



Mutual Evaluation Report

Anti-Money Laundering and
Combating the Financing of
Terrorism

BELIZE

JULY 29, 2011

Belize is a member of the CFATF. This evaluation was conducted by the CFATF and was adopted as a 3rd mutual evaluation by its Council of Ministers on July 29, 2011

© 2011 CFATF. All rights reserved.

No reproduction or translation of this publication may be made without prior written permission. Requests for permission to further disseminate reproduce or translate all or part of this publication should be obtained from the CFATF Secretariat at [**CFATF@cfatf.org**](mailto:CFATF@cfatf.org)

TABLE OF CONTENTS

| | |
|--|------------|
| PREFACE – information and methodology used for the evaluation of Belize..... | 5 |
| EXECUTIVE SUMMARY | 6 |
| MUTUAL EVALUATION REPORT | 15 |
| 1. GENERAL..... | 15 |
| 1.1 General information on Belize..... | 15 |
| 1.2 General Situation of Money Laundering and Financing of Terrorism..... | 16 |
| 1.3 Overview of the Financial Sector and DNFBP..... | 18 |
| 1.4 Overview of commercial laws and mechanisms governing legal persons and arrangements | 22 |
| 1.5 Overview of strategy to prevent money laundering and terrorist financing..... | 23 |
| 2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES | 28 |
| 2.1 Criminalisation of Money Laundering (R.1 & 2)..... | 28 |
| 2.2 Criminalisation of Terrorist Financing (SR.II)..... | 36 |
| 2.3 Confiscation, freezing and seizing of proceeds of crime (R.3) | 41 |
| 2.4 Freezing of funds used for terrorist financing (SR.III) | 48 |
| 2.5 The Financial Intelligence Unit and its functions (R.26)..... | 53 |
| 2.6 Law enforcement, prosecution and other competent authorities – the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27 & 28).. | 61 |
| 2.7 Cross Border Declaration or Disclosure (SR.IX) | 66 |
| 3. PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS..... | 73 |
| 3.1 Risk of money laundering or terrorist financing | 76 |
| 3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)..... | 76 |
| 3.3 Third parties and introduced business (R.9) | 88 |
| 3.4 Financial institution secrecy or confidentiality (R.4)..... | 90 |
| 3.5 Record keeping and wire transfer rules (R.10 & SR.VII)..... | 92 |
| 3.6 Monitoring of transactions and relationships (R.11 & 21)..... | 96 |
| 3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)..... | 98 |
| 3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)..... | 102 |
| 3.9 Shell banks (R.18) | 107 |
| 3.10 The supervisory and oversight system - competent authorities and SROs..... | 108 |
| Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)..... | 108 |
| 3.11 Money or value transfer services (SR.VI)..... | 123 |
| 4. PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS | 125 |
| 4.1 Customer due diligence and record-keeping (R.12)..... | 127 |
| 4.2 Suspicious transaction reporting (R.16)..... | 129 |
| 4.3 Regulation, supervision and monitoring (R.24-25) | 130 |
| 4.4 Other non-financial businesses and professions..... | 134 |
| 5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANISATIONS | 135 |
| 5.1 Legal Persons – Access to beneficial ownership and control information (R.33) | 135 |

| | | |
|----------------|---|-----|
| 5.2 | Legal Arrangements – Access to beneficial ownership and control information (R.34).... | 141 |
| 5.3 | Non-profit organisations (SR.VIII) | 146 |
| 6. | NATIONAL AND INTERNATIONAL CO-OPERATION | 149 |
| 6.1 | National co-operation and coordination (R.31 & R.32) | 149 |
| 6.2 | The Conventions and UN Special Resolutions (R.35 & SR.I) | 151 |
| 6.3 | Mutual Legal Assistance (R.36-38, SR.V) | 156 |
| 6.4 | Extradition (R.37, 39, SR.V) | 164 |
| 6.5 | Other Forms of International Co-operation (R.40 & SR.V) | 167 |
| 7. | OTHER ISSUES | 173 |
| 7.1 | Resources and statistics | 173 |
| 7.2 | Other relevant AML/CFT measures or issues | 174 |
| 7.3 | General framework for AML/CFT system (see also section 1.1) | 175 |
| TABLES | | 176 |
| | Table 1. Ratings of Compliance with FATF Recommendations | 176 |
| | Table 2: Recommended Action Plan to Improve the AML/CFT System | 192 |
| ANNEXES | | 208 |
| | Annex 1 | 208 |
| | Annex 2 | 209 |

PREFACE – information and methodology used for the evaluation of Belize

1. The evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Belize was based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT Methodology 2004¹. The evaluation was based on the laws, regulations and other materials supplied by Belize, and information obtained by the evaluation team during its on-site visit to Belize from April 12th to 23rd, 2010 and subsequently. During the on-site the evaluation team met with officials and representatives of all relevant Belize government agencies and the private sector. A list of the bodies met is set out in Annex XX to the mutual evaluation report.

2. The evaluation was conducted by an assessment team, which consisted of members of the CFATF Secretariat and CFATF experts in criminal law, law enforcement and regulatory issues: Mr. Leslie Prospere, Legal Expert (St. Lucia); Mr. Patrick George, Law Enforcement Expert (Dominica); Mr. Courtney Christie-Vietch, Financial Expert (Bermuda); Mr. Derek Benjamin, Financial Expert (Antigua and Barbuda). The Team was led by Mr. Roger Hernandez, Financial Expert from the CFATF Secretariat. The experts reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP), as well as examining the capacity, the implementation and the effectiveness of all these systems.

3. This report provides a summary of the AML/CFT measures in place in Belize as at the date of the on-site visit or immediately thereafter. It describes and analyses those measures, sets out Belize levels of compliance with the FATF 40+9 Recommendations (see Table 1), and provides recommendations on how certain aspects of the system could be strengthened (see Table 2).

1. ¹ As updated February 2008

Executive Summary

1. Background Information

1. The Mutual Evaluation Report (MER) of Belize summarises the anti-money laundering /combating the financing of terrorism (AML/CFT) measures in place in Belize at the time of the on-site visit (April 12th to 23rd 2010). The Report sets out Belize's level of compliance with the FATF 40 + 9 Recommendations which are contained in Table 1 of the Report.
2. Belize is the only English speaking country in Central America. A former British colony, it gained independence in 1981 and is a common law jurisdiction with a three-tier court system. Belize's small open economy is based primarily on agriculture, agro-based industry and merchandising. The economy registered zero growth in 2009 after a 3.6 increase the previous year.
3. Drug trafficking remains the main challenge for Belizean authorities. Neighbouring countries also suffer from a high level of drug trafficking. As a result, the highest risk of money laundering is from drug trafficking. Belize's financial sector is comprised of commercial banks, nonbank financial institutions, credit unions, a unit trust, insurance companies, an offshore sector and a development bank owned by the Government. All financial activities listed in the FATF glossary are covered by the main AML/CFT legislation in addition to other types of activities. Several types of legal persons and legal arrangements can be established under the laws of Belize. These include domestic and external companies, international business companies (IBCs), domestic and international trusts and non-governmental organizations (NGOs).
4. The main focus of the authorities' strategy to prevent money laundering and terrorist financing has been drug related activities since this remains the number one predicate offence. Within the international banking sector, focus has been placed on wire transfers. Revised AML/CFT legislation provides for four (4) different AML/CFT supervisory authorities. As a result of the growth in the credit union sector, the Central Bank has become responsible for the sector's AML/CFT supervision.
5. Belize's ML/FT risk management framework is administered by the Office of the Attorney General, the Ministry of Foreign Affairs, the Ministry of Finance, the Financial Intelligence Unit (FIU), the Belize Police Department, the Office of the Director of Public Prosecutions, the Customs Department, the Central Bank of Belize, the Supervisor of Insurance (SOI) and the International Financial Services Commission (IFSC). The Central Bank has adopted a risk-based approach in its supervision and has encouraged its licensees to implement a similar approach to their AML/CFT risk management framework. Belize has made significant progress since its last mutual evaluation through the enactment of comprehensive AML/CFT legislation, improved governance of the credit union sector and increased resources to the supervisory authorities.

2. Legal System and Related Institutional Measures

6. Money laundering has been criminalized in Belize under the provisions of the Money Laundering and Terrorism Prevention Act, 2008 (MLTPA) in accordance with most of the relevant Articles of the Vienna and Palermo Conventions. The offence of money laundering includes converting, transferring, concealing, disguising, acquiring, possessing

or otherwise dealing with property that constitutes the proceeds of crime from a broad range of criminal activity i.e. serious crime. However, the illicit manufacture, transport or distribution of certain substances set out in Table I and II of the Annex of the Vienna Convention were not criminalized in accordance with Article 3 of the Vienna Convention. Some FATF designated categories of predicate offences for ML are not criminalized and the offence of theft has a minimum property value for criminalization. Money laundering is applicable to both natural and legal persons and intent can be inferred from objective factual circumstances. The penalties for money laundering are deemed effective, proportionate and dissuasive. However the low rate of ML convictions demonstrates ineffective implementation.

7. Terrorist financing has been criminalized in section 68(1) of the MLTPA in compliance with most of the requirements of Article 2 of the Terrorist Convention. The definition of “funds” does not include the qualifying phrases “however acquired” or “in any form including electronic or digital” in the description of legal documents and instruments that prove a defendant’s title or interest in property. While funds are not required to have been actually used to carry out or linked to a specific terrorist act in relation to terrorist financing offences, this provision does not apply to ancillary terrorist financing offences. A range of ancillary terrorist financing offences have been criminalized in accordance with the Terrorist Convention and terrorist financing offences are predicate offences for money laundering. There is no provision for the prosecution of persons who commits ancillary terrorist financing offences in another jurisdiction. There have been no criminal convictions for financing of terrorism in Belize.
8. The MLTPA, the Misuse of Drugs Act (MDA) and the Financial Intelligence Unit Act (FIUA) provide for the confiscation of property that constitutes proceeds from, instrumentalities used or intended to be used in connection with the commission of ML or TF. Definitions of proceeds of crime and proceeds of drug trafficking in the MLTPA and the MDA respectively allow for confiscation to apply to property directly or indirectly derived from proceeds of crime including income, profits or other benefits and property held or owned by a third party. Provisional measures to restrain dealing, transfer or disposal of property include restraining orders and the detention and seizure of terrorist cash under the MLTPA and attachment orders under the FIUA. There is no provision to facilitate the making of an ex parte application for the seizure and detention of terrorist cash. Measures to provide for the identification and tracing of property include production orders, search and seizure orders, monitoring orders and interception of communications orders under the MLTPA, the MDA and the FIUA. There are adequate provisions for the protection of the rights of bona fide third parties. There has been ineffective implementation of the seizure, restraint and confiscation regime.
9. The provisions of the United Nations Resolutions and Conventions (Enforcement) Order Statutory Instrument No. 32 of 2006 (UN S/RES Act) fully implement S/RES 1267(1999) and S/RES 1371(2001). Belize can give effect to the freezing mechanisms initiated in other jurisdictions. While the definition of terrorist property in the MLTPA is broad it does not include property jointly owned or controlled directly or indirectly by terrorists, those who finance terrorism or terrorist organizations or property derived or generated from funds or other assets owned or controlled directly or indirectly by terrorists, those who finance terrorism or terrorist organizations. There are no legislative or other provisions that require the competent authorities to communicate to the financial sector actions taken under the freezing mechanisms or guidance on obligations with regard to freezing of funds of terrorists on the United Nations designated list. There are no provisions to publicly delist

persons or entities in a timely manner. Provision for the court to consider the debts incurred in good faith and the reasonable living expenses of the dependants of a person whose funds have been frozen in accordance with S/RES 1453 could undermine the intended effect of S/RES 1453.

10. The Financial Intelligence Unit (FIU) is responsible for the receiving, analyzing and assessing of reports of suspicious transactions from reporting entities. The FIU has the power to search, compel production of information and monitor and trace. It can access all information it needs to perform its functions and it can disseminate and share information with relevant authorities. Additionally, the FIU is also responsible for investigating and prosecuting matters relating to ML and TF. There are minimal security arrangements for custody of information and minimal feedback to financial institutions and DNFBPs with regard to STRs filed. The FIU has not released any public reports with statistics, typologies and trends. The operational independence of the FIU is vulnerable to external influence and the resources of the FIU are inadequate to allow it to effectively carry out its functions.
11. As a result of being responsible for investigating and prosecuting financial crime in Belize, the FIU has taken the lead in the investigation and prosecution of ML cases. Due to severe resource constraints, the FIU has sought and obtain cooperation from the Police Force. There are no measures that provide for the postponing and waiving of an arrest or seizure of money for the purpose of identifying persons or gathering evidence during the course of an investigation. The FIU has powers to compel production of, search persons or premises for, and seize and obtain records or information for conducting investigations of ML, FT and predicate offences. However, there are no written provisions granting the FIU powers to take witness statements for use in investigations and prosecutions of ML, FT and predicate offences in Belize.
12. Belize has implemented a cross-border declaration system for both outgoing and incoming travellers for cash and negotiable instruments. As per provisions, declaration forms are required to be completed and submitted to Customs which has the authority to seize and detain any currency suspected of being property derived from serious crime. The FIU is notified of any incidence of suspicious cross- border transportation and the persons and cash involved are handed over to the FIU. Information on all declarations is forwarded on a monthly basis to the FIU by Customs. While there is provision for the restraint of cash this does not extend to negotiable instruments. Penalties for making a false declaration or failure to make a declaration are not dissuasive for legal persons and do not extend to directors and senior management of legal persons.

2. Preventative measures – Financial Institutions

13. The MLTPA and the Money Laundering and Terrorism (Prevention) Regulation, 1998 (MLTPR) detail the AML/CFT preventative measures applicable to Belize's financial system. The scope of the activities and businesses subject to AML/CFT requirements are consistent with FATF definitions. Guidance Notes were developed and issued by the Central Bank in 1998. While recommended for general application by all financial institutions only licensees of International Financial Services Commission (IFSC) are legally required to comply with them. As such, the Guidance Notes are considered other enforceable means only for the licensees of the IFSC.

14. While the MLTPA, the MLTPR and the Guidance Notes outline account opening, customer identification and beneficial customer requirements, deficiencies due to requirements not being other enforceable means or absent were noted. While individual customer identification requirements were adequate there were no enforceable requirements for financial institutions to verify the legal status and understand the ownership and control structure of legal arrangements. Additionally, there was no requirement in legislation or regulation for ongoing due diligence or to ensure that documents or information collected under the customer due diligence (CDD) process is kept current. With regard to risk, there is no requirement for enhanced due diligence for higher risk categories of customer, business relationship or transaction or prohibition against simplified CDD measures in cases of suspicion of ML or FT.
15. There were no requirements for the effective management of ML risks when completing the verification of the identity of the customer and beneficial owner following the establishment of the business relationship or the consideration of making a STR on the termination of an application for business due to the inability to identify the customer. Finally financial institutions are not required to terminate a relationship and consider making a STR when there are doubts about the veracity or adequacy of previously obtained customer identification.
16. Requirements for PEPs include domestic PEPs and are generally in accordance with FATF requirements except for no requirement for senior management approval for continuing a relationship with an existing customer who subsequently becomes or is found to be a PEP. At the time of the mutual evaluation, banks in Belize functioned as respondent banks and did not have correspondent banking relationships. However, obligations governing cross-border correspondent banking relationships are incorporated in the MLTPA and include all FATF requirements except for no requirement to ascertain whether a respondent institution has been subject to a money laundering or terrorist financing investigation. While the authorities are aware of the rapid growth of financial business by electronic means there are no requirements for measures to prevent the misuse of technological developments in ML or TF schemes or address specific risks associated with non-face to face business.
17. Requirements for reliance on third parties and introduced business are general in nature and focus on the third party being able to provide copies of identification data and other documents. There was no requirement for financial institutions to immediately obtain from the third party the necessary information on the elements of the CDD process required by E.C. 5.3 to E.C. 5.6. Additionally, the requirement for third parties to be regulated and supervised was not specified in accordance with Recs. 23, 24 and 29. With regard to financial secrecy, there is a general provision in the MLTPA overriding any secrecy obligation subject to the Belize Constitution. While individual supervisory statutes allow for access to information in financial institutions there is no provision that allows for the sharing of information between the Central Bank, the SOI and the Ministry of Finance.
18. Recording keeping provisions are in compliance with FATF requirements except for explicit legal provisions requiring financial institutions under the supervision of the Central Bank, the SOI and the FIU to ensure that all customer and transaction records and information are available on a timely basis. Obligations with regard to Special Recommendation VII applicable to both cross-border and domestic transfer are outlined in the MLTPA. The definition of originator information does not include the originator's address and there is no provision for a receiving intermediary financial institution to keep for five years records of information on cross border wire transfers that cannot be

forwarded with a related domestic wire transfer. Additionally, there is no requirement for beneficiary financial institution to adopt effective risk-based procedures for identifying and handling wire transfers not accompanied by complete originator information.

19. Provisions enacting measures for the monitoring of unusual or large transactions or unusual patterns of transactions fully comply with the FATF requirements. There are no measures to ensure that financial institutions are advised about weaknesses in the AML/CFT systems of other countries or mechanisms to apply counter measures to countries that continue not to apply or insufficiently apply the FATF Recommendations.
20. Suspicious transaction reporting provisions are comprehensive and comply with FATF requirements except for not applying to all FATF predicate offences as indicated in relation to Rec. 1. Additionally the low number of STRs suggest that STR reporting is ineffective. There is no provision for protection against criminal, civil, disciplinary or administrative proceedings for breaches of banking or professional secrecy for reporting STRs to be available even if the underlying criminal activity is not precisely known. No consideration has been given to the feasibility of a national system for the reporting of currency transactions above a fixed threshold to a central agency. Feedback to financial institutions has been limited to only acknowledgement of receipt of STRs.
21. Provisions for internal procedures, policies and controls comply with FATF requirements. However, there is no requirement for internal audit to be adequately resourced, independent and include sample testing for compliance. The AML/CFT compliance officer only has reasonable instead of unimpeded access to information and this access is not extended to all other appropriate staff. Financial institutions are not required to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and FATF Recommendations.
22. The licensing process of the Central Bank ensures that shell banks do not operate in Belize. There is no requirement for financial institutions to satisfy themselves that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.
23. The AML/CFT supervisory authorities in Belize are the Central Bank, the Supervisor of Insurance (SOI), the IFSC, the FIU and the Ministry of Finance. The FIU and the Ministry of Finance are responsible for supervising DNFBPs and other DNFBPs. AML/CFT supervisory responsibilities, powers and sanctions are stipulated in the MLTPA. Certain limitations in the AML/CFT oversight of reporting entities were noted. The IFSC does not carry out on-site inspections of its licensees and registered entities which include the offshore sector except for international banks which are supervised by the Central Bank. Additionally the IFSC can only access or compel production of records from licensees under the Mutual Funds Act and the International Insurance Act. While the criminal sanctions for ML and TF are comprehensive and there are supervisory AML/CFT penalties, administrative fines are not dissuasive. Additionally, shareholders or owners of IFSC licensees or registered entities are not subject to fit and proper assessment.
24. At the time of the mutual evaluation, a regulatory regime for money or value transfer services operators was being implemented by the Central Bank. All money service businesses are subject to the AML/CFT obligations of the MLTPA, must be approved by the Central Bank and are subject to an annual review including operations of all agents and sub-agents. However, it was noted that supervisory fines under the MLTPA are not

dissuasive for financial institutions and the number of inspections carried out by the Central Bank on money service businesses suggest ineffective monitoring.

4. Preventative Measures – Designated Non-Financial Business and Professions

25. Casinos, real estate agents, dealers in precious metals and precious stones, lawyers, notaries, independent legal professionals, accountants, trust and company service providers are all reporting entities under the MLTPA and subject to the same AML/CFT requirements as financial institutions. The deficiencies noted with regard to Recs. 5, 6, 8-11, 13 to 15 and 21 in relation to financial institutions are also applicable to DNFBPs. The transaction threshold level for casinos in relation to the requirements of Rec. 5 and Rec. 10 is well above the FATF level of US\$3,000.
26. With regard to regulation and supervision, no comprehensive regulatory and supervisory regime to ensure effective implementation of AML/CFT measures has been instituted for DNFBPs except for trust and company service providers under the IFSC. While casinos are required to be licensed, there is no requirement for information on natural persons behind the corporate shareholders of applicants for licences for gaming facilities by hotels for their guests. Additionally there is no adequate provision to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in or being an operator under licences for gaming premises and the use of gaming machines.
27. While Belize has a substantial cash based economy, the commercial banks have implemented modern and secure techniques for conducting financial transactions that are less vulnerable to ML through the provision of ATM machines, credit and debit card services to their customers and internet banking facilities.

5. Legal Persons and Arrangements & Non-Profit Organisations

28. The registration of domestic and external companies is regulated under the Companies Act (CA). IBCs are subject to the International Business Companies Act (IBCA). The Registrar of the Supreme Court is the Registrar of Companies and the IBCA requires the appointment of a Registrar of International Business Companies (RIBC). While the CA requires the disclosure of the directors and shareholders of a company, information on shareholding is usually only submitted on incorporation and beneficial information on corporate shareholders is not required. Information on changes in directors and shareholders is required to be updated once a year with annual returns.
29. The registered agent of an IBC is required to maintain information on the directors and shareholders of the IBC and make same available to the IFSC or the FIU on request. All IBCs are required to have a registered agent in Belize. While registered agents are under the supervision of the IFSC, they are not subject to on-site inspection, thereby making the reliability of the beneficial ownership information on IBCs doubtful.
30. While the CA allows for the issuance of bearer share warrants, there are no specific measures to ensure that bearer share warrants are not misused for money laundering. While the IBCA allows for bearer shares, the reliability and implementation of measures for the immobilization of bearer shares of IBCs by registered agents are doubtful since registered agents are not subject to on-site inspections to check these measures.

31. In Belize the Registrar of the Court is required to maintain a register of domestic trusts which is not open to public inspection. Registration of domestic trusts is optional and trustees of domestic trusts are not required to obtain individual verification information on the settlors, beneficiaries and protectors of the trusts.
32. While the business of a trust corporation is subject to AML/CFT obligations, there is no requirement for financial institutions to verify the legal status of legal arrangements, such as trusts. Similarly, AML/CFT obligations have been extended to include DNFBPs, with the IFSC as supervisory authority for trust and company service providers and the FIU supervisory authority for the remaining DNFBPs. The reliability of information on trusts held by DNFBPs is doubtful since the FIU has not implemented an AML/CFT supervisory regime for its relevant DNFBPs and the IFSC does not conduct on-site inspections of trust and company service providers.
33. International trusts are required to have a trust agent in Belize and to be registered with the Registrar of International Trusts. While information on the beneficiaries of trusts is maintained by the trust agents, the reliability of this information is doubtful since the supervisory authority of registered agents, the IFSC does not conduct on-site inspections of these entities. International foundations are required to have a registered agent in Belize and to be registered with the Registrar of International Foundations. The information maintained in the register of international foundations is minimal and registered agents are not required to maintain adequate information on the control of a foundation.
34. Non-profit organizations (NPOs) in Belize are governed by the CA and the Non-Governmental Organisation Act (NGOA). NPOs and churches under the CA are not monitored or supervised. Belize has not reviewed the adequacy of its laws and regulations relating to NPOs or undertaken outreach to the NPO sector to raise awareness about the risks of terrorist abuse.
35. While the NGOA provides for the appointment of a Registrar of Non-Governmental Organisations (RNGO), there is no legislation that authorizes public access to NGO information retained by the RNGO. Other than cancellation of registration and loss of tax exempt status there are no criminal, civil or administrative sanctions for violation of oversight measures or rules relating to NGOs. Additionally, there is no legislation requiring NGOs to maintain records of domestic and international transactions for a minimum period of five years or measures to ensure effective co-operation, co-ordination and information sharing between the FIU and the RNGO.

6. National and International Co-operation

36. The FIU is responsible for ensuring coordination and cooperation between law enforcement agencies, Government departments, regulatory authorities, private institutions and members of relevant professions in evolving methods and policies to prevent and suppress financial crimes. At the time of the mutual evaluation there was no national AML/CFT committee or group of policy makers tasked with overseeing the whole AML/CFT regime with a view to ensuring coordination and cooperation between the relevant authorities, assessing effective implementation and proposing and developing AML/CFT initiatives.
37. Belize has acceded to the Vienna Convention and the Palermo Convention and has ratified the Terrorism Financing Convention. However, there is no legislation fully implementing

Articles 8, 11, 15, 17 and 19 of the Vienna Convention, Articles 20, 24, 25, 30 and 31 of the Palermo Convention and Articles 6, 13, 14, 15 and 16 of the Terrorist Financing Convention.

38. Mutual legal assistance in Belize can be facilitated under the Belize/USA Treaty Act, the Caribbean Treaty Act and the MLTPA. Additionally, the provisions of the Vienna and Palermo Conventions as well as the Inter American Convention Against Corruption can also be used if required. The range of available measures is wide and includes production, search and seizure of evidence, as well as the ability to identify, freeze, seize and confiscate assets. There are no undue restrictions and requests for assistances are not refused if they may involve tax matters. The Office of the Attorney General and the Ministry of Foreign Affairs are the central authorities for issuing and receiving mutual legal requests. It was noted that the Belize/USA Treaty Act does not provide for a mutual legal request not to be denied on the ground of secrecy or confidentiality and requires dual criminality in relation to search, seizure and forfeiture. There are no provisions allowing mutual legal requests for property of corresponding value in the Caribbean Treaty Act, the Belize/USA Act or the MLTPA. There are no arrangements for the best venue for prosecuting defendants in cases where such maybe facilitated in more than one country.
39. Extradition in Belize is governed by the Extradition Act (EA) which regulates extradition between Belize and two other countries, the United States of America and the Republic of Guatemala. There is also an Extradition Treaty with Mexico. Belize has agreed to use the Palermo Convention as a legal basis for extradition with other states. Under section 77 of the MLTPA, money laundering, terrorism and terrorist financing are extraditable offences. Extradition proceedings are applicable to Belizean nationals. While requests for extradition received via diplomatic channels are forwarded through the Ministry of Foreign Affairs, the Central Authority is the Attorney General which at the time of the mutual evaluation was not appropriately equipped to effectively handle all extradition requests.
40. The FIU can share information with foreign jurisdictions. The Police Force shares intelligence through Interpol and Customs Department through a bilateral treaty with Mexico shares information with competent Mexican authorities. Section 76 of the MLTPA allows for the Supreme Court of Belize, a supervisory authority or other competent authority to undertake inquiries for or on behalf of foreign agencies. Confidentiality of shared information is protected. However, there is no legislation empowering the Police Force, the Customs authorities and other law enforcement agencies to undertake international co-operation inquiries for or on behalf of foreign countries.

7. Resources and Statistics

41. With regard to resources, there is need for additional staff in the FIU, the Anti-Drug Unit (ADU) of the Police Force and the Attorney General. The FIU's office space is inadequate and the present IT configuration does not provide adequate security. Limited numbers of staff of the Customs Department and no member of the ADU or the Major Crimes Unit (MCU) of the Police Force have been exposed to AML/CFT training. There are limited technical resources available to the ADU and the MCU.
42. No statistics were maintained on other formal requests for assistance made or received by the FIU, including whether the request was granted or refused or spontaneous referrals made by the FIU to foreign authorities. Additionally, no statistics are maintained on formal

requests for assistance made or received by supervisors relating to or including AML/CFT including whether the request was granted or refused.

MUTUAL EVALUATION REPORT

1. GENERAL

1.1 General information on Belize

1. Belize is the only English speaking country in Central America. A former British colony with an area of 8,867 square miles, it is bounded on the north by Mexico, on the south and west by Guatemala and east by the Caribbean Sea. It is divided into six districts, Belize City, Stann Creek, Cayo, Corozal, Toledo and Orange Walk. The capital of Belize is Belmopan. As of 2009, the estimated population of Belize is 333,200. While English is the official language, there is a large number of Spanish speaking natives.
2. Belize gained independence in 1981 and is a sovereign, democratic, constitution-based jurisdiction with the Queen of England as the Sovereign Head of State represented locally by an appointed Governor General. Its government is divided into executive, legislative and judicial branches. The executive branch is comprised of an elected Prime Minister, a Deputy Prime Minister and the Cabinet Ministers. The legislative branch consists of a bicameral National Assembly comprising a 12-member appointed Senate and a 31-member elected House of Representatives.
3. Belize is a common law jurisdiction with a three-tiered court system that is comprised of Magistrate's Courts, the Supreme Court and the Court of Appeal.
 - (a) Magistrate's Courts have wide jurisdiction in summary offences and limited jurisdiction in more serious offences. Magistrates refer serious criminal offences to the Supreme Court where a jury system is in place.
 - (b) The Supreme Court has unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law.
 - (c) The Court of Appeal has jurisdiction and powers to hear and determine appeals in civil and criminal matters.
4. The Privy Council is presently Belize's final appellate court. Legislation was recently enacted making the Caribbean Court of Justice the country's final appellate court. A commencement date for this legislation is the sole outstanding matter to complete Belize's transition from the Privy Council to the Caribbean Court of Justice. The Constitution of Belize is the highest law in the land, and is the basis for enacting other laws.
5. There are a total of 15 Magistrates, 4 Supreme Court Judges and 4 Judges of the Court of Appeal, which present some constraints in handling all matters swiftly; however, appointments of additional judges are expected that will help ease the backlog of cases.
6. Belize's small open economy is based primarily on agriculture, agro-based industry and merchandising. Tourism and construction have recently gained an ever-increasing position of prominence. Agriculture accounts for about 30% of GDP (gross domestic product) and

provides 75% of export earnings, with sugar accounting for almost 40% of hard currency earnings.

7. In 1998, Belize attempted to further diversify economic activities and expanded its financial sector into offshore activities; however, this area remains relatively small and Belize is not considered a major international centre in the global market. The local currency is the Belize dollar, which remains stable and has been fixed to the US dollar since 1976 (BZ\$1 = US\$0.5). Belize's economy registered zero growth in 2009 after a 3.6% increase the previous year. At the end of 2009, the GDP was BZ\$2.7 billion translating into a per capita GDP of BZ\$8.1 thousand.
8. The Prevention of Corruption in Public Life Act established the Integrity Commission to receive, examine and retain declarations of assets, income and liabilities from persons in public life and receive and investigate complaints regarding non-compliance with the Act. Persons in public life are defined as all members of the House of Representatives and the Senate and members of local authorities. Any person failing to submit the requisite declaration or who makes a false statement in such declaration is liable on summary conviction to a fine not exceeding BZ\$10,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

1.2 General Situation of Money Laundering and Financing of Terrorism

9. Drug trafficking continues to pose the most challenge for Belizean Authority to combat. Given its geographic location, Belize is used as a transshipment point for drugs being transported from Mexico to the United States. Strong ties between Belizean and Mexican cartels have been disclosed in the past that led to extradition of suspected persons from Belize to stand trial in the United States for drug relating offences. It is believe that there may still be a certain degree of influence from Mexican cartels for Belizeans to facilitate movements of drugs through Belize.
10. It should also be noted that Belize is located in a region where neighbouring countries also suffer from high levels of drug trafficking. As a result of the activities of neighbouring countries, the highest risk of money laundering is from drug trafficking which would result in activities such as cross border transportation of funds, and large cash transactions in real estate and vehicles.
11. The following table shows 2009 data on different types of drug seized by the Police:

Table 1: Drug Seized (by Type of Drug) in 2009

| Drugs | Amount in Grams |
|--------------------|------------------------|
| Processed Cannabis | 227,159.8 |
| Cannabis Seeds | 3,653.9 |
| Cannabis Plant | 144,235 |
| Crack Cocaine | 462.3 |
| Cocaine Hydro | 28,366.8 |

| | |
|-------------|-----|
| Heroin | 3.5 |
| Crack Pipes | 111 |

12. The number of persons arrested in 2009 for the above drug related offences totalled 1,681. Other predicate offences occur to a much lesser degree than drug offences and the following table reflects some statistics on non-drug offences:

Table 2: Summary of Convictions 2007 - 2009

| Predicate Offences | Convictions | | |
|---------------------------------|-------------|------|------|
| | 2007 | 2008 | 2009 |
| Robbery | 14 | 12 | 15 |
| Burglary | 88 | 48 | 33 |
| Theft | 189 | 155 | 171 |
| Obtaining Property by Deception | 14 | 17 | 7 |
| Handling Stolen Goods | 80 | 66 | 65 |
| Forgery | 5 | 4 | 0 |

13. Belize's financial system is unsophisticated and very much traditional. As such, most transactions pass through the banks, which would therefore be the institutions also mostly used by persons with criminal intent. For such reason, resources are deployed in areas necessary to protect the integrity of the banking system. Banks are governed by a robust set of provisions in the Guidance Notes and the team of bank examiners in the Central Bank is adequately staffed and trained to provide effective oversight and ascertain compliance with the Guidance Notes and other pertinent laws. Bank products are the basic savings and loans, which somewhat reduce the impact of money laundering risk inherent in the more modern and sophisticated bank products.
14. The money laundering risk is extremely low in the insurance sector because many of the insurance products and practices generally associated with high money laundering risk (single premium policies, ability to purchase insurance in cash, third party payment of premiums, policies with a short cancellation period allowing for refunds of premiums, issuing policies to customers who provide only a post office box as an address or to overseas clients) are prohibited. Furthermore, the possibility of obtaining early redemption of insurance policies is subject to strict conditions and is extremely limited. Many of the products distributed are traditional ordinary life insurance products. Term insurance is normally linked to mortgages and educational purposes. The insurance sector of Belize is very small and no cases of money laundering in that sector have been detected.
15. The money laundering risk is moderate in the money remittance sector. Belize's strict exchange controls make it difficult to launder money through cross-border wire transfers. The sector is very small since most people make wire transfers through their bank. However, limited resources pose challenges in maximizing security along the borders; thereby creating concerns about possible cross-border transportation of physical cash. Nevertheless, Customs and the FIU continue to emphasize the legal requirement to declare large quantity of cash and negotiable instruments and between January and February of 2010 there were 3 convictions for such offence.

16. Over the more recent years, the number of investigations into suspicion of money laundering has been increasing as can be seen in the following table.

Table 3: Money Laundering Active and Closed Cases

| Cases | 2008 | 2009 | 2010 |
|---------------|-------------|-------------|-------------|
| Active | 18 | 29 | 55 |
| Closed | 73 | 138 | 111 |
| Total | 91 | 167 | 166 |

17. In January 2010, there was forfeiture of a boat valued at US\$390,000 along with cash equivalent to US\$14,000.
18. Belize has not yet been the victim of a terrorist attack. However, there is a commitment by the government to form a Terrorism Prevention Committee whose responsibilities will be to accurately identify the risk of possible attacks as well as to formulate a strategic plan for response in the event of a threat.

1.3 Overview of the Financial Sector and DNFBP

19. Belize's financial sector is comprised of commercial banks, nonbank financial institutions, credit unions, a unit trust, insurance companies, an offshore sector and a development bank which is owned by the Government. Belize's regulatory framework comprises three main supervisory bodies. The Central Bank of Belize (Central Bank) regulates domestic and international banks, money transmitters, credit unions and other financial institutions. The Office of the Supervisor of Insurance, which falls within the Ministry of Finance, supervises insurance companies and intermediaries. The International Financial Services Commission (IFSC) licenses registered agents and companies offering international businesses, except for international banking business which falls under the purview of Central Bank.
20. Each financial sector is governed by separate enabling legislation and prudential requirements. However, all must comply with provisions of the Financial Intelligence Unit Act, 2002 (FIUA) and the Money Laundering and Terrorism Prevention Act, 2008 (MLTPA). The following table shows a breakdown of licensed financial institutions.

Table 4: Types of Financial Institutions in Belize

| Institution | Number |
|---|---------------|
| Domestic Banks | 5 |
| International Banks | 8 |
| Credit Unions | 13 |
| Other Local Companies | 2 |
| Money Transfer Services | 2 |
| Insurance Companies | 13 |
| Underwriters Association | 1 |
| Corporate Insurance Agents | 7 |
| Individual Agents and Sub Agents | 126 |
| Registered Agents and International Companies | 143 |

21. Domestic banks and non-bank financial institutions are licensed and operate under the Banks and Financial Institutions Act (BFIA), international banks are licensed and operate under the International Banking Act (IBA) and credit unions are licensed and operate under the Credit Union Act (CUA). The BFIA and the IBA prescribe similar regulatory and operational standards; and therefore foster consistently sound banking practices throughout the system. The CUA also imposes regulatory and operational standards appropriate for ensuring prudent practices.
22. The Central Bank is responsible for supervising under the BFIA, the IBA and the CUA, 5 licensed domestic banks, 9 international banks, 3 financial institutions and 13 active credit unions. These institutions under the governance of the Central Bank reported total assets of BZ\$3.79 billion at the end of 2009, with 5 domestic banks accounting for 66.36 % of such total assets.
23. Belize's domestic insurance sector is supervised under the Insurance Act (IA), Act No. 11 of 2004 and the Insurance Companies (Accounts & Forms) Regulation 1998, the Insurance (Fees) Regulations 2001 and the Motor Vehicle Insurance (Third Party Risks) Act, Chapter 231 of the Laws of Belize. Under the IA, insurance companies, association of underwriters and insurance intermediaries are licensed to carry on insurance business in Belize.
24. The Supervisor of Insurance (SOI) is responsible for the administration of the IA and the supervision of 13 insurance companies, 1 association of underwriters, 7 corporate insurance agents and 126 individual agents and sub-agents with total assets of BZ\$178 million and gross premium income of BZ\$112 million at the end of 2009. . The 13 insurance companies comprise 2 composite companies, 6 general insurers and 5 long-term insurers.
25. The IFSC is responsible for the supervision of Belize's offshore sector which comprises of institutions that offer international financial services as defined in the International Financial Services Commission Act (IFSCA). International financial services include the formation and management of international business companies (IBCs), offshore trusts, international insurance, international asset protection and management, and international collective investment schemes. The IFSC is responsible for supervising 143 licensees comprising registered agents and companies offering trustee, international insurance, mutual funds, international asset protection, trading in securities, international money lending and brokerage consultancy services. At the ending of 2009, Belize had:

Table 5: International Businesses

| Entities | Number |
|----------------------------------|---------------|
| International Insurers | 7 |
| Mutual Funds | 3 |
| Asset Managers | 4 |
| Securities Trading Company | 11 |
| Brokerage Services | 4 |
| International Money Lenders | 4 |
| International Business Companies | 90,000 |

25. Under the Third Schedule of the MLTPA, IFSC serves as supervisor of trust company providers and the Financial Intelligence Unit (FIU) serves as supervisor for other DNFbps. The players of the various sectors together operate under the umbrella of the Belize Offshore Practitioners Association (BOPA), which was established under Chapter 273 of the laws of Belize. One of BOPA's objectives is to ensure adequate regulating rules are formulated and enforced within the offshore industry. BOPA had a membership of 90 players from within the industry. The following table gives a breakdown of the types and numbers of DNFbps in Belize.

Table 6: Active DNFbps

| DNFBPS | Supervisor | Number |
|-------------------------|-------------------|---------------|
| Trust Service Providers | IFSC | 40 |
| Accountants | FIU | 52 |
| Casinos | FIU | 4 |
| Lawyers | FIU | 92 |
| Offshore Practitioners | FIU | 90 |

26. The IFSC is responsible to register and supervise trust service providers in accordance with provisions of the MLTPA. In addition, providers must adhere to the Trust Providers Regulations (Best Practices) and the IFS Practitioners Regulations (Code of Conduct); as well as Section 3 of the IFS Regulations which requires compliance with guidelines, due diligence procedures and handling of large cash procedures prescribed by the Central Bank. Registration of offshore trusts with the IFSC is compulsory. In addition, the IFSC is empowered to request information from trust providers when necessary to facilitate investigations or prosecutions, and to issue penalties, including revocation of license.

27. The FIU is also responsible to supervise the other non-trust DNFbps in accordance with the MLTPA. While the FIU has not yet issued guidelines directly in these sectors nor implemented a supervisory regime due to lack of resources, most of them must comply with the Code of Conduct relating to their professional sector and by virtue of their membership in BOPA. Lawyers are also bounded by the Legal Profession Act and the standards of the Bar Association; and membership to the Bar is compulsory. Accountants are bounded by the sector's Code of Ethics and the By-Laws of the Institute of Chartered Accountants; membership to the institute is not compulsory. Casinos are subject to the requirements of the MLTPA and the FIU accepts that more robust governance is required in this sector. The following table gives a breakdown of the types of financial institutions authorised to perform financial activities as defined by the FATF Methodology.

Table 7: Types of financial institutions authorised to perform financial activities in the glossary of the FATF 40 Recommendations

| Type of financial activity (See Glossary of the 40 Recommendations) | Type of financial institution authorised to perform activity in Belize |
|--|---|
| Acceptance of deposits and other repayable funds from the public (including Private banking) | International/offshore banks, commercial banks, non-bank financial institutions, credit unions, |
| Lending (including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfeiting)) | International/offshore banks, commercial banks non-bank financial institutions, credit unions |
| Financial leasing (other than financial leasing arrangements in relation to consumer products) | Non-bank financial institutions |
| The transfer of money or value (including financial activity in both the formal or informal sector (e.g. alternative remittance activity), but not including any natural or legal person that provides financial institutions solely with message or other support systems for transmitting funds) | International/offshore banks, commercial banks, money transmitters, |
| Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money) | International/offshore banks, commercial banks, non-bank financial institutions |
| Financial guarantees and commitments | International/offshore banks, commercial banks, non-bank financial institutions |
| Trading in: (a) money market instruments (cheques, bills, CDs, derivatives etc.); (b) foreign exchange; (c) exchange, interest rate and index instruments; (d) transferable securities; (e) commodity futures trading | International/offshore banks, commercial banks, trust and company service providers, mutual fund managers and administrators, private, professional and public funds, |
| Participation in securities issues and the provision of financial services related to | International/offshore banks, commercial banks, trust and company service |

| | |
|--|---|
| such issues | providers, mutual fund managers and administrators, private, professional and public funds, |
| Individual and collective portfolio management | Trust and company service providers, mutual fund managers and administrators, private, professional and public funds, |
| Safekeeping and administration of cash or liquid securities on behalf of other persons | International/offshore banks, commercial banks, non-bank financial institutions |
| Otherwise investing, administering or managing funds or money on behalf of other persons | International/offshore banks, commercial banks, company managers, trust and company service providers, mutual fund managers and administrators, private, professional and public funds, |
| Underwriting and placement of life insurance and other investment related insurance (including insurance undertakings and to insurance intermediaries (agents and brokers) | International and domestic insurers, insurance managers, agents and brokers |
| Money and currency changing | Commercial banks, non-bank financial institutions |

1.4 Overview of commercial laws and mechanisms governing legal persons and arrangements

28. Several types of legal persons and legal arrangements can be established or created under the laws of Belize. These include domestic and external companies under the Companies Act (CA), IBCs under the IBA, domestic and international trusts under the Trusts Act (TA) and non-governmental organisations (NGOs) under the Non-Governmental Organisation Act (NGOA).
29. The CA provides for incorporation of domestic companies with unlimited or limited shares. The Registry maintains information such as company name, shareholders, directors, registered office, Articles, Memorandum, share allotment, identification of owners, and resolutions that are submitted upon registration and re-filed annually with any changes that occurred since registration or the last filing. Information held at the Registry is accessible by the general public.
30. The share register reflects names, addresses and occupations of shareholders; along with the number of shares held by each, at the date of filing. The Registry accepts passports, social security cards and voters cards as identification documents for natural owners. It is not compulsory to disclose beneficial ownership of corporate shareholders and further searches on companies holding shares in another company would be required in order to trace beneficial ownership. In the case of information on directors, filing must be done outlining each name and address.

31. Companies are required to maintain registers at their registered offices of the data submitted to the Registrar. These would include a register of shareholders which can be inspected by any member of the company.
32. The IBA provides for the incorporation of IBCs and for IBCs to at all times maintain a local registered agent. At the time of incorporation, the registered agent must provide the Registry with information such as company name, registered office, and authorized and issued shares.
33. It is not compulsory for IBCs to disclose to the Registry the names of shareholders and directors; however, when an IBC chooses to register such information it includes names and addresses of each director and shareholder, as well as the dates of becoming and ceasing to be a director or shareholder. Regardless of the IBC decision to register information on shareholders or directors at the Registry, such information must at all times be kept up to date at the registered agent. The IFS Practitioners Regulation sets minimum operating standard for registered agents as mentioned in section 1.3 above.
34. Under the TA, domestic trusts have the option of registering with the Registrar of the Court. Registration involves the submission of the trust instrument by either the settlor or the trustee. International trusts are required under the TA to register with the Registrar of International Trusts. Information maintained by the Registrar of International Trusts include name of the trust, date of settlement of the trust,, date of registration of the trust, name(s) of the trustee(s), name of the protector (if any), name and address of the trust agent and any other information specified by regulation.
35. International trusts are required to have a trust agent in Belize licensed by the IFSC to carry out trust business. Every trust agent is required under the TA to maintain a record of international trusts including name of the trust, date of the settlement of the trust, name(s) of the trustee(s) name of the settler, name of the protector (if any), names and addresses of all beneficiaries, initial and additional funds settled, changes in beneficiaries, change of protector and original trust instrument and any amendments thereto.
36. NGOs are companies limited by guarantees under the CA whose aims, objects and purposes are to achieve sustainable human development on a voluntary non-profit basis. The NGOA provides for the appointment of a Registrar of Non-Government Organisations. As part of registration an NGO must submit to the Registrar of Non- Government Organisations memorandum and articles of incorporation, name and address, details on the NGO's aims and objectives, information on organisational structure, management and accounting procedures, names, addresses and occupations of directors, types of programmes and activities, estimated revenues and grants and bye laws.

