



Ninth Follow-Up Report

St. Kitts and Nevis

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ST. KITTS & NEVIS: NINTH FOLLOW-UP REPORT: UPDATE AND FULL ANALYSIS

I. INTRODUCTION

1. The third round Mutual Evaluation Report of St. Kitts and Nevis was adopted by the CFATF Council of Ministers in May 2009, in Trinidad and Tobago. Since St. Kitts and Nevis had thirteen of the sixteen Core and Key rated PC/NC, St. Kitts and Nevis was placed in the pool of countries that would be subject to the ICRG process. St. Kitts and Nevis' first follow-up report was tabled in May 2010 at which time St. Kitts and Nevis was placed in regular (expedited) follow-up and required to report back to the November 2010 Plenary. St. Kitts and Nevis reported at the November 2010 Plenary (2nd FUR) and remained in regular (expedited) follow-up and reported in May 2011 (3rd FUR), November 2011 (4th FUR); May 2012 (5th FUR) and November 2012 (6th FUR). In May 2013(7th FUR), it was recommended that St. Kitts and Nevis should seek removal from the CFATF ICRG process and then be placed in regular (one year) follow-up and report back to the May 2014 Plenary. St. Kitts and Nevis reported to the May 2014 Plenary (8th FUR) at which time they exited the CFATF ICRG process. It was also noted that the country had 'almost achieved complete compliance with the Core and Key Recommendations, with only R. 26 being not fully met' i.e. not at the level of a 'C'. The expectation was that St. Kitts and Nevis would either apply to exit the follow-up process or stay on regular (one year) follow-up and report back to the May 2015 Plenary.
2. This report is based on the follow-up removal procedure as stated in the CFATF Mutual Evaluation Procedures (amended to 2012) and as further explained by the decision of the Miami Plenary (May 2014)¹. The report contains a detailed description of the measures taken by St. Kitts and Nevis to address deficiencies in their Core and Key Recommendations that were rated partially compliant (PC) or non-compliant (NC) in the mutual evaluation report. A brief description and analysis of the non-Core and Key recommendations rated PC/NC is also being presented, but will not be considered as part of the exit process.
3. St. Kitts and Nevis was rated PC or NC on the following Recommendations:

Core Recommendations ² rated partially compliant (PC)
R.1 (Criminalisation of money laundering) R. 5 (Customer due diligence) R.13 (Suspicious transaction reports) SR. II (Criminalizing terrorist financing)SR. IV (Terrorist financing suspicious transaction reports)
Key Recommendation ³ rated PC
R. 3 (Confiscation and Provisional measures) R. 23 (Regulation, supervision and monitoring) R.26 (The FIU) R. 35 (Conventions) R. 40 (Other forms of Cooperation) SR.I (Implement UN instruments) SR. III (Freeze and confiscate terrorist assets)

¹ See. CFATF-plen-XL-a-iii-annex-i-updated.

² The FATF Core Recommendations are: R.1, R.5, R. 10, R. 13 and SR. II and SR. IV.

³ The FATF Key Recommendations are R. 3, R. 4, R. 23, R. 26, R.35, R.36, R. 40, SR. I, SR. III and SR. V.

SR. V (International co-operation)
Other Recommendations rated PC
R. 8 (New technologies and non-face-to-face business) R. 9 (Third parties and introducers) R.11 (Unusual transactions) R. 12 (DNFBPs – R.5,6, 8-11) R. 14 (Protection and no tipping-off) R. 15 (Internal controls, compliance and audit) R. 21 (Special attention for higher risk countries) R.25 (Guidelines and feedback) R. 29 (Supervisors) R. 30 (Resources, integrity and training) R. 31 (National cooperation) R. 32 (Statistics) SR. VI (AML requirements for money/value transfer services)SR. VII (Wire transfers) SR. VIII (Non-profit organisations)
Other Recommendations rated non-compliant (NC)
R. 16 (DNFBPs – R. 13-15 and 21) R. 17 (Sanctions) R. 24 (DNFBPs regulation, supervision and monitoring) R. 27 (Law enforcement authorities) SR. IX (Cash couriers)

4. The review of St. Kitts and Nevis’ progress towards exiting the follow-up process is a desk-based review and as such is not as detailed and thorough as a mutual evaluation report. The analysis focuses on the Recommendations that were rated PC/NC and as such only part of the AML/CFT system is being reviewed. The analysis consists of looking at the main laws, regulations, guidelines and other materials to verify technical compliance with the FATF Recommendations. The level of effectiveness is taken into account through consideration of data provided by St. Kitts and Nevis. The conclusions in this report do not prejudge the results of any future assessments as they are based on information that was not verified through an onsite process.

II. MAIN CONCLUSIONS AND RECOMMENDATIONS TO THE PLENARY

Core Recommendations:

5. **Recommendation 1:** With regard to the deficiencies (TF is not a predicate offence for ML, no one has been charged or prosecuted under the Proceeds of Crime Act (POCA), insufficient training of investigators and prosecutors, and recent amendments have affected the ability to assess effectiveness of implementation) the Authorities amended the . Anti-Terrorism Act in 2009 to make TF a predicate offence for ML; training has been provided (See. Annex attached) and will be discussed more appropriately in R. 30, while several persons have been charged with ML. R.1 has been addressed and has been brought to a level comparable at a minimum to an LC.

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6. **Recommendation 5:** The enactment of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011, the amendment of the Anti-Money Laundering Regulations (AMLR), 2011; the Financial Services (Implementation of Industry Standards) Regulations, 2011 and the revision of the Guidance Notes addressed the deficiencies so that R. 5 has been brought to a level that is comparable at a minimum to and LC.
7. **Recommendation 13:** The deficiencies were addressed by amendments to the AMLR and the Anti-Terrorism Regulations (ATR) along with the enactment of the Financial Services (Implementation of Industry Standards) Regulations, 2011 and the revised Guidance Notes. The amendments and enactments ensured that R. 13 was brought up to a level comparable at a minimum to an LC.
8. **Special Recommendation I:** The amendments to the ATA addressed the shortcomings noted by the Examiners and has raised the Recommendation to a level comparable at a minimum to an LC.
9. **Special Recommendation IV:** The deficiencies were addressed with amendments to the ATR. The amendments raised the level of compliance with SR. IV to one comparable to LC at a minimum.

Key Recommendations:

10. **Recommendation 3:** Two of the noted deficiencies which pertained to the definition of ‘property’ in both the POCA and the ATA were addressed by amendments to those pieces of legislation. The other deficiencies noted by the Examiners pertaining to the confiscation of instrumentalities; the freezing, confiscation and forfeiture of property were also addressed by amendments to the POCA and the ATA in a manner that has the level of compliance with R. 3 comparable to LC at a minimum.
11. **Recommendation 23:** There were several deficiencies for this Recommendation. The majority of which stemmed from the lack of ‘fit and proper’ requirements for insurance companies, credit unions etc. and the lack of powers by the Eastern Caribbean Central Bank (ECCB) and the Eastern Caribbean Securities Regulatory Commission (ECSRC) to conduct AML/CFT inspections. The enactment and subsequent amendment of the Financial Services Regulatory Commission Act, 2009 (FSRCA) addressed the issue of AML/CFT supervision, while the ‘fit and proper’ requirements were incorporated into the Insurance Act, 2009; the Cooperatives Act, 2011; the Nevis International Insurance Ordinance, 2004; the Nevis International Banking Ordinance, 2014. The resources of all supervisory authorities was increased. Accordingly, R. 23 has achieved a level of compliance that is comparable at a minimum to an LC.
12. **Recommendation 26:** The deficiencies identified with the FIU were addressed by an amendment to the ATA and the AMLR; the re-location of the FIU, establishment of a training function for FIU staff and also for regulated entities, preparation and publication of an annual report containing typologies and processes to give more autonomy to the Director in the hiring of new staff. These measures have brought the compliance with this Recommendation up to a level comparable at a minimum to an LC.
13. **Recommendation 35:** The deficiencies for R. 35 related to the lack of measures to address Articles 20 and 29 of the Palermo Convention and Articles 11 and 16 of the Terrorist Financing Convention. They were respectively addressed by a proper review of the powers of police officers under the Police Act, 2003; the Electronics Crimes Act, 2009; the Interception of Communications Act, 2011; a training for all areas of law enforcement and the Extradition Act. The combined measures have resulted in this Recommendation being raised to a level comparable at a minimum to an LC.
14. **Recommendation 40:** An amendment to the POCA in 2012 addressed the deficiency noted with regard to the ability of law enforcement to conduct investigations on behalf of their foreign counterparts, while the establishment of a Regulatory Oversight Committee and an MOU addressed the issue of

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cooperation and information sharing by the ECSRC. These measures brought this Recommendation to a level comparable at a minimum to an LC.

15. **Special Recommendation II:** Two deficiencies were identified for SR. II; the first with regard to TF not being a predicate offence for ML and the second with regard to inadequate penalties for legal persons under the ATA. Both deficiencies were dealt with through amendments to the ATA and resulted in the level of compliance being brought to a level comparable to an LC at a minimum.
16. **Special Recommendation III:** The enactment of the Anti-Terrorism (De-Listing Procedures) Regulations, No. 62 of 2011 and an amendment to section 43 of the ATA (ATA amendment, No. 3 of 2012) addressed the deficiencies to the extent that SR. III has achieved a level of compliance that is comparable to at least an LC.
17. **Special Recommendation V:** The deficiencies noted are identical to those for R. 40 above and were as noted above dealt with by an amendment to the POCA and the establishment of a Regulatory Oversight Committee and an MOU for the sharing of information. Accordingly, this Recommendation has achieved a level of compliance that is comparable at a minimum to an LC.

Other Recommendations:

18. St. Kitts and Nevis made significant progress in addressing the deficiencies in its non-core and key Recommendations that were rated PC/NC to the extent that the remaining outstanding Recommendations are all at a high level of compliance with only one Recommendation (R. 24) at a substantial level of compliance. However, St. Kitts and Nevis' application for removal from the follow-up process is based on its compliance with the Core and Key Recommendations that were rated PC/NC. Accordingly, this report will not provide a detailed analysis of the other Recommendations. A brief overview of the progress made with these other Recommendations is included in section VI of this report for information purposes only.

CONCLUSION:

19. This report provides an analysis of St. Kitts and Nevis' Core and Key Recommendations that were rated PC/NC in its 2009 Mutual Evaluation Report. The analysis indicates that St. Kitts and Nevis has addressed the deficiencies noted in the Core and Key Recommendations rated PC/NC (R. 1, 3, 5, 13, 23, 26, 35, 40, SR. I, II, III and IV) to a level that is comparable to at least an LC. It is therefore recommended to Plenary that St. Kitts and Nevis should be allowed to exit the third round follow-up process.

III. OVERVIEW OF ST. KITTS AND NEVIS' PROGRESS

Overview of the main changes since the adoption of the Mutual Evaluation Report (MER)

20. Since the adoption of the MER in 2009, St. Kitts and Nevis has focused on addressing the identified deficiencies through the enactment and amendment and implementation of legislation that would strengthen its AML/CFT framework. St. Kitts and Nevis began to improve their AML/CFT framework with the enactment of the Proceeds of Crime (Amendment) Act, 2009 (POCA); the Anti-Terrorism (Amendment) Act, 2009; the Financial Services Regulatory Commission Act, 2009; the

Insurance Act, 2009 and the Island Constables Act, 2009. The Money Services Business Act, 2008 and the Payment Systems Act, 2008 were brought into force on January 1, 2009. The Financial Services (Implementation of Industry Standards) Regulations, to which is scheduled the Revised Guidance Notes were approved in 2011. In 2011 as well, St. Kitts and Nevis approved the Non-Governmental Organizations Regulations, 2011 and the Interception of Communications Act, 2011. The former enactment set up the operational framework for the registration of NGOs and the terms under which the NGO Commission will function, while the latter enhanced the crime detection capabilities of the Police Force. Additionally, 2011 saw the revision of the Cooperatives Societies Act (enacted in October 2011) and the enactment of the Anti-Terrorism (De-Listing Procedures) Regulations (No. 62 of 2011). Guidance for DNFBPs was prepared in 2012 and the members of the FIU Board and the NGO Commission were also approved. During the period since the mutual evaluation, both the FSRC and the FIU provided and attended AML/CFT training. St. Kitts and Nevis also has been implementing its AML/CFT laws through ML charges and ongoing prosecutions. St. Kitts and Nevis has always exhibited a high level of commitment to dealing with the deficiencies in their AML/CFT Framework..

The Legal and Regulatory Framework

21. St. Kitts and Nevis' AML/CFT legal and regulatory framework as indicated in the paragraph above is based on several pieces of legislation (including regulations) that have been enacted by its Parliament. Guidelines have been issued by the FSRC. These laws and guidance will be discussed in detail in section IV of the report.

IV. DETAILED ANALYSIS OF COMPLIANCE WITH THE CORE RECOMMENDATIONS

RECOMMENDATION 1 – PC

R.1 (Deficiency 1): Terrorist Financing is not a predicate offence for ML.

22. The TF offence was determined not to be a predicate offence for ML because as a 'hybrid' offence, it could be tried either summarily or on indictment and at a summary level it was not considered to be a serious offence. The POCA, at section 2 defines a 'serious offence' as '*any offence triable on indictment or any hybrid offence that attracts a penalty of imprisonment of more than one year.*' On summary conviction, the penalty of TF was a term of imprisonment not exceeding six (6) months. In order to correct the deficiency, section 4 of the ATA was amended (Anti-Terrorism (Amendment) Act, 2009) to increase the penalty on summary conviction to a period of imprisonment for five (5) years or a fine or both. The deficiency has been addressed.

R.1 (Deficiency 2): No one has been charged or prosecuted under the POCA.

23. The St. Kitts and Nevis' White Collar Crime Unit (WCCU) noted in 2014 that there was one pending ML matter in Nevis and a pending confiscation matter arising from a drug related conviction. The WCCU also indicated that there are ongoing investigations in two (2) cases that have arisen from suspicious transaction reports (STRs) and that a total of twenty (20) STRs are being currently investigated. Further, the Office of the Director of Public Prosecutions (DPP) has stated that there are two (2) cases of ML pending. The deficiency has been addressed.

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R.1 (Deficiency 3): Recent amendments have affected ability to assess effectiveness of implementation.

24. This deficiency essentially relates to deficiency 2 above. As noted above, there are currently ML investigations and two pending ML matters. Additionally, the POCA has been used to apply for production, restraint and confiscation orders as follows:

Year	Production orders	Restraint order	Application/Confiscation order	Money Laundering
2008	nil	nil	nil	nil
2009	nil	nil	nil	nil
2010	2	2 (Close)	2 (Close)	nil
2011	14 (Close)	nil	nil	nil
2012	21 (Close)	2 (Pending)		2 (withdrawn at Court)
2013	6 (Close)	2 (Pending)	2 (Pending)	1(Pending)
2014	4 Pending	3(Pending)	2 (pending)	1(Pending)

25. The Authorities have also indicated that the three (3) restraint orders that are currently in effect represent two local amounts totalling XCD\$300,000 and one foreign amount of US\$1M. Based on the aforementioned, there is an adequate level of implementation of the AML/CFT laws.

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26. St. Kitts and Nevis through the enactment of the ATA addressed the first deficiency noted. On the issue of implementation and effectiveness, St. Kitts and Nevis have obtained restraint, confiscation and forfeiture orders and there are two pending ML cases. Recommendation 1 now meets a level of compliance that is comparable at a minimum to an LC.

RECOMMENDATION 5 – NC

R.5 (Deficiency 1): The AMLR may not extend to TF obligations.

27. The Anti-Money Laundering Regulations, 2011 (AMLR) were made pursuant to the powers conferred on the Minister under section 67 of the POCA. The POCA specifically deals with ML matters and as such, the Regulations arising from them could therefore only pertain to ML matters also. In order to address the deficiency, the Anti-Terrorism (Prevention of Terrorism) Regulations, 2011 (ATR) were enacted. The ATR specifically deals as required with TF obligations related to the ATA. The deficiency has been addressed.

R.5 (Deficiency 2): No requirement for CDD on de minimis transactions if TF is suspected.

28. Pursuant to Reg. 4(c)(i) of the ATR, a person engaging in business transactions or one off transactions is required to apply CDD where there is a suspicion of TF. The application of CDD is not subject to

a monetary limit, but is applicable where there is a suspicion of TF. The deficiency has been addressed.

R.5 (Deficiency 3): Guidance re money transfer businesses does not apply to banks.

29. The discussion on the exclusion of banks in relation to dealing with occasional wire transfers was noted by the Examiners at para. 577 of the MER, where the Examiners stated that ‘*The specific procedures to be carried out in the case of occasional wire transfers are contained in the Guidance Notes, which provide at paragraph 202 that Money Services Businesses (excluding banks) should ensure that all documentation is duly completed and signed before each new business relationships and that originator information (name address routing number and account number of the customer) is included on all incoming and outgoing transfers.*’ Pursuant to the Schedule of the POCA, banks, like money transfer businesses are considered to be regulated businesses to which all the AML/CFT measures are applicable. Paragraphs 122 and 123 of the Guidance Notes on the Prevention of Money Laundering and Terrorist Financing (Guidance Notes) provide for wire transfers and cross-border wire transfers respectively and the measures are applicable to all regulated businesses. The measures include that wire transfers must include accurate and meaningful originator information including the identity of the remitting customer and as far as possible the identity of the ultimate recipient. The deficiency has been addressed.

R.5 (Deficiency 4): Requirements re occasional transfers are not in law or regulations.

30. The Financial Services (Implementation of Industry Standards) Regulations, 2011 gave effect to the Guidance Notes as compulsory measures and accordingly, raised them to the level of ‘law or regulation’. As noted in deficiency 3 above, wire transfer transactions whether occasional or not are required to undergo CDD requirements. The deficiency has been addressed.

R.5 (Deficiency 5): Requirement for the use of independent documentation are not in law or regulation.

31. Regulation 4 of the AMLR provides the identification and verification procedures that are necessary before the establishment of a business relationship. Specifically, Reg. 4(4)(b)(iii) (AMLR 2012 amendment) states that identification of a person means ‘relying on evidence that is supported by independent documentation that is derived from a reliable source.’ However, it should be noted that Reg. 4(4)(b)(i) and (ii) provide that identification evidence must be obtained that is capable of verifying that the person identified is in fact the same as the customer, third party, beneficial owner or controller and that the documents, data or other information used must be conclusive. Additionally, paras. 80-86 of the Guidance Notes indicate the type of documentation that should be obtained to verify a customer’s identity. In fact, the Examiners noted at para. 580 of the MER that “The Guidance Notes (which are not deemed to be law or regulations) at paragraphs 80 and 81 specifies the types of independent documentation that should be used to verify the identity of an individual.” It is therefore clear that the real issue was not that there was no requirement to use independent documentation, but that the measures were not contained in law or regulation as required by the criterion 5.3 of the Methodology. As noted above, the Guidance Notes are now considered to be law or regulation (See. Deficiency 4 above) and so the deficiency has been addressed by the amendment to the AMLR and the enhanced status of the Guidance Notes as law or regulation.

R.5 (Deficiency 6): The requirement to identify and verify the beneficial owner using data from a reliable source is not in law or regulations.

32. Pursuant to Reg. 4(2) of the AMLR, there must be identification and verification of the customer and beneficial owners or controllers. As noted immediately above, Regs. 4(4)(a) and 4(4)(b)(i) of the AMLR provide that identification of a person means “*establishing the true identity of that person, including that person’s name and legal status and where that person is not an individual, verifying the legal status of the person and obtaining evidence that is reasonably capable of verifying that the person to be identified is in fact one and the same as the customer, third party, beneficial owner or controller being identified.*” The Guidance Notes provide specific references to the types of information that are to be used to satisfy identification and as noted above the Guidance Notes are now considered to be law or regulation. The deficiency has been addressed.

R.5 (Deficiency 7): No direct requirement to verify authority of person purporting to act for a principal.

33. Pursuant to Reg. 4(2)(b) of the AMLR, provides identification measures that require a determination that a customer is legitimately acting for a third party. Further, Reg. 4(2)(c) provides that where the customer is not an individual there must be identification and verification of the person acting on behalf of the customer; an understanding of the control and structure of the customer and identifying the individuals who are the customers’ beneficial owners and controllers. The deficiency has been addressed.

R.5 (Deficiency 8): Enhanced due diligence measures do not take into account cases and circumstances cited in the Basel CDD paper.

34. Regulation 5 of the AMLR provides enhanced due diligence measures (EDD) by stating the instances where EDD should be applied. As noted in the MER there is no specific mention of the higher risk categories as noted in the Basel CDD paper, however, Reg. 5(2) states that a regulated person shall use a risk sensitive basis to apply EDD when establishing a business relationship, one off transaction or continuing a business relationship and that EDD should be used in any circumstances where there is an increased risk of ML or TF. This would suggest that any of the examples posed in the Basel paper could be subject to EDD where the regulated business believes that there is an increased risk of ML or TF. Accordingly, while all instances for EDD have not been specifically identified, the AMLR provides sufficient latitude for regulated businesses to implement EDD. Lastly, as a procedural note, the information in the Methodology was intended as examples and were not meant to be a direct requirement for countries to have. The deficiency has been adequately addressed.

R.5 (Deficiency 9): No direct obligation to ascertain legal status of party to legal arrangement/trust agreement.

35. As noted previously, Reg. 4(2)(b) of the AMLR describes what identification procedures are and with regard to persons acting on behalf of a third party (as when a Trustee acts on behalf of the Settlor of the trust and in the best interest of beneficiaries), provides that the third party must be identified and there must be an understanding of the ownership and control structure of the customer and identification of the persons who are the customer’s beneficial owners or controllers. Further, Reg. 7(2) of the AMLR (as amended by the AMLR, 2012 amendment) provides that a relevant person shall

obtain the necessary due diligence information about an intermediary's or introducer's customer, with specific details on the identification methods for customers; verification procedures where the customer is acting for a third party or in the case of a legal person verifying the legal status or arrangements of that legal person and also verifying whether any person is allowed to act on behalf of the customer. Additionally, the Trusts Act requires the maintenance of the identity of all persons involved in a trust (trustee, settlor, and beneficiary). The AMLR measures therefore provide a direct obligation to ascertain the legal status of parties to legal arrangements or trust agreements. The deficiency has been adequately addressed.

R.5 (Deficiency 10): There is no prohibition of the use of reduced due diligence where there is a suspicion of TF.

36. Regulation 6 of the ATR deals with situations where reduced due diligence can be applied for low risk situations. Sub-regulation (9) of that regulation however provides in relevant part that "*in any case where there is a suspicion of terrorist financing the requirements of enhanced due diligence shall be applicable pursuant to regulation 4.*" Accordingly, the deficiency has been addressed.

R.5 (Deficiency 11): No reference to special risk management procedures that should take place where a customer is allowed to utilise a business relationship prior to verification.

