caicos Islands in August 2013. The Tax Information Exchange (Amendment) Ordinance, 2014 was passed by the House of Assembly on 31st January, 2014 and came into effect on February 7th, 2014. With regard to R. 23, the Authorities noted that IN July 2014, as a result of the good progress made by FSRC, Committee 4 of the International Organisation of Securities Commission (IOSCO) removed

the TCI from the Watch List and as a result, invited the TCI to apply for IOSCO membership.

7. The House of Assembly has also passed the Proceeds of Crime (Amendment) Ordinance, 2014, on June 12th 2014, which also came into effect on October 17, 2014. The Financial Services Commission (Amendment) Ordinance, 2014 was also passed by the House of Assembly and came into effect on February 7th 2014. With regard to enhancing international cooperation under SR. V and improving MLA (R. 36, 37 and 38) the Authorities have indicated that Guidelines on MLA in Criminal and Civil Matters have been drafted and disseminated to the relevant authorities for comments. The Guidelines are currently under review by the various stakeholders. In general, the Guidelines provide guidance for authorities outside the TCI with regard to the process and types of MLA that can be provided by the TCI.

Core Recommendations

Recommendation 1

8. The Proceeds of Crime (Amendment) Ordinance, 2014 amends Schedule 1 para. 3 by deleting the reference to 'directing terrorism' and replacing it with 'a terrorist financing offence'. The newly enacted Prevention of Terrorism Ordinance, 2014 provides for the offence of terrorist financing at sections 9-12 of the Ordinance. Accordingly, there is now an enabling provision for the offence as noted in Schedule 1 of the POCO. Additionally, although 'directing terrorism' has been removed as a Schedule 1 offence, section 46 of the PTO provides for the offence of 'directing terrorist organisation'. The offence carries a penalty on indictment of imprisonment for life. There is no indication from the Authorities that there are enabling provisions in other pieces of legislation with regard to arms trafficking and human trafficking (the POCO, Schedule 1 actually refers to 'people trafficking'). There is substantial compliance with R. 1. However, as a Core Recommendation it is important that the outstanding offences be properly enabled so as to have proper implementation of section 15 of the POCO.

Special Recommendation II

9. The PTO 2014 represents a new enactment to deal with terrorism and terrorist financing. The Examiners' recommendations for SR. II pertained to a review of the penalty for terrorism and terrorist financing at the summary level; defining the offence of directing terrorism in the laws of TCI and giving consideration to amending the mens rea requirement under 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. In the PTO, terrorism is defined at section 3, while the offence of terrorism is at section 44. Section 44(1) prohibits the act of terrorism and makes the contravention of that subsection an offence that is liable to imprisonment for life upon conviction. With regard to TF, section 9 of the PTO addresses the offence, which now only provides for conviction on indictment and a penalty of a fine or a term of imprisonment of fourteen (14) years or both. The amount of the fine has not been specified. The Examiners' recommendation has therefore been addressed through the PTO's criminalisation of terrorism and terrorist financing. On the issue of defining the offence of directing terrorism, this has also been addressed by the PTO as noted above in the discussion on R. 1. Finally, with regard to the mens rea issue, the Terrorism UN Order and the Al Qa'ida Order use a mens rea of 'intent or knowledge' and

proof that there was no ‘knowledge or reason to suppose’ respectively. The PTO uses a mens rea for TF of knowing or having reasonable grounds to suspect. It appears that the application of the Orders and the PTO are compatible with regard to the issue of mens rea. The Examiners’ recommendations have been addressed. SR. II has been fully met.

Special Recommendation IV

10. The PTO is also relevant with regard to compliance with SR. IV. The outstanding recommendation requires that with regard to the reporting of STRs on terrorism and TF, they should include suspicion of terrorist organisations or those who finance terrorism. Disclosures of suspicion of TF are contained at sections 13-16 of the PTO. The requirement to report STRs is mandatory for both sections 13 and 16. Section 13 provides for disclosures by persons whose belief or suspicion came to them in the course of a trade, profession, business or employment, while section 16 provides for disclosure by persons whose knowledge or suspicion came to the person in the course of the business of a financial institution. Section 14 ensures that a person can disclose information to the police without fear of breaching any legal restrictions. There is no requirement to report with regard to suspicion of terrorist organisations. The outstanding recommendation is partially met.

Key Recommendations

Recommendation 26

11. Based on the analysis in the previous FUR, the only recommendation that has not been fulfilled for R. 26 pertains to the operational independence of the FCU. In this regard, the Financial Intelligence Agency Ordinance, 2014 (FIAO) has been passed in the House of Assembly as noted above. This Ordinance establishes the FIA as a body Corporate. The FIA is governed by a Board of Directors, who will consist of no more than five (5) persons who will be appointed by the Governor and will comprise persons having broad experience and expertise in law enforcement, the law, financial services or financial regulation. Additionally, the Chairperson of the Anti-Money Laundering Committee, the Commissioner of Police and the Director of Public Prosecutions shall be ex-officio members of the Board. Pursuant to section 8 of the FIAO, the Board shall manage the affairs and business of the Agency and the Governor can from time to time give the Board general policy directions where such appears to be necessary in the public interest. Board members have a tenure not exceeding three (3) years which is renewable. Section 10 of the FIAO provides the measures for disqualification of Board member. In addition to conviction for a criminal offence and bankruptcy, the members are disqualified if they are a member of the House of Assembly or an employee of Government. The appointment of Members of the Board can be revoked at any time by the Governor or by notice in writing. The Members of the Board, are subject to a confidentiality requirements.

12. The Director, Deputy Director and senior officer of the FIA are appointed by the Board (Sections 20 and 22 of the FIAO). Pursuant to section 22, the Director shall appoint such officers and employees as may be necessary for the proper discharge of the functions of the Agency, however, the terms and conditions of the staff of the Agency are to be determined by the Board. The functions of the FIA are contained at section 5 and provide for a wide range of powers including the receiving analysing and dissemination of information relating to ML and TF and cooperation any other public body, law enforcement authority

(domestic and foreign) and foreign FIUs. With regard to funding, the FIA will be funded by allocations from the House of Assembly and the National Forfeiture Fund. The structure and proposed operation of the FIA as presented in the FIAO appears to provide for an independent and autonomous financial intelligence unit. The actual set up and operation will, in the future provide more insight into whether the FIA is autonomous in operation. R. 26 has been fully met.

Recommendation 35

13. The Authorities have indicated that with the enactment of the PTO, the process to get the UK to extend the Conventions (Palermo and Financing of Terrorism) to the TCI has begun again. Accordingly, the TCI awaits completion of the internal UK procedures in this regard. While R. 35 remains not met, substantial progress has been made with the passage of the PTO.

Special Recommendation I

14. The main deficiency for this SR was the non-implementation of the measure in the Terrorist Financing Convention. However, as noted above, the PTO does make provision for the criminalisation of terrorism and the financing of terrorism (Sections 3, 4 and 9-12) that are in keeping with the Terrorist Financing Convention. SR. I has been fully met.

Other Recommendations

Recommendation 12

15. The outstanding recommendations pertain to defining the role of the Gaming Inspectorate; training for gaming inspectors and the implementation of a mechanism to legally and physically separate the work of legal advisers when their duties relate to financial or real estate transactions. The Authorities have indicated that the draft report noted in the previous FUR was finalized in April 2014, with the MLRA receiving a presentation on it at its May 22nd 2014 meeting. The report contained a number of recommendations for legislation to overhaul the gaming industry and the structure of the body which will regulate the industry. There were also recommendations for making the gaming industry more compliant with the AML/CFT standards. At the Cabinet meeting on July 23, 2014, Cabinet decided that a Gaming Bill will be included in the legislative agenda for 2014. No information has been provided with regard to the separation of work of legal advisors when they act as real estate agents. R. 12 remains partially met.

Recommendation 15

16. As noted in the 10th FUR, the outstanding issues pertain to the inclusion of a reference to CFT in policy manuals, the FSC's role in creating awareness amongst financial institutions with regard to CFT and having a policy for screening all employees and not just relevant personnel. In an effort to assist licensees and DNFBPs in enhancing their compliance functions, the FSC hosted a Compliance Seminar on September 17th, 2014. The Seminar was hosted by The Bahamas Institute of Financial Services, and focused on risk assessments, designing a compliance programme and corporate governance. Guidelines

issued by the FSC as noted in the previous report provide important guidance with regard to internal audit and controls, but does not address any of the outstanding issues. The TCI Authorities have not provided any additional information with regard to the outstanding deficiencies. R. 15 is remains partially met.

Recommendation 20

17. With regard to the assessment of the risk of ML or FT in the construction industry in the TCI, the National Risk Assessment (NRA) Team has determined that it is likely that there is a risk that the construction industry can be misused for ML or TF and has agreed to further consider the issue in conducting its work on the NRA. While the consideration of the level of risks in the construction sector are at preliminary stages; it meets the Examiners' recommendation that consideration be given to such risks in particular. The Authorities also noted the progress made with regard to the Gaming industry report. (See. Discussion above at R. 12). R. 20 is now fully met.

Recommendation 24

18. Compliance with this Recommendation is primarily contingent upon the introduction of a gaming regime. Please see discussion above at R. 12 with regard to the current status of the proposal to address the outstanding issues with regard to the gaming sector. R. 24 remains not met.

Recommendation 25

19. There have been no updates provided for this Recommendation. The outstanding recommendations are as follows: 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 the 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 considering the structure of the industry and/or the risks that the relevant industry activities impose and 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. Other recommendations are partially complied with as noted in the previous FUR. R.25 remains substantially met.

Recommendation 29

20. Compliance with R. 29 remains the same as noted since the fourth follow-up report. See. Discussion in 10th FUR. There is only partial compliance with R. 29.

Recommendation 30

21. The issue of the operational independence of the FCU has been addressed by the enactment of the Financial Intelligence Agency Ordinance, 2014. See. Discussion at R. 26 above. Issues with the Gaming Inspectorate are still being addressed as noted in discussions on R. 12 and 24 above. There have been no other changes with regard to compliance with R. 30. R. 30 remains substantially not met.

Recommendation 32

22. The Authorities have noted the FIU annual reports that present a wide range of statistics relating to AML/CFT and SAR/STRs and international cooperation etc. As noted in previous reports, it is still unclear that comprehensive statistics were being maintained by competent authorities or that there is a review of statistics to determine the effectiveness of the systems to combat ML and TF on a regular basis. R. 32 remains partially met. .