1.5 Overview of strategy to prevent money laundering and terrorist financing

a. AML/CFT Strategies and Priorities

37. The country has been focusing on drug related activities because of the following reasons:
 - Drug activities remain the number one predicate offence

- Adverse social effects, especially among young people, are very much evident
- An apparent strong influence from foreign countries with more organized and established cartels
- The spilling effect into other crimes such as killing and bribery have become evident
- Concern over drug related cash infiltrating the system and eroding stability of the Belize dollar

38. Within the international banking sector, focus has been given to wire transfers so as to prevent banks from becoming conduits especially for terrorist financing. International banks emphasize obtaining complete information on sender and beneficiary, seek to understand the relationship between the two parties, adhere to a list of restricted countries, etc. While the country is comfortable of not being under any threat of terrorism, it is very mindful of not facilitating terrorist financing; hence the awareness within international banking sector.

39. The FIU was the sole AML/CFT supervisory authority in the country; however, in order to strengthen governance over the various sectors, the revised AML/CFT legislation placed the various sectors into 4 groups and provided for four (4) different supervisory authorities to govern each group.

40. The country recognized the growth in customer deposits and assets that occurred in the credit union sector over the years and the need to enhance governance in that sector. Consequently, credit unions were brought under the purview of the Central Bank and are now subject to on-site supervision and must maintain AML/CFT standards in the same manner as banks

b. The institutional framework for combating money laundering and terrorist financing

41. **Office of the Attorney General:** The main role of the Attorney General's office in AML/CFT matters is the handling of international requests. The AG Office handles all extradition requests and shares responsibility with the FIU on other types of international requests. It is therefore essential for this office, along with the FIU, to maintain awareness of international treaties, UN Conventions and local laws pertaining to international cooperation; and to develop the expertise necessary to effectively handle international requests. However, the country accepts that there had been recent turnover in personnel within the AG Office and such occurred before adequate transfer of knowledge could have taken place. Consequently, training of existing personnel has become a priority for the AG Office.

42. **Ministry of Foreign Affairs:** In the area of AML/CFT matters, the Ministry of Foreign Affairs manages international relationship. This Ministry is the primary point of contact for the receipt of international requests, which are then forwarded to the AG Office or FIU for processing.

43. **Ministry of Finance:** The SOI falls within the Ministry of Finance (MOF). In addition, this Ministry is responsible for the country's budget preparation and control. The Minister of Finance is currently also the Prime Minister of Belize. The MOF is cognizant of resource constraints in key areas such as the FIU and has already given budgetary approval for the FIU to increase its staff body, as well as improve its management information system to increase efficiency in data storage and report generation.

44. **Financial Intelligence Unit:** The FIU was established under the FIUA and became operational in November 2002. In early 2004, the FIU was officially accepted into the

Egmont Group. The operations of the FIU are governed by the FIUA and the MLTPA. The FIU's main functions include the receipt and analysis of suspicious transactions reports from reporting entities, the collection and dissemination of information with relevant domestic and foreign competent authorities and the provision of guidance to reporting entities in relation to their AML/CFT obligations. The FIU also has the power to conduct investigations into financial offences and shares prosecution powers with the office of the DPP. The FIU obtains assistance with investigations from primarily the police and customs, obtains assistance with intelligence gathering from other supervisory authorities, and works closely with any domestic agency. The FIU has also been designated a supervisory authority for DNFBPs under the MLTPA.

45. The FIU remains the leading and coordinating AML/CFT authority in Belize's regime. In order to strengthen networking between domestic agencies and enhance oversight in the country, a task force Committee comprising the FIU and senior personnel of customs, police, supervisory authorities, office of DPP, immigration, business tax, and gross sales tax meets regularly to (a) discuss laws/regulations and their effective implementation, (b) share information on emerging trends, (c) make recommendations to improve the system, and (d) generate ideas to address challenges experienced by specific agencies, etc
46. **Belize Police Department:** The Belize Police Department is charged with the general task of maintaining law and order within the national borders. Within the Police Department are the Anti-Drug Unit (ADU) and the Major Crimes Unit (MCU) that work closely with money laundering related matters and other local and international authorities dealing in such matters.
47. The ADU specializes in drug related offences. The ADU works closely with Mexican authorities and US Drug Enforcement Agency (DEA) as trafficking of drugs through Belize in large part involves these two countries. The MCU focuses on investigation into predicate offences other than drug related offences, which are usually done by the ADU. The MCU often collaborates with the FIU to conduct joint investigations.
48. **Office of the Director of Public Prosecutions:** The office of the Director of Public Prosecutions (DPP) is charged with the prosecution of all types of criminal offences. When Belize established the FIU, it recognized that the limited resources in the office of the DPP along with increasing social crimes would affect the DPP from effectively prosecuting money laundering and other types of financial crimes. Consequently, the FIUA and MLTPA were designed to allow the FIU to become the specialized unit in handling "white collar" money laundering and other financial crimes so that these types of crimes would get the attention they deserve without any further strain to resources in the DPP office. Nevertheless, the functions of the DPP were not amended; so legally, the DPP and FIU share joint role in the area of prosecuting money laundering and other financial crimes. However, in practice, there is no overlap as each party now understands the FIU plays the lead and if necessary, the FIU may seek assistance from the DPP, which is still legally authorized to prosecute any criminal offence. The DPP still plays a crucial role in Belize's ML/FT regime as it continues to prosecute predicate offences.
49. **Customs Department:** Customs Department plays a lead role in maintaining integrity in cross border trade. Its primary function is the collection of Government duties and tariffs on goods. It is also responsible for implementation of measures to prevent and detect the illicit cross-border transportation of currency and negotiable instruments. In order to carry out its functions efficiently, the department had embarked on major reforms to implement best practices of the World Customs Organization (WCO). Customs is directly involved in

AMF/CFT and is a part of the task force Committee of domestic government agencies. Customs also played major roles in the different arrests made for “Failure to Declare” under Belize’s declaration system that led to successful prosecutions by the FIU

50. **Central Bank of Belize:** The Central Bank of Belize has been designated under the MLTPA as the supervisory authority responsible for ensuring compliance of banks (domestic and international), relevant financial institutions, credit unions and money service businesses with the obligations of the MLTPA and associated AML/CFT guidelines. The Central Bank’s main supervisory powers are incorporated in the BFIA, the IBA and the CUA.
51. **Supervisor of Insurance:** The SOI is responsible for the supervision and regulation of domestic insurance companies, association of underwriters and insurance intermediaries under the IA. Similar to the Central Bank, the SOI has been designated a supervisory authority with responsibility for ensuring compliance by its licensees with AML/CFT requirements.
52. **International Financial Services Commission:** The IFSC is the supervisory authority responsible for the offshore sector except for international banks which is under the supervision of the Central Bank. The main functions of the IFSC include promoting and developing Belize as a centre for international financial services, providing appropriate supervision and regulation of international financial services and granting licences, permits and authorities for international financial services. The IFSC has been designated the supervisory authority with responsibility to ensure AML/CFT compliance by international financial service providers

c. Approach concerning risk

53. The Central Bank has changed its inspection approach to a risk based perspective. The Central Bank took the opportunity of explaining this new approach to each institution during opening meetings of on-site inspections held during the last year and banks were encouraged to likewise take risk based approach in their AML/CFT policies and procedures.
54. Banks are required to place customers into a risk category – low, medium, high – based on criteria pre-defined by each bank; then manage customers in a manner commensurate to the level of perceived risk. Criteria for risk classification and measures applied over each risk category should be outlined in banks’ written AML policy and procedures.
55. The IFSC has issued Regulations with best practices and code of conducts for registered agents and other offshore practitioners and implemented licensing requirements and other standards similar to those used in the banking sector by the Central Bank. However, the IFSC does not perceive the risk of practitioners to be as great as banks to warrant commencement of on-site inspection in that sector; and is comfortable that off-site inspection remains adequate .

d. Progress since the last mutual evaluation

56. The last mutual evaluation report on Belize was dated October 2004 and was carried out by the CFATF. The main recommendations of the report were the criminalisation of the

financing of terrorism, defining predicate offences for money laundering, enacting comprehensive piece of legislation dealing with restraint and forfeiture of proceeds of crime, update Guidance Notes to the various financial sectors and make available as possible more resources to relevant agencies.

57. Leading up to the time of this present mutual evaluation 2010, Belize took the following actions to address recommendations from the last evaluation:

58. In 2008, Belize enacted a new MLPTA to address the following:

- Increase the number of Supervisory Authority from one to four to ensure each sector can be effectively governed
- Incorporate all Counter Terrorism Conventions to reduce the number of different legislation and increase efficiency in applying the law
- Empower supervisory authorities to apply administrative sanctions to aid in enforcement of the law
- Provide for domestic agencies and FIU to share information

59. Statutory Instrument Number 37 of 2007 was signed to enact the Trust and Company Service Provides (Best Practices) Regulations to provide guidelines and standards in that sector. Statutory Instrument Number 32 of 2006 was signed to enable UN Security Council Resolution 1617(2005) to strengthen the legal framework to counter terrorism.

60. Governance over credit unions was strengthened by:

- Bringing credit unions under purview of Central Bank
- Applying on-site inspection on credit unions
- Upgrading credit union AML standards to the same level as banks

61. The number of bank examiners within the Central Bank was increased in order to place credit unions under the Central Bank and also to increase the frequency of on-site inspections on banks. Legal experts were employed in the FIU to provide for the FIU to execute the legal aspect of its functions more promptly.

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

2.1 Criminalisation of Money Laundering (R.1 & 2)

2.1.1 Description and Analysis

Recommendation 1

62. Belize has criminalised money laundering under the provisions of section 3(1) of the MLTPA.

Consistency with the United Nations Conventions

63. Belize ratified the United Nations Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) on 24th July of 1996 and the United Nations Convention Against Transnational Organised Crime (the Palermo Convention) on 26th September 2003.

Definition of Money Laundering

64. Money laundering is defined in the following terms in section 3(1) of the MLTPA;

“A person commits the offence of money laundering if the person knowing or having reasonable grounds to believe that any property in whole or in part, directly or indirectly, represents any person’s proceeds of crime:-

- (a) converts or transfers that property for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the crime to evade the legal consequences of his action;
- (b) conceals or disguises the true nature, source, origin, disposition, movement, rights with respect to or ownership of that property;
- (c) acquires, possesses, uses or otherwise deals with that property; or
- (d) participates in, associates with or conspires to commit, attempts to commit, or aids and abets, or facilitates, counsels or procures the commission of any of the above acts.”

65. The offence of money laundering comprises the physical element (*actus reus*), the purposive element and the mental element (*mens rea*). With regard to the physical element, a defendant is required to engage in one or more of the following activities;

- (1) converting or transferring ;
- (2) concealing or disguising; or

- (3) acquiring, possessing or otherwise dealing with property that constitutes the proceeds of crime.
66. The purposive element of money laundering requires a defendant dealing with property that constitutes the proceeds of crime for the following purposes:
- (1) concealing or disguising the illicit origin of property or assisting another person involved in criminal activity to evade justice; or
 - (2) concealing or disguising the true nature, source, location, disposition, movement or ownership rights relating to property.
67. In relation to the mental element, a court must be satisfied that at the time of committing a money laundering offence, the defendant either knew or had reasonable grounds for believing that the property that he or she dealt with wholly or partially represents the proceeds of crime.
68. The examiners observe that section 3(1) of the MLTPA has a lower *mens rea* requirement of “reasonable grounds” as compared to “knowledge” as set out under the Vienna and Palermo Conventions. This lower threshold should result in easier convictions for money laundering in Belize. The above material elements of money laundering parallel the tenets of Article 3(1) (b) and (c) (i) of the Vienna Convention and Article 6(1) of the Palermo Convention.

Self and third party laundering

69. Section 3(1) of the MLTPA creates both self and third party laundering as the offence applies to property that constitutes “any person’s proceeds of crime”. Section 19 of the Misuse of Drugs Act Cap. 103 of the Revised Laws of Belize 2000 (MDA) specifically criminalises conduct that results in an individual assisting a perpetrator of drug trafficking to retain his or her proceeds of crime.
70. The term “proceeds of crime” is defined under section 2(1) of the MLTPA as being;
- “Any property derived, obtained or realised, directly or indirectly, as a result of or in connection with a serious crime and includes, on a proportional basis, property into which any property derived or realised directly or indirectly from such offence was later converted, transformed or intermingled, as well as income, capital or other economic gains derived or realised from such property at any time since the crime.”
71. The MLTPA by the above provision, attempts to cover the broadest range of property obtainable from criminal activity. The term “serious crime” is defined in section 2 (1) of the MLTPA as being;
- “An offence against a provision of-
- (a) any law in Belize, for which the maximum penalty is death or imprisonment for life or other deprivation of liberty for a period exceeding 24 months; or
 - (b) a law of a foreign state, in relation to acts or omissions which, had they occurred in Belize, would have constituted an offence for which the maximum penalty is death, or imprisonment for life or other deprivation of liberty for a period exceeding 24 months,
- and includes an offence listed in the Second Schedule to this Act regardless of penalty.”

72. The above definition is sufficiently wide to cover the panoply of drug trafficking offences created under sections 5 to 8 and 18 to 23 of the MDA along with a very broad range of other criminal offences occurring within Belize and extraterritorially.
73. The examiners have observed a number of deficiencies in the MDA that make it incongruent with the requirements set out under Article 3 of the Vienna Convention. Schedule II of the MDA does not include the full range of prescribed narcotics drugs and psychotropic substances set out in tables I and II of the Annex to the Vienna Convention. Article 3 (b) (i) of the Vienna Convention requires criminalization of the conversion or transfer of property arising from the range of narcotics offences established under the Convention including the manufacture, transport or distribution of substances set out in Table I and II. The only prescribed substances covered under the MDA are ephedrine, pseudoephedrine, piperidine, ergometrine and lysergic acid.
74. Sections 21 and 22 of the MDA when read with section 20 of the Criminal Code of Belize Cap. 101 criminalize conduct that incites or induces another to commit a drug trafficking offence or to use narcotic drugs or psychotropic substances illicitly which satisfy the requirements set out under Article 3(1) (c) (iii) of the Vienna Convention.

Money laundering to extend any type of property

75. Section 2(1) of the MLTPA provides that the word “property” includes the following;
- “money, investments, holdings, possessions and assets of every kind, whether corporeal or incorporeal, movable or immovable, legal documents or instruments evidencing title, or interest in such assets, wherever situate (whether in Belize or elsewhere)”
76. The above definition does not set a monetary value on property connected with money laundering. The definition is moreover sufficiently broad to cover money, possessions, assets and investments of every kind generated from crime. The above definition exceeds the suggested definition of “property” set out in the Vienna and Palermo Conventions as it covers property situated worldwide.

Proof of conviction for a predicate offence

77. Section 3(2) of the MLPTA specifically makes money laundering a stand alone offence with the result that the prosecution does not have to establish a predicate offence or the identity of the perpetrator of any such predicate offence prior to attaining a conviction. This provision should assist the authorities in attaining easier convictions for money laundering in Belize.

Designated categories of predicate offences

78. Belize has adopted a combined threshold and list approach to the predicate offences for money laundering. All serious crime as well as the list of offences set out in the Second Schedule of the MLTPA constitutes categories of predicate offences for which a defendant may be convicted for money laundering.

79. As was discussed above, section 2 (1) of the MLTPA provides that a serious crime is an offence against any of Belize’s criminal laws which carries a maximum penalty of death or life imprisonment or a term of imprisonment exceeding 24 months.. Serious crime also covers conduct in a foreign state which had it occurred in Belize would have attracted a maximum penalty of death or life imprisonment or a term of imprisonment exceeding 24 months. Additionally, offences listed in the Second Schedule of the MLTPA are also defined as serious offences. The offences in the Second Schedule include all designated categories of offences except for illicit trafficking in narcotic drugs, illicit arms trafficking, counterfeiting and piracy of products and insider trading and market manipulation. .

80. The following table sets out the present status of the FATF 20 designated offences of offences in Belize.

Table 8; Criminalisation of designated categories of offences

| Designated categories of Offences | Applicable Legislation in Belize |
|---|---|
| Participation in an organised criminal group | Section 2 of the Crime Control and Criminal Justice Act Cap. 102 of the Revised Laws of Belize 2000. |
| Racketeering | Section 23 of Criminal Code Cap. 101. |
| Terrorism including terrorist financing | Sections 5, 68 and 69 of the MLPTA |
| Trafficking in human beings and migrant smuggling | Section 3 of the Trafficking in Persons (Prohibition) Act No. 18 of 2003. |
| Sexual exploitation including exploitation of children | Section 5 of the Trafficking in Persons (Prohibition) Act No. 18 of 2003. |
| Illicit trafficking in narcotic drugs and psychotropic substances | Sections 5 (1), 6 (1) to (3), 7 (1) to (4), 8 (1), 10 (1), 11 (1), 12, 18, 19 and 20 of the Misuse of Drugs Act Cap.103 of the Revised Laws of Belize 2000. |
| Illicit arms trafficking | No legislation provided |
| Illicit trafficking in stolen and other goods | Sections 171(1) and 172(1) of the Criminal Code Cap.101. |
| Corruption and bribery | Sections 22 to 29 of the Prevention of Corruption Act No. 21 of ... and sections 18 to 21 of the Prevention of Corruption in Public Life Act Cap. 12 of the Revised Laws of Belize 2000. Sections 284, 289, 291 and 292 of the Criminal Code Cap. 101 of the Revised Laws of Belize 2000. |
| Fraud | Sections 153, 156, 162 and 166 of the Criminal Code Cap. 101 of the Revised Laws of Belize. |
| Counterfeiting currency | Sections 193 and 194 of the Criminal Code Cap. 101 of the Revised Laws of Belize 2000. |
| Counterfeiting and piracy of products | Section 75 of the Trade Marks Act Cap. 257 of the Revised Laws of Belize 2000. |
| Environmental crime | Section 29, 50 and 51 (3) of the Environmental Protection Act Cap. 328 of the Revised Laws of Belize 2000. |
| Murder, grievous bodily injury | Sections 81 and 106 of the Criminal Code Cap. 101 of the Revised Laws of Belize 2000. |

| | |
|--|--|
| Kidnapping, illegal restraint and hostage taking | Sections 69 and 75 of the Criminal Code Cap. 101 of the Revised Laws of Belize 2000. Section 5 of the MLTPA read together with the Fourth Schedule of the MLTPA. |
| Robbery or theft | Sections 146 and 147 of the Criminal Code Cap. 101 of the Revised Laws of Belize 2000. |
| Smuggling | Sections 16 and 37 of the Customs Regulations Act Cap. 49 and Exchange Control Circular Number 6/2004. |
| Extortion | No legislation provided |
| Forgery | Sections 175 to 180 of the Criminal Code Cap. 101 of the Revised Laws of Belize 2000. |
| Piracy | No legislation provided |
| Insider Trading | No legislation provided |

81. The authorities failed to provide the examiners with the applicable legislation for the following FATF designated offences; (1) illicit arms trafficking (2) extortion (3) piracy and (4) insider trading. It is noted that except for racketeering, illicit arms trafficking and insider trading, the offences listed above are included in the Second Schedule of the MLTPA as serious offences.

82. Section 171 of the Criminal Code purports to create the offence of illicit trafficking in stolen and other goods. However, the section merely creates the offence of handling stolen goods and does not criminalise illicit trafficking in stolen goods in Belize. While sections 69 and 75 of the Criminal Code create the offence of kidnapping and illegal restraint, there is no provision for hostage taking. The examiners noted that of the serious offences set out in the second schedule of the MLTPA, the offence of theft is listed as carrying a minimum property value of \$10,000.00 BZ (\$5,000.00 USD). This is inconsistent with the FATF list of designated offences which prescribes no threshold property value for this particular offence.

83. Section 7 of the FIUA authorises the director of the FIU to investigate and prosecute a range of financial crimes. Financial crimes under the FIUA include offences under the Money Laundering (Prevention) Act (MLPA) which was repealed by the MLTPA. While there is no direct provision allowing for offences under the MLTPA to come under the prosecutorial authority of the FIU, section 84 of the MLTPA requires either the permission of the FIU or the DPP for the prosecution of any offence under the MLTPA and the coordination of the DPP, the FIU and the Commissioner of Police in the investigations and prosecution of such offences..

Predicate offences should extend to conduct that occurred in another country

84. Section 2 of the MLTPA and the FIUA provide that “serious crime” and “financial crimes” respectively extend to conduct that occurred extraterritorially provided that such conduct is also a predicate offence under the laws of the country in which the offence occurred.

The offence of money laundering should apply to persons who committed the predicate offence.

85. Section 3(2) of the MLTPA expressly provides that it is unnecessary for the prosecution to establish the identity of the perpetrator of a predicate offence on a money laundering charge

thus allowing the offence of money laundering to apply to persons who commit the predicate offence.

Ancillary offences for Money Laundering

86. Under section 3(1)(d) of the MLTPA a person who attempts or who aids, abets, counsels, facilitates or procures the commission of, or who conspires to commit the offence of money laundering or terrorism, is guilty of an offence and shall be liable to the prescribed penalties for money laundering and terrorism. Section 8 of the MLTPA criminalises the act of divulging information that may compromise a money laundering investigation. Section 9 of the MLTPA further criminalises the falsification, concealment, destruction or disposal of any material that is likely to be relevant to a money laundering investigation. The offences created under sections 8 and 9 of the MLTPA although exceeding the ambit of FATF requirements, are nevertheless welcome additions in the fight against money laundering in Belize.
87. The definition of serious crime in section 2 of the MLPTA contemplates conduct that would constitute a predicate offence both in Belize and the country where the conduct originated. The MLPTA accordingly applies to proceeds generated from conduct that does not constitute a serious crime in another country provided that such conduct constitutes a crime in Belize.

Recommendation 2

Money laundering to apply at least to natural persons/ inferring intent from objective factual circumstances

88. Section 3(1) of the MLTPA establishes that the offence of money laundering relates to any person who knowingly deals with property that constitutes the proceeds of serious crime. Section 2(1) of the MLTPA defines a “person” as being a natural or legal person. Section 2(3) of the MLTPA specifically enables a court to infer knowledge, intent, purpose, belief or suspicion as it relates to an offence established under the Act from objective factual circumstances.

Criminal liability for money laundering should extend to legal persons

89. As already mentioned the MLTPA defines person to include legal persons thereby allowing criminal liability for money laundering to be ascribed to any type of legal person including corporations, partnerships, trusts or estates, joint stock companies, associations, syndicates, joint ventures, or other unincorporated organisations or groups capable of acquiring rights or entering into obligations.
90. Section 6 of the MLTPA specifically confers criminal liability for money laundering to any natural person(s) who acted in an official capacity at the time a legal person commits a money laundering offence. Section 6 of the MLTPA further provides that any such natural person(s) may evade criminal liability if such person can adduce satisfactory evidence that the offence was committed without their knowledge, consent or connivance.

Making legal persons subject to criminal liability for money laundering should not preclude parallel criminal, civil and administrative proceedings against such persons

91. Ascribing criminal liability to a legal person for a money laundering offence does not preclude the imposition of a panoply of parallel criminal, civil and or administrative sanctions under the laws of Belize.
92. Section 7 (1) (b) of the BFIA authorises the Central Bank (with the approval of the Minister of Finance) to revoke a financial institution's licence or limit the terms and conditions under which such a licence shall subsist should a financial institution wilfully contravene any law to which it is subject.
93. Section 15 (1) of the BFIA further provides that a person convicted of a criminal offence involving fraud, dishonesty, deception or a breach of trust may not continue to serve as a director or officer of a financial institution without the prior written approval of the Central Bank.
94. Section 15 (2) of the BFIA provides that a person who was a director or involved in the management of a financial institution whose licence was revoked may not serve as a director or officer of a financial institution without the prior written approval of the Central Bank.
95. Section 24 (1) (a) of the IBA disqualifies a person who served as a director or was involved in the management of a bank whose licence was revoked from obtaining employment as a director, officer, manager or secretary of a licensee under the Act without the written approval of the Central Bank.
96. Section 24(1) (b) and (c) of the IBA further disqualifies bank managers dismissed for acts of dishonestly or who have been convicted of an indictable offence in Belize or elsewhere from obtaining employment as a director, officer, manager or secretary of a licensee under the Act without the written approval of the Central Bank.
97. Finally the provisions of Regulation 33 of the International Financial Services Practitioner's Code of Conduct (the IFSC Code of Conduct) empowers the Director General of the IFSC to impose penalties against international financial service providers who are found guilty of professional misconduct which include money laundering, These penalties are as follows:
 1. a severe reprimand;
 2. suspension of the provider's licence;
 3. revocation of the provider's licence; or
 4. an administrative fine of up to BZ\$5,000.

Effective, proportionate and dissuasive criminal, civil or administrative sanctions for money laundering.

98. Natural and legal persons are subject to the following criminal sanctions under the MLTPA:
 - a) Section 4(1) - A natural person found guilty of money laundering may be subject to a fine of not less than fifty thousand dollars but not more than two hundred and fifty thousand dollars or imprisonment for a term of not less than five years but not more than ten years or both.

- b) Section 4(2) - A legal person or entity found guilty of money laundering may be subject to a fine of not less than one hundred thousand dollars but may extend to five hundred thousand dollars.
 - c) Section 6 - Every person who acted in an official capacity for a legal person at the time that such legal person committed a money laundering offence shall be guilty of the same offence and shall become subject to the same punishment.
 - d) Section 7 - Any person who commits an ancillary offence to money laundering shall be liable to the applicable penalties under sections 4 and 5 of the MLTPA.
 - e) Section 8 - Any person found guilty of divulging information that may potentially compromise a money laundering investigation shall on conviction be liable to a fine not exceeding fifty thousand dollars or a term of imprisonment not exceeding three years or both.
 - f) Section 9 - Any person convicted of falsifying, concealing, destroying or disposing of any material relevant to a money laundering investigation shall be liable to a fine not exceeding one hundred thousand dollars or imprisonment for a term not exceeding five years or both.
99. The Examiners are of the opinion that the above criminal sanctions are effective, dissuasive and proportional when juxtaposed with the legislated sanctions in other CFATF jurisdictions of similar socio economic circumstances as Belize.

Recommendation 32 (Statistics)

100. During the on-site visit the examiners were advised by the authorities in Belize that during the period 2006 to April 2010 there were 9 ML prosecutions, 6 convictions, 2 pending and one acquittal.
101. The examiners were presented with no statistics on the criminal sanctions applied to convictions for money laundering in Belize. The examiners are of the opinion that the above statistics reflect a very low rate of investigations, prosecutions and convictions for money laundering in Belize given that the country is a known transshipment point for narcotics and has moreover experienced a sharp increase in crime levels over the last few years.
102. The examiners observe that the MLTPA confers the DPP and the director of the FIU with parallel jurisdiction to prosecute money laundering offences in Belize. The authorities informed the examiners that the FIU presently prosecutes all money laundering offences in Belize. The FIU presently has one legal officer which has resulted in the outsourcing of this critical function to private attorneys. The examiners are concerned that the above arrangement may raise serious constitutional challenges that may potentially undermine the authorities' ability to effectively prosecute money laundering matters in Belize.
103. The examiners are further concerned that the law enforcement agencies and the judiciary in Belize have received very limited training relating to the legal and investigative principles underpinning money laundering and financing of terrorism. The examiners believe that the

above deficiencies may considerably stymie the authorities' capacity to effectively investigate and prosecute money laundering matters in Belize.

2.1.2 Recommendations and Comments

104. The authorities should consider amending Schedule II of the MDA to include the range of narcotics drugs and psychotropic substances set out in tables I and II of the Annex to the Vienna Convention.
105. The authorities should consider promulgating legislation to introduce the following criminal offences into the laws of Belize (1) illicit arms trafficking (2) extortion (3) piracy and (4) insider trading.
106. The authorities should consider amending the second schedule of the MLTPA, to remove the present minimum property value of BZ\$10,000 (\$5,000.00 USD) that attaches to the offence of theft.
107. The authorities should consider making legislative amendments that would remove the possible constitutional concerns over the DPP and FIU's parallel jurisdiction to prosecute money laundering offences in Belize.

2.1.3 Compliance with Recommendations 1 & 2

| | Rating | Summary of factors underlying rating |
|------------|---------------|--|
| R.1 | PC | <ul style="list-style-type: none"> • Schedule II of the MDA does not include the range of narcotics drugs and psychotropic substances set out in tables I and II of the Annex to the Vienna Convention. • The following criminal offences are not a part of Belize's criminal laws (1) illicit arms trafficking (2) extortion (3) piracy and (4) insider trading. • The offence of theft in the second schedule of the MLTPA contains a minimum property value of BZ\$10,000 (\$5,000.00 USD). • The low number of ML convictions demonstrates ineffective implementation which may be due to insufficient training of the law enforcement agencies and judiciary. |
| R.2 | LC | <ul style="list-style-type: none"> • The low number of ML convictions demonstrates ineffective implementation which may be due to insufficient training of the law enforcement agencies and judiciary. |

2.2 Criminalisation of Terrorist Financing (SR.II)

2.2.1 Description and Analysis

Terrorist financing should be criminalised consistently with Article 2 of the Terrorist Financing Convention

108. Belize ratified the International Convention for the Suppression of the Financing of Terrorism (the Terrorism Financing Convention) on 1st December 2003. Section 68 (1) of the MLTPA criminalises terrorist financing in the following terms;

“Any person who by any means, directly or indirectly, wilfully provides or collects funds or other property, with the intention that they should be used or in the knowledge that they are to be used in whole or in part:

- (a) to commit an act or omission, whether in Belize or outside Belize, which constitutes an offence within the scope of a counter terrorism Convention listed in the Fourth Schedule to this Act; or
- (b) to commit any act intended to cause the death of or serious bodily injury to any civilian or any other person not taking an active part in the hostilities in a situation of armed conflict when the purpose of such act, by its nature and context, is to intimidate a population or compel a government or international organisation to perform or refrain from performing an act of any kind;
- (c) by a terrorist; or
- (d) by a terrorist organisation;

commits an offence...”

109. The Conventions listed in the Fourth Schedule of the MLTPA include the Terrorism Financing Convention and all the treaties listed in the Annex of the Terrorism Financing Convention together with the following:

- i. Convention on Offences and certain Other Acts committed on Board Aircraft signed at Tokyo on 14th September 1963
- ii. Convention of the Marking of Plastic Explosives for the Purposes of Detention, signed at Montreal, on 1st March 1991

110. The physical element (*actus reus*) of terrorist financing as stipulated in the MLTPA consists of a defendant who directly or indirectly provides or collects funds or other property to undertake one of the following acts;

- (a) an act or omission which constitutes an offence within the scope of a treaty listed in the Fourth Schedule of the MLTPA; or
- (b) an act intended to cause death or serious bodily injury to any civilian or any other person not taking an active part in the hostilities in a situation of armed conflict when the purpose of such act, by its nature and context, is to intimidate a population or compel a government or international organisation to perform or refrain from performing an act of any kind.”

111. The purposive element of terrorist financing comprise a defendant wilfully providing or collecting funds or other property for the purpose of causing such funds or property to be used in financing a terrorist offence by a terrorist or a terrorist organisation. The mental element (*mens rea*) of terrorist financing as set out in the MLTPA requires a defendant at

the time of the offence to intend or know that the funds or the property he or she provides shall be used to commit a terrorist offence.

112. Section 2(1) of the MLTPA defines the term “terrorist group or organisation” in the following terms;

“any group of terrorist that;

(a) commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and wilfully;

(b) participates as an accomplice in terrorist acts;

(c) organises or directs others to commit terrorist acts; or

(d) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.”

Terrorist financing to extend to any “funds” as defined under the Terrorism Financing Convention.

113. The examiners observe that the definition of “funds” set out in section 2(1) of the MLTPA covers a very broad range of monies, investments, holdings, possessions and assets in a defendant’s possession including legal documents proving such person’s title or interest in property. The above definition is inconsistent with the requirements set out in Article 2 of the Terrorism Financing Convention in two material respects. Section 2 (1) of the MLTPA excludes the qualifying term “however acquired” from the description of “funds.” Such an omission may potentially exclude from the ambit of terrorism financing, funds that were legitimately acquired by a defendant. Section 2(1) of the MLTPA further excludes the qualifying term “in any form including electronic or digital” from the description of legal documents and instruments that prove a defendant’s title or interest in property. This omission may potentially exclude electronically or digitally generated legal documents and instruments from the ambit of the terrorism financing offence.

Proof that funds provided by a defendant for terrorist financing were actually used to execute or attempt a terrorist act or be linked to a specific terrorist act.

114. Section 68(3) of the MLTPA does not require the prosecution to establish that funds provided by a defendant were actually applied towards the commission of a terrorist act or that the contemplated terrorist act occurred. It is noted that section 68(3) applies only to the terrorist financing offences created under section 68(1) of the MLTPA and not the range of ancillary terrorist financing offences created under section 68(2) of the MLTPA.

Criminalising an attempt to commit a terrorist financing offence/ other inchoate terrorist financing offences

115. Section 68(2)(b) of the MLTPA criminalises an attempt to commit a terrorist financing offence. Section 68(2)(a) and (c) to (e) of the MLTPA creates the following range of ancillary terrorist financing offences;

1. organising or directing others to commit a terrorist financing offence;
2. conspiracy to commit a terrorist financing offence;

3. participation as an accomplice to a person committing or attempting to commit a terror financing offence; and
 4. aiding, abetting, facilitating, counselling or procuring the commission of a terrorist financing offence.
116. The provisions of section 68(2) (a) and (c) to (e) are congruent with the requirements set out in Articles 2 (5) (a) and (b) of the Terrorist Financing Convention.

Terrorist financing offences should be predicate offences for money laundering

117. Terrorism and terrorist financing offences constitute a category of serious crime as set out in section 2(1) and the Second Schedule of the MLTPA and are accordingly considered predicate offences for money laundering.

Terrorist financing offences should apply regardless of whether the alleged perpetrator is in the same country in which a terrorist/terrorist organisation is located or is in the country where the terrorist act occurred or shall occur

118. Section 68(1)(a) of the MLTPA provides that a defendant can be prosecuted for a terrorist financing offence under section 68(1)(a) of the MLTPA regardless of whether the applicable conduct occurred within or outside of Belize. It is noted that a defendant who commits a terrorist financing offence under section 68(1)(b) in another country cannot be prosecuted under the MLTPA. The anomaly noted in section 68(1)(b) of the MLTPA is inconsistent with the FATF requirements set out under Special Recommendation II.

Inferring intention from objective factual circumstances/ Terrorist financing should apply to legal persons

119. Section 2(3) of the MLTPA enables a court to infer intention as it relates to terrorist financing offences from objective factual circumstances. The definition of “person” in section 2(1) of the MLTPA allows for terrorist financing to apply to both natural and legal persons.

Legal persons should also be subject to parallel criminal, civil and administrative sanctions

120. A legal person convicted of a terrorist financing offence under section 68(1) and (2) of the Act shall be liable to a fine of not less than five hundred thousand dollars but not more than one million dollars.
121. Section 3(6) of the MLTPA provides that any person who acted in an official capacity for a legal person at the time such legal person committed a terrorist financing offence shall also be guilty of the same offence and shall be liable to imprisonment of a term of not less than ten years but which may extend to life imprisonment.

The range of civil and administrative sanctions referred to in essential criteria 2.4 should apply equally to the terrorist financing offences.

122. Natural and legal persons are subject to a range of effective, proportionate and dissuasive criminal, civil and administrative sanctions for terrorist financing offences.

Criminal sanctions.

123. A natural or legal person convicted of a terrorism financing offence under section 68(1) and (2) shall be liable to the applicable penalties set out under section 5 of the MLTPA. Section 3(6) of the MLTPA provides that any person who acted in an official capacity for a legal person at the time such legal person committed a terrorist financing offence shall be guilty of the same offence and shall be liable to imprisonment of a term of not less than ten years but which may extend to life imprisonment. Both natural and legal persons are subject to the range of civil and administrative penalties referred to above.
124. The examiners are of the opinion that the range of prescribed criminal, civil and administrative sanctions for terrorism financing offences are effective, proportionate and dissuasive when juxtaposed with the legislated sanctions of other CFATF jurisdictions of similar socio-economic circumstances to Belize.

Recommendation 32 (Statistics)

125. The competent authorities presented the examiners with no statistics on matters relevant to financing of terrorism investigations, prosecutions and convictions throughout the period 2006 to 2009.
126. There having been no criminal convictions for financing of terrorism in Belize and the assessors were presented with no statistics relating to criminal sanctions applied to this offence. Although the authorities claim that Belize is a low risk country as it relates to terrorism and financing of terrorism, the examiners are of the opinion that the above statistics demonstrate the authorities' inability to effectively implement the above legislative framework.
127. As with money laundering, the examiners are similarly concerned about the present arrangement that obtains under the MLTPA as it relates to the DPP and FIU possessing parallel jurisdiction to prosecute financing of terrorism matters in Belize as well as the very limited training the law enforcement agencies and the judiciary in Belize have received as it relates to the appropriate legal and investigative principles underpinning money laundering and financing of terrorism.

2.2.2 Recommendations and Comments

128. The authorities should consider amending the definition of the word "funds" in section 2 (1) of the MLTPA to incorporate the qualifying terms "however acquired" and "in any form including electronic or digital" into the description of legal documents and instruments that prove a defendant's title or interest in property.
129. The authorities should consider amending section 68(3) of the MLTPA to include the range of ancillary offences set out under section 68(2) of the same Act.
130. The authorities should consider amending section 68(1)(b) of the MLTPA to provide for the prosecution of a defendant who commits an ancillary terrorist financing offence in another jurisdiction.

131. The authorities should consider making legislative amendments that would remove the constitutional concerns relating to the DPP and FIU’s parallel jurisdiction to prosecute financing of terrorism matters in Belize.

2.2.3 Compliance with Special Recommendation II

| | Rating | Summary of factors underlying rating |
|-------|--------|---|
| SR.II | PC | <ul style="list-style-type: none"> • The definition of the term “funds” does not include the qualifying phrase “however acquired” or the qualifying phrase “in any form including electronic or digital” into the description of legal documents and instruments that prove a defendant’s title or interest in property. • Prosecution of the range of ancillary offences set out under section 68(2) of the same Act is not exempt from being required to establish that funds provided by the defendant were actually used in the commission of a terrorist act. • No provision for the prosecution of a defendant who commits an ancillary terrorist financing offence in another jurisdiction. • The DPP and the FIU’s parallel jurisdiction to prosecute financing of terrorism matters in Belize could adversely affect implementation. |

2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)

2.3.1 Description and Analysis

Laws should provide for the confiscation of property that constitutes the proceeds from, instrumentalities used or intended to be used in connection with the commission of any money laundering or financing of terrorism offence.

132. The MLTPA, the MDA and the FIUA contain a range of tools that enable the courts to deny perpetrators of money laundering and financing of terrorism the fruits of their illicit activities.

The MLTPA

Money laundering

133. Section 49 of the MLTPA authorises the Supreme Court to forfeit a convicted person’s property where it is satisfied that such is tainted property. Section 2 of the MLTPA defines the term “tainted property” as being “property intended for use in, or used in or in connection with the commission of a serious crime or proceeds of crime.” The definition covers property derived from serious crime as well as any instrumentalities used in or intended to be used in connection with the commission of a serious crime. In addition to the above, section 57 of the MLTPA provides for the DPP or the Director of the FIU to apply

to the Supreme Court for a pecuniary penalty order for an amount equal to the value of the benefit from the offence for which a person was convicted.

Terrorist financing

134. Section 67 of the MLTPA stipulates that the DPP or the Director of the FIU may apply to the Supreme Court for an order seizing terrorist cash where it is reasonably suspected that such cash;
- (a) is intended to be used for the purposes of terrorism;
 - (b) belongs to, or is held on trust for, a terrorist organisation; or
 - (c) is or represents property obtained through acts of terrorism.
135. Under section 72 of the MLTPA the DPP or the Director of the FIU may apply to the Supreme Court for an order forfeiting specified terrorist property. The term “terrorist property” is defined in section 2(1) of the MLTPA as being;
- (a) proceeds from the commission of terrorism; or
 - (b) money or other property which has been, is being or is likely to be used to commit terrorism; or
 - (c) money or other property which has been, is being, or is likely to be used by a terrorist group or terrorist; or
 - (d) property owned or controlled by or on behalf of a terrorist group; or
 - (e) property which has been collected for the purpose of providing support to a terrorist group or funding a terrorist act.”

The MDA

Drug trafficking

136. Section 29 of the MDA empowers the court to order the forfeiture of any instrumentalities used in drug trafficking such as aircraft, vessels or vehicles. Section 30 of the MDA further authorises the court to order the forfeiture of any proceeds derived from drug trafficking. The legislative framework set out under the provisions of the MLTPA and the MDA authorise the DPP and the director of the FIU to forfeit a very broad range of property derived from serious crime, as well as instrumentalities used in and or intended to be used in the commission of serious crime.

Confiscation should apply to property that is derived directly or indirectly from proceeds of crime including income, profits or other benefits.

The MLTPA

137. The term “proceeds of crime” under section 2 (1) of the MLTPA is sufficiently broad to cover all property obtained or realised directly or indirectly from serious crime and includes income, capital or economic gains derived from such property any time after the crime was committed. The court’s forfeiture powers under sections 49 and 65 of the MLTPA contemplate the seizure of tainted property *belonging to a convicted person and or third party*. Tainted property includes property that constitutes a person’s proceeds of crime but

does not cover property held or owned by persons other than a defendant. The court's confiscation powers of terrorist cash and terrorist property under sections 67 and 72 respectively of the MLTPA, are wide enough to cover property held or owned by persons other than a defendant.

The MDA

138. Section 2(1) of the MDA defines the term 'proceeds of drug trafficking' in the following terms;

“any payments or other rewards, including real or personal property of every description, received by a person at any time in connection with drug trafficking carried on by him or another or in both that connection and in some other connection and such payments or other rewards include the following so received, that is to say-

a. deeds and instruments relating to or evidence of title or right to property, or giving a right to recover money, goods or real estate, or any order or other security that entitles or evidences the title of any person-

- (i) to share an interest in a public stock or fund or in any share or interest of or in a society or company whether incorporated or unincorporated; or
- (ii) to a deposit in any bank;

b. a document of title to lands, goods or other property wherever situated, money or other valuable security issued by any government, any chose-in-action, or any credit evidencing an interest in property;”

139. Section 2(1) of the MDA covers property that is directly or indirectly connected with drug trafficking. The court's forfeiture powers under sections 29 and 30 of the MDA are wide enough to cover property held or owned by persons other than a defendant.

Provisional measures to restrain any dealing, transfer or disposal of property subject to confiscation

The MLTPA

Restraining orders

140. Section 39 of the MLTPA empowers the Supreme Court to provisionally freeze realisable property held by an accused or specified realisable property held by a person other than the accused. The term “realisable property” is defined in section 2(1) of the MLTPA as being;

“any property held by an accused person or property in the possession of any person to whom an accused person has directly or indirectly made a gift.”

141. A gift is defined in section 2(1) of the MLTPA to include any transfer of property by a person to another person directly or indirectly after the commission of a serious crime by the first person for a consideration which is significantly less than what was provided by the first person and to the extent of the difference between the market value of the property and the consideration provided by the transferee.

142. The Supreme Court must be satisfied that an applicant has established the following criteria before granting a restraining order against realisable property belonging to an accused person;

- That the accused person has been convicted, charged with or is being investigated for a serious crime;
- where an accused has not been convicted of a serious crime, that there is reasonable cause to believe that the property is tainted property in relation to an offence or that the accused person has derived a benefit directly or indirectly from the commission of the offence;
- where the applicant seeks an order against property other than an accused person's that there are reasonable grounds for believing that the property is tainted property in relation to an offence and that the property is subject to effective control of the accused or is a gift; and
- that there are reasonable grounds for believing that a forfeiture order or a pecuniary penalty order may be or is likely to be made in respect of the property.

Detention and seizure of terrorist cash

143. Section 67 of the MLTPA enables the Supreme Court to provisionally detain and seize suspected terrorist cash even before proceedings against an accused person have commenced. Section 39 (2) of the MLTPA contemplates *ex parte* applications for restraining orders. Section 67 is silent as to whether *ex parte* applications may be made for the detention and seizure of terrorist cash. Sections 11(1)(d) and 67(1)(a) to (c) of the MLTPA authorise the Director of the FIU to provisionally freeze terrorist property without notice which produces the same effect as section 39(2) of the MLTPA.

The FIUA

Attachment Orders

144. Under section 11 of the FIUA the director may where he or she believes that a financial crime has been, is being or may be committed apply *ex parte* to a judge in Chambers for an attachment order. Such an order may compel an affected party to do the following acts;

- (a) attach in the hands of any person named in the order all moneys and other property due or owing or belonging to or held on behalf of the suspect;
- (b) require that person to declare in writing to the Director within 48 hours of service of the order, the nature and source of all moneys and other property so attached; and
- (c) prohibit the person from transferring, pledging or otherwise disposing of any money or other property so attached except in such manner as may be specified in the order

145. The above provisional orders are intended to assist the court in preventing the possible dissipation or spiriting away of proceeds of crime prior to or during a money laundering or financing of terrorism investigation or prosecution. Except for section 67 of the MLTPA (seizure and detention of terrorist cash), an application for any of the range of provisional orders may be made *ex parte*.

Power to identify and trace property that is or may become subject to confiscation or that is suspected of being the proceeds of crime

146. The laws of Belize provide law enforcement agencies with a broad range of investigative powers that may assist in effectively identifying and tracing property that is or may become subject to forfeiture or that is suspected of being the proceeds of crime.

The MLTPA

Production orders

147. Section 23 of the MLTPA enables a police officer or an authorised officer of the FIU who is endeavouring to trace terrorist property or property relating to serious crime to make an *ex parte* application to the Supreme Court for the grant of a production order. Such an order compels the production of documents relating to an individual who is being investigated, charged with or convicted of a serious crime. The order may also be obtained in relation to foreign requests for assistance in locating and seizing suspected tainted property derived from a serious crime in that other jurisdiction.