37. Pursuant to Reg. 4(5)(ii) of the AMLR and the ATR, verification of a customer can be completed as soon as is reasonable after the establishment of the business relationship, if there is in the interim little risk of ML or TF occurring. Further, Reg. 5(6) and (7) require that sufficient information be obtained from a customer to determine the degree of risk and that the procedures for obtaining evidence (with regard to identity) shall also take into consideration the degree of risk assessed. Additionally, para. 34 of the Guidance Notes requires an assessment of risk prior to establishing the business relationship and periodically thereafter. As a result of these measures, the deficiency has been addressed.

R.5 (Deficiency 12): Measures for ongoing due diligence does not include scrutiny that ensures that transactions are consistent with the source of funds.

38. Pursuant to Reg. 4(3) of the AMLR and ATR, ongoing due diligence involves "*(a) scrutinising transactions that are undertaken throughout the course of the relationship to ensure that the transactions being conducted are consistent with the relevant person's knowledge of the customer, including the customer's business and risk profile; and (b) ensuring that documents, data or information obtained under identification procedures are kept up to date and relevant by undertaking reviews of existing records, including but without prejudice to the generality of the foregoing, reviews where any inconsistency has been discovered as a result of applying the procedures described in subparagraph (a).*" Additionally, at para. 40 of the Guidance Notes, the 'source of funds' and 'source of wealth' for both lower and higher risk customers as relevant information to be collected as part of the verification process is indicative of the fact that the scrutiny of transactions include ensuring that transactions are consistent with the source of funds. The deficiency has been adequately addressed.

R.5 (Deficiency 13): Effectiveness cannot be assessed due to the recent passage of the Regulations and Guidance Notes and the limited knowledge of the supervised constituents about the new requirements.

39. Since the enactment of the Regulations and the publication of the Guidance Notes, the FSRC has conducted a significant amount of training to its constituents since its establishment in October 2010. The number of training exercises provided to regulated entities by the St. Kitts branch of the FSRC is

as follows: one (1) in 2011; three (3) in 2012; two (2) in 2013 and four (4) in 2014. The regulated entities included MSBs, Credit Unions and Insurance Companies. The Nevis branch of the FSRC has hosted an annual AML/CFT training seminar for the past four (4) years – 2010 to 2014 as follows: one (1) in 2010; one (1) in 2011, two (2) in 2012; one (1) in 2013 and one (1) in 2014. In 2012, specific training was provided to a branch of an insurance company. Attendees to the seminars included TCSPs (registered agents); DNFBPs, MSBs, credit unions, financial institutions, insurance companies, insurance managers and an international bank. The participants usually include members of the regulated sector. The most recent conference was held March 3-4, 2014 and was attended by accountants, lawyers, bankers, real estate agents, insurance agents, service providers, Customs Officers and Government staff. With regard to keeping the financial services industry updated with their responsibilities with regard to taking appropriate measures against countries that might pose a risk to the international financial system, the FSRC published two press releases about the CFATF's Public Statements. The deficiency has been adequately addressed.

R.5 (Deficiency 14): Concern relating to verification of compliance with this recommendation by Captive and International insurers, given the fact that the bulk of their activities occur offshore.

40. Pursuant to Section 4(1) of the Act, the FSRC has responsibility for all the enactments specified in Schedule 1 of the Act. The Captive Insurance Companies Act, No. 12 of 2006 is one of those enactments, which means that the FSRC has regulatory oversight for persons subject to this Act. Additionally, all Captive Insurance Companies are licensed through an Insurance Manager. As part of the licensing process, identification and verification documents are submitted for all directors and shareholders. The Insurance Manager is required to maintain all identification and verification documents of the directors and shareholders of all licensed Captive Insurance Companies and notify the FSRC of any changes made. This is verified by the FSRC during the onsite examination of the Insurance Manager. The deficiency has been addressed.

RECOMMENDATION 5 - OVERALL CONCLUSION

41. Based on the enactment of the AMLR, the ATR and the revision of the Guidance Notes to a level of law or regulation, the outstanding deficiencies noted by the Examiners have been addressed. Consequently, R. 5 has achieved a level of compliance comparable at a minimum with an LC.

RECOMMENDATION 13 – NC

R.13 (Deficiency 1): The suspicious transaction reporting requirements under the AMLR and the ATA are not in keeping with the FATF requirements.

42. Pursuant to Reg. 11(2)(b) of the AMLR and the ATR, a person must report upon reasonable suspicion that any other business transaction could relate to ML or the proceeds of criminal activity or where there are grounds for believing that the funds in a transaction could be linked, related to or are to be used for ML or the proceeds of criminal activity. The Examiners' deficiency arose because the STR reporting requirement in place at the time required the person to have a suspicion that "gives rise to knowledge, suspicion or reasonable grounds for knowledge or suspicion that another person is engaged in money laundering." This requirement placed a higher burden on the person who was reporting. Additionally, the requirement was linked to all transactions that were complex, unusual or large business transactions. Again, the Examiners' felt that this narrowed the scope of suspicious

transactions. While there is still a requirement at Reg. 11(2)(a) for complex, usual, large etc. transactions, sub-regulation (b) as stated earlier provides for suspicion based on a belief etc. that the transactions could relate to the ML or the proceeds of criminal activity. It should also be noted that there is a reference to the ATA because at the time of the mutual evaluation there were no separate Regulations for terrorism. (See. Discussion above at R. 5 Deficiency 1). The deficiency has been addressed.

R.13 (Deficiency 2): Sanctions under the AMLR are not proportionate and may affect effectiveness for more serious offences.

43. The AMLR 2011 provides a wide range of offences for the various offences that are covered by the Regulations. For example Reg. 5 (Enhanced Due Diligence) provides for a fine of XCD \$150,000 for failure to obtain the approval of senior management approval to establish a business relationship with a PEP; Reg. 8 (Record-Keeping) provides for a fine of XCD\$25,000 for failure to keep the required records; Reg. 11 (Reporting Procedures and Requirements) provides for imprisonment for two (2) years and a fine of XCD \$50,000 for making a false disclosure. Where penalties are not specified, Reg. 14 provides for a fine not exceeding XCD \$25,000 with the possibility of a daily fine of XCD \$100 for every day the contravention continues. The penalties under Reg. 14 are in addition to the penalties that can be applied under the FSRCA by the Commission. Finally, pursuant to Reg. 15 the FSRC can issue directives, which are Gazetted and published in at least one local newspaper. The sanctions presented appear to be proportionate for the offences that they cover. The deficiency has been addressed.

R.13 (Deficiency 3): Sanctions for failing to report possession of terrorist property is less severe than other reporting breaches under the ATA.

44. Section 20 of the ATA pertains to the offence of ‘disclosure of information relating to property owned or controlled by a terrorist’ and provides for a fine not exceeding XCD \$40,000 or to imprisonment for a term not exceeding three (3) years or both on summary conviction and on conviction on indictment to a fine not exceeding XCD \$250,000 or to imprisonment not exceeding fourteen (14) years or both. In the MER (para. 751) this offence was compared with the offence of failure to disclose a suspicion that funds are related to terrorist activities and found to be disproportionate. Penalties under the ATA for failing to report under section 17 is fourteen (14) years and/or a fine upon conviction on indictment and in the case of summary conviction to a term of six (6) months or a fine not exceeding XCD \$7000. Thus currently, the offence of failing to disclose information about terrorist property is more severe than the failure to disclose a suspicion that funds are related to terrorist activities. A review of other offences under the ATA shows that the increased sanctions are in keeping with other breaches under the ATA. (See. Offences at sections 24, 26 and 27 of the ATA). The deficiency has been addressed

RECOMMENDATION 13 - OVERALL CONCLUSION

45. The enactment of the AMLR and the ATR in 2011 has resulted in the deficiencies being fully addressed. Further, the amendments to the ATA have also enhanced the level of compliance with the deficiencies. The recommendations made by the Examiners have been addressed at least to a level comparable with an LC.

SPECIAL RECOMMENDATION II – PC

SR.II (Deficiency 1): Terrorist financing does not meet the requirements to be considered a predicate offence.

46. This deficiency is identical to R. 1-Deficiency 1 which is considered to be addressed by the Anti-Terrorism (Amendment) Act, 2009. Accordingly, SR. II – Deficiency 1 has been fully addressed.

SR.II (Deficiency 2): There are inadequate stipulated penalties for legal persons under the ATA.

47. At the time of the mutual evaluation, the ATA did not quantify the penalties for legal persons under the ATA. (See. MER para. 120). It was therefore impossible to assess whether the fine was adequate or dissuasive. St. Kitts and Nevis amended the ATA in 2012 to deal with the inconclusive nature of the fines under the ATA. Accordingly, sections 12 to 15, 17, 27 and 28 were amended to provide for in most instances a maximum penalty for the relevant offences i.e. a fine not exceeding either XCD \$150,000 or XCD \$250,000. Section 15(2) which pertains to engaging in ML for terrorist purposes specifically provides for a penalty of XCD \$250,000 against a body corporate or unincorporated body. The maximum penalties provide a range for the Courts to fall within, which appear to be sufficiently dissuasive. The deficiency has been addressed.

SPECIAL RECOMMENDATION II - OVERALL CONCLUSION

48. The 2009 and 2012 amendments to the ATA specifically targeted and addressed the deficiencies that were identified by the Examiners. Consequently, SR. II has been addressed at least to a level comparable with an LC.

SPECIAL RECOMMENDATION IV – NC

SR.IV (Deficiency 1): The suspicious transaction reporting requirements under the ATA are not in keeping with the FATF requirements.

49. This deficiency is identical to the R. 13-Deficiency 1, which is considered to be addressed by the enactment of the ATR. Accordingly, SR. IV – Deficiency 1 has been sufficiently addressed.

SR.IV (Deficiency 2): Sanctions for failing to report possession of terrorist property is less severe than other reporting breaches under the ATA.

50. This deficiency is identical to the R. 13-Deficiency 3, which is considered to be addressed by the amendments to the ATA. Accordingly, SR. IV – Deficiency 2 has been sufficiently addressed.

SPECIAL RECOMMENDATION IV - OVERALL CONCLUSION

51. As noted above, the two deficiencies for SR. IV are identical to two of the deficiencies for R. 13. The R. 13 deficiencies were determined to be sufficiently addressed and therefore SR. IV is also sufficiently addressed at least to a level comparable with an LC.

V. DETAILED ANALYSIS OF COMPLIANCE WITH THE KEY RECOMMENDATIONS

RECOMMENDATION 3– PC

R. 3 (Deficiency 1): No provision in the POCA for the confiscation of instrumentalities intended for use in the commission of an offence.

52. In order to address this deficiency, St. Kitts and Nevis through Act No. 34 of 2009 (POCA amendment) amended the definition of property at section 2 of the Act. Property now “includes all property, whether movable or immovable, vested or contingent, proceeds from the instrumentalities use in and instrumentalities for use in the commission of any money laundering or related offence and whether situated in Saint Christopher and Nevis or elsewhere.” Thus, where property is confiscated by definition the instrumentalities of the offence are included and subject to such confiscation. The deficiency has been addressed.

R. 3 (Deficiency 2): No provisions in the ATA for the seizure of instrumentalities used in or intended for use in the commission of an offence.

53. In a similar manner to Deficiency 1 noted above, St. Kitts and Nevis amended the definition of ‘property’ in the ATA. Accordingly ‘property’ is defined at section 2 of the ATA (in relevant part) to include proceeds from, instrumentalities used in and instrumentalities intended for use in the commission of any terrorist financing offence but in particular those offences set out in sections 12 (fundraising for terrorist activities), 13 (use and possession of property for terrorist purposes), 14 (entering into funding arrangements for terrorist purposes) and 15 (engaging in money laundering for terrorist purposes). Section 36 of the ATA deals with the forfeiture orders in relation to the offences in sections 12-15 and so allows for the seizure of instrumentalities. The deficiency has been addressed.

R. 3 (Deficiency 3): No stated procedure under the ATA for the forfeiture and confiscation of property.

54. Pursuant to the Anti-Terrorism (Amendment) Act, No. 3 of 2012, sets out the procedures for the forfeiture and confiscation of property. The measures allow the DPP to apply to the Court for the forfeiture of any property that was seized pursuant to section 33 of the ATA. The DPP must also give notice (fourteen (14) days) to the person from whom the property was seized and any other person who might be connected with the property. Such persons are entitled to appear at the forfeiture hearing. The Court after reviewing the merits of the case will make a determination as to forfeiture. Where property is forfeited, it becomes the property of the State. A decision of the Court can be appealed by any person with an interest in the property. The instrumentalities of offences involving terrorism financing, terrorism or any offence promoting terrorism are always forfeited regardless of whether the person is convicted of an offence or not. With regard to confiscation orders, they are dealt with in section 52 and subsequent sections of the POCA. The DPP would need to apply to the Court where he or she is satisfied that a convicted person has benefitted from the commission of a serious offence. Where the Court is satisfied that the person has benefitted from the offence, the court

may order the person to pay to the Crown an amount equal to the value of his or her benefits from the offence or such lesser amount as the Court may certify in accordance with section 53 of the POCA to be the amount that might be realised at the time the confiscation order is made. The deficiency has been addressed.

R. 3 (Deficiency 4): No seizures, freezing or confiscation of property relative to the offence of ML and FT therefore unable to determine how effective the Recommendation has been implemented.

55. As stated above in the report, the (WCCU) noted in 2014 that there was one pending ML matter in Nevis and a pending confiscation matter arising from a drug related conviction. The WCCU also indicated that there are ongoing investigations in two (2) cases that have arisen from suspicious transaction reports (STRs) and that a total of twenty (20) STRs are being currently investigated. Further, the Office of the Director of Public Prosecutions (DPP) has stated that there are two (2) cases of ML pending. There is currently one Money Laundering case pending in the Island of Nevis. However the trial will not be heard before the year 2015. The Office of the Director of Public Prosecutions (DPP) is ready to proceed. The delay stems from the Defendant and his legal representation. There was previously one matter of money laundering which was raised but did not go to trial. Please see table above at R. 1 Deficiency 3. The deficiency has been addressed

RECOMMENDATION 3 - OVERALL CONCLUSION

56. The amendments to the ATA have served to address the deficiencies that were identified. With regard to implementation, St. Kitts and Nevis have shown their use of the POCA to date. St. Kitts and Nevis has had discussions on the risk of terrorism or TF and a level of preliminary assessment through the SIP process has been conducted and they concluded that the risk of terrorism and TF is relatively low. The assessment was based on the overall number of STRs received over the period as well as the current regulatory system that is in place. Given the relatively low risk of terrorism it is reasonable that there have been no Orders under the ATA. R. 3 has been addressed at least to a level that is comparable with LC.

RECOMMENDATION 23 – PC

R. 23 (Deficiency 1): ‘Fit and proper’ requirements do not apply currently to credit unions, domestic insurance companies and money service providers (insofar as the Money Services Act has not yet been implemented).

57. Section 53(4) of the Co-operative Societies Act, 2011 provides the ‘fit and proper’ requirements for the management of a credit union, which is the Board of Directors. The fit and proper requirements cover a very wide range of considerations from convictions for fraud, inability to pay debts to being a bankrupt. With regard to domestic insurance companies, sections 202 and 203 of the Insurance Act, 2009 set out the ‘fit and proper’ requirements for any person who is likely to hold the post of director, officer or manager of a local insurance company; the principal representative of a foreign insurance company or a person authorized under section 79(2) (deals with Association of Underwriters) of the Act. Pursuant to section 64(a) of the Money Services Business Act, 2008, the FSRC before granting a licence under the MSA must conduct a ‘fit and proper’ test of the applicant. Section 6(5)(a)(i)-(iv) provides the matters that will be considered as part of the ‘fit and proper’ test. The measures are applicable to significant shareholders, directors, executive management, agents and officers. Items

reviewed as part of the test include financial status, education, honesty, etc. The deficiency has been fully addressed.

R. 23 (Deficiency 2): Fit and Proper requirements under the FSRO are not imposed on directors or managers of institutions covered by that Order.

58. Section 6(3) and (4) of the FSRC Act provide the ‘fit and proper’ measures that are to be applied in appointing Commissioners at the FSRC. A person is not eligible to be appointed as a Commissioner or may be disqualified if appointed where amongst other things, family members hold any beneficial interest in stocks, shares, bonds etc.; where a family member has a pecuniary or other material interest in a device, appliance or machine, etc.; where filed for bankruptcy; physically or mentally incapacitated or is a member of the National Assembly. (See. Full list of items at 6(3) (a)-(g)). Sub-section (4) also allows the Minister to have consideration as to whether the person should be appointed and provides the matters that must be considered in (a) and (b) of sub-section (4). The deficiency has been fully addressed.

R. 23 (Deficiency 3): There are no fit and proper requirements under the CICA for owners or directors.

59. The Captive Insurers Companies Act (CICA), 2006 was amended by the Captive Insurance Companies (Amendment) Act, 2011 and a new section 9A was included that specifically provides for ‘fit and proper’ testing. The requirements cover all persons who are or are likely to be a director, officer or manager of a captive insurance company. Issues that are considered are the person’s competence and soundness of judgement; whether the person has committed an offence involving fraud, dishonesty or violence etc. The deficiency has been addressed.

R. 23 (Deficiency 4): Offshore and Domestic insurance are not supervised on a group wide basis.

60. With regard to group supervision, the FSRC Act was amended through Act No. 33 of 2012 to provide for the monitoring of compliance with the ‘Core Principles and regulatory and supervisory measures that apply for prudential purposes but which are also relevant to money laundering and terrorist financing.’ The Core Principles referred to will include the IAIS principles (See. Section 4(3) of the FSRC Act as amended November 2012). The Authorities have also indicated that the FSRC participates in College of Regulators meetings to discuss regulatory issues relating to companies operating in various jurisdictions. In addition, for insurance companies which are subsidiaries of a Group, the FSRC would engage the relevant Central Bank or regulatory authority to discuss pertinent issues. The deficiency has been addressed.

R. 23 (Deficiency 5): ECCB power to inspect for AML/CFT not expressed in the Banking Act.

61. Pursuant to section 4(2) of the FSRC Act, the FSRC is (a) the ultimate regulatory body for financial services and AML for St. Christopher and Nevis. Additionally, section 4(2)(d) of the FSRC Act states that the Commission shall monitor compliance by regulated persons with the POCA, the ATA and such other Acts, Regulations, Codes or guidelines that are listed in Schedule 1 of the POCA. Included in the Schedule is ‘Banking business engaged in pursuant to the Banking Act, Ch. 21:01. While the ECCB and ECSRC conducted AML/CFT inspections before the enactment of the FSRC Act, since its enactment all AML/CFT inspections are done by the FSRC. The FSRC, St. Kitts branch has done the following AML/CFT inspections: five (5) in 2011; four (4) in 2012; four (4) in 2013 and

twelve (12) in 2014. The FSRC Nevis branch has done the following AML/CFT inspections: eight (8) in 2010; one (1) in 2011; seven (7) in 2012; one (1) in 2013 and eleven (11) in 2014. The Nevis branch noted that onsite reviews would span one to five days and desk based review were performed on those regulated entities that were not subject to a field visit or an onsite inspection. Post inspection reviews (follow-up examinations) were also carried out to monitor the level of compliance with deficiencies that were highlighted in the examination reports. The statistics do not include the follow-up examinations. The Nevis FSRC branch also indicated that it intends to conduct an additional six (6) inspections for the remainder of 2014 as follows: three (3) on TCSPs (registered agents) to be carried out by the Compliance Division; and three (3) insurance managers to be carried out by the Insurance Division. The deficiency has been fully addressed.

R. 23 (Deficiency 6): The Offshore Banking law does not provide for senior managers to be fit and proper, nor for consolidated supervision.

62. As noted above at Deficiency – 4, FSRC (Amendment) Act, No. 33 of 2012 effectively requires all financial institutions such as banks to adhere to the core principles that are promulgated by international standard setting bodies, which are applied for prudential purposes, but are also relevant to ML and TF. Accordingly, all banks in the Federation (including entities which are created under the Nevis Offshore Bank Ordinance) are required to adhere to standards promulgated by the Basel Committee with regard to consolidated supervision. At a minimum, the Basel Standards require the following: (1) Consolidated supervision of all International banks (Information on the bank’s global operations, prevent corporate structures that hinder effective supervision, prevent banks from creating foreign banking establishments in particular jurisdictions); (2) Prior consent of supervisor for creation of cross-border banking establishment (Outward expansion; consent from home country authorities, inward consent from host authority and consultations between supervisors) and (3) Information (Parent supervisor to get information from foreign branches/subsidiaries, condition of giving consent to expansion and on-site examination or other means). Therefore at a minimum, all banks, including those licensed under the Nevis Offshore Bank Ordinance, will have to employ measures in order to comply with the aforementioned standards as they relate to consolidated supervision. The deficiency has been addressed.

R. 23 (Deficiency 7): The Supervisory Authorities face difficulties in verifying levels of compliance by international and captive insurers.

63. With regard to strengthening the supervisory authorities’ ability to verify levels of compliance by international and captive insurers, the FSRC Act at section 4(1) establishes that the Commission is responsible for the administration of the Acts listed in Schedule 1. The Captive Insurance Act is one of the Acts listed in that schedule. Further, section 4(2)(b) provides for the FSRC to be the ultimate regulatory body for financial services and for anti-money laundering, while section 4(2)(d) requires the FSRC to monitor compliance by regulated persons with the POCA, the ATA, guidelines etc. relating to ML or FT that are set out in the Schedule. For international insurance companies, the Nevis International Insurance Ordinance, section 37, which deals with inspections and investigations provides for the FSRC to appoint an Inspector to investigate the affairs or any part of the affairs of a registered insurer and to inspect the business and accounting records if the FSRC has reason to believe that the registered insurer is carrying on its affairs in a manner that is prejudicial to the business. The Inspector also has the right of entry and access and to take copies of documents. The measures in both the Captive Insurance Act and the International Insurance Act provide adequate gateways for the FSRC to verify the levels of compliance by international insurance companies and captive insurers. The deficiency has been addressed.

R. 23 (Deficiency 8): ECSRC lacks powers to inspect and sanction for AML/CFT measures

64. At the time of the mutual evaluation of St. Kitts and Nevis, the ECSRC did not have the ability to inspect or sanction with regard to AML-CFT matters. As a member of the OECS, St. Kitts and Nevis at first contemplated the completion of the Harmonized Legislation Policy to deal with the issue. However, with the enactment of the FSRC Act, 2009 the FSRC became the only regulatory body to conduct onsite supervision for AML/CFT. The Commission can also issue sanctions (section 40) for breaches of the POCA and the ATA. The deficiency has been addressed.

R. 23 (Deficiency 9): Supervisory authorities require more resources.

65. The issue of resources for the supervisory authorities was addressed during the period 2009-2011, which saw the addition of staff to the FSC and the ECCB. The deficiency has been addressed.

RECOMMENDATION 23 - OVERALL CONCLUSION

66. St. Kitts and Nevis has done a lot of work to deal with the deficiencies for R. 23. The enactment of the FSRC Act and its amendments, the Insurance Act, the Co-operatives Societies Act, and amendments to the Captive Insurance Act have all dealt with the areas of concern and raised the level at least to a level that is comparable with LC.