Recommendation 33

23. In the previous FUR it was noted that the TCI had enacted the Abolition of Bearer Shares Ordinance, 2013. As a follow-up to the situation with outstanding bearer shares, the Authorities have indicated that a number of companies that use bearer shares have converted those shares into registered shares. The FSC continues to work on obtaining full compliance (re bearer shares) by both ordinary and exempt companies. The outstanding issues for R. 33 pertained to bearer shares in terms of the development of guidelines for financial institutions to follow and procedures where bearer shares are held outside the TCI. R. 33 remains substantially met.

Recommendation 34

24. There has been no change in the level of compliance with regard to R. 34. , the two issues to be addressed pertain to the FCU ensuring that persons associated with legal arrangements are made aware of the requirements of the POCO and the MLRA with regard to the reporting of STRs and that the FCU should review its training programme to include AML/CFT training on matters relative to legal arrangements. The first issue was partially addressed and the second remains outstanding. Accordingly, R. 34 remains partially complied with.

Recommendation 38

25. The TCI Authorities have stated that Guidelines on Requests for Mutual Legal Assistance in Criminal and Civil Matters to the Turks and Caicos Islands have been drafted and disseminated to the various authorities for comments. The Guidelines provide detailed information on the making of MLA requests, the forms of MLA that the TCI can provide, requests for intelligence, criminal records, information about companies and civil matters. Accordingly, R. 38 has been met.

Special Recommendation VII

26. There are no changes from the previous matrix or FUR. See. 10th FUR discussion. SR. VII remains partially met.

Special Recommendation VIII

27. As indicated in the 10th FUR, The registration and categorizing of NPOs strengthens TCI's NPO sector. The measure does not however address any of the outstanding recommendations which pertain to making regulated entities vigilant with regard to the risk of NPOs, STR training for NPOs; inclusion of NPOs in the FCU's training programmes

and sanctions for NPOs that do not comply with the AML/CFT oversight. The Authorities have currently indicated that as a result of further representations by and consultation with NPOs on August 27, 2014, Cabinet agreed to extend the registration period by three (3) months (from August 30 to November 30, 2014) for NPOs to register with the FSC. The extension is intended to also provide Cabinet with time to consider submissions received from NPOs on the existing NPO legislation and the proposed amendments thereto. The Authorities have noted however that registration with the NPO Supervisor and Election for Continuation in accordance with the Compliance (Amendment) Ordinance continues. SR. VIII remains partially met.

Special Recommendation IX

28. There has been no update in the current measures with regard to SR. IX. Accordingly, the status of SR. IX remains substantially met.

III. Conclusion

29. With regard to compliance with the Core and Key Recommendations, the Turks and Caicos Islands have achieved full compliance with R. 26, SR. I and SR.II. R. 1 is substantially met, while R. 35 is not met but substantial progress has been made (See. Discussion above). With regard to the other Recommendations, R. 20 and R. 38 have achieved full compliance, while R. 25, 33 and SR. IX have been substantially met. R. 12, 15, 29, 32, 34, SR. IV, VII and VIII are partially met; R. 30 is substantially not met and R. 24 and 35 are not met. The Turks and Caicos Islands continue to make good progress towards complying with the outstanding deficiencies. It is recommended that TCI be moved to regular (expedited) follow-up and report back to the May 2015 Plenary.

Legal Systems				
1. ML offense	PC	The exact scope of what the POCO repeals, amends and saves is ambiguous. 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. The FATF 20 Designated Categories of Offences are not fully reflected in the laws of the TCI. 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. The effectiveness of TCI's legal framework is difficult to assess since there have no money laundering convictions since 2002. 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.	• 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.	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. In essence the Control of Drugs Trafficking Ordinance and former Proceeds of Crime Ordinance are repealed. However, transitional provisions keep them in force in respect of matters falling under the former legislation. The offences of "drug trafficking offence" and "money laundering offence" have been defined in the amendments to section 2. 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. 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. Remaining amendments to the POCO call for the enabling provisions for the offences of directing terrorism, arms trafficking and human trafficking listed in Schedule 1 to be clearly defined A draft Human Trafficking (prevention of) Bill produced by an EU funded law review project undertaken in the Islands has been produced and is under consideration as part of the Legislative Agenda for the 2013-2014 financial year. All other recommendations have been fully observed. An EU funded Law Reform Project underway in the TCI was 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. A number of existing legislation was amended as part of the law review and reform exercise and some new laws drafted. These include: • Amendment to the Confidential Relationships Ordinance to tighten the AML/CFT requirements for disclosure is not a breach of confidentiality under that Ordinance; • Amendments to the Proceeds of Crime Ordinance to address the remaining concerns; and • Amendments to the Tax Exchange of Information Ordinance to clarify the remit of the Competent Authority to be able to request and provide information in accordance with the TIEAs. A first draft of the Terrorism Bill 2013 was circulated to members of the MLRA and the Judiciary in August 2013 for consideration. It is hoped that this Bill will be considered by Cabinet in October and the House of Assembly in November 2013 • Part 2 of the Bill deals with offences relating to membership in or support of a proscribed organization (listed in Schedule 1) which is concerned with terrorism. • Part 3 of the Bill makes it an offence to use or possess property or engage in fundraising for the purposes of terrorism and to money launder terrorist property. It also provides a procedure for forfeiture of terrorist property (Schedule 3) which includes the making of restraint orders and enforcement of order made in the United Kingdom and its Overseas Territories and external orders made in other countries • Part 4 is concern with investigating terrorism and includes powers to search premises, cordon an area, the ability to obtain orders production of materials, orders for explanations to be given, and orders to/against a financial institution to provide customer information or for an account monitoring. It also provides that non-disclosure

				of information relating to terrorism, tipping off and interference with material would be offences. • Part 5 of the Bill deals with the power to search, arrest, detain and stop and search. It also provides for the exercise of these powers at ports (Schedule 7). The treatment of persons detained is in Schedule 8 which covers, places of detention, the right to legal advice, identification, fingerprinting and the taking of intimate samples. It also provides a procedure for the review of the detention • Part 6 of the Bill covers further terrorist offences such as weapons training, directing terrorism, possession for terrorist purposes, and collection of information and inciting terrorism overseas. • The MLRA at its January 17, 2014 meeting mandated that a second draft of the Terrorism Bill be prepared by early February. • The MLRA at its February 21, 2014 meeting received second draft of the Terrorism Bill and set up a subcommittee to review and finalise the Bill. • The sub-committee met February 28 and will complete its work by March 5, 2014. A Cabinet Paper is then to be prepared for presentation to Cabinet at its March 12, 2014 and to be laid before the next of House Assembly meeting currently scheduled for the end of March. It is anticipated that the second reading and the remaining stages of the Bill in the House of Assembly would be completed by the end of April 2014. • **The Prevention of Terrorism Ordinance (No. 9 of 2014) was passed in the House of Assembly on May 22nd 2014 and is expected to come into effect shortly.**
2. ML offense–mental element and corporate liability	LC	The penalties for money laundering upon summary conviction are lenient and therefore are not dissuasive sanctions.	• 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	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

		The efficacy of implementation of the anti-money laundering regime is uncertain, particularly in view of the very low incidence of ML prosecutions.	magisterial level to the most trivial of cases	$200,000.

3. Confiscation and provisional measures	LC	Forfeiture or confiscation of instrumentalities intended for use in or used in ML/FT offences are not clearly covered by the POCO.	• 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.	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 unlawful conduct through civil forfeiture. It includes new sections on freezing orders. 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. There are a number of **provisions** that amend various sections in PART III to give effect to the recovery of tainted property. A first draft of the Terrorism Bill 2013 was circulated to members of the MLRA and the Judiciary in August 2013 for consideration. Part 3 of the Bill makes it an offence to use or possess property or engage in fundraising for the purposes of terrorism and to money launder terrorist property. It also provides a procedure for forfeiture of terrorist property (Schedule 3) which includes the making of restraint orders and enforcement of order made in the United Kingdom and its Overseas Territories and external orders made in other countries **The Prevention of Terrorism Ordinance (No. 9 of 2014) was passed in the House of Assembly on May 22nd 2014 and is expected to come into effect shortly.**
Preventive measures				
4. Secrecy laws consistent with the Recommendations	C	This Recommendation is fully observed.		

5. Customer due diligence	NC	There are no requirements in the POCO and AMLR which prohibit financial institutions from keeping anonymous accounts or accounts with fictitious names. 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. No requirement for financial institutions to conduct CDD on legal persons or legal arrangements. 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. No requirement for financial institutions to verify the legal status of the legal person or legal arrangement. No requirement for financial institution perform enhanced due diligence for higher risk categories of customer, business relationship or transaction. No requirement for financial institutions to conduct ongoing due diligence on existing customers. No requirement for financial institutions to perform enhanced due diligence on high risk customers. 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	• 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	Section 111 of POCO has been amended and provides for the issuance by the Reporting Authority of Codes and Guidance. The new section 111(5) provides that a Code issued under section 111 is subsidiary legislation and has full legislative effect. 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. 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. 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. 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. The AML/PTF Regulations were amended on 1st December 2011 to 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. The AML/PTF Regulations (regulation 5) were amended on 1st December 2011 to require the determination of the natural person who ultimately owns or controls

		VII. No requirement to terminate the business relationship if proper CDD cannot be conducted. No requirement for financial institutions to ensure that documents, data or information collected under the CDD process is kept up to date. 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. The scope of AML/CFT legislation in the TCI does not cover financial institutions that engage in mortgage lending. No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.	aware of the benefits and requirement to do relevant CDD.	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)) Regulation, 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. 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. 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. A Compliance Workshop ~~is scheduled to be held on October 24, 2012.~~ was held on October 24, 2012. An AML Seminar was also held on April 25, 2013 and was attended by over 60 persons from across the various regulated sectors. Both Training exercises addressed issues relating to establishing relevant AML systems and procedures and in particular an AML Manual that should be developed by each licensee on a risk sensitive basis. On the recommendation of the FIU the MLRA at its next meeting held on 23rd July 2012 agreed that it would be useful to issue 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). Following a review of these guidelines by the FSC, it was decided that Customer Due Diligence guidance was already covered in the Code in terms consistent with the established international standard. At the AML seminar held with the industry on April 25th 2013 the FSC highlighted those provisions. Therefore, separate CDD

				guidance is not needed. The TCI reviewed the definitions of legal person and legal arrangements in the FATF Methodology (2004). The methodology defines those terms as follows; *"Legal arrangements* refers to express trusts or other similar legal arrangements. Examples of other similar arrangements (for AML/CFT purposes) include fiducie, treuhand and fideicomiso. *Legal persons Legal persons* refers to bodies corporate, foundations, anstalt, partnerships, or associations, or any similar bodies that can establish a permanent customer relationship with a financial institution or otherwise own property." The provisions within the TCI's laws are not inconsistent with these definitions. In the Anti-Money Laundering and Prevention of Terrorist Financing Regulations 2010 (AML/PTF Regulations): Regulation 3 states: Meaning of "beneficial owner" 3. (1) Subject to sub-regulation (3), each of the following is a beneficial owner of a legal person, a partnership or an arrangement— (a) an individual who is an ultimate beneficial owner of the legal person, partnership or arrangement, whether or not the individual is the only beneficial owner; and (b) an individual who exercises ultimate control over the management of the legal person, partnership or arrangement, whether alone or jointly with any other person or persons. (2) For the purposes of sub-regulation (1), it is immaterial whether an individual's ultimate ownership or control of a legal person, partnership or arrangement is direct or indirect. (3) An individual is deemed not be the beneficial owner of a body corporate, the securities of which are listed on a recognized exchange. (4) In this regulation, an "arrangement" includes a trust. The regulations continues in its reference to legal arrangements in regulation 5 where it states:

				Meaning of “occasional transaction” Meaning of “customer due diligence measures” and “ongoing monitoring 5. (1) “Customer due diligence measures” are measures for— (a) identifying a customer; (b) determining whether the customer is acting for a third party and, if so, identifying the third party; (c) verifying the identity of the customer and any third party for whom the customer is acting; (d) identifying the identity of each beneficial owner of the customer and third party, where either the customer or third party, or both, are not individuals; (e) taking reasonable measures, on a risk-sensitive basis, to verify the identity of each beneficial owner of the customer and third party so that the financial business is satisfied that it knows who each beneficial owner is including, in the case of a legal person, partnership, trust or similar arrangement, taking reasonable measures to understand the ownership and control structure of the legal person, partnership, trust or similar arrangement; and (f) obtaining information on the purpose and intended nature of the business relationship or occasional transaction. (2) Customer due diligence measures include— (a) where the customer is not an individual, measures for verifying that any person purporting to act on behalf of the customer is authorised to do so, identifying that person and verifying the identity of that person; and (b) where the financial business carries on insurance business, measures for identifying each beneficiary under any long term or investment linked policy issued or to be issued by the financial business and verifying the identity of each beneficiary. (3) Customer due diligence measures do not fall within this regulation unless they provide for verifying the identity of persons whose identity is required to be verified, on the basis of documents, data or information obtained from a reliable and independent source.

				(4) Where customer due diligence measures are required by this regulation to include measures for identifying and verifying the identity of the beneficial owners of a person, those measures are not required to provide for the identification and verification of any individual who holds shares in a company that is listed on a recognised exchange. Clearly the AML/PTF Regulations provide that FI must conduct CDD on legal arrangements. The AML/PTF Code 2011 also makes similar provisions for CDD in relation to legal arrangements. Section 11 outlines the CDD measures to be applied by financial business and states that: "11. (1) Subject to complying with the specific requirements of the AML/CFT Regulations and this Code, a financial business must apply a risk-sensitive approach to determining the extent and nature of the customer due diligence measures to be applied to a customer and to any third party or beneficial owner. (2) Without limiting subsection (1), a financial business shall— (a) obtain customer due diligence information on every customer, third party and beneficial owner comprising— (i) identification information in accordance with section 14, 16, 19 or 21 as the case may be; and (ii) relationship information in accordance with section 12;" The Guidance note to that section note on page 25 at paragraph (v) state that: "(v) It should be noted that the AML/CFT Regulations include within the definition of beneficial owner, an individual who exercises ultimate control over the management of a legal person, partnership or legal arrangement, whether alone or jointly." It is also notes on page 40, which outlines additional guidance that: "(iii) In essence, all persons who are not individuals, including companies, foundations, partnerships or trusts and any other type of legal arrangement are regarded as

				having a beneficial owner who is an individual. The definition of "beneficial owner" is contained in regulation 3 of the AML/CFT Regulations which, in summary, provides that beneficial owners are: (a) individuals who are ultimate beneficial owners of the legal person, partnership or legal arrangement; and (b) individuals who exercise ultimate control over the management of the legal person, partnership or legal arrangement. It should be noted that it makes no difference whether: (a) an individual's ultimate ownership or control of a legal person, partnership or legal arrangement is direct or indirect; and (b) an individual is the sole beneficial owner or a joint beneficial owner." Further section 19of the AMLPTF Code specifically deals with identification information on trusts and trustees and provides: 19. (1) Where a financial business is required by the AML/CFT Regulations or this Code to identify a trust, it shall— (a) obtain the following identification information— (i) the name of the trust; (ii) the date of the establishment of the trust; (iii) any official identifying number; (iv) identification information on each trustee of the trust; (v) the mailing address of the trustees; (vi) identification information on each settlor of the trust; and (vii) identification information on each protector or enforcer of the trust; and (b) obtain confirmation from the trustees that that they have provided all the information requested and that they will update the information in the event that it changes. (2) For the purpose of this Code, "settlor" includes a person who, as settlor, established the trust and any person who has, at any time, subsequently settled assets into the trust. (3) Where a financial business determines that any business relationship or occasional transaction concerning the trust that it is

				required to identify presents a higher level of risk, the financial business shall obtain such additional identification information as it consider appropriate. (4) Where subsection (3) applies, but without limiting it, a financial business shall obtain identification information on— (a) each beneficiary with a vested right; and (b) each beneficiary, and each person who is an object of a power, who the financial business determines presents a higher level of risk. (5) Identification information required to be obtained on any person under this section shall be obtained in accordance with section 14 if the person is an individual, section 16 of this Code if the person is a legal entity or section 21 if the person is a foundation. Section 20 of the Code also speaks to the verification that is needed for trusts and trustees.

6. Politically exposed persons	NC	No requirements concerning PEPs are applicable to regulated persons at present. No requirement for senior management approval of a relationship with a customer who is found to be a PEP. 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. Little awareness of the requirements in relation to the performance of enhanced CDD measures on high risk customers who are PEPs. No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.	• 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.	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 The Financial Services Commission issued guidance in relation PEPs in August 2009. 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. AML/PTF Regulation 13(2)(d) also requires enhanced CDD for PEPs. Recognising that corruption and money laundering are related and the TCI moved to strengthen its anti-corruption measures, in order to avoid rendering our anti-money laundering regime ineffective. Therefore, the TCI is the first regional jurisdiction to take the bold step of reforming the area of campaign financing. Campaign donations received by political parties and candidates are now required to be reported to the Integrity Commission, an anti-corruption watchdog body established under the Constitution. Additionally, the Integrity Commission Ordinance 2008 (as amended and strengthened in 2012) requires annual detailed declarations as to income, assets and debts from Persons in Public Life (including members of the Cabinet and of the House of Assembly, as well as senior public officials whether part of the public service or heading public bodies). The Political Activities Ordinance 2012, administered by the Integrity Commission, places restrictions on the kind of donors, donations and the amounts of campaign donations, and requires not only the filing of reports citing the amounts and names of donors but also introduces criminal sanctions and financial penalties on the leaders and treasurers of political parties liable. There is also an AML/CFT style

				obligation on political parties and independent candidates to maintain transparent accounting records and to produce audited accounts. Provisions also allow for the forfeiture of prohibited donations. The Integrity Commission has issued guidance to political parties under these Ordinances.
7. Correspondent banking	NC	No requirement to determine the reputation of a respondent and the quality of supervision. No provision to obtain senior management approval before establishing new correspondent relationships. No provision to document respective AML/CFT responsibilities in correspondent relationships. 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. No requirement for the financial institution to be satisfied that the respondent institution can provide reliable customer identification data upon request. No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.	• TCI authorities should consider issuing more guidance to financial intuitions on matters relating to AML/CFT.	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. Regulation 16 provides for a fine of up to $100,000.00 if a bank acts in contravention to the regulation. 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.
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.	• 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.	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

			• TCI authorities should consider bringing the business of mortgage lending under a licensing regime which will make it subject to AML/CFT requirements.	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 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 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 the end of September 2013. **An initial review of the numbers of entities which have been issued licenses by the business licensing unit has revealed that there are currently only 2 such entities. The MLRA at its February 21, 2014 meeting decided to single this area as one of the first areas to be considered in preparatory work for the National Risk Assessment. The NRA Team has agreed to take on this work with a view to having some preliminary finding by the end of April, 2014.**

9. Third parties and introducers	PC	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. 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.	• 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 introducers pursuant to its assessment of AML/CFT adequacy.	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. 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.
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).	• 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.	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. Failure to comply with that regulation will result in a fine of up to $100,000.00. 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. 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. 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. A key feature of a partnership is that it does not have a legal personality of is 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 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. 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— *(a)* all sums of money received and expended by the partnership and the matter in respect of which the receipt and expenditure take place; *(b)* all sales and purchases of goods by the partnership; and

				(c) the assets and liabilities of the partnership. 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)) 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)) 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))

11. Unusual transactions	NC	No requirements for special attention to be paid to characteristics of size and purpose of transactions. 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 purpose. No minimum record retention period applies for the findings resulting from a closer investigation of unusual transaction patterns. No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.	• 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 set forth in writing any findings related to a closer examination of the background and purpose of unusual transaction patterns. • 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.	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. 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.
12. DNFBP–R.5, 6, 8-11	NC	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. 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. TCI Authorities have not determined yet who will be responsible for the compliance oversight of the dealers in	• 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	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. 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. The Anti-Money Laundering and Prevention of Terrorist Financing (Amendment) Regulations 2011 came 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).