148. The Supreme Court may grant a production order if it is satisfied that a police officer or authorised officer of the FIU possesses reasonable grounds for believing that;

- a document relevant to identifying, locating or quantifying of property of a person or to identifying or locating a document necessary for the transfer of property of such person; or
- a document relevant to identifying, locating or quantifying tainted property in relation to the offence or to identifying or locating a document necessary for the transfer of tainted property in relation to the offence; or
- a document relevant to identifying, locating or quantifying recoverable property or to identify or locating a document related to the transfer of terrorist property; or
- a document related to terrorist property.

Search and seizure orders

149. Under sections 27 to 31 of the MLTPA, a police officer or an authorised officer of the FIU may enter premises for the purpose of seizing any documents that he or she reasonably believes may be relevant to a serious crime, tainted property, realisable property or terrorist property. Such orders may also be granted in response to requests for assistance from foreign states. A law enforcement officer is further authorised to inspect and make copies of documents or retain documents for the due discharge of his or her duties under the MLTPA. A search and seizure exercise by law enforcement officers may occur with the consent of the owner of the premises or pursuant to an order of the court.

Monitoring orders

150. A police officer or an authorised officer of the FIU may make an *ex parte* application to the Supreme Court for a monitoring order (section 32 of the MLTPA) that compels a reporting entity to disclose information relating to account transactions conducted by persons reasonably suspected of engaging in serious crime or who are believed to be the beneficiaries (directly or indirectly) of serious crime. A monitoring order may be issued for

a duration of not more than three months. A reporting entity that is subject to a monitoring order is prohibited from disclosing collated information to any person other than the relevant law enforcement agent.

Interception of communications order

151. A police officer or an authorised officer of the FIU may obtain an *ex parte* interception of communications order (section 34 of the MLTPA) for the purpose of obtaining evidence relating to a money laundering or terrorist financing offence or proceeds of crime. An interception order authorises a police officer or an authorised officer of the FIU to require a communication service provider to intercept and retain specified information. The provision also permits a police officer or authorised officer of the FIU to enter any premises to install, maintain and remove devices that intercept and retain information.

The MDA

Search and seizure

152. Under section 25 (1) of the MDA the police is authorised to enter any premises (without a warrant) suspected of being concerned with the production or supply of drugs. The provision further authorises the police to inspect books or other documents at the premises that relate to dealings in drugs. The section also enables the police to search persons and seize any means of conveyance suspected of carrying a controlled drug under the Act. A judge in chambers or a magistrate may issue a search warrant to a police officer who reasonably suspects that controlled drugs may be found in any premises or that documents directly or indirectly connected to a narcotics offence(s) or intended narcotics offence (s) within or outside of Belize may be found in such premises.

The FIUA

153. Under section 9 of the FIUA the director of the FIU is authorised to have access to and obtain copies of documents and material from persons (whether or not in Belize) relevant to an investigation into a financial crime. The provision further empowers the Director of the FIU to obtain relevant material from a public officer(s) who may have the same in his or her custody and control. Section 10 of the FIUA authorises the director of the FIU to enter and search premises for documents or material relevant to an investigation into a financial crime. The above legislation provides the law enforcement agencies in Belize with an armoury of tools that can assist in identifying and tracing property relating to money laundering, financing of terrorism and serious crime.

Protection of the rights of bona fide third parties

154. Section 65 of the MLTPA shields the rights of bona fide third parties who may become adversely affected by the grant of an order under Part IV of the Act. Section 65 (1) states that the measures and sanctions established under Part IV of the MLTPA shall apply without prejudice to the rights of bona fide third parties. The Supreme Court is under an obligation to return property, proceeds or instrumentalities to a bona fide third party where it is satisfactorily established that;

- (a) the party has a legitimate legal interest in the property, proceeds or instrumentalities;

- (b) there was no participation, collusion or involvement by the party with respect to the money laundering or terrorist financing offence;
 - (c) the party lacked knowledge and was not intentionally ignorant of the illegal use of the property or did not freely consent to its illegal use;
 - (d) that the party did not acquire any right in the property for the purpose of causing the previous owner to avoid having that property forfeited; and
 - (e) the party did all that was reasonably possible to avoid the illegal use of the property.
155. Section 65 (2) of the MLTPA further provides that a third party's lack of good faith may be inferred from the objective circumstances of the case. Moreover, where an order is granted *ex parte* under sections 39 (restraining order) and 49 (forfeiture order) a bona fide third party may apply to revoke or vary the order under section 47 (4) of the MLTPA. A bona fide third party may pursuant to section 52 of the MLTPA apply to claim an interest in any property forfeited under section 49 of the Act.

Voiding actions that would prejudice authorities' ability to recover property

156. Section 51 of the MLTPA empowers the court to set aside any conveyance or transfer of property in circumstances where such transaction occurred after the seizure of the property or service of a restraining order and was not done in good faith.

Recommendation 32 (Statistics)

157. The authorities presented the examiners with the following statistics relating to property frozen, seized and confiscated for money laundering, financing of terrorism and criminal proceeds in Belize throughout the period 2006 to 2009. With regard to money laundering, a yacht valued at 17 million Belizean dollars (US\$8.5 million), a sports utility vehicle as well as US\$8.5 million in cash was forfeited. Additionally, monies held in a series of bank accounts belonging to three entities were frozen. Details as to the amounts, the length of the period of seizure and the eventual disposition of the attendant legal matters were not made available to the team of examiners.
158. The authorities provided no statistics dealing with the freezing or forfeiture of property relating to the financing of terrorism.

Additional elements

159. The examiners were presented with no statistics relating to the number of cases and quantities of property frozen, seized and confiscated as it relates to the underlying predicate offences where applicable. The examiners are of the opinion that the above statistics reflect a very low rate of seizures, restraints and confiscations of property relating to money laundering and financing of terrorism in Belize given that the country is a known transshipment point for narcotics and has moreover experienced a sharp increase in crime levels over the last few years.

2.3.2 Recommendations and Comments

160. The authorities should consider amending section 67 of the MLTPA to facilitate the making of *ex parte* applications for the seizure and detention of terrorist cash.

2.3.3 Compliance with Recommendations 3

| | Rating | Summary of factors underlying rating |
|-----|--------|--|
| R.3 | LC | <ul style="list-style-type: none"> • Section 67 of the MLTPA does not facilitate the making of ex parte applications for the seizure and detention of terrorist cash. • Ineffective implementation of seizure, restraint and confiscation regime |

2.4 Freezing of funds used for terrorist financing (SR.III)

2.4.1 Description and Analysis

Laws and procedures for freezing terrorist related assets under United Nations S/RES 1267 (1999)

161. The provisions of the United Nations Resolutions and Conventions (Enforcement) Order Statutory Instrument No. 32 of 2006 (UN S/RES Act) fully implements United Nations Security Council Resolution 1617 of 2005 which succeeds S/RES1267(1999) and S/RES 1373(2001).
162. As such, the Belizean financial institutions and authorities possess the legal authority to promptly freeze terrorist funds or assets belonging to designated persons. Regulation 3 of the UN S/RES Act authorises all financial institutions to promptly freeze funds and other financial assets or economic resources of designated persons. Regulation 4 of the UN S/RES Act compels these entities to promptly report any freezing activities pursuant to the legislation to the Minister of Foreign Affairs and copied to the Director of the FIU.
163. The authorities further advised that the freezing mechanisms available under sections 12 (freezing of funds connected with terrorism), 67 (seizure and detention of terrorist cash) and 72 (forfeiture of terrorist property of the MLTPA may be invoked should funds or assets relating to S/RES 1617 (2005) exist in Belize.

Laws and procedures for freezing terrorist funds or assets of persons designated under United Nations S/RES 1373 (2001)

164. As was previously mentioned, the authorities by the UN S/RES Act possess the legal authority to promptly freeze terrorist funds or assets belonging to designated persons under S/RES 1617(2005). Regulation 3 of the UN S/RES Act authorises all financial institutions to promptly freeze funds and other financial assets or economic resources of designated persons. Regulation 4 of the UN S/RES Act compels these entities to promptly report any freezing activities pursuant to the legislation to the Minister of Foreign Affairs and copied to the Director of the FIU.
165. The authorities iterated that the freezing mechanisms available under sections 12 (freezing of funds connected with terrorism), 67 (seizure and detention of terrorist cash) and 72 (forfeiture of terrorist property of the MLTPA may be invoked should funds or assets relating to S/RES 1373 (2001) exist in Belize.

Giving effect to freezing mechanisms initiated in other jurisdictions

166. Belize can give effect to another country's request to freeze funds or assets generated from terrorism and financing of terrorism. Section 76 of the MLTPA empowers the Supreme Court of Belize, a supervisory authority or other competent authority in Belize to provide a counterpart Superior Court, or competent authority of another country with assistance in freezing property, proceeds or instrumentalities connected with money laundering, financing of terrorism and serious crimes.
167. Section 76 of the MLTPA contains no prescribed timelines for the disposition of requests for assistance from other jurisdictions. Belize has to date received 12 requests for assistance under section 76 of the MLTPA, 2 of which have resulted in the freezing of assets. The remaining requests were not processed because of default by the requesting authorities. Such assistance may be granted in the absence of a treaty and dual criminality shall not be required. Section 11 (j) and (o) of the MLTPA specifically provides for the FIU to cooperate with other countries as it relates to the disclosure of information and tracking, monitoring, forfeiting or freezing the proceeds of crime.

Funds subject to freezing actions should extend to those owned or controlled or derived from designated persons, terrorists or those who finance terrorism or terrorist groups.

168. The MLTPA endeavours to cover a very broad range of property derived from terrorist financing. Section 68 (4) is specifically intended to cover funds or property of persons designated under the United Nations Security Council Resolutions 1267 (1999) and 1373 (2001) which have both been succeeded by S/RES 1617(2005). Regulation 3(1) of the UN S/RES Act specifically targets any funds and or assets acquired from property owned and controlled directly or indirectly by designated persons or by persons acting on their behalf or upon their direction. . The term "terrorist property" in section 2 (1) of the MLTPA although including property owned or controlled by or on behalf of a terrorist group does not extend to property jointly owned or controlled directly or indirectly by terrorists, those who finance terrorism or terrorist organisations or property derived or generated from funds or other assets owned or controlled directly or indirectly by terrorists, those who finance terrorism or terrorist organisations.

Effective systems for communicating freezing actions to the financial sector/ guidance to financial institutions, persons or entities holding terrorist assets or funds of their obligations as it relates to taking action under the freezing mechanisms.

169. The MLTPA contains no express provision that requires the authorities to communicate to the financial sector, actions taken under the freezing mechanisms in essential criteria III.1 to III.3. There is no legislation in Belize that requires the authorities to circulate the list of names of terrorist designated by the UN Security Council. The authorities stated that the FIU provides assistance to reporting entities requiring assistance in determining the United Nations sanctioned list of terrorists. The authorities further stated that section 12 of the MLTPA authorises the FIU to issue reporting entities with directives compelling the freezing of funds reasonably believed to be connected with terrorism. Section 12 specifies that directives must be given in writing to the entity holding the funds in question and require that a copy of the notice be sent without delay to the person whose funds are being frozen or to the person on whose behalf the finds are held.
170. Section 18 of the MLTPA further requires financial institutions to appoint compliance officers to ensure that financial institutions comply with the requirements of the MLTPA

which would include section 12. The above situation requires that the authorities should provide reporting entities with clear guidance as it relates to their obligations for the freezing of funds belonging to terrorists on the United Nations designated list.

Delisting procedures/procedures for unfreezing funds or other assets of persons inadvertently affected by the freezing mechanisms

171. The second Schedule of the UN S/RES Act sets out a 2005 consolidated list of persons issued by the United Nations Sanctions Committee. There is however, no legislation or procedures that enable the authorities to publicly delist persons or entities in a timely manner. As was discussed above, sections 65 and 73 and 74 of the MLTPA enables the courts to consider claims of persons affected by the freezing mechanisms set out under the legislation.

Access to funds frozen under S/RES 1267 (1999)

172. With regard to access to funds frozen under S/RES 1267 (1999), section 40(2) authorises persons affected by restraining orders to apply to the Supreme Court to meet certain types of expenses out of property subject to such orders. Section 40(2) of the MLTPA relates to serious crime generally and accordingly includes terrorism and terrorist financing offences.

173. The examiners are concerned that the certain aspects of section 40(2) of the MLTPA may undermine the intended effect of S/RES1452. Section 40(2)(a) of the MLTPA enables a court to consider claims by applicants who wish to meet the reasonable living expenses of their dependants from restrained property. S/RES 1452 does not expressly refer to the living expenses of an applicant's dependants. The inclusion of such a provision in the MLTPA may enable applicants to have access to a proportion of their restrained property that exceeds the ambit of S/RES 1452.

174. Section 40(2)(c) further empowers the court to consider an applicant's "debts incurred in good faith." The language of SR 1452 does not expressly cover an applicant's expenses incurred in good faith. Section 40(2)(c) is amorphous and may result in an applicant having access to a proportion of their restrained assets beyond the ambit of S/RES 1452.

Challenge of freezing actions.

175. Section 42 of the MLTPA provides that before making a restraining order, a court may hear any person(s) that it believes has an interest in the subject property. Section 47 of the MLTPA provides that a party with an interest in property subject to a restraining order may apply to the court to have the order revoked or varied. Section 12(6) of the MLTPA further enables a party affected by a freezing directive issued by the FIU to apply to the court to have the same set aside. Sections 65 and 73 and 74 of the MLTPA enable the courts to consider claims of persons affected by the freezing mechanisms under the legislation.

Freezing, seizure and confiscation in other circumstances

176. As mentioned above sections 72 and 74 of the MLTPA empower the Supreme Court to make a forfeiture relating to terrorist property on application of the DPP or the FIU. Section 67 of the MLTPA authorises the FIU to seize cash should it consider that reasonable grounds exists for believing that such cash shall be used to commit an act of terrorism, that such cash belongs to a terrorist organisation or such cash was obtained

through terrorism. Section 71 of the MLTPA further empowers the FIU to cause a reporting entity holding an account or property on behalf of a terrorist or a terrorist organisation to freeze such property.

Protection of third party rights

177. Persons affected by a freezing directive or a forfeiture order under sections 71 and 74(1) respectively of the MLTPA may apply to the court for relief against the effects of these mechanisms. The examiners note that the provisional seizure and detention mechanism relating to terrorist cash under section 67(1) of the MLTPA does not enable affected parties to apply to the court for relief against such orders. However, section 67(8) of the MLTPA provides that a judge may release cash seized under subsection 1 if the conditions set out under subsection 5 no longer apply or the authorities fail to commence proceedings against the owner of the cash.

Monitoring of compliance with laws concerning SR III and imposition of criminal, civil or administrative sanctions for non compliance

178. While section 21 of the MLTPA delineates the role of the supervisory authorities, this is limited to supervising compliance by the relevant entities with sections 15 to 19 of the MLTPA which do not include freezing and forfeiture mechanisms. The supervisory authorities as designated in the Third Schedule of the MLTPA are the Central Bank, the SOI, the IFSC, the FIU and the Ministry of Finance. At the time of the on-site examination only the Central Bank and the SOI were conducting on-site examinations of their licensees testing compliance with all AML/CFT legal obligations.

179. Section 22 of the MLTPA provides that supervisory authorities may impose a broad range of administrative sanctions against financial institutions that fail to comply with the prescriptions of the MLTPA. Some of these sanctions include written warnings, orders compelling compliance, fines, imposing restrictions upon the powers of managers, directors and owners of reporting entities and recommending appropriate action to the reporting entity's licensor. However, it is noted that these sanctions are only applicable to breaches of sections 15 to 19 of the MLTPA which do not include freezing and forfeiture mechanisms. However, the range of criminal, civil and administrative sanctions discussed in essential criteria 2.4 applies equally to FATF Special Recommendation III.13.

180. Section 25 of the MLTPA provides that a party's failure to comply with the terms of a production order constitutes an offence punishable by a term of imprisonment not exceeding two years or a fine not exceeding ten thousand dollars or both in the case of a natural person or to a fine of not less than fifty thousand dollars but which may extend to one hundred thousand dollars in the case of a legal person.

Recommendation 32 (Statistics)

181. The authorities were unable to provide statistics as it relates to property frozen pursuant to United Nations S/RES 1267 (1999) and 1373 (2001).

2.4.2 Recommendations and Comments

182. The authorities should consider amending section 76 of the MLTPA to provide that assistance rendered to a superior court or competent authority of another jurisdiction must be facilitated expeditiously by the Belizean counterparts.
183. The authorities should consider promulgating legislation that would enable the authorities to publicly delist persons or entities in a timely manner.
184. The authorities should consider promulgating legislation that requires competent authorities to communicate to the financial sector actions taken under the freezing mechanisms in essential criteria III.1 to III.3.
185. The definition of terrorist property in the MLTPA should extend to property jointly owned or controlled directly or indirectly by terrorists, those who finance terrorism or terrorist organisations or property derived or generated from funds or other assets owned or controlled directly or indirectly by terrorists, those who finance terrorism or terrorist organisations
186. The authorities should consider amending section 40 (2) of the MLTPA to exclude from its ambit the reasonable living expenses of an applicant’s dependants and an applicant’s debts incurred in good faith.
187. Designated supervisory authorities should be required to monitor compliance with the provisions concerning SRIII
188. The authorities should consider providing reporting entities with clear guidance as it relates to their obligations for the freezing of funds belonging to terrorists on the United Nations designated list.
189. The authorities should consider amending section 67 (1) of the MLTPA to enable an affected party to apply to the court for relief against an order seizing and detaining terrorist cash.

2.4.3 Compliance with Special Recommendation III

| | Rating | Summary of factors underlying rating |
|---------------|---------------|--|
| SR.III | PC | <ul style="list-style-type: none"> • Section 76 of the MLTPA does not expressly provide that assistance rendered to a superior court or competent authority of another jurisdiction must be facilitated expeditiously by the Belizean counterparts. • Unable to assess the practical effectiveness of provisions giving effect to freezing mechanisms initiated in other jurisdictions due to lack of requests • Definition of terrorist property does not extend to property jointly owned or controlled directly or indirectly by terrorists, those who finance terrorism or terrorist organisations or property derived or generated from funds or other assets owned or controlled directly or indirectly by |

| | | |
|--|--|---|
| | | <p>terrorists, those who finance terrorism or terrorist organisations.</p> <ul style="list-style-type: none"> • There is no legislative or other provision that enables the authorities to publicly delist persons or entities in a timely manner. • There is no legislative or other provision that requires competent authorities to communicate to the financial sector actions taken under the freezing mechanisms in essential criteria III.1 to III.3. • Section 40 (2) of the MLTPA which enables a court to consider the reasonable living expenses of an applicant’s dependants and an applicant’s debts incurred in good faith may undermine the intended effect of S/RES1452. • Reporting entities do not have clear guidance as it relates to their obligations for the freezing of funds belonging to terrorists on the United Nations designated list. • Designated supervisory authorities are not required to monitor compliance with the provisions concerning SRIII. • Section 67 (1) of the MLTPA does not enable an affected party to apply to the court for relief against an order seizing and detaining terrorist cash. |
|--|--|---|

Authorities

2.5 The Financial Intelligence Unit and its functions (R.26)

2.5.1 Description and Analysis

Recommendation 26

190. The FIU of Belize was established by section 3 of the FIUA as a statutory body to perform the functions of the Supervisory Authority under the MLPA. In 2008, the MLTPA repealed the MLPA. Subsections 11(1)(a), (b) and (c) of the MLTPA list some of the functions of the FIU which includes among others:

- a. the receiving, analysing and assessing of reports of suspicious transactions issued from reporting entities in accordance with the reporting obligation set out in section 17(4) of the MLTPA.
- b. taking appropriate action it may consider necessary or forwarding relevant information to the appropriate law enforcement authorities, if there is reasonable

grounds to suspect that a reported transaction involves the proceeds of crime or terrorist financing

- c. sending to the appropriate law enforcement authorities, any information derived from the examination or supervision of a reporting entity, if it gives the FIU reasonable grounds to suspect that a transaction involves proceeds of crime or terrorist financing.
191. In addition to the cited functions of the FIU, section 84(1) of the MLTPA gives the Director of the FIU prosecutorial powers relative to ML and TF matters. Section 84(3) requires the coordination of the activities of the Director of the FIU, the DPP and the Commissioner of Police in the investigations and prosecutions of offences under the MLTPA. In accordance with section 21 of the MLTPA and the Third Schedule of the MLTPA the FIU is also the supervisory authority responsible for ensuring compliance with ML/TF obligations by all DNFBPs except for trust and company service providers, and together with the IFSC, institutions engaged in international financial services as defined in the IFSCA. With regard to the receipt of reports of suspicious activities, these are received by hand and acknowledged. Once received, reports are reviewed by the Director and assigned for analysis by a staff member.
192. Subsection 11(1)(e) of the MLTPA provides for the FIU to issue guidelines to reporting entities. Additionally, subsection 21(1)(b) of the MLTPA provides for the designated supervisory authorities of each reporting entity to issue instructions, guidelines or recommendations to assist the reporting entity to comply with the obligations of the MLTPA which includes reporting requirements. At the time of the on-site visit, the only guidance was the Guidance Notes for Banks and Financial Institutions 1998 which was issued by the Central Bank for the previous MLPA. These Guidance Notes included sections on reporting obligations and procedures and a copy of a reporting form and were designed specifically for the licensees of the Central Bank. Regulation 3(1) of the International Financial Services Practitioners (Code of Conduct) Regulations (IFSPCCR) requires all IFS practitioners to comply with the Central Bank Guidance Notes. IFS practitioners include all licensees of the IFSC. Given the fact that the Guidance Notes are based on the previous MLPA there is a need for it to be updated and the FIU has requested help from the IMF so that new guidelines conform and are consistent with the new Act.
193. Suspicious Transaction Reporting Instructions were issued to insurance companies some of whom have incorporated these instructions within their AML/CFT policies. The specifications of the reporting forms were also included in the instructions issued including the procedures to be followed in completing same.

Access to information

194. As is mandated by law the FIU can access all information that it requires in order to properly undertake its functions. Section 7(4) of the FIUA provides that the Commissioner of Police is required to provide such assistance as may be necessary to the Director of the FIU in order to allow for the discharge of the Director's functions under the Act. The Commissioner has been integral in providing support to the FIU by assisting with personnel and intelligence during investigations.
195. Section 11(1)(k) of the MLTPA gives the FIU the authority to request information from any reporting entity, supervisory authority, law enforcement agency and other domestic government agency, for purposes of the MLTPA without the need for agreements or

arrangements. Law enforcement bodies have a good working relationship with the FIU and share information on a regular basis. The FIU also has good relationships with other government bodies and has had no problems in obtaining information in a timely manner from these institutions.

196. Section 16 (4) of the MLTPA creates an obligation on financial institutions to allow the FIU direct access to records held by these institutions pursuant to section 16. These records include identification and transaction information, account files and correspondence. Several requests have been made of financial institutions by the FIU and information has been provided.
197. Section 17(6) of the MLTPA gives the FIU the power to request and obtain any additional information from a reporting entity which has reported a suspicious transaction. The FIU has executed the provisions of these sections in the carrying out of its functions.

Powers of search, production of information, monitoring and tracing.

198. Additionally, various sections of the MLTPA gives the FIU the powers of search, power to compel the production of information and powers to monitor and trace, if needs be. Section 20 of the MLTPA provides for the FIU to apply *ex parte* for a search warrant to enter any premises of a financial institution to remove any document or material on the basis of failure to maintain required records or report suspicious transactions or the actual or expected commission of an ML/TF offence.
199. Section 23 of the MLTPA allows for the FIU to apply *ex parte* to a judge for a production order to obtain documents from any person relevant to identifying, locating or quantifying property in relation to an investigation or arrest for a serious offence. Section 32 of the MLTPA allows the FIU to apply *ex parte* to a judge for a monitoring order directing a reporting entity to disclose information about transactions conducted through an account held by a particular person with the institution. Such an order can only be issued on the basis of reasonable grounds to suspect that the person in respect of whose account the order is sought has committed or benefited or was involved in committing or is about to commit or benefit from a serious offence.

Dissemination of information

200. Subsections 11(1)(b) and 11(1)(c) of the MLTPA, allows the FIU to forward relevant information from reports of suspicious transactions and examination or supervision of a reporting entity to appropriate law enforcement authorities if the FIU has reasonable grounds to suspect that a transaction involves proceeds of crime or terrorist financing. The dissemination and sharing of information among domestic authorities and the FIU occurs regularly. There is no need for MOUs and communication is sometimes effected by telephone, fax, e-mails or in person.
201. However, the FIU is charged with the responsibility for investigating and prosecuting matters relating to ML and TF and as such would mostly disseminate to itself, information relative to ML and TF that may require investigation or action. The Director of the FIU and the DPP have the ability under section 84 (1) of the MLTPA to prosecute all ML and TF cases summarily. The FIU Director has in the past hired Counsel to assist in the

prosecution of cases. Indictable prosecution is only done with the direction of the DPP as referenced under section 84 (2) of the MLTPA

Autonomy

202. The FIU is a statutory body and in the carrying out of its functions, powers and duties it is guided by the FIUA and the MLTPA. Operational independence is characterised by the fact that the FIU is a creature of statute with a legal identity. It has the ability to hire staff (conditional upon approval of the responsible Minister), direct power over use of its budget (despite limited power over budget allocation) in making expenditures to assist in the carrying out of its functions. Depending on the size of the expenditure from the budget, approval may be sought from its Ministry, however, the accounting officer, on the direction of the Director, makes regular expenditure from the FIU's budgetary allocation.
203. The procedures relative to the appointment of the Director and the hiring of additional staff are captured in sections 4 to 6 of the FIUA. Section 4 of the FIUA provides for the appointment of the Director of the FIU by the Governor General on the advice of the Prime Minister. The Governor General can declare the office of the Director of the FIU vacant if the Director is incapacitated by physical or mental illness, has become bankrupt or is otherwise unfit or unable to discharge the functions of the office.
204. Section 5 of the FIUA allows for the Director of the FIU with the approval of the Minister responsible for international financial services to appoint and employ at such terms and conditions as the Minister may approve, suitably qualified and experienced persons. The staff of the FIU must include at least one attorney and another person with a sound financial, economic or accounting training and experience. Section 5(3) of the FIUA provides for the Commissioner of Police, on the recommendation of the Director to appoint to the FIU, such number of police officers as necessary. Section 6 of the FIUA permits the secondment of public officers from Government service or officers from a public statutory body to the FIU.
205. While the above provisions require the Director to obtain approval for hiring staff, this has had no effect on the operational independence of the FIU. However, the team of assessors was advised of an instance where, as a result of Government intervention, a case against a particular financial institution was dropped. While this intervention focussed on the FIU's prosecutorial function, it raises concern about the operational independence of the FIU.

Confidentiality of information

206. Section 12 of the FIUA provides that the staff of the FIU must take an oath of secrecy which is specified in the FIUA and which provides that unless otherwise authorised by the Act or law the information obtained in exercise of powers or performance of a duty under the Act must not be divulged nor shall the sources of such information or the informer or maker, writer or issuer of a report given to the Director. Additionally, staff must maintain and aid in maintaining confidentiality and secrecy of any matters, documents, reports and other information relating to the administration of the FIUA or any regulations made there under that becomes known to the staff or comes in the staff's possession or under the staff's control.
207. As already noted, the FIU can divulge information to other law enforcement agencies in Belize under subsections 11(1)(b) and 11(1)(c) of the MLTPA. Additionally, subsection

11(1)(m) of the MLTPA provides for the FIU to share reports or any information relevant to investigating proceeds of crime or investigating or prosecuting serious crime with other FIUs in foreign countries. Section 14(1) of the MLTPA allows for the FIU to enter into agreements with the governments of foreign states or an international organisation for the exchange of information with any institution or agency of the state or organisation. .

208. The FIU is located on the third floor of the Central Bank of Belize building. Access to the building is in two stages. First, via armed security guards at the entrance of the building compound where vehicle searches are performed randomly before access is granted to the parking lot of the main building. Upon entering the main building, a second tier security is applied by way of armed security officers requiring all entrants to walk through a metal scanner and pass all luggage through a scanning device. Having completed security checks, visitors are given badges granting restricted access to those floors of the building relevant to their appointed visit.
209. Staff of the FIU and the Governor of the Central Bank of Belize and his staff, share the same office space. The Governor's staff has access to the office space of the FIU. After working hours, security is maintained in and around the building by the armed security guards who have access to the office of the FIU since they possess the keys to the door which separates the FIU and Governor's offices from the remainder of the Central Bank.
210. Hard copy files stored at the FIU are kept in non-fireproof filing cabinets with locks. There is a safe in the Director's office which is accessible by the Director and the legal counsel. Additional files are stored in boxes and on the floor within the FIU's three offices. There appears to be limited filing cabinets and space available for the volume of documents that requires filing and securing by the FIU.
211. Electronic files are stored on an FIU server which forms part of a network accessible by username and password. However, the FIU also uses the server to connected to the internet. Backups of the server are made every Fridays but are stored onsite. The FIU's IT services are provided by the IT officer of the Central Bank who has full access to the FIU's electronic files. Staff of the cleaning service utilised by the Central Bank has access to the FIU offices after working hours.
212. Section 17 of the FIUA requires the FIU to prepare an annual budget and section 18 an annual statement of accounts. The accounts are required to be audited and submitted to the Minister responsible for international financial services. . The Director is also required under section 19 of the FIUA to submit to the Minister an annual report of the work of the FIU in particular any matter that could affect public policy. The Minister is responsible for laying a copy of the annual report on the table of both Houses of the National Assembly.
213. The FIU has never publicly released any periodic reports that include statistics, typologies and trends as well as information regarding its activities. The FIU is currently in the process of preparing its first annual report since its statutory creation in 2003.
214. Belize's FIU became a member of the Egmont Group on June 23, 2004. Subsection 7(1)(e) of the FIUA provides for the FIU in Belize to share information and cooperate with foreign financial intelligence units relating to financial crimes. Additionally, as mentioned above, subsection 11(1)(m) of the MLTPA provides for the FIU to share reports or any information relevant to investigating proceeds of crime or investigating or prosecuting

serious crime with other FIUs in foreign countries. As a member of the Egmont Group, the FIU is aware of the Egmont Group Statement of Purpose and its Principles for Information Exchange Between Financial Intelligence Units for Money Laundering Cases and utilises its principles in information exchange with other FIUs.

Recommendation 30 (FIU)

215. The FIU of Belize currently has a staff of eight (8), including the Director. It is in compliance with the FIUA which requires that at least one attorney should be appointed. The FIU is comprised of the Director, one (1) legal counsel, two (2) investigating officers on secondment to the FIU from the Police Force (one of which is a paralegal), an office manager, one (1) accountant, one (1) secretary and an office assistant.
216. The number of personnel employed at the FIU is inadequate to allow it to effectively carry out its functions, which include the investigation and prosecution of ML and TF cases, investigation of financial crimes, and the designated supervisory authority for all DNFBBPs except for trust and company service providers, and together with the IFSC, institutions engaged in international financial services as defined in the IFSCA. The current members of staff do not have the expertise to carry out the functions of supervisory authority and no work has been done on implementing the legislated supervisory regime.
217. The FIU is equipped with one (1) server, eight (8) computers, phone lines, fax and internet access. However, it has no analytical tool installed on any of its systems to facilitate its investigators with their analysis. Currently, filed STRs are stored in Microsoft Office Excel. As already mentioned, IT system administrative services are provided by the IT personnel from the Central Bank. There is a shortage of reference material to assist the legal counsel or staff to research points of law and sometimes it is necessary to do research outside the FIU.
218. The physical space at the FIU is inadequate for the number of staff currently housed at the FIU and leaves no room for expansion. The budget of the FIU has increased by 14.3% from BZ\$569,896 (FY April 2008 – March 2009) to BZ\$651,349 (FY April 2009 – March 2010).
219. Arrangements are being made to ensure that all members of the FIU staff are appropriately skilled and that high professional standards are maintained and that the members of staff understand the confidentiality oath that they have taken upon being employed at the FIU and are persons of high integrity. It is of utmost importance to the Unit that its members of staff are suitably qualified academically.
220. Members of the FIU have all taken an oath of secrecy as required by the FIUA in the form specified in the Second Schedule of the said Act. Background checks are done on the officers attached to the Unit on a continuous basis to ensure that they maintain a high level of integrity.
221. The Director has attended CFATF Plenaries XXVII, XXIX and XXX and the XV and XVI Ministerial Meetings in 2008 and 2009. The legal counsel has attended the CFATF XXIX

Plenary and the police officers have attended the 15th Egmont Group Plenary in Bermuda in 2007. The following are some of the courses, workshops and conferences that the staff of the FIU have attended: “The Prevention of Money Laundering and Terrorist Financing at Casinos and Remote Gambling Venues” Conference (The Bahamas 2008); Money Laundering Alert’s “14th Annual International Anti-Money Laundering Conference” (Florida 2009); CFATF/FATF’S Joint Typology Workshop (Cayman Islands 2009); the UN Office of Drugs and Crime “Asset Recovery in the Latin Americas and Caribbean” Conference (2009); In-house Training on Regulating Casinos (2009); Advanced Financial Crime Prevention Symposium & Training Course for the Caribbean and the Americas (Antigua & Barbuda 2009); CFATF’S Mutual Evaluation Examiners Training Workshop (Trinidad and Tobago 2009); the Eastern Caribbean FIU Workshop: Enhancing Capacity and Cooperation to Combat Money Laundering and Terrorism Financing (2009). The legal counsel has been certified as a legal examiner/assessor of the CFATF and one police officer is certified in a Financial Investigations Course done by the Canadian Police College in Ontario, Canada.

Recommendation 32 (Statistics)

222. As already mentioned sections 16 and 17 of the MLTPA provides for the FIU to be furnished with information necessary to carry out its functions and the FIU is required under sections 17 and 18 of the FIUA to keep records that would assist in the production of its annual reports and proper accounting.
223. Presently, the FIU does manual filing of STRs and it can be difficult to process and provide the pertinent feedback to financial institutions. Sorting through stored hard copied data for analysis can be time consuming. There is need for a programme where information from the STRs can be entered, sorted according to established parameters and accessible by appropriate users.
224. The following tables present statistics on the numbers of STRs submitted to the FIU for the review period 2007-2009.

Table 9: Number of STRs submitted to FIU for period 2007-2009

| STRs | 2007 | 2008 | 2009 | Total |
|---|-------------|-------------|-------------|--------------|
| Received | 46 | 50 | 62 | 158 |
| Closed | 28 | 36 | 22 | 86 |
| Data. forwarded to foreign jurisdiction | 25 | 20 | 13 | 58 |
| Pending (still under investigations) | 18 | 14 | 40 | 72 |

Table 10: Breakdown of STRs by type of reporting institution for period 2007-2009

| Type of Disclosing Institution | 2007 | 2008 | 2009 | |
|---------------------------------------|-------------|-------------|-------------|--|
| | | | | |

| | | | | |
|---|----|----|----|-----------|
| Lawyers | 0 | 0 | 1 | 1 |
| International Financial Service Providers | 2 | 2 | 2 | 6 |
| Domestic Banks | 22 | 29 | 36 | 87 |
| Offshore Banks | 19 | 18 | 20 | 57 |
| Money Service Business | 1 | 0 | 2 | 3 |
| Other | 2 | 1 | 1 | 4 |

225. Statistics maintained in furtherance of local and foreign requests above, also contains “Type of Offence” and a “Country” fields. The statistics maintained are not comprehensive and do not contain sufficient fields to assist in further analysis, the identification of trends and typologies, property frozen, STRs analysed etc. In addition to the above figures, 6 investigations, 9 arrests, 3 prosecutions and 1 money laundering conviction early in January 2010 were reported for the same period.
226. The number of STRs reported for the period is low and is concentrated in the banking sector with domestic and offshore banks accounting for over 90% of the submitted STRs. In 2009, AML/CFT Training was provided to all casinos on Belize by the Director of the FIU and a one day seminar was done for credit unions.
227. The FIU maintains statistics on the number and disposition of STRs filed, number of investigations, arrests, prosecutions and convictions, seizures, restraints, forfeiture and foreign requests received.

2.5.2 Recommendations and Comments

228. Belize should consider providing a more secure location for its FIU, since information held at the FIU may be accessed by persons other than FIU staff, since the security officers of the Central Bank building has access to the FIU offices after work hours.
229. Belize should consider relocating the FIU to a larger office space with greater storage capacity to facilitate expansion and greater efficiency within the Unit.
230. The FIU should consider providing examiner specific training to FIU staff to facilitate them in carry out their functions as Supervisory Authority.
231. The FIU should consider providing its own IT service by either employing an IT Administrator or training someone in-house to carry out these functions in order to remove the reliance on Central Bank IT staff.
232. The FIU should consider removing internet access from its server on which sensitive data and information is stored and establish a system where their server is stand alone. Consideration should be given to storing the FIU’s server backups offsite.
233. Belize should consider augmenting the staff at the FIU to allow it to effectively carry out its functions relative to ML, TF, Persecutor and that of Supervisory Authority.

234. The FIU should consider the implementation (procurement) of a database system to store its STR and other data as well as analytical tools to assist its Financial Investigators with their analysis.
235. Measures should be considered to ensure the operational independence of the FIU.
236. The FIU should consider implementing a mechanism that allows for the provision of some level of feedback to financial institutions and DNFBPs that pertains to STRs submitted to it, requests made of these institutions, and the provision of information that contains trends, statistics and typologies.
237. The FIU should consider making its Annual Report public and include statistics, typologies and trends as well as information regarding its activities in it.

2.5.3 Compliance with Recommendation 26

| | Rating | Summary of factors relevant to s.2.5 underlying overall rating |
|------|--------|---|
| R.26 | PC | <ul style="list-style-type: none"> • Minimal security arrangements for custody of information with main vulnerabilities being security and IT support provided by personnel not in the employ of the FIU. • Minimal feedback provided to financial institutions and DNFBPs by the FIU in relations to STRs filed or requests made of the institutions. • No publicly released periodic reports which include statistics, typologies and trends as well as information regarding activities. • Operational independence of the FIU is vulnerable to external influence |

2.6 Law enforcement, prosecution and other competent authorities – the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27 & 28)

2.6.1 Description and Analysis

Recommendation 27

238. Section 7(1)(a) of the FIUA requires the FIU to investigate and prosecute financial crimes which are defined to include among other things any offence under the licensing statutes governing the operations of domestic and offshore financial institutions. The statutes also include the former MLPA which has been replaced by the MLTPA. Furthermore section 84(1) of the MLTPA stipulates that no prosecution of an offence under the Act can be instituted without the consent of the DPP or the FIU. Finally, section 84(3) of the MLTPA provides for the coordination of the DPP, the FIU and the Commissioner of Police in the investigations and prosecution of offences.

239. In the context of the above provisions, the FIU has taken the lead in the investigation and prosecutions of ML cases in Belize. Given the FIU's severe limitations in relation to inadequate staff, limited technical resources and inappropriate and inadequate space, the Unit has sought and obtain cooperation from the Police Force in carrying out exercises involving arrests and seizure of property. The FIU maintains custody of any seized cash in a safe in the Director's office. Additionally, Police, Customs and Immigration will refer any case that may involve possible money laundering or financial crime to the FIU.
240. There are no legal provisions in Belize that specifically provides for the postponing and waiving of an arrest or seizure of money for the purpose of identifying persons or gathering evidence during the course of money laundering investigations. However, it is the opinion of the authorities that the broad powers allowed to the Director of the FIU can give effect to these measures. It is noted that subsection 11(1)(d) of the MLTPA gives the FIU the authority to instruct any reporting entity to take such steps as maybe appropriate to facilitate any investigation or proceeding for a money laundering offence or for terrorist financing and subsection 16(5)(a) of the MLTPA obliges reporting entities to comply with any instruction of the FIU issued pursuant to subsection 11(1)(d). This provision does seem to allow for the possibility of the FIU instructing a reporting entity to continue a relationship with a suspect in order to gather further evidence in an investigation. This technique has not been used by the authorities in Belize.
241. While there are no written procedures or statutes that makes explicit provision for the use of a wide range of special investigative techniques when conducting investigations of ML or FT the Belize Police Force indicated that controlled deliveries have been used in the past and the Director of the FIU is of the view that these can be utilised when required. In addition, section 34 of the MLTPA allows a police officer or authorised officer of the FIU to apply *ex parte* to a judge for an interception of communications order to obtain evidence of the commission of a ML, FT offence or proceeds of crime. No application for such an order has been made by the FIU. .
242. As already noted, under the FIUA, the FIU is responsible for the investigation and prosecution of financial crime and is the only specialised agency in Belize with persons trained in the investigation of the proceeds of crime. There has been no review of ML and FT methods, techniques and trends by the FIU or other authorities.

Recommendation 28

243. Under the MLTPA and the FIUA the FIU has powers to be able to compel production of, search persons or premises for, and seize and obtain records or information for conducting investigations of ML, FT and predicate offences.. . These powers are contained in the respective provisions of the MLTPA and the FIUA and have been used on several occasions by the FIU in the carrying out of its functions.
244. Section 20 of the MLTPA provides for the FIU or a law enforcement agency to apply *ex parte* for a search warrant to enter any premises of a reporting entity to remove any document or material on the basis of failure to maintain required records or report suspicious transactions or the actual or expected commission of an ML/TF offence.

245. Section 23 of the MLTPA allows for the FIU or a law enforcement agency to apply *ex parte* to a judge for a production order to obtain documents from any person relevant to identifying, locating or quantifying tainted, recoverable or terrorist property in relation to an investigation or arrest for a serious offence. Section 27 of the MLTPA provides for a police officer or an authorized officer of the FIU under a warrant issued by a court to search land or premises for any documents as described in section 23 of the MLTPA and to seize such documents.
246. Section 28 of the MLTPA provides for a police office or authorized officer of the FIU to apply for a search warrant for a document on reasonable grounds to believe that a person has been charged with or convicted of a serious crime or is or will be involved in the commission of a serious offense. The warrant can only be issued in the following circumstances; a production order for the document has not been complied with, or will be ineffective; an investigation requires immediate access to the document without any notice to any person; and the document being sought cannot be identified or described sufficiently to obtain a production order.
247. Section 32 of the MLTPA allows a police officer or an authorized officer of the FIU to apply *ex parte* to a judge for a monitoring order directing a reporting entity to disclose information about transactions conducted through an account held by a particular person with the institution. Such an order can only be issued on the basis of reasonable grounds to suspect that the person in respect of whose account the order is sought has committed or benefited or was involved in committing or is about to commit or benefit from a serious offense.
248. In addition to the above provisions, section 10 of the FIUA allows for where the Director of the FIU has reasonable grounds to believe that a financial crime has been, is being or is about to be committed, to authorize any officer of the FIU to enter and search at all reasonable times, any premises or place of business and remove any documents or material which may provide evidence relevant to investigations being conducted by the FIU.
249. With regard to the lawful process in relation to actions to freeze and confiscate the proceeds of crime, sections 29 and 30 of the MLTPA provides for a police officer or authorized officer of the FIU to apply on specified grounds for a warrant to search for and seize tainted or terrorist property from any person.
250. Other than section 76(4) of the MLTPA providing for the FIU acting in its capacity as a supervisory authority to take witness statements on behalf of requests made by foreign jurisdictions there are no written provisions granting the FIU powers to be able to take witness statements for use in investigations and prosecutions of ML, FT and predicate offenses in Belize.

Recommendation 30 (Law enforcement and prosecution authorities only)

251. The **Major Crimes Unit (MCU)** of the Police Force of Belize is charged with the responsibility of investigating predicate offences for money laundering which include financial crimes, robberies, burglaries among others. Financial crimes would exclude those defined in the FIUA as being the responsibility of the FIU. The Unit's current staff structure is five (5) but is presently operating with one (1) Inspector, one (1) sergeant and one (1) police constable stationed in Belize City. There is another unit in Belmopan with

similar staffing constraints. There is very limited office space available to the Unit to carry out its functions. The Unit is equipped with one (1) vehicle, firearms and computers. There are no cameras, tape recorders or bullet proof vest assigned to the Unit. Training obtained by the members of the Unit is mostly on the job training; especially when collaborating with the FIU in joint investigations; legal advice is provided by the DPP on a needs basis.

252. The **Anti-Drug Unit (ADU)** of the Police Force of Belize as its name implies deals with drug offences and works closely with international partners such as the United States Drug Enforcement Agency (DEA) in Belize. There is a bilateral agreement in force with Mexico and USA which allows for the sharing of intelligence in the region. Joint regional operations are carried out with the Anti-Drug Unit and the DEA.
253. The ADU has a staff compliment of 42 persons with responsibility for the entire country of Belize (8866 square miles- land and sea). The ADU has two (2) bases; one is located in Belmopan and the other in Belize City.
254. In carrying out the work that is required of them the ADU uses the many tools at its disposal namely, its K-9 section attached to the Belize City and Belmopan Units. There are about seven (7) dogs but only two (2) are really functional. One is based in Belmopan which deals with explosives and the other in Belize City which deals with narcotics and firearms.
255. The ADU is also equipped with its own Intelligence Unit, staffed with six (6) personnel and two (2) vehicles that allow it to gather intelligence that assist in operational matters. There are a total of four (4) vehicles assigned to the ADU, one (1) in Belmopan and three (3) in Belize City.
256. The ADU is fitted with firearms, bullet proof vests, public order kits (riot gear), scan kits used to facilitate searches, night vision binoculars, binoculars, handheld and VHF radios, tape recorders and cameras. There is a maritime section of the ADU equipped with two (2) vessels separate and distinct from Coast Guard. The budget of the ADU is subsumed in that of the Police Force.
257. Notwithstanding the vehicles assigned to the ADU it faces some challenges. One of the engines on the two (2) vessels in its maritime section is non functional. There are an inadequate number of police officers assigned to the ADU to allow it to effectively police Belize's 8866 square miles of land and sea.
258. The structure staff and funding of the FIU are dealt with in section 2.5 of this report. The other prosecutorial authority for ML and FT offences in Belize is the Office of the DPP as pursuant to section 84(1) of the MLTPA. The Office of the DPP is responsible under the Constitution for the prosecution of all criminal offences in Belize. The assessment team was advised in its interview with the representative of the Office of the DPP that while the Director of the FIU does not need the authority of the DPP to prosecute matters summarily, this is necessary for the FIU to prosecute matters on indictment.
259. At the time of the mutual evaluation, the office of the DPP only prosecuted cases at the Supreme Court level. Cases in the Magistrate Court are handled by police prosecutors. The Office of the DPP works closely with the Police Force in preparing cases. The

assessors were advised that only 4 persons have been prosecuted for ML by the DPP since 1996.