RECOMMENDATION 26 – PC

R. 26 (Deficiency 1): No specified time period for the making of reports on TF.

67. Pursuant to Reg. 11(1)(e) of the ATR, once the Reporting Officer of a regulated entity receives a report that gives rise to knowledge or suspicion or reasonable grounds for knowledge or suspicion that a person is engaged in TF, then all relevant information associated with the knowledge or suspicion has to be disclosed in writing to the Reporting Authority within twenty-four (24) hours of the determination of the knowledge or suspicion. The deficiency has been fully addressed.

R. 26 (Deficiency 2): A number of reporting entities have not received training in relation to the reporting guidelines and are unaware of their obligations under the POCA.

68. In 2009, the FIU established a structured training schedule for targeted entities and there has been ongoing training from 2009 to 2014 as seen in the attached Annex. The Banking, Insurance, Trust, Casinos, Money Service Business, Credit Union and Real Estate sectors have all received training on topics such as suspicious reporting obligations, reporting obligations (including the issuance of Guidance to Casinos), emerging ML/TF issues, fraudulent card activities and trends and use of STR data. The deficiency has been fully addressed.

R. 26 (Deficiency 3): The FIUs independence and autonomy can be unduly influenced by its Directors inability to recruit appropriate and competent staff.

69. The FIU is part of the Ministry of National Security and the appointment of staff is done in accordance with the general Civil Service Procedures. Accordingly, as noted in the MER at para. 272, upon receiving a request from the FIU for the hiring of any staff, the Minister can act upon that request but need not necessarily follow the recommendation of the FIU Director. The Examiners did note at the time that the situation of the Minister disregarding the Directors recommendation had never occurred. Further, at para. 270 of the MER, the Examiners indicated that “the FIU has demonstrated sufficient operational independence in the direct receipt of suspicious reports from the reporting sector and also the direct submittal of suspicious matters to the Commissioner of Police for necessary action.” Additionally, the Director, FIU is fully involved in the recruitment process, which includes participation in interviews and the making of recommendations to the Minister on final personnel selection. Accordingly, while the deficiency has not been addressed as a result of the Civil Service Procedures, which cannot be changed since to do so would affect the whole public service structure of which the FIU is a part. Based on the fact that there has never been any undue influence on the Director with regard to the recruitment of staff. Additionally, there was no lack of autonomy with regard to the important core function of receipt and dissemination of STRs. The deficiency is being adequately managed.

R. 26 (Deficiency 4): The Minister is given too much authority under the Act as he is responsible for the policy making and the appointment of consultants to the FIU decision making functions. (See. Section 6 of the FIU Act).

70. This deficiency is a re-wording of Deficiency – 3 above and as such addresses the same issue, which was considered to be adequately managed. Accordingly, R. 26, Deficiency – 4 is being adequately managed.

R. 26 (Deficiency 5): The FIU does not prepare and disseminate trends and typologies to relevant reporting entities.

71. The FIU’s 2008 Annual Report was published in 2010. The Report contains typologies and statistics and also information on the operation of the FIU, with focus on STRs (the number of reports received, origin and status); terrorist property reports and dissemination of information. The Annual Report also contains information on the FIU’s relationship with related entities and freezing, forfeiture and confiscation activities. The 2010 Annual Report was published in November 2011. Reports for the period 2011-2013 will be consolidated into one document and published in the first quarter of 2015. It should be noted that while the publication of the reports providing trends and typologies has been delayed, the FIU have in the interim provided training to many sectors and so has disseminated some of the information on trends and typologies in that manner. The deficiency has been adequately addressed.

R. 26 (Deficiency 6): Information held by the FIU is not sufficiently secured and protected.

72. This deficiency arose as a result of the physical structure that the FIU was housed in. As described in the MER at paras. 284-287, the building in addition to not having security features such as cameras or electronic keypads for gaining entry, seemed to be in need of significant repairs. Following the onsite evaluation, the FIU moved to ‘adequately secured’ premises located at the Ministry of Finance. The FIU office is no longer at ground level and the building is located in the centre of town where it is

subject to more police patrols. Additionally, the Ministry of Finance is in close proximity to Government Headquarters, a building that has security guards on a 24/7 basis. With regard to the security and backing up of data at the FIU, data is currently being stored on an external drive as a back-up system. Additionally, the FIU IT system was enhanced by providing entry level access for each staff level. The deficiency has been addressed.

R. 26 (Deficiency 7): There is no standard reporting time in which reporting entities are required to file STRs to the FIU.

73. This deficiency was addressed with regard to filing STRs related to TF at Deficiency – 1 above. The AMLR at Reg. 11(1)(e) provides the same requirement for the Reporting Officer of a regulated entity who receives a report that gives rise to knowledge or suspicion or reasonable grounds for knowledge or suspicion that a person is engaged in ML or the proceeds of criminal activity, to report all relevant information associated with the knowledge or suspicion in writing to the Reporting Authority within twenty-four (24) hours of the determination of the knowledge or suspicion. Accordingly, for both ML and TF a specific time has been provided for reporting entities to file STRs to the FIU. The deficiency has been fully addressed.

R. 26 (Deficiency 8): No guidance on the filing of STRs in relation to TF has been issued by the FIU.

74. At para. 248 of the MER, the Examiners' noted that "St. Kitts and Nevis does not have any regulations in place including reporting guidelines on TF as the AMLR 2008 only applies to ML and not TF." The ATR at Reg. 11 provides the reporting requirements for suspicious reports. The AMLR 2011 also provides the same measures with regard to ML as noted above. The Guidance Notes at paras. 101-114 provide guidance with regard to the filing of STRs in relation to both TF and ML. The deficiency has been fully addressed.

R. 26 (Deficiency 9): The FIU has not been fully constituted in accordance with the FIU Act.

75. In November 2012, a FIU Board was appointed in accordance with section 3(1) of the FIU Act. The appointment of the Board means that the deficiency has been fully addressed.

RECOMMENDATION 26 - OVERALL CONCLUSION

76. St. Kitts and Nevis through amendments to the AMLR, 2011 and the ATR, 2011 dealt with deficiencies related to the filing of STRs. The FIU has also done a significant amount of work with regard to providing guidance to regulated entities through training as noted in the attached Annex. The Annual Reports with trends and typologies are also being updated for publication early in 2015. The improved location of the FIU has also been addressed. The only issue that has not been fully addressed is the issue of the Director's autonomy with regard to hiring. However, since the process is part of the civil service procedures that cover not only the FIU but all of the public service any amendment is not feasible. More importantly, the FIU Director is fully engaged in the hiring process and there has never been an instance where there has been an abuse by the Minister with regard to hiring FIU staff. Accordingly, R. 26 has been addressed at least to a level that is comparable with LC.

RECOMMENDATION 35 – PC

R. 35 (Deficiency 1): All relevant Articles of the Convention have not been fully implemented.

77. This deficiency deals with the non-implementation of Articles 20 (Special Investigative Techniques) and 29 (Training and Technical Assistance) of the Palermo Convention and Articles 11 (Extradition) and 16 (Transfer of prisoners) of the Terrorist Financing Convention. With regard to Article 20, the Electronics Crimes Act, 2009 and the Interception of Communications Act, 2011 were enacted. The combined effect of these two Act permit law enforcement different forms of electronic surveillance, traditional wiretapping, interception of electronic communications as well as more sophisticated forms of investigation. The police also have powers of search for cordoned areas, and account monitoring measures in sections 62 and 80 of the ATA. Moreover, section 5(1) of the Police Act, 2003 states that the Police Force shall be responsible for the prevention and detection of crime and the maintenance of law and order. The Authorities have noted that the language of sub-section (1) is deliberately wide so that the door remains open in terms of the methods that the Police would employ to prevent and detect crime. The Article 20 deficiency has been addressed.
78. With regard to Article 29, all areas of law enforcement in St. Kitts and Nevis have received training in specialized investigative techniques. More specifically, the British Government has been consistently involved in providing mentorship for the police and its investigative arm particularly as it relates to ML and FT. Additionally, assistance has been provided to the White Collar Crime Unit (WCCU) in terms of three (3) month incremental postings with the St. Vincent and the Grenadines FIU. Further, under the sponsorship of the US Embassy, I2 Analysis training was also conducted in January 2011, with participation and coordination between law enforcement and the FIU. Officers from Customs and the WCCU also attended a workshop which focused on the investigation of witnesses and have been consistently trained at REDTRAC. St. Kitts and Nevis as a small jurisdiction cooperates with other jurisdictions in matters related to ML and TF, but due to resource limitations consistent provision of technical assistance is not possible. To date, there are twenty-six (26) officers trained in Financial Investigation, five (5) of whom were trained in early 2014. Further, of the twenty-six trained officer twenty-one (21) have taken part in pre-ACAMS training. The Article 29 deficiency has been addressed
79. Article 11 of the Terrorist Financing Convention is addressed through an amendment to POCA – Act 30 of 2008, which makes money laundering offences extraditable pursuant to the Extradition Act and for the purposes of the Fugitive Offenders Act. The Anti-Terrorism Act provides, consistent with the provisions of the Terrorist Financing Convention, that where St. Kitts and Nevis is party to a Counter-Terrorism Convention, the Convention may be used as a basis for extradition by a Requesting State in respect of all offences captured under that Convention. The Article 11 deficiency has been addressed.
80. Regarding Article 16 of the Terrorist Financing Convention, the Mutual Assistance in Criminal Matters Act, Cap. 4.35 provides for the transfer of prisoners at section 10. The measures are applicable where a Commonwealth country makes a request to have a prisoner transferred for the purpose of giving evidence or assistance for a criminal matter. The Article 16 deficiency has been addressed.

RECOMMENDATION 35 - OVERALL CONCLUSION

81. The outstanding Articles have been addressed by the enactment and amendment of legislation (the Electronics Crimes Act, 2009, the Interception of Communications Act, 2011 and the POCA). The various pieces of legislation have addressed the deficiencies and accordingly R. 35 has been addressed at least to a level that is comparable with LC.

RECOMMENDATION 40 – PC

R. 40 (Deficiency 1): Law enforcement is not authorized to conduct investigations on behalf of foreign counterparts.

82. Part V of the POCA deals with assistance to foreign countries. Section 59 of the POCA was amended by the Proceeds of Crime (Amendment) Act, 2012 to enable the WCCU to provide assistance to the FIU or the DPP by carrying out investigations based on a foreign request. The deficiency has been fully addressed.

R. 40 (Deficiency 2): The ECSRC would not be able to share information about AML issues as it does not supervise for AML purposes.

83. With regard to the sharing of information about AML issues by the ECSRC, an MOU was signed to establish a Regulatory Oversight Committee with representatives from the ECCB, ECSRC and the Single Regulatory Units (SRUs) in the Eastern Caribbean Currency Union (ECCU) to discuss all inter-related matters including AML/CFT and to share information. Additionally, the FSRC Act, 2009 gives the Commission overall supervisory and regulatory powers over all regulated entities for the purpose of AML/CFT. This includes securities and there is therefore no gap in the process. The deficiency has been satisfactorily addressed.

RECOMMENDATION 40 - OVERALL CONCLUSION

84. The amendment to the POCA specifically with regard to the power given to the WCCU as the relevant law enforcement authority to conduct investigations on behalf of its foreign counterparts and the authority of the FSRC to deal with all matters pertaining to securities and the sharing of information as necessary. Additionally, the MOU signed by the relevant parties who deal with Securities allows for the sharing of information re AML and other matters. R. 40 has been addressed at least to a level that is comparable with LC.

SPECIAL RECOMMENDATION I – PC

SR.I (Deficiency 1): The ATA does not provide for the freezing of funds belonging to Al-Qaida, the Taliban or their associates or the persons designated by the UN Security Council.

85. Pursuant to Section 46(1)(b)(iii) of the ATA as amended by Act. No. 13 of 2009, a Court may on the application of the DPP that a request has been made by a foreign State, make an order for the freezing of funds in the possession or control of any person who has been designated as a member of Al-Qaida, the Taliban or any other terrorist group by the United Nations Security Council. The designation must be recognized by Order of the Minister pursuant to section 3 of the ATA. While the recognition of the designation by the Minister does not affect the operation of the measures to freeze the funds of the organisations mentioned, it should be noted that with regard to designations by the UN (UNSCR 1267); there is no power for the Minister to remove persons so designated by the UN. The reference in section 46 to ‘any other terrorist group’ is sufficient to include ‘associates or the persons designated by the UN Security Council.’ The application for the freezing order may be made *ex parte*. The deficiency has been adequately addressed.

SR.I (Deficiency 2): No designations have been made under UNSCR 1373.

86. To date, terrorism has not been a high risk in St. Kitts and Nevis and accordingly there have been no designations under the UNSCR 1373. There is full awareness of the terrorism and terrorist financing by the law enforcement authorities and the regulated sector. However, there have been no indications of the terrorist activities by persons or entities in St. Kitts and Nevis and accordingly there have been no designations by the Minister of National Security. The deficiency remains, but is not considered significant given the low risk of terrorist activity in the jurisdiction at present.

SR.I (Deficiency 3): The limitations period for commencing money laundering offences is too short.

87. The statute of limitations for the offence of ML is six (6) years as set out in section 68 of the POCA. The section specifically states that “*Any prosecution, action, suit, or other proceeding brought for a money laundering offence, or for the recovery of any fine, penalty, or forfeiture under this Act or regulations made under this Act, shall be brought within a period of six years next after the date of the offence committed or the cause of action accrued.*” The deficiency has been addressed.

SR.I (Deficiency 4): There is no provision for extending the statute of limitations where a person deliberately tries to escape from prosecution.

88. Pursuant to section 12(2) of the Organized Crime (Prevention and Control) Act, Ch. 4:22, which gives effect to the Convention against Transnational Organized Crime (Palermo Convention), ‘the statute of limitations shall not apply to offences committed under this Act.’ This measure complies with Article 11 (5) of the Palermo Convention and addresses the deficiency.

SR.I (Deficiency 5): No legislative provision for any aircraft belonging to Al-Qaida, the Taliban or their associates to be denied permission to land.

89. Section 95 of the ATA provides that permission shall not be granted for any aircraft to take off from or land in St. Christopher and Nevis, if it is owned, leased or operated by or on behalf of the Taliban, Al-Qaida or any other terrorist group⁴. The only exception is where a flight is approved in advance by the Committee on the grounds of humanitarian need. The deficiency has been fully addressed.

SPECIAL RECOMMENDATION I - OVERALL CONCLUSION

90. Amendments to the ATA have resulted in the main deficiencies being addressed. Despite the fact that St. Kitts and Nevis has not listed any persons under UNSCR 1373, they have remained vigilant with regard to ensuring that the financial sector and DNFBPs are well aware of the risks of TF. The issues with regard to the statute of limitations has also been addressed by amendment to and the enactment of legislation as noted above in the discussion on these issues. Accordingly, SR. I has been addressed at least to a level comparable with an LC.

⁴ The references to Al-Qaida or any other terrorist group was inserted by an amendment to the ATA through Act No. 38 of 2011

SPECIAL RECOMMENDATION III – PC

SR. III (Deficiency 1): Section 43 of the ATA does not satisfy the requirement of S/RES/1267 for the freezing without delay of funds belonging to the Taliban and Al-Qaida.

91. The Anti-Terrorism (Amendment) Act, 2012 at section 15 amends section 43 of the ATA to provide that an application by the DPP to the Court for a freezing order for terrorist funds may be made “ex parte but in any case shall be made without delay.” Although the term ‘without delay’ is not defined, the amendment places an obligation on the DPP to proceed with alacrity to secure the funds in question. The deficiency has been adequately addressed.

SR. III (Deficiency 2): No regulations made with regard to a procedure for de-listing as a terrorist or terrorist group.

92. With regard to the de-listing of terrorists and terrorist groups, the Anti-Terrorism (De-Listing Procedures) Regulations, No. 2 of 2011 established the procedures for the removal of any person or group of persons listed as a terrorist to apply to the Minister to be de-listed. The application to the Minister must be accompanied by a written explanation for requesting the de-listing. Pursuant to Reg. 4, the Minister is empowered to appoint a Special Committee to hear requests for de-listing, while Reg. 5 provides for a hearing, which allows the de-listing applicant to appear before the Special Committee to present his or her case in person. Regulation 6 provides for an appeal process. The deficiency has been fully addressed.

SR. III (Deficiency 3): There is no programme in place for informing the public of the procedure for de-listing.

93. Regulation 16 of the ATR, 2011 states that “a person or group which is designated as a terrorist or terrorist group pursuant to section 4 of the Act, shall within one week of the gazetting of the Order, be informed by the Minister of that designation including a notification of the procedures of having such designation revoked.” Additionally, within one (1) month of the gazetting of the designation order, the fact of the designation along with the relevant procedures for revoking the designation shall be published in at least one (1) local newspaper within the Federation. The deficiency has been addressed.

SR. III (Deficiency 4): There is no programme in place for informing the public about the procedure for unfreezing funds or assets.

94. In addition to the De-Listing Regulations which are in the public domain, the FSRC has posted an Advisory on its website since 2012 setting out the procedure for unfreezing funds or assets. Any person can make an application with regard to funds frozen pursuant to section 43 of the ATA. Please see attached as Annex 2. The deficiency has been addressed.

SR. III (Deficiency 5): No procedure in place for authorizing access to funds or other assets that are frozen under UNSCR 1267 and that are to be provided for basic expenses.

95. According to section 46(4)(c) of the ATA the Court after making a freezing order may give direction with regard to the disposal of funds for the purpose of the payment of costs for the reasonable subsistence for that person and their family and to defend criminal proceedings against the person

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whom the order has been made. Section 46(1) allows the Court to make freezing orders where a person is charged or about to be charged under the ATA or where there has been a request by a competent authority of a foreign State and covers both UNSCRs 1267 and 1373 situations. Additionally, Reg. 17(1) of the ATR provides that allowance must be made for the basic living expenses for the person and their immediate family and dependents. The deficiency has been fully addressed.

SR. III (Deficiency 6): There is no legislation in place to provide for the procedure for forwarding a request for the release of funds or assets which have been frozen and which are required for basic living expenses to the Committee which has been established under S/RES/1452(2002).

96. This deficiency has been dealt with through Reg. 17 of the ATR, which provides for the provision of basic living expenses for designated terrorists. As noted above, Reg. 17(1) allows the provision of basic living expenses for the person whose funds have been frozen and their immediate family and dependents. Additionally, Reg. 17(2), while determining that the meaning of ‘basic living expenses’ will be made by the Registrar of the High Court in consultation with the Minister of Justice, states that notwithstanding that determination, the term shall include; food, shelter, reasonable legal fees etc. More importantly, once the Registrar decides that there should be access to funds, the Registrar contacts the Minister who will then contact either the Committee established for UNSCR 1267 or the Committee for UN 1452 of the intention to authorise funds for basic living expenses or extraordinary expenses. Once the UN Committees do not give a negative response, then access will be given within forty-eight (48) hours. The deficiency has been fully addressed.

SR. III (Deficiency 7): There is no provision for extraordinary expenses.

97. As noted above, Reg. 17 (5) of the ATR also allows for the application by the Minister of Finance for extraordinary expenses where necessary. The deficiency has been addressed.

SR. III (Deficiency 8): There has been no implementation of SR. III provisions and accordingly effectiveness of the measures cannot be determined.

98. Although there has been no need to implement the SR. III provisions, as noted above, St. Kitts and Nevis has all the procedures in place that would allow them to implement. The deficiency has been fully addressed.

SPECIAL RECOMMENDATION III - OVERALL CONCLUSION

99. St. Kitts and Nevis have taken legislative measures to ensure that the requirements with regard to dealing with UNSCRs 1267 and 1373 have been complied with. The amendments to the ATR and ATA are the primary pieces of legislation that have incorporated the outstanding matters. The Authorities while having no designations under the ATA are ready to implement SR. III measures when the need arises and therefore has been addressed at least to a level comparable with an LC.

VI. OVERVIEW OF MEASURES TAKEN IN RELATION TO OTHER RECOMMENDATIONS RATED PC/NC

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

LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Recommendations 27 and SR. XI were rated NC.

101. As noted in the discussion on R. 26 above, the Police Act adequately provides for the possibility of postponement of the arrest of a suspected person and waiving surrender if the need arises. With regard to the adequate investigation of ML and TF, St. Kitts and Nevis amended the POCA in 2011 to give greater flexibility in the investigation process by giving the Court the capacity to issue periodic orders for the detention of monies being imported or exported for a period of six (6) months. Further, the White Collar Crime Unit (WCCU) was established within the Royal St. Kitts and Nevis Police Force in June 2009 as the Unit designated with the responsibility to investigate ML and TF. The Unit has been funded by the proceeds from the Forfeiture Fund and is fully operational. The WCCU investigates the STRs that have been received by the FIU and forwarded to the Unit for investigation. As recently as March 2014, twenty (20) STRs are being investigated.
102. Regarding SR.XI, the investigation of cross-border seizures starts with the Customs Enforcement Division's Intelligence Unit (CEDIU), which maintains the database on seizure and disclosure of cross-border cash and bearer negotiable instruments. The information on these matters is forwarded to the FIU for analysis and thereafter to the WCCU for any necessary investigation. St. Kitts and Nevis Authorities report that the system has been working well. In order to enhance cooperation, inter-agency meetings are held between the FIU, Customs, Police and other competent authorities. The Customs Division in an effort to monitor any movement of precious metals or stones engaged the services a consultant to assist and train Customs Officers in this regard. St. Kitts and Nevis' Customs is a member of the Caribbean Customs Law Enforcement Council (CCLEC) and as a member of this Customs fraternity, Customs organizations in the Caribbean zone have signed an MOU, which requires Customs to share information on Customs related matters including the cross-border seizure of cash, firearms, narcotics etc. The Customs and Excise Department of St. Kitts and Nevis continues to facilitate and participate in regular training; locally, regionally and internationally. Officers have been trained in financial investigation, intelligence gathering, drug interdiction, narcotics investigations and gathering and analysis techniques. Human resources have been increased over the period with twenty-seven (27) officers assigned to the CEDIU.

PREVENTATIVE MEASURES - FINANCIAL INSTITUTIONS

Recommendations 8, 9, 11, 14, 15, 21, 25 and SR. VII were all rated PC.

103. St. Kitts and Nevis achieved compliance with R. 8 through the enactment of the Anti-Money Laundering Regulations, 2011 (AMLR) and the Anti-Terrorism Regulations, 2011 (ATR). At Reg. 5 both the AMLR and the ATR provide for CDD when dealing with non-face-to-face business transactions pursuant to Reg. 4(1)(a)-(d) on a risk sensitive basis. Additionally, the Guidance Notes at para. 84 also deals with non-face-to-face transactions. Regarding R. 9, the deficiencies were dealt

with by Reg. 7(2)(a) of the AMLR, which provides that the relevant person must satisfy themselves that the introducer or intermediary has adequate CDD processes in place prior to entering into a business arrangement. The Anti-Money Laundering (Amendment) Regulations, 2012 at Reg. 5 amended Reg. 7 to provide that a relevant person shall obtain immediately the relevant CDD information on the intermediary or introducer's CDD process. This measure also dealt with the issue of having the information provided without delay.