		precious metals and precious stones. 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. 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. 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. 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. The gaming industry lacks the implementation of an AML/CFT compliance supervisory regime. The role of the Gaming Inspectorate and the FCU in the implementation of the AML/CFT framework is not clearly defined.	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 behalf of their clients is legally and physically separated from their other legal proceedings assistance duties. • 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.	The FSC is the identified NRFB Supervisor under the POCO. The FSC created a DNFBP Department at the end of 2012 and has commenced a system of registration, which is continuing. Additionally, the POCO was amended in January 2013 to make it clear that the FSC is the NRFB Supervisor and an amendment was made to the AML & PTF Regulations to prescribe a registration fee of $150. These pieces of legislation came into force on April 1, 2013. The FSC recently conducted an AML seminar on April 25th 2013 at which there was wide representation across the sectors. These included: attorneys, accounting services and trust companies. At the end of the seminar each participant received a certificate of participation which counts as credit towards various certifications in AML. The training was targeted at licensees which includes some lawyers and accountants but it was not specific to those sectors. Training for the Bar Association on DNFBPs is being planned. The FSC ~~will~~ engaged the Bar Association ~~by~~ in September 2012 and again in January 2013, through its executive body, the Bar Council, to formalize the use of that body for the delivery of AML Training. The Bar Council plans to have training in this area before the end of **2013** and the FSC has engaged with the Bar Council to partner on this training. 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 2011, at which time Gaming Inspectorate officials were in attendance. 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~~ **2012/2013**financial year. In March 2013 the Government announced a moratorium on any new licences for gaming for up to one year with a view to implementing an Action Plan devised by the Ministry of Finance for reform in the Gaming Industry consistent with the recommendations of the MLRA. Changes to the Gaming legislation, strengthening of the Gaming Inspectorate, including training are part of this reform initiative. 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. Contact was made individually with Jewelers by Head of DNFBPs in the 4th quarter of 2013 to inform them of the AML/CFT legislative changes and the consequences to their industry. Guidance was issued and posted February 2014 on the FSC website and can be viewed at http://tcifsc.tc/departments/designated-non-financial-businesses-professions/legislation-regulations-guidance The moratorium on any new licences for gaming remains in effect. The consultant appointed to review the gaming inspectorate started work in October 2013 by visiting the country and doing preliminary work. The Consultant returned in February 2014 and met with the Attorney General on February 20. Consultation is on-going and simultaneously a draft report is being worked on. It is expected that a preliminary report will be sent to the MLRA by the end of March 2014. The report is expected to include suggested legislative changes and a model legislation that may be best suited to the country. Once the report is finalised an Action Plan will be devised by the Ministry of Finance for reform in the Gaming Industry, changes to the Gaming legislation and the structure of regulation of the Gaming Industry. **The report was finalized in April 2014 and the MLRA received a presentation on it at its meeting on May 22, 2014. The report contained a number of recommendations for legislation to over-haul the**

				industry and the structure of the body which will regulate the industry and also make it more compliant with AML/CFT standards. At its meeting on July 23, 2014 Cabinet decided that included in the legislative agenda for the balance of 2014 will be a Gaming Bill.
13. Suspicious transaction reporting	PC	The guidance provided for the effective execution of the suspicious transaction reporting requirement is not considered sufficient 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). 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. 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.	• 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.	The standardized reporting form has been improved. This was published at a presentation to the industry by way of a two-hour presentation, including power point, copies of which were distributed. 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, it has been decided that guidance notes will also be issued under section 111(2) of the Proceeds of Crime Ordinance. These will be made available on both the FSC and FIU websites. 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). The MLRA considered the issuance of guidelines and these guidelines were drafted and posted on the FIU's website since May 2013. TCI considers that that recommendation has been met.
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. Policy manuals of entities supervised by the FSC do not include CFT. No requirements in place for the appointment of an independent audit function to test compliance with procedures, policies and controls on AML/CFT. No effective implementation of the AMLR requirement to keep training records of employees. No requirement to have financial institutions put in place screening procedures to ensure that high standards apply when hiring new employees.	• 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 creating awareness amongst financial institutions with regard to the issue of CFT. • 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. Financial institutions should be required to have their screening policy for new personnel formalized and documented for review by the FSC.	The FSC screens policy manuals both at the point where an entity applies for licensing and also during onsite examinations. The FSC has included a review of training logs as a part of its onsite inspection regime. The FSC is considering issuing compliance guidelines, which is to include provisions on how the audits are to be conducted. Sections 6 and 30 of the Code deal with internal reporting procedures and includes a provision in similar terms to EC 15.2. 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. 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 fourth quarter of 2012 (December). The FSC is still considering issuing guidance, but is not certain that this is the course of action that will be taken with regard to ensuring implementation. The FSC has issued guidelines in relation to Internal Control and Audit. These guidelines were issued in November 2012 and have been available on the FSC's website since that time at http://tcifsc.tc/policies-guidelines?start=10 . **To assist licencees and DNFBPs in enhancing their compliance functions The Financial Services Commission hosted a Compliance Seminar on 17th September 2014. The Seminar, hosted by the Bahamas Institute of Financial Services, focused on Risk Assessments, designing a Compliance Programme and Corporate Governance.**
16. DNFBP–R.13-15 &	NC	There is a lack of implementation of the	• TCI should ensure an effective	

21		AML/CFT legislative framework for DNFBPs To date no STRs have been filed with the FCU by any category of DNFBP, except for Trust and company service providers. No training of DNFBPs on the filing of STRs. DNFBPs have not implemented an internal framework for the compliance with AML/CFT rules and regulations.	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.	The FCU has met with and advised stakeholders in this area of the requirements for filing STR's. This work is ongoing. The NRFB Supervisor 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. 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 by the end of the first quarter in 2013 (March 2013). The FSC created a DNFBP Department at the end of 2012 and has taken on additional staff to Head that Department. The FSC has already commenced a system of registration, which is continuing. Additionally, the POCO was amended in January 2013 to make it clear that the FSC is the NRFB Supervisor and an amendment was made to the AML & PTF Regulations to prescribe a registration fee of $150. These legislative changes came into operation on April 1, 2013. The Head of the DNFBP Dept. is working on guidelines for the DNFBP's which should be completed by June 2013. The DNFBP Department has issued guidelines for various DNFBP sectors which are out for consultation. These guidelines are posted on the FSC's website and had closing dates of September 13 and September 30, 2013. These guidelines have now been finalised and issued as at September 2013.

				In January 2014 the TCI FSC published for Consultation guidelines for High Value Dealers. The consultation period ended on February 18, 2014. These guidelines are now finalized and have been publicized on the FSC's website at http://tcifsc.tc/departments/designated-non-financial-businesses-professions/legislation-regulations-guidance
17. Sanctions	PC	The sanctions in the legislative framework are not effective or dissuasive. Financial sanctions cannot be applied by the supervisory without a court order. 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.	• 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).	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. 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. 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. For 2012 approximately 30 enforcement actions were initiated. Of that number 8 resulted in actual penalty notices being issued, 7 resulted in revocations of licences, 1 resulted in legal action to have the company wound up and for the remainder, the enforcement action did not materialize. Currently, penalty notices issued by the FSC are not considered as a civil debt which can be legally recovered through the courts. As a result the only recourse where a person failed to pay a penalty is to pursue criminal action or seek to have the company wound up and the licence revoked.

				Consistent with similar provisions in the POCO in respect of DNFBPs, the FSC has therefore proposed, and the Government has agreed, that there be an amendment to section 47 of the FSCO to make a Penalty Notice (once it becomes final on the expiration on 14 days from the date of issue) to be considered as a debt. This amendment is at an advanced stage in the House of Assembly having already been debated at the Committee Stage, and it is anticipated that it will be passed at the May sitting of the House of Assembly.. FINANCIAL SERVICES COMMISSION (AMENDMENT) ORDINANCE 2013 (No. 5 of 2013) adds a new section 476ª to the FSCO. The amendment was assented to on May 16, 2013 and came into forcé July 1, 2013. Two judicial matters have been commenced since the amendment came into force. One of these has since been settled and the other remains in the judicial process.
18. Shell banks	PC	Although the Code appropriately addresses shell banks it cannot be properly enforced.	• 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.	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. 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. 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.
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.	• 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 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	TCI Authorities considered and decided against the use of a system where all (cash) transactions above a fixed threshold require reporting to the FCU.

			effectiveness of the additional intelligence in the process of intercepting illicit activities.	

20. Other NFBP & secure transaction techniques	PC	TCI has not considered the risk of other non-financial businesses and professions being misused for the purpose of ML/ FT. 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.	• 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.	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. 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 reported to the MLRA at its meeting held on 23rd July 2012 that it was making progress but would report again at the MLRA meeting scheduled for 3rd September 2012. At that meeting it was decided that the sub-committee would complete its work and produce a final report by 31st March 2013. The work in this area is expected to be completed by September 2013. An initial review of the numbers of entities which have been issued licenses by the business licensing unit has revealed that there are currently only 2 such entities. The MLRA at its February 21, 2014 meeting decided to single this area as one of the first areas to be considered in preparatory work for the National Risk Assessment. The NRA Team has agreed to take on this work with a view to having some preliminary finding by the end of April, 2014. **The NRA team determine that it is likely that there is a risk that the construction industry could be misused for ML or FT and has agreed to further consider the issue in conducting its work on the National Risk Assessment.** Credit card facilities are now available in casinos. **A review of the regulatory framework of the gaming industry was undertaken and a report on the findings was finalized in April 2014. The MLRA received a presentation on it at its meeting on May 22, 2014. The report contained a number of recommendations for legislation to over-haul the industry and the structure of the body which will regulate the industry and also make it more compliant with AML/CFT standards. At its meeting on July 23, 2014 Cabinet decided that included in the legislative agenda for the**

				balance of 2014 will be a Gaming Bill.
21. Special attention for higher risk countries	NC	The majority of financial institutions do not observe the level of compliance of the foreign jurisdiction when establishing international business relationships. No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.	• 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 transactions originating from these countries should be subject to a higher degree of scrutiny.	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 was completed by August 2012. 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. Following a decision of the Money Laundering Reporting Authority the TCI has decided that the appropriate counter measures to be applied against countries who do not or insufficiently apply the FATF recommendations is to post on the FSC's web page, the names of such non-compliant jurisdictions as published by the FATF and to notify licensees. The FSC on its website has a sanctions page, where it has posted a number of Orders relating to countries against which there are sanctions. The FSC has promoted a risk-based approach to money Laundering among its licensees including that licensees should have regard to country or geographical risks in its client acceptance and CDD systems. These requirements are specifically stated in section 11(3)(d) of the AML & PTF Code and paragraph (viii)(c)(II) & (III) and paragraph (xxvi) to (xxviii) of the guidance to the Code. The FSC has provided AML and Compliance training on this and other requirements of the Code in November 2011, November 2012 and recently on April 25, 2013.

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.	• 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.	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. Section 6 of the Code requires all branches and subsidiaries to be compliant with the established policies systems and controls.
23. Regulation, supervision and monitoring	PC	The integrity component to the "fit and proper" testing of relevant persons is not clearly specified by the FSC. There was no evidence that Collective investment Schemes' Core Principles (IOSCO) apply for Mutual Funds in TCI. The recently enacted legislative framework providing for the licensing and supervision of MVT is not yet effective.	• 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	The FSC has issued fit and proper guidelines to the industry which covers these matters. The FSC is currently considering including these principles in its supervisory framework. The MTO is now effective with an established licensing regime which continues to grow. The FSC will be including collective investment schemes 'Core Principles' in their supervisory framework. The FSC is also actively engaging with IOSCO and working within their required timelines and procedures to gain membership in IOSCO. 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 and circulated to the industry for comments 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. The FSC is also in the process of completing draft new Banking and Trust Bills. Once this work has been completed the Bills have to undergo a period of consultation with the Industries. This is a lengthy process, which is anticipated to be completed ambitiously, by the end of 2013.