260. The Office of the DPP comprised at the time of the on-site visit of 4 crown counsels, 2 senior crown counsels, and the acting DPP. There was a vacancy for one crown counsel and if the acting DPP is confirmed, there will be a vacancy for a deputy director.
261. Members of both the ADU and the MCU are required to undertake an oath of allegiance upon entry into the Police Force. There is a Unit within the Police that investigates complaints against the police namely the Internal Affairs unit. No information was available as to the number of complaints received against the Police and the number of disciplinary actions taken during the last four years.
262. The Office of the DPP is staffed by attorneys who are required to conform to a professional code of ethics which impose a high standard of integrity.
263. Members of the ADU have participated in training with Coast Guard and Belize Defence Force as well as training with the Special Forces of the United States. They have also benefited from in-service training conducted by their head of department. No ML/TF training has been received by members of the ADU or the MCU. No AML/CFT training has been received by the attorneys in the Office of the DPP.
264. No special training or educational programmes have been provided for judges and courts concerning ML and FT offences, and the seizure, freezing and confiscation of property that is the proceeds of crime or is to be used to finance terrorism. Interviewed representatives of the judiciary acknowledged the need for such training especially as more cases involving aspects of money laundering have been arising.

2.6.2 Recommendations and Comments

265. Belize should consider providing ML/TF training to members of the ADU and the MCU.
266. Belize should consider procuring an additional engine in order to make the two (2) vessels in its maritime section functional.
267. Belize should consider augmenting the ADU to allow it to effectively police Belize's 8866 square miles of land and sea. Though considerable strides have been made in the Unit's anti-drug efforts, inadequate staffing remains one of its major challenges.
268. Belize should consider providing greater office space to the MCU to facilitate it in carrying out of its functions. The ADU is equipped with one (1) vehicle, firearms and computers.
269. Belize should consider providing a wider array of technical resources to the MCU i.e. cameras, tape recorders and bullet proof vests to allow it to effectively carry out its functions.

270. Belize should consider providing training for judges and courts concerning ML and FT offences, and the seizure, freezing and confiscation of property that is the proceeds of crime or is to be used to finance terrorism.
271. Belize should consider developing a mechanism that provides training to members of the MCU on a more formal basis than what obtains currently which is mostly on the job training; especially when collaborating with the FIU in joint investigations.
272. Belize should consider taking measures, whether legislative or otherwise, that allow competent authorities investigating ML cases to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering.
273. The authorities should consider written provisions granting the FIU powers to be able to take witness statements for use in investigations and prosecutions of ML, FT and predicate offences in Belize

2.6.3 Compliance with Recommendations 27 & 28

| | Rating | Summary of factors relevant to s.2.6 underlying overall rating |
|------|--------|---|
| R.27 | PC | <ul style="list-style-type: none"> • No measures, whether legislative or otherwise, to allow competent authorities investigating ML cases to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering. |
| R.28 | LC | <ul style="list-style-type: none"> • No written provisions granting the FIU powers to be able to take witness statements for use in investigations and prosecutions of ML, FT and predicate offenses in Belize |

2.7 Cross Border Declaration or Disclosure (SR.IX)

2.7.1 Description and Analysis

274. Belize’s cross-border declaration system is captured in section 37 of the MLTPA which states that:

“ A person who enters or leaves Belize with more than ten thousand dollars in cash or negotiable instruments (in Belize currency or equivalent foreign currency) shall make a declaration regarding the existence and amount of the cash or, as the case may be, negotiable instruments being carried by that person, to an authorised officer of the Financial Intelligence Unit or to any other person or authority designated by the Financial Intelligence Unit for that purpose, and every person who fails to make such a declaration or makes a false declaration commits an offence under this Act and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars.”

275. Persons are informed of their obligation under this section by way of a Notice conspicuously placed on the glass of the Departure Tax Booth at the Phillip Goldson International Airport. Random searches are also performed by Customs on selected persons based on intelligence

276. As per the above provision a declaration form is filled out upon entry into Belize requiring the visitor to declare among other things whether he is carrying BZ\$10,000.00 or greater or its equivalent in any other currency. If a false declaration is made and cash is found a Justice of the Peace is called in to witness the procedure. The offender is cautioned and the customs infraction is explained to the offender. A custody receipt is then issued to the offender, the FIU is notified and the person is handed over to the FIU along with the cash. Cash seized by Customs is recorded in a C-300 form that is filled out and sent to the FIU. Customs provides the forms to the individual for completion and if required, assistance to complete the form is available.
277. Customs has the ability under their Customs Act to seek further information from the person in relation to its origin and intended use. Where there is suspicion of ML or TF the matter is normally referred to the FIU for investigation.
278. If it is determined that it is a reckless declaration, a BZ\$500 fine will be imposed by the Customs. The person is questioned by the senior officer at the port and may have to show proof that the funds in question are from a legitimate source.
279. Section 38 of the MLTPA states at subsection (1) that a police officer or a customs officer may seize and detain any currency which is being imported into, or exported from Belize, if the amount is not less than ten thousand dollars in Belize currency (or equivalent foreign currency); and he has reasonable grounds for suspecting that it is property derived from a serious crime; intended by any person for use in the commission of a serious crime, involved in money laundering or the financing of terrorism; or being brought into or taken out of Belize without making the declaration required under section 37 of the Act or after making a false declaration.
280. Subsection (2) states that a police officer or a customs officer may request further information from the person carrying the cash or negotiable instruments. Subsection (3) states that currency detained under subsection (1) shall not be detained for more than 72 hours after seizure, excluding weekends and public and bank holidays unless a magistrate orders its continued detention for a period not exceeding 3 months from the date of seizure, upon being satisfied that –
- (a) there are reasonable grounds for the suspicion referred to in subsection (1)(b); and
 - (b) its continued detention is justified while –
 - (i) its origin or derivation is further investigated; or
 - (ii) consideration is given to instituting in Belize or elsewhere criminal proceedings against any person for an offence with which the currency is connected.
281. Under subsection (4) a magistrate may subsequently order continued detention of the currency if satisfied but total period of detention shall not exceed 2 years from the date of the order made under that subsection.
282. Pursuant to subsection 38(5) of the MLTPA, currency detained may be released in whole or in part to the person on whose behalf it was imported or exported by order of a magistrate that its continued detention is no longer justified, upon application by or on behalf of that person and after considering any views of the Director of the FIU; or by an authorized officer, if satisfied that its continued detention is no longer justified.

283. According to subsection 38(6) of the MLTPA detained currency cannot be released if an application for forfeiture or restraint has been made or proceedings have been instituted in Belize or elsewhere against any person for an offence with which the currency is connected. On being satisfied that the property represents the proceeds of crime or property to be used in the commission of a serious crime, the magistrate shall make a forfeiture order.
284. It is noted that while the declaration system covers both currency and negotiable instruments, above provisions dealing with seizure and forfeiture refer to currency and do not include negotiable instruments. Additionally the provision for seizure has a threshold of amounts over BZ\$10,000 which suggests that amounts under this amount cannot be seized.
285. As noted above, the FIU is notified of any incident of suspicious cross-border transportation and the persons involved are handed over to the FIU along with the cash. With regard to records of information on declaration forms, the assessors were advised that at the time of the mutual evaluation, declaration forms were maintained in hard copy form. Information on these forms is available to the FIU upon request. Customs also forwards on a monthly basis to the FIU reports on all declarations which contain information on individual declarations such as values declared, passport identification, flight number, etc.
286. Customs is a part of the National Security Task Force (NSTF). The NSTF is comprised of the Commandant of National Coast Guard, Belize Defence Force, FIU, Customs Department, Police Department, Border Management Agency and the Belize Port Authority. Meetings are called on a quarterly basis. The task force looks at security issues, tourism issues and any other potential threat that might arise. Meetings of the NSTF are coordinated by the National Security Council Secretariat. ML and FT are sometimes discussed at these meetings. Strategies developed coming out of these meeting have dealt mainly with security issues. Customs also participates in monthly meetings with the Joint Intelligence Coordinating Center where information is shared among counterparts.
287. GANSEF which is a Spanish acronym for a Security Task Force (combination of Belize and Mexico Police and Customs law enforcement officials) is an additional tool used by Customs in carrying out its functions. This medium is sometimes used to share information with Mexico. There is in place an MOU between Mexico and Belize relative to the sharing of information. However, sometimes requests are made by Belize to Mexico for information but proper responses are not always forthcoming. Locally, there is close collaboration between the Special Branch of the Police with whom Customs liaise with to gather information on persons.
288. In addition to the above, the Customs Department of Belize is a member of the Caribbean Customs Law Enforcement Council (CCLEC) which comprises 38 Caribbean and Organisation for Economic Co-operation and Development (OECD) countries. The CCLEC MOU allows for the sharing of information between Custom Services of member countries. CCLEC has also established the Regional Clearance System which allows for the sharing of information on the movements of vessels between member countries.
289. As it relates to the freezing, seizing and confiscation of cash by Customs, that responsibility is left to the FIU to perform once an infraction against the law has been committed.
290. Under section 37 of the MLTPA, a person who fails to make a declaration or makes a false declaration is liable on summary conviction to a fine not exceeding BZ\$50,000. Additionally, any currency or negotiable instruments related to the offences can be seized

and eventually forfeited by the court. As a financial offence, both the FIU and the DPP can be the prosecuting authority.

291. The above penalties are applicable to legal persons since the MLTPA in section 2 defines person to include legal entities. However, there is no provision to extend liability to the directors and senior management of legal persons. As noted above, there are only two criminal penalties: a fine and forfeiture. While the fine which cannot exceed BZ\$50,000 can be considered dissuasive for individuals, it is not so for legal persons.
292. With regard to sanctions for cross-border physical transportation of currency for purpose of ML or TF, the offences in section 3 of the MLTPA would apply in relation to ML and those in sections 68 to 70 to TF.
293. Criminal penalties for ML offences committed by a natural person pursuant to section 4 of the MLTPA range from a fine of not less than BZ\$50,000 to not more than BZ\$250,000 or imprisonment for a term of not less than 5 years but not more than 10 years or both. A legal person is liable under section 4 to a fine of not less than BZ\$100,000 and not more than BZ\$500,000. Section 6 of the MLTPA extends liability of a legal person for an ML offence and concomitant penalty to any person who acted in an official capacity for a legal person.
294. Natural persons guilty of terrorist acts are liable under section 5 of the MLTPA on conviction to imprisonment for a term not less than 10 years but which may extend to imprisonment for life. A legal person or other entity is liable to a fine of not less than BZ\$500,000 but which may extend to BZ\$1,000,000. The above FT penalties for legal persons are also applicable under section 6 to any person who acted in an official capacity for a legal person. Under the MLTPA, both the FIU and the DPP can prosecute ML and FT offences.
295. With regard to confiscation of currency and negotiable instruments applying criteria 3.1 to 3.6, section 2.3 of the report details relevant provisions. In particular, section 34 of the MLTPA empowers the Supreme Court to freeze on application from the DPP or the FIU, realizable property held by an accused. Realizable property as defined in section 2 would include money, investments, holdings, possessions and assets of any kind. Section 49 of the MLTPA provides for the forfeiture of tainted property in respect of a serious crime of which a person has been convicted. Tainted property as defined includes property connected with the commission of a serious crime or proceeds of crime which extends to realizable property.
296. While section 38 of the MLTPA authorises the seizure of currency on the basis of reasonable suspicion of involvement in the financing of terrorism, section 67 provides for seizure on reasonable grounds of suspicion that the cash is intended to be used for the purposes of terrorism, belongs to or is held in trust for a terrorist organisation or represents property obtained through terrorist acts. Section 67 allows for the renewal of the detention order until either the start of proceedings for an offence in relation to the detained currency or the termination of the original grounds for seizure. Currency for the purposes of section 67 includes negotiable instruments. The provisions concerning confiscation of property related to terrorist financing as set out section 2.4 of this report would be applicable to persons who carry out physical cross-border transportation of currency.

297. The examiners were advised that the CCLEC MOU already mentioned also provides for the notification of unusual cross-border movements of precious metals and stones to Custom Services of the countries from which these items originated or to those countries to which they were destined. Countries that are members of the World Customs Organisation will receive similar notification.
298. While the Customs Department can share information with other members of CCLEC, it is not clear whether details on declaration forms are directly available on supra-national level to other relevant authorities in other countries. However, the FIU can be a gateway since it has power to access information from any government agency and the ability to share such information with foreign competent authorities.

Recommendation 30.

299. The **Customs Department** of Belize is charged mainly with the responsibility for the collection of revenue, anti-smuggling and anti-drug activities and the monitoring of cross-border activities in Belize.
300. It has a Staff of 180 officers covering six (6) districts, including the Phillip Goldson International Airport. However, because of its head count (180) it is difficult to cover all of Belize. The current Budget of the Customs Department is BZ\$3,802,247.
301. The Customs Department is equipped with a fibre optic buster tool that allows for the checking of the density in containers; it also has under carriage mirrors; firearms, drug testing kits, bullet proof vests, night vision goggles, cameras; various tools to assist in the dismantling of vehicles; vehicles and a limited amount of computers. The Customs Department works very closely with the Police since they (Customs) do not have powers of arrest. Notwithstanding the above assets, Customs still lack human resource to allow it to effectively carry out its functions; as well as sniffer dogs, vehicles and computers. Joint coordinated anti-drug activities are often conducted with the ADU.
302. There is an investigative department that serves a dual function of enforcement and investigation. The total number of staff of this Unit country wide is approximately thirty (30) officers.
303. All customs officers are required under section 6 of the Customs Regulations Act to make a declaration to honestly and faithfully execute the duties of their positions. Any officer, clerk or person working for the Customs Department found guilty of accepting any form of gratuity for services relating to their position is liable to be dismissed under section 5 of the Customs Regulations Act. In addition, section 284 of the Criminal Code stipulates that any public officer guilty of corruption, wilful oppression or extortion is liable to imprisonment for 2 years. While there is no confidentiality oath, the assessors were advised that a code of conduct including such an oath was being developed.
304. No in-depth background checks are done on officers applying to join the Customs Department. Education qualifications and a police report are submitted to the Ministry of Public Service. Customs also liaise with the Police in conducting its due diligence checks of prospective applicants.

305. For the period 2006 to April 2010, disciplinary action was taken against Customs Officers resulting in five (5) dismissals, three (3) transfers and one (1) outstanding criminal matter where the Officer has been suspended pending the outcome of the criminal matter.
306. Training in relation to money laundering and counter financing of terrorism has not been specifically provided to Customs officers. Training undergone by Customs officers includes but is not limited to Intellectual Property Enforcement, Accountability and Transparency: Preventing Corruption, Seven Nation Meeting on the Illicit Traffic and Control of Firearms, Integrity Workshop, Border Enforcement Training, Capacity Building in Combating Terrorism/Training of the Trainers and Specialists Programme, Combating Counterfeiting and Piracy.
307. The Customs Department has identified weaknesses in international cooperation, as well as local and regionally, since most of these agencies require that some form of agreement is entered into. Currently there are MOUs in place with General Sales Tax, Police, City Council and Immigration (informal arrangements).

Recommendation 32

308. No statistics were available on numbers of declarations of cross-border currency and bearer negotiable instruments from the Customs Department. The assessors therefore assume that statistics are not maintained. However, figures relating to convictions arising from failure to declare are presented below.

Table 11: Undeclared Cross-Bordering of Cash

| Date of Arrest | Offence | Status | Penalty |
|-----------------------|---------------------------|---------------|---|
| Jan 2010 | ML and Failure to Declare | Convicted | Fined BZ\$50K or in default 5 years imprisonment; Forfeiture of boat valued at US\$390K and cash in Pesos, Euros, Quetzals, and BZ\$ valued at BZ\$14K |
| Feb 2010 | Failure to Declare | Convicted | Fined BZ\$20K or in default 3 years imprisonment |
| Feb 2010 | Failure to Declare | Convicted | Fined BZ\$10K or in default 6 months imprisonment |

2.7.2 Recommendations and Comments

309. The authorities should amend the MLTPA with a provision for the restraint of negotiable instruments.
310. Section 38 of the MLTPA should be amended to allow for the seizure of currency of any amount.
311. Penalties for making a false declaration or failure to make a declaration should be extended to directors and senior management of legal persons.

312. The fine for legal persons who make a false declaration or fail to make a declaration should be made dissuasive.
313. Belize's Customs Department should consider conducting a more in-depth background checks on officers applying to join the Customs Department.
314. Belize should consider augmenting the current staff compliment of the Customs Department to allow it to effectively carry out its functions in all of Belize.
315. Belize should consider providing additional technical resources such as sniffer dogs, vehicles and computers and other equipment requested by Custom to allow it to effectively carry out its functions.
316. Belize should consider providing training to staff of the Customs Department in relation to money laundering (especially customs related offences that spawn ML cases) and terrorist financing

2.7.3 Compliance with Special Recommendation IX

| | Rating | Summary of factors relevant to s.2.7 underlying overall rating |
|--------------|---------------|---|
| SR.IX | PC | <ul style="list-style-type: none"> • No provision for restraint of negotiable instruments • Provision does not allow for the seizure of currency under amounts of BZ\$10,000. • Penalties for making a false declaration or failure to make a declaration do not extend to directors and senior management of legal persons. • The fine for legal persons who make a false declaration or fail to make a declaration is not dissuasive. |

3. PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS

General

317. The MLTPA, the Money Laundering and Terrorism (Prevention) Regulation, 1998 (MLTPR) are the laws which governs AML/CFT preventative measures applicable to the Belize financial system. The Central Bank has also issued the Money Laundering (Prevention) Guidance Notes, 1998 (Guidance Notes) to complement the AML/CFT legislative framework. At the time of review, the Guidance notes were being revised with a view to promulgate new Guidance in 2010.
318. The legislation covers customer due diligence (CDD), reporting and record keeping requirements, in addition to freezing of funds, asset forfeiture (including the establishment of a fund), disclosure and international cooperation issues. It further highlights the role and powers of both the supervisory authority and the competent authority, allowing sanctions for non-compliance with the prescribed legal requirements
319. The Belize financial system is made up of commercial banks (domestic and international), financial institutions, insurance companies, credit unions and unit trusts. The legislation prohibits money laundering and terrorism financing and outlines the standards by which financial institutions are to be supervised by the Central Bank, the IFSC and the Office of the Supervisor of Insurance as regulatory authorities, in an effort to deter money laundering and the financing of terrorism.
320. Under the Central Bank's remit, there are five licensed domestic banks, nine international banks, three financial institutions and thirteen active credit unions in Belize. The Office of the Supervisor of insurance is responsible for 13 insurance companies, 1 association of underwriters, 7 corporate insurance agents and 126 individual agents and sub-agents. At the time of the mutual evaluation the IFSC had 143 licensees comprising registered agents and companies offering trustee, international insurance, mutual funds, international asset protection, trading in securities, international money lending and brokerage consultancy services.

Scope of Money Laundering Regulations

321. The MLTPA imposes AML/CFT obligations on "reporting entities" which are defined in section 2 of the MLTPA to mean any person whose regular occupation or business is the carrying on of any activity listed in the First Schedule of the MLTPA. The scope of the activities and businesses, which are subject to the AML/CFT requirements, is consistent with the definitions of "financial institutions" and "designated non-financial business and professions" (DNFBPs) as outlined in the FATF AML/CFT regime.
322. The activities and businesses outlined in the First Schedule (Section 2) of the MLTPA are as follows:
1. Acceptance of deposits and other repayable funds from the public.
 2. Lending, including consumer credit, mortgage credit, factoring (with or without recourse) and financing of commercial transactions.
 3. Financial leasing
 4. Transfer of money or value

5. Money and currency changing (such as casa de cambio)
6. Pawning
7. Issuing and administering means of payment (such as credit and debit cards, traveller's cheques, money orders, banker's drafts and electronic money).
8. Issuing financial guarantees and commitments
9. Trading for own account or for account of customers in money market instruments (such as cheques, bills, certificates of deposit, derivatives), exchange and interest rate instruments, transferable securities and commodity futures trading.
10. Credit unions
11. Participation in securities issues and the provision of financial services related to such issues
12. Advice to undertakings on capital structure, industrial strategy and related questions, and advice and services relating to mergers and the purchase of undertakings.
13. Portfolio management and advice whether individual or collective.
14. Safekeeping and administration of securities
15. Safekeeping and administration of cash or liquid securities on behalf of other persons
16. Otherwise investing, administering or managing funds or money on behalf of other persons
17. Gambling houses
18. Casinos.
19. Internet Casinos or Online Gaming
20. Buying or selling of gold bullion
21. Insurance business
22. Venture risk capital
23. Unit trusts.
24. A trust or company service provider not otherwise covered by this schedule, which as a business, provides any of the following services to third parties:
 - (a) acting as a formation agent for legal persons;
 - (b) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons
 - (c) providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
 - (d) acting as (or arranging for another person to act as) a trustee of an express trust;
 - (e) acting as (or arranging for another person to act as) a nominee shareholder for another person.

25. International (or Offshore) banking business as defined in the International Banking Act.
26. Lawyers, notaries, other independent legal professionals, accountants, auditors and tax advisers, when they prepare for or carry out transactions for their clients concerning the following activities:
 - (a) buying and selling of real estate;
 - (b) managing of client money, securities or other assets
 - (c) managing of bank, savings or securities accounts
 - (d) organisation of contributions for the creation, operation or management of companies;
 - (e) creation, operation or management of legal persons or arrangements, and buying and selling of business entities.
27. Dealing in real estate when the persons dealing are involved in transactions concerning the buying and selling of real estate
28. Dealing in precious metals and dealing in precious stones
29. Dealing in vehicles
30. Engaging in international financial services as defined in the International Financial Services Commission Act.

Status of Guidance Notes

323. The Guidance Notes outline inter alia, account opening requirements, general customer identification requirements, requirements for conducting transactions on behalf of another; exemptions to identification procedures; and supplementary provisions governing satisfactory identification and timing for producing such identification. The Guidance Notes were developed and promulgated by the Central Bank in its capacity as supervisor of banks, financial institutions, credit unions and unit trusts. They were designed to facilitate the implementation of the first MLPA and the MLTPR and to specifically cover all categories of banks licensed in Belize, and all deposit-taking and lending non-bank financial institutions.
324. While the language of the Guidance Notes is mandatory, there are no penalties for breaching any of the measures outlined in the Guidance Notices except for those which directly mirror requirements in legislation which have penalties. Additionally there is no legal provision which allows for the Central Bank to impose enforcement actions on financial institutions for non compliance with the Guidance Notes. As such, no penalties have ever been imposed for any breach of the non-legislative measures of the Guidance Notes.
325. While the circumstances above are applicable to licensees of the Central Bank, the Guidance Notes has also been recommended for general application to other institutions carrying out financial activities. Regulation 3 of the IFSPCCR requires all IFS practitioners to comply with the guidelines and directions issued by the Central Bank and the IFSC. An IFS practitioner is defined in section 2 of the IFSCA as any person or entity carrying on the business of international financial services as defined by the IFSCA and includes all registered agents designated under the IBCA. An IFS practitioner is a licensee of the IFSC and is subject to the supervision of the IFSC.

326. Regulation 33(1) of the IFSPCCR stipulates that a breach of any of the provisions of the regulations constitutes professional misconduct which is liable to any of the penalties or disciplinary action set out in the Third Schedule of the IFSPCCR. In accordance with the above provision a breach of the Guidance Notes by a licensee of the IFSC is liable to any one or more of the penalties in the Third Schedule of the IFSPCCR as follows:
- a. Severe reprimand
 - b. Suspend the licence of the IFS practitioner for a period not exceeding six months
 - c. Revoke such licence
 - d. Impose a fine not exceeding five thousand dollars.
327. The above penalties can be imposed by the IFSC without prejudice to the penalties that may be imposed by any other law where the conduct involved is also a criminal offence. Given the above, the Guidance Notes are enforceable on the licensees of the IFSC. However, the IFSC has never imposed any penalty on a licensee for breach of the Guidance Notes.
328. On due consideration of the above circumstances and in the context of the Methodology, the assessment team has concluded that while the Guidance Notes cannot be deemed other enforceable means for the licensees of the CBB, they are enforceable for the licensees of the IFSC.

Customer Due Diligence & Record Keeping

3.1 Risk of money laundering or terrorist financing

329. To date no assessment of the magnitude of risk of money laundering or terrorism financing has been done for the various sectors of the Belizean economy as the authorities have not yet performed a formal risk assessment. All the financial activities and businesses as defined in the MLTPA and the MLPR are therefore treated equally as regards to AML/CFT measures. Notwithstanding, the Central Bank in the supervision of the financial institutions under its remit, utilizes a risk based approach to supervision. This allows the authorities to allocate resources based on the perceived level of risk in the institutions. However, the review team was not able to verify whether the other regulators in Belize also utilize a risk-based approach in the supervision of the financial institutions under their remit as no documentary evidence was provided in this regard.
330. The Central Bank's management asserts that financial institutions are encouraged to adopt and implement a risk-based approach to money laundering and to rate customers, products/services according to the risk they pose to the institution. This general risk-based approach has been sanctioned by the Central Bank's Board of Directors in response to the global financial crisis and efforts to implement a crisis management plan to minimize the negative effects of certain shocks to the financial system.

3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)

3.2.1 Description and Analysis

Recommendation 5

331. The MLTPA sets out the CDD requirements as per Rec. 5. It is supplemented by the MLTPR and the Guidance Notes, which outline account opening requirements, general customer identification requirements, requirements for conducting transactions on behalf of another; exemptions to identification procedures; and supplementary provisions governing satisfactory identification and timing for producing such identification.

Anonymous accounts and accounts in fictitious names

332. While there is no legal provision prohibiting anonymous accounts, the requirements for account identification effectively prevents the opening of such accounts. Section 15(1) of the MLTPA requires that reporting entities establish and verify the identity of any customer by requiring the customer to produce identification or such other reliable, independent source document as may be prescribed. Additionally, Section 16(2) requires that customer accounts of a reporting entity should be kept in the true name of the account holder.

333. Both the Belizean Authorities and the management of the financial institutions interviewed during the review visit assert that it has not been the practice for financial institutions to facilitate anonymous or numbered accounts. During on-site examinations, financial institutions are requested to provide listings of customer accounts whereby the names in which accounts are held may be verified. Examiners also check account-opening documentation to verify that anonymous and fictitious name accounts are not in use at the financial institutions.

Required CDD Requirements

334. Section 15(1) of the MLTPA requires reporting entities to establish and verify the identity of any customer by requiring the customer to produce an identification record or other prescribed reliable, independent source document as set out in Section 15(2). This applies when:

- Establishing a business relationship;
- Conducting transactions equal to or above BZ\$15,000 threshold, regardless of whether they may be conducted in a single operation or several transactions that appear to be linked;
- Conducting wire transfers as set out in section 19 of the MLTPA
- There is a suspicion of money laundering or terrorist financing; or
- The reporting entity has doubts about the veracity or adequacy of previously obtained customer identification data.

335. Regulation 4 of the MLTPR also sets out the need for identification procedures for forming a business relationship or carrying out one-off transactions. However, it is noted that the one-off transaction threshold of BZ\$15,000 which is equivalent to US\$7,500 differs from the transaction threshold of BZ\$20,000, which is equivalent to US\$10,000 as stipulated in Regulation 4 of the MLTPR. This inconsistency between regulation 4 of the MLTPR and section 15(1) of the MLTPA should be corrected.

336. The authorities at the Central Bank assert that during the on-site examination, examiners conduct sample-testing of the account-opening procedures and documentation for the various products and services offered to ascertain adherence to this requirement. Customer files are reviewed to make sure that at account opening, copies of identification are obtained and information is gathered on the beneficial owners, source of funds and anticipated level of activity. These assertions were corroborated during the interviews conducted with the financial institutions during the visit.
337. As indicated above, reporting entities are generally required by section 15(1) of the MLTPA to establish and verify the identity of any customer by requiring the customer to produce an identification record or other prescribed reliable, independent source document as set out in Section 15(2). Subsection 15(3)(b) of the MLTPA allows for information relating to the person's name and address, the national identity card, social security document, passport or other applicable official identifying document to be used to adequately identify and verify the identity of a natural person.
338. Paragraph 37 of the Guidance Notes elaborates on the above obligation by requiring financial institutions in verifying the current permanent address of Belizean residents to use original documents such as voters cards, recent utility bill, telephone directory and tax bill. Additionally, financial institutions are still required to carry out verification procedures in circumstances of introduction from a respected customer or employee of the financial institution.
339. In March 2006, the Central Bank issued a notice to all institutions licensed under the BFIA requiring customers to provide specific information (including identification) to ensure proper due diligence when conducting certain transactions. Accordingly, while it is a normal practice of banks to fully comply with all CDD requirements, some of the interviewed credit unions did not fully comply. Identification and verification requirements are documented in the institution's policy manual that the assessors reviewed.
340. Customers of a financial institution are required to produce a valid social security card or passport (which are documents that are more difficult to falsify) along with a driver's licence or other photo-bearing identification. The IFSC requires reporting entities to obtain passports as the official form of identification. These records are included in the customer file and are made available for review by examiners, during on-site examination, to ensure (by sample-check) that CDD requirements are being followed.

Legal persons and legal arrangements

341. Section 15(3)(c) of the MLTPA requires that when conducting transactions with a legal entity, a reporting entity shall adequately identify the beneficial owner of such entity and take reasonable measures to identify and verify its ownership and control structure, including information relating to:
- The customer's name, legal form, head office address and identities of directors;
 - The principal owners and beneficiaries and control structure; and
 - Provisions regulating the power to bind the entity; and to verify that any person purporting to act on behalf of the customer is so authorised, and identify those persons.

342. As per Regulation 5(7) of the MLTPR, evidence that reasonable due diligence concerning the identification of a body corporate, its owners and controllers have been carried out is sufficient. The above provisions are not specific with regard to obtaining proof of incorporation or similar evidence of establishment of existence as part of the verification of the identity of corporate entities. Additionally, legal arrangements such as trusts are not included in the provisions.
343. It is noted that regulation 13(2) of the IFSPCCR requires IFS practitioners to obtain a copy of the certificate of incorporation and where applicable, certificate of change of name, certificate of good standing and a properly authorised mandate of the company to establish the business relationship.
344. Paragraph 53 of the Guidance Notes requires that before a business relationship is established for a corporate customer, measures should be taken by way of a company search and/or other enquiries that the applicant company has not been, or is not in the process of being dissolved, struck off, wound-up or terminated.
345. Paragraph 54 of the Guidance Notes requires that the original or certified copy of the certificate of incorporation and the memorandum and articles of association should be obtained for companies registered in Belize. A similar requirement for opening accounts for non-Belizean companies is stated in paragraph 56.
346. The assessors were advised that during on-site examination, examiners ensure that institutions obtain copies of the identification of signatories on the account, certificate of incorporation and a resolution from the legal entity's board of directors authorizing specific persons to conduct transactions on behalf of the entity. Such documentation form a part of the financial institution's records provided to examiners.

Beneficial ownership

347. As already mentioned section 15(3)(c) of the MLTPA further requires financial institutions to adequately identify beneficial owners of legal entities and take reasonable measures to identify and verify ownership and control structure of such entities. Beneficial owner is defined in section 2 of the MLTPA to mean a natural person who ultimately owns or controls a customer, the person on behalf of whom a transaction is conducted or the person who exercises ultimate control over a legal person or legal arrangement. Furthermore section 15(4) of the MLTPA stipulates that where it appears to a reporting entity that an applicant for a business relationship or transaction is acting on behalf of another person, the reporting entity shall establish the true identity of any person on whose behalf or for whose ultimate benefit the applicant maybe acting, whether as a trustee, nominee, agent or otherwise. Regulation 7(2) of the MLTPR requires that reasonable measures be taken to establish the identity of any person on whose behalf the applicant for business is acting.
348. While the above provisions require financial institutions to understand the ownership and control structure of a customer and determine who are the natural persons that ultimately own or control the customer, this is limited to legal persons and does not include legal arrangements such as trusts.
349. Account-opening procedures discussed with financial institutions during the review, indicate that beneficial owners of accounts are identified and documented as a part of the customer profile. The supervisory authorities also indicate that during the on-site examination process, examiners are required to sample-check that institutions are recording adequate information.

350. Section 15(3)(a) of the MLTPA requires that when establishing a business relationship, a reporting entity shall obtain information on the purpose and nature of the business relationship. Financial institutions advised that these measures form part of their account opening procedures and this is verified by the regulators.

Ongoing due diligence

351. There is no requirement in legislation or regulations for financial institutions to conduct ongoing due diligence on the business relationship. However, Section 17(3) of the MLTPA requires a reporting entity to monitor its business relationships and the transactions undertaken throughout the course of the relationship to ensure that its customer identification and verification obligations are met and that transactions conducted are consistent with the information that the reporting entity has of its customer and the profile of the customer's business. While this provision requires monitoring to ensure that customer identification and verification obligations are met, this does not meet the requirement for reviews of existing records particularly for higher risk categories of customers or business relationships to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant.
352. Senior management in some of the interviewed financial institutions advised of internal procedures which require them to scrutinize an account that has a material change in the way it is operated. This would be evident where transaction flows are outside of the economic range of the account holder or is outside of the anticipated level of activity. These internal procedures however were not always evident at all the interviewed financial institutions and were particularly lacking at the credit unions. During on-site examination, examiners require financial institutions to provide verification documentation to confirm that the appropriate level of scrutiny is taking place.
353. The assessors were advised that during on-site examination, examiners sample-check customer files for adherence to CDD requirements and transactions passing through the respective accounts, to ensure that banks are aware of customer activities and are maintaining current customer profiles. Banks conduct enhanced monitoring of high risk customers and update their records as necessary where explanations validate the activity.

Risk

354. There is no requirement for financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transactions.
355. During on-site examination, examiners review the AML/CFT policy manual to ensure that it includes requirements for dealing with high risk customers. Examiners check to ensure that banks document which types of customers pose a high risk and indicate what measures are to be implemented to mitigate those risks. The names of prospective customers, as well as existing customers are checked against special databases such as World Compliance, World Check and Office of Foreign Assets Control (OFAC) Lists.
356. Financial institutions are only permitted to apply simplified or reduced CDD measures via the Guidance Notes. Paragraph 50(iii) of the Guidance Notes grants reporting entities the discretion to allow simplified due diligence in the case of accounts opened by intermediaries which are regulated financial institutions located in countries (members of FATF and CFATF) that qualify as having equivalent or more rigorous money laundering

legislation. The simplified CDD measure is obtaining a written general undertaking from the intermediary that it has obtained and recorded evidence of identity of any client who uses the account. A listing of the countries from which the intermediaries can originate is set out in Appendix VI of the said Guidance Notes.

357. Paragraph 50(iv) of the Guidance Notes further requires that where the intermediary is from a country without equivalent money laundering legislation, financial institutions are required to take reasonable measures to establish the identity of the underlying client. What is reasonable will depend on the circumstances of each case having regard to the nature of the intermediary and the degree of confidence in his integrity, the type of business being transacted by the client and any legal prohibitions that would preclude the intermediary from divulging client information. If there are reasonable grounds to suspect that the intermediary is simply acting as a “front”, a general undertaking that the identity of clients has been obtained will not be adequate and full verification procedures will be required if the account opening and/or transactions are to proceed. It should be noted that the above measures being part of the Guidance Notes are not considered other enforceable means except for IFSC licensees.
358. There is no requirement prohibiting simplified CDD measures whenever there is suspicion of money laundering or terrorist financing or specific higher risk scenarios.
359. Section 15(2)(a) of the MLTPA requires reporting entities to identify and verify the identity of any customer when a business relationship is established or a one-off transaction is carried out in accordance with the requirements of criterion 5.4. Regulation 5 of the MLTPR requires the production by the applicant for business or one-off transaction of satisfactory evidence of identity as soon as reasonably practicable after contact with a financial institution. Regulation 9(1) of the MLTPR stipulates that evidence of identity is satisfactory if it is reasonably capable of establishing that the applicant is the person whom he claims to be or the person who obtains the evidence is reasonably satisfied with the evidence. Regulation 9(2) of the MLTPR specifies that in determining the time period in which satisfactory evidence of a person’s identity has to be obtained, all the circumstances should be taken into account including;
- The geographical locations of the parties;
 - Whether it is practical to obtain the evidence before commitments are entered into or money changes hands;
 - The nature of the business relationship or one-off transaction, and
 - In the case of a one-off transaction, the earliest stage at which there is reasonable grounds for believing that the total amount is Belize\$20,000 or equivalent in foreign currency.
360. It is noted that paragraph 22 of the Guidance Notes in commenting on the above requirements states that a bank can start processing the business or application for opening an account immediately, provided that it promptly takes appropriate steps to verify the customer’s identity. The above provisions appear to allow for the completion of the verification of the identity of the applicant following the establishment of the business relationship once it occurs as soon as reasonably practicable and it is not practical given the normal flow of business. However there is no requirement for the money laundering

risks to be effectively managed as required by the FATF criteria. Additionally, there is no requirement for the financial institution to adopt risk management procedures concerning the conditions under which a customer may utilise a business relationship prior to verification.

Failure to satisfactorily complete CDD

361. Sub regulation 5(1) of the MLTPR stipulates that if satisfactory evidence of identity of a customer is not obtained as soon as reasonably practicable after contact is first made the business relationship or one-off transaction in question should not proceed any further. There is no requirement for the financial institution to consider making a suspicious transaction report.
362. In the case of existing customers, according to Section 15(9)(c) of the MLTPA, if a reporting entity is unable to verify the identity of a customer within six months of the commencement of the MLTPA, the reporting entity is required to terminate the business relationship with such a customer. There is no requirement for the consideration of making a suspicious transaction report. In cases where satisfactory evidence of identity is not obtained as soon as reasonably practicable sub regulation 5(1)(b) of the MLTPR requires that the business relationship or one-off transaction in question should not proceed any further. Similarly there is no requirement for the consideration of making a suspicious transaction report. With regard to where a financial institution has doubts about the veracity or adequacy of previously obtained customer identification there are no provisions mandating the termination of the relationship and considering making a suspicious transaction report on failure to renew customer identification.
363. Section 15(9) of the MLTPA states that a reporting entity should verify the identity of existing customers within six months from the commencement of the Act, with allowances for the FIU to extend this period for a further six months in special circumstances. Thereafter, if a reporting entity is unable to verify the identity of a customer, the reporting entity shall terminate the business relationship with such a customer.
364. As to the application of the above provision to verify the identity of existing accounts, all financial institutions have sought and received the required extension to facilitate this.
365. Since the identification requirements as already noted in the MLPTA effectively prohibits anonymous accounts or accounts in fictitious names, and according to the interviews with financial institutions and the supervisory authorities there are no such accounts in Belize, there is no need for a CDD requirement for such existing accounts.

Recommendation 6

366. FATF defines a PEP as a foreign senior political figure², their immediate family and close associates. The MLTPA goes a step further by including both local and foreign persons in

² A senior political figure is a senior figure in the executive, legislative, administrative, military or judicial branches of a government, political party, or a senior executive of a government-owned corporation. It includes any corporate entity, partnership or trust relationship that has been established by, or for the benefit of a senior political figure.

the definition of a PEP. It sets out CDD requirements when establishing relationships or conducting transactions with such customers.

367. Financial institutions are therefore required to define PEPs according to the MLTPA. As such, upon on-site examination, examiners require financial institutions to demonstrate the due diligence checks undertaken for example, using World Check, World Compliance or other designated databases to verify the customer's PEP status. Given the relatively small population in Belize, a financial institution or credit union can easily access information on the immediate family members of domestic PEPs via the media or by personal knowledge of a customer. In determining who is a close associate, a licensee need only have regard to any information which is in its possession, or which is publicly known.
368. Subsection 15(3)(d)(i) of the MLTPA requires reporting entities to have appropriate risk management systems to determine if a customer or beneficial owner is a politically exposed person and if so, adequately identify and verify his identity.
369. The Central Bank as supervisor of banks, financial institutions and credit unions require that examiners ensure that the information collected on a PEP should include:
 - (a) Estimated net worth, including financial statements;
 - (b) Information on immediate family members or close associates having transaction authority over the account; and
 - (c) References or other information to confirm the reputation of the client.
370. Upon on-site examination, examiners also verify whether financial institutions conduct checks to ascertain whether a customer is a PEP before opening an account. In addition, checks are made to determine whether the bank is adhering to its own AML policy manual, which includes measures that must be undertaken to mitigate the risk of having such customers.
371. Subsection 15(3)(d)(ii) of the MLTPA requires reporting entities to obtain the approval of senior management before establishing a business relationship with the PEP. There is no requirement for the senior management of a reporting entity to approve continuing a relationship with an existing customer who subsequently becomes or is found to be a PEP.
372. Requirements for establishing and maintaining business relationships with a PEP are normally included in a financial institution's internal AML policy manual and adherence is verified by examiners at the time of on-site examination.
373. With regard to the FATF requirement for financial institutions to take measures to establish both the source of wealth and the source of funds of PEPs, subsection 15(3)(d)(iii) of the MLTPA requires reporting entities to take reasonable measures to establish the source of funds and source of property of customers and beneficial owners identified as PEPs. Financial institutions obtain information on the source of funds and source of wealth of all customers, including PEPs at account opening. This is verified during on-site examination.

374. With regard to the requirement for enhanced ongoing monitoring, subsection 15(3)(d)(iv) of the MLTPA requires reporting entities in a business relationship with a PEP to conduct regular enhanced monitoring of the business relationship. Evidence gathered during the review suggests that scrutiny of particular accounts is normally undertaken by the Compliance Officer through the use of internal transaction reports. Queries which are verified and documented by the Compliance Officer are available for the perusal of examiners upon on-site examination.
375. As already noted domestic PEPs are subject to the requirements of R.6, since section (2)(1) of the MLTPA defines a PEP as “any individual who is or has been entrusted with prominent public functions in Belize or in another country or territory, including Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials including family members or close associates of the politically exposed person.”
376. To date, Belize has not ratified the United Nations Convention Against Corruption; however the authorities have mandated the relevant government ministries and agencies to study the convention with a view towards ratification.
377. The above measures incorporate all FATF requirements except for a financial institution requiring senior management approval to continue a relationship with an existing customer who subsequently becomes or is found to be a PEP. At the time of the mutual evaluation, this requirement was incorporated in the proposed AML/CFT Guidelines which were issued subsequently. With regard to implementation, while most financial institutions that were interviewed did have policies and procedures incorporating the requirements for PEPs, some banks and credit unions did not have in place systems to determine whether a potential customer, a customer or the beneficial owner is a PEP.

Recommendation 7

378. The Belizean authorities advised that banks in Belize do not open correspondent bank accounts for foreign banks since banks in Belize function as respondent banks and not correspondent banks. Nevertheless, systems have been put in place to address this issue. The proposed AML/CFT Guidelines addresses respondent banking relationships as well. Senior management approval of correspondent banking relationships is hinged on the institution’s risk assessment of their counterpart’s AML/CFT detection systems.
379. In relation to cross-border correspondent banking relationships, subsection 15(6)(a)(i) of the MLTPA requires a financial institution to adequately identify and verify respondent institutions with whom it conducts such a business relationship. Subsection 15(6)(a)(ii) requires financial institutions to gather sufficient information about the nature of the business of the person or entity. Subsection 15(6)(a)(iii) requires financial institutions to determine from publicly available information the reputation of the person or entity and the quality of supervision to which the person or entity is subject to.
380. Subsection 15(6)(a)(iv) of the MLTPA requires financial institutions to assess the person’s or entity’s anti-money laundering and terrorist financing controls while subsection 15(6)(a)(v) requires the approval of senior management before establishing a new correspondent relationship. Further subsection 15(6)(a)(vi) of the MLTPA requires the documentation of the responsibilities of the financial institution and the person or entity.
381. Where the relationship is a payable-through account, under section 15(6)(b) of the MLTPA financial institutions must ensure that the person or entity with whom it has established the

relationship has verified the identity of and performed on-going due diligence on such of that person's customers that have direct access to accounts of the financial institution and is able to provide the relevant customer identification data upon request to the financial institution.

382. The above measures implement all of the FATF requirements except for the need to ascertain whether a respondent institution has been subject to a money laundering or terrorist financing or regulatory action.

Recommendation 8

383. The authorities in Belize have asserted that there has been rapid growth of financial business in the country by electronic means. This increased emphasis on non-face-to-face business has increased the risk of criminal access to the financial system. There are no provisions in the MLTPA to require financial institutions to have policies in place or to take measures to prevent the misuse of technological developments in money laundering or terrorism financing schemes. Additionally, the MLTPA does not contemplate the requirement for financial institutions to have in place policies and procedures to address specific risks associated with non-face to face business relationships or transactions, particularly when establishing customer relationships and when conducting ongoing due diligence. However, this is being contemplated in the proposed AML/CFT Guidelines, which will require licensees to implement certain measures to prevent the misuse of technological developments to facilitate money laundering or terrorist financing.
384. During onsite reviews, examiners carry out procedures to ensure that financial institutions put in place measures for managing risks regarding specific and effective CDD procedures that apply to non-face to face customers. Examiners also verify that identification documentation and references are notarized for authenticity.

3.2.2 Recommendations and Comments

Recommendation 5

385. Regulation 4 of the MLTPR and section 15(1) of the MLTPA should be amended to correct the inconsistency in the transaction threshold.
386. Financial institutions should be required to obtain proof of incorporation or similar evidence to verify legal status of corporate entities.
387. Financial institutions should be required to verify legal status of legal arrangements such as trusts.
388. Financial institutions should be required to take reasonable measures to understand the ownership and control structures of legal arrangements or determine who are the natural persons that ultimately own or control legal arrangements.
389. Financial institutions should be required either in legislation or regulations to conduct ongoing due diligence on business relationships.