104. Recommendation 11 was addressed by an amendment to Reg. 8 the AMLR, which provides that records of unusual and complex transactions are maintained for a period of at least five (5) years and that such records are made available upon request to competent authorities and auditors. With regard to R. 14, 'tipping-off' was addressed by amendments to the POCA and ATA. For R. 15, the Authorities enacted the ATR, 2011, which at Reg. 3(1)(a)(iv) provides that internal controls and communication procedures must be maintained for the purpose of preventing TF. Compliance with R. 21 was achieved through the enactment of the FSRC Act, No. 22 of 2009. Section 4(1) of the Act, provides the FSRC with authority over the administration of the Captive Insurance Companies Act and thereby allows for supervisory oversight of the Insurance Managers of Captive Insurance Companies. Further, during the registration process 'fit and proper' tests are carried out on all directors and managers of these companies. The FSRC also provides guidance and notices regarding countries that fail to apply appropriate AML/CFT standards. Additionally, the AMLR and at Reg. 5 dealt with issues pertaining to counter measures for failure to sufficiently apply AML/CFT measures, while the ATR allowed for the enforcement of measures as they related to CFT issues.
105. With regard to R. 25, the FIU as noted above provided feedback in the form of Annual Reports, which contain typologies, statistics and other feedback information. Additionally, sector specific guidelines were developed for DNFBPs. The FIU published a brochure entitled 'Road Map – Terrorist Financing Reporting', which was distributed to gaming, insurance, banking, credit union and money remittance institutions. Sector specific guidelines were also issued to two (2) casinos on how and what to report. The implementation of both the Money Service Business Act (MSBA) and the Payment Systems Act, which were brought into force in January 2009 addressed one of the main deficiencies for this Recommendation. Further, the fact that the FSRC is the ultimate regulator for AML/CFT matters in St. Kitts and Nevis and the provisions re sanctions in the FSRC Act would be applicable to offshore banks under the Nevis Offshore Banking Ordinance. (See. Section 4 of the FSCR Act). Regulations 122 and 123 of the Financial Services (Implementation of Industry Standards) Regulations, 2011 provide that businesses must include meaningful and accurate originator information on all wire transfers that are sent and with the transfer or message through the payment chain. Businesses are also required to maintain records pertaining to the identity of the remitting customer and as far as possible identify the ultimate recipient. There is also a requirement to comply with the SWIFT requirements when sending domestic or international credit transfers. The requirement for originator information is also applicable to cross-border wire transfers.

DNFBPs AND OTHER NON-FINANCIAL BUSINESSES

Recommendations 12 and R. 25 were all rated PC, while R. 16 and 24 were rated NC.

106. As noted previously in the report, the FSRC was given ultimate responsibility for AML/CFT matters (section 4(2)(d)) and this included the supervision of DNFBPs. The Proceeds of Crime (Amendment of Schedule) Order, 2012 dealt with ensuring that the activities for accountants and auditors in the POCA are in keeping with the requirements in E.C. 12.1(d) of the Methodology. The schedule now clearly states the activities that accountants and auditors must engage in to be subject to AML/CFT

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measures. The amendments to the ATR in 2012 (which also addressed R. 9 deficiencies) and allowed compliance with the requirements for timely CDD information for intermediaries and introducers has resulted in compliance with the recommendation that third parties be regulated and supervised in accordance with R. 23, 24 and 29 and to have measures in place to comply with R. 5 and 10. Guidance and advisories were issued to the casinos by the FSRC as part of their supervision regime.

107. Regarding R. 16, was addressed by the enactment of the AMLR, 2011. Regulation 11 requires DNFBPs to report all STRs to the FIU. Additionally, Reg. 11 does not impose any limitation with regard to the size of the transaction. Internal control measures (R. 15) and paying attention to higher risk countries (R. 21) also applicable to DNFBPs. With regard to R. 24, the FSRC's power to regulate and supervise DNFBPs was established by section 4 of the FSRC Act as noted before. The establishment of a comprehensive regulatory and supervisory regime and regulatory requirement to establish beneficial ownership of casinos is still ongoing. A consultant was engaged to prepare a report on the Gaming sector and subsequent to the completion of this report, the FSRC established a Gaming Sector Working Group in June 2014. The Working Group has been mandated to review the consultant's report on the gaming industry; review the existing legislation and the proposed provisions for new legislation as outlined in the Report; prepare a proposal on the most feasible recommendations made in the Report; determine the composition of the Gaming Board; determine the best regulatory approach for the Federation and identify all gaming activities within the Federation that will be captured under the AML/CFT regime. The terms of reference of the Working Group were satisfactorily completed for the most including the formulation and submission of a questionnaire to all gaming entities to gather relevant and up to date information on the sector as well as to increase awareness of the activities of the FSRC. The final gaming proposal was submitted in November. The FSRC also issued sector specific guidance to all DNFBPs including Gaming entities in 2012.

NON-PROFIT ORGANISATIONS (NPOs)

Special Recommendations VIII was rated PC.

108. The Non-Governmental Organization Regulations were approved in January 2011 and set up an operational framework for the registration of NGOs and the terms under which the NGO Commission will function. The NGO Commission was appointed in November 2012 in accordance with the NGO Regulations. Under the NGO registration system, organizations are required to provide more extensive information on control persons and activities. This information is available to the public by conducting a search of the file at the Registry. St. Kitts and Nevis' Authorities indicate that the NGO Commission is currently reviewing its administrative structure to actively perform its duties as a regulatory oversight body.

NATIONAL AND INTERNATIONAL COOPERATION

Recommendation 31 and 32 were rated PC

109. With regard to R. 31, the FIU, Customs, the Police and other competent authorities are having inter-agency meetings on an 'as needed basis'. The Authorities have found that these meetings have improved cooperation. The FIU has also conducted seminars aimed at fostering cooperation. Additionally, there have been several successful jointly conducted investigations. The Authorities specifically noted an investigation into a vessel carrying millions of dollars' worth of cocaine, which

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involved the combined investigation efforts of Customs, the Coast Guard and the Police. The DPP advises the Police with regard to AML/CFT matters and seeks assistance of the FIU where it is necessary. The deficiencies for R. 32 were addressed through the establishment of a register for recording international wire transfers by the FIU. Additionally, in an effort to improve the statistics, the FIU has established a proper system to maintain records relating to ML and TF investigations with the responsibility for maintaining these records assigned to a specific officer. The Authorities also submitted statistics on requests for mutual legal assistance, which provided the name of the country making the request, the nature of the request and response time for dealing with the request.

ANNEX 1.

FIU – AML/CFT Awareness Training/Presentations/Feedback to Reporting Sector

JANUARY to October 2014

JANUARY to DECEMBER 2009

Institutions	Presentations	Discussions	Dates
Insurance Company	Overview of Suspicious Reporting Obligations		January 21, 2009
Bank and Mortgage Investment Company	Role of the FIU & Suspicious Reporting Obligations		February 5, 2009
Insurance and Trust Company	Role of the FIU & Suspicious Reporting Obligations		March 5, 2009
Insurance Company	Role of the FIU & Suspicious Reporting Obligations		March 12, 2009
Trust Company	Role of the FIU & Suspicious Reporting Obligations		March 24, 2009
Insurance Company	Role of the FIU & Suspicious Reporting Obligations		April 28, 2009
All Sectors – Nevis Financial Services AML/CFT Seminar	AML/CFT Trends & Typologies – our Caribbean Experience		May 25, 2009
Bank-Board of Directors	Role of the FIU & Suspicious Reporting Obligations		July 29, 2009
Bank-Senior Managers	Role of the FIU & Suspicious Reporting Obligations		July 29, 2009
Insurance Company		Discussion (reporting Obligations)	April 1, 2009
Financial Institution		Discussions (STR Feedback)	June 9, 2009
Financial Institution		Discussions (STR Feedback)	June 19, 2009

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Financial Institution		Discussions (STR Feedback)	June 22, 2009
Money Service Business		Discussions (Reporting Obligations)	June 30, 2009
Insurance Agent		Discussions (STR Feedback)	July 31, 2009
Financial Institution		Discussions (STR Feedback)	September 24, 2009
Casino		Discussions (Reporting Obligations)	October 14, 2009

JANUARY to DECEMBER 2010

Institutions	Presentations	Discussions & Literature	Dates
Casino		Issued guidance on reporting obligations	March 2010
Casino		Issued guidance on reporting obligations	March 2010
Financial Institution	Reporting requirements & Guidance		March 2010
Financial Institution	Emerging issues - Possible effects to AML/CFT programmes		March 2010
Insurance Agent	Emerging issues - Possible effects to AML/CFT programmes		March 2010
Real Estate Agent	Emerging issues - Possible effects to AML/CFT programmes		March 2010
All Sectors – Nevis Financial	“The Changing Landscape and Use of		April 2010

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Services AML/CFT Seminar	NPOs/Charities in Terrorism Financing”		
Credit Union		Discussion with Compliance Officer to bring greater awareness of submittal of STRs and TPRs	June 2010
Credit Union (Board of Directors)	AML/CFT - Board’s responsibility & Reporting Obligations		July 2010
Credit Union (Senior Managers)	AML/CFT - Reporting Obligations & ML/FT Risks		July 2010
All Sectors		Distribution of “Terrorist Property Report” Form to facilitate reporting	October 2010
All Sectors		Guidance Brochure - How to report Suspicious Transactions (STR) & (TPR)	October 2010

JANUARY to DECEMBER 2011

Institutions	Presentations	Discussions & Literature	Dates
All Sectors Nevis - Financial Services AML/CFT Seminar	Role of the FIU – Suspicious Reporting Requirements		March 2011
Money Service Business		Meeting with Compliance Officer to bring greater awareness of reporting obligations	June 2011
Money Service Business		Meeting with Compliance Officer – Quality & Quantity of STR filed	June 2011

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Bank – (Board of Directors and Senior Managers	ML/FT activities related to Human Trafficking, Smuggling of Migrants and Mass Marketing Fraud		June 30, 2011
All Banks & Credit Unions - (Board of Directors, Senior Managers and Compliance Officers	ML/FT activities related to Human Trafficking, Smuggling of Migrants and Mass Marketing Fraud		July 9, 2011
Credit Card Company- Senior Managers	ML/FT Risks in Credit Card Sector and Suspicious Reporting Obligations		September 2011
Money Service Business		Meeting with Compliance Officer to bring greater awareness of reporting obligations	September 2011
Casino		Meeting with Compliance Officer to bring greater awareness of reporting obligations	October 2011

JANUARY to DECEMBER 2012

Institutions	Presentations	Discussions/ Literature	Dates
Money Service Business		Meeting with Compliance Officer to bring greater awareness of reporting obligations	February 2012
All Sectors Nevis - Financial Services AML/CFT Seminar	Role of the FIU – Suspicious Reporting Requirements		

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Financial Institution		Meeting with Compliance Officer to bring greater awareness of reporting obligations	April 2012
Financial Institution		Meeting with Compliance Officer to bring greater awareness of reporting obligations	October 2012
All Sectors		Advisory – Mass Marketing Fraud (Suspicious Fraud Activities)	November 2012

JANUARY to DECEMBER 2013

Institutions	Presentations	Discussions & literature	Dates
All Sectors		Issued Advisory on current ML activity and financial fraud	March 2013
Financial Institution		Meeting with Compliance Officers – Current ML trends & Fraudulent Activities	March 2013
Financial Institution	AML/CFT Awareness – Suspicious Fraud Activities	Issued brochure on STR reporting guidelines	July 2013
Accountants	ML/FT Risks in the Accounting industry & Reporting Obligations	Issued brochure on STR reporting guidelines	July 2013
Financial Sector		Issued Advisory – Mass Marketing Fraud(Suspicious Fraud Activities)	July 2013
Financial Institution	AML/CFT Awareness - Role of the FIU & Suspicious Reporting Obligations		August 2013

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Money Service Business	AML/CFT Awareness - Role of the FIU & Suspicious Reporting Obligations		August, 2013
Money Service Business	AML/CFT Awareness - Role of the FIU & Suspicious Reporting Obligations		September , 2013
Money Service Business	AML/CFT Awareness - Role of the FIU & Suspicious Reporting Obligations		September 2013
Casino	Suspicious Reporting Obligations & ML/CFT risks in Casinos		November 2013
Financial Institution		Meeting with Compliance Officer re Suspicious Fraud Activities	November 2013
Financial Institution	AML/CFT Awareness- Suspicious Reporting Obligations		November 2013
All Sectors		Issued Advisory – Mass Marketing Fraud (Suspicious Fraudulent Activities)	December 2013

JANUARY to October 2014

Institutions	Presentations	Discussions/Advisories	Dates
Financial Sector	Fraudulent Card Activities & How treated at the Criminal Level		March 2014
Financial Sector		Discussion with Compliance Officer – STR Quality & STR/TPR Reporting Obligations	March 2014

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Lawyers and Real Estate Agents		Issued Advisory on Foreign Cheque Fraud	March 2014
Casino	Suspicious Reporting Obligations & Casino ML/FT Risks		April, 2014
Casinos		Issued Advisory on AML/CFT reporting and procedure guidelines	April 2014
Financial Institution	Reporting Obligation & ML/FT Risk Assessment		July 2014
Financial Institution	Reporting Obligation & ML/FT Risk Assessment		July 2014
Financial Institution		Discussion with Compliance Officer – STR/TPR Reporting Obligations	July 2014
Financial Sector		Issued Advisory to Reporting Entities on meeting AML/CFT Report Filing Timelines	September 2014
FIs and DNFBPs	Suspicious Reporting Trends & Use of STR Data		October 2014
Lawyers		Issued Advisory on Foreign Cheque Fraud	October 2014

Upcoming 2014 Presentations

Sectors: Insurance, Casino and Financial Institution

Annex 2.



SAINT CHRISTOPHER AND NEVIS
Financial Services Regulatory Commission
St. Kitts Branch

GENERAL ADVISORY NO. 5 OF 2012
TO ALL REGULATED ENTITIES

Date: 27th March 2012

It is hereby notified for general information that where funds are frozen pursuant to section 43 of the Anti-Terrorism Act, Cap. 4.02, the following actions may be taken by a person from whom the funds were frozen or who has an interest in the funds:

- Apply at any time to the court to have the freezing order revoked or varied or to have the funds or any part of the funds returned to the applicant
 - Apply to the court for permission to examine the funds
 - An applicant would be required to
 - Give to the Director of Public Prosecutions (DPP) at least three days notice in writing of the intention to apply to the court
 - enter into a recognizance before the court with or without sureties and on such terms and conditions that the court may direct including, where appropriate, the deposit of the court with any sum of money or other valuable security that the court may direct
 - Apply to the court where funds are required to meet the reasonable living expenses, reasonable business expenses or reasonable legal expenses of the person who either has an interest in the property or who was in possession of the funds at the time that the order was made
2. Where an application is made to the court as indicated above, the court may grant the order if the court is satisfied of the following
- That the freezing order should not have been made in respect of the funds in question

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- That the Applicant is the lawful owner, or lawfully entitled to possession of the funds and appears innocent of any complicity in a terrorism offence or of any collusion in relation to such an offence
- That the funds will no longer be made required for the purpose of any investigation or as evidence in any proceedings

NB. Please note that

- “court” includes the High Court but may be any court of competent jurisdiction within the Federation.
- “Funds” means assets of every kind whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such assets, including but not limited to, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis Amended for May 2014 Plenary**

FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
Legal systems				
1. ML offense	PC	<ul style="list-style-type: none"> The recent amendments to the POCA have resulted in little time to assess the effectiveness of its implementation. The penalty for financing of terrorism on summary conviction should be amended so that the offence falls within the definition of serious offence. 	<p>The term of imprisonment for financing of terrorism has been increased to 5 years and the fine has been made an unlimited one See Section 4 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009)</p>	
2. ML offense—mental element and corporate liability	LC	<ul style="list-style-type: none"> Training should be provided to all the relevant parties who are responsible for investigating and prosecuting ML and FT offences with the aim of increasing the number of investigations and prosecutions for these offences. 	<p>Significant training has been provided to personnel in the Office of the DPP, the Royal St. Christopher/Nevis Police Force and to the Judiciary as detailed in attached Schedule 1</p>	

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<p>3. Confiscation and provisional measures</p>	<p>PC</p>	<ul style="list-style-type: none"> • Amendments should be made to the POCA so that there would be clear provision for the seizure of instrumentalities intended for use in the commission of an offence under the Act and a predicate offence. • An amendment to the ATA should be made so that there would be provision for the seizure of instrumentalities used in or intended for use in the commission of an offence in the ATA. • The ATA should be amended to provide a stated procedure for the forfeiture and confiscation of property. 	<p>The definition of property in POCA has been expanded to include "...proceeds from, instrumentalities used in and instrumentalities intended for use in the commission of any money laundering or related offence....." See Section 3 of the Proceeds of Crime (Amendment) Act , 2009 (No 34 of 2009)</p> <p>The definition of "property" in the ATA has been expanded to include "...proceeds from, instrumentalities used in and instrumentalities intended for use in the commission of any terrorist financing offence....." See Section 3 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009)</p> <p>Provisions of Sections 36 to 42 of the ATA in relation to the seizure, detention and disposal of terrorist cash are now made of equal applicability to instrumentalities used in or intended for use in the commission of an offence under the Act. See Section 12 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009) The ATA Amendment No. 3 of 2012 sets out in section 14, procedures for the forfeiture and confiscation of property. The section provides that the DPP may apply to the Court for the forfeiture of any property that was seized pursuant to section 33 of the Act. The section places an obligation on the DPP to give notice to any person from whom the property was seized or who might be connected with the property in question. Persons interested in the property would have a right to appear at the forfeiture hearing. The Court would examine all the merits of the case and if a decision is made to forfeit the property in question, then the property would become the property of the State. A right to appeal the decision of the Court is afforded to any person who has an interest in the property.</p> <p>In terms of procedures for the unfreezing of property, section 43 of the ATA provides adequately for this process by providing details on what actions a person could take in seeking to have property unfrozen. Application is made to the court by a person having a relevant interest in the matter and the ATA notes the nature of the matters that the court would take into consideration before a determination is made concerning the property. Procedures contemplated involve the possibility of variation or revocation of the original freezing order. Additionally the procedures in</p>	
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**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis Amended for May 2014 Plenary**

FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
			relation to unfreezing have been published as an advisory on the Financial Services Regulatory Commission website.	
Preventive measures				
4. Secrecy laws consistent with the Recommendations	C			

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<p>5. Customer due diligence</p>	<p>NC</p>	<ul style="list-style-type: none"> • The Authorities should resolve the issue as to whether the AMLR can legally refer to matters relating to the financing of terrorism. As a consequence, there may be valid challenges that may be mounted against several of the measures in the Regulations or Guidance Notes which seek to address the financing of terrorism. • The Guidance Notes are not considered to be law or regulations and thus the requirements in the Guidance Notes relating to the treatment of occasional transfers should be placed in the law. • The Regulations or Guidance Notes should either prohibit numbered accounts or specify how they are to be treated. • The important issue of using independent documentation to verify identity should be inserted into the law. • The requirement to identify and verify beneficial owner using data from a reliable source should be inserted into the law. • The Authorities should amend the laws appropriately to deal with the requirement for carrying out identification procedures where there is a suspicion that the transaction involves the financing of terrorism. • The Regulations or Guidance Notes should impose a requirement for carrying out identification procedures where there is a suspicion that the transaction involves the financing of terrorism. • For clarity the requirements applicable to money services businesses that relate to originator information should extend to banks that carry out wire transfers. 	<p>See Regs 3, 4 and 5 of the Anti-Terrorism (Prevention of Terrorist Financing) (ATPTF), Regulations, 2011 addressing the financing of terrorism. These provisions largely mirror the provisions within the AMLR that deal with the maintaining by a relevant person of the appropriate policies regarding identification, record keeping, internal reporting and internal controls and communication procedures to forestall or prevent terrorist financing. These include identification procedures in relation to business relationships and one-off transactions as well as specific procedures that would need to be applied in the case of enhanced customer due diligence. According To Reg. 3 the appropriate policies to be applied would cover prudential policies that are established by the relevant person having regard to the degree of risk of terrorist financing, taking into account the type of customers, business relationships, products or transactions with which the relevant person’s business is concerned. See Reg 6(9).</p> <p>The issue of numbered accounts is addressed in Regulation 4(10) (a) of the AMLR, which requires that regulated persons shall not in the course of their business relationships “operate or keep open, or keep anonymous accounts or accounts in fictitious names’.</p> <p>The language in the Guidance Notes has been adjusted to make it mandatory in nature and adequately covers the issues relating to occasional transfers. This includes a requirement for financial institutions and banks to provide meaningful originator information for cross-border wire transfers. See Paragraphs 122 and 123.</p> <p>In terms of identification procedures where there is a suspicion of terrorist financing, this is dealt with in Reg 4(1) (c) (i) of the ATPT setting out provisions where identification procedures would be required.</p> <p>AML Regulations and Guidance Notes address these issues</p>	
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**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis Amended for May 2014 Plenary**

FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
		<ul style="list-style-type: none"> The Regulations or Guidance Notes should refer to a direct obligation to verify the authority of the person to act on behalf of the principal. The Regulations or Guidance Notes should address the requirements for verifying the legal status of the parties involved in trust/legal arrangements. The Regulations should specifically prohibit reduced due diligence in circumstances where the relevant person suspects the financing of terrorism. 	<p>See section 4 generally, in the AML Regs and the TF Regs and specifically Reg s 4(2) and 4(4)</p> <p>.</p> <p>See Regulation 4(1)(c)(i) of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011.</p> <p>See Reg 4(4) of the TF Regulations</p> <p>See Regulation 4(1)(c)(i) of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011.</p> <p>See Paragraph 123 of the GN.</p> <p>Please see paragraph s 40 (a) of the AML and TF Regulations and Guidance Notes and Regulations 4(2) of the AML and TF Regulations</p> <p>.</p> <p>See Regulation 6(9) of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011.</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
6. Politically exposed persons	LC	<ul style="list-style-type: none"> The Regulations or the Guidance Notes should make it clear as to whether the requirement for establishing of source of funds/wealth applies where the PEP is found to be the beneficial owner and not necessarily the customer with whom the financial institution is transacting. 	<p>See Reg 5(5) of the AML and ATPTF Regulations and paragraph 40 of the Guidance Notes</p>	
	LC	<ul style="list-style-type: none"> As the Regulations or the Guidance Notes cannot cover issues relating to terrorism financing, the measures relating to assessing a respondent institution's measures to combat TF would have to be provided for in the appropriate law or regulation. 	<p>This matter was dealt with when the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011 were approved. See Regulation 4(12) (c). Additionally, the Financial Services (Implementation of Industry Standards) Regulations and the Guidance Notes that are appended to it are of equal applicability to terrorist financing as well as to money laundering.</p>	
8. New technologies & non face-to-face business	PC	<ul style="list-style-type: none"> The Regulations or the Guidance Notes should provide for the specific and effective CDD measures that financial institutions should apply to cases of non-face-to-face business. The Authorities should take greater steps in familiarising their supervised constituents about the new requirements of the law to ensure a smoother transition to the new regime. 	<p>See reg 4 of the AML Regulations and the APTF Regs. Guidance Notes Paragraph 84 with the subheading Non-Face-to-Face Business</p> <p>Since November 2008, the Authorities have conducted ongoing meetings and seminars with supervised constituents as detailed on attached Schedule 2. Recent SIP training workshops has involved further training and exposure across the board for regulated persons</p>	