				The Government has recently approved a new Domestic Insurance Bill which seeks to implement the recommendations of the IMF on its assessment of the industry in 2003. In this regard, the FSC has engaged with the House of Assembly members by a meeting set for 30th April to walk through the provisions of the Bill before it is debated at the next meeting of the House set for May 2013. At the May 2013 sitting of the House, the Bill had its first reading but was not debated. It is expected that the bill will be put back on the House agenda for debate before the end of the year. 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 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. In relation to Recommendation 23, the assessor's recommendation was that the TCI should consider the relevance of including collective investment schemes "Core Principles" in their supervisory framework. Again the FATF Methodology notes that: *"Consider* - References in the Recommendations that require a country to *consider* taking particular measures means that the country should have made a proper consideration or assessment of whether to implement such measures."

				The TCI has already indicated that the FSC is in the process of updating its securities law to bring it up to standard with the IOSCO Core Principles and that a first draft was circulated to the industry for their comments and remains under consultation. Work on this is continuing as a number of regulations and codes and guidelines must be enacted in tandem with the primary legislation. Therefore, we have given full consideration to this matter. However it appears that we are viewed as not meeting the requirement because we have not yet completed the enactment of the bill. The Test is should consider and this have actively been demonstrated by the TCI. **In July 2014, following good progress made by the Financial Services Commission, Committee 4 of the International Organisation of Securities Commission (IOSCO) removed the Turks and Caicos Islands from the Watch List and as a result has invited the TCI to apply for IOSCO membership.**

24. DNFBP - regulation, supervision and monitoring	NC	No implementation plan in place addressing the relevant issues pertaining to the effective implementation of an AML/CFT oversight regime for the gaming industry. 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. 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). No effective implementation of the enforcement regime for DNFBPs. The Gaming Inspectorate does not have the ability to disclose information to overseas regulators and to domestic regulators. .	• TCI should draw up an implementation plan, for the AML/CFT supervisory regime for casinos. This plan should address the following: o Who is responsible for the training of gaming inspectors in the area of AML/CFT compliance oversight; o Who is responsible for informing the relevant sector of the AML/CFT changes and the respective implications for the relevant sector; o Who is responsible for training of the gaming industry in the introductory phase; o What are the tools required for an effective oversight of the industry's compliance with AML/CFT laws and regulations; o Where necessary resources should be sought to appropriately equip the Gaming Inspectorate for the effective AML/CFT oversight tasks. • 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	~~This is to being considered by the MLRA at its meeting scheduled for September 2011.~~ Casinos are now covered in the definition of financial business in the Anti-Money Laundering and Prevention of Terrorist Financing Regulations. POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now include a regime for non-financial business persons. The FSC created a DNFBP Department at the end of 2012 and has taken on additional staff to Head that Department. The FSC is already meeting with and engaging with the Bar Council, Realtors, and Accountants to inform them of their obligations and move the registration drive forward. Additionally, the POCO was amended in January 2013 to make it clear that the FSC is the NRFB Supervisor and an amendment was made to the AML & PTF Regulations to prescribe a registration fee of $150. These legislative changes came into operation on April 1, 2013. Finally, in March 2013, the Government approved amendments to be made to the POCO, AML & PTF Regulations and Code to change the terminology from Non-Regulated Financial Business to Designated Non-Financial Businesses & professions. It is anticipated that these amendments will be brought to the House of Assembly in May 2013. The Head of the DNFBP Dept. is working on guidelines for the DNFBP's which should be completed by June 2013. The DNFBP Department has issued guidelines for various DNFBP sectors which are out for consultation. These guidelines are posted on the FSC's website and have closing dates of September 13 and September 30, 2013. These guidelines have now been finalised and issued as at September 2013.

			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.	In January 2014 the TCI FSC published for Consultation guidelines for High Value Dealers. The consultation period ended on February 18, 2014. These guidelines are now finalized and have been publicized on the FSC's website at http://tcifsc.tc/departments/designated-non-financial-businesses-professions/legislation-regulations-guidance 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. The Gaming Inspector 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. A follow up meeting with a representative for the Permanent Secretary, Finance was held on 23 July 2012 and he reported that they had begun the work of reviewing the gaming supervisory regime. It **was** recognised that there is a need for updated legislation and greater staff training. A commitment has been received from the Gaming Board of The Bahamas to provide technical assistance and also from Gaming Laboratories International to provide auditing assistance. It was also recognised that the finances to undertake the much needed restructuring of the Gaming Inspectorate was not available this financial year. As noted above, the necessary reforms needed in respect of the Gaming Inspectorate will form part of the Government's Legislative Agenda for the 2013/2014 financial year and a moratorium on the issuance of new licences in this area has been instituted. The Ministry of Finance to create an implementation plan. An update on this is expected ~~in October 2012~~ **at** the 2013 second quarter meeting of the MLRA.

				The MLRA at its meetings in June and August 2013 noted there had been no response from the Ministry of Finance despite further reminder letters and agreed to write once again. However, the MLRA is aware that a consultant has been appointed to review the gaming inspectorate and is to start work in October 2013. The consultant appointed to review the gaming inspectorate started work in October 2013 by visiting the country and doing preliminary work. The Consultant returned in February 2014 and met with the Attorney General on February 20. Consultation is on-going and simultaneously a draft report is being worked on. It is expected that a preliminary report will be sent to the MLRA by the end of March 2014. The report is expected to include suggested legislative changes and a model legislation that may be best suited to the country. Once the report is finalised an Action Plan will be devised by the Ministry of Finance for reform in the Gaming Industry, changes to the Gaming legislation and the structure of regulation of the Gaming Industry. **A report on the findings of the consultant was finalized in April 2014. The MLRA received a presentation on it at its meeting on May 22, 2014. The report contained a number of recommendations for legislation to over-haul the industry and the structure of the body which will regulate the industry and also make it more compliant with AML/CFT standards. At its meeting on July 23, 2014 Cabinet decided that included in the legislative agenda for the balance of 2014 will be a Gaming Bill.**
25. Guidelines & Feedback	NC	The FSC has not issued any guidance relative to trends and typologies in ML/FT. 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. Other than the Code that provides	• 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 a framework for compliance with the established AML/CFT rules and regulations, including the reporting of	Typologies and risk trends are published on a regular basis in the local press – copies of which were supplied to evaluation team. The FCU/FIU has been involved in a few number of the FSC's AML and compliance training workshops/ seminars to the financial industry and on those occasions provided feedback to regulated entities on trends and specifically on the level of SAR reporting. The most recent occasion was at the FSC's AML Seminar which was held on April 25, 2013. Feedback is provided to reporting entities on an ongoing basis.

		general instructions 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. The FCU is currently not issuing reports on statistics, trends and typologies related to ML and TF to regulated entities 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. 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. The guidance provided so far to DNFBPs with regard to the introduction of the new AML/CFT requirements is insufficient. No effective implementation of AML/CFT regime as a result of recent enactment of legislation (AMLR and Code) and guidance.	STRs. • 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 them 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 considering the structure of the industry and/or the risks that the relevant industry	~~The industry is small and in practical terms the head of the FCU liaises directly with compliance officers.~~ Typologies and risk issues are also published on the FCU website – as pointed out to the evaluation team. 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 sent 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. The Alerts have also been posted on its website. The FCU has completed its annual reports for 2011 and 2012 which include statistics, trends and typologies relating to AML/CFT. These reports have been submitted to the Governor and ~~will be~~ **have been** published on the websites of the FCU/FIU and the FSC. The FCU agreed to provide quarterly reports on trends and typologies to the MLRA. The **latest** report is found on its website. Statistics were published by the MLRA and FCU in MLRA Annual Reports **to** the Governor ~~for 2009 and 2010~~ since 2009 in compliance with the POCO. 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.~~ **Over the course of 2011 to 2013, the staff compliment in mid to senior level positions has increased by over 10 persons. This has increased the level of productivity in the issuance of reports of findings from onsite examinations and enabled it to put in place a system for following up on identified deficiencies.** The Governor attended a 'National Promotion Plan' workshop organised by the Financial Services

			activities impose. • 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.	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. 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 and identify and overcome barriers to progress. 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: • 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." The FSC has improved its onsite procedures to provide follow-up on deficiencies and continued monitoring. A new Part VIII has been added to POCO which provides for supervision and enforcement. The following new sections are relevant: Section 148F(2) provides for the appointment of a NFRB Supervisor (i.e. Supervisor for non-regulated financial businesses). This will be the new DNFBP Supervisor. Section 148F(3) sets out the responsibilities of the supervisory authority (i.e. monitoring compliance and taking enforcement action).

				Section 148H provides for the registration of non-regulated financial businesses. Section 148I enables the NRFB Supervisor to undertake compliance visits. 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. Section 148 Q provides the NRFB Supervisor with the power to require information and the production of documents. The new sections 148F to 148Q therefore establish a strong enforcement regime with respect DNFBPs. MLRA 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. 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 this year it would anticipate completing this work by March 2013. The FSC has enhanced its supervisory capacity with a view to ensuring that it secures the necessary resources to effectively implement a DNFBP regulatory regime. The FSC has established greater contact with the DNFBP 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 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 the end of June 2013. The FSC has updated its website to provide links to lists and information on terrorist which is published periodically by the UNSC and other reputable bodies. The financial institutions were notified of the chances to the website at the FSC's AGM held with the industry in December 2012. 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. The DNFBP Department has issued guidelines for various DNFBP sectors which are out for consultation. These guidelines are posted on the FSC's website and have closing dates of September 13 and September 30, 2013. The TCI FSC has now issued final guidelines for the legal sector, real estate sector and accountancy sector. Guidelines for High Value Dealers were publicised for consultation in January 2014. The period of consultation ended on February 18, 2014. These guidelines are now finalized and have been publicized on the FSC's website at http://tcifsc.tc/departments/designated-non-financial-businesses-professions/legislation-regulations-guidance