390. Financial institutions should be required to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.
391. Financial institutions should be required to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction.
392. Simplified CDD measures should be prohibited when there is a suspicion of money laundering or terrorist financing or specific higher risk scenarios.
393. Financial institutions should be required when completing the verification of the identity of the customer and beneficial owner following the establishment of the business relationship to ensure that the money laundering risks are effectively managed.
394. Financial institutions should be required to adopt risk management procedures concerning the conditions under which a customer may utilise a business relationship prior to verification.
395. Financial institutions should be required to consider making a suspicious transaction report when terminating an application for a business relationship or a one-off transaction due to inability to identify and verify the identity of the applicant.
396. Financial institutions should be required to consider making a suspicious transaction report when terminating an existing account due to inability to identify and verify the identity of the applicant.
397. Financial institution which have doubts about the veracity or adequacy of previously obtained customer identification should be required to terminate the relationship and considering making a suspicious transaction report on failure to renew customer identification.

Recommendation 6

398. Financial institutions should be required to obtain senior management approval to continue a business relationship with an existing customer or beneficial owner who subsequently becomes or is found to be a PEP.
399. Authorities should ensure that all financial institutions in Belize have in place systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person.

Recommendation 7

400. Financial institutions should be required to ascertain whether a respondent institution has been subject to a money laundering or terrorist financing investigation or regulatory action.

Recommendation 8

401. Financial institutions should be required to have policies in place or to take measures to prevent the misuse of technological developments in money laundering or terrorism financing schemes.
402. Financial institutions should be required to have in place policies and procedures to address specific risks associated with non-face to face business relationships or transactions, particularly when establishing customer relationships and when conducting ongoing due diligence.

3.2.3 Compliance with Recommendations 5 to 8

| | Rating | Summary of factors underlying rating |
|-----|--------|--|
| R.5 | NC | <ul style="list-style-type: none"> • No requirement for financial institutions except for IFS practitioners to obtain proof of incorporation or similar evidence to verify legal status of corporate entities. • No requirement for financial institutions to verify legal status of legal arrangements such as trusts. • No requirement for financial institutions to take reasonable measures to understand the ownership and control structures of legal arrangements or determine who are the natural persons that ultimately own or control legal arrangements. • No requirement in legislation or regulations for financial institutions to conduct ongoing due diligence on business relationships. • No requirement for financial institutions to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships. • No requirement for financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction. • No requirement prohibiting simplified CDD measures where there is a suspicion of money laundering or terrorist financing or specific higher risk scenarios. • No requirement for financial institutions when completing the verification of the identity of the customer and beneficial owner following the establishment of the business relationship for the money laundering risks to be effectively managed. • No requirement for a financial institution to adopt risk management procedures concerning the conditions under which a customer may utilise a business relationship prior to verification. • No requirement for financial institutions to consider making a suspicious |

| | | |
|------------|-----------|--|
| | | <p>transaction report when terminating an application for a business relationship or a one-off transaction due to inability to identify and verify the identity of the applicant.</p> <ul style="list-style-type: none"> • No requirement for financial institutions to consider making a suspicious transaction report when terminating an existing account due to inability to identify and verify the identity of the applicant. • Financial institution which have doubts about the veracity or adequacy of previously obtained customer identification are not required to terminate the relationship and considering making a suspicious transaction report on failure to renew customer identification. • Unable to assess effectiveness of application of CDD measures to existing customers. |
| R.6 | LC | <ul style="list-style-type: none"> • No requirement for the senior management of a reporting entity to approve continuing the relationship with an existing customer who subsequently becomes or is found to be a PEP. • Some institutions did not have systems to determine whether a potential customer, a customer or beneficial owner is a politically exposed person. |
| R.7 | LC | <ul style="list-style-type: none"> • No requirement for financial institutions to ascertain whether a respondent institution has been subject to a money laundering or terrorist financing investigation or regulatory action. |
| R.8 | NC | <ul style="list-style-type: none"> • No requirement for financial institutions to have policies in place or to take measures to prevent the misuse of technological developments in money laundering or terrorism financing schemes. • No requirement for financial institutions to have in place policies and procedures to address specific risks associated with non-face to face business relationships or transactions, particularly when establishing customer relationships and when conducting ongoing due diligence. |

3.3 Third parties and introduced business (R.9)

3.3.1 Description and Analysis

403. Section 15(7) of the MLTPA address particular requirements to mitigate risks involved in allowing reliance on introducers, intermediaries and other third parties to undertake identification, verification and other CDD measures. There is no requirement for financial institutions to immediately obtain from the third party the necessary information concerning the elements of the CDD process in criteria 5.3 to 5.6. The first obligation as set out in subsection 15(7)(a) of the MLTPA stipulates that a reporting entity must be satisfied that the third party is able to provide copies of identification data and other documents relating to the CDD obligations for the identification and verification of customers as detailed in specific parts of section 15 of the MLTPA without delay.

404. The only other requirement for introduced business is subsection 15(7)(b) of the MLTPA which obliges a reporting entity to satisfy itself that the third party or intermediary is regulated and supervised and has measures in place to comply with the customer due diligence and record-keeping requirements as set out in sections 15 and 16 of the MLTPA respectively. Sections 15 and 16 of the MLTPA deal with CDD measures as required in Rec. 5 and record-keeping obligations as set out in Rec. 10 respectively. The above provision for third parties or intermediaries to be regulated and supervised is general in nature. No guidance has been offered as to the specific features of a supervisory regime that should be considered as set out in Recs. 23, 24 and 29 and required by FATF standards.
405. The only reference to countries where third parties that meet conditions can be based is in the section of the Guidance Notes dealing with client accounts opened by intermediaries. As part of reasonable measures to establish the identity of any person on whose behalf an intermediary is acting subparagraph 50(iii) of the Guidance Notes states that regulated financial institutions from countries which have equivalent or more rigorous money laundering legislation than Belize can provide a general undertaking in writing that recorded evidence of the identity of any underlying client has been obtained. Countries that qualify as having equivalent or more rigorous money laundering legislation are members of the FATF and the CFATF as listed in Appendix VI of the Guidance Notes. The assumption behind the list that all members of the FATF and the CFATF are adequately applying the FATF Recommendations is erroneous as demonstrated by the FATF Public Statement regarding AML/CFT deficiencies in countries. Financial institutions may also refer to the various lists of non-designated countries or territories as published by FATF, FSRBs, the IMF or the World Bank.
406. Neither the MLTPA nor the Guidance Notes has provision stipulating that the ultimate responsibility for customer identification and verification should remain with the financial institution relying on the third party.
407. The proposed AML/CFT Guidelines encapsulates this issue by stating that although a licensee may rely on other regulated third parties to introduce new business in whole or in part, the ultimate responsibility remains with the licensee for customer identification and verification.

3.3.2 Recommendations and Comments

408. Financial institutions relying on a third party should be required to immediately obtain from the third party the necessary information concerning the elements of the CDD process in criteria 5.3 to 5.6.
409. Third parties or intermediaries should be regulated and supervised in accordance with the requirements of FATF Recs. 23, 24 and 29.
410. Competent authorities should take into account information available on countries which adequately apply FATF Recs. in determining which countries third parties can be based.
411. The ultimate responsibility for customer identification and verification should remain with the financial institution relying on the third party.

3.3.3 Compliance with Recommendation 9

| | Rating | Summary of factors underlying rating |
|-----|--------|---|
| R.9 | NC | <ul style="list-style-type: none"> • Financial institutions relying on a third party are not required to immediately obtain from the third party the necessary information concerning the elements of the CDD process in criteria 5.3 to 5.6. • The requirement for third parties or intermediaries to be regulated and supervised does not specify this in accordance with the FATF Recs. 23, 24 and 29. • Competent authorities do not take into account information available on countries which adequately apply FATF Recs. in determining which countries third parties can be based. • Current legislation does not address the FATF requirement for the ultimate responsibility for customer identification and verification to remain with the financial institution relying on the third party |

3.4 Financial institution secrecy or confidentiality (R.4)

3.4.1 Description and Analysis

412. In order to ensure that no financial institution secrecy law inhibit the implementation of the FATF Recommendations, section 81 of the MLTPA overrides secrecy obligations by stating that subject to the provisions of the Belize Constitution, the provisions of the MLTPA shall have effect notwithstanding any obligation to secrecy or other restriction upon the disclosure of information imposed by any law or otherwise. In addition to this general provision, measures relating to individual authorities have also been enacted.
413. Subsection 11(1)(k) of the MLTPA gives the FIU the authority to request information from any reporting entity, supervisory authority, law enforcement agency and other domestic government agency, without the need for agreements or arrangements. Notwithstanding this provision, subsection 11(1)(o) of the MLTPA allows the FIU to enter into any agreements or arrangements with any domestic government institution or agency regarding the exchange of information.
414. The Central Bank under sector-specific legislation can access information from its licensees. Section 27(1) of the BFIA requires licensees under the BFIA to submit to the Central Bank such financial information and other statements of condition etc and other information within a period of time specified by the Central Bank. Additionally, under section 33(2) of the BFIA, Central Bank examiners in making an examination of a licensee can request any necessary information. Licensees under the BFIA comprise domestic commercial banks and non-bank financial institutions.
415. Section 31(2) of the IBA grants the Central Bank the authority to request any information from any licensee with respect to its operations and the licensee is required to supply such information within such period as the Central Bank may require. Licensees under the IBA are offshore international banks.
416. Section 58(c) of the CUA requires the Board of Directors of every credit union to furnish the Registrar of Credit Unions with monthly returns and such other information as may be required from time to time. Credit unions were brought under the supervision of the

Central Bank by the Credit Unions (Amendment) Act, 2005 which amended section 5 of the CUA by designating the Governor of the Central Bank as the Registrar of Credit Unions.

417. Section 52 of the IA gives the SOI the authority to request any company licensed under the IA to provide at such time and in such manner information in connection with its insurance business.
418. Regulation 23 of the IFSPCCR gives the Director General of the IFSC the authority to demand information about beneficial ownership or any other information necessary to facilitate criminal investigation, prosecution, or proceedings from an IFS practitioner. IFS practitioners are required to comply with such request within seven days. An IFS practitioner is defined as any person or entity carrying on the business of international financial services including all registered agents, persons engaged in formation and management of international business companies and offshore trusts, offshore trustee services, international insurance services, international asset protection and management, and international collective investment schemes.
419. Information provided to the Director General as set out above can only be disclosed under sub regulation 23(4) of the IFSPCCR to a law enforcement authority, banking, regulatory or supervisory authority once the Director General is satisfied that the information is necessary for a criminal investigation, prosecution or proceedings and information to overseas regulatory bodies can only be given on the basis of reciprocity. While the regulation above allows the IFSC to access information from IFS practitioners, this access is limited to information needed in criminal investigations, prosecutions and proceedings.
420. Subsection 21(2)(f) of the MLTPA, requires the supervisory authority to cooperate with agencies performing similar functions in other countries including exchange of information. Supervisory authority as defined in the MLTPA refers to authorities which have compliance oversight over reporting entities and as listed in the Third Schedule of the MLTPA includes the Central Bank, the IFSC, the FIU, the SOI and the Supervisor of International Insurance which is the IFSC. The limitation of the IFSC in only being able to access information necessary for criminal investigations, prosecutions and proceedings from IFS practitioners would presumably mean that only this type of information can be shared with similar foreign agencies.
421. In addition to the FIU being able to share information with agencies with similar supervisory functions, subsection 11(1)(m) permits the sharing of any STR, or information derived from such a report or any other information received by the FIU with an institution or agency of a foreign state or an international organisation which has powers and functions similar to the FIU.
422. Section 76 of the MLTPA requires the Supreme Court, a supervisory authority or other competent authority to cooperate with a superior court or other competent authority of another State, taking the appropriate measures to provide assistance in matters concerning money laundering offences, terrorist financing offences and other serious crimes, in accordance with the MLTPA and within the limits of their respective legal systems.
423. There is overlap between the IFSC and the FIU. Both regulatory authorities may require information from an IFS Practitioner in respect of which request the Practitioner must comply. In practice, the FIU more frequently requests information from practitioners however from time to time the Director General of the IFSC does also exercise his right to require the provision of information by practitioners as the circumstances may require.

424. In respect of the sharing of information among domestic authorities, the FIU has the power under subsections 11(1)(b) and 11(1)(c) of the MLTPA to disseminate information to law enforcement bodies and under subsection 11(1)(n) of the MLTPA to other supervisory authorities under the MLTPA. With regard to the other supervisory authorities i.e. Central Bank, SOI, IFSC and the Ministry of Finance, there is no express provision for the sharing of information between them save as may otherwise be ordered by a court of competent jurisdiction.
425. Furthermore, Belize has signed mutual legal assistance treaties with the United States of America and with CARICOM. The Income and Business Tax Act was amended in August of 2009 to enable the Minister of Finance to enter into tax information exchange agreements. Since such amendment, Belize has entered into tax information exchange agreements with Australia, United Kingdom, Belgium and Netherlands as at the date of the mutual evaluation.
426. With regards to Recommendation 7 financial institutions are required to gather sufficient information about a respondent's business under subsection 15(6)(a)(ii) of the MLTPA. Section 15 of MLTPA details the requirements when dealing with third parties and introducers. No restriction to the sharing of information between financial institutions is imposed. Requirements for cross border and domestic wire transfers are dealt with in section 19 of the MLTPA and have no restrictions on the sharing of information between financial institutions.

3.4.2 Recommendations and Comments

427. The designated supervisory authorities, the Central Bank, SOI, IFSC and Ministry of Finance should have the power to share information among themselves.
428. The IFSC should be able to access information from its supervised entities as necessary for carrying on its functions.

3.4.3 Compliance with Recommendation 4

| | Rating | Summary of factors underlying rating |
|-----|--------|--|
| R.4 | PC | <ul style="list-style-type: none"> • No provision allowing the designated supervisory authorities the CBB, SOI, IFSC and Ministry of Finance to share information among themselves • The IFSC can only access information from its supervised entities when necessary for criminal investigations, prosecutions or proceedings |

3.5 Record keeping and wire transfer rules (R.10 & SR.VII)

3.5.1 Description and Analysis

Recommendation 10

429. Under subsection 16(1)(a) of the MLTPA, reporting entities are required to establish and maintain records of all transactions. Section 16(4) of the MLTPA stipulates that records

must be kept for a period of at least five years from the date the relevant business or transaction was completed or termination of business relationship, whichever is the later. There is no differentiation between records for domestic and international transactions. This provision would seem to require that all transactions records of a business relationship should be retained up to five years after the termination of the relationship. The authorities and interviewed institutions advised that the section is interpreted to require a retention period of five years after the date of the completed transaction. The above provision does not allow for extending the retention period by the request of a competent authority in specific cases and upon proper authority. However, section 11(1)(d) of the MLTPA empowers the FIU to instruct any reporting entity to take such steps as may be appropriate to facilitate any investigation, prosecution or proceeding for a money laundering offence or terrorist financing and section 16(5) of the MLTPA requires a reporting entity to comply with any instruction issued to it by the FIU pursuant to Section 11(1)(d). These provisions would allow for the FIU to request extension of the retention period for records.

430. In order to ensure that transaction records contain sufficient information to permit reconstruction of individual transactions, Section 16(3) of the MLTPA requires reporting entities to establish and maintain records of all transactions containing particulars sufficient to identify the name, address and occupation or, where appropriate, business or principal activity of each person conducting the transaction or if known, on whose behalf the transaction is being conducted, as well as the method used by the reporting entity to verify the identity of each such person. Additionally, information on the nature and date of the transaction, the type and amount of currency involved and the type and identifying number of any account with the reporting entity involved in the transaction must be obtained and kept.
431. Subsections 16(1)(b) and 16(1)(c) of the MLTPA require reporting entities to establish and maintain evidence of a person's identity obtained in accordance with customer identification and verification requirements, a record that indicates the nature of the evidence obtained, and which comprises either a copy of the evidence or such information as would enable a copy of it to be obtained; as well as account files and business correspondence in relation to accounts. The retention period for these records are the same as stipulated for transaction records in section 16(4) of the MLTPA with the retention period commencing with the termination of the business relationship..
432. While the FIU, the Central Bank, and the SOI have the authority to access the records of the financial institutions they are responsible for supervising under their individual statutes, there is no explicit legal provision under any of these statutes requiring financial institutions to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority. However, with regard to the IFSC, sub regulation 27(3) of the IFSPCCR requires all IFS practitioners (i.e. IFSC licensees) to prepare and store all documentation in such a manner that they are accessible within a reasonable time and readily available to comply with any court orders or directives regarding disclosure of information.
433. Most of the interviewed institutions advised the assessors that records including transaction and identification information were kept in excess of the five year minimum period stipulated in the legislation. Additionally, the Belize authorities asserted that during on-site examination, examiners verified that the compliance officer's audit includes sample-checking to ensure that records are retained for the required time period.

Special Recommendation VII

434. The requirements underpinning Special Recommendation VII applicable to cross-border and domestic transfers between financial institutions are outlined in the MLTPA. The specific requirements are not applicable according to section 19(3) of the MLTPA to an electronic funds transfer from a transaction carried out using a credit or debit card if the credit or debit card number accompanies such transaction unless the debit or credit card is used as a payment system to effect a money transfer. Additionally, electronic funds transfers and settlements between financial institutions where the originator and beneficiary of the funds transfer are financial institutions acting on their own behalf are exempt from the requirements as per section 19(4) of the MLTPA.
435. According to section (19)(1) of the MLTPA, an institution or a person that is licensed to do business in Belize as a bank or financial institution under the BFIA or the IBA or a money transmission service provider shall verify, maintain and include accurate originator information on outgoing electronic funds transfers and related outgoing messages. Additionally, section 15(1) of the MLTPA specifies that reporting entities shall identify and verify the identity of any customer by requiring an identification record or such other reliable, independent source document for any wire transfer set out in section 19 of the MLTPA. Section (19)(2) requires originator information to include name, place where the account exists and account number (or in the absence of an account number, a unique reference number). This definition of originator information does not include the originator's address as required by the FATF criterion. The above requirement does not allow for a threshold as set out in the FATF criterion and is therefore applicable to all wire transfers.
436. As noted above the requirements for originator information is applicable to all wire transfers, which would include both domestic and cross-border wire transfers. Section 19(2) of the MLTPA specifies that the originator information should be set forth in the message or payment form accompanying the transfer.
437. As per section 19(1) of the MLTPA, banks or financial institutions licensed under the BFIA or the IBA or a money transmission service provider when acting as an intermediary financial institution are required to ensure that all originator information that accompanies the wire transfer is retained with the transfer. There is no provision for a receiving intermediary financial institution to keep records (for five years) of all information received from an ordering financial institution in the case where technical limitations would prevent the full originator information that should accompany a cross border wire transfer from being transmitted with a related domestic wire transfer. However, this requirement is being contemplated under the proposed AML/CFT Guidelines.
438. While subsection 17(1)(c) of the MLTPA requires reporting entities to pay special attention to electronic funds transfer that do not contain complete originator information , there is no requirement for beneficiary financial institutions to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information. The assessors were advised that this was being contemplated as part of the proposed AML/CFT Guidelines.
439. At the time of the mutual evaluation, the Central Bank was checking the compliance of its licensees with the wire transfer requirements of the MLTPA. The Central Bank advised that during its on-site review, examiners are required to check that where licensees act as the ordering financial institution, the licensee has obtained and verified the full originator

information, i.e. the originator's name, account number (or unique identifier where the originator is not an account holder), and address for wire transfers in any amount. This is done by conducting sample checks on wire transfers.

440. The Central Bank advised that domestic wire transfers are not currently facilitated by banks in Belize. Nevertheless, a framework for these wire transfer has been incorporated in the proposed AML/CFT Guidelines. During interviews, banks and money transmission service providers advised that full disclosure of the identity of the originator and the receiver of a wire transfer must be provided prior to allowing the transaction to be completed.
441. As per Section 19(5) of the MLTPA, every person or entity that contravenes or fails to comply with the wire transfer provisions are liable to a fine of up to BZ\$10,000 by the FIU. In addition to the above penalty, the designated supervisory authority under section 22 of the MLTPA may impose the following penalties for breach of section 19:
 - a. Written warnings
 - b. Order to comply with specific instructions
 - c. Ordering regular reports from the reporting entity on the measures it is taking
 - d. Fine in the amount not less than five thousand dollars and no greater than twenty thousand dollars
 - e. Barring convicted individuals from employment within the sector
 - f. Replacing or restricting the powers of managers, directors or controlling owners, including the appointing of ad hoc administrator
 - g. Recommending to the appropriate licensing authority of the reporting entity that the reporting entity's licence be suspended, restricted or withdrawn.
442. Section 19(5) allows for the application of the penalty to both natural and legal persons (every person or entity) by a designated authority, the FIU. There is no provision for the application of the penalty to the directors and senior management of entities. Additionally, the penalty of BZ\$10,000 which is equivalent to US\$5,000 is not dissuasive particularly with regard to a financial institution.
443. The wire transfer requirements of section 19(1) of the MLTPA have no threshold and are applicable to all outgoing transfers. Therefore, only outgoing wire transfers are required to contain accurate originator information

3.5.2 Recommendations and Comments

Recommendation 10

444. Financial institutions under the supervision of the Central Bank, SOI, the FIU and the IFSC should be required to ensure that all customer and transaction records and information are available on a timely basis to all domestic competent authorities upon appropriate authority.

Special Recommendation VII

445. The definition of originator information should include the originator's address or a national identity number, customer identification number or date and place of birth.

446. A receiving intermediary financial institution should be required to keep records (for five years) of all information received from an ordering financial institution in the case where technical limitations would prevent the full originator information that should accompany a cross border wire transfer from being transmitted with a related domestic wire transfer.
447. Beneficiary financial institutions should be required to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information.
448. The fine penalty of section 19(5) of the MLTPA should be dissuasive and applicable to directors and senior management.

3.5.3 Compliance with Recommendation 10 and Special Recommendation VII

| | Rating | Summary of factors underlying rating |
|--------|--------|---|
| R.10 | PC | <ul style="list-style-type: none"> • No explicit legal provision requiring financial institutions under the supervision of the CBB, SOI and the FIU to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority. • Licensees of the IFSC are required to ensure that all documentation is accessible within a reasonable time to only court orders or court directives. |
| SR.VII | NC | <ul style="list-style-type: none"> • Definition of originator information does not include the originator's address. • No provision for a receiving intermediary financial institution to keep records (for five years) of all information received from an ordering financial institution in the case where technical limitations would prevent the full originator information that should accompany a cross border wire transfer from being transmitted with a related domestic wire transfer. • No requirement for beneficiary financial institutions to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information. • The fine penalty is not dissuasive nor is it applicable to directors and senior management. |

Unusual and Suspicious Transactions

3.6 Monitoring of transactions and relationships (R.11 & 21)

3.6.1 Description and Analysis

Recommendation 11

449. Subsection 17(1)(a) of the MLTPA requires reporting entities to pay special attention to all complex, unusual or large business transactions, or unusual patterns of transactions, whether completed or not, and to insignificant but periodic transactions, that have no apparent economic or lawful purpose.
450. Financial institutions are further required under subsection 17(2)(a) of the MLTPA, to set forth in writing the specific information regarding the transaction(s) or business relations specified in subsection 17(1)(a) of the MLTPA above, its background and purpose to the extent known, and the identity of the persons involved.
451. As per Section 17(2)(b) of the MLTPA, financial institutions are required upon request, to make available such findings documented under subsection 17(2)(a) of the MLTPA to the FIU. Section 16(1)(d) of the MLTPA requires institutions to maintain written reports compiled under Section 17 and section 16(4) requires at least 5 years retention of records maintained under Section 16(1). These provisions would require that findings are available for competent authorities and auditors for at least five years.
452. Compliance Officers are charged with the responsibility for monitoring and following up on matters which raise red flags. The background, source of funds and purpose of transactions are scrutinized. The results of these checks are documented as work papers, which are available for perusal of examiners upon on-site examination. Interviewed financial institutions advised that they incorporated a records retention policy into their AML policy manual. Most institutions keep account files for 7 years. During on-site examination, checks are made by examiners to ascertain that financial institutions are documenting their findings, regardless of whether the transaction was completed or no justification existed to escalate the matter.

Recommendation 21

453. Subsection 17(1)(b) of the MLTPA requires reporting entities to pay special attention to business relationships and transactions with persons including legal persons and arrangements, from or in jurisdictions that do not have adequate systems in place to prevent or deter money laundering or terrorist financing.
454. At the time of the mutual evaluation, there were no measures in place to ensure that financial institutions were advised of concerns about weaknesses in the AML/CFT systems of other countries.
455. Under subsection 17(2)(a) of the MLTPA, reporting entities are required to set forth in writing specific information regarding transactions or business relations as stipulated in subsection 17(1)(b) i.e. those with persons including legal persons and arrangements from or in jurisdictions that do not have adequate systems in place to prevent or deter money laundering or terrorist financing. The specific information required includes the background and purpose to the extent known and the identity of the persons involved in the transactions and business relations. The above provisions would of necessity cover transactions that have no apparent economic or visible lawful purpose. The above findings

are to be made available to the FIU upon request pursuant to subsection 17(2)(b) of the MLTPA

456. There was no mechanism in Belize to apply appropriate counter measures to countries that continue not to apply or insufficiently applies the FATF Recommendations.

3.6.2 Recommendations and Comments

457. Measures should be put in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries.

458. A mechanism should be in place to apply appropriate counter measures to countries that continue not to apply or insufficiently applies the FATF Recommendations.

3.6.3 Compliance with Recommendations 11 & 21

| | Rating | Summary of factors underlying rating |
|------|--------|---|
| R.11 | C | <ul style="list-style-type: none"> • This recommendation is fully observed. |
| R.21 | PC | <ul style="list-style-type: none"> • No measures in place to ensure that financial institutions were advised of concerns about weaknesses in the AML/CFT systems of other countries. • No mechanism to apply appropriate counter measures to countries that continue not to apply or insufficiently applies the FATF Recommendations. |

3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)

3.7.1 Description and Analysis

Recommendation 13 & Special Recommendation IV

459. As per subsection 17(4)(a) of the MLTPA, whenever a reporting entity suspects or has reasonable grounds to suspect that any transaction, proposed transaction or attempted transaction is related to the commission of a money laundering offence or terrorist financing offence or is related or linked to, or is to be used in connection with a terrorist act or for the financing of terrorism or that the funds or property are the proceeds of crime, it shall as soon as possible but not later than 3 days after forming that suspicion, and wherever possible before the transaction is carried out prepare a report of the transaction and send the report to the Financial Intelligence Unit in such form as the Director, may from time to time, approve.
460. As noted in section 1.1 of this report proceeds of crime is defined in section 2 of the MLTPA to mean property derived or obtained directly or indirectly from or in connection with a serious offence. Serious offence is defined in section 2 in part to include offences

with a maximum penalty of death or imprisonment for life or other deprivation of liberty for a period exceeding 24 months and the list of serious offences in the Second Schedule of the MLTPA. However as indicated in section 1.1 of this report with regard to Recommendation 1, serious offences do not include the following designated categories: illicit arms trafficking, extortion, piracy and insider trading.

461. With regard to the requirement to report suspected terrorist financing, the FATF criterion specifically refers to funds that are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. The requirement as stated in subsection 17(4)(a) of the MLTPA appears to exclude funds related or linked to, or to be used for terrorism or by terrorist organisations. However, the provision refers to terrorist financing offence which is defined in section 68 of the MLTPA to include among other things the collecting or providing of funds to be used in part or in whole for terrorism or by a terrorist or a terrorist organisation. This definition fully satisfies the criterion.
462. While there is no specific provision that all suspicious transactions should be reported regardless of the amount of the transactions, the requirement for reporting entities to report any suspicious transaction, proposed transaction or attempted transaction would comply with this criterion.
463. With regard to the requirement to report suspicious transactions that are thought among other things to involve tax matters while subsection 17(4)(a) of the MLTPA requires suspicious reporting on proceeds of crime, it does not specifically address this issue. As noted above proceeds of crime has been defined in relation to proceeds from serious offences. It can be argued that any tax offence which meets the criteria for a serious offence will therefore be captured in the above provision. However, the examiners are of the view that specific guidance should be provided for reporting entities as to how to treat suspicious transactions involving tax matters.
464. While subsection 17(4)(a) of the MLTPA imposes a reporting requirement covering all criminal proceeds there is no specific requirement for financial institutions in Belize to report to the FIU when they suspect or have reasonable grounds to suspect that the funds are the proceeds of any criminal act committed outside of Belize that would constitute a predicate offence for ML domestically.

Recommendation 14

465. The MLTPA and Guidance Notes clearly sets out the standards for financial institutions and their staff as it relates to filing a suspicious transaction report. Penalties for non-compliance with disclosure obligations and liabilities borne when filing a report in good faith are addressed.
466. Reporting entities and their directors, officers and employees are protected by law from liability for breach of restrictions on disclosure as provided by the safe haven clause at section 17(12) of the MLTPA which states that no criminal, civil, disciplinary or administrative proceedings for breach of banking or professional secrecy or contract may be instituted against the reporting entity, or its directors, principals, officers, partners or employees who in good faith submit reports or provide information in accordance with the provisions for the reporting of suspicious transactions. There is no provision for the above protection to be available even if the underlying criminal activity is not known precisely or regardless of whether illegal activity actually occurred.

467. No criminal action for money laundering or financing of terrorism shall be brought against a reporting entity, or its directors, principals, officers, partners or employees in connection with the execution of a suspicious transaction where such entity or person complied with the above provisions. Examiners ensure that this is documented in the financial institutions' AML Policy Manual for the information of their employees.
468. Section 17(11) of the MLTPA prohibits any person who knows or suspects that a STR is being prepared or will be or has been sent to the FIU or any additional information requested by the FIU has been prepared or sent, from disclosing to another person, other than a court, supervisory authority or other person authorised by law, any information or other matter related to the STR. Failure to comply with the above provision by a reporting entity, its directors, officers and employees is liable to a fine not exceeding BZ\$50,000 by the FIU and the possible suspension or revocation of the licence of the reporting entity.
469. Section 8 of the MLTPA makes it an offence for a person who knows or suspects that an investigation into money laundering, terrorism or the proceeds of crime has been, is being, or is about to be, conducted, to divulge that fact or other information to another whereby the investigation is likely to be prejudiced. A person guilty of this offence shall be liable on conviction to a fine not exceeding BZ\$50,000, or to imprisonment for a term not exceeding three years, or to both such fine and term of imprisonment. The Central Bank advised that examiners are required to ensure that this information is included the financial institution's AML Policy Manual.

Recommendation 25 (only feedback and guidance related to STRs)

470. The FIU under subsection 11(1)(l) of the MLTPA is required to periodically provide feedback to reporting entities, supervisory authorities and other relevant agencies. Feedback is not defined in the MLTPA and at the time of the mutual evaluation was only limited to acknowledgement of the receipt of the STR report due to the lack of resources of the FIU. The FIU has not provided general feedback with regard to statistics on the number of disclosures or information on current techniques, methods, trends and typologies.

Recommendation 19

471. The Central Bank on a discretionary basis requests particular international banks to submit currency transactions reports for customers who exceed a particular threshold. This is included in the terms and conditions of licence for particular institutions. However, there is no requirement for the reporting of all currency transactions above a fixed threshold to a central agency and there has been no consideration for the implementation of such a system.

Recommendation 32

472. For the years 2007 to 2009, the FIU received 158 STRs from reporting entities as indicated in the table below which provides a breakdown of the type of institutions making the submission.

Table 12: Breakdown of STRs by type of reporting institution for period 2007-2009

| Type of Disclosing Institution | 2007 | 2008 | 2009 | Total |
|---|------|------|------|-------|
| Lawyers | 0 | 0 | 1 | 1 |
| International Financial Service Providers | 2 | 2 | 2 | 6 |
| Domestic Banks | 22 | 29 | 36 | 87 |
| Offshore Banks | 19 | 18 | 20 | 57 |
| Money Service Business | 1 | 0 | 2 | 3 |
| Other | 2 | 1 | 1 | 4 |
| Total | 46 | 50 | 62 | 158 |

473. While the number of STRs has been increasing from 2007 to 2009, domestic and offshore banks continue to account for a significant majority (over 90%) of STRs. Based on the number of domestic and offshore banks the number of STRs reported by these institutions for the three year period is low. Only 14 STRs were submitted by non-bank reporting entities for the review period. This number is extremely low when compared with the number of non-bank reporting entities which includes 146 licensees under the IFSC, 13 insurance companies, 13 credit unions, 3 non-bank financial institutions and DNFBPs. While there is no objective benchmark for assessing whether a specific level of reporting is effective, the above low numbers suggest that STR reporting is ineffective.

3.7.2 Recommendations and Comments

Recommendation 13

474. The authorities should extend the range of predicate offences for ML to include all the FATF designated categories of offences by criminalizing illicit arms trafficking, extortion, piracy and insider trading.

475. Specific guidance should be provided for reporting entities as to how to treat suspicious transactions involving tax matters.

Recommendation 14

476. There should be provision for protection against criminal, civil, disciplinary or administrative proceedings for breaches of banking or professional secrecy for reporting STRs even if the underlying criminal activity is not precisely known and regardless of whether illegal activity actually occurred.

Recommendation 19

477. Belize should consider the feasibility and utility of implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national central agency with a computerized data base.

Recommendation 25

478. The FIU should provide general feedback to financial institutions with regard to statistics on the number of disclosures or information on current techniques, methods, trends and typologies.

479. Specific guidance should be provided for reporting entities as to how to treat suspicious transactions involving tax matters

3.7.3 Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2), and Special Recommendation IV

| | Rating | Summary of factors underlying rating |
|-------|--------|--|
| R.13 | PC | <ul style="list-style-type: none"> • The obligation to submit suspicious transaction reports does not apply to the proceeds of all FATF predicate offences. • Low number of STRs submitted by financial institutions suggests that STR reporting is ineffective. |
| R.14 | LC | <ul style="list-style-type: none"> • No provision for protection against criminal, civil, disciplinary or administrative proceedings for breaches of banking or professional secrecy for reporting STRs to be available even if the underlying criminal activity is not precisely known and regardless of whether illegal activity actually occurred. |
| R.19 | NC | <ul style="list-style-type: none"> • No consideration has been given to the feasibility and utility of implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national central agency with a computerized data base. |
| R.25 | PC | <ul style="list-style-type: none"> • Feedback is limited to only acknowledgement of receipt of STRs. |
| SR.IV | PC | <ul style="list-style-type: none"> • Low number of STRs submitted by financial institutions suggests that STR reporting is ineffective in non-bank reporting entities. |

Internal controls and other measures

3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)

3.8.1 Description and Analysis

Recommendation 15

480. Financial institutions are required to establish and maintain internal procedures to facilitate their efforts to limit the infiltration of illicit funds into the institution. This includes appointing a compliance officer and putting adequate CDD, record keeping, monitoring and reporting requirements in place.

481. In keeping with the requirements to establish, maintain and communicate internal procedures, policies and controls to employees, financial institutions are required under Section 18(1)(b) of the MLTPA to establish and maintain internal policies, procedures, controls and systems to implement:

- CDD requirements;
- Record keeping and retention requirements;
- Monitoring requirements; and

- Reporting requirements;
482. Section 18(1)(a) requires reporting entities to appoint a compliance officer who shall be responsible for ensuring compliance with the requirements of the MLTPA. Upon on-site examination, Central Bank examiners verify that financial institutions have a compliance officer in place and that their job descriptions cover adherence to internal procedures and controls to prevent money laundering and financing of terrorism.
483. Section 18(3)(a) further requires that the person identified shall be a senior officer with relevant qualifications and experience to enable him to respond sufficiently well to inquiries relating to the reporting entity and the conduct of its business. For the purposes of this requirement, the Central Bank considers a “senior officer” as an officer at the management level who possesses core competencies and knowledge in employing anti-money laundering measures. Interviewed financial institutions also interpreted this as a requirement for a management appointment. As per Section 18(3)(b), the compliance officer is responsible for establishing and maintaining such manual of compliance procedures in relation to its business as the FIU may, from time to time, require.
484. Section 18(2)(a) of the MLTPA requires that the AML/CFT compliance officer has reasonable access to information that may be relevant to determining whether sufficient basis exists for the reporting of suspicious transactions. Under section 18(2)(b) of the MLTPA, reporting entities are required to identify a suitably qualified and experienced person to whom unusual and suspicious reports are channelled. The person has direct access to the appropriate records to determine the basis for reporting matters to the FIU. The above provision is limited to the AML/CFT compliance officer and does not extend to other appropriate staff as set out in the FATF criteria. Additionally, the wording of subsection 18(2)(a) should be more specific as “reasonable” access to information could operate to impede the necessary access to information as contemplated by the FATF framework. It also allows for subjectivity as some person would have to determine what information is “reasonable” for the AML/CFT compliance officer to have access to.
485. Section 18(1)(c) of the MLTPA requires reporting entities to establish an audit function to test its anti-money laundering and combating the financing of terrorism procedures and systems. This provision is general in nature and there is no requirement in regulations or guidelines that the audit function should be adequately resourced and independent and that compliance testing should include sample testing.
486. The Central Bank has advised that where the licensee is part of a larger regulated financial or mixed conglomerate, the group compliance officer or group internal audit may perform the compliance and/or internal audit services. However, where this is not possible, a licensee may, subject to the Central Bank’s agreement, outsource the operational aspects of the compliance or internal audit function to a person or firm that is not involved in the auditing or accounting functions of the licensee. Notwithstanding, the responsibility for compliance with the MLTPA and the guidelines remains that of the licensee and the requirements of this section will extend to the agent. A licensee should have a local control function and be in a position to readily respond to the Central Bank and FIU on AML/CFT issues.
487. Tests for implementation suggest that compliance officers generally conduct compliance audits to confirm adherence to AML/CFT requirements. Central Bank examiners assess the independence of the audit function by ensuring that the financial institution has systems in

place to independently check whether persons charged with exercising the compliance function are doing what is required to provide adequate oversight and guidance to the financial institution.

488. Examiners review the work papers/reports of this independent party (normally in the person of the internal auditor). As far as the reporting chain is concerned, upon on-site examination, examiners verify that the internal auditor reports directly to the Board of Directors or a committee of the Board of Directors.
489. Financial institutions are required under section 18(1)(b) of the MLTPA to establish and maintain internal policies, procedures, controls and systems to:
 - Make its officers and employees aware of the laws relating to combating money laundering and financing of terrorism; and
 - Make its officers and employees aware of the procedures and policies adopted by it to deter money laundering and the financing of terrorism;
490. Section 18(1)(d) requires a reporting entity to train its officers, employees and agents to recognize suspicious transactions. Under section 18(3)(c), compliance officers are responsible for ensuring compliance by staff of the reporting entity with the MLTPA and any other law relating to money laundering and terrorist financing and any manual of compliance procedures established.
491. Regulation 4 of the MLTPR requires persons engaged in relevant financial business to (i) take appropriate measures from time to time for the purpose of making employees whose duties include the handling of relevant financial business aware of: the procedures which are maintained by them and which relate to the relevant financial business in question; and (ii) provide such employees from time to time with training in the recognition and handling of transactions carried out by, or on behalf any person who is or appears to be engaged in money laundering.
492. Examiners review a financial institution's training program (material, agenda, roster, and frequency) to determine whether all employees with customer contact or customer transaction review responsibility receive training. Examiners also review the quality of training provided and whether the financial institution effectively informs employees of changes in the AML/CFT laws. Examiners verify this information by requiring financial institutions to produce their register or training manual/documentation showing the list of training done and the areas covered in the sessions. Copies of the certification obtained are requested on a sample basis.
493. Section 18(1)(b) of the MLTPA requires a reporting entity to establish and maintain internal policies, procedures, controls and systems to screen persons before hiring them as employees.
494. During on-site examination examiners verify that financial institutions have particular requirements to screen persons before hiring them. This normally includes obtaining police records and is documented in the financial institution's policy. Scrutiny is on-going even after persons have been employed, as the compliance officer is responsible for monitoring inflows and outflows of staff accounts held with the institution.
495. Interviewed institutions advised that AML/CFT compliance officers are able to report directly to the senior manager above the compliance officer's next reporting level or board

of directors. Similarly staff may circumvent the compliance officer and report directly to top management. This is normally set out in the institution's AML Policy Manual.

Recommendation 22

496. The law imposes requirements on reporting entities to adopt and enforce measures to bring regulation of their foreign branches and subsidiaries in line with home country requirements and that of FATF. In Belize, the banking industry largely consists of indigenous banks, however, a foreign bank has a local presence and another domestic bank is the subsidiary of a well-established Canadian bank. In the recent past, Belize also had an indigenous bank which had a subsidiary bank operating out of the Turk and Caicos Islands. In 2009, with the shifting of the bank's ownership structure, the relationship changed from subsidiary to affiliate.
497. Section 21(1)(d) of the MLTPA instructs supervisory authorities to impose requirements that the reporting entity should ensure that their foreign branches and subsidiaries adopt and enforce measures consistent with the MLTPA to the extent that local laws and regulations so permit. While Section 21(1)(b) provides for the supervisory authorities to issue instructions, guidelines or recommendations to assist reporting entities to comply with the obligations in the MLTPA, no such document had been issued at the time of the mutual evaluation visit to impose the requirements of Section 21(1)(d).
498. At the time of the mutual evaluation there was no requirement for financial institutions to pay particular attention that their branches and subsidiaries in countries which do not or insufficiently apply FATF Recommendations observe AML/CFT measures consistent with home country requirements and the FATF Recommendations. Additionally there is no requirement, where the minimum AML/CFT requirements of the home and host countries differ, for the branches and subsidiaries of financial institutions in host countries to apply the higher standard, to the extent that host country laws and regulations permit. These requirements are included in the proposed AML/CFT Guidelines which are to be issued by the CBB.
499. Section 21(1)(d) of the MLTPA requires financial institutions to report to the designated supervisory or regulatory authority or the competent disciplinary authority where the foreign branch or subsidiary is unable to adopt and observe certain AML/CFT measures. As already noted the requirement of section 21(1)(d) has not been imposed by instructions, guidelines or recommendations as set out in section 21(1) (b).

3.8.2 Recommendations and Comments

500. Financial institutions should be required to maintain adequately resourced, independent internal audit function which includes sample testing for compliance.
501. Financial institutions should be required to ensure timely access by the AML/CFT compliance officer and other appropriate staff to information necessary to consider the reporting of suspicious transactions.
502. The requirement that the reporting entity should ensure that their foreign branches and subsidiaries adopt and enforce measures consistent with the MLTPA to the extent that local laws and regulations so permit should be imposed by supervisory authorities.

503. Financial institutions should be required to pay particular attention that their branches and subsidiaries in countries which do not or insufficiently apply FATF Recommendations observe AML/CFT measures consistent with home country requirements and the FATF Recommendations.
504. Financial institutions should be required, where the minimum AML/CFT requirements of the home and host countries differ, to ensure that branches and subsidiaries in host countries apply the higher standard, to the extent that host country laws and regulations permit.
505. The requirement for financial institutions to report to the designated supervisory or regulatory authority or the competent disciplinary authority where the foreign branch or subsidiary is unable to adopt and observe certain AML/CFT measures should be imposed by the supervisory authority.

3.8.3 Compliance with Recommendations 15 & 22

| | Rating | Summary of factors underlying rating |
|------|--------|--|
| R.15 | PC | <ul style="list-style-type: none"> • No requirement for internal audit to be adequately resourced, independent and include sample testing for compliance. • Requirement only allows for reasonable access to information by the AML/CFT compliance officer rather than unimpeded access. • Access to information is limited to AML/CFT compliance officers and not extended to other appropriate staff. |
| R.22 | NC | <ul style="list-style-type: none"> • Requirement that the reporting entity should ensure that their foreign branches and subsidiaries adopt and enforce measures consistent with the MLTPA to the extent that local laws and regulations so permit has not been imposed by supervisory authorities. • No requirement for financial institutions to pay particular attention that their branches and subsidiaries in countries which do not or insufficiently apply FATF Recommendations observe AML/CFT measures consistent with home country requirements and the FATF Recommendations. • No requirement, where the minimum AML/CFT requirements of the home and host countries differ, for the branches and subsidiaries of financial institutions in host countries to apply the higher standard, to the extent that host country laws and regulations permit. • The requirement for financial institutions to report to the designated supervisory or regulatory authority or the competent disciplinary |

| | | |
|--|--|--|
| | | authority where the foreign branch or subsidiary is unable to adopt and observe certain AML/CFT measures has not been imposed by the supervisory authority. |
|--|--|--|

3.9 Shell banks (R.18)

3.9.1 Description and Analysis

506. Although there is no specific provision prohibiting the establishment of shell banks in Belize, the requirements for establishing a bank set out in the BFIA and the IBA and the licensing process established by the Central Bank ensure that shell banks do not operate in Belize.
507. Section 3 of the BFIA stipulates that no banking business or financial business can be carried on in or from within Belize except by a licence under the BFIA. Section 5 of the BFIA requires applications for a domestic banking licence to contain such information and particulars as may be specified by the Central Bank. In the case of an application from a foreign bank or foreign financial institution, a principal office in Belize must be designated and one of its officials must be approved by the Central Bank to be the applicant's authorised agent in Belize and in his absence an alternate also approved by the Central Bank. The Central Bank advised that its licensing process is designed to ensure the prohibition of shell banks. The Central Bank obtains specific information on the directors, shareholders, management and business plans of the applicant, including pro forma balance sheets, and ensures that mind and management are situated in Belize.
508. With regard to offshore banking, section 4 of the IBA stipulates that no person can carry on offshore banking business from within Belize without a valid licence under the IBA. Under section 5 of the IBA, an applicant for an offshore banking licence has to be an eligible company incorporated or registered under the CA or the IBCA with the approval of the Central Bank.
509. Section 6 of the IBA requires applicants for an offshore banking licence to submit to the CBB the following:
- i. The names and addresses of directors and principal shareholders;
 - ii. The ultimate beneficial ownership of the company or proposed company where shareholders of record are, or are to be corporations, trust or other legal entities, or are acting as nominees;
 - iii. The shareholding structure and management of the company;
 - iv. The financial standing of the company;
 - v. A detailed business and financial plan of the company;
 - vi. Such other information of a financial or other nature as the Central Bank may require

510. In addition to the above, a foreign bank is required to further supply a written statement from the banking supervisory authority in its country of incorporation, and the banking supervisory authority in the country where its principal office is located if different, confirming that the authority has no objection to the application.
511. As part of the licensing process, section 7 of the IBA provides for the Central Bank to examine or investigate an applicant, its financial standing, and any associate or affiliate necessary to satisfy itself that the applicant will conduct its business in a sound and prudent manner. Subsections 16(2)(a) and 17(2)(a) of the IBA requires offshore banks to maintain a physical presence in Belize. As with applicants for domestic banking business, the Central Bank uses the powers above to ensure that no shell banks operate in Belize.
512. Section 15(6)(c) of the MLTPA prohibits banks or financial institutions from maintaining any business relationship with banks that do not maintain a physical presence under the laws of which they were established, unless they are part of a financial group subject to effective consolidated supervision.
513. There is no requirement in legislation or guidelines for financial institutions to satisfy themselves that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.