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FATF 40+9	Ratin g	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
9. Third parties and introducers	PC	<ul style="list-style-type: none"> Regulated businesses should be required to obtain information on introducers/intermediaries' CDD processes. Where undertakings are given to provide information, financial institutions should be satisfied that the information will be provided without delay. The Authorities should ensure that introducers and intermediaries are required to use independent documents to verify identification information, and to ensure that the authority of a customer purporting to act for another is valid, and ascertaining the nature of the customers' business. Introducers and intermediaries should be subject to CFT measures. There should be greater guidance to regulated businesses with regard to ascertaining whether an introducer's/intermediary's home country has adequately applied the FATF Recommendations. The Authorities should clarify the identified inconsistencies between the Regulations and the Guidance Notes with regard to whether introducers are to be subject to the FATF Recommendations. The inconsistencies in the regime are evidenced by reliance on introducers that are not subject to the FATF requirements as required by the Regulations. These inconsistencies should be resolved. 	<p>See Reg 7 of the AML Regulations and APTF Regs and in the Guidance Notes, Paragraphs 38 to 96 generally on verification but specifically provision is made in paragraphs 59 -61 and 84, 85</p> <p>See reg 7 of the ATPFT Regs see Regulation 7(6) ATPFT Regulations, 2011.</p> <p>See Reg 15(2) of the AML and the ATPFT Regs.</p> <p>See Reg 7(2) and (3) of the AML Regulations The Prevention of Terrorist Financing (Amendment) Regulations have been approved and are now in force. Regulation 7 of the Amendment Regulations now provides that a relevant person "shall satisfy itself by immediately obtaining from an introducer or intermediary the necessary information concerning the introducer or intermediary's customer due diligence processes..."</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
10. Record keeping	LC	<ul style="list-style-type: none"> The Authorities should consider measures to ensure that supervisory authorities are able to verify that captive insurance and international insurance companies are properly complying with the record keeping obligations established in the law. 	Addressed within the ambit of the recently passed Financial Services Regulatory Commission Act, (No. 22 of 2009) Section 4(1).	
11. Unusual transactions	PC	<ul style="list-style-type: none"> The Authorities should consider measures that would allow the Commission to properly verify that captive and international insurance companies are fully complying with the requirements relating to complex and unusual transactions specified in the laws. . The Authorities should resolve the ambiguity between the treatment of unusual and complex transactions in the law and in the Guidance Notes. The Authorities should consider specifying that financial institutions should make their unusual transaction records available for competent authorities and auditors. 	<p>Addressed within the ambit of the recently passed Financial Services Regulatory Commission Act, (No. 22 of 2009) Section 3 and Section 4(1) as well as Schedule 1.</p> <p>The Anti-Money Laundering (Amendment) Regulations No. 9 of 2012, which amend Regulation 8, have been amended and approved. The amendment provides as follows: “A relevant person shall ensure that records of unusual and complex transactions are maintained for at least five years and that such records shall be made available upon request to competent authorities and to auditors”.</p> <p>See section 3(3) of the AML and ATPFT Regulations The Anti-Money Laundering (Amendment) Regulations have been approved Regulation 7 of the Amendment Regulations amends sub regulation (2) by inserting a new paragraph (c) that provides that a relevant person “shall satisfy itself by immediately obtaining from an introducer or intermediary the necessary information concerning the introducer or intermediary’s customer due diligence processes...”</p>	

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<p>12. DNFBP–R.5, 6, 8-11</p>	<p>PC</p>	<ul style="list-style-type: none"> • Deficiencies identified for all financial institutions for R.5, R.6, and R.8-11 in the relevant sections of this report also apply to DNFBPs. Implementation of the specific recommendations in the relevant sections of this report will also apply to DNFBPs. • The Authorities should consider amending the FSRC Act to give the Commission explicit powers to supervise and regulate for AML/CFT purposes. The FSRC Act should be also be amended to give the Commission explicit powers over DNFBPs • St. Kitts and Nevis should implement a robust system of regulation and supervision for casinos. Casinos should also be sensitised about their CDD obligations under the AMLR and GN. • Schedule 1 of the POCA should be amended to specify the relevant activities of accountants and auditors, in line with E.C. 12.1(d). • The AMLR should be amended to ensure that third parties are regulated and supervised in accordance with Recommendation 23, 24, and 29, and have measures in place to comply with Recommendations 5 and 10. <ul style="list-style-type: none"> • Implement a robust system of regulation and supervision for casinos. • Sensitize the Gaming industry of its CDD obligations under the AMLR • Specify the activities of accountants and auditors to bring 	<p>See responses at R5, R6 and R8-11 above as they pertain to the redrafting of the AMLR and Guidance Notes.</p> <p>The FSRC has been revamped to expand its powers. Within its new ambit, the Commission is responsible for most DNFBP’s. Section 4 (2) (d) of the Financial Services Regulatory Commission Act, 2009 (No 22 of 2009) provides that the Commission shall monitor compliance by regulated persons with the Proceeds of Crime Act, the Anti-Terrorism Act and such other Acts, regulations, codes or guidelines relating to ML or FT. The Schedule to POCA has been amended so that section 2(a) of that amendment provides for the specific business of accountants as required by the Regulations.</p> <p>An amendment to Schedule 1 of the POCA has been approved. Section 2(a) of the amendment provides language in keeping with the recommendation. Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for their client concerning the activities of buying and selling of real estate; managing of client money, securities or other assets; management of bank, savings or securities accounts; organization of contributions for the creation, operation or management of companies; creation, operation or management of legal persons or arrangements, and buying and selling of business entities”;</p> <p>The FSRC has been revamped to expand its powers. Within its new ambit, the Commission is responsible for regulation of most DNFBP’s. This includes accountants and auditors. See Section 4(1) of the Financial Services Regulatory Commission Act, 2009 (No. 22 of 2009). Sanctions may be applied by the Commission pursuant to sections 40 and 44 of that Act.</p> <p>The Gaming Sector has been provided with guidelines on a consistent basis and has been made aware of what its CDD obligations are. Since 2009, information has been disseminated to the sector on a regular basis. In addition, in 2012, the FSRC issued sector specific guidelines for DNFBPs, including gaming entities.</p>	
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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
		<ul style="list-style-type: none"> • them in line with FATF E.C. 12(1)(d) Require third parties to be regulated and supervised in accordance with Recommendation 23, 24, and 29, and have measures in place to comply with Recommendations 5 and 10. • Amend section 10 of the AMLR to make “business correspondence” to be available for at least five years. • Amend paragraph 72 of the GN to specify that documented findings regarding complex, unusual or large transactions should be made available upon request. 	<p>AML Regulations and Guidance Notes have</p> <p>See paragraph 118 of the Guidance Notes Paragraph 69 of the Guidance Notes, Regs 8 and 9 of the AMLR Regs and APTF Regs</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> The requirement for suspicious transaction reporting under the AML Regulations needs to be aligned with the issue of funds being the proceeds of criminal activity in accordance with the requirements of Recommendation 13. The Authorities should de-link the connection between unusual transactions and suspicious transactions, as they represent two separate obligations under the FATF Recommendations. The requirement for suspicious transaction reporting under the ATA needs to be aligned with the issue of funds being linked to or related to terrorism, terrorist acts or terrorist organisations or financiers in accordance with the requirements of Special Recommendation IV. All offences under the AML Regulations carry the same penalty of EC\$50,000. The Authorities should re-examine this as a “one-size” fits all approach to sanctions under the regulations could inhibit effectiveness especially for the more serious sanctions. 	<p align="center">AML Regulations and Guidance Notes</p> <p>The reporting requirement under Section 17 of the ATA has been amended accordingly. See Section 8(a) of the Anti-Terrorism (Amendment) Act, 2009 (No. 13 of 2009)</p> <p>See Regs 3(7), 4(2) (e), 4(9) (1); 4(13); 5(6); 8(10); 11(2) (d); 11(2) (e); 11(4); 14(1). of the AML Regulations. The Regulations were amended to make the penalties more commensurate with the actual offence committed.</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
14. Protection & no tipping-off	PC	<ul style="list-style-type: none"> Section 5 of the POCA (tipping-off offence) should be amended to provide for information about a STR or general information and not just ML investigations. The POCA and ATA should be amended to provide for the tipping-off offence as it relates to reporting of STRs or related information to the FIU which would lead to a ML or FT investigation. 	<p>See Section 3 of the Proceeds of Crime (Amendment) Act No. 37 of 2011 which now includes tipping off as an offence on a much wider basis.</p> <p>See Section 4 of the Anti- Terrorism (Amendment) Act No. 38 of 2011</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> The Examiners take the view that the AMLR cannot extend to obligations relating to terrorism financing. Thus the internal control measures prescribed by the AMLR cannot apply to the area of financing of terrorism. This would impact key areas such as internal auditing, the compliance officer and staff training, notwithstanding the fact that these areas in practice do cover terrorism financing issues. The St. Kitts and Nevis Authorities should take legislative measures that would ensure that the obligations under Recommendation 15 apply to the financing of terrorism. The Authorities should consider providing further guidance on internal testing procedures and requiring that these functions be independent and appropriately resourced. There is a fundamental issue of concern relating to properly ascertaining the level of compliance with regard to suspicious transaction reporting requirements that is achieved by the resident insurance manager operating under the Captive Insurance Act and the Nevis International Insurance. Given that the vast majority of these transactions occur offshore, there is an issue as to how the Regulators are able to properly and independently verify that all transactions are being captured. 	<p>See Regulation 3(1)(a)(iv) & 3(5)(d) of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011.</p> <p>Prevention of Terrorist Financing (Amendment) Regulations have been prepared and approved. The amendment addresses this issue by inserting a new sub regulation 3 (8) which provides an explanation of what is encompassed by internal controls and procedures to prevent or forestall terrorist financing. The provision contemplates a requirement that regulated persons should have procedures in place that would ensure independent auditing, proper screening of prospective employees and provisions for monitoring of transactions.</p> <p>Additionally, guidance in the form of an advisory on the Financial Services website has been posted to give further guidance to regulated persons on what the requirements are for internal testing and procedures.</p> <p>The FSRC has been revamped to expand its powers. Within its new ambit, the Commission is responsible for regulation of most DNFBP's. See Section 4(1) of the Financial Services Regulatory Commission Act, 2009 (No. 22 of 2009).</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
16. DNFBP-R.13-15 & 21	NC	<ul style="list-style-type: none"> • The AMLR should be amended to mandate direct legal obligation on DNFBPs to report suspicious transaction to the FIU when they suspect or have reasonable grounds to suspect that funds are the proceeds of criminal activity, irrespective of whether the transaction is complex, unusual, or large. • Amend the AMLR mandate that attempted transactions be reported, regardless of the amount. 	<p>Reg 11 of the AML Regulations</p> <ul style="list-style-type: none"> • <p>AML Regulations .Reg 11 of the AMLR does not impose any limitations in respect of the size of the transaction involved.</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
17. Sanctions	NC	<ul style="list-style-type: none"> • The sanctions under the AML Regulations are all homogenous and therefore not proportionate, and in the case of the more serious offences not dissuasive or effective. The Authorities should re-examine the obligations and assign the appropriate penalties. • The Authorities should also re-examine the penalties in the ATA to ensure that the assigned penalties are commensurate with the breach involved. • The ECCB should consider widening their power to apply sanctions to circumstances where breaches are discovered outside of the context of an examination. • The Authorities should re-examine the regime for securities firms to ensure that the appropriate supervisory body can impose appropriate AML/CFT sanctions for breaches. • There needs to be greater use made of the new powers granted under the FSRC Act by the Authorities to bolster the effectiveness of the system. 	<p>See Regs 3(7), 4(2) (e), 4(9) (l); 4(13); 5(6); 8(10); 11(2) (d); 11(2) (e); 11(4); 14(1). AML Regulations AML Regulations.</p> <p>Amendment of the ATA enables the alignment of penalties to the breaches including providing for unlimited fines. See Anti-Terrorism (Amendment) Act, 2009 (No. 13 of 2009) Fines in the ATA have since been amended and the unlimited fines have been replaced with appropriate penalties that are more proportionate and should be sufficiently dissuasive, effective and proportionate.</p> <p>The Examiners' recommendations pertaining to the power of the ECSRC and the ECCB to sanction for AML/CFT breaches have been met based on the FSRC's supervisory authority for all AML/CFT matters in St. Kitts and Nevis. FSRC Act, No. 22 of 2009, Sections 4(2)(a) and 4(2)(d)</p> <p>See examples of regulatory action taken during 2009 on attached Schedule 3.</p> <p>Fines in the ATA have since been amended and the unlimited fines have been replaced with appropriate penalties that are more proportionate and should be sufficiently dissuasive, effective and proportionate.</p> <p>Penalties under the ATA have already been addressed in the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009. and APTF See Regs 3(7), 4(2) (e), 4(9) (l); 4(13); 5(6); 8(10); 11(2) (d); 11(2) (e); 11(4); 14(1). Those under AMLR are captured in 3(7), 4(2) (e), 4(9) (l); 4(13); 5(6); 8(10); 11(2) (d); 11(2) (e); 11(4); 14(1).</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
18. Shell banks	C			
19. Other forms of reporting	C			
20. Other NFBP & secure transaction techniques	C			

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
21. Special attention for higher risk countries	PC	<ul style="list-style-type: none"> • The Authorities should consider measures to ensure that the FSRC is able to verify the level of compliance by International and Captive Insurers with the requirements of Recommendation 21. • The Authorities should consider a wider range of countermeasures that should be taken against countries that fail to apply appropriate AML/CFT Standards. • Apparent inability to enforce measures as they relate to CFT issues. • Wider range of counter measures needed against countries that fail to apply sufficient AML/CFT standards. 	<p>Addressed within the ambit of the recently passed Financial Services Regulatory Commission Act, (No. 22 of 2009) Section 4(1).</p> <p>The Supervisory Authority regularly posts advisories in relation to countries that have not sufficiently adopted or implemented the FATF 40 + 9.</p> <p>Anti-Terrorism (Prevention of Terrorist Financing) Regulations Generally see Regs 3 and 3 but see especially Reg 14. See also sanctions under the FSRC Act generally but especially sections 40 and 44.</p> <p>AML Regulations</p> <p>The Supervisory Authority regularly posts advisories in relation to countries that have not sufficiently adopted or implemented the FATF 40 + 9.</p>	
22. Foreign branches & subsidiaries	C			

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<p>23. Regulation, supervision and monitoring</p>	<p>PC</p>	<ul style="list-style-type: none"> The Authorities need to provide additional resources for all Supervisors in the system, including the FSRC, the ECCB and the ECSRC. In particular the ECSRC should commence its programme for examination of licensees to ensure compliance with the Securities laws and other governing statutes. The ECSRC should be vested with the appropriate authority to supervise its licensees re: AML/CFT issues including examination and sanction powers. The Authorities should consider measures that would strengthen the FSRC's ability to fully monitor the activities of Captive and International Insurance companies and verify levels of compliance. The Banking Act should provide that the ECCB can examine licensees to ascertain compliance with other statutes that apply to these entities (e.g. those relating to AML/CFT). The Banking Act should clarify that the ECCB can apply sanctions for AML/CFT breaches including those that do not arise from an examination. Fit and proper requirements should extend to the owners, directors and, managers and domestic Insurance Companies. 	<p>The ECCB has engaged Advisors within the Banking Supervision Department to provide technical support and expertise in matters related to the regulation of the insurance, offshore and financial cooperatives sectors. An additional Financial Inspector and an Assistant Regulator were recruited to the FSRC Regulatory Departments and two inspectors obtained certification as AML Specialists. The ECSRC project for the development of a risk based regime and manual for the risk assessment of broker dealers was completed in August 2010. During the project a risk basing exercise was carried out for broker dealers in the Federation which facilitated the development of the supervisory regime for broker dealer licensees. Completion of a similar exercise for all licensees during 2011 would denote the full implementation of the new regime. During 2010 the ECSRC added an Analyst and a Legal Officer to its staff and so the ECSRC Secretariat is now established outside of the ECCB management structure staffed by two (2) Analysts, one (1) Attorney, one (1) Administrator and a Secretary.</p> <p>The St. Kitts and Nevis Authorities have noted that pursuant to Section 4 (2) of the FSRC Act, the FSRC is (a) the ultimate regulatory body for financial services and for anti-money laundering for Saint Christopher and Nevis. In addition, section 4(2)(d) states that the Commission shall monitor compliance by regulated persons with the Proceeds of Crime Act, the Anti-Terrorism Act and such other Acts, regulations, codes or guidelines relating to money laundering or the financing of terrorism that are set out in Schedule 1 (of POCA). Therefore, the passage of the FSRC Act in 2009, established the FSRC as the ultimate regulatory body for AML and CFT. Therefore the ECCB and the ECSRC are no longer involved in onsite inspection or supervision of the Securities and Banking sectors where AML/CFT is concerned.</p> <p>The Money Services Bill was in force from January of 2009 and provides for a fit and proper test to be utilized.</p> <p>The Insurance Act was passed and brought into force</p>	
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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
		<ul style="list-style-type: none"> • Fit and proper requirements should apply to Insurance Managers under the International Insurance Act. The current requirement speaks to 'good standing' relative to professional bodies. • Fit and proper requirements should apply to directors and managers of all institutions captured under the Financial Services Commission Order. • Fit and proper requirements should also extend to credit unions and their directors and senior managers. • The licensing process under the Money Services statute should commence. • The laws relating to insurance (both international/captive and domestic) should provide for group supervision as provided for in the IAIS principles. • The Nevis Offshore Bank Ordinance should provide for consolidated supervision. • The Money Services statute should be implemented as soon as possible. 	<p>In consultation with the ECCU, the Cooperatives Bill was passed on the 4th of October 2011 and provides for a fit and proper test for cooperatives and credit unions.</p> <p>Section 53(4) of the Harmonized Co-operatives Bill for the OECS provides for fit and proper requirements for directors and senior management.</p> <p>The St. Kitts and Nevis Authorities have noted that pursuant to Section 4 (2) of the FSRC Act, the FSRC is (a) the ultimate regulatory body for financial services and for anti-money laundering for Saint Christopher and Nevis. In addition, section 4(2)(d) states that the Commission shall monitor compliance by regulated persons with the Proceeds of Crime Act, the Anti-Terrorism Act and such other Acts, regulations, codes or guidelines relating to money laundering or the financing of terrorism that are set out in Schedule 1 (of POCA). Therefore, the passage of the FSRC Act in 2009, established the FSRC as the ultimate regulatory body for AML and CFT. Therefore the ECCB and the ECSRC are no longer involved in onsite inspection or supervision of the Securities and Banking sectors. Fit and proper requirements are incorporated in the new Insurance Act, 2009 (No. 8 of 2009) which has now come into force.</p> <p>In relation to Recommendation 23, an amendment was made in November of 2012 to section 4 of the Financial Services Regulatory Commission Act as Act No. 33 of 2012, providing for the applicability of core principles</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
		<ul style="list-style-type: none"> • The new Insurance statute should be finalised and passed into law. • The Authorities should strengthen the ability of supervisors to verify levels of compliance of captive and international insurance companies. • The Authorities should finalise arrangements for the transfer of regulatory responsibility regarding credit unions to the Commission. 	<p>to the industry and to provide more explicitly for group-wide consolidated supervision.</p> <p>Section 24(2) of the Nevis International Insurance Ordinance, 2004 (No. 1 of 2004) provides for fit and proper evaluation of applicants for Insurance Managers. The Ordinance can be accessed at: http://www.nevisfsrc.com/component/phocadownload/category/1-ordinances?download=138:nevis-international-insurance-ordinance-revised-dec-2009</p> <p>Further, the Nevis International Insurance Regulations , 2004 (SRO No. 6 of 2004) issued pursuant to the Ordinance contain the Insurance Manager’s Application Form (Form 1) and the Personal Questionnaire for Directors and Other Control Persons (Form 2) which applicants are required to complete. The Regulations can be accessed at:</p>	

			<p>http://www.nevisfsrc.com/component/phocadownload/category/1-ordinances?download=1:ordinances</p> <p>Thus applicants for Insurance Managers' licenses under this international insurance regime are subject to fit and proper evaluation.</p> <p>Licensing commenced in 2009 with one (1) issued in St. Kitts and four (4) in Nevis.</p> <p>Section 53(4) of the Harmonized Co-operatives Bill for the OECS provides for fit and proper requirements for directors and senior management.</p> <p>The Money Services Businesses Act has been implemented since 2009.</p> <p>The Insurance Act was passed into law on the 26th of March 2009.</p> <p>The Money Services Business Act, 2008 was fully implemented and licenses issued for the year 2009.</p> <p>The new Insurance Act, 2009 (No. 8 of 2009) was passed into law in March 2009.</p> <p>Section 5(2) of the Harmonized Co-operatives Bill for the OECS provides for credit unions to be regulated by the Financial Services Regulatory Commission.</p> <p><u>Legislative changes</u> The Nevis International Banking Ordinance, 2014 was passed in the Nevis Island Assembly on June 12, 2014 and gazetted on the 19th day of June, 2014. The Ordinance at s.80 provides for a director, shareholder or senior manager to be fit and proper to hold the particular position which he holds or is likely to hold. The section outlines the minimum criteria for determining fit and proper status for the listed individuals.</p>	
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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
			<p>Section 9(5)(e) of the Ordinance specifies that when an application is made for license by a qualified foreign bank, it must be accompanied by evidence satisfactory to the Regulator that it is subject to a comprehensive supervision on a consolidated basis by the appropriate authorities in its jurisdiction of incorporation.</p> <p>In relation to sanctions, s.35(1)(c) of the Ordinance stipulates that where it is found that a Licensee is in breach of any duty or obligation imposed upon it under the Anti-Money Laundering Regulations, 2011, Anti- Terrorism (Prevention of Terrorist Financing) Regulations, 2011 or the Financial Services (Implementation of Industry Standards) Regulations, 2011, the license may be revoked or suspended.</p> <p>Furthermore, additional sanctions may be imposed including:-</p> <ul style="list-style-type: none"> - a written warning to the Licensee, - concluding a written agreement with the Licensee providing for a program of remedial action, - issuing a cease or desist order that requires the Licensee or the person responsible for the management of the Licensee to cease or desist from the practice or violations specified in the order, or - imposing new or additional conditions on the Licensee. <p>•</p> <p>PART VI of the Ordinance, in particular, s.30(3)(b) also states that the Regulator of International Banking shall have the power to examine or cause an examination to be made of each Licensee from time to time in order to ascertain whether the requirements of the Ordinance have been complied with.</p> <p>Additionally, Section 4 of the Financial Services Regulatory Commission Act, 2009 specifies that the Financial Services Regulatory Commission (FSRC) is the ultimate regulatory body for ensuring compliance with the AML/CFT Regulations by the regulated entities. International Banking is a</p>	

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FATF 40+9	Ratin g	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
			regulated activity which is subject to regulatory oversight by the Financial Services Regulatory Commission.	