				MLRA with the assistance of FCU will ensure that adequate feedback is given on STRs, typologies and trends.
Institutional and other measures				
26. The FIU	PC	The FCU does not appear to have full operational independence and autonomy. The FCU has not provided sufficient guidance to financial institutions and other reporting parties regarding the reporting of STRs. 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. The building which houses the FCU does not appear to be properly secured.	• The Head of the FCU should be afforded more operational independence particularly with regard to matters such as staff recruitment and budget management. • 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.	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 recruitment.~~ ~~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.~~ **This work has concluded.** Typologies and risk trends are published on a regular basis in the local press – copies of which were supplied to the evaluation team. The FCU's website also has a link to trends and typologies. Every SAR is responded ~~to with a strategy~~ within most cases 24 hours. ~~Successful~~ Outcomes of investigations are also reported. ~~The industry is small and in practical terms the head of the FCU liaises directly with compliance officers.~~ Typologies and risk issues are also published on the FCU website – as pointed out to the evaluation team. Statistics were published by the FCU in the annual report for 2011, ~~**and**~~ **2012 and 2013 have been** ~~**stats are ready to be**~~ **published.** ~~the last calendar year and new statistics are now being prepared~~. ~~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. The FCU, since the beginning of October~~ ~~**2012**~~ ~~is now being housed in a building which offers better~~

				~~security.~~ **The FIU is situated in a secure building with electronic security monitoring.** 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. ~~The FIU submitted its statistics for 2010 and it was distributed at a Money Laundering Conference hosted by the FSC in November 2011.~~ ~~This matter was reviewed further at the MLRA meeting held in September and December 2011 and again in April 2012 and remains under review.~~ ~~Model FIU legislation has been identified and work on the drafting of the FIU bill is to begin shortly. It is anticipated that this work will be completed at the end of March 2013 to be implemented in the next financial year.~~ ~~The FIU committee of the MLRA proposed model legislation in 2012 which is being considered as part of the Legislative Agenda to be agreed for the 2013/2014 financial year. Work on the drafting of the FIU bill has begun. It is anticipated that this work will be completed at the end of October 2013 to be implemented in the next financial year.~~ **This has been concluded.** ~~The MLRA at its January 17, 2014 meeting mandated that a draft of the FIU Bill be prepared by early February.~~ ~~The MLRA at its February 21, 2014 meeting received draft of the Financial Intelligence Agency (FIA) Bill and set up a subcommittee to review and finalise the Bill.~~ ~~The sub-committee met February 28 and will complete its work by March 5, 2014. A Cabinet Paper is then to be prepared for presentation to Cabinet at its March 12, 2014 and to be laid before the next of House Assembly meeting currently scheduled for the end of March. It is anticipated that the second reading and the remaining~~

				~~stages of the Bill in the House of Assembly would be completed by the end of April 2014.~~ **The FIA Ordinance (No. 11 of 2014) was passed in the House of Assembly on June 12th 2014 and is expected to come into effect shortly.**
27. Law enforcement authorities	C	This Recommendation is fully observed.		
28. Powers of competent authorities	C	This Recommendation is fully observed.		
29. Supervisors	PC	Written reports of findings resulting from on-site examinations of banking and insurance companies have not been issued to the respective companies. The report of findings relative to on-site examinations of the trust and company service providers industry have not been issued consistently (backlog). The FSC is limited in its potential to give follow up to deficiencies identified during on-site inspections. The FSC does not provide for sufficient written instruction to regulated entities. The FSC does not have the authority to impose financial sanctions independently (summary of convictions required)	• The ~~Registrar~~ Head 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.	POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now empowers the NFBP Supervisor to impose administrative sanctions on NFBPs. 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.
30. Resources, integrity and training	NC	AML/CFT related training is lacking at the Gaming Inspectorate Funding for the Gaming Inspectorate is dependent upon government funds (Ministry of Finance) The FSC is not properly structured. The		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. 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

		current structure imposes a risk for conflict of interest. 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. 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. 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. 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.		the ~~new~~ **2012/2013** financial year. 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. As indicated above, the Government has decided to place a moratorium on the issuance of any new licences in gaming for up to one year until the regulation of the industry and the strengthening of the gaming inspectorate can be done in accordance with the Ministry of Finance's implementation plan. 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. **Over the course of** 2011 to 2013, the staff compliment in mid to senior level positions has increased by over 10 persons. Additional staff was hired to Head the new DNFBP Dept. and the FSC appointed Legal Counsel in 2012. Notwithstanding the FSC is continuously enhancing its regulatory capacity and reviews the need for additionally staff on an ongoing basis**.** The head of the FIU has full operational independence when dealing with SAR's. ~~The head of the FCU carries out all staff recruitment.~~ **The matter of the FIUs operational independence, autonomy and budget allocation has been addressed in the FIA Ordinance which was passed in the House of Assembly on June 12th 2014.** Judges and Magistrate underwent AML/CFT training during the latter part of 2009. 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. 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.

				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 took place from 25th May 2012 and was 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. 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 supervision of the relevant industries. The Head of the rebranded Company Management and Investments Department along with her staff have each obtained a Diploma in Compliance from the International Compliance Association. Additionally, new staff members have been engaged for these departments which have increased its capacity to enable it to properly supervise these areas. The Office of the Director of Public Prosecutions has arranged for training on POCO and related legislation to be conducted by AML expert Andrew Mitchell Q.C. on September 14, 2013. The attendees will include the FCU, Prosecutors from the ODPP, counsel from the AGC and possibly Integrity Commission officers.
31. National cooperation	PC	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.	• 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.	These matters are under review by the MLRA. The MLRA meets frequently and has decided to meet, at a minimum, once every quarter. The MLRA and FSC conducted an AM seminar for reporting entities and a number of DNFBPs in April 2013. ~~training in May and September 2010 for the industry.~~ The MLRA has ~~now~~ invited the Deputy Attorney General, having overall oversight of the various departments of the Attorney General's Chambers as well as the Deputy Director of Public Prosecutions, a

			• 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.	Principal Crown Counsel, Civil as well as the Principal Legislative Drafter **to** attend some meetings. This decision was ~~recently~~ affirmed at the meeting of the MLRA held in April 2012 and February **2013**. The 2011 Constitution (in force on 15th October 2012**)** introduced the post of Director of Public Prosecutions with the independence to carry out prosecutions in the Islands. The criminal side of the Attorney General's Chambers has been established as the DPP's Office and a new DPP was appointed on 1st February 2013**.** steps to appointment of the DPP in an open and transparent process is underway in the Islands with the intention to have the DPP appointed in November 2012. In the interim the Attorney General continues to perform the functions of the DPP. The MLRA is developing and seeking to implement policies and activities to combat ML/FT on an ongoing basis. 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.

32. Statistics	PC	The TCI does not review the effectiveness of its systems for combating money laundering and terrorist financing on a regular basis. Comprehensive statistics are not maintained by all competent authorities No data had been provided regarding AML/ CFT on-site examinations of financial institutions and, where appropriate, sanctions relative thereto.		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~~. Reports on enforcement actions are submitted on a monthly basis internally at the FSC. These are used to determine and shape areas where further guidance, training or legislative changes may be needed. **The FIU publishes an annual report covering a wide range of statistics relating to AML/CFT SAR/STR reporting, international cooperation etc.**
33. Legal persons– beneficial owners	PC	There is no evidence that any training occurred on matters relative to legal persons including the revised procedure for reporting of suspicious transactions. The deficiencies identified in Rec. 5 with regard to beneficial ownership apply equally to Rec. 33.	• The TCI Authorities should develop guidelines that financial institutions must follow in the event that issued bearer shares in a company for which they represent are held outside the TCI. • 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.	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 MLRA reviewed that paper and directed that the paper be circulated among the industry for comment. 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. In March 2013 the Government reviewed the results of the consultation and decided to propose a bill to the House of Assembly to abolish bearer shares in the Islands. A draft Bill is currently being prepared by the Attorney General's Chambers for submission to the House. The FCU/FIU conducted AML/CFT training for the staff of the International Banking Group on 19th April 2012. The FSC will be conducting a Compliance Workshop on October 24, 2012. The FSC also conducted a Compliance Workshop on October 24, 2012 and another AML Seminar on April 25, 2013. **The procedure for STR/SAR reporting is continuously reinforced as part of the FIUs ongoing outreach and awareness seminars**. The Issuance and use of bearer shares have now been abolished within the TCI by virtue of the Abolition of Bearer Shares Ordinance 2013. This ordinance was

				enacted in December 2013 and came into operation on January 1, 2014. The transitional period to convert any remaining bearer shares into registered shares is six months from the date of coming into operation of the Ordinance. **A number of companies that used bearer shares have converted those shares into registered shares. The FSC continues work on attaining full compliance by both ordinary and exempt companies.** The FCU continually partners with the FSC and other stakeholders in facilitating the various AML/CFT seminars and workshops. During the recent KMPG hosted seminar in October 2013, the FCU again presented on reporting STR's and provided attendees of the seminar with a step by step explanation of the requirements for completing and submitting an STR and time frames for various actions to occur. They also presented comparative statistics on the Number of STR's submitted over the last 3 – 5 years and instituted a discussion on the reasons for the various numbers and ways to improve to value of the STR's that are received. Attendees at the Seminars included all of the regulatory sectors (including Trustees and corporate service providers which manage or facilitate the creation of legal persons and arrangements) and the DNFBP's sector.
34. Legal arrangements – beneficial owners	PC	Persons associated with Legal Arrangements do not appear to be aware of the revised protocol for reporting suspicious transactions. There is no evidence that the FCU held training sessions on matters relative to Legal Arrangements. The deficiencies indentified with regard to beneficial ownership at R5 apply to trustee services.	• 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 programmme to include AML/ CFT training on matters relative to Legal Arrangements.	Training was arranged in London UK in September 2009 and again in February 2010 for the Judiciary, Prosecutors and key law enforcement officials. 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. Now in planning stage for formalized presentation within the remaining industry. 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.

				The FCU is to review its training programme to include AML/CFT training on matters relative to Legal Arrangements. The FCU continually partners with the FSC and other stakeholders in facilitating the various AML/CFT seminars and workshops. During the recent KMPG hosted seminar in October 2013, the FCU again presented on reporting STR's and provided attendees of the seminar with a step by step explanation of the requirements for completing and submitting an STR and time frames for various actions to occur. They also presented comparative statistics on the Number of STR's submitted over the last 3 – 5 years and instituted a discussion on the reasons for the various numbers and ways to improve to value of the STR's that are received. Attendees at the Seminars included all of the regulatory sectors (including Trustees and corporate service providers which manage or facilitate the creation of legal persons and arrangements) and the DNFBP's sector.
International Cooperation				
35. Conventions	PC	The Palermo Convention and the Terrorism Financing Convention have not by extension been ratified on behalf of the TCI. Not all relevant aspects of the Conventions have been implemented.	• TCI should recommend or propose ratification of the Palermo Convention and the Financing of Terrorism Convention on 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.	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 the TCI. 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. In July 2013 the FCO advised that a questionnaire relating on how compliant the country was with the requirements of the convention needed to be submitted. The questionnaire completed and sent to the FCO. TCIG is now waiting to revert to us. The UK FCO has advised that the conventions cannot be ratified until the country has enacted local legislation that will give effect to them. The Terrorism Bill once enacted will allow for implementation of the Conventions. As mentioned above it is anticipated that the Bill be approved in the House of by the end of April 2014.