3.9.2 Recommendations and Comments

514. The authorities should enact measures that require financial institutions to satisfy themselves that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.

3.9.3 Compliance with Recommendation 18

| | Rating | Summary of factors underlying rating |
|-------------|---------------|---|
| R.18 | PC | <ul style="list-style-type: none"> No requirement for financial institutions to satisfy themselves that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks. |

Regulation, supervision, guidance, monitoring and sanctions

3.10 The supervisory and oversight system - competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)

3.10.1 Description and Analysis

Recommendation 23

515. Section 2(1) of the MLTPA defines supervisory authority as the authority which has compliance oversight of the various reporting entities that carry out the activity or business as set out in the Third Schedule of the Act. Section 21(2)(b) of the MLTPA further requires the supervisory authority to issue instructions, guidelines or recommendations to assist the reporting entity to comply with the obligations set forth in the Act.
516. The Third Schedule of the MLPTA provides the list of categories of financial activities and the relevant body and in several cases the domestic and offshore bodies responsible for their AML/CFT supervision. Under the Third Schedule of the MLPTA, AML/CFT supervisory responsibilities are shared among five competent authorities, namely the Central Bank of Belize, the International Financial Services Commission, the Supervisor of Insurance, the Financial Intelligence Unit and the Ministry of Finance.
517. The Central Bank is responsible for domestic banks, non-bank financial institutions, international banks and credit unions. The SOI regulates domestic insurance companies, brokers, agents and underwriters. The IFSC supervises international financial services which includes the formation and management of international business companies, offshore trusts, international insurance, international asset protection and management, and international collective investment schemes. The FIU is responsible for overseeing DNFBPs and retailers in vehicles while the Ministry of Finance is responsible for pawn shops.
518. The main supervisory authorities, the Central Bank, the SOI and the IFSC as part of their supervisory responsibility are mandated to ensure that their licensees operate in accordance with the various underlining statutes, regulations and guidelines. They, along with the FIU and the Ministry of Finance are also required to ensure adequate compliance with the obligations of the MLFTA and associated AML/CFT Guidelines.

Central Bank

519. The functions of the Central Bank are legislatively governed by the Central Bank Act, the BFIA and the IBA. The Central Bank, in its capacity as supervisory authority and regulator for banks (domestic and international), relevant financial institutions, credit unions and money service businesses as captured in the Third Schedule of the MLPTA, provides guidance to those financial institutions that fall under its regulatory umbrella, with a view to strengthening the AML/CFT compliance functions of the relevant institutions.
520. The Central Bank under the relevant statutes has the authority to access information and records necessary to carry out its legislated functions and can impose sanctions for non compliance with regulatory requirements. The Central Bank also conducts onsite and offsite examinations on banks, financial institutions and credit unions. These examinations contain an AML/CFT component, the objectives of which are three-fold:
1. To assess the adequacy of the systems institutions have in place to detect and deter money laundering and terrorist financing.
 2. To assess compliance with legal requirements as stipulated in the MLTPA, MLTPR and other requirements in the Guidance Notes.
 3. To assess compliance with the institution's own internal policies.

521. Deficiencies identified during examinations and corrective actions to be taken are brought up with the institution by way of an examination report, indicating a specified time by which issues must be addressed. Examiners follow-up and maintain open lines of communications with the financial institutions until all matters are adequately addressed. Any significant issues in relation to deficiencies in AML/CFT policies and procedures are brought to the attention of the FIU. During 2009, the Central Bank carried out 6 full on-site inspections comprising of 2 domestic banks, 1 offshore bank and 3 credit unions. These examinations being full scale included an AML/CFT assessment.

IFSC

522. Section 21(2)(a) of the MLTPA has designated the IFSC as the supervisory authority for entities as listed in the Third Schedule of the MLTPA. These entities operate offshore and include those that conduct international insurance business, trust and company service providers and those engaged in international financial services as defined in the IFSCA. As stated in section 21(2)(a) of the MLTPA, the IFSC is responsible for examining and supervising international financial service providers and for the regulation and oversight of effective compliance with relevant obligations in the MLTPA and any other preventative measures in relation to combating money laundering and terrorist financing, through on-site examinations or other means.
523. International financial services as defined in the IFSCA includes the formation and management of international business companies, offshore trusts, international insurance, international asset protection and management, and international collective investment schemes. The functions and powers of the IFSC are detailed in several pieces of legislation as follows:
- a. International Financial Services Commission Act (IFSCA)
 - b. International Financial Services Commission (Amendment) Act 2007 (IFSCAA)
 - c. International Financial Services Practitioners (Code of Conduct) Regulations 2001 (IFSPCCR)
 - d. International Business Companies Act (IBCA)
 - e. International Insurance Act (IIA)
 - f. International Insurance Regulations, 2000 (IIR)
 - g. Mutual Funds Act (MFA)
 - h. Mutual Funds Regulations 2001 (MFR)
 - i. Mutual Funds Policy Guidelines (MFPG)
 - j. Trusts Act (TA)
 - k. Trust (Amendment) Act 2007 (TAA)

- l. Trust and Company Service Providers (Best Practices) Regulations, 2007 (TCSPR)
- m. International Trust Regulations, 2007 (ITR)
- n. Protected Cell Companies Act (PCCA)
- o. International Foundations Act, 2010 (IFA)

524. The main functions of the IFSC as set out in sections 5 and 6 of the IFSCA include promoting and developing Belize as a center for international financial services, providing appropriate supervisions and regulation of international financial services and granting licences, permits and authorities for international financial services. Discussion with the IFSC indicated that the main focus has been the licensing and registration of IBCs along with the monitoring of the annual renewal of licences of IBCs requiring the submission of current financial information. No on-site supervision with regard to ensuring compliance with the AML/CFT guidelines is carried out. There are approximately 90,000 IBC's registered in Belize.

SOI

- 525. The SOI is responsible for the supervision and regulation of domestic insurance companies as listed in the Third Schedule of the MLPTA and in accordance with the IA. The existing legislation empowers the SOI to conduct both on-site and off-site supervision.
- 526. The SOI has the power to licence or cancel a licence of any insurance company or intermediary, the SOI also has the general power to request any information from the industry through section 52(1) and to conduct on-site inspection as per section 40(12) of the IA. The SOI carried out 2 full onsite inspections each year from 2007 to 2009. At the time of the mutual evaluation, the SOI had performed one full onsite inspection on an insurance company. The SOI had also inspected all agents in 2007 and 2009.
- 527. The office presently supervises two (2) composite companies and ten (10) specialised companies – five (5) Life Insurance Companies (1 Domestic & 4 International) and five (5) General Insurance Companies (2 Domestic & 3 International).
- 528. The Office of the Supervisor of Insurance is a department within the Ministry of Finance. The SOI is the head of the department and reports to the Minister responsible for Insurance. The Financial Secretary, who is the head of the Ministry, supervises the SOI.

FIU

- 529. The Financial Intelligence Unit of Belize was established by virtue of section 3 of the FIUA. According to the Third Schedule of the MLPTA, the FIU is responsible for the AML/CFT supervision of most DNFBPs - Casinos (including internet casinos); real estate agents; dealers in precious metals; dealers in precious stones; lawyers, notaries, other independent legal professionals and accountants; and dealers in vehicles. Trust and

company service providers are not included since they fall under the supervision of the IFSC.

530. Section 21(2)(a) of the MLTPA has designated the FIU to examine and supervise international financial service providers and regulate and oversee effective compliance with relevant obligations in the Act and any other preventative measures in relation to combating money laundering and terrorist financing, through on-site examinations or other means. However, as at the date of the examiners' visit no supervisory regime for DNFBPs had been established by the FIU.

The Ministry of Finance

531. The Third Schedule of the MLPTA allocates supervisory powers to the Ministry of Finance in relation to pawning activities. However, no information with regard to registered pawn agents was made available to the assessors. Additionally, no information as to the procedure that the Ministry is expected to maintain in relation to their registration, regulation or supervision was provided.

Recommendation 30 Resources (Supervisors)

Central Bank

532. The supervisory functions of the Central Bank are carried out by the Financial Sector Supervision Department (FSSD) which has a technical staff of 18 examiners.
533. The FSSD is headed by a Director. The existing functional reporting structure at the Central Bank allows the Director, FSSD to report directly to the Governor, who then answers to the Board of Directors. This facilitates operational independence and autonomy, thereby promoting freedom from undue influence or interference.
534. The staff of the Central Bank is recruited in accordance with high standards of integrity and academic proficiency. The benchmarks for recruitment include a BA in accounting or finance and experience in the areas of banking or accounting. Staff is required to sign an oath of secrecy agreeing to abide by the prohibition in the disclosure of information to unauthorized persons even after employment from the Central Bank is ended. Contravention of these requirements is punishable by fine or imprisonment or both. This is in accordance with Section 34 of the IBA, Section 35 of the BFIA and Section 18(1) of the Central Bank Act.
535. In order to maintain appropriately skilled staff, the Central Bank invests in local, in-house and international training opportunities for its staff members. AML trainings were undertaken by six examiners, while other training sessions were undertaken by examiners to improve monitoring of the institutions being regulated. Since 2007, one examiner has been designated a Certified Anti-Money Laundering Specialist.

SOI

536. The Office of the Supervisor of Insurance comprises of 6 members of staff, of which 5 are technical staff and 1 is administrative. There is a division of labour among the technical staff, where the three financial analysts (Sr. Financial Analyst, Financial Analyst and Asst.

Financial Analyst) are responsible for the off-site supervision of the companies. There is a Registration Officer who is responsible for the supervision of the insurance agents.

537. Staff recruitment is approved by the Public Services Commission under the Government Workers Rule. The SOI is the head of the department and reports to the Minister responsible for Insurance. The Financial Secretary, who is the head of the Ministry, supervises the SOI. The SOI makes all the decisions in respect to provisions of the IA, but such decisions can be appealed to the Minister responsible for insurance.
538. Staff of the Office of the Supervisor of Insurance has participated in training workshops hosted by the Central Bank and/or the FIU. No detail information with regard to AML/CFT training of members of staff for the last four years was available to the team of assessors.

IFSC

539. The Deputy Registrar is responsible for the operational management of the Commission. The Deputy Registrar reports to the Financial Secretary, who is the head of the Ministry which supervises the Commission. At the time of the mutual evaluation, the IFSC had a staff complement of seven staff members.
540. The team consist of five technical staff responsible for on-site & offsite supervision and two administrative staff members. There is a division of labour for supervision of the companies; however no one person is responsible for the supervision of any one particular company. The IFSC is funded by the fees collected from the issuance and renewal licences. Given the number of licensees and registrants under the supervision of the IFSC, the number of staff appears inadequate.

Recommendation 29

541. Four main supervisory authorities, Central Bank, FIU, SOI and the Ministry of Finance have the power to supervise reporting entities, conduct on-site inspections and issue guidelines or instructions to assist the reporting entity to comply with the obligations as set forth in the MLTPA. These supervisory authorities are also empowered with authority to levy sanctions on a reporting entity for non-compliance with requirements.
542. The MLTPA makes provision for insurance companies to comply with the requirements of the Act. The IA does not contain a provision which allows the SOI to issue directions to the insurance industry for AML/CFT purposes.
543. Section 21(2)(d) of the MLTPA grants powers to the Central Bank, as supervisory authority to monitor and ensure compliance by financial institutions, with requirements to combat money laundering and terrorist financing consistent with the FATF Recommendations.
544. During on-site inspection, the on-site team review the companies' compliance with AML provisions. Insurance companies are seldom used for AML/CFT purposes; they however can be subjected to fraud. Because of this CDD is a very important preventative measure. The on-site Team reviews the companies' AML Manual, adherence to the manual and tries to establish that the companies have strong CDD measures in place.
545. Under section 21(2)(a) of the MLTPA the designated supervisory authority has the power to examine and supervise the reporting entity and regulate and oversee effective

compliance with the obligations set out in sections 15-19 of the MLTPA and any other preventative measures in relation to combating money laundering and terrorist financing, through on-site examinations or other means. This provision allows supervisory authorities which do not have the power to conduct on-site inspection under their original statutes to do so. These supervisory authorities are the FIU and the Ministry of Finance. The Central Bank, the SOI and the IFSC all have the power to conduct on-site inspections of their licensees.

Central Bank

546. Section 33 (1) of the BFIA grants the Central Bank the authority to examine every licensee under the BFIA as often as necessary and section 33(2) allows every authorised examiner in carrying out an onsite examination the power to request any books, records, accounts, writings and documents of any kind necessary from the examined institution. Every licensee is required by section 33(3) to comply with the requests of the examiner under section 33(2) of the BFIA. Similar requirements are stipulated in sections 32(1), 32(3) and 32(5) of the IBA for the international banks licensed under the IBA.
547. With regard to credit unions, section 60(1) of the CUA as amended, gives the Governor of the Central Bank as the Registrar of Credit Unions the power to appoint examiners to conduct onsite examinations of a credit union as often as necessary and section 60(3) of the CUA gives an examiner the power to require the production of all books, records, accounts, writings and documents of any kind necessary for the examination.
548. Upon on-site examination, examiners review policies and procedures and sample test customer accounts and transactions to verify compliance with the various identification, verification, reporting and other requirements including the inclusion of originator information in wire transfers.

SOI

549. Section 40(12) of the IA gives the SOI the power to carry out on-site inspections of any insurance company's business. On-site inspections are carried out on each year. Most of the companies have had a full on-site inspection conducted. Three companies are selected annually and if time permits or an urgency arises, other companies may be inspected.

IFSC

550. With regard to the IFSC, the only statute which provides for the IFSC to carry out an on-site function is the International Insurance Act (IIA). Section 25(1) of the IIA allows for the Supervisor of International insurance who is the Director General of the IFSC to appoint an inspector to examine and inspect an insurer's business and accounting records and accounts and any other records for any reason. Section 25(2) of the IIA requires the registered insurer to make available to the inspector all books, records and documents in his control or custody.
551. It has already been noted that the IFSC does not carry on on-site inspections of its licensees. Onsite visits have been conducted as a means of familiarisation with the operations of licensees.
552. While the general provision in the MLTPA provides for all designated supervisors to carry out onsite inspections, only the Central Bank and the SOI have developed supervisory regimes which include on-site inspections. It will be necessary for the IFSC, the FIU and the Ministry

of Finance to implement on-site inspections for their reporting entities. It should also be noted that while section 21(2)(a) of the MLTPA allows for onsite examinations there is no ancillary provision ensuring that examiners carrying on inspections have unfettered access to all necessary books, records, accounts and files of reporting entities.

Central Bank

553. Section 27(1) of the BFIA requires every licensee under the BFIA to submit to the Central Bank such financial and other statements of condition, income, accounts, reports, schedules and other information within such a period as may be specified by the Central Bank. Section 31(1) of the IBA has a requirement similar to the above provision for international banks reporting to the Central Bank.
554. Section 58(c) of the CUA requires the Board of Directors of every credit union to furnish the Registrar with such returns and any other information that the Registrar may require from time to time. The above provisions allow for the Central Bank to obtain access to any information relevant for monitoring compliance with AML/CFT without a court order.

SOI

555. Subsections 52(1)(a) and 52(1)(b) of the IA gives the SOI the authority to require any company licensed under the IA to produce any information, books, papers or other documents in connection with its insurance business at such time and place as the SOI may specify.

IFSC

556. Section 36 of the Mutual Funds Act (MFA) provides for the Registrar of Mutual Funds which is the Director General of the IFSC, or any person acting under his authority to direct any person to whom the MFA is applicable to furnish information or provide access to any records, books or other documents relating to the business necessary to ascertain compliance with the MFA or regulations.
557. Section 24 of the IIA allows the Supervisor of International Insurance i.e. the IFSC to require a registered insurer under the IIA to produce at such time and place as the Supervisor may specify, such documents or information the Supervisor may specify.
558. The Central Bank does not require a court order to compel production of or to obtain access for supervisory purposes; as indicated above, both the BFIA and the IBA give the requisite authority. Section 52(1) of the IA grants the SOI the power to request information from the companies. Section 53 empowers the SOI to intervene in the affairs of the company if deemed necessary.
559. As per Section 22(1) of the MLTPA, any supervisory or regulatory authority or competent disciplinary authority that discovers a breach of the obligations established under sections 15-19 of the Act by a reporting entity it supervises may impose one or more sanctions and measures after giving the reporting entity a reasonable opportunity to make representations on its own behalf.

560. Various penalties can be imposed on licensees, bodies of persons, as well as individuals, for non-compliance with requirements of the AML/CFT legal framework. Upon summary conviction, penalties range from fines of BZ\$1,000 minimum to BZ\$1,000,000 maximum and/or imprisonment from two years to life. Penalties also include possible seizure of cash, sanctions imposed by the supervisory authority and possible suspension, restriction or revocation of licence. Administrative penalties range from BZ\$5,000 to BZ\$50,000, while fines may also be applied at the discretion of the Courts.

Recommendation 17

561. Sanctions for AML/CFT breaches in the MLTPA are of two types: those applicable to general ML and FT offences and those applicable to breaches of the AML/CFT obligations of reporting entities. General ML and FT offences include commission of ML and FT, tipping off, destroying or concealing evidence, breaches of confidentiality, failure to produce requested documents and failure to comply with a monitoring order.
562. Natural and legal persons are subject to the following criminal sanctions under the MLTPA:
- a. Section 4(1) - A natural person found guilty of money laundering may be subject to a fine of not less than fifty thousand dollars but not more than two hundred and fifty thousand dollars or imprisonment for a term of not less than five years but not more than ten years or both.
 - b. Section 4(2) - A legal person or entity found guilty of money laundering may be subject to a fine of not less than one hundred thousand dollars but may extend to five hundred thousand dollars.
 - c. Section 6 - Every person who acted in an official capacity for a legal person at the time that such legal person committed a money laundering offence shall be guilty of the same offence and shall become subject to the same punishment.
 - d. Section 7 - Any person who commits an ancillary offence to money laundering shall be liable to the applicable penalties under sections 4 and 5 of the MLTPA.
 - e. Section 8 - Any person found guilty of divulging information that may potentially compromise a money laundering investigation shall on conviction be liable to a fine not exceeding fifty thousand dollars or a term of imprisonment not exceeding three years or both.
 - f. Section 9 - Any person convicted of falsifying, concealing, destroying or disposing of any material relevant to a money laundering investigation shall be liable to a fine not exceeding one hundred thousand dollars or imprisonment for a term not exceeding five years or both.
563. A natural or legal person convicted of a terrorism financing offence under section 68 (1) and (2) is liable to the applicable penalties set out under section 5 of the MLTPA. Section 3(6) of the MLTPA provides that any person who acted in an official capacity for a legal person at the time such legal person committed a terrorist financing offence shall be guilty

of the same offence and shall be liable to imprisonment of a term of not less than ten years but which may extend to life imprisonment. Both natural and legal persons are subject to the range of civil and administrative penalties. Since the above penalties are criminal, the DPP is the authority responsible for prosecuting the related offences.

564. The assessors are of the opinion that the above criminal sanctions are effective, dissuasive and proportional when juxtaposed with the legislated sanctions in other CFATF jurisdictions of similar socio economic circumstances as Belize.
565. In addition to the sanctions aforementioned, there are penalties in the MLTPA for breaches of AML/CFT obligations by reporting entities. These obligations detailed in sections 15, 16, 17, 18 and 19 include CDD, record-keeping, monitoring, reporting, internal controls and wire transfer requirements. Subsection 22(1) of the MLTPA enables the supervisory authority, any regulatory authority or competent disciplinary authority that discovers a breach of any obligation under sections 15, 16, 17, 18 and 19 by a reporting entity it supervises to impose any one of the following sanctions:
- a. written warnings;
 - b. order to comply with specific instructions;
 - c. ordering regular reports from the reporting entity on the measures it is taking;
 - d. fine in an amount no less than BZ\$5,000 and no greater than BZ\$20,000;
 - e. barring convicted individuals from employment within the sector;
 - f. replacing or restricting the powers of managers, directors or controlling owners, including the appointment of ad hoc administration; or
 - g. recommending to the appropriate licensing authority of the reporting entity that the reporting entity's licence be suspended, restricted or withdrawn.
566. While the above sanctions are broad and allows for penalties to be imposed on the management, directors and owners of a reporting entity, the fines ranging from BZ\$5,000 which is equivalent to US\$2,500 to BZ\$20,000 which is equivalent to US\$10,000 are not dissuasive especially with regard to financial institutions. The assessors are unable to assess effectiveness of supervisory sanctions since none have been applied. While the CBB, the SOI and the IFSC have supervisory enforcement powers under their specific governing legislation, these powers are not specific to breaches of AML/CFT legal obligations.

Recommendation 23

Central Bank

567. Section 5(5) of the BFIA governs the Central Bank's licensing regime for domestic commercial banks and financial institutions. The Central Bank is required to conduct such investigations and inquiries as it deems necessary to determine whether the applicant is fit and proper to receive a licence under the Act. In conducting such investigations the Central Bank is required to consider at a minimum the background, experience and

integrity of the applicant; the financial resources and history of the applicant; the proposed management of the applicant ; the adequacy of the applicant's capital and such other matters as the Central Bank deems appropriate. The assessors were advised that the Central Bank requires all directors, managers and shareholders who exercise control over the applicant to submit information regarding qualifications, financial history and associations. Control is defined in section 2 of the BFIA as the power directly or indirectly to appoint or remove a majority of the board of directors or trustees of a company or to exercise twenty-five percent or more of the voting power at a general or special meeting. Corporate shareholders are also requested to provide information on beneficial owners. The Central Bank conducts extensive background checks on all persons involved in an application for a licence.

568. In addition to the above, section 12 of the BFIA prohibits the acquisition by any person of control of a local licensee or the holding company of a local licensee without prior approval of the Central Bank. Such approval is only granted after the individual or entity is subject to screening to determine whether the applicant is fit and proper. With regard to directors, and officers of a licensee, section 15 of the BFIA requires the approval of the Central Bank before persons with criminal convictions involving fraud, deception, dishonesty or a breach of trust, or who is or becomes bankrupt, or was involved in the management of a failed bank or financial institution, can be employed. Similar screening processes are carried out by the Central Bank to ensure that only fit and proper persons are approved for employment by licensees.
569. Similar requirements are set out in section 6 of the IBA for the licensing of offshore banks. Applicants are required to give particulars of the names and addresses of directors and principal shareholders, the ultimate beneficial ownership of the applicant where there are corporate or nominee shareholders, the shareholder structure and management of the applicant and the financial standing of the applicant. Additionally, a detailed business and financial plan, particulars of referees, guarantors and other third parties and details of any subsidiary or affiliated company is required.
570. Section 7(2) of the IBA empowers the Central Bank to examine or investigate the financial status and history of the applicant and any of its directors, associates, principal shareholders or affiliates, and the character and experience of directors and managers. An associate is defined under section 7(3) of the IBA as a company of which the person so referred to beneficially owns or controls, directly or indirectly, twenty-five percent of shares or securities, a partner or a trust or estate in which the person so referred to has a substantial interest. Under the above provisions the Central Bank conducts extensive screening of all relevant persons involved in an application for an offshore banking licence.
571. Section 11(2) of the IBA prohibits any person alone or with any associate or associates from acquiring control over ten, twenty, fifty or seventy-five percent of the voting shares of a local licensee without prior written approval of the Central Bank. Before granting approval the Central Bank has the authority to carry out any investigations or examinations necessary to ascertain if the person is fit and proper. In several instances, the Central Bank has processed and approved shareholdings in this regard. In order to verify shareholder information, the Central Bank may, by written notice, require any licensee to submit a list of shareholders on its register within a specified period. This is normally done annually at the start of a financial year or as deemed necessary by the Central Bank.

572. Requirements similar to those of the BFIA in relation to the employment by an offshore bank of a director, officer, manager, secretary or other worker are specified in section 24 of the IBA and similar screening processes are utilised by the Central Bank. In three instances, the Central Bank has exercised its power to remove directors under these provisions
573. With regard to credit unions which are also under the supervision of the Central Bank, section 8 of the CUA specifies the conditions for registration which includes among other things, economic viability. Section 9 of the CUA empowers the Registrar to conduct enquiries and obtain necessary information. The Registrar is also required to consider at a minimum the background, experience and integrity of the applicants, their police records, financial resources and history, and the adequacy of the proposed management of the credit union. On the basis of this provision, the Central Bank is able to carry out the necessary due diligence to ascertain whether the persons involved in the management of a credit union at registration are fit and proper. There is no similar requirement for Central Bank approval and screening with regard to changes in the management of a credit union.

SOI

574. The IA makes provisions for the licensing of insurance companies (Part II), Association of Underwriters (Part III) and insurance intermediaries (Part IV). One of the requirements for carrying on insurance business in Belize as stipulated in section 9 of the IA is that its shareholders, directors and executive officers are fit and proper persons to conduct insurance business. As such, one of the conditions for a successful licence application to operate an insurance business pursuant to section 13 of the IA is that the SOI must be satisfied that the shareholders, directors, managing director or chief executive officer or principal representative of the company and its executive officers are fit and proper persons to manage the affairs of the company. A fit and proper person is defined in section 2 of the IA as a person the SOI considers adequately qualified to carry on a particular business having regard to the person's;
- a. police record
 - b. financial stability and viability
 - c. solvency
 - d. record of good financial management
 - e. managerial skill and competence; and
 - f. appropriate untainted track record
575. In determining whether a person is fit and proper, the SOI is required to consider whether the person in Belize or elsewhere
- i. has not been convicted of an offence involving dishonesty
 - ii. is not an undischarged bankrupt

- iii. has an employment record that does not give reasonable cause to believe that the person carried out on act involving dishonesty or impropriety in the handling of insurance business
 - iv. has, from available evidence, not engaged in any business practices appearing to the SOI to be deceitful or otherwise improper.
576. While the above provisions are applicable to shareholders, directors and managers of an insurance company at licensing there is no requirement in the IA for subsequent changes in management or shareholding to be approved by the SOI on the basis of a fit and proper assessment. Section 38 of the IA prohibits insurance companies from appointing a person as a director or as its chief executive officer or managing director unless written notice is served to the SOI and the SOI does not notify the company of any objection within a month. There is no requirement for the SOI to assess new appointees on the basis of fit and proper criteria. Additionally the above requirements are not applicable to the licensing of association of underwriters and insurance intermediaries.

IFSC

577. Regulation 28 of the IFS (Code of Conduct) Regulations requires that the fit and proper standard be applied to all directors and managers of international financial services business when applying for or renewing a license. The four key elements of the fit and proper assessment are integrity, financial stability, solvency and financial control, skill, competence and managerial control and track record and viability. All IFS practitioners are subject to continuous ongoing assessment. However, it should be noted that shareholders or owners are not required under the IFS (Code of Conduct) Regulations to undergo this process.
578. As noted in the Money Services Business (MSB) Guidelines, persons who wish to provide a money transfer service must first apply for approval to receive a license from the Central Bank, which must be renewed annually, subject to review of operations.
579. According to Section 3(1) of the BFIA, no banking business or financial business shall be carried on in or from within Belize, except by a licensee licensed under this Act. Section 4(1) of the IBA also prohibits the carrying on of offshore banking from within Belize unless a valid licence is held. In both instances, contravention is punishable upon summary conviction by a fine or imprisonment or both.
580. Section 5(5) of the BFIA states that upon acceptance of an application under this section, Central Bank shall conduct such investigation and inquiries as it deems necessary to determine whether the applicant is fit and proper to receive a licence under this Act. In conducting such investigation and inquiries, the Central Bank shall consider, at a minimum, the background, experience and integrity of the applicant; the financial resources and history of the applicant; the proposed management of the applicant; the adequacy of the applicant's capital; and such other matters as Central Bank deems appropriate.
581. In addition, Section 7(1) of the IBA states that on receipt of an application from an eligible company for a licence under this Act, Central Bank may cause such investigation to be made of the applicant company or proposed company, its financial standing, and of any associates or affiliates of the applicant company, as Central Bank considers necessary

to satisfy itself that the applicant meets the criteria of licensing and that it will conduct its business in a sound and prudent manner.

582. Furthermore, Section 9(1) of the CUA requires that when an application for registration of a credit union is made, the Registrar shall be satisfied that the application is made in accordance with the requirements of the CUA and for these purposes shall make such inquiries and obtain such information as he thinks fit.
583. Banks, credit unions and financial institutions in Belize are not allowed to operate without an approved licence or being registered.

Ongoing supervision and monitoring

584. The BFIA includes some regulatory and supervisory measures that apply for prudential purposes which are also relevant to money laundering, such as licensing requirements (Section 3 to 7), capital requirements (Section 10), acquisitions and changes in control of licensees (Section 12), single borrower limits (Section 21) and extensions of credit to insiders (Section 22). Similarly, the IBA includes measures such as types and requirements of licences (Section 15 to 17), single borrower limit of banks (Section 21:02), extension of credit to insiders (Section 212:03), prohibited transactions (Section 22) and disqualifications of directors, management and workers (Section 24).
585. Examiners conduct offsite surveillance and analyze activities of banks by means of prudential returns whereby large differences in accounts that are noted on the balance sheet and income statement are queried.
586. The insurance industry is subjected to on-going supervision and monitoring under the provisions of the IA. AML/CFT provisions are monitored during on-site inspections and through the revision of financial statements and through the new appointments of new directors.
587. The MSB Guidelines requires that persons providing money services business acquaint themselves with the MLTPA, any MLTPA circulars issued by FIU, the Exchange Control regulations and circulars in order to ensure that its operations are in no way a contravention of the law.
588. According to the proposed AML/CFT Guidelines, all financial institutions should be licensed and appropriately regulated and may apply reduced due diligence to a customer provided they satisfy themselves that the customer is of such a risk level that qualifies for this treatment. One example of such circumstance is where there is a transaction or series of transactions taking place in the course of a business relationship in respect of which the applicant has already produced satisfactory evidence of identity.
589. The due diligence standards employed by banks are reviewed during on-site examination.

Recommendation 32(Statistics)

590. Section 21(2)(g) of the MLTPA requires that a supervisory authority, such as Central Bank, maintain statistics concerning measures adopted and sanctions imposed in the context of enforcing this Act. At the time of the mutual evaluation, none of the supervisory authorities maintained such statistics. As already mentioned the FIU and the Ministry of Finance had not implemented a supervisory regime for their reporting entities. The Central Bank advised that it intended to fully implement the requirement to maintain statistics relevant to the MLTPA.

Recommendation 25

591. At the time of mutual evaluation, the CBB Money Laundering (Prevention) Guidance Notes, 1998 (Guidance Notes) were in use. In an effort to improve the guidance provided to institutions it regulates, the Central Bank was in the process of updating the existing AML Guidance Notes. The proposed AML/CFT Guidelines were implemented by June 2010. In addition to the Guidance Notes the Central Bank had also issued the Money Services Businesses Guidelines (MSB Guidelines) which outlines the procedures to be followed by money or value transfer services.

592. Both the MSB Guidelines and the Guidance Notes do not address matters relating to combating the financing of terrorism or pre-employment screening. The Guidance Notes provide procedures relating to;

- Know Your Customer (KYC) including identification procedures
- Monitoring and detecting of suspicious transactions
- Establishment of internal controls and procedures
- Staff training requirements
- Suspicious transactions indicators
- Feedback to financial institutions

593. There are no sanctions on breaches to the Guidance notes. There have been no guidelines issued by any of the other regulatory or supervisory authorities

3.10.2 Recommendations and Comments

594. Administrative fines under supervisory sanctions of subsection 22(1) should be dissuasive.

595. Changes in management or shareholding of insurance companies should be approved by the SOI on the basis of a fit and proper assessment.

596. Applications for licences for associations of underwriters and insurance intermediaries should be subject to fit and proper assessment.

597. Shareholders or owners of IFS practitioners should be subject to fit and proper assessment.

598. Guidelines should be issued for licensees of the SOI and IFSC.

599. The IFSC should implement AML/CFT on-site inspections of its reporting entities.
600. IFSC should have the power to carry out on-site inspection of all its reporting entities.
601. The IFSC should have access or be able to compel production of records from all its reporting entities.

3.10.3 Compliance with Recommendations 23, 29, 17 & 25

| | Rating | Summary of factors relevant to s.3.10 underlying overall rating |
|-------------|---------------|--|
| R.17 | NC | <ul style="list-style-type: none"> • Administrative fines under supervisory sanctions of subsection 22(1) are not dissuasive. • Unable to assess effectiveness of supervisory sanctions since none have been applied. |
| R.23 | PC | <ul style="list-style-type: none"> • No requirement for changes in management or shareholding of insurance companies to be approved by the SOI on the basis of a fit and proper assessment. • Applications for licences for associations of underwriters and insurance intermediaries are not required to be subject to fit and proper assessment. • Shareholders or owners of IFS practitioners are not subject to fit and proper assessment. |
| R.25 | NC | <ul style="list-style-type: none"> • No guidelines have been issued for licensees of the SOI and IFSC. |
| R.29 | PC | <ul style="list-style-type: none"> • IFSC does not carry out AML/CFT on-site inspections. • IFSC does not have the power to carry out on-site inspection except for international insurance companies. • The IFSC can only access or compel production of records from licensees under the MFA and the IIA. |

3.11 Money or value transfer services (SR.VI)

3.11.1 Description and Analysis (summary)

Special Recommendation VI

602. At the time of the mutual evaluation a law which directly addressed the operations of money or value transfer services operators (MVT service operators) was being reviewed. In the meantime, a regulatory regime was being implemented by the Central Bank. The legal

framework for such regime consists of provisions of the Exchange Control Regulations 1976 (ECR) the Exchange Control Regulations Act (ECRA) Exchange Control Circulars, (ECCs) the Money Services Businesses Guidelines (MSBG) and the MLTPA. The ECCs are issued by the Central Bank under regulation 35 of the ECR. The MSBG is also issued by the Central Bank, and functions as conditions for the operations of money service business (MSB) operators which must be met for the annual renewal of Central Bank's approval. At the time of the mutual evaluation there were three agents who held licences to operate as MSBs. Information as to the number of offices or subagents of the three licensees and the total value of money transfers in and out of the country was not available.

603. Under regulation 5 and 6 of the ECR, no person can carry out a money service business without the approval of the Central Bank. Within the Central Bank, the Exchange Control Unit is responsible for processing the application for a MSB, ensuring these agents comply with their licensing requirements and monitoring the agents using MSB Guidelines. A database of all agents and sub-agents is kept by the Exchange Control Unit.
604. According to paragraph 16 of the section "Operating Conditions For Money Services Businesses" of the MSBG, CBB will issue approval to operate money transfer services on an annual basis subject to a review of the operations of agents and its subagents to ascertain that all regulations and conditions governing money transfer services are being complied with. An approval to operate is restricted to agent, sub-agent and location.
605. The main activity of MSB operators, the transfer of money or value is included in the First Schedule of the MLTPA as an activity subject to the requirements of the MLTPA. As such, MSB operators are subject to the criteria of Recommendations 4-11, 13-15 and 21-23 as reflected in the provisions of the MLTPA. Also as noted in paragraph 14 of the section "Operating Conditions For Money Services Businesses" of the MSBG, the Central Bank expects that agents and their international counterparts acquaint themselves with Exchange Control regulations and circulars, the MLTPA, as well as any MLTPA circulars in order to ensure that there is no contravention of the law.
606. The examiners were advised that according to existing arrangements as mentioned above in relation to paragraph 16 of the section "Operating Conditions For Money Services Businesses" of the MSBG, all MSB operators should be examined yearly by Central Bank for compliance with AML as well as Exchange Control requirements. However, only one of the three MSB operators was examined in 2009. Exception reports and other documents submitted throughout the year are also evaluated for AML compliance.
607. There is no requirement for each licensed MSB operator to maintain a current list of its agents which must be made available to the designated competent authority. However, paragraph 15 of the section "Operating Conditions For Money Services Businesses" of the MSBG requires the approval of the Central Bank for the appointment of any sub-agents or the establishment of new locations by any MSB operator which would effectively meet the FATF criterion. Additionally, each licensed MSB operator has to list agents and sub-agents annually when renewing its licence.
608. The only criminal sanctions applicable to MSB operators are those in the MLTPA in relation to the requirements reflecting FATF Recommendations 4-11, 13-15 and 21-23. Other than these criminal sanctions, the Central Bank has the option under paragraph 16 of

the section “Operating Conditions For Money Services Businesses” of the MSBG, not to renew a licence of an MSB operator. The enforceability of this sanction is doubtful since the MSBG is neither legislated nor other enforceable means. Subsection 22(1) of the MLTPA also enables the supervisory authority, in this case the Central Bank that discovers a breach of any obligation under sections 15, 16, 17, 18 and 19 by a reporting entity it supervises to impose any one of the following sanctions:

- h. written warnings;
- i. order to comply with specific instructions;
- j. ordering regular reports from the reporting entity on the measures it is taking;
- k. fine in an amount no less than BZ\$5,000 and no greater than BZ\$20,000;
- l. barring convicted individuals from employment within the sector;
- m. replacing or restricting the powers of managers, directors or controlling owners, including the appointment of ad hoc administration; or
- n. recommending to the appropriate licensing authority of the reporting entity that the reporting entity’s licence be suspended, restricted or withdrawn.

609. While the above sanctions are broad and allows for penalties to be imposed on the management, directors and owners of a reporting entity, the fines ranging from BZ\$5,000 which is equivalent to US\$2,500 to BZ\$20,000 which is equivalent to US\$10,000 are not dissuasive especially with regard to financial institutions.

3.11.2 Recommendations and Comments

610. Supervisory fines under the MLTPA should be dissuasive.

3.11.3 Compliance with Special Recommendation VI

| | Rating | Summary of factors underlying rating |
|-------|--------|--|
| SR.VI | PC | <ul style="list-style-type: none"> • Supervisory fines under the MLTPA are not dissuasive for financial institutions. • Number of inspections suggest ineffective monitoring |

4. PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

Scope

611. Under the MLTPA “reporting entities” are subject to numerous AML/CFT preventive measures. The term “reporting entities” includes but is not limited to all the FATF

designated non-financial businesses and professions listed in the First Schedule of the MLTPA as follows;

1. Casinos.
 2. Internet Casinos or Online Gaming.
 3. Gambling Houses.
 4. Dealing in real estate when the persons dealing are involved in transactions concerning the buying and selling of real estate.
 5. Dealing in precious metals and dealing in precious stones.
 6. Lawyers, notaries, other independent legal professionals, accountants, auditors and tax advisers, when they prepare for or carry out transactions for their clients concerning the following activities:
 - a. buying and selling of real estate;
 - b. managing of client money, securities or other assets;
 - c. managing of bank, savings or securities accounts;
 - d. organisation of contributions for the creation, operation or management of companies;
 - e. creation, operation or management of legal persons or arrangements, and buying and selling of business entities.
 7. A trust or company service provider not otherwise covered by this schedule, which as a business, provides any of the following services to third parties:
 - i. acting as a formation agent for legal persons;
 - ii. acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - iii. providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
 - iv. acting as (or arranging for another person to act as) a trustee of an express trust;
 - v. acting as (or arranging for another person to act as) a nominee shareholder for another person.
612. In addition to the above, pawning and dealing in vehicles are included. Information with regard to the number of reporting entities in the various categories above was not available to the assessment team. The designated supervisory authorities with responsibility for ensuring compliance by the above listed entities with the AML/CFT obligations of the MLTPA as listed in the Third Schedule include the Ministry of Finance responsible for pawning, the IFSC responsible for trust and company service providers and the FIU for the remaining reporting entities. Along with the MLTPA, IFS practitioners are subject to the IFSPCCR and in particular trust and company service providers to the Trust and Company Service Providers (Best Practices) Regulations (TCSPBPR). Both regulations contain AML

measures which either mirror the provisions of the MLTPA or include additional requirements.

4.1 Customer due diligence and record-keeping (R.12) (applying R. 5, 6, and 8 to 11)

4.1.1 Description and Analysis

Recommendation 12

613. Casinos, real estate agents, lawyers, notaries and independent professionals, trust and company service providers are all reporting entities under the MLTPA. Sections 15, 16 and 17 of the MLTPA set out the requirements of reporting entities applicable to the criteria of Recommendations 5, 6 and 8-11. These are dealt with sections 3.2, 3.3, 3.5 and 3.6 of this report. Deficiencies identified in these sections in relation to the above recommendations would also be applicable to the DNFBPs since they are subject to the requirements of the MLTPA.

Recommendation 5

614. It is a FATF criterion that casinos including internet casinos are required to comply with the requirements of Recommendation 5 when their customers engage in financial transactions equal to or above US\$3,000. However, the transaction threshold level as set out in section 15(2) of the MLTPA is BZ\$15,000 which is equivalent to US\$7,500 well above the FATF criterion. However, the transaction threshold is well below the US\$15,000 level for cash transactions for dealers in precious metals and dealers in precious stones.
615. As mentioned above trust and company service providers are subject not only to the MLTPA but also to the IFSPCCR and the TCSPBPR which include provisions relevant to establishing and verifying the identity of customers.
616. Under regulation 10 of the IFSPCCR, IFS Practitioners are required to ensure that all their staff are familiar with and apply relevant procedures to verify and adequately document the true identity of clients, and for this purpose, identity will usually include a current address or place of business. IFS practitioners are prohibited from conducting business with persons using obviously fictitious names or addresses and cannot maintain anonymous accounts. Regulations 12 through 17 further set out the customer due diligence requirements in the case of individuals, corporate clients, partnerships, unincorporated businesses and trustee relationships as well as internet and cyber businesses.
617. With regard to individual customers regulation 12 of the IFSPCCR requires that a prospective customer provide his true name, permanent address and whenever possible date of birth which should be recorded. This information should be verified by reference to a national identity card, passport or other similar identification document, a copy of which should be retained.
618. Under regulation 13 of the IFSPCCR, IFS practitioners are required to obtain from corporate clients, a copy of the certificate of incorporation and where applicable certificate of change of name, certificate of good standing and a properly authorized mandate of the

company to establish the business relationship. Additionally, copies of the identification documents of two directors (if there is more than one) and authorized signatories of the company and copies of the memorandum and articles of association of the company. In relation to non-publicly traded companies, IFS practitioners are required to obtain a register of the names and addresses of shareholders holding a controlling interest in the company and to obtain details in respect of the beneficial owners of corporate shareholders holding 10% or more of the issued shares of a company or of any shareholder who appears to have controlling interest.

619. In the case of local limited partnerships, regulation 14 of the IFSPCCR requires that a copy of the certificate of registration and a certificate of good standing certified by the Registrar of Companies be obtained. With unincorporated businesses or partnerships, the IFS practitioner is required to obtain evidence of the identity of a majority of the partners, owners or managers and the authorized signatories and a copy of the mandate from the partnership or unincorporated business authorizing the establishment of the relationship.
620. Regulation 16 of the IFSPCCR requires trustees to verify the identity of a settlor or any person adding assets to a trust and to recognize the nature of the trust and the identity of the funds settled on it. Additionally regulation 11 of the TCSPBPR requires all trust and company service providers to ensure that information on the ultimate beneficial owner and/or controllers of companies, partnerships and other legal entities and the trustees, settlor, protector/beneficiaries of trusts is known and properly recorded.

Recommendations 6, 8, 9

621. The provisions in the MLTPA dealing with the requirements of Recommendations 6, 8 and 9 are also applicable to the DNFBPs and are covered in sections 3.2 and 3.3 of this report.

Recommendation 10

622. The provisions of the MLTPA addressing the requirements of Recommendation 10 are dealt with in section 3.5 of this report. It should be noted that section 16(6) of the MLTPA stipulates that the record keeping requirement outlining the type and detail of record together with requisite retention period only apply to casinos or licensing gaming premises when a customer engages in a transaction equal to or above BZ\$10,000 which is equivalent to US\$5,000. While this threshold is lower than US\$7,500 applicable to Recommendation 5, it is still above the FATF requirement of US\$3,000.
623. In addition to the above, while there is no explicit legal provision requiring financial institutions to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority, trust and service company providers are required under sub regulation 27(3) of the IFSPCCR to prepare and store all documentation in such a manner that they are accessible within a reasonable time and readily available to comply with any court orders or directives regarding disclosure of information.

Recommendation 11

624. The provisions in the MLTPA dealing with the requirements of Recommendation 11 are also applicable to the DNFBPs and are covered in section 3.6 of this report.

4.1.2 Recommendations and Comments

625. Deficiencies identified in Recs. 5, 6 and 8-11 in relation to the above recommendations would also be applicable to the DNFBPs since they are subject to the requirements of the MLTPA. Implementation of the specific recommendations in the relevant sections of this Report will also apply to listed DNFBPs
626. The transaction threshold level for casinos should be amended in the MLTPA to comply with the requirements of Rec. 5 and Rec. 10.