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<p>24. DNFBP - regulation, supervision and monitoring</p>	<p>NC</p>	<ul style="list-style-type: none"> • The FSRC Act should clarify the powers of the FSRC to regulate and supervise DNFBPs. • Casinos should be subjected to a comprehensive regulatory and supervisory regime that ensures effective implementation of AML/CFT measures. If the FSRC were designated as the authority to supervise casinos for AML/CFT purposes, then the FSRC Act should be amended to give the FSRC those powers. Furthermore, there should be documented regulatory requirements to establish beneficial ownership for Casinos. 	<p>The FSRC has been revamped to expand its powers. Within its new ambit, the Commission is responsible for most DNFBP's. See Section 4(1) of the Financial Services Regulatory Commission Act, 2009 (No. 22 of 2009).</p> <p>Fines in the ATA have since been amended and the unlimited fines have been replaced with appropriate penalties that are more proportionate and should be sufficiently dissuasive, effective and proportionate.</p> <p>The Government of St. Kitts and Nevis has engaged the services of a consultant to review gaming standards. Specifically, the review includes an examination of the legislation. The Authorities anticipate that the existing gaming legislation will be amended before the end of 2012 and that significant steps would have been made towards revamping the regulatory structure from a prudential and AML perspective.</p> <p>Some delays in the start of the gaming consultancy occurred which resulted in the commencement of the actual work being pushed back. The consultancy is now almost completed. The Government is currently awaiting delivery of the Final Report and a sensitisation seminar to be held with key stakeholders in the industry highlighting weaknesses in the system, recommendations for improvement and emphasising best practices. The Terms of Reference for the consultancy included the following:</p> <ul style="list-style-type: none"> • Review of AML Procedures and Policies of licensee and internal audit procedures and results of compliance audits in St. Kitts and Nevis • Reviewing the organisation and functioning of the Gaming Control Board • reviewing protocols, minimum internal controls or operating procedures and compliance history by licensees and standards and procedures adopted by the Board and accounting systems. • Reviewing of relevant legislation including the Betting and Gaming Control Act. <p>The Consultants' Report is to be submitted in the month of October and the awareness seminar is to be conducted in that month as well.</p>	
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			<p>The Gaming Consultancy successfully concluded with a training and sensitisation exercise that was held on November 28th, 2012. The training was attended by a number of stakeholders including representatives from the National Bureau of Standards, the FATF local task force, regulators and members of customs and the Ministry of Finance</p> <p>This was the outcome of a comprehensive review of the entire gaming system of the Federation by a renowned firm of international consultants.</p> <p>The consultation was extremely instructive in highlighting areas of deficiency, and, as anticipated, there was a chapter dedicated to legislative reform. The Federation hopes to have some amendments made to the existing gaming legislation to take account of several of the key recommendations.</p> <p>Sector Specific Guidance was issued to all DNFBPs including Gaming entities, by the FSRC in 2012.</p> <p>Subsequent to the completion and submission of the Consultants' Report, the FSRC established a Gaming Sector Working Group in June 2014. The Gaming Sector Working Group has been mandated with the following:</p> <ol style="list-style-type: none"> 1. Review the Consultants' Report on the gaming industry in St. Kitts-Nevis. 2. Review the existing legislation and the proposed provisions for new legislation as outline in the Report. 3. Prepare a proposal on the most feasible recommendations made in the Report. 4. Determine the composition of the Gaming Board. 5. Determine the best regulatory approach for the Federation (i.e. one agency or two agency approach). 6. Identify all gaming activities within the Federation to be captured under the AML/CFT regime. <p>A final proposal will be submitted to the Board of Directors of the FSRC by October 31st, 2014 for review and approval.</p>	
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**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis Amended for May 2014 Plenary**

FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
25. Guidelines & Feedback	PC	<ul style="list-style-type: none"> The FIU should provide feedback in the form of AML/CFT trends and typologies to regulated sectors. The Authorities should carry out the necessary amendments to ensure that the Guidance Notes can properly cover CFT issues. The FIU should provide feedback to DNFBBs on disclosures and sanitised cases. Additionally, there should be sector specific guidance for DNFBBs with respect to AML/CFT. 	<p>Upon approval, the recommendations will be implemented in the Gaming Sector.</p> <p>The FIU published and distributed its 2008 Annual Report which contains typologies and statistics. Additionally, the Unit also distributed literature on 'hacking' to assist financial institutions in securing their IT systems as well as produced and distributed a flyer captioned 'What's our Grade', a tool for regulated businesses to conduct in-house self-assessment of how they grade on AML/CFT reporting guidelines. In May 2009 and February 2010 the FIU made presentations and discussed Trends & Typologies with regulated sectors at Nevis' annual AML/CFT Seminars. The FIU has also published guidelines on terrorist financing reporting through a brochure entitled "Road Map- Terrorist Financing Reporting" and distributed to gaming, insurance, banking, credit union, money remittance institutions. Sector specific guidelines also issued to two casinos on how and what to report.</p> <p>The Anti-Terrorism (Prevention of Terrorist Financing) Regulations has been approved and covers CFT issues.</p> <p>Comprehensive sector specific guidelines have been posted on the FSRC's website and disseminated to relevant service providers. The guidelines are applicable to accountants, real estate agents.</p> <p>Sector Specific Guidelines for DNFBBs (as well as casinos) were issued by the FSRC in 2012.</p> <p>A significant number of participants at Nevis' annual AML/CFT Seminars held in May 2009 and February 2010 were DNFBB's and they had the benefit of the FIU's presentations and discussions on Trends & Typologies.</p>	
Institutional and other measures				

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<p>26. The FIU</p>	<p>PC</p>	<ul style="list-style-type: none"> • St. Kitts and Nevis Authorities should consider amending section 17(6)(b) of the ATA as amended to give reporting entities a specific time period to submit report of terrorist financing to the FIU. • St. Kitts and Nevis should consider establishing a structured training schedule, in the short term, to target those entities that have not received training in the manner of reporting and identifying suspicious transactions. Continuous dialogue and training should be maintained with reporting bodies with the view of evaluating their reporting pattern so that weaknesses can be identified and addressed accordingly. • The St. Kitts and Nevis Authorities may need to review the manner in which staff is recruited at the Financial Intelligence Unit to allow the Director to have some form of authority as to the quality of the staff that is recruited. • The St. Kitts and Nevis Authorities may need to review the powers given to the Minister, such as policy making and the recruitment of consultants to the Financial Intelligence Unit, without the consensus of the Director of the FIU or the FIU body, as this does not reflect enough independence and autonomy. • The FIU needs to prepare and circulate ML and TF trends and typologies to the reporting entities, so that they can adapt appropriate measures and strategies. These trends and typologies should also be • included in the Annual Report. • The building that presently houses the FIU needs to be more adequately secured through the use of security features such as electronic security systems. • A data back up system for the storage of information should be implemented both on site at the FIU and at an offsite secure 	<p>Amendment to the ATA now specifies a 24-hour time period for submission of reports to the FIU. See Section 8(a) of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009)</p> <p>During 2009, the FIU established a structured training schedule for targeted entities and executed this through presentations and meetings with relevant personnel as detailed on Schedule 4. The Nevis annual AML/CFT seminar also provides a forum for training and dialogue with regulated sectors, providing clarification to participants on reporting requirements etc.</p> <p>FIU training has been ongoing for 2010. The intelligence analysts attended the Nevis AML/CFT training workshop in Nevis and in July attended the Second Sub-Regional Workshop for Caribbean Countries on Counter-Terrorism Financing in Nassau Bahamas. See also attached Schedule of Additional Training since November 2010.</p> <p>In terms of Training and guidance provided to regulated entities, Credit Unions were addressed for the months of June, July and August, where Meetings were held with the Compliance Officer of a Credit Union, and the Senior Managers of the Credit Unions respectively focusing mainly on creating greater awareness of suspicious transaction reporting and emphasizing reporting obligations generally, and to bring greater awareness of the AML and CFT laws.</p> <p>A Terrorist Property Report was created by the FIU and distributed to help with the more detailed and specific information that is needed to assist financial institutions with their reporting obligations.</p> <p>A new security system has been installed with an electronic key pad, video entrance monitor and burglar alarm.</p> <p>The FIU Director is fully involved in the recruitment process, including participating in the interviews and making recommendations to the Minister on final personnel selection.</p> <p>The FIU published and distributed its 2008 Annual Report which contains typologies and statistics. In May 2009 and February 2010 the FIU made presentations and had discussions on AML/CFT Trends & Typologies with regulated sectors at Nevis' annual AML/CFT Seminars.</p>	
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**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis Amended for May 2014 Plenary**

FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
		<p>location and reconsideration given to the storage of information on memory sticks and DVDs as these items can sometimes be easily misplaced.</p> <ul style="list-style-type: none"> • St. Kitts and Nevis Authorities should consider amending sec 15 (1) of the AMLR as it relates to the reporting of STRs to ML to give reporting entities clear directives as to the time in which they are required to file STRs to the FIU. • The FIU should provide guidance with regard to filing STRs with regard to TF. • St. Kitts and Nevis should move quickly to establish the FIU in accordance with section 3(1) of the FIU Act. 	<p>The FIU moved to adequately secured premises in November 2008. Data is currently being stored on an external drive as a backup system. With the recruitment of the IT/FI Analyst, work is in progress to create an enhanced database. Upon completion, the data will be stored on the database server in which the database application resides with adequate offsite backup. See 11(1) (e) of the AML Regulations and APTF Regulations</p> <p>All training presentations and meetings conducted by the FIU with regulated businesses cover STR reporting for both ML and TF.</p> <p>The FIU Body was established in accordance with Sec. 3(1) of the FIU Act with the appointment of the members in November of 2012.</p> <p><u>FIU (November, 2013 to March, 2014)</u></p> <p><u>Staff Training</u></p> <p>Three (3) staff members participated in the following training activities since November Plenary, 2013 to date:</p> <p>November 22-24, 2013 - “Asset Freezing Workshop” (Bahamas) December 1 – 2, 2013 - CFATF 9th AML/CFT Compliance Conference (Trinidad) January, 2014 - “CFATF Assessor Training Course” (Jamaica) February, 2014 - “FIBA AML/CFT Conference” (Miami, USA) March, 2014 - “Egmont Strategic Analysis Course” (Miami, USA)</p> <p><u>AML/CFT Awareness Programme (March 2014 – Sept. 2014)</u></p> <p>During the period the FIU delivered three (3) presentations – two financial institutions and one</p>	

			<p>casino- and participated in a panel discussion with the financial sector.</p> <p>During the month of March, 2014, the FIU participated in a “Card Awareness Panel Discussion”. The aim of the panel was to educate cardholders of the use of international payment cards, and to bring awareness to the general public on fraudulent activities surrounding the use of debit/credit cards. The FIU delivered the topic “How Card Fraudulent activities are treated at the Criminal Level” as it relates to the institutions’ AML/CFT reporting obligations, and assisting law enforcement and prosecutorial agencies in conducting asset tracing investigations.</p> <p><u>Advisories</u></p> <p>As of March 2014, the FIU issued an advisory to the banking sector upon detection of a “foreign cheque fraud” scheme targeting the accounts of lawyers and real estate agents.</p> <p>FIU distributed AML/CFT reporting and procedure guidelines to casino business.</p> <p><u>Restraint/ Freeze Directives</u></p> <p>During the month of March the FIU issued Administrative directives, in accordance with our legislation, over three bank accounts located at two financial institutions. This activity was prompted when funds were identified bearing linkages to an individual listed on the terrorist watch list in the international community.</p> <p><u>Suspicious Transaction Reports (STRs) 2012-2013</u></p> <p>There were one hundred and fifty-six (156) Suspicious Transaction Reports (STRs) filed with the FIU and within the “Money laundering” category for 2013. This was an increase over the 72 STRs filed in 2012 as shown below:</p> <table border="0"> <tr> <td><u>FIs – Financial Institutions:</u></td> <td>2013</td> <td>2012</td> </tr> <tr> <td>• Banks</td> <td>61</td> <td>26</td> </tr> <tr> <td>• Insurance Agents</td> <td>01</td> <td>00</td> </tr> </table>	<u>FIs – Financial Institutions:</u>	2013	2012	• Banks	61	26	• Insurance Agents	01	00	
<u>FIs – Financial Institutions:</u>	2013	2012											
• Banks	61	26											
• Insurance Agents	01	00											

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis Amended for May 2014 Plenary**

FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
			<ul style="list-style-type: none"> • Credit Unions 00 00 DNFBPs – Designated Non-Financial Business and Professions: • Trust & Corporate Service Provider (TCPs) 07 06 • Money Service Businesses (MSBs) 86 40 • Regulator 00 01 • Lawyers, 01 00 • Jewelers, Auditors, Accountants, Real Estate Agents, Charities/ NGO’s, Brokers, Casinos, etc. 00 00 Total 152 72 <p>The FIU attributes the increase in suspicious transaction matters filed for year 2013 to the following:</p> <ul style="list-style-type: none"> • The capacity building within the FIU. • The FIU’s increased feedback to reporting sector. This involved the distribution of more and timely “Status Reports”. • The more AML/CFT awareness partly due to FIU’s AML/CFT outreach programme and initiatives undertaken by the Regulators. • The improvement in compliance systems within financial institutions – training of personnel on countermeasures; and strengthening the system to identify suspicious transactions. 	

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<p>27. Law enforcement authorities</p>	<p>NC</p>	<ul style="list-style-type: none"> • St. Kitts and Nevis Authorities should consider implementing legislation or measures that would allow law enforcement authorities, to postpone or waive the arrest of suspected person and /or the seizure of cash so as to identify other persons involved in the offence. • The FIU Royal St. Christopher and Nevis Police Force should put measures in place to ensure that persons responsible for the proper investigation of ML & TF have sole responsibility in this regard, as ML & TF are usually complex crimes and require dedication and comprehensive investigation with utmost circumspect. 	<p>In February 2011, POCA amended to give greater flexibility in terms of the investigative process. The Court now has the capacity to make periodic orders for detention of moneys (being imported to or exported from the Federation) for at least six (6) months.</p> <p>The White Collar Crime Unit (WCCU) was established within the Royal St. Christopher-Nevis Police Force in June 2009 as the designated unit with responsibility for investigating ML and TF. Three (3) experienced officers are assigned to the Unit. The Unit is housed in the same secure premises in which the FIU is now located and is fully equipped (from proceeds of the Forfeiture Fund) with the physical and technical resources it needs to perform its functions. Another Officer was assigned to the Unit in November 2010 bringing the staff complement to four (4) in addition to an Inspector who heads the unit.</p> <p>The WCCU is currently investigating 116 STRs transmitted by the FIU to establish enforceable evidence of ML where applicable. There have been three (3) cases where three (3) individuals have been charged with Fraud offences and recommendations have been made for ML charges to be laid.</p> <p>The provisions of the Police Act provide for the possibility of postponing the arrest of a suspected person and waiving surrender if the need arises.</p> <p>The White Collar Crime Unit continues to work assiduously in tackling crime. There are a number of money-laundering investigations that are currently on-going.</p> <p>On April 11th the preliminary inquiry on a money laundering charge was successfully completed and the matter has been committed to the High Court for trial. The sum in question is approximately XCD\$455,000.00.</p> <p>In March 2012, members of the White Collar Crime Unit attended in El Salvador the I.R.S. sponsored Training in Financial Investigative Techniques.</p> <p>There are currently two pending restraint order matters and in December of 2012 a boat used in illicit drug activity was seized and subsequently forfeited.</p>	
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**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis Amended for May 2014 Plenary**

FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
			<p>The White Collar Crime Unit reports that as at March 2014, there is one pending Money Laundering matter in Nevis and one Confiscation matter from a drug conviction pending. In addition, investigations are ongoing in two cases involving US\$83,858 in cash and cheques US\$24,987.75 resulting from Suspicious Transaction Reports (STRs).</p>	
<p>28. Powers of competent authorities</p>	<p>LC</p>	<ul style="list-style-type: none"> • The Royal St. Christopher and Nevis Police Force, the Office of the DPP and the FIU should consider developing and reviewing their strategy in combating ML and TF with the view to adapting a more aggressive approach to generate ML and TF investigations, prosecution and possible convictions and utilizing the investigative tools such as Production Orders provided for in the POCA. • There is a need for speedier granting of orders by the Court, in particular production orders. 	<p>The WCCU is currently investigating 116 STRs transmitted by the FIU to establish enforceable evidence of ML where applicable. There have been three (3) cases where three (3) individuals have been charged with Fraud offences and recommendations have been made for ML charges to be laid.</p> <p>In February 2011, POCA was amended to give greater flexibility in terms of the investigative process. The Court now has the capacity to make periodic orders for detention of moneys (being imported to or exported from the Federation) for at least six (6) months. The amendment also introduces the possibility of forfeiture of moneys without a conviction where the court is satisfied that such moneys constitute the proceeds of crime. (Copy of Bill attached) Investigative activities of the WCCU between October 2010 and February 2011 include:- Five (5) Drug trafficking cases (3 - subjects convicted & sentenced; 2 -cases adjournment to later date). Application for confiscation made to the Court in three (3) of these drug cases is pending; Three (3) Fraud cases (1-awaiting Preliminary Investigation; 1-subject to be served; 1-awaiting further instructions from DPP). Ten (10) Production Order Applications made to the Court (7- received & 3-pending).</p>	

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis Amended for May 2014 Plenary**

FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
29. Supervisors	PC	<ul style="list-style-type: none"> • The ECCB/ECSRC should be vested with examination and sanction powers where AML/CT is concerned. • The penalties under the AMLR and the ATA should be more effective, proportionate and dissuasive. 	<p>The Examiners' recommendations pertaining to the power of the ECSRC and the ECCB to sanction for AML/CFT breaches have been met based on the FSRC's supervisory authority for all AML/CFT matters in St. Kitts and Nevis. FSRC Act, No. 22 of 2009, Sections 4(2)(a) and 4(2)(d)</p> <p>Penalties under the ATA have already been addressed in the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009. and APTF See Regs 3(7), 4(2) (e), 4(9) (1); 4(13); 5(6); 8(10); 11(2) (d); 11(2) (e); 11(4); 14(1). Those under AMLR are captured in 3(7), 4(2) (e), 4(9) (1); 4(13); 5(6); 8(10); 11(2) (d); 11(2) (e); 11(4); 14(1).</p>	

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<p>30. Resources, integrity and training</p>	<p>PC</p>	<ul style="list-style-type: none"> • St. Kitts and Nevis should put adequate mechanisms in place to ensure that staff recruited at the FIU maintains a high level of integrity and confidentiality. • The FIU should be provided additional human and technical resources for it to adequately and efficiently carry out its functions. • More training should be sourced and provided to the personnel of the FIU. • St. Kitts and Nevis should consider filling the vacant posts within the Police Force in order to strengthen its human resource capabilities, so that there would be an adequate allocation of human resources for the proper investigation of crimes in general and ML and FT specifically. • The budgetary resources of the Police Force should be increased to adequately cover, purchasing of additional resources and the hiring of qualified staff to enable it to adequately perform its functions • The Police Force should consider providing more training particularly in the area of ML investigation and other relevant areas. This could also be done in-house and provision should be made to have it inducted within the regular police training programme for new recruits. • There is a need for more Law officers in the office of the Director of Public Prosecutions • There is an urgent need for AML/CFT training of all officers in the Office of the DPP. This Training should include the seizing, freezing, forfeiture and confiscation of assets. • A law library in the Office of the DPP should be considered as a matter of priority since this would greatly assist the office of the DPP as well as the Officers in the 	<p>In February 2009 polygraph testing commenced for all FIU personnel except ancillary staff.</p> <p>During 2009 the two vacant positions at the FIU were filled with the recruitment of another Financial Intelligence Analyst and an IT/Financial Intelligence Analyst. The Unit also procured additional technical resources (e.g. two (2) computer systems, i2 Analyst Notebook Software etc.) in 2009. Additionally, the 2009 budgetary expenditure was increased by \$115,000 over 2008. FIU received an additional laptop computer in 2010.</p> <p>FIU personnel have participated in a number of external training activities between November 2008 and December 2009 as detailed on Schedule 1.</p> <p>During 2009 the Royal St. Christopher – Nevis Police Force embarked on a targeted recruitment drive with several advertisements being placed with both print and electronic media. A total of twenty-nine (29) new Constables have been recruited to the Police Force as a result of this drive.</p> <p>In addition the Island Constables Act, 2009 (No. 31 of 2009) provides for the appointment of auxiliary constables to augment the Police Force.</p> <p>Customs has participated in several REDTRAC Training Activities in 2010. These include the Financial Intelligence Course – July, 2010, Advanced Narcotic Investigation Course – May 2010, Techniques of Financial Investigation Course – July 2010.</p> <p>Seventeen new officers were trained under the CICLEC programme in this year.</p> <p>Police personnel have participated in a number of external and internal training activities between February and December 2009 as detailed on Schedule 1.</p> <p>Personnel from the Office of the DPP have participated in a number of external training activities between February and December 2009 as detailed on Schedule 1.</p> <p>The DPP’s Office has received an additional member of staff.</p>	
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St. Kitts & Nevis Amended for May 2014 Plenary**

FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
		<p>Ministry of Legal Affairs in accessing reference materials.</p> <ul style="list-style-type: none"> The St. Kitts and Nevis Authorities should consider providing the Customs and Excise Department with adequate resources to undertake its functions; such resources should include vehicles, firearms and computers. The St. Kitts and Nevis Customs and Excise Department should put adequate measures in place so as to ensure staffs are properly vetted so as to maintain a high level of integrity and confidentiality, more specifically staff in key areas such as the Enforcement and the Intelligence Divisions/Units. The St. Kitts and Nevis Customs and Excise Department should ensure that staffs are provided with adequate training in relation to ML and TF, especially persons in key areas and in particular officers attached to the Nevis Department. 	<p>The Authorities have paid significant attention to allocating resources to the Customs Department and in particular the Customs Enforcement Divisions (CED) in both islands. In 2009 of greatest significance are the two (2) additional motor vehicles provided to the St. Kitts CED AND the four (4) firearms, 10,000 rounds of ammunition as well as two (2) coffin-like containers to facilitate thorough examination of goods imported in barrels, provided to the Nevis CED. A K-9 Unit has been established for Customs which conducts operations at the warehouse in St. Kitts and weekly operations at the warehouse in Nevis. The 2010 budget has provisions for the acquisition of investigative software.</p> <p>All candidates for employment within the Customs and Fourteen (14) cases of STRs were forwarded to the FIU. In one case Customs recovered a fine of \$5000.00. There are currently two cases being investigated by Customs in conjunction with the white collar crime unit concerning the movement of unusually large sums of money under suspicious circumstances.</p> <p>Excise Department is now vetted by the Comptroller and Deputy Comptroller of Customs.</p> <p>Since September 2009 and with the assistance of CARTAC, the Customs Department has developed and implemented a discrete Intelligence Unit within the Customs Enforcement Division which serves to enhance confidentiality.</p> <p>Personnel from the Customs Departments of St. Kitts and Nevis have participated in several external and internal training activities between November 2008 and December 2009 as detailed on Schedule 1. Of note is the fact that during 2009 four (4) additional officers were trained in financial investigations bringing the number of accredited financial investigators in ML/TF within Customs to eight (8). In addition, in June 2009, a Senior</p>	