				With the enactment of the Prevention of Terrorism Ordinance (No. 9 of 2014) in May 2014 the process to get the Conventions extended to the TCI has been engaged once again. The TCI awaits completion of the internal UK procedures.
36. Mutual legal assistance (MLA)	PC	Mutual legal assistance will not be provided by the TCI once tax or fiscal matters are involved which do not fall within certain exemptions. The effectiveness of implementation is difficult to assess due to the lack of statistical details. 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.	• 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.	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 singed by the end of December 2010 were made and letters informing TIEA partner countries that all internal procedures had been completed. ~~The TCI is processing three requests from OECD member countries.~~ Since the TCI acceded to the OECD process in 2002 we have moved gradually to enacting appropriate legislation to give effect to the sixteen TIEAs entered into to date, mainly with OECD countries. The TCI has established an Exchange of Information Unit within the Ministry of Finance with dedicated staff working hard to ensure that the TCI meets all of its tax treaty obligations. The TCI since successfully underwent the Phase 1 Peer Review process and are currently within the Phase 2 process. The TCI continues to work with our partners as we reform and strengthen our laws and administrative systems to ensure their effective implementation and values the recommendations that emanate from such reviews and assessments and endeavour to give effect to them. Since accepting the European Union Directive on the Taxation of Savings Income and enacting legislation in 2005, the TCI formally transitioned from the withholding tax arrangement under the Directive to the automatic exchange of information arrangement in July 2012 and has issued guidance to the industry as late as February 2013. With the advent of the US Foreign Account Tax Compliance Act (commonly referred to as “FATCA”),

				the TCI undertook necessary consultations with all stakeholders in the jurisdiction with a view to bringing about cooperation on the subject with the US Government. And has decided to enter into a FATCA arrangement with the US as part of its negotiations to conclude a TIEA. At the end of August 2013, a TCI delegation led by the Attorney General with officials from the FSC and Exchange of Information Unit met with the US Treasury Department to continue discussions concluding a FATCA IGA and a TIEA with the US. They also attended a workshop on FATCA. In the same vein, the TCI has taken the decision recently to thereafter engage Her Majesty's Government in the United Kingdom in negotiating and concluding an Inter-Governmental Agreement that emulates the US-type FATCA. The TCI continues to negotiate TIEAs with jurisdictions that are inclined to concluding such an arrangements and have a further eleven TIEAs in various stages of negotiations and has decided to explore a multilateral approach. The Premier affirmed the TCI's commitment to continuing to meet the internationally established standards of transparency with respect to beneficial information surrounding the financial services industry in a Ministerial Statement in the House of Assembly on 26 April 2012. In his statement, the Premier pledged to seek to enact legislative initiatives to comply fully with the FATF Recommendations and affirmed his support for the G8 initiatives in this area to combat tax evasion. **The Tax Information (Exchange and Mutual Administrative Assistance) Ordinance ("TIEO") allows for exchange of information between the TCI and countries with whom it has a TIEA.** **The Convention on Mutual administrative Assistance in Tax Matter was extended to the TCI in August 2013.** **By amendment in 2014, the TIEO also includes is a party to any arrangement or convention relating to exchange of information or mutual assistance in tax matters applicable to or entered into by the Turks and Caicos Islands. The 2014 amendments also allow**

				for Automatic and Spontaneous exchange of information. **The 2014 amendment to the FSCO also expands information sharing capabilities to spontaneous exchange of information.** **Guidelines on MLA in Criminal and Civil Matters have been drafted and disseminated to the various authorities for comments. The Guidelines should be finalized early September 2014.**
37. Dual criminality	C	This Recommendation is fully observed.		
38. MLA on confiscation and freezing	PC	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. The effectiveness of implementation cannot be ascertained.	• 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.	These matters remain under review**.** ~~will be tabled for consideration of the MLRA.~~ 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. 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. 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. • Part 3 of the Bill makes it an offence to use or possess property or engage in fundraising for the purposes of terrorism and to money launder terrorist property. It also provides a procedure

				for forfeiture of terrorist property (Schedule 3) which includes the making of restraint orders and enforcement of order made in the United Kingdom and its Overseas Territories and external orders made in other countries The Proceeds of Crime (Amendment) Ordinance 2010 provides for the recovery of instrumentalities intended for use in or in connection with unlawful conduct through civil forfeiture. It includes sections on freezing orders. 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. There are a number of **provisions** that give effect to the recovery of tainted property. Section 143 and 144 of POCO deals with international cooperation and allows for external requests and orders, which include the Attorney General making an application for a restraint order on behalf of an overseas authority. In 2013, the Attorney General’s Chambers successfully made two such applications on behalf of authorities from the United States of America. One of the restraint orders has now been discharged after the overseas authority advised that the criminal action had been completed and that the restraint order was no longer necessary. The other order remains in effect. In January 2014 the United States offered to share forfeited funds. The assets in question represented a portion of securities fraud proceeds forfeited by the United States District Court for the Eastern District of New York following the recovery of the proceeds from accounts in the Turks and Caicos Islands. Bank accounts in the country were identified by the Federal Bureau of Investigation ("FBI") during its investigation of the offender for securities fraud. At the FBI's request, the Turks and Caicos Islands authorities restrained the accounts for more than a year and then lifted the restraint to allow the offender, who owned and

				controlled the accounts, to voluntarily repatriate their contents to the United States for forfeiture. It is in recognition of the assistance provided, the United States Department of Justice ("USDOJ") offered to share $279,620.32 with the Government of the Turks and Caicos Islands, which represents a portion of the net forfeited assets. This marked the first time that the United States shared forfeited assets with the Turks and Caicos Islands. The funds as part forfeited proceeds of crime was placed in the national forfeiture fund. The MLRA at its January 17, 2014 meeting mandated that a second draft of the Terrorism Bill be prepared by early February. Part 3 of the Bill makes it an offence to use or possess property or engage in fundraising for the purposes of terrorism and to money launder terrorist property. It also provides a procedure for forfeiture of terrorist property (Schedule 3) which includes the making of restraint orders and enforcement of order made in the United Kingdom and its Overseas Territories and external orders made in other countries. The MLRA at its February 21, 2014 meeting received second draft of the Terrorism Bill and set up a subcommittee to review and finalise the Bill. The sub-committee met February 28 and will complete its work by March 5, 2014. A Cabinet Paper is then to be prepared for presentation to Cabinet at its March 12, 2014 and to be laid before the next of House Assembly meeting currently scheduled for the end of March. It is anticipated that the second reading and the remaining stages of the Bill in the House of Assembly would be completed by the end of April 2014. Guidance on Mutual Legal Assistance is also being prepared and it is hoped that this work will be completed by the end of March 2014. **Guidelines on MLA in Criminal and Civil Matters have been drafted and disseminated to the various authorities for comments. The Guidelines should be finalized early September 2014.**

39. Extradition	C	The Recommendation is fully observed	• 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. Extradition requests are submitted to the UK by treaty partners and then sent to the Governor. This procedure complies with the legal requirements of the treaties and does not cause a delay in attending to such requests.
40. Other forms of co-operation	PC	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 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. Considerations which apply under the FSCO before regulatory assistance is given are onerous when taken conjunctively.	• 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.	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. 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. The 2009 Tax Information Exchange Ordinance (as amended) also provides a regime for the exchange of information between competent authorities for tax matters. A new Exchange of Information (EOI) Unit has been created within the Ministry of Finance which includes the Competent Authority's delegate and will perform the administrative functions relations to exchange of information for tax purposes pursuant to the TIEO and the EU Saving Directive. The EOI Unit has already entered into an MOU with the Attorney General's Chambers and hopes to complete MOU's with the FIU and the FSC shortly. TCI FSC prepared a Handbook setting out guidelines, which stipulate standard operating procedures for the processing of requests for assistance received by foreign competent authorities. The draft Handbook has been available on the FSC's website since the end of June 2013.
9 Special				

Recommendations				
SR.I Implement UN instruments	PC	The Terrorist Financing Convention has not been ratified or fully implemented.	• 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.	The MLRA has already agreed to request the extension of relevant sections of the UK Terrorist Financing Act and that was done by The Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order 2011. Under the Order access to frozen funds and assets may be done by the issue of a license issued by the Governor under section 17. 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. A first draft of the Terrorism Bill 2013 was circulated to members of the MLRA and the Judiciary in August 2013 for consideration. It is hoped that this Bill will be considered by Cabinet in October and the House of Assembly in November 2013. The draft bill covers all the concerns of the Special Recommendations. I to V. • Part 2 of the Bill deals with offences relating to membership in or support of a proscribed organization (listed in Schedule 1) which is concerned with terrorism. • Part 3 of the Bill makes it an offence to use or possess property or engage in fundraising for the purposes of terrorism and to money launder terrorist property. It also provides a procedure for forfeiture of terrorist property (Schedule 3) which includes the making of restraint orders and enforcement of order made in the United Kingdom and its Overseas Territories and external orders made in other countries • Part 4 is concern with investigating terrorism and includes powers to search premises, cordon an area, the ability to obtain orders production of materials, orders for explanations to be given, and orders to/against a financial institution to provide customer information or for an account monitoring. It also provides that non-disclosure of information relating to terrorism, tipping off and interference with material would be offences. • Part 5 of the Bill deals with the power to search, arrest, detain and stop and search. It also

				provides for the exercise of these powers at ports (Schedule 7). The treatment of persons detained is in Schedule 8 which covers, places of detention, the right to legal advice, identification, fingerprinting and the taking of intimate samples. It also provides a procedure for the review of the detention • Part 6 of the Bill covers further terrorist offences such as weapons training, directing terrorism, possession for terrorist purposes, and collection of information and inciting terrorism overseas. The MLRA at its January 17, 2014 meeting mandated that a second draft of the Terrorism Bill be prepared by early February. The MLRA at its February 21, 2014 meeting received second draft of the Terrorism Bill and set up a subcommittee to review and finalise the Bill. The sub-committee met February 28 and will complete its work by March 5, 2014. A Cabinet Paper is then to be prepared for presentation to Cabinet at its March 12, 2014 and to be laid before the next of House Assembly meeting currently scheduled for the end of March. It is anticipated that the second reading and the remaining stages of the Bill in the House of Assembly would be completed by the end of April 2014. **With the enactment of the Prevention of Terrorism Ordinance (No. 9 of 2014) in May 2014 the process to get the Conventions extended to the TCI has been engaged once again. The TCI awaits completion of the internal UK procedures.**
SR.II Criminalize terrorist financing	PC	Penalties for terrorist financing offences at the summary level are lenient. The elements of directing terrorism as required by Article 2(5) of the Terrorist Financing Convention, are undefined in the laws of the TCI. Inconsistent mens rea requirements for terrorism offences.	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 dissuasive.	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. Comprehensive anti terrorism legislation is hoped to be in place by the end of the year that should bring the TCI into full compliance with SR II.