4.1.3 Compliance with Recommendation 12

| | Rating | Summary of factors relevant to s.4.1 underlying overall rating |
|-------------|-----------|--|
| R.12 | PC | <ul style="list-style-type: none">• Deficiencies identified in Recs. 5, 6 and 8-11 in relation to the above recommendations would also be applicable to the DNFBPs since they are subject to the requirements of the MLTPA.• The transaction threshold level for casinos to comply with the requirements of Rec. 5 and Rec. 10 is well above the FATF level of US\$3,000. |

4.2 Suspicious transaction reporting (R.16)

(applying R. 13 to 15 & 21)

4.2.1 Description and Analysis

Recommendation 16

627. Section 17 of the MLTPA sets out the requirements and procedures addressing the criteria of Recommendation 13 stipulating suspicious transaction reporting requirements for all reporting entities. As already mentioned reporting entities include all DNFBPs. This is dealt with in section 3.7 of this report and the deficiencies identified in relation to Recommendation 13 are therefore applicable to DNFBPs.
628. It is noted that subsection 17(4)(c) of the MLTPA requires dealers in precious metals and dealers in precious stones and other dealers in high value goods to report suspicious transactions in accordance with the MLTPA whenever they engage in any cash transactions equal to or above BZ\$15,000 or US\$7,500. This is well under the FATF threshold of US\$15,000. Under subsection 17(4)(d) of the MLTPA real estate agents and dealers in vehicles are also subject to the above requirement when involved in transactions concerning the buying or selling of real estate or vehicles of any description.
629. Lawyers, notaries, other independent legal professionals and accountants and trust service providers are required under section 17(8) of the MLTPA to comply with the same obligation when engaged in the activities specified by the FATF. Section 17(9) of the MLTPA exempts disclosure of privileged communication from the requirement for suspicious transaction reporting. Privileged communication is defined in section 17(10) of the MLTPA as a disclosure to a professional legal advisor:

(i) by a representative of a client of the professional legal adviser in the course of ascertaining the legal position of the client;

(ii) from or through a client in connection with the performing by the legal adviser of the task of defending or representing that client in, or concerning judicial, administrative, arbitration or mediation proceedings:

630. Additionally the above communication is not privileged if made with the intention of furthering a criminal purpose.

631. Lawyers, notaries, other independent legal professionals and accountants are required to report suspicious transactions reports only to the FIU. The provisions in the MLTPA dealing with the requirements of Recommendations 14, 15 and 21 are also applicable to the DNFBPs and are addressed in sections 3.7, 3.8 and 3.6 of this report respectively. Deficiencies identified with these Recommendations will also be applicable to the DNFBPs.

632. The reporting requirement in relation to accountants is limited to the activities referenced above and does not include auditing. DNFBPs are required to report to the FIU when they suspect or have reasonable grounds to suspect that funds are the proceeds of all criminal acts that would constitute a predicate offence for money laundering domestically.

4.2.2 Recommendations and Comments

633. Deficiencies identified in Recs. 13 to 15 and 21 in relation to the above recommendations would also be applicable to the DNFBPs since they are subject to the requirements of the MLTPA. Implementation of the specific recommendations in the relevant sections of this Report will also apply to listed DNFBPs.

4.2.3 Compliance with Recommendation 16

| | Rating | Summary of factors relevant to s.4.2 underlying overall rating |
|-------------|-----------|--|
| R.16 | PC | • Deficiencies identified in Recs. 13 to 15 and 21 in relation to the above recommendations would also be applicable to the DNFBPs since they are subject to the requirements of the MLTPA. |

4.3 Regulation, supervision and monitoring (R.24-25)

4.3.1 Description and Analysis

Recommendation 24

634. As per section 21 of the MLTPA and the Third Schedule of the Act, the FIU is the designated supervisory authority responsible for supervising gambling houses, casinos and internet casinos or online gaming for compliance with the AML/CFT obligations of the MLTPA. Section 21 of the MLTPA provides for a supervisory authority to be able to examine and supervise through on-site examinations or other means, issue instructions, guidelines or recommendations to assist reporting entities, develop standards and/or criteria

applicable to the reporting of suspicious transactions and impose requirements on reporting entities to ensure that foreign branches and subsidiaries adopt and enforce consistent AML/CFT obligations. While these provisions can form the basis for the implementation of a supervisory regime, it should be noted that there is no specific clause granting the supervisory authority power to request regular reporting or access any information necessary to carry out its functions in particular monitoring.

635. With regard to sanctioning powers, breaches of the AML/CFT obligations of the MLTPA can be penalised by a supervisory authority imposing on a reporting entity it supervises as per section 22(1) of the MLTPA, any one of the following sanctions:
- a. written warnings;
 - b. order to comply with specific instructions;
 - c. ordering regular reports from the reporting entity on the measures it is taking;
 - d. fine in an amount no less than BZ\$5,000 and no greater than BZ\$20,000;
 - e. barring convicted individuals from employment within the sector;
 - f. replacing or restricting the powers of managers, directors or controlling owners, including the appointment of ad hoc administration; or
 - g. recommending to the appropriate licensing authority of the reporting entity that the reporting entity's licence be suspended, restricted or withdrawn.
636. While the above sanctions are broad and allows for penalties to be imposed on the management, directors and owners of a reporting entity, the fines ranging from BZ\$5,000 which is equivalent to US\$2,500 to BZ\$20,000 which is equivalent to US\$10,000 are not dissuasive especially with regard to financial institutions. At the time of the mutual evaluation there had been no move to enforce a supervisory regime in accordance with the above provisions due to a lack of resources on the part of the FIU.
637. Gaming activity in Belize is governed by the Gaming Control Act (GCA) and the following subsidiary licensing regulations: The Gaming Control Act (Commencement) Order; Gaming Control (Gaming Machines) Regulations (GCGMR); Gaming Control (General Regulation of Licensed Gaming Premises) Regulations (GCLGPR). There are also regulations governing the operation of the games, and the accounting and internal controls of gaming establishments.
638. Section 4 of the GCA established the Gaming Control Board (the Board) consisting of nine persons with five representatives from Government ministries. The main function of the Board as set out in section 5 of the GCA is to control and regulate gaming and to grant or revoke gaming licences under the Act. Licences are required for the use of premises for gaming, the use, manufacture or assembly of gaming machines and the provision of gaming facilities by hotels for their guests. Casinos can operate under a combination of the licences depending on the type of gaming activity on offer and the location of the casino. The largest casino in Belize is a hotel casino offering gaming facilities and gaming machines. The requirements for each type of licence are stipulated in individual statutes.

639. Section 6 of the GCA requires every person who intends to use or permit any other person to use his premises for gaming to apply to the Board for a gaming licence. A licence can only be granted to a fit and proper person and has to be renewed every year. No one under 18 years of age, or who has been convicted of an offence involving dishonesty within the previous three years of the date of the application for a licence, or is known to be of bad character or in the opinion of the Board is an undesirable person is eligible for a licence. The above requirements are generic with no definition being provided for fit and proper and no information as to whether the Board conducts background checks on applicants. It is noted that section 20 of the GCA prohibits the transfer of a licence granted under the Act to any other person.
640. Regulation 5 of the GCGMR requires a person who intends to keep, use, operate, display, manufacture, or assemble any gaming machine to apply to the Board for a licence. Regulations 6, 7 and 8 of the GCGMR stipulate that the Board can grant a licence to any fit and proper person subject to such conditions, the licence is valid for a year and can be renewed and the licence is non-transferable. Similar to provisions in the GCA, there is no definition of fit and proper or any information as to whether the Board conducts background checks on applicants.
641. Regulation 4 of the GCLGPR allows the Board to grant a licence to any person who meets the requirements of section 6 of the GCA and who owns, operates or manages a hotel providing gaming facilities. Additionally, in the case of a legal person applying for a licence, all actual shareholders, directors and/or partners must not have been convicted of any crime involving dishonesty three years prior to the application or any other crime involving moral turpitude. The period of the licence is to be determined by the Board and may be renewed.
642. Licence application forms are appended in the First Schedule of the GCLGPR and include forms for individual and company applicants. Along with memorandum and articles of association, company applicants are required to submit copies of audited accounts for the last three years and memorandum and articles of association of any related holding or subsidiary companies. Company applicants are also required to submit particulars of each person who is a shareholder, director, partner secretary or manager of the company or who has any direct or indirect financial interest in the application. Information and details on whether a company applicant has been convicted of any offence in any country or subject to a civil judgment is also required. Applicants are required to state whether the application is being made by an individual in his own capacity or on behalf of a company, partnership, association or other entity.
643. The above information should form the basis for the Board to carry out in depth background checks to prevent at the licensing application stage, criminals or their associates from holding or being the beneficial owner of a significant or controlling interest in or holding a management function in or being an operator of a casino. However, it is noted that there is no requirement for information on the natural persons behind corporate shareholders.
644. In addition to the above, regulation 9(3) of the GCLGPR states that any transfer or assignment of any shares or other rights in a licensee cannot be effected without the written approval of the Board. Further regulation 12(1) of the GCLGPR grants the Board the power to carry out investigations on any proposed manager, assistance manager, supervisor or any other employee to determine that the person is suitable prior to employment by the licensee.

645. The requirements in the GCLGPR except for the lack of information with regard to natural persons behind the corporate shareholders of applicants for licences should be adequate to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in or being an operator of a casino. However, no similar provisions exist under the GCA and the GCGMR in relation to the granting of licences for gaming premises and use of gaming machines.
646. With regard to other DNFBPs, the designated supervisory authority for AML/CFT compliance for all of them except for trust and service company providers is according to the Third Schedule of the MLTPA, the FIU. The concerns noted above with regard to the framework for the supervisory regime and the absence of such regime are the same.
647. In relation to trust and service company providers, the designated supervisory authority is the IFSC. The concerns noted about the supervisory regime of the IFSC in section 3.10 would also be applicable to trust and service company providers.

Recommendation 25 (Guidance for DNFBPs other than guidance on STRs)

648. At the time of the mutual evaluation the only guidelines were the Guidance Notes issued by the Central Bank under the former MLPA. These guidelines were issued for the licensees of the Central Bank and were being revised and updated ones were issued in June 2010. The IFSPCCR had mandated that IFS practitioners comply with these Guidance Notes making them applicable to trust and service company providers. Otherwise no guidelines have been issued for DNFBPs except for trust and company service providers.

4.3.2 Recommendations and Comments

649. Casinos should be subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF Recommendations.
650. Designated supervisory for casinos should have the power to request regular reporting or access any information necessary to carry out its functions in particular monitoring.
651. Fines applicable by the designated supervisory authority under section 22(1) of the MLTPA should be dissuasive.
652. Information should be required on natural persons behind the corporate shareholders of applicants for licences for the provision of gaming facilities by hotels for their guests
653. There should be adequate measures in relation to the granting of licences for gaming premises and the use of gaming machines to prevent criminals or their associates from holding or being beneficial owner of a significant or controlling interest, holding a management function in or being an operator under these licences.
654. A comprehensive regulatory and supervisory regime to ensure effective implementation of AML/CFT measures required under the FATF Recommendations should be instituted for other DNFBPs except for trust and company service providers.

4.3.3 Compliance with Recommendations 24 & 25 (criteria 25.1, DNFBP)

| | Rating | Summary of factors relevant to s.4.3 underlying overall rating |
|------|--------|--|
| R.24 | NC | <ul style="list-style-type: none"> • Casinos are not subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF Recommendations. • Designated supervisory for casinos does not have the power to request regular reporting or access any information necessary to carry out its functions in particular monitoring. • Fines applicable by the designated supervisory authority under section 22(1) of the MLTPA are not dissuasive • No requirement for information on natural persons behind the corporate shareholders of applicants for licences for the provision of gaming facilities by hotels for their guests • No adequate provisions in relation to the granting of licences for gaming premises and the use of gaming machines to prevent criminals or their associates from holding or being beneficial owner of a significant or controlling interest, holding a management function in or being an operator under these licences. • No comprehensive regulatory and supervisory regime to ensure effective implementation of AML/CFT measures required under the FATF Recommendations has been instituted for other DNFBPs except for trust and company service providers. |
| R.25 | NC | <ul style="list-style-type: none"> • No guidelines have been issued for the DNFBPs except for the trust and company service providers. |

4.4 Other non-financial businesses and professions Modern secure transaction techniques (R.20)

4.4.1 Description and Analysis

655. As listed in the First Schedule of the MLTPA, Belize has extended AML/CFT requirements to non-financial businesses and professions other than DNFBPs. These include pawn broking and dealing in vehicles.

656. Belize has a substantial cash based economy with a large proportion of the population with no bank account. However modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering are increasingly being used by the public. These measures are being implemented by the commercial banks through the provision of ATM machines and credit and debit card services to their customers. Internet

banking facilities are also available from certain banks. At the time of the mutual evaluation the largest denomination bank note was BZ\$100 (equivalent to US\$50).

4.4.2 Recommendations and Comments

4.4.3 Compliance with Recommendation 20

| | Rating | Summary of factors underlying rating |
|------|--------|---|
| R.20 | C | • This recommendation is fully observed |

5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANISATIONS

5.1 Legal Persons – Access to beneficial ownership and control information (R.33)

5.1.1 Description and Analysis

Beneficial ownership and control of legal persons

657. The laws of Belize provide for the registration of various types of business entities. The registration of domestic and external companies is regulated under the provisions of the CA. IBCs are subject to the IBCA.

The Companies Act

658. Section 221(1) of the CA provides that the Registrar General is authorised to register and regulate all companies that are subject to the Act. The CA authorises the incorporation of unlimited companies, companies limited by shares or guarantee as well as overseas (external) companies. The authorities informed the examiners that the registry has on record approximately 11,000 registered companies and 12,000 registered business names in Belize.

659. The Registrar of the Supreme Court is the ex officio Registrar of Companies (Registrar). The operational management of the companies registry is overseen by a deputy registrar of companies who is assisted by 4 ancillary staff members. The provisions of the CA require the Registrar to maintain a register containing the following information concerning registered unlimited companies and companies limited by shares and guarantee.

Table 13: Information maintained by Registrar of Companies

| Name of Document | Applicable provision of CA |
|---------------------------------------|----------------------------|
| Registered office | Section 64 |
| Special and extraordinary resolutions | Section 72 |
| List of directors | Section 77 |
| Prospectus | Section 82 |
| Return of allotment of shares | Section 90 |
| Memorandum of Association | Section 4 |
| Articles of Association | Section 5 |

| | |
|----------------------|----------------|
| List of shareholders | Section 27 (4) |
|----------------------|----------------|

660. Sections 4 and 10 of the CA stipulate the documents necessary to register a company with share capital and a company limited by guarantee (and not having a share capital). These documents include memorandum of associations and articles of association. Section 5 of the CA requires that the following information must be submitted in every company's memorandum of association;
- (a) the company's name;
 - (b) the company's registered address; and
 - (c) the company's objects.
661. Section 74(2) of the CA requires that a list of the directors of the company also must be submitted with the application for registration. The examiners were advised that a list of shareholders is not required at the time of a company's incorporation and that such information becomes available at the time the company files its initial annual returns.
662. Sections 27 of the CA requires the annual submission of lists of the names, addresses and occupations of shareholders with the number of shares held at the date of the return, shares transferred since the date of the last return and the names and addresses of directors of the company at the date of the return. Failure to comply with this requirement can result in a penalty of a fine not exceeding BZ\$25.00 per day for every day the default continues. Directors and managers who knowingly or wilfully authorise or permit the default are liable to the same penalty.
663. Section 77(1) requires companies to notify the Registrar of any changes among its directors or managers. Failure to comply with this requirement can result in a penalty of a fine not exceeding BZ\$25.00 per day for every day the default continues. Directors and managers who knowingly or wilfully authorise or permit the default are liable to the same penalty.
664. Sections 26 and 77 of the CA also require companies to maintain registers at their registered offices of the data submitted to the Registrar. These would include a register of shareholders which under section 31 of the CA can be inspected by any member of the company without charge and by any other person on payment of a sum prescribed by the company.
665. The Registrar maintains identification information of the beneficial owners of registered companies. The acceptable forms of identification for natural persons include national identification cards, passports, social security cards and passports. The examiners were advised that the Registrar does not determine the ultimate beneficial ownership of shareholder companies.
666. In the case of external companies, section 251(1) of the CA requires the Registrar to maintain the following documents;
- 1. A certified copy of the charter, statute or memorandum and articles of the company;
 - 2. A list of the directors and secretary; and

3. Name and address of any person in Belize authorised to accept service of process and notices required to be served upon the company.
667. Section 251(2) of the CA requires that the submitted list of directors for external companies must include full names, address, nationality, occupation and particulars of any other directorship held by that person should he or she not be employed. Section 251(5) of the CA requires external companies to notify the Registrar within twenty-one days of any change in information previously submitted to the Registrar. There is no requirement similar to ordinary companies for the maintenance of registers by external companies at registered offices.
668. Section 221(3) of the CA permits members of the public to inspect all company records retained by the Registrar on the payment of a prescribed fee. The examiners were advised that the public's access to company documents in the Register is without cost.

International Business Companies Act

669. The registration and regulation of IBCs is governed by the provisions of the IBCA. Section 131 of the IBCA requires the appointment of a Registrar of International Business Companies (RIBC). Section 14(1) of the IBCA requires the submission of the articles and memorandum of association of IBCs to the RIBC who is obligated to retain and register them in a Register. Upon registration of the article and memorandum of association, the RIBC issues a certificate of incorporation in accordance with section 14(3) of the IBCA.
670. Section 12 of the IBCA requires that the following information must be stated in an IBC's memorandum of association;
1. The company's name;
 2. The company's registered address in Belize;
 3. The name and full address of the company's registered agent in Belize;
 4. The purpose(s) for which the company was incorporated;
 5. The currency in which the company's shares shall be issued;
 6. A statement of the company's authorised share capital;
 7. A statement of the number and classes of shares issued by the company;
 8. A statement of the designation, powers, preferences and rights, qualifications and limitations of each class of shares;
 9. A statement of the number of shares to be issued as registered or bearer shares;
 10. Whether registered shares may be exchanged for bearer shares and vice versa;
and

11. The manner in which a required notice is issued to the holder of bearer shares.
671. Section 132 of the IBCA provides for an IBC to optionally register its share register and or register of directors with the RIBC. Section 137 of the IBCA allows for a person to inspect documents kept by the RIBC except for those documents dealing with companies that are in process of applying for a certificate of continuation. Section 31 of the IBCA requires IBCs to maintain a share register to contain the following:
- a. The names and addresses of persons who are holders of registered shares in the company;
 - b. The number and class of each series of registered shares held by each person;
 - c. The date on which each person was entered on the shares register;
 - d. The date of which each person ceased to be on the shares register;
 - e. The total number of each class and series of bearer shares issued;
 - f. The identification number of each bearer shares certificate, the number and class of shares in the bearer certificate and the date of issue of the certificate.
672. Section 49 of the IBCA provides that an IBC may maintain a register of directors containing the following information;
- i. The names and addresses of all directors of the company;
 - ii. The date of appointment of each director; and
 - iii. The date on which a person ceases to be a director.
673. Section 31(3) of the IBCA requires that a copy of the IBC's share register must be kept either at the registered office of the IBC or the registered agent. Any register of directors must be maintained at an IBC's registered office. Sections 42 and 43(1) of the IBCA require IBCs to have a registered office and a registered agent in Belize respectively.
674. Section 43(2) of the IBCA requires registered agents to be licensed by the IFSC under the IFSCA. Under section 45 of the IBCA, the RIBC is required to maintain a register of registered agents recording the names and addresses of all registered agents and the names of individuals authorised to sign on behalf of a registered agent. At the time of the mutual evaluation, there were 66 licensed registered agents in Belize and 45,000 active IBCs out of 90,000 total registered IBCs.
675. Registered agents are governed by the International Financial Services Practitioners (Code of Conduct) Regulations, 2001(IFSPCCR) which defines an International Financial Services (IFS) practitioner to include a registered agent in regulation 2 of the IFSPCCR. Under regulation 13 of the IFSPCCR, IFS practitioners are required to exercise appropriate

care with respect to corporate clients and obtain relevant information relating to client identity. For corporate clients, regulation 13(2) of the IFSPCCR stipulates that the IFS practitioner must obtain a copy of the certificate of incorporation and, where applicable, certificate of change of name, certificate of good standing, and a properly authorised mandate of the company to establish the business relationship. The nature of the business conducted by a company and the identity of the directors of the same should be known to the IFS practitioner.

676. Additionally, regulation 13(6) of the IFSPCCR requires IFS practitioners to obtain, with the exception of publicly traded companies, the register of members or a list of the names and addresses of shareholders holding a controlling interest in the company and where necessary, the details which would be required of an individual client in respect of the beneficial owners of corporate shareholders shown to be holding ten percent (10%) or more of the issued shares of a company or of any shareholder who appears to have a controlling interest. In the case of corporate shareholders, regulation 13(7) of the IFSPCCR requires the acquisition of appropriate information regarding ultimate beneficial ownership particularly if the shareholders of the company appear to be nominees.
677. While the CA requires the disclosure of the directors and shareholders of a company incorporated under the said Act with the Registrar of Companies, information on shareholding is only submitted with the first annual return and beneficial ownership information of corporate shareholders is not required. Additionally information on changes in directors and shareholders is usually updated only once a year with annual returns. Said registration is a public record. The IBCA does not require registration of the directors or shareholders of an IBC with the RIBC though the registered agent of such company is required to maintain such information under the IFSPCCR and to make same available to the IFSC or the FIU on request. However, while registered agents are subject to the supervision of the IFSC, no onsite inspections are carried out to verify compliance with legislative requirements for maintenance of beneficial ownership information. This factor seriously affects any assessment as to the scope and reliability of available information on IBCs.

Access to beneficial ownership information

678. The FIU has access to information under subsection 11(1)(k) which authorises the FIU to request information from any reporting entity and other domestic government agencies and section 16(5) of the MLTPA requires reporting entities to allow onsite inspection of records by the FIU. This requirement provides the FIU with access to information held by the Registrar of Companies and registered agents. The assessors were advised that good cooperation exists between the FIU and the Registrar of Companies and IBCs insofar as it relates to information sharing. Additionally, the FIU under subsection 11(1)(m) of the MLTPA can share information with an institution or agency of a foreign state that has powers similar to it.
679. In addition to the above, regulation 23 of the IFSPCCR provides that where the Director General of the IFSC is satisfied in his own deliberate judgment that certain information regarding beneficial ownership is reasonably required to facilitate a criminal investigation, prosecution or proceeding, whether in Belize or abroad, he may require any IFS practitioner to disclose to him the beneficial ownership of any clients' accounts kept by

such practitioner. As already mentioned an IFS practitioner as defined under section 2 of the IFSCA would include registered agents. In practice, the Director General has requested practitioners to provide information on ultimate beneficial owners.

Bearer shares

680. Section 38 of the CA allows companies to issue warrants permitting the bearer of the warrant to be entitled to the shares or stock specified. The provision effectively allows for issuance of bearer shares. There are no provisions in the CA or other legislation for the immobilisation of such shares.
681. Subsection 9(1)(a) of the IBCA allows IBCs to issue bearer shares. Section 31 of the IBCA requires the maintenance of a share register recording the number of each class and series of bearer shares and a copy of such register to be kept either at the IBC's registered office or the office of the IBC's registered agent. As already mentioned section 43(1) of the IBCA requires IBCs to have a registered agent in Belize.
682. Regulation 5 of the IFSPCCR requires all registered agents to immobilise bearer shares issued by IBCs in the manner prescribed in the IFSPCCR. Where the registered agent deals with the end user customer of bearer shares, he is required to implement know your customer due diligence measures for such customers. With any transfer of beneficial interest in bearer shares, regulation 6 of the IFSPCCR requires registered agents to implement the same know your customer measures. Regulation 7 of the IFSPCCR requires registered agents who deal directly with the end user of bearer shares to retain physical possession of the bearer share certificates.
683. In dealing with professional intermediary customers establishing IBCs in Belize on behalf of their customers, regulation 8 of the IFSPCCR requires registered agents to contractually oblige the professional intermediary to perform know your customer due diligence with his end user and retain physical custody of any bearer shares and be able to make available any know your customer information on the end user upon request by the registered agent. Regulation 9 of the IFSPCCR prohibits registered agents from dealing with professional intermediary customers in jurisdictions that are declared by the IFSC as falling below acceptable international standards.
684. The regulations above provide for the physical custody of bearer shares either directly by registered agents or by intermediary parties located in other jurisdictions. The use of intermediary parties outside of Belize raises serious concerns about the reliability of the status of bearer shares. This is further intensified by the fact that registered agents are not subject to onsite inspection by the IFSC to ascertain the implementation of the above arrangements. As such, the examiners have serious doubts as to the implementation and reliability of the system for the immobilisation of bearer shares.
685. There are no specific statutory measures in place to facilitate access by financial institutions to beneficial ownership and control information save and except that they are so obligated under the relevant provisions of the MLTPA, the MLTPR, the IFSC (Code of Conduct) Regulations and the Trust and Company Service Providers (Best Practices) Regulations to procure such information.

5.1.2 Recommendations and Comments

686. The authorities should consider implementing measures to ensure that the company register maintains adequate, reliable, and timely information on the beneficial ownership of registered companies.
687. Registered agents should be subject to measures to ensure that the beneficial ownership information on IBCs that they maintain is adequate, reliable and timely.
688. There should be measures to ensure that bearer share warrants for local companies are not misused for money laundering.
689. Registered agents should be subject to on-site inspections to ensure that the measures for the immobilisation of bearer shares of IBCs are adequate and reliable. .

5.1.3 Compliance with Recommendations 33

| | Rating | Summary of factors underlying rating |
|------|--------|--|
| R.33 | NC | <ul style="list-style-type: none"> • Information on the companies register is limited to legal ownership and does not include beneficial ownership information and is not necessarily reliable. • Registered agents are not subject to on-site inspection and it is not clear how reliable the beneficial ownership information of IBCs they maintain would be. • There are no specific measures to ensure that bearer share warrants for local companies are not misused for money laundering. • Reliability and implementation of measures for the immobilisation of bearer shares of IBCs by registered agents are doubtful since registered agents are not subject to on-site inspections to check these measures. |

5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)

5.2.1 Description and Analysis

E.C.34.1

Beneficial ownership and control of trusts

690. Pursuant to section 5 of the TA, a trust may be created by oral declaration or by an instrument (including a will or codicil), by conduct, operation of law, or in any other manner once the intention of the settlor to do so is clearly manifested. There are no formalities required to create a trust except for a unit trust, which can only be created by an instrument in writing according to section 5(2) of the TA.

691. Section 63(1) of the TA requires the Registrar of the Court to maintain a register of domestic trusts. Section 63(2) of the TA provides for the optional registration of trusts by either the settlor or trustee. Registration involves the submission of a copy of the trust instrument along with the applicable registration fees (section 63(3) of the TA). The register is not open for public inspection except when a trustee in writing authorises a person to inspect the entry of a specified trust.
692. The TA does not require trustees to verify the identity of a settlor or any person adding assets to the trust. Trustees are moreover not required to obtain individual verification information on the settlors, beneficiaries and protectors of the trust. The authorities advised the examiners that there are presently very few domestic registered trusts.
693. Under section 3 of the BFIA, the business of a trust corporation can only be carried out by a duly licensed institution. The business of a trust corporation is defined in section 2 of the BFIA to include professional trustee services including the management or administration of financial or other trust assets except for nominee trustee services. Trust corporations by virtue of their activity are reporting entities as defined in the First Schedule of the MLTPA and therefore subject to AML/CFT requirements. However, as noted in section 3.2 of this report there is no requirement for financial institutions to verify the legal status of legal arrangements such as trusts. As licensees of the BFIA, they are under the supervisory authority and regime of the Central Bank and are subject to on-site examinations which verify compliance with AML/CFT requirements.
694. In extending the AML/CFT regime, the MLTPA includes lawyers, notaries, other independent legal professionals, accountants, auditors and tax advisers when they prepare for or carry out transactions for their clients concerning activities which include among others, the creation, operation or management of legal persons or arrangements, and buying and selling of business entities as set out in the First Schedule of the MLTPA. The above activity would include the creation or establishment of trusts and the entities above are subject to the AML/CFT requirements of the MLTPA. As per section 21(1) of the MLTPA and in accordance with the Third Schedule of the same act, the supervisory authority of the entities above is the FIU. At the time of the mutual evaluation, the FIU had not implemented a supervisory regime for these entities and it is therefore not possible to ascertain whether the information on trusts held by these entities is reliable or as extensive as required by FATF standards.
695. In addition to the above, the MLTPA also extends AML/CFT obligations to trust and company service providers offering services to third parties which include acting as (or arranging for another person to act as) a trustee of an express trust as per the First Schedule of the MLTPA. The designated supervisory authority for trust and company service providers set out in the Third Schedule of the MLTPA is the IFSC. The provision of offshore trustee services and the formation and management of offshore trusts are defined under section 2 of the IFSCA as part of international financial services which can only be carried out with a valid licence from the IFSC as per section 7(1) of the IFSCA.
696. Under regulation 11(i) of the Trust and Company Service Providers (Best Practices) Regulations, 2007, all service providers are required to ensure that the trustees, settlor, protector/beneficiaries of trusts are known and are properly recorded. As such trust and company service providers are required to maintain information on details of trusts as required by FATF standards. However, the scope and reliability of such information

cannot be assessed since the supervisory authority the IFSC does not conduct onsite inspections of these entities to verify compliance with legislative requirements.

697. The Trust (Amendment) Act, 2007(TAA) provides for the creation of international trusts which are defined in section 64(1) of the TA as trusts with non-resident settlors and beneficiaries, with purposes and objects pursued or performed outside of Belize and property that does not include land in Belize. Section 65(1) of the TA specifies that international trusts can only be created by an instrument in writing. Sections 65B (1) of the TA requires the registration of international trusts by either the settlor, trustee or trust agent with the Registrar of International Trusts.

698. Sections 65(2) and 65(4) of the TA requires the Director General of the IFSC to act as Registrar of International Trusts with the obligation to maintain a Register of International Trusts containing the following information: -

- (i) Name of the trust.
- (ii) Date of settlement of the trust.
- (iii) Date of registration of the trust.
- (iv) Name(s) of the trustee(s).
- (v) Name of the protector (if any).
- (vi) Name and address of the trust agent.
- (vii) Any other information as may from time to time be specified by Regulations.

699. Failure to register within 90 days shall render the international trust invalid and unenforceable. According to section 65C(1) of the TA, the register is not open for public inspection except that the trustee or the trust agent authorises in writing a person to inspect the entry of the specified trust.

700. International trusts are required under section 65E(1) of the TA to have at all times a trust agent in Belize. Section 65E(3) of the TA requires trust agents to be licensed by the IFSC to carry on trust business. Every trust agent is required under section 65A(5) of the TA to maintain a record of international trusts containing the following information:

- (i) Name of the trust.
- (ii) Date of settlement of the trust.
- (iii) Date of registration of the trust.
- (iv) Name(s) of the trustee(s).
- (v) Name of settlor.
- (vi) Name of protector (if any).
- (vii) Names and addresses of all the beneficiaries.
- (viii) Initial funds settled.
- (ix) Additional funds settled.
- (x) Changes in beneficiaries.
- (xi) Change of protector.
- (xii) Original trust instrument and any amendments thereto.

701. Section 65A(6) of the TA provides for the Registrar to either personally or through inspectors appointed by him, inspect or audit the record of international trusts maintained by the trust agent, to verify the contents of the record and ensure its compliance with the law.

702. While the above provisions of the TAA provide for a register of international trusts, the information required to be retained does not cover the beneficiaries of trusts. However, every trust agent is required to maintain information on all details of international trusts, including beneficiaries and any amendments to original trust instruments. Since every international trust is required to have a trust agent, a database with current information on all international trusts in Belize is available.
703. Trust agents are subject to the supervision of the IFSC and under the TA can be inspected to verify compliance with record-keeping requirements for international trusts. However, the IFSC does not carry out on-site inspection to verify compliance and this seriously affects any assessment as to the scope and reliability of available information on international trusts.
704. The International Foundations Act, 2010 (IFA) enacted on April 1, 2010 provides for the formation of international foundations which may be established for purposes which are capable of fulfillment and are not unlawful, immoral or contrary to public policy. The said purposes must not include international financial services unless and until the appropriate licence to conduct such international financial services has been granted by the IFSC. In such cases, the international foundation is brought under the supervision of the IFSC.
705. Section 108 of the IFA appoints the Director General of the IFSC as the Registrar of International Foundations (RIF). Section 17 of the IFA requires the RIF to maintain a register of international foundations containing the names of the foundations, the names and addresses of registered agents and dates of registration. Section 17(2) of the IFA requires all international foundations to register with the RIF. Section 17(6) of the IFA requires the application for entry on the register to be made by the registered agent of the foundation and to contain the names and addresses of the registered agent, the Belize and non-resident members of the foundations, and the protectors of the foundation. Every international foundation is required by section 33(1) of the IFA to have a registered agent in Belize at all times. There are no legislative requirements for the registered agent to maintain specific information with regard to the name and address of the founder(s) of the foundation, the beneficiary or class of beneficiaries, and the names and addresses of the members of the foundation council. While the above provisions establish a register of international foundations, the information required to be maintained is minimal. Additionally, registered agents are not required to maintain adequate information on the control of the foundation. Due to recent enactment of the IFA, there were no international foundations in Belize at the time of the mutual evaluation.

Access to information

706. With regard to access to information, subsection 11(1)(k) of the MLTPA authorises the FIU to request information from any reporting entities and section 16(5) of the MLTPA requires reporting entities to allow onsite inspection of records by the FIU. This requirement provides the FIU with access to trust information maintained by any relevant reporting entity from trust corporations to recently included DNFbps such as lawyers and trust service providers. Additionally, the FIU under subsection 11(1)(m) of the MLTPA can share information with an institution or agency of a foreign state that has powers similar to it.

707. In addition to the above, regulation 23 of the IFSC Code of Conduct Regulations provides that where the Director General of the IFSC is satisfied in his own deliberate judgment that certain information regarding beneficial ownership is reasonably required to facilitate a criminal investigation, prosecution or proceeding, whether in Belize or abroad, he may require any IFS practitioner to disclose to him the beneficial ownership of any clients' accounts kept by such practitioner. An IFS practitioner as defined under section 2 of the IFSCA would include trust and company service providers and trust agents.

708. There are no specific statutory measures to facilitate access by financial institutions to beneficial ownership and control information in place save and except that they are so obligated under the relevant provisions of the MLTPA, the MLTPR, the IFSC (Code of Conduct) Regulations and the Trust and Company Service Providers (Best Practices) Regulations to procure such information.

5.2.2 Recommendations and Comments

709. The authorities should consider making it a legal requirement for the registration of all domestic trusts created under the TA.

710. Financial institutions should be required to verify the legal status of legal arrangements such as trusts.

711. The register of international trusts should include information on beneficiaries of trusts.

712. The authorities should implement measures to ensure the scope and reliability of information on domestic and international trusts maintained by relevant DNFBPs and trust agents respectively.

713. The register of international foundations and registered agents should be required to maintain adequate, reliable and timely information on the control of foundations.

5.2.3 Compliance with Recommendations 34

| | Rating | Summary of factors underlying rating |
|------|--------|--|
| R.34 | NC | <ul style="list-style-type: none"> • Registration of domestic trusts is optional and the register is not open to public inspection. • No requirements for financial institutions to verify legal status of legal arrangements such as trusts. • The register of international trusts is inadequate as it does not include information on beneficiaries of trusts. • Scope and reliability of information on domestic and international trusts maintained by relevant DNFBPs and trust agents respectively is doubtful since there is no inspection regime to verify the information. |

- | | | |
|--|--|---|
| | | <ul style="list-style-type: none">• Neither the register of international foundations nor registered agents are required to maintain adequate information on the control of foundations. |
|--|--|---|

5.3 Non-profit organisations (SR.VIII)

5.3.1 Description and Analysis

Review of NPOs, effective outreach, supervision and monitoring of NPOs

714. Non-profit organisations in Belize are governed by the CA and the Non-Governmental Organisation Act CAP 315. (NGOA) Non-profit organisations and churches can be incorporated under the CA. Information on the number of such entities registered under the CA was not available to the assessors since there is no monitoring of these types of organisations. Non-governmental organisations (NGOs) as defined in section 3 and 7 of the NGOA are companies limited by guarantees under the CA whose aims, objects and purposes are to achieve sustainable human development on a voluntary non-profit basis. Sustainable human development is construed to include but not limited to activities encouraging, promoting, protecting and developing education, communities in general and certain marginalised groups, conservation of natural environment and resources, formation of social and civil society organisations, etc.
715. The NGOA provides for the appointment of a Registrar of Non-Government Organisations (RNGO) to administer the NGOA. The Minister of Human Development and Housing has appointed a RNGO as required by the NGOA. Information on the numbers of registered non-governmental organisations was not available to the assessment team.
716. Belize has not reviewed the adequacy of its laws and regulations relating to NPOs to determine the sector's susceptibility to being used by terrorist organisations or for terrorist activities. Additionally, there has been no outreach to the NPO sector to raise awareness about the risks of terrorist abuse and the available measures to protect against such abuse and promote transparency, accountability, integrity and public confidence in the administration and management of all NPOs.

Maintaining information on NPOs

717. With regard to promoting effective supervision or monitoring of NPOs, there is no supervision or monitoring of NPOs and churches incorporated under the CA. The NGOA regulates the registration and regulation of the activities of all tax exempted NGOs in Belize. Section 6 of the NGOA provides that an NGO desiring to operate in Belize must prior to registration present the RNGO with the following information;
1. The NGOs memorandum and articles of incorporation;
 2. The NGOs name and address;
 3. Brief details of the NGOs aims and objectives particularly those relating to sustainable human development in Belize;

4. The NGO's organisational structure including the manner of election of directors, their powers, functions and term of office;
5. The NGOs management and accounting procedures;
6. The names, addresses and occupations of each member of the NGOs board of Directors;
7. The types of programmes and activities that the NGO intends to carry out during that year;
8. The estimated revenues and grants to the Ngo; and
9. The NGO's bye laws.

718. Section 10 of the NGOA requires that the RNGO in June of each year must gazette the names of all registered NGOs, all NGOs registered in the previous year but no longer registered and all organisations whose applications for registration were denied. This information was not available to the team of assessors. There is no provision in the NGOA allowing public access to the information submitted by NGOs to the RNGO upon application for registration. However, section 16(2) of the NGOA allows for public access upon payment of a fee to documents required to be submitted annually to the RNGO. The FIU under subsection 11(1)(k) of the MLTPA has the authority to request information from the RNGO.

Sanctions for violations committed by NPOs

719. The only sanctions against NGOs are cancellation of registration and loss of tax exemption status. Subsection 18 (1)(a) of the NGOA authorises the RNGO to cancel the registration of any NGO that fails to submit its audited accounts, financial statements or a report setting out its programme of activities and policies for a financial year. Subsection 18(1)(b) of the NGOA further provides that an NGO may lose its tax exemption privileges for the same breaches. No information as to other criminal, civil or administrative sanctions for violations of oversight measures or rules relating to NGOs was available to the assessors.

Registration/licensing and recordkeeping of transactions by NPOs

720. As was already discussed above all NGOs operating in Belize wishing to have tax exemption privileges available under the NGOA must be registered with the RNGO under the NGOA. While there is a requirement for NGOs to annually prepare audited statements for submission to the RNGO, there are no provisions requiring NPOs to maintain records of their domestic and international transactions for a minimum period of five years.

Measures to investigate and gather information on NPOs

721. Under section 18(1) of the NGOA the RNGO possesses investigative powers to determine whether an NPO has failed to submit its audited accounts, financial statements or a report setting out its programme of activities and policies for the financial year. As was discussed earlier, the FIU possesses broad and overarching powers to conduct investigations and collate information relating to reporting entities. However, NGOs are not a reporting entity under the MLTPA and are accordingly not subject to the control of the FIU. While the powers of the FIU provides for access to information held by the RNGO there are no measures to ensure effective cooperation, coordination and information sharing between the

FIU and the RNGO. The examiners were not provided with any information as to whether the FIU obtains information from NGOs directly or through the RNGO.

722. There are no provisions to permit full access to information on the administration and management of a particular NPO including financial and programmatic information during the course of an investigation. No mechanisms exist for the prompt sharing of information among all relevant competent authorities in order to take preventative or investigative action when there is suspicion or reasonable grounds to suspect that a particular NPO is being exploited for terrorist financing purposes. Additionally there is no investigative expertise or capability to examine NPOs suspected of either being exploited by or actively supporting terrorist activity.

Establishment of points of contact and procedures to respond to international request for information

723. Pursuant to section 76 of the MLTPA the Supreme Court, a supervisory authority or other competent authority can facilitate a request for information regarding a NPO. The examiners cannot assess the practical effectiveness of this provision as it has never been invoked by the authorities. Requests for information concerning NPOs may also be facilitated under the MLAT treaties and the Vienna and Palermo conventions which delineate clear procedures for making and receiving international requests for information.

5.3.2 Recommendations and Comments

724. The authorities should consider undertaking a review of the adequacy of Belize's laws relating to NPOs with a view to determine the sector's susceptibility to being used by terrorist organisations or for terrorist activities.
725. The authorities should consider implementing an outreach programme to the NPO sector Belize to raise awareness about the risks of terrorist abuse and the available measures to protect against such abuse and promote transparency, accountability, integrity and public confidence in the administration and management of all NPOs.
726. The authorities should implement measures to monitor or supervise NPOs and churches incorporated under the Companies Act.
727. The authorities should promulgating legislation that authorises public access to NGO information duly retained by the registrar.
728. The authorities should consider promulgating legislation that imposes other criminal, civil or administrative sanctions for violations of oversight measures or rules relating to NGOs further to those prescribed under section 18 of the NGOA.
729. The authorities should consider enacting legislation requiring NGOs to maintain records of their domestic and international transactions for a minimum period of five years.
730. The authorities should implement measures to ensure effective cooperation, coordination and information sharing between the FIU and the RNGO.

5.3.3 Compliance with Special Recommendation VIII

| | Rating | Summary of factors underlying rating |
|---------|--------|---|
| SR.VIII | NC | <ul style="list-style-type: none"> • There has been no review of the adequacy of Belize’s laws and regulations relating to NPOs to determine the sector’s susceptibility to being used by terrorist organisations or for terrorist activities. • There has been no outreach programme to the NPO sector in Belize to raise awareness about the risks of terrorist abuse and the available measures to protect against such abuse and promote transparency, accountability, integrity and public confidence in the administration and management of all NPOs. • No monitoring or supervision of NPOs and churches incorporated under the Companies Act. • There is presently no legislation in Belize that authorises public access to NGO information duly retained by the RNGO. • There is no legislation that imposes other criminal, civil or administrative sanctions for violations of oversight measures or rules relating to NGOs further to those prescribed under section 18 of the NGOA. • There is no legislation that requires NGOs to maintain records of their domestic and international transactions for a minimum period of five years. • No measures to ensure effective cooperation, coordination and information sharing between the FIU and the RNGO. |

6. NATIONAL AND INTERNATIONAL CO-OPERATION

6.1 National co-operation and coordination (R.31 & R.32)

6.1.1 Description and Analysis

731. Under subsection 7(1)(c) of the FIUA, the FIU is responsible for ensuring coordination and cooperation between law enforcement agencies, Government departments, regulatory authorities, private institutions and members of relevant professions in evolving methods and policies to prevent and suppress financial crimes. At the time of the mutual evaluation there was no national AML/CFT committee or group of policy makers tasked with overseeing the whole AML/CFT regime with a view to ensuring coordination and cooperation between the relevant authorities, assessing effective implementation and proposing and developing AML/CFT initiatives.

732. Various task forces exist in Belize where most of the key governmental, law enforcement and non law enforcement authorities such as the Port Authority meet on a regular basis and discuss various issues ranging from security, ML/TF, and immigration among others. Cooperation between law enforcement authorities (Customs, Police, FIU, ADU, MCU etc...) in Belize appears to be fairly good. Most departments seem to have a fairly good working relationship as it relates to cooperation on operational matters i.e. sharing of intelligence, executing searches, joint operations and the like. However, very limited is done in terms of policy and strategy development relative to ML and TF by these agencies.
733. Though the FIU and the Central Bank share office space in the same building, both being supervisors, there is very limited cooperation between the two (2) authorities as it relates to the development of policies and strategies in regulating the varied sectors of Belize. The same applies for the IFSC and its relationship with other authorities; strategy planning meetings are rarely held among the supervisor authorities of Belize that would result in an integrated approach to regulation of their sectors. The IFSC does provide prudent advice to all of the authorities but the wealth of knowledge is limited to one person with decades of experience.
734. There are no mechanisms in place for consultation between competent authorities, the financial sector and other sectors including DNFBPs that are subject to AML/CFT laws, regulations and guidelines.

Recommendation 32

735. There is no mechanism in Belize whereby the authorities review the effectiveness of their systems for combating money laundering and terrorist financing on a regular basis.

Recommendation 30

736. No information was provided to assess whether policy makers are provided with adequately structured, funded, staffed and provided with sufficient technical and other resources to fully and effectively perform their functions.

6.1.2 Recommendations and Comments

737. Belize should consider the formation of a special task force or group comprising various representatives of LEAs, focused on the development and implementation of policies and activities that would foster greater cooperation and coordination among these LEA entities in matters of ML and TF.

738. The authorities should develop a mechanism to review the effectiveness of their systems for combating money laundering and terrorist financing on a regular basis.

6.1.3 Compliance with Recommendation 31 & 32 (criterion 32.1 only)

| | Rating | Summary of factors underlying rating |
|------|--------|--|
| R.31 | NC | <ul style="list-style-type: none"> • No mechanism in place for policy makers, supervisors and other competent authorities to co-operate and where appropriate coordinate domestically with each other concerning the development and implementation of policies and activities to combat money laundering and terrorist financing. |

| | | |
|-------------|-----------|--|
| R.32 | NC | <ul style="list-style-type: none"> • No mechanism in Belize whereby the authorities review the effectiveness of their systems for combating money laundering and terrorist financing on a regular basis. |
|-------------|-----------|--|

6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)

6.2.1 Description and Analysis

Recommendation 35

739. Belize acceded to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (“the Vienna Convention”) on July 24, 1996. Belize made the following reservation as it relates to Article 8 of the Vienna Convention;

“The courts of Belize have no extraterritorial jurisdiction with the result that they will have no jurisdiction to prosecute offences committed abroad unless such offences are committed partly within and partly without the jurisdiction, by a person who is within the jurisdiction. Moreover, under the constitution of Belize the control of public prosecutions is vested in the Director of Public Prosecutions who is an independent functionary and not under government control. Accordingly, Belize will be able to implement Article 8 of the Convention only to a limited extent insofar as its Constitution and the law allows.”

740. Belize acceded to the United Nations Convention against Transnational Organized Crime, 2000 (“the Palermo Convention”) on September 26, 2003. Belize also made a reservation as it relates to Article 35(2) of the Palermo Convention;

“The Government of Belize declares that it shall take this Convention as the legal basis for cooperation on extradition with other state parties to this Convention. The government of Belize further declares that the central authority designated for the purpose of Article 18 paragraph 13 of the aforesaid Convention is the Attorney General’s Office and the language acceptable to Belize for the purposes of Article 18 paragraph 14 is English.”

741. Belize ratified the Terrorist Financing Convention on 1st December 2003. The MLTPA criminalises terrorism and financing of terrorism. The authorities have satisfied the examiners that Belize has implemented the United Nations Security Council Resolutions relating to the prevention and suppression of terrorist financing (S/RES/1267 (1999) and S/RES 1373 (2001).

742. Belize signed the Inter-American Convention against Terrorism on June 3, 2002, but has not ratified same.

Special Recommendation I

Implementation of the Terrorist Financing Convention

743. Belize ratified the United Nations International Convention for the Suppression of the Financing of Terrorism (“the Terrorist Financing Convention”) on December 1, 2003.

Implementation of United Nations S/RES 1267 (1999) and 1373 (2001)

744. The provisions of the UN S/RES Act fully implements United Nations Security Council Resolution 1617 of 2005 which succeeds S/RES/ 1267 and S/RES/ 1373 (2001). As such, the Belizean financial institutions and authorities possess the legal authority to promptly freeze terrorist funds or assets belonging to designated persons. Regulation 3 of the UN S/RES Act authorises all financial institutions to promptly freeze funds and other financial assets or economic resources of designated persons. Regulation 4 of the UN S/RES Act compels these entities to promptly report any freezing activities to the Minister of Foreign Affairs and copy to the Director of the FIU.
745. Most of the applicable provisions of the Vienna, Palermo and Terrorist Financing Conventions have been implemented in the MLTPA, the MDA, The Extradition Act Cap. 112 of the Revised Laws of Belize 2000 (the Extradition Act), The Mutual Legal Assistance in Criminal Matters (Belize/USA) Act No. 10 of 2005, (the Belize/USA Treaty Act) and the Caribbean Treaty on Mutual Legal Assistance in Serious Criminal Matters Act No. 48 of 2005 (the Caribbean Treaty Act). The legislative provisions in Belize giving effect to the relevant Articles of the above Conventions are stated in the table below.

Table 13: The status of Belize’s implementation of the Vienna, Palermo and Terrorist Financing Conventions

| Treaty | Articles | Corresponding legislative provision in Belize |
|--------------------------|----------------------------|--|
| Vienna Convention (1988) | 3 (offences and sanctions) | Sections 5-8, 10-12, 18-19 and 20-23 of the MDA. The MDA does not satisfy the requirements of Article 3 (1) (a) (iv) of the Vienna Convention which criminalises the manufacture, transport or distribution of equipment, materials or substances listed in Tables I and II knowing that they are to be used in the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances. Article 3 (1) (c) (iii) of the Convention is also not satisfied as the MDA contains no provisions relating to the offence of publicly inciting or inducing others, by any means, to commit any of the offences established in accordance with this article or to use narcotic drugs or psychotropic |

| | | |
|--------------------|---|---|
| | | substances illicitly. Section 21 of the MDA relates to “inciting” simpliciter and not “publicly inciting as required by Article 3 of the Vienna Convention. |
| | 4 (jurisdiction) | Section 2 and 10 of the MDA and the MLTPA respectively. |
| | 5 (confiscation) | Sections 29, 30 and 39 of the MDA and sections 39 and 49 of the MLTPA. |
| | 6 (extradition) | Extradition Act which in part III contains regulations relating to the extradition of fugitives to Guatemala and the United States of America. |
| | 7 (mutual legal assistance) | The Belize/USA Treaty Act and the Caribbean Treaty Act. Sections 11 (j), 13, 14 and 76 of the MLTPA |
| | 8 (transfer of proceedings) | No legislation supplied |
| | 9 (other forms of cooperation and training) | Sections 11 (j), (k) and (o) of the MLTPA |
| | 10 (international cooperation and assistance for transit states) | Section 76 of the MLTPA. Belize/USA Treaty Act and Caribbean Treaty Act |
| | 11 (controlled delivery) | No legislation supplied |
| | 15 (commercial carriers) | No legislation supplied |
| | 17 (Illicit traffic by sea) | No legislation supplied |
| | 19 (use of the mails) | No legislation supplied |
| Palermo Convention | 5 (criminalisation of participation in an organised criminal group) | Section 2 of the Crime Control and Criminal Justice Act Cap. 102 of the Revised Laws of Belize 2000. |
| | 6 (criminalisation of the laundering of the proceeds of crime) | Section 3(1) of the MLTPA |
| | 7 (measures to combat money laundering) | 14-19, 21, 23, 27, 28, 32, 34, of the MLTPA and Guidance Notes (if in force). |
| | 10 (liability of legal persons) | Sections 2(1) and 3(1) of the MLTPA |
| | 11 (prosecution, adjudication and sanctions) | Sections 3(4), (7), (8), (9), 84 and 85 of the MLTPA. |
| | 12 (confiscation and seizure) | Sections 39 and 49 of the MLTPA. |
| | 13 (international cooperation for the purposes of seizure) | Sections 13, 14 and 76 of the MLTPA. |
| | 14 (disposal of proceeds of crime or property) | Sections 52, 65, 78 of the MLTPA. |

| | | |
|--------------------------------|---|--|
| | 15 (jurisdiction) | Section 10 of the MLTPA |
| | 16 (Extradition) | Extradition Act which in part III contains regulations relating to the extradition of fugitives to Guatemala and the United States of America. |
| | 18 (mutual legal assistance) | The Belize/USA Treaty Act and the Caribbean Treaty Act. Sections 11(j), 13, 14 and 76 of the MLTPA |
| | 19 (joint investigations) | Sections 11(j), (m) and (o) of the MLTPA. |
| | 20 (special investigative techniques) | No legislation supplied |
| | 24 (protection of witnesses) | No legislation supplied. The authorities informed of the existence of a Justice Protection Act which was not provided to the examiners. |
| | 25 (assistance and protection of victims) | No legislation supplied |
| | 26 (measures to enhance cooperation with law enforcement authorities) | Sections 11(k) and (o) of the MLTPA |
| | 27 (Law enforcement cooperation) | Sections 11(k) and (o) of the MLTPA |
| | 29 (training and technical assistance) | Sections 11(h) and (i) of the MLTPA |
| | 30 (Other measures: implementation of the Convention through economic development and technical assistance) | No legislation supplied |
| | 31 (prevention) | No legislation supplied. |
| | 34 (implementation of the convention) | No legislation supplied. |
| Terrorist Financing Convention | 2 (offences) | Sections 68 and 69 of the MLTPA |
| | 4 (criminalisation) | Sections 68 and 69 of the MLTPA |
| | 5 (Liability of legal persons) | Sections 2(1), 68 and 69 of the MLTPA |
| | 6 (justification for commission of the offence) | Section 5 of the MLTPA |
| | 7 (jurisdiction) | Section 10 of the MLTPA |
| | 8 (measures for identification, detection, freezing and seizure of funds) | Sections 14-19, 21, 23, 27, 28, 32, 34, 67, 71, 72 and 74 of the MLTPA. |
| | 9 (investigations and rights of the accused) | Fundamental rights provisions of the Constitution. |

| | | |
|--|---|--|
| | 10 (extradition of nationals) | Extradition Act which in part III contains regulations relating to the extradition of fugitives to Guatemala and the United States of America. |
| | 11 (offences which are extraditable) | Section 77 of the MLTPA. |
| | 12 (assistance to other states) | Sections 11 (j), 13, 14 and 76 of the MLTPA. |
| | 13 (refusal to assist in the case of fiscal offence) | No legislation supplied |
| | 14 (refusal to assist in the case of a political offence) | No legislation supplied |
| | 15 (No obligation if belief that prosecution based on race, nationality, political opinion, etc) | No legislation supplied |
| | 16 (transfer of prisoners) | Section 76(4) of the MLTPA |
| | 17 (guarantee of fair treatment of persons in custody) | Fundamental rights provisions of the constitution. |
| | 18 (measures to prohibit persons from encouraging or organising the commission of offences and to facilitate STRs, record keeping and CDD measures by financial institutions and other institutions carrying out financial transactions and facilitating information exchange between agencies) | Sections 14-19, 21, 23, 27, 28, 32, 34, 67 and 69 of the MLTPA. |

746. In 2003, Belize enacted the Trafficking in Persons (Prohibition) Act, 2003, No. 18 of 2003 which gives the Trafficking Protocol to the Palermo Convention the force of law in Belize.

6.2.2 Recommendations and Comments

747. The authorities should consider promulgating legislation to fully implement Articles 8, 11, 15, 17 and 19 of the Vienna Convention, Articles 20, 24, 25, 30 and 31 of the Palermo Convention and Articles 6, 13, 14, 15 and 16 of the Terrorist Financing Convention.

6.2.3 Compliance with Recommendation 35 and Special Recommendation I

| | Rating | Summary of factors underlying rating |
|-------------|-----------|---|
| R.35 | PC | <ul style="list-style-type: none"> • There is no legislation in Belize that fully implements Articles 8, 11, 15, 17 and 19 of the Vienna Convention, Articles 20, 24, 25, 30 and 31 of the |

| | | |
|-------------|-----------|--|
| | | Palermo Convention and Articles 6, 13, 14, 15 and 16 of the Terrorist Financing Convention. |
| SR.I | PC | • There is no legislation in Belize that fully implements Articles 6, 13, 14, 15 and 16 of the Terrorist Financing Convention |

6.3 Mutual Legal Assistance (R.36-38, SR.V)

6.3.1 Description and Analysis

Recommendation 36

Range of mutual assistance in anti money laundering and financing of terrorism investigations, prosecutions, etc.

748. Belize's mutual legal assistance laws are not subsumed into a single piece of legislation. Rather, the country has a series of statutes and Conventions that seek to provide wide ranging mutual assistance to countries generally in the areas of criminal, civil and administrative investigations as well as proceedings relating to money laundering, financing of terrorism and serious crime.
749. Belize shares mutual legal assistance treaties with the United States and Caricom in the form of the Belize/USA Treaty Act and the Caribbean Treaty Act respectively. The Belize/USA Treaty Act and the Caribbean Treaty Act provide for the grant of mutual assistance in the following matters;
- (a) the production, search and seizure of information, documents, or evidence (including financial records) from financial institutions, or other natural or legal persons;
 - (b) the taking of evidence or statements from persons;
 - (c) Providing originals or copies of relevant documents and records as well as any other information and evidentiary items;
 - (d) Effecting service of judicial documents;
 - (e) Facilitating the voluntary appearance of persons for the purpose of providing information or testimony to the requesting country;
 - (f) Transferring persons under arrest to assist in investigations and hearings; and
 - (g) Identification, freezing, seizure, or confiscation of assets laundered or intended to be laundered the proceeds of money laundering and assets used for or intended to be used for financing of terrorism as well as instrumentalities of such offences and assets of corresponding value.
750. The above treaties contain checklists of mandatory requirements that apply to applications for mutual legal assistance. Save for the United States of America and the Caricom member states, the authorities advised that mutual legal assistance between Belize and

other countries may be facilitated under the provisions of the Vienna and Palermo Conventions as well as the Inter American Convention Against Corruption.

751. The central authority under the above Conventions is the Ministry of Foreign Affairs. The authorities advised that the Ministry of Foreign Affairs merely acts as a conduit that receives requests for mutual assistance. The examiners were informed that requests for mutual legal assistance under the Conventions are transmitted to the Attorney General's office for processing.
752. Investigation and prosecution of financial crimes – including those related to laundered property, proceeds/instrumentalities of crime and financing of terrorism – is vested in the FIU by section 7 of the FIUA. That being the case, when the Attorney General receives a request for legal assistance on the basis of the commission of financial crimes, the Ministry forwards the request to the FIU for necessary action. The FIU decides if and to what extent the request can be granted and advises the Ministry accordingly.
753. Sections 11(j), 13, 14 and 76 of the MLTPA provides the Supreme Court of Belize, the FIU as well as the supervisory authorities and other competent authorities in Belize with very wide ranging powers to provide assistance to foreign states in matters concerning money laundering, terrorist financing and other serious crimes.
754. Section 76(2) of the MLTPA authorises the Supreme Court of Belize, the supervisory authorities and other competent authorities in Belize to provide requesting countries with assistance in identifying, tracing, freezing, seizing or forfeiting property, proceeds, or instrumentalities relating to money laundering, terrorist financing and serious crimes.
755. Section 76(3) also makes provision for the rendering of assistance in civil, criminal or administrative investigations, prosecutions or proceedings relating to money laundering, financing of terrorism, serious crime or the proceeds of any such offence without a treaty or agreement to provide legal assistance to foreign states. Section 76(4) of the MLTPA further empowers these entities to provide requesting countries with the following;
- original or certified copies of relevant documents or records (including those of financial institutions and Government agencies);
 - testimony or statements in Belize;
 - facilitating the voluntary presence or availability in the requesting state of persons (including those in custody) to give testimony;
 - locating or identifying persons;
 - serving documents;
 - examining objects and places;
 - executing searches and seizures;
 - providing information and evidentiary items;
 - restraining property or undertaking other provisional measures; and
 - identifying or tracing proceeds or instrumentalities of crime.

Mutual assistance should be provided in a timely, constructive and effective manner

756. Articles 5 and 6 of the Belize/USA Treaty Act and the Caribbean Treaty Act respectively stipulate that requests for mutual legal assistance should be executed expeditiously. Section

76 of MLTPA and the Conventions do not stipulate time lines for processing requests for mutual assistance. Belize has to date received 12 requests for assistance under section 76 of the MLTPA, 2 of which have resulted in the freezing of assets. The remaining requests were not processed because of default by the requesting authorities.

Request for assistance should not be prohibited or made subject to disproportionate or restrictive conditions

757. Grounds for refusal of a request for mutual legal assistance are stated in the provisions of the Belize/USA Treaty Act and the Caribbean Treaty Act. The following is a list of specified grounds from both Treaty Acts;

- (a) Prejudice to the sovereignty, security or public policy;
- (b) Noncompliance with the requirements of dual criminality (limited to instances relating to search, seizure and forfeiture only) (Belize/USA Treaty Act);
- (c) Noncompliance with the requirements of the request for mutual assistance;
- (d) A prohibition on national authorities from carrying out the action requested with regard to any similar offence if the latter has been the subject of the investigation prosecution or judicial proceedings under their own jurisdiction (Caribbean Treaty Act);
- (e) Contrary to legal provisions regarding mutual assistance – the execution of the request requires compulsory measures in the requested state and the request does not establish that there are reasonable grounds for believing that the criminal offence specified in the request has been committed (Belize/USA Treaty Act);
- (f) The request relates to an offence under military law which would not be an offence under the ordinary criminal law;
- (g) The request is not made in conformity with the treaty;
- (h) The offence relates to a political offence;
- (i) The execution of the request would be unconstitutional;
- (j) The request relates to an offence for which the requested person has been convicted or acquitted;
- (k) There are substantial grounds for believing that compliance would facilitate the prosecution or punishment of a person affected by the request on account of the person's race, religion, nationality or political opinion for any of the foregoing reasons would cause prejudice to such persons.

There should be clear and efficient processes for the authorities to provide mutual assistance.

758. The central authority for legal assistance under the Vienna and Palermo Conventions and the Belize/USA Treaty Act and the Caribbean Treaty Act is the Ministry of Foreign Affairs. The authorities advised the examiners that whenever the Ministry of Foreign Affairs acts as the central authority the request is transmitted to the office of the Attorney General which duly processes the request.

759. The system that operates in Belize does not equip the Attorney General's Ministry with investigators and other personnel to execute requests for legal assistance. The Attorney General's Ministry reviews requests for legal assistance and determines whether it fills the

legal requirements and generally, whether it is one that can be executed – whether in whole or in part. In this regard, it liaises with and is guided by the investigating authorities – the Police Department and the FIU, depending on the specifications of the request. Moreover, the FIUA and the MLTPA, specifically provide that the FIU is the authority with responsibility for the investigation and prosecution of financial crimes –which includes money laundering and terrorism financing. In that regard, the FIU and the Attorney General’s Ministry have a close working relationship.

760. The authorities further stated that strenuous attempts are made to expeditiously manage all requests for mutual assistance. The authorities noted that a number of factors affect the speed with which requests for mutual legal assistance are processed. These include limited human resources at the office of the Attorney General, the degree of complexity of request as well as the mode of transmission of the request.
761. The examiners were advised that the central authorities in Belize enjoy close relationships with counterpart agencies as it relates to mutual legal assistance. The authorities also advised that the Ministry of Foreign Affairs and the office of the Attorney General share a close relationship as it relates to the transmission and processing of requests. Lastly the authorities explained that the central authorities have in the past facilitated requests for assistance in forms alternative to writing (e.g. in emergency situations) provided that the requests are duly confirmed in writing subsequently.
762. The examiners are concerned that the authorities should have a single competent authority for the receipt and processing of requests for mutual legal assistance. The examiners are also concerned that the competent authorities in Belize are not appropriately staffed to manage requests expeditiously.

Refusal of a request on the sole ground that offence involves fiscal matters

763. The Belize/USA Treaty Act, the Caribbean Treaty Act and section 76 of MLTPA do not allow for a request for assistance to be denied on the ground that the offence is considered to involve fiscal matters.

Refusal of a request on the ground of laws that impose secrecy or confidentiality

764. Article 7(3) of the Caribbean Treaty Act specifically provides that a request for mutual legal assistance cannot be denied on the grounds of secrecy or confidentiality of information. Section 76 (5) of the MLTPA specifically provides that a request cannot be denied on the ground of secrecy or confidentiality. The Belize/USA Treaty Act is silent on the issue of denial of requests for mutual assistance on the ground of secrecy or confidentiality.

The competent authorities rendering legal assistance should possess powers to obtain documents, search premises and seize documents

765. Neither the Attorney General nor the Ministry of Foreign Affairs possess the power to obtain documents, search premises and seize documents in a legal assistance request. On a practical level the FIU is responsible for collating documents required under requests for mutual legal assistance. Sections 11(m), 13 and 14 of the MLTPA further authorises the FIU to render assistance to foreign states seeking assistance in the areas of money laundering, financing of terrorism and serious crime. As such the powers of the FIU with

regard to the obtaining and seizure of documents and the searching of premises are available in fulfilling mutual legal assistance requests.

Determining the best venue for trying Defendants

766. The examiners were not advised of any arrangements by the authorities that relate to the best venue for prosecuting defendants in cases where such may be facilitated in more than one country.
767. Subsection 11(1)(j) of the MLTPA authorizes the FIU “to extend legal assistance to foreign jurisdictions with respect to property tracking, monitoring, and forfeiture or freezing orders.” Section 12 further authorizes the FIU to freeze funds connected with terrorism, and section 13 authorizes the FIU to disclose information to foreign institutions or agencies. These provisions allow for the powers of the FIU to be available for use when there is a direct request from a foreign judicial or law enforcement authority.

Recommendation 37

Dual criminality

768. Belize has specifically eliminated the dual criminality requirement from the provisions of the Caribbean Treaty Act. With regard to the Belize/USA Treaty Act dual criminality is required in relation to search, seizure and forfeiture. However, section 76(4) of the MLTPA expressly removes dual criminality requirements as it relates to the grant of mutual legal assistance to another country.

Recommendation 38

769. Article 6(1) of the Caribbean Treaty requires that requests for legal assistance should be acted upon as expeditiously as practicable. Article 5 (1) of the Belize/USA Treaty requires that requests for legal assistance shall be executed promptly by the Central Authority of the requested state, or where appropriate, transmitted to the authority with jurisdiction to deal with the request.
770. As described above, investigation and prosecution of financial crimes – including those related to laundered property, proceeds/instrumentalities of crime and financing of terrorism – is vested in the FIU by section 7 of the FIUA. That being the case, when the Attorney General’s Ministry receives a request for legal assistance on the basis of the commission of financial crimes, the Ministry forwards the request to the FIU for necessary action. The FIU decides if and to what extent the request can be granted and advises the Ministry accordingly.
771. Note that if the requested state determines that the request cannot be executed because it would interfere with an on-going criminal investigation, prosecution or proceeding in that state, it may postpone the execution, or subject the execution to conditions it deems necessary – of course, after consultations with the requesting state (Article 5(4) of the Belize/USA Treaty). Similar provisions are found in the Caribbean Treaty Act (Article 7(5)).
772. The Central Authority of the requested State is also required to respond to reasonable enquiries by the requesting State into the status of requests (Article 5(6)). As already

mentioned both the Belize/USA Treaty Act and the Caribbean Treaty Act provide for the grant of mutual assistance to include Identification, freezing, seizure, or confiscation of assets laundered or intended to be laundered, the proceeds of money laundering and assets used for or intended to be used for financing of terrorism as well as instrumentalities of such offences and assets of corresponding value. Similarly section 76(2) of the MLTPA provides for the Supreme Court of Belize, the supervisory authorities and other competent authorities in Belize to provide requesting countries with assistance in identifying, tracing, freezing, seizing or forfeiting property, proceeds, or instrumentalities relating to money laundering, terrorist financing and serious crimes.

773. There are no provisions allowing for mutual legal requests for property of corresponding value in the Belize/Caribbean Treaty Act, the Belize/USA Act or the MLTPA.
774. Section 7 of the FIUA gives the FIU the authority and responsibility to, *inter alia*, investigate and prosecute financial crimes. Additionally subsection 11(1)(j) of the MLTPA further authorizes the FIU, *inter alia*, “to extend legal assistance to foreign jurisdictions with respect to property tracking, monitoring, and forfeiture or freezing orders.” Section 76(2) of the MLTPA provides the Supreme Court, or other competent authority with similar powers. While these provisions allow for co-ordinating seizure and confiscation actions with other countries, the assessors were not provided with specific instances where such coordination occurred.
775. Section 78 of the MLTPA establishes the Belize Confiscated and Forfeited Assets Fund (“the Fund”) to which the following shall be credited, in accordance with section 79 (1):
- (a) all moneys derived from the fulfillment of confiscation and forfeiture orders and from settlements of confiscation and forfeiture claims;
 - (b) any sums of money allocated to the Fund from time to time by parliamentary appropriation;
 - (c) any voluntary payment, grant or gift made by any person for the purposes of the Fund;
 - (d) any income derived from the investment of any amount standing to the credit of the Fund; and
 - (e) any sharing of confiscated or forfeited property and funds received from other States.
776. According to section 79 (2) of the MLTPA, the fund can be used for the following:
- i. to pay the administrative expenses of the Financial Intelligence Unit;
 - ii. to compensate victims who suffered losses as a result of serious crimes, terrorism or other unlawful activity;
 - iii. to satisfy a compensation order made under this Act;
 - iv. to enable the appropriate law enforcement agencies to continue their fight against serious crimes, terrorism and other unlawful activities;
 - v. to share forfeited property with foreign States;
 - vi. for the rehabilitation of drug users;
 - vii. to conduct public education on the dangers of drug abuse;

- viii. to satisfy a compensation order relating to the lifting of a restraint;
 - ix. to pay expenses relating to the recovery, management and disposition of property including mortgages and liens against relevant property and the fees of receivers, trustees, managers or other professionals providing assistance; and
 - x. to pay the costs associated with the administration of the Fund, including the costs of external audits.
777. The fund is managed by the Minister of Finance. The authorities informed the assessors that the fund had no proceeds at the time of the mutual evaluation although there have been confiscations of proceeds of crime.
778. Subsection 79 (1)(e) of the MLTPA provides for the crediting to the Belize Confiscated and Forfeited Assets Fund of the proceeds from the sharing of confiscated or forfeited property and funds received from other states. No such sharing of confiscated assets had occurred at the date of the mutual evaluation.

Special Recommendation V

779. The arrangements for mutual legal assistance designed to meet the criteria of FATF Recommendations 36, 37 and 38 apply equally in relation to criminal, civil enforcement and administrative investigations relating to the financing of terrorism.

Recommendation 30

Resources of central authorities for mutual legal assistance request and extraditions

780. The Office of the Attorney General and the Ministry of Foreign Affairs are the central authorities for issuing and receiving requests for mutual legal assistance under the Belize/USA and the Belize Caribbean Acts, the MLTPA and the UN Conventions. All requests for mutual legal assistance are however processed by the Office of the Attorney General. The examiners were informed that the Office of the Attorney General comprises a Solicitor General, 3 deputy Solicitors General (legislative drafting, litigation and international cooperation) and 4 crown counsel. Requests for mutual legal assistance are handled by the Deputy Solicitor General for international cooperation.
781. The Office of the Attorney General is afflicted with high attrition rates through constant staff turnover and the training of legal staff in the area of international cooperation is inadequate. The authorities further advised that the Deputy Solicitor General for international cooperation has undergone some limited training in the area of international cooperation and is moreover a recent recruit. The increase in the volume of requests for mutual legal assistance has negatively affected the Attorney General Office's ability to meet these demands.
782. The professional staff at the Office of the Attorney General are all qualified attorneys bound by a professional code of ethics that requires them to exercise high standards of integrity and confidentiality.

783. The authorities advise that training for the personnel of the office of the Attorney General has been limited. However, no information as to the number of AML/CFT courses or training seminars attended by members of staff for the period 2007 to 2009 has been provided. The authorities have informed the examiners that attempts are made to share experiences and best practices with other states.

Recommendation 32

784. The assessors were advised the small number of requests for (1) MLA and (2) Extradition received by the Attorney General’s Ministry over the years had allowed for manual filing and recording thereof. However, with the recent increase in the number of requests over the past few years, the Attorney General’s Ministry now recognizes the need for keeping detailed and properly categorized records/statistics of requests for MLA and extradition.

785. The FIU, as the competent authority for the investigation and prosecution of financial crimes, may wish to add information on the manner in which they record requests for MLA relating to freezing, seizing and forfeiture of assets.

Table : Mutual Legal Requests

| Local and Foreign Requests – January 1 – December 31, 2008. | | | |
|--|------------------------|-------------|---------------|
| Ref. No. | No. of Requests | Open | Closed |
| 1 | 90 | 16 | 74 |
| Local and Foreign Requests – January 1 – December 31, 2009. | | | |
| | No. of Requests | Open | Closed |
| 2 | 159 | 38 | 121 |
| Local and Foreign Requests – January 1 – December 31, 2009. | | | |
| | 2007 | 2008 | 2009 |
| 3 | 54 | 51 | 80 |

786. The above statistics do not provide the details necessary for a proper assessment of effectiveness since they are not broken down into requests relating to freezing, seizing and confiscation that are made or received, relating to ML, the predicate offences and TF, including the nature of the request, whether it was granted or refused and the time required to respond.

6.3.2 Recommendations and Comments

Recommendation 36

787. The authorities should consider creating a single mutual legal assistance statute in Belize for consistency and convenience and in an effort to avoid confusion.

788. The authorities should consider amending the Belize/USA Treaty Act to provide that a request for mutual legal assistance cannot be denied on the ground of secrecy or confidentiality.
789. The authorities should consider amending section 76 of the MLTPA to include a range of safeguards for the rights of persons who may be subject to requests for mutual legal assistance.
790. The authorities should consider establishing a single competent authority for the receipt and processing of requests for mutual legal assistance.
791. The authorities should consider equipping the competent authority with the appropriate tools to efficiently manage requests for mutual legal assistance.
792. The authorities should consider making arrangements for the best venue for prosecuting defendants in cases where such may be facilitated in more than one country.

6.3.3 Compliance with Recommendations 36 to 38 and Special Recommendation V

| | Rating | Summary of factors relevant to s.6.3 underlying overall rating |
|-------------|-----------|--|
| R.36 | LC | <ul style="list-style-type: none"> • The Belize/USA Treaty Act does not provide that a request for mutual legal assistance cannot be denied on the ground of secrecy or confidentiality. • The existence of two competent authorities for the receipt and processing of requests for mutual legal assistance may potentially reduce the effectiveness of the system <p>There are no arrangements for the best venue for prosecuting defendants in cases where such may be facilitated in more than one country.</p> |
| R.37 | LC | <ul style="list-style-type: none"> • The Belize/USA Treaty Act requires dual criminality in relation to search, seizure and forfeiture. |
| R.38 | LC | <ul style="list-style-type: none"> • Section 76 of the MLTPA does not state that the Supreme Court and the other competent authorities shall expeditious handle requests for mutual assistance from other countries. • No provisions allowing for mutual legal requests for property of corresponding value in the Belize/Caribbean Treaty Act, the Belize/USA Act or the MLTPA |
| SR.V | NC | <ul style="list-style-type: none"> • The deficiencies identified with regard to MLAT for ML are also applicable for FT |

6.4 Extradition (R.37, 39, SR.V)

6.4.1 Description and Analysis

Recommendation 39

793. Extradition in Belize is governed by the provisions of the Extradition Act (EA) along with a compendium of UK Extradition Acts mainly from the nineteenth century. Part III of the EA regulates extradition between Belize and the Republic of Guatemala, whereas Part IV regulates extradition between Belize and the United States of America. The provisions of the EA are rudimentary at best and limited to general provisions regarding the power of the judiciary, place of detention and definition of a warrant. The Extradition Treaty between Belize and the USA (ETBU) is attached as a schedule to this Act and has set out detailed measures and procedures for extradition between the US and Belize. Money laundering and terrorism are extraditable offences pursuant to this Treaty.
794. The examiners were also presented with an Extradition Treaty between Belize and Mexico executed on 25th May, 1989 (the Mexico Treaty) which does not make money laundering an extraditable offence. Article 2(2) of the Mexico Treaty however authorises the contracting parties to extradite individuals for offences not listed in the Schedule provided that such offences are punishable by imprisonment of more than one year in the respective countries.
795. Article 2(2) of the Mexico Treaty further authorises the contracting parties to extradite individuals for offences not listed in the Schedule provided that such offences are punishable by the death penalty in both countries or that in instances where the offences in question are not punishable by the death penalty in Belize, that the Mexican competent authority provides assurance that in the event of an extradition, the death penalty shall not be executed upon the individual.
796. With respect to extradition requests from other countries, Belize upon accession to the Palermo Convention stated that it would use the Convention as the legal basis for cooperation on extradition with other states. Additionally, under section 77 of the MLTPA money laundering, terrorism and terrorist financing offences are extraditable offences for which extradition from Belize may take place under any law or treaty to which Belize is a party relating to extradition or the rendition of fugitives. While the Palermo Convention can serve as a legal basis for extradition, the assessors are of the view that the authorities should consider enacting an Extradition Act which takes into account current measures and procedures to expedite extradition while safeguarding the rights of defendants.
797. Extradition proceedings are applicable to Belizean nationals by Article 3 of the ETBU. No similar condition exists in the treaty with Guatemala. Article 1 of the Mexico Treaty requires the contracting parties to extradite persons whom the competent authority of the requesting party has charged with an offence, has found guilty of an offence or who are wanted for the purpose of completing a sentence of imprisonment. Article 1 of the Mexico Treaty does not distinguish the nationality of persons that are liable to extradition to the contracting countries. This conclusion is bolstered by Article 9 of the Mexico Treaty that enables the contracting parties to refuse to extradite their own nationals. It is noted that under the Palermo Convention while Belize can refuse to extradite its nationals solely on the grounds of nationality, Belize should at the request of the country seeking extradition submit the case without undue delay to its competent authorities for prosecution of the offences set forth in the request. Section 77 of the MLTPA would require extradition for countries other than the US to take place under the Palermo Convention. It is noted that

section 10 of the MLTPA provides for offences created by the MLTPA to be investigated, tried, judged and sentenced by a court in Belize regardless of whether or not the serious offences occurred in Belize or in another territorial jurisdiction, but without prejudice to extradition where applicable in accordance with the law. The authorities advised that there has so far been no case in Belize where extradition was refused solely on the ground that the offender was a Belizean national.

798. Pursuant to article 6 of the ETBU all requests for extradition are sent through the Ministry of Foreign Affairs, as the diplomatic channel. Once the initial contact is made through the diplomatic channels, it is customary for further official requests to be made through the said Ministry. However, insofar as daily communications about ongoing extradition matters are concerned, it is customary for officials of the Central Authorities to communicate directly and in so doing to circumvent the diplomatic process. Article 18 of the ETBU provides for direct consultation between the Department of Justice of the US and the Attorney General of Belize in connection with the processing of individual cases.
799. With regard to requests for extradition made by parties to the Palermo Convention, Belize's designated Central Authority under this convention is also the Attorney General, as expressed in the declaration made by Belize upon accession to the convention.
800. The authorities advised the examiners that the office of the Attorney General endeavours to manage all extradition requests expeditiously. Extradition proceedings are sometimes impeded by a number of factors such as difficulties in locating and apprehending fugitives as well as defence counsel's attempts to lengthen duration of proceedings through the filing of interlocutory appeals and constitutional motions before the courts. The authorities further advised the examiners that in many instances the procedure becomes unwieldy and lengthy and that proceedings generally last no less than 6 weeks.
801. As stated above, requests for extradition received via the diplomatic channel in Belize are forwarded by the Ministry of Foreign Affairs to the Attorney General's Ministry for necessary action. After a request for extradition is received, constant communication between officials of the Requesting State and Belize ensues. Belize has not signed any treaty to allow extradition based only on arrest warrants or judgments only. Extradition must follow an established procedure which includes the appearance of the person before Belizean courts. Article 15 of the ETBU does allow for the expeditious surrender by the requested state if the person sought waives formal extradition proceedings. No information as to the procedures that would operate in such a case was provided to the assessors.

Recommendation 37

802. An extraditable offence under article 2 of the ETBU is defined as an offence punishable under the laws of both contracting states. This definition therefore requires dual criminality as a condition for extradition. However, paragraph 3(a) of article 2 of the ETBU additionally stipulates that an offence is extraditable whether or not the laws in the contracting states place the offense within the same category of offenses or describe the offense by the same terminology. This provision is only applicable to extradition between Belize and the USA.

Special Recommendation V

803. While money laundering and terrorism are extraditable offences under the ETBU, terrorist financing is not included. However section 77 of the MLTPA does include terrorist financing with money laundering and terrorism as extraditable offences.
804. As already noted in relation to simplified procedures for extradition Belize has not signed any treaty to allow extradition based only on arrest warrants or judgments only. Extradition must follow an established procedure which includes the appearance of the person before Belizean courts. This would also apply for terrorism and financing of terrorism. The procedure under article 15 of the ETBU for the expeditious surrender by the requested state if the person sought waives formal extradition proceedings is only applicable for terrorism.

6.4.2 Recommendations and Comments

805. The authorities should consider enacting a single Extradition Act that seeks to simplify and expedite the procedures for extradition applications in Belize whilst safeguarding the rights of the defendant.
806. The authorities should consider concluding extradition treaties with a broader range of countries.
807. The authorities should consider equipping the competent authority with the appropriate tools to efficiently manage requests for extraditions.

6.4.3 Compliance with Recommendations 37 & 39, and Special Recommendation V

| | Rating | Summary of factors relevant to s.6.4 underlying overall rating |
|-------------|---------------|--|
| R.39 | PC | • Effective implementation may become affected by the competent authority not being appropriately equipped. |
| R.37 | LC | • See factor in section 6.3 |
| SR.V | NC | • Deficiencies noted with regard to extradition are also applicable for FT |

6.5 Other Forms of International Co-operation (R.40 & SR.V)

6.5.1 Description and Analysis

Recommendation 40

Countries should ensure that their competent authorities are able to provide the widest range of international cooperation to foreign counterparts

808. Belize has several pieces of legislation; the MLTPA, the Belize/USA Treaty Act and the Caribbean Treaty Act and the Extradition Act, that provide for comprehensive and wide ranging international cooperation to foreign counterparts. The country also provides international cooperation under the Palermo and Vienna Conventions.
809. The Attorney General and in some cases the Ministry of Foreign Affairs are the competent authorities through which requests for international cooperation under the legislation and the Conventions are facilitated.
810. Section 76(2) of the MLTPA authorises the Supreme Court of Belize, the supervisory authorities and other competent authorities in Belize to provide requesting countries with assistance in identifying, tracing, freezing, seizing or forfeiting property, proceeds, or instrumentalities relating to money laundering, terrorist financing and serious crimes. Section 76(3) also makes provision for the rendering of assistance in civil, criminal or administrative investigations, prosecutions or proceedings relating to money laundering, financing of terrorism, serious crime.
811. Section 76(3) of the MLTPA provides that the Supreme Court of Belize and other competent authorities in Belize do not require a treaty or agreement to provide legal assistance to foreign states. The FIU under section 7(1) of the FIUA and subsections 11(1)(j) and 11(1)(m) of the MLTPA is authorised to share information and cooperate with foreign financial intelligence units and extend legal assistance to foreign jurisdictions. Assessors were informed that the law enforcement authorities such as the police and the customs agencies have informal arrangements for international cooperation with foreign counterparts.

Countries should be able to provide assistance in a rapid, constructive and effective manner

812. Articles 5 and 6 of the Belize/USA Treaty Act and the Caribbean Treaty Act respectively stipulate that requests for mutual legal assistance should be executed expeditiously. Article 5 of the Caribbean Treaty Act makes provisions for requests to be made orally in urgent cases, but these must be confirmed in writing within seven days of the said oral requests and the Requested State must acknowledge receipt of the request within fifteen days of receipt. The Belize/USA Treaty provides that requests must be in writing, but that in emergency situations, the Requesting State may accept a request in another form, which shall be confirmed in writing within ten days thereof, unless otherwise agreed. (Article 4(1)).
813. Section 76 of MLTPA and the Conventions do not stipulate time lines for processing requests for mutual assistance. Given that Belize has to date received no requests for assistance under section 76 of the MLTPA and that no freezing mechanisms have been invoked as it relates to terrorism or terrorist financing, it is extremely difficult for the examiners to assess the practical effectiveness of these provisions. The FIU has very limited staff and as such responding to foreign requests in a rapid, constructive and effective manner would be very challenging for the FIU.

There should be clear and effective gateways, mechanisms or channels that will facilitate prompt and effective exchanges of information directly between counterparts

814. The examiners were informed that the Government of Belize in 2007 signed a Memorandum of Understanding between the General Secretariat of the Organization of American States and the Attorney General's Ministry of Belize to participate in the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition.
815. The FIU under subsections 11(1), (j), (k), (m) and (o) and section 13 of the MLTPA is empowered to share information with foreign jurisdictions regardless of whether a Memorandum of Understanding exists. Section 76 of the MLTPA 2008 speaks widely about the international cooperation allowed for, however, section 76(6) states, "The FIU may take such action as may be appropriate including freezing of funds and other financial assets or economic resources of any person to comply with or give effect to a resolution of the Security Council of the United Nations adopted under Chapter VII of the United Nations Charter: Provided that if the Security Council takes any subsequent decision which has the effect of postponing, suspending or cancelling the operation of such resolution, in whole or in part, any order made by the Financial Intelligence Unit pursuant to that resolution shall cease to have effect or in operation shall be postponed or suspended, in whole or in part, as the case may be, in accordance with that decision."
816. The FIU is a member of Egmont and as such has access to the Egmont Secure Web (ESW) which it uses on a regular basis to respond to and send requests for assistance and share intelligence. The Police Force uses Interpol to respond to and send requests for assistance and share intelligence. The Customs Department uses the provisions of the bilateral treaty between Mexico and Belize to share information between competent authorities.

Exchanges of information should be spontaneous and in relation to money laundering and underlying predicate offences

817. The central authority for legal assistance under the Vienna and Palermo Conventions and the Belize/USA Treaty Act and the Caribbean Treaty Act is the Ministry of Foreign Affairs. The authorities advised the examiners that whenever the Ministry of Foreign Affairs acts as the central authority the request is transmitted to the office of the Attorney General which duly processes the same. The authorities further stated that strenuous attempts are made to manage all requests for mutual assistance hastily. The authorities noted that a number of factors affect the speed with which requests for mutual legal assistance are processed. These include limited human resources at the office of the Attorney General, the degree of complexity of request as well as the mode of transmission of the request.
818. The authorities also noted that the central authorities in Belize enjoy close relationships with counterpart agencies as it relates to mutual legal assistance. The examiners were also advised that the Ministry of Foreign Affairs and the office of the Attorney General share a close relationship as it relates to the transmission and processing of requests. Lastly the authorities explained that the central authorities have in the past facilitated oral requests for assistance e.g. in emergency situations) provided that the requests are duly confirmed in writing subsequently.

819. The examiners are concerned that the authorities should have a single competent authority for the receipt and processing of requests for mutual legal assistance. The examiners are also concerned that the competent authorities in Belize are not appropriately staffed to manage requests expeditiously.
820. As already noted the FIU under section 7(1) of the FIUA and subsections 11(1)(j) and 11(1)(m) of the MLTPA is authorised to share information and cooperate with foreign financial intelligence units and extend legal assistance to foreign jurisdictions. The FIU has exchanged information with foreign counterparts spontaneously and in relation to money laundering and underlying predicate offences.

Countries should ensure that all their competent authorities are authorised to conduct inquiries on behalf of foreign counterparts

821. Section 11(m) of the MLTPA authorises the FIU to undertake inquiries for and on behalf of counterpart foreign agencies. Section 76(4) of the MLTPA also empowers the Supreme Court of Belize, a supervisory authority or other competent authority to undertake similar inquiries for and on behalf of foreign agencies related to civil, criminal or administrative investigations. There appears to be no similarly legislated arrangements for the Ministry of Foreign Affairs or the Office of the Attorney General.

Countries should ensure that their FIU is authorised to make specific types of inquiries on behalf of foreign counterparts

822. While there is nothing in the MLTPA or the FIUA itemising the specific type of inquiries the FIU is authorised to make on behalf of foreign counterparts, requests requiring searching of its own database or searching other databases are provided for under the broad powers outlined in subsections 11(1)(k) and 11(1)(m) of the MLTPA. The FIU has the ability to check its records against the name of the person in the request from the requesting country; however, the absence of an effective database system limits the searching capabilities of the FIU and its response time.

Countries should ensure that their law enforcement agencies are authorised to conduct investigations on behalf of foreign counterparts

823. The FIU is authorised to conduct investigations on behalf of foreign counterparts. Section 14 of the MLTPA speaks of the agreements and arrangements that the FIU can enter into with other foreign counterparts and subsection 2 speaks to the purpose of entering into such agreements which is for the investigation or prosecution of a serious crime or a money laundering or terrorist financing offence or an offence that is substantially similar to either offence. There appears to be no similarly legislated arrangements for the police, customs and other law enforcement agencies.

Exchanges should not be made subject to disproportionate or unduly restrictive conditions

824. In order to ensure that no financial institution secrecy law inhibit the implementation of the FATF Recommendations, section 81 of the MLTPA overrides secrecy obligations by stating that subject to the provisions of the Belize Constitution, the provisions of the MLTPA shall

have effect notwithstanding any obligation to secrecy or other restriction upon the disclosure of information imposed by any law or otherwise. The only restriction on the sharing of information is with regard to agreements between the FIU and foreign counterparts as set out in section 14(2) of the MLTPA which restricts the use of information to purposes relevant to financial investigations and to investigating or prosecuting serious crime, or a money laundering offence, or a terrorist financing offence. There is also the additional stipulation that the information be treated in a confidential manner. The FIUA does not have any provision imposing disproportionate or unduly restrictive conditions on the exchange of information.

Requests should not be refused on the sole ground that the request is considered to involve fiscal matters

825. None of the two pieces of legislation on the subject of mutual legal assistance, the Belize/USA Treaty Act and the Caribbean Treaty Act makes specific mention of fiscal matters as a ground for refusal. There appears to be no legislation in Belize that imposes such a restriction on international cooperation exchanges.

Requests should not be refused on the grounds of secrecy of information

826. As already mentioned section 81 of the MLTPA overrides all laws that restrict the disclosure of information on the ground of confidentiality.

Countries should establish control to assure that information is used in an authorised manner only

827. The confidentiality of information collated pursuant to international cooperation is protected under the provisions of subsections 13 (b) (ii) and 14 (3) (b) of the MLTPA. Section 14(3)(b) of the MLTPA states, “Agreements or arrangements entered into under subsection (1) or (2) shall include the following: (b) the stipulation that the information be treated in a confidential manner and not be further disclosed without the express consent of the Financial Intelligence Unit.” Notwithstanding the above, the current office sharing arrangement at the Central Bank as it relates to the security of data and information and the access of the FIU’s server to the internet, contradicts the principles of the type of safeguards and controls that should exist at an FIU relative to data protection.

828. There are no mechanisms in place currently to permit a prompt and constructive exchange of information with non-counterparts. Subsection 11(1)(k) of the MLTPA authorises the FIU to request information from any reporting entity, supervisory authorities law enforcement agencies and other domestic government agencies thereby enabling it to obtain from other competent authorities or other persons relevant information requested by a foreign counterpart FIU.

Special Recommendation V

Countries should ensure that criteria 40.1 to 40.9 also apply to the obligations set out under Special Recommendation V

829. The MLTPA, the Belize/USA Treaty Act and the Caribbean Treaty Act and the Extradition Act provide comprehensive and wide ranging international cooperation between Belize and foreign counterparts. International