			<p>Customs Manager was trained as a CFTAF Mutual Evaluation Examiner thus providing the Department with greater capacity in effecting and guiding its policies in respect of ML and TF matters. Between October 2010 and February 2011 Customs Dept detained cash amounts of US\$52,788 & US\$38,901 which are pending civil forfeiture.</p> <p>Training has been ongoing in 2013 with the Financial Services Regulatory Commission (FSRC) sponsoring the training of individuals who wish to become professionally certified as Anti-money Laundering Specialists by way of the Association of Certified Anti-Money Laundering Specialists program (ACAMS). This training program spans a 6 month period which began in August 2013. The program is expected to train 48 participants and fully equip them with the tools to deal with all aspects of Anti-Money Laundering and Counter Terrorism Financing. The participants enrolled represent the private and public sectors, most notably, the law enforcement agencies and regulators, who comprise 75% of the trainees enlisted. Notwithstanding, the presence of representatives from the private sector underscores the sector's commitment to and keen interest in this critical field.</p> <p>Plans are afoot to make St. Kitts-Nevis an official test site for the CAMS Examination and the test centre will be fully operational by the end of September, 2013. When these plans have been finalized, we expect an increase the number of trained AML/CFT specialists which will significantly assist the jurisdiction in forestalling and /or combating money laundering and the financing of terrorism.</p> <p>In Nevis, the annual AML/CFT Awareness Seminar was held in April of this year and participants were also exposed to CAMS training. Classes are currently being conducted in Nevis as well as in St. Kitts for persons interested in becoming CAMS certified. All of the Officers in the Nevis Financial Services department are preparing to take the CAMS examination with the overall objective to increasing capacity and understanding of the sector. The Nevis Department circulates a monthly Newsletter to regulated entities on the island which highlights areas from the AML Regulations and the Guidance Notes. Nevis has also formed a local committee comprising members from the Banking Institutions, Credit Union and NISPA to begin to familiarise themselves with reviewing the new revised recommendations.</p>	
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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
			<p>The FIU continues to work to improve its contributions to various sectors within the Federation. Three of its officers participated in classes leading to the Certified Anti-Money Laundering Specialist designation. In August of 2013, two presentations were made by the F.I.U. on AML/CFT with two regulated entities. There are two similar presentations scheduled for Sept. 11 and 12 Sept. with two of the money services businesses.</p> <p>During the period May to August, FIU received 17 requests for assistance. Ten of those requests have been completed with 7 ongoing. Of the ongoing requests, these are at about 85% completion rate and partial responses have been submitted to the requesting agencies.</p> <p><u>FSRC- St. Kitts Branch</u></p> <p>Inspections since Plenary November, 2013: Subsequent to the Caribbean Financial Action Task Force (CFATF) Plenary held in November, 2013, the FSRC has conducted two (2) inspections. Notwithstanding however, the time table for inspections reveals that ten inspections have been carded for the year 2014. Corporate Service Providers, Insurance Companies, Credit Unions, a Commercial Bank, a Finance Company and a Money Service Business (MSB) are among the types of entities to be inspected.</p> <p>Warnings or Sanctions issued by the FSRC: Following the CFATF Plenary held in November, 2013, three advisories were issued based on the CFATF's Public Statement of November, 2013 and the Financial Action Task Force's (FATF) February, 2014 Public Statement. The advisories were disseminated to all regulated entities to apprise them of the latest developments regarding jurisdictions with strategic AML/CFT deficiencies and the progress made in rectifying such deficiencies. These also advised the entities to consider the Money Laundering and Terrorist Financing Risks that may be emanating from those jurisdictions and to not</p>	

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
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			<p>only consider implementing counter measures, where necessary, to protect the financial system but also to be guided by the relevant legislations that govern Anti-Money Laundering and Countering the Financing of Terrorism.</p> <p>With respect to sanctions, the FSRC has not issued any sanctions to any entity under its purview since November Plenary, 2013.</p> <p><u>Training Information 2013-2014:</u> Training has been ongoing from 2013-2014. The Financial Services Regulatory Commission (FSRC) partly sponsored training of individuals who wish to become Certified Anti-money Laundering Specialists (CAMS), by way of the Association of Certified Anti-Money Laundering Specialists (ACAMS) program. This training concluded in February, 2014. The Programme which began in August 2013 trained 48 individuals including eight (8) staff members to become fully equipped with the tools to deal with all aspects of Anti-Money Laundering and Counter Terrorism Financing (AML/CFT). In addition, various staff members of the FSRC attended the following training sessions:</p> <ol style="list-style-type: none"> 1) AML/CFT Seminar conducted by The Financial Services Regulation and Supervision Department in Nevis; and 2) ACAMS AML/CFT Conference in Hollywood Florida. 3) AML/CFT Seminar and FATCA Compliance Training Workshop held in St. Kitts on Wednesday 26th March, 2014. 4) 1st Annual Regional AML/CFT Conference held over the period April 2nd – 3rd, 2014 in Bahamas. <p>We also intend for three (3) staff members to attend a one (1) day AML/CFT Seminar and FATCA Compliance Training Workshop to be held in St. Kitts on Wednesday 26th March, 2014.</p> <p>Further, St. Kitts-Nevis is in the final stages of becoming an official test site for the CAMS Examination which will likely assist in increasing the number of trained AML/CFT specialists. It is</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
			<p>envisaged that the final stage would be completed within the next few months.</p> <p><u>FSRC- Nevis Branch Training</u> The Financial Services Regulatory Commission, Nevis Branch has taken deliberate steps in ensuring that stakeholders in the financial services industry are constantly engaged in the fight against AML/CFT through specific training methods and techniques.</p> <p><u>AML/CFT Audit Training</u> The Assistant Regulators of the Nevis Branch underwent a 2-Day Training & Workshop (October 31st – November 1st 2013) on ‘How to Prepare and Conduct an AML/CFT Audit’. The training comprised of (10) ten participants who were accredited with 13 CAMS Credits. Additionally, participants were involved in a 1-week assimilation exercise to conduct an AML/CFT Audit. The training and workshop encompassed several aspects such as, Ensuring that the institution has an AML/CFT Audit, The execution an effective AML/CFT Audit, Critical areas of Audit Assessment, Common AML/CFT Deficiencies and Strategies for working with financial institutions.</p> <p>Further, ten (10) Assistant Regulators of the FSRC – Nevis Branch are currently undergoing pre-CAMS training programme with a view to becoming Certified Anti-Money Laundering Specialists (CAMS). The training programme is for the period December 6, 2013 to June 20, 2014.</p> <p><u>Capacity Building</u> Seven (7) Assistant Regulators of the Nevis Branch has been engaged in internal weekly discussions of FATF Recommendations and their implications on our jurisdiction. Thus far the Assistant Regulators have covered Recommendations 1 – 12.</p> <p><u>Nevis FATF Committee Meetings</u> The Nevis FATF Committee has conducted (2) two quarterly meetings, November 6th, 2013 and February 13th, 2014 respectively for the period. Various topics were discussed included addressing</p>	

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			<p>the inadequacies and inefficiencies of the AML/CFT regime, FIU and DPP at the National level and The National Money Laundering Terrorist Financing Risk Assessment</p> <p><u>2014 AML/CFT Seminar and Training Workshop</u> The Nevis Branch of the Financial Services Regulatory Commission hosted its annual AML/CFT Seminar and Training Workshop from March 3rd to 4th 2014 under the theme: “Redefining our Global Vision through Knowledge Enhancement”. Participants included Accountants, lawyers, bankers, real estate agents, insurance agents, service providers, customs officers and government staff. The Workshop participants were awarded eight (8) CAMS/CPE Credits. This Seminar and Training Workshop covered topics relating to the Importance of Conducting Risk Assessments at the Business and National Level, Strategies in Conducting an Internal Investigation & How to File a Suspicious Activity Report with the FIU, Strategies to Ensure your AML Program Meet the Needs of your Institution and Satisfy Regulators, AML/CFT Risks for DNFBPs, creating a culture of compliance in your institution and “Corporate Governance” – The Role of the Board of Directors and Senior Management in AML/CFT Compliance.</p> <p><u>Warnings or Sanctions issued by the FSRC – Nevis Branch:</u></p> <p>Two Press Releases were published on the FSRC – Nevis Branch’s website and disseminated to the financial services industry informing them of the CFATF Public Statement published on November 20, 2013 concerning Belize, Guyana and Dominica and the FATF Public Statement published on February 14, 2014. The link to the Press Releases can be accessed below:</p> <p>http://www.nevisfsrc.com/advisories/press-releases</p> <p>Regulated entities were also reminded of the provisions of the Anti-Money Laundering Regulations, SR&O No. 46 of 2011, Regulations</p>	

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			<p>5 and 15 and the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, SR&O No. 47 of 2011, Regulations 5 and 15, that state that they should apply enhanced customer due diligence procedures when conducting business transactions with persons, including legal persons and other financial institutions from or in countries which do not apply or insufficiently apply the FATF Recommendations.</p> <p>The Office of the DPP indicates that as of March, 2014 that there are two cases of money laundering pending. In addition, there have been two cases of mutual legal assistance; one with St. Martin and the other with Antigua. These have resulted in two cases of extradition. One charge has been laid in relation to Human Trafficking and one in relation to Arms trafficking.</p> <p>As it relates to training, the Office of the DPP intends to attend Money laundering training sessions in Dominica in April, 2014.</p> <p><u>FSRC – St. Kitts Branch</u></p> <p>The Financial Services Regulatory Commission (FSRC) – St. Kitts Branch conducted six (6) examinations since the XXXIX CFATF Plenary Meeting in Miami, Florida in May, 2014. The FSRC – St. Kitts Branch has scheduled fifteen (15) AML/CFT examinations on the following regulated entities for 2014:</p> <ul style="list-style-type: none"> • Trust and Corporate Service Providers – 7 • Money Service Businesses – 1 • Credit Unions – 2 • Domestic Insurance Companies – 2 • Finance Company – 1 • Financial institutions – 1 <p>To date, The FSRC – St. Kitts Branch has completed all examinations as scheduled.</p> <p><u>Warnings Issued</u></p>	

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			<p>The following advisories were disseminated to regulated entities via email or physical mail and published on the website:</p> <ul style="list-style-type: none"> • CFATF Public Statement on Guyana and Belize; • MONEYVAL Public Statement on Bosnia and Herzegovina; • FATF Public Statement on High risk and non-cooperative jurisdictions. <p>The regulated entities are encouraged to consider risks emanating from these jurisdictions and implement countermeasures, where applicable, to protect their financial systems.</p> <p>The FSRC- St. Kitts Branch also disseminates and publishes, on the website, sanction lists from the United Nations (UN).</p> <p>These advisories can be accessed on the website from the following link: http://www.fsrc.kn/?q=advisories</p> <p><u>Newsletters</u></p> <p>The FSRC - St. Kitts Branch began issuing monthly newsletters in May 2014 to the regulated entities to apprise these entities of various AML/CFT requirements and responsibilities, as well as, other pertinent information to the financial services sector. These newsletters are disseminated by email or physical mail to all regulated entities.</p> <p>The following topics are outlined in the monthly newsletters:</p> <p>May - What is Money Laundering?/What is Terrorist Financing? June - Who is a Compliance Officer? July - The Company Registry August - Do You have an Effective AML/CFT Compliance Program?</p> <p>These newsletters can also be accessed from the FSRC – St. Kitts Branch website by clicking on the following link: http://www.fsrc.kn/?q=newsletter</p> <p><u>Training</u></p> <p>Various members of staff attended the following workshops and seminars held locally and regionally:</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
			<ol style="list-style-type: none"> 1) Two (2) persons attended the CARTAC/CAPS Workshop in Barbados on 2nd – 3rd June, 2014; 2) Two (2) persons attended the CARTAC/CAIR Workshop & College of Regulators Meeting in Barbados on the 4th – 7th June, 2014; 3) One (1) person attended the Caribbean Group of Banking Supervisors Conference and Supervisory College in Trinidad on 4th – 7th June 2014; • 4) Two (2) persons participated in the CARTAC Basel II Working Group Meeting/ Workshop in Barbados on the 23rd - 25th June 2014; 5) Ten (10) persons attended a Training Seminar on AML/CFT procedures and transactions monitoring for the examinations on the Financial Institutions in St. Kitts on 10th June, 2014; 6) One (1) person attended the CARTAC Credit Union Conference and Workshop in St. Vincent on August 20th – 22nd, August, 2014; 7) One (1) person will participate in the Assessors training for the 4th Round CFATF Mutual Evaluation in Antigua on the 15th – 19th September, 2014; 8) Two (2) persons participated in the CARTAC Basel II/Basel III Implementation Workshop in The Bahamas on the 22nd - 25th September, 2014. <p>FSRC – Nevis Branch</p>	

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			<p><u>AML/CFT Inspections since May 2014</u> During the period May – September, 2014 the Nevis Branch of the FSRC conducted seven (7) on-site inspections on four (4) corporate service providers, (1) finance company (lending/deposit-taking institution), one (1) money services business and one (1) captive insurance company carrying on general insurance business. Additionally one (1) person from the Nevis Branch formed part of the team comprising the Registrar of Credit Union to conduct an on-site inspection on the operations of a credit union. It is anticipated that the fifteen (15) scheduled inspections will be completed by December 2014 and include examinations on the following regulated entities:-</p> <ul style="list-style-type: none"> - Corporate Service Providers (9) - Money Service Businesses (2) - Finance Company (1) - Financial Institutions (2) - Captive Insurance Company carrying on general insurance (1). <p><u>Warnings and sanctions issued</u></p> <p>The license for one (1) captive insurance company carrying on general insurance was revoked by the Nevis Branch of the FSRC. Furthermore, licenses for two (2) corporate service providers were revoked with immediate effect.</p> <p>A number of advisories were published on our website: www.nevisfsrc.com following public statements issued by the FATF, CFATF and the US Treasury Department. They were also disseminated to all regulated entities via email blast.</p> <p>Regulated entities were reminded of the provisions of the AML/CFT Regulations that state that they should apply enhanced customer due diligence procedures when conducting business transactions with persons, including legal persons and other financial institutions from or in countries which do not apply or insufficiently apply the FATF Recommendations.</p>	

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			<p>The advisories were as follows:-</p> <ul style="list-style-type: none"> - CFATF Public Statement on Guyana and Belize, - MONEYVAL Public Statement on Bosnia and Herzegovina, - FATF Public Statement on Iran and Democratic People’s Republic of Korea (DPRK), - US Treasury Department’s sanctions on Syrian Regime Officials and Supporters. <p>They can be accessed by clicking on the following link:</p> <p>http://www.nevissrc.com/advisories/press-releases</p> <p>Furthermore, updated OFAC lists on Specially Designated Nationals (SDN) and Foreign Sanctions Evaders are regularly posted on the website under the tab “International Sanctions”. These lists were also circulated amongst the financial services industry practitioners including DNFBPs via email blast on the following dates of this year: May 23rd, May 30th, June 25th, July 9th, July 15th, July 23rd, July 30th, August 7th, August, 19th, August 22nd, August 27th, August 29th, September 11th, September 16th, September 22nd, 2014. The lists can be accessed by clicking the following link:</p> <p>http://nevissrc.com/advisories/international-sanctions</p> <p>Newsletters</p> <p>The Nevis Branch continues to publish its newsletter on a monthly basis. It seeks to advise regulated entities as well as DNFBPs on various compliance issues and other matters of importance. The monthly topics are as follows:-</p> <ul style="list-style-type: none"> - May 2014: ‘Developing an AML/CFT Compliance Program’; 	

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			<p>- June 2014: ‘How to become a Licensed Registered Agent for International Insurance’;</p> <p>- July 2014: ‘Designated Non-Financial Businesses and Professions (DNFBPs)’;</p> <p>- August 2014: ‘Confidentiality’.</p> <p>The newsletters can be accessed by clicking the following link: http://www.nevissrc.com/advisories/newsletters</p> <p><u>Requests for Information</u></p> <p>The Nevis Branch received correspondence from the Attorney General’s Chambers requesting assistance in providing information for five (5) registered entities. The requests were satisfied in a timely manner in all cases.</p> <p><u>Training</u></p> <p>Ten (10) Assistant Regulators attached to the Insurance and Compliance Divisions within the FSRC – Nevis Branch have completed the six (6) month pre - CAMS training programme. This training was offered to assist the Assistant Regulators in preparations to become Certified Anti-Money Laundering Specialists.</p> <p>Additionally, a number of staff members attended various workshops and seminars held locally and regionally, namely:-</p> <ol style="list-style-type: none"> 1) One (1) person attended the Caribbean Group of Banking Supervisors Conference and Supervisory College in Trinidad on 4th – 7th June 2014; • 2) One (1) person participated in the Caribbean Association of Regulators Meeting in the Bahamas on 19th - 20th June 2014; 3) Two (2) persons attended the CARTAC/CAIR Workshop & College of 	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
			<p>Regulators Meeting in Barbados on the 4th – 7th June, 2014;</p> <p>4) Two (2) persons participated in the CARTAC Basel II Working Group Meeting/ Workshop in Barbados on the 23rd - 25th June 2014 ;</p> <p>5) Six (6) persons attended a Training Seminar on AML/CFT procedures and transactions monitoring for the examinations on the Financial Institutions in St. Kitts on 10th June, 2014;</p> <p>6) One (1) person attended the CARTAC Credit Union Conference and Workshop in St. Vincent on August 20th – 22nd, August, 2014;</p> <p>7) Two (2) persons participated in the Assessors training for the 4th Round CFATF Mutual Evaluation in Antigua on the 15th – 19th September, 2014;</p> <ul style="list-style-type: none"> • <p>8) Two (2) persons participated in the CARTAC Basel II/Basel III Implementation Workshop in The Bahamas on the 22nd - 25th September, 2014.</p> <p><u>Financial Intelligence Unit (FIU)</u></p> <p>AML/CFT AWARENESS PROGRAMME To improve the quality and quantity of the Suspicious Transaction Reports (STRs); and ensure compliance with AML/CFT obligations the following activities were undertaken by the FIU:</p> <ol style="list-style-type: none"> 1. Delivered two (2) presentations – one (1) financial institution and one (1) casino: <ul style="list-style-type: none"> • • We focused our presentation on the electronic payment system and cybercrime and possible mitigating factors to the institutions. • 	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
			<ul style="list-style-type: none"> • Our presentation to the casino also focused on the AML/CFT reporting obligations, customer due diligence and money laundering risks areas in the casino sector. • 2. We also distributed AML/CFT reporting and procedure guidelines to the casino business. • 3. Held one-on-one discussions with compliance officers. 	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
31. National cooperation	PC	<ul style="list-style-type: none"> • The Authorities need to foster a greater level of cooperation pursuant to the MOU which was signed in 2007. • The DPP should play a pro-active role in giving guidance to the police in relation to AML/CFT investigations. 	<p>Inter-agency meetings are being held on an 'as needed' basis between the FIU, Customs, Police and other competent authorities and this has improved cooperation. Joint discussions were held to identify and develop a collective training needs package for these agencies and the execution of this initiative is evidenced on the attached Schedule 1. Also, in November 2009, the FIU organized and conducted an 'Information Exchange & Tactical Analysis Overview Seminar' to further strengthen collaboration initiatives amongst the agencies.</p> <p>With respect to the issue of taking a more pro-active role in giving guidance to the police in relation to AML/ investigations, the Authorities have indicated that the DPP would advise the police and seek assistance of the FIU where it is necessary</p> <p>The LEA's have improved significantly in their levels of communication – having had several successful jointly-conducted investigations. The mentorship programme sponsored by the UK is ongoing and has assisted considerably in this regard.</p> <p>A recently conducted investigation into a vessel carrying millions of dollars' worth of cocaine, is a prime example of the improvement in national cooperation. The investigation involved the combined efforts of customs, the Coast Guard and the police.</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
32. Statistics	PC	<ul style="list-style-type: none"> The FIU should implement procedures for keeping statistics on international wire transfers, as these statistics are not kept by any other agency. The FIU should move to establish a system whereby proper records relating to the investigation of ML & TF are properly recorded, the system could include proper records of production orders, monitoring orders and restraint orders. The Customs and Excise Department should keep adequate and comprehensive statistics in relation to cross border seizure of currency and bearer negotiable instruments and the number of these reports that were forwarded to the FIU. The statistics provided should state the nature of assistance sought and rendered and what orders were used to obtain the funds which were repatriated to the USA. 	<p>The FIU has set up a separate register for recording international wire transfer reports.</p> <p>The FIU has established a proper system to maintain records relating to ML & TF investigations with the responsibility for maintaining these records assigned to a specific officer.</p> <p>The Customs Department has established a proper database system to maintain statistics on cross border seizures and information forwarded to the FIU. This database is managed and maintained by an Intelligence Analyst within the newly created Intelligence Unit. The database is a combination of ACCESS and Cargo Management Program.</p> <p>The White Collar Crime Unit continues to work assiduously in tackling crime. There are a number of money-laundering investigations that are currently on-going.</p> <p>On April 11th the preliminary inquiry on a money laundering charge was successfully completed and the matter has been committed to the High Court for trial. The sum in question is approximately XCD\$455,000.00.</p> <p>In March 2012, members of the White Collar Crime Unit attended in El Salvador the I.R.S. sponsored Training in Financial Investigative Techniques.</p> <p>There are currently two pending restraint order matters and in December of 2012 a boat used in illicit drug activity was seized and subsequently forfeited.</p> <p>The FIU maintains proper statistical info on the nature of MLAT requests and responses including production, freeze and forfeiture orders.</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
33. Legal persons–beneficial owners	LC	<ul style="list-style-type: none"> The Authorities should amend the Companies Act to include measures that would provide for information on beneficial ownership and control of legal persons. 		
34. Legal arrangements – beneficial owners	LC	<ul style="list-style-type: none"> The St. Kitts and Nevis Authorities should put provisions in place that would facilitate obtaining relevant information with regard to private trusts. 		
International Cooperation				
35. Conventions	PC		This Recommendation has been satisfied where St. Kitts and Nevis is now compliant with all the relevant provisions of the Conventions.	
36. Mutual legal assistance (MLA)	C		<p>The MACMA was amended in November of 2011 to provide for the identification, freezing and seizing or confiscation of instrumentalities used in or intended for use in the commission of an offence.</p> <p>The White Collar Crime Unit is currently involved in two investigations made pursuant to foreign requests</p>	
37. Dual criminality	C			
38. MLA on confiscation and freezing	LC	<ul style="list-style-type: none"> Mechanisms should be put in place to deal with matters which may cause dual jurisdictional conflict. Arrangements should be put in place for the sharing of assets under the ATA. The Mutual Legal Assistance in Criminal Matter Act should be amended to provide for the identification, freezing seizure or confiscation of the instrumentalities used in or intended for use in the commission of an offence. 	<p>The Forfeiture Fund that was established pursuant to an Amendment to the Proceeds of Crime Act in 2008 (see Act attached), covers the sharing of proceeds from all crimes as well as crimes that would fall under the ambit of the Organized Crime (Prevention and Control Act). Any funds or properties confiscated or forfeited under the ATA would therefore automatically be diverted to the Forfeiture Fund.</p> <p>The MACMA was amended in November of 2011 to provide for the identification, freezing and seizing or confiscation of instrumentalities used in or intended for use in the commission of an offence.</p>	

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39. Extradition	C			
40. Other forms of co-operation	PC	<ul style="list-style-type: none"> • St. Kitts and Nevis Authorities should move to put measures in place to enable law enforcement to conduct investigations on the behalf of their foreign counterparts. • The Authorities should consider expanding the ECSRC's mandate to supervising compliance with both AML and CFT requirements, which would then permit the Commission to share information on these matters. 	<p>Between November 2008 and December 2009, the Royal St. Christopher – Nevis Police Force provided assistance to USA and Slovak Republic law enforcement counterparts in a number of matters including locating and interviewing witnesses, service of court production orders, retrieval of telephone records and locating a person of interest and so existing mechanisms allow law enforcement to provide cooperation to foreign counterparts. The provisions of the Police Act and the Mutual Legal Assistance in Criminal Matters authorize the Police to conduct investigations on behalf their foreign counterparts.</p> <p>A recent amendment to the POCA now provides for the power of law enforcement through the White Collar Crime Unit to conduct investigations pursuant to a request by a foreign jurisdiction.</p> <p>A Regulatory Oversight Committee has been formed comprising the ECSRC, ECCB and regulatory units of the ECCU countries. A Draft MOU providing for cooperation and sharing of information among the parties has already been circulated and reviewed and is expected to be signed shortly. (See. Draft MOU attached)</p>	
9 Special Recommendations				

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
SR.I Implement UN instruments	PC	<ul style="list-style-type: none"> The ATA should be amended to make provision for the freezing of funds of Al-Qaida, Osama Bin Laden, the Taliban and their associates and other persons designated by the U.N Security Council. The St. Kitts and Nevis Authorities should ensure that legislation should provide specifically for an aircraft to be denied permission to land if it belongs to Al-Qaida, the Taliban or their associates. The statute of limitation for commencing money laundering offences should be extended and unless the limitation is removed altogether, where a person is a fugitive from justice then the limitation period should be longer. 	<p>Section 43(1)(b) of the ATA has been amended to make provision for the freezing of funds of Al-Qaida, Taliban and other designated terrorists. See Section 13 of the Anti-Terrorism (Amendment) Act, 2009 (No. 13 of 2009)</p> <p>The ATA has been amended to provide for denial of landing permission to designated terrorists' aircraft. See Section 15 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009), Section 3 of the Anti-Terrorism (Amendment)(No. 2)Act, 2009 (No. 33 of 2009) and the ATA (Amendment) Act No. 38 of 2011.</p> <p>The statute of limitations referred to in section 76 of the Magistrates' Code of Procedure Act (MCPA) concerning the time for commencement of prosecution in criminal matters, is intended only to apply to criminal matters triable under summary jurisdiction. This is evidenced by the fact that the relevant section of the Magistrate's Code of Procedure Act falls under Part V of the Act which addresses the summary jurisdiction of the Magistrates' Court in Criminal Matters. Money laundering is an indictable offence that would come under the jurisdiction of the High court and therefore not be subject to the limitation referred to under the MCPA.</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
SR.II Criminalize terrorist financing	PC	<ul style="list-style-type: none"> The penalty for summary conviction of terrorist financing under Section 12 of the ATA should be at least one year in order for terrorist financing to be considered a predicate offence. St. Kitts and Nevis needs to amend the ATA legislation in order to clearly reflect the liability of legal persons by quantifying the fines where necessary. 	<p>Section 12 of the ATA has been amended to increase the prison term to a maximum of five (5) years. See Section 4 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009)</p> <p>Sections 12, 13, 14, 15 and 17 of the ATA have been amended to clearly reflect liability to legal persons by specifying fine unlimited. See Sections 4, 5, 6, 7 & 8 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009)</p> <p>The ATA Act was amended in February of 2012 to address inter alia the inconclusiveness of the open-ended fines. Section 12 of the Act which criminalises fundraising for terrorist purposes was amended in subsection (6) paragraphs (a), (b) and (c) to provide for specific quantification of fines. Paragraph (c) penalised activities of a corporate or unincorporated body by imposing a fine of two hundred and fifty thousand dollars. In section 13(2), which deals with use or possession of property for terrorist purposes, a similar amendment was made in paragraph (C). The other amendments followed this trend and this was largely mirrored in sections 15(2) (c); 17(9) (c) which dealt respectively with engaging in money laundering for terrorist purposes and the duty to disclose information relating to a person who has committed a terrorist financing offence. Fines were also quantified in sections 27(1)(a) and 28(a). In all cases involving the culpability of a body corporate or unincorporated, the amended fines are in excess of one hundred thousand dollars.</p>	

POST-PLENARY FINAL

<p>SR.III Freeze and confiscate terrorist assets</p>	<p>PC</p>	<ul style="list-style-type: none"> • Provision ought to be made for the freezing without delay of the funds or other assets of the Taliban and Al-Qaida. • • • The regulations for de-listing terrorist and terrorist groups should be published by the Minister of National Security. • There ought to be a programme in place to sensitise the public of the procedure for de-listing of terrorist and terrorist organisation. • Members of the public should be made aware of the procedure for applying to have funds and or assets unfrozen. • • The St. Kitts and Nevis Authorities should establish the procedure for authorizing access for basic expenses to funds or other assets that are frozen pursuant to UNSCR 1267. • • St Kitts and Nevis should put in place the procedure for forwarding request for the release of funds or assets which have been frozen and which are required for basic living expenses to the Committee which has been established under S/RES/1452 (2002) • While there is provision for basic living, legal and business expenses there are no provisions for extraordinary expenses. These ought to be included under the ATA. 	<p>The ATA was amended by Act No. 3 of 2012. Section 43 of that Act now provides that an application by the Director of Public Prosecutions he ATA was amended by Act No. 3 of 2012. Section 43 of that Act now provides that an application by the Director of Public Prosecutions to the court for a freezing order for terrorist funds “may be made ex parte but in any case shall be made without delay”. This amendment to the Act thus places an obligation upon the DPP to proceed with alacrity to secure the funds in question. The ATA was amended in 2008 to expand the definition of funds to encompass assets of every kind.</p> <p>Section 43(1)(b) of the ATA has been amended to make provision for the freezing of funds of Al-Qaida, Taliban and other designated terrorists. See Section 13 of the Anti-Terrorism (Amendment) Act, 2009 (No. 13 of 2009)</p> <p>The Anti-Terrorism (Prevention of Terrorist Financing) Regulations include delisting procedures (Reg 16) and make provisions for these procedures to be published in at least one local newspaper as well as in the Official Gazette. Public awareness would be adequate once it is published in a local newspaper of general circulation. Further steps may later be taken administratively as part of a general sensitization of the public.</p> <p>Provisions for authoring access for basic expenses or other assets made in Regulation 17 of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011.</p> <p>See 17(5) of the APTF Regs.</p> <p>Provisions for authoring access for basic and extraordinary expenses or other assets made in Regulation 19 of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011.</p>	
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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
SR.IV Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • Suspicious transaction reporting under the ATA should be made to the FIU. • • • Sanctions for failing to report possession of terrorist property should be more stringent. 	<p>Section 17 of the ATA amended to provide for reporting of STR's to be made to the FIU. See Sections 8(a) of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009)</p> <p>Section 19 of the ATA amended to increase term of imprisonment and fine for failing to report possession of terrorist property. See Section 10(b) of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009)</p>	
SR.V International cooperation	PC	<ul style="list-style-type: none"> • The Schedule of the Fugitive Offenders Act should be amended to include money laundering and terrorist financing as extraditable offences. • St .Kitts and Nevis Authorities should move to put measures in place to enable law enforcement to conduct investigations on the behalf of their foreign counterparts. • The Authorities should consider expanding the ECSRC's mandate to supervising compliance with both AML and CFT requirements, which would then permit the Commission to share information on these matters. 	<p>This was effected by an amendment to the POCA. See Proceeds of Crime (Amendment) Act, (No. 30 of 2008)</p> <p>Between November 2008 and December 2009, the Royal St. Christopher – Nevis Police Force provided assistance to USA and Slovak Republic law enforcement counterparts in a number of matters including locating and interviewing witnesses, service of court production orders, retrieval of telephone records and locating a person of interest and so existing mechanisms allow law enforcement to provide cooperation to foreign counterparts. The provisions of the Police Act and the Mutual Legal Assistance in Criminal Matters authorize the Police to conduct investigation on behalf their foreign counterparts.</p> <p>A Regulatory Oversight Committee has been formed comprising the ECSRC, ECCB and regulatory units of the ECCU countries. A Draft MOU providing for cooperation and sharing of information among the parties has already been circulated and reviewed and is expected to be signed shortly. (See Draft MOU attached)</p> <p>A recent amendment to the POCA now provides for the power of law enforcement through the White Collar Crime Unit to conduct investigations pursuant to a request by a foreign jurisdiction.</p>	

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
<p>SR.VI AML requirements for money and value transfer services</p>	<p>PC</p>	<ul style="list-style-type: none"> • The Money Services Business Act should be implemented as soon as possible. • Money Services Providers should be required to maintain a current listing of agents for the inspection of the Authorities. • The Supervisory Authorities should be required to maintain a current listing of operators. • The penalties under the AMLR should be more proportionate to ensure effectiveness and dissuasiveness. • The penalties in the Money Services Business Act (particularly as they relate to AML matters) should be more proportionate to ensure effectiveness and dissuasiveness. • The Money Services Business Act should also refer to the compliance obligations of the licensees under the ATA. • The FSRC should make more use of the powers under the FSRC Act and the AMLR. • The effectiveness of the supervisory regime for money service providers would be affected by broader system issues such as the limited scope of the AMLR /GN to ML issues and not to TF issues as well as weaknesses in the suspicious transaction reporting requirements under both the AMLR and the ATA. These issues must be addressed to ensure that these providers properly comply with the FATF Recommendations. 	<p>The Money Services Business Act, 2008 was fully Implemented. Under the MSB Act, 2008 MSB Providers are required to obtain separate licenses for all operating locations. All nine (9) operating MSB locations within the Federation were licensed as of 2009 and Supervisory Authorities maintain a current listing of operators under the new licensing regime.</p> <p>The Money Services Businesses Act was amended in May of 2012 to make the penalties more commensurate with the offences and with a greater degree of proportionality. Sections 13, 16, 19, 22, 27, 32, 35, 38, 42, 43, 44 and 46 were amended.</p> <p>AML Regulations have been approved. Varying penalties stipulated.</p> <p>Overall obligations of these DNFBPS are covered under the Guidance Notes and under the FSRC Act where all such regulated persons must have regard to the ATA and its relevant Regulations. See Sections 3 and 4 of the FSRC Act.</p> <p>Regulatory action taken since November 2008 is shown at Schedule 3.</p> <p>The Anti-Terrorism (Prevention of Terrorist Financing) Regulations has been prepared to cover CFT issues. See those Regs generally as well as Regulation 13 to 15 of the Regs. Amendment has been made to the ATA to address the identified weaknesses in suspicious transaction reporting. (See Anti-Terrorism (Amendment) Act, 2009 (No. 13 of 2009).</p>	

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<p>SR.VII Wire transfer rules</p>	<p>PC</p>	<ul style="list-style-type: none"> • Both the Money Services Act and the Payment Systems Act should be brought into effective implementation. • The full detailed originator information required for cross border transfers should be expressly required for all types of transfers. • There needs to be appropriate guidance provided to funds transfer businesses and banks with regard to the appropriate treatment of funds transfers transactions where sufficient originator information is not available. • The Authorities may wish to consider amending the Banking Act to definitively grant to the ECCB the power to inspect and sanction banks for breaches of AML/CFT obligations. • The Nevis Offshore Banking Ordinance should provide for sanctions, including revocation, for breaches of AML/CFT obligations; • The Nevis Offshore Banking Ordinance should expressly allow for examinations by the ECCB to deal with AML/CFT issues. • The criminal sanctions under the FSRC and the AMLR should be proportionate to the actual offence committed, which can affect dissuasiveness and effectiveness. 	<p>Both the MSB Act, 2008 and Payment Systems Act, 2008 (No 17 of 2008) were brought into force on January 1, 2009.</p> <p>With regard to the need for appropriate guidance for funds transfers businesses and banks as it relates to the appropriate treatment of funds transfer transactions where sufficient originator information is not available, Regulations 122 & 123 of the Financial Services (Implementation of Industry Standards) Regulations 2011 provide that businesses must include meaningful and accurate originator information on all wire transfers that are sent and with the transfer or message through the payment chain. Businesses are also required to maintain records pertaining to the identity of the remitting customer and as far as possible the identity of the ultimate recipient. There is also a requirement to comply with the SWIFT requirements when sending domestic or international credit transfers. The requirement for originator information is also applicable to cross border wire transfers.</p> <p>The St. Kitts and Nevis Authorities have noted that pursuant to Section 4 (2) of the FSRC Act, the FSRC is (a) the ultimate regulatory body for financial services and for anti-money laundering for Saint Christopher and Nevis. In addition, section 4(2)(d) states that the Commission shall monitor compliance by regulated persons with the Proceeds of Crime Act, the Anti-Terrorism Act and such other Acts, regulations, codes or guidelines relating to money laundering or the financing of terrorism that are set out in Schedule 1 (of POCA). Therefore, the passage of the FSRC Act in 2009, established the FSRC as the ultimate regulatory body for AML and CFT. Therefore the ECCB and the ECSRC are no longer involved in onsite inspection or supervision of the Securities and Banking sectors where AML/CFT is concerned.</p> <p>Criminal sanctions under the FSRC Act, (Sections 40 and 44) 2009 (No. 22 of 2009) provide for proportionate penalties. See also the AML Regulations. See Regs 3(7), 4(2) (e), 4(9) (1); 4(13); 5(6); 8(10); 11(2) (d); 11(2) (e); 11(4); 14(1).</p>	
<p>SR.VIII Non-profit organizations</p>	<p>PC</p>	<ul style="list-style-type: none"> • While there is a system of registration of NGOs, and there are provisions under the NGOA for a Non-Governmental 		

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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
		<p>Organisation Commission to monitor compliance, the recent legislative changes do not allow for sufficient time to allow or test for effective implementation</p> <ul style="list-style-type: none"> The purpose and objectives, and identity of persons who control the activities of non-profit organisations should be made public, and there should be documented evidence of public availability. However, the Authorities indicated that it is standard practice for all information on domestic entities to be publicly available at the general registry. 	<p>Under the new NGO registration system, organizations are required to provide more extensive information on control persons and activities. This information is available to the public by conducting a search of the file at the Registry.</p> <p>The Non-Governmental Organization Regulations approved in January 2011 which sets up the operational framework for the registration of NGOs and the terms under which the NGO Commission will function. (See SR&O No. 4 of 2011 attached)</p> <p>The Members of the NGO Commission were appointed in November of 2012.</p>	

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<p>SR.IX Cash Couriers</p>	<p>NC</p>	<ul style="list-style-type: none"> • Customs, FIU and the Police should work closely together to investigate cases of cross border transportation of cash and bearer negotiable instruments in order to determine its origin, bearing in mind that such currency or instrument may be the proceeds of criminal conduct in the said country. • There is a need for regular inter-agency meetings between Customs, the Police, FIU and other competent authorities as it relates to the implementation of Special Recommendation IX. • Proper records and statistics should be kept by the Customs and Excise Department in relation to the seizure and disclosure of cross border transportation of cash and bearer negotiable instruments. • There is need for training of customs officers in relation to the identification of, precious metals and precious stones, as customs officers are unable to detect such objects if they are being smuggled. • There is a need for customs officials in St. Kitts and Nevis to inform and liaise with their counterparts in the originating country when there has been a seizure in relation to the transportation of cross border cash and bearer negotiable instruments and not solely rely on the FIU to disseminate such information. • The Enforcement Section in Nevis should be given adequate resources including fireproof filing cabinets and the same procedures be implemented as in St. Kitts as it relates to the security of the Section. 	<p>The Customs Enforcement Division’s Intelligence Unit maintains the database on seizure and disclosure of cross border transportation of cash and negotiable instruments and this information is forwarded to the FIU for analysis and thereafter to the Police’s White Collar Crime Unit if investigations are to be conducted. The system has been working well. Between January – October 2009, eleven (11) cases were logged by Customs, all were forwarded to the FIU and upon analysis none were deemed to be of a suspicious or criminal nature.</p> <p>Inter-agency meetings are being held on an ‘as needed’ basis between the FIU, Customs, Police and other competent authorities and this has improved cooperation. In November 2009, the FIU organized an ‘Information Exchange & Tactical Analysis Overview Seminar’ for further strengthen collaboration initiatives amongst the agencies.</p> <p>The Customs Enforcement Division’s Intelligence Unit maintains computerized database on seizure and disclosure of cross border transportation of cash and negotiable instruments. The database is a combination of ACCESS and Cargo Management Program.</p> <p>The Customs Department has engaged the services of a consultant to assist its officers in the identification of gems and precious stones. Training in this area is expected to commence shortly.</p> <p>The St. Kitts and Nevis Customs & Excise Department is a member of CCLEC, the Caribbean Customs Law Enforcement Council. As a member of this Customs fraternity, Customs organizations in the Caribbean Zone including St Kitts and Nevis Customs are signatory to a Memorandum of Understanding which requires Customs to share information on Customs related matters such as cross border seizures of cash, fire arms, narcotics etc. with their counterparts using several mediums. One such medium is through the Regional Clearance System (RCS). The RCS is an internet based data base which tracks the movement of pleasure craft within the region. This system also has a Seizure Intelligence Data Base (SIDS) component to it where</p>	
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FATF 40+9	Rating	Recommended Actions	Actions Undertaken	Remaining Actions to be Undertaken
		<ul style="list-style-type: none"> Information obtained as a result of the seizure of cross border currency and bearer negotiable instruments should be maintained in a computerized database and be readily available for AML/CFT purposes. 	<p>information on seizures is shared in real time with other Customs organizations in the region.</p> <p>Additionally CCLEC provides an Enforcement Liaison Officer (ELO) network. Each ELO in his or her respective country is required as part of ELO mandate to share information with the Joint Intelligence Office (JIO) at CCLEC and with their customs counterparts in the Caribbean Zone, on events which occur in their country on a timely basis.</p> <p>The Customs Enforcement Division's Intelligence Unit maintains computerized database on seizure and disclosure of cross border transportation of cash and negotiable instruments. The database is a combination of ACCESS and Cargo Management Program.</p> <p>The Customs and Excise Department of St. Kitts and Nevis continues to facilitate and participate in regular training courses which range from internal, local, regional and international training that are sponsored by Customs itself, other Government agencies, regional and international law enforcement agencies. In November</p> <p>November & December 0f 2012 saw five officers being trained in several techniques which aid in drug interdiction as part of Drug Identification and Financial Investigation at Redtrac Jamaica. These regional courses are all certifiable courses which also report on an officer's performance and grasp of the material.</p> <p>Intelligence gathering is one such area that has been widely used to help officers to decipher and analyze information to allow proper investigation to not only get drugs off the street but also to acquire links between the drug trade and financial misconduct. This was carried out at Redtrac Jamaica.</p> <p>Two of the five officers were trained in the art of financial investigation to further investigate the links of misconduct as an area by itself.</p> <p>This calendar year started with three Enforcement officers being trained in the field of Narcotic</p>	

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			<p>Investigation for two weeks at REDTRAC Jamaica. They were then followed by two additional officers who were trained in the art of Intel Gathering & Analysis. February saw yet two officers venturing to Jamaica for Financial Investigation Training.</p> <p>There was one incidence of seizure of Narcotics and this was during the month of December 2012. A quantity of Marijuana was discovered in the courier department. The individual was charged and is currently on bail awaiting the commencement of the court matter. There are persons of interest that close attention is being paid to and continuous efforts to interdict illicit drugs.</p> <p>In the aspect of financial misconduct there has been continuous collaboration between the Department and more importantly the enforcement unit in terms of aiding the Financial Intelligence Unit. This is through continuous sharing of information upon request.</p> <p>Additional resources have been provided to the Customs Enforcement Unit of Nevis including filing cabinets, four (4) firearms, 10,000 rounds of ammunition as well as two (2) coffin-like containers to facilitate thorough examination of goods imported in barrels.</p> <p>The recently established K-9 Unit conducts operations at the warehouse in Nevis on a weekly basis.</p> <p>An attachment programme has been established between the St. Kitts and Nevis Customs Departments and during 2009, five officers were exchanged each for a period of one month. This served to enhance synchronization of the procedures on both islands. The Authorities have also ensured that training opportunities are provided equally to officers in both islands as evidenced by the details on attached Schedule 1. In 2009, an additional officer was also employed to Nevis' Enforcement Unit.</p>	

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Other Measures			<p>In an effort to bolster the crime fighting effectiveness and capabilities of the Federation the following new pieces of legislation have been passed:</p> <ol style="list-style-type: none"> 1. Community Protection from certain Crimes Act, 2009 (No. 18 of 2009)(This is commonly referred to as anti-gang legislation) 2. Firearms (Amendment)(No. 2) Act, 2009 (No. 28 of 2009) widens the offence of the smuggling of firearms into the Federation. 3. Electronic Crimes Act, 2009 (No. 27 of 2009)(Covers matters relating to unauthorized access to computer systems and the related information.) 4. The Interception of Communications Act passed in February 2011 to assist investigators in the more efficient prediction of criminal activity and enhance the Police Force’s crime detection capabilities. (Copy of Bill attached) 5. The Gang Prohibition and Prevention Bill – passed in October 2011 6. The Evidence Act, 2011 <p>The Immigration Act was amended to provide more explicit detail on the offence of smuggling.</p> <p>St. Kitts and Nevis has recorded a 63% decrease in the level of criminal activity compared to last year.</p> <p>A joint exercise between customs, local law enforcement and law enforcement authorities of St. Maarten resulted in the seizure of a U.K. registered yacht, the Sinistre Prove with approximately 134 kilograms of cocaine on board and the arrest of the owner who was convicted and fined one million dollars.</p>	