		The effectiveness of the CFT regime is difficult to assess in the absence of any STRs or investigations on FT.	• 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.	A first draft of the Terrorism Bill 2013 was circulated to members of the MLRA and the Judiciary in August 2013 for consideration. It is hoped that this Bill will be considered by Cabinet in October and the House of Assembly in November 2013. It includes provisions which would address SR II As mentioned above the Terrorism Bill includes provisions relating to terrorist financing offences. It is anticipated that the Bill be approved in the House of by the end of April 2014. **The Prevention of Terrorism Ordinance (No. 9 of 2014) was passed in the House of Assembly on May 22nd 2014 and is expected to come into effect shortly.**

SR.III Freeze and confiscate terrorist assets	LC	Ineffective implementation of a strong CFT regime: 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 no clear procedures for the communication of lists of suspected terrorists to the financial sector. De-listing procedures are not publicly known.	• 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.	The Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order 2011 which came into force on March 31, 2011and 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. Similar provisions are also included in Orders in Council made in 2012 which have been extended to the TCI relating to Afghanistan, Al-Qaida, Iran, Syria, Sudan and South Sudan and Libya. 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 unlawful conduct through civil forfeiture. It includes news sections on freezing orders. Stand-alone legislation on CFT is to be produced. Consideration is being given to having such a provision covered in the new legislation. A first draft of the Terrorism Bill 2013 was circulated to members of the MLRA and the Judiciary in August 2013 for consideration. It is hoped that this Bill will be considered by Cabinet in October and the House of Assembly in November 2013. It includes provisions which would address SR III As mentioned above the Part 3 of the Terrorism Bill also provides a procedure for forfeiture of terrorist property (Schedule 3) which includes the making of restraint orders and enforcement of order made in the United Kingdom and its Overseas Territories and external orders made in other countries. It is anticipated that the Bill be approved in the House of by the end of April 2014.

				The Prevention of Terrorism Ordinance (No. 9 of 2014) was passed in the House of Assembly on May 22nd 2014 and is expected to come into effect shortly.
SR.IV Suspicious transaction reporting	PC	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.	• The reporting of STRs with regard to terrorism and the financing of terrorism should include suspicion of terrorist organisations or those who finance terrorism. • The obligation to make a STR related to terrorism should include attempted transactions.	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. 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. 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. The proposed new comprehensive anti-terrorism legislation is hoped to be in place by the end of the year, that should bring the TCI into full compliance with SR IV 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. A first draft of the Terrorism Bill 2013 was circulated to members of the MLRA and the Judiciary in August 2013 for consideration. It is hoped that this Bill will be considered by Cabinet in October and the House of Assembly in November 2013. As mentioned above the Terrorism Bill includes provisions relating to making STRs in relation terrorist financing. It is anticipated that the Bill be approved in the House of by the end of April 2014. **The Prevention of Terrorism Ordinance (No. 9 of 2014) was passed in the House of Assembly on May 22nd 2014 and is expected to come into effect shortly.**
SR.V International	LC	There are no formal administrative		These matters will be tabled for consideration of the

cooperation		procedures which have been established to ensure mutual legal assistance is given in a timely manner. Deficiencies noted with regard to Recs. 36 and 38 are also applicable to this Recommendation.		MLRA. Stand-alone legislation on CFT is to be produced. These issues are being considered for inclusion in the Bill. A first draft of the Terrorism Bill 2013 was circulated to members of the MLRA and the Judiciary in August 2013 for consideration. It is hoped that this Bill will be considered by Cabinet in October and the House of Assembly in November 2013. The Terrorism Bill like POC includes provisions relating external orders and requests. It is anticipated that the Bill be approved in the House of by the end of April 2014. **The Prevention of Terrorism Ordinance (No. 9 of 2014) was passed in the House of Assembly on May 22nd 2014 and is expected to come into effect shortly.** Guidance on Mutual Legal Assistance is also being prepared and it is hoped that this work will be completed by the end of March 2014. **Guidelines on MLA in Criminal and Civil Matters have been drafted and disseminated to the various authorities for comments. The Guidelines should be finalized early September 2014.**
SR.VI AML requirements for money and value transfer services	PC	Money service providers have not yet been licensed within the TCI. The AML/CFT legislative framework applicable to money service providers has not been effectively implemented. 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.	• 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. • In order to execute the abovementioned, the FSC should appropriately resource a department within the Commission that is	The licensing of money service providers ~~is ongoing~~ **has** been completed. A supervisory regime including the issuance of guidelines (published on the FSC's website), reporting forms and standards and a programme of onsite inspection has also been instituted. 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. POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now include a regulatory regime for NFBPs and a NFBP Supervisor. FSC has started the process of assessing the current level of compliance with AML/CFT rules and regulations by the MSP'**s** and is develop**ing** a plan to improve the current compliance level.

			responsible for the effective execution of the MTO.	The FSC has provided training to guide MSP's into the effective execution of their responsibilities under the recently enacted AML/CFT legislative framework. This training was conducted in September 2010. As mentioned above, the FSC has commenced a programme of onsite reviews of Money Transmitters and by the end of the 1st Quarter of financial year 2013 had completed a cycle of onsite inspections. 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. The FSC has also introduced quarterly reporting as a part of its offsite supervisory programme. Deficiencies are monitored on a risk focused basis.

SR.VII Wire transfer rules	NC	There are no measures in place to cover domestic, cross-border and non-routine wire transfers. There are no requirements for intermediary and beneficial financial institutions handling wire transfers. There are no measures in place to effectively monitor compliance with the requirements of SR VII.	• 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 regulatory 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.	POCO and Anti-Money Laundering and Prevention of Terrorist Financing Regulations now includes a regulatory regime for NFBPs and a NFBP Supervisor. Part 9 of the Code gives effect to SRVII concerning wire transfers.
SR.VIII Non-profit organizations	NC	TCI Authorities have not addressed the non-profit organizations that can be used for FT purposed in their legislative framework. 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. There are no sanctions against non-profit organisations for failure to comply with AML/CFT measures. 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. No measures to ensure that NPOs can be effectively investigated and that required information can be gathered. Regulatory bodies have not issued any guidance notes to regulated entities to increase awareness for the relevant risks	• 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 not comply with AML/CFT oversight measures. • 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	A new section 148S has been added to POCO which provides for the appointment of an NPO Supervisor. The POCO was amended in January 2013 to give the Governor power to make regulations that would create a regulatory and supervisory regime for NPO's. Regulations creating the supervisory framework for NPO's were made in March, 2013. The Regulations includes sanctions against NPOs that do not comply with AML/CFT oversight measures. The regulations include requirements for NPO's to maintain information on the purpose and objectives of their stated activities as well as other essential information for a minimum of five years. The Companies (Amendment) Ordinance 2012 was enacted on October 10, 2012, which allows for the establishment of Non-Profit Companies. A Proceeds of Crime Amendment Ordinance has been drafted which will enable the establishment of a supervisory regime for Non-Profit Organisations. This along with the NPO Regulations have been aapproved by the Advisory Council (equivalent to Cabinet) on October 3, 2012 and is anticipation to be enacted in November 2012, after the new Ministerial Government takes office. The Regulations includes sanctions against NPOs that do not comply with AML/CFT oversight measures. An amendment to the Companies (Fees) Regulations was also made in March 2013 to insert new fees into the schedule in relation to Non-Profit companies.

		of non-profit organizations as FT vehicles. The FCU has not provided any guidance to NPOs regarding the reporting of suspicious transactions. There has not been any training for NPOs. There is no point of contact with regard to obtaining international requests for information on NPOs.	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.	These four bits of legislation came into operation on April 1, 2013. The head of the DNFBP Department of the FSC will also function as the NPO Supervisor. Working with the FSC, the FCU is to ensure that all NPOs are made aware of the revised procedures for reporting suspicious transactions. All known NPO's are aware of their responsibilities. NPO registration has commenced and deadline the deadline for registration set by law is March 31, 2014. Additionally, NPO's which are companies are now making the election required by the amendment to the Companies Ordinance to indicate whether they will continue as a Non-Profit Company (NPC). Such companies are also making the chances to comply with the recent amendments relating to NPC's in order to comply with these new requirements. All new NPC's must meet the new requirements in order to be incorporated. Again, companies operated as non-profit associations before the amendment and which elect to continue as a NPC must elect and comply with the new requirements by March 31, 2014. Those associations which were incorporated as companies, which do not comply with the requirements and make the election by March 31, will be struck off the Register. The Registry is to work with Government to ensure that various Government Departments are aware of the changes and now request the general registration of all NPO's with the NPO Supervisor is also underway and the deadline for registration is also March 31, 2014. The NPO Supervisor has through the local media conducted various awareness rising actions. Banks and other financial institutions have also commenced requesting the registration certificate issued by the FSC as a part of its ongoing due diligence measures. **As a result of further representations and consultations with NPOs on August 27, 2014, Cabinet has agreed to extend the period, by 3 months, for Non-Profit Organisations (NPOs) to register with the Financial Services Commission from 31 August to 30 November. The extension is being provided to enable consideration by Cabinet of submissions received**

				from NPOs on the existing NPO legislation and the proposed amendments thereto. **Notwithstanding the further extension of the deadlines to 30th November 2014, the Financial Services Commission has continued to press ahead with registration with the NPO Supervisor and requesting continuation applications with the Registrar of Companies. Useful progress has been made with 45 applications received and processed. Of the 169 existing Non Profit Companies recorded on the Register 65 (approximately 40%) have lodged a request for "Continuation" under the Companies (Amendment) Ordinance.**
SR.IX Cash Couriers	NC	The recently enacted POCO has had no time to be effectively implemented. The Immigration Department has not established any MOUs with its counterparts abroad. 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.	• 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	These matters are under review by the relevant Department. 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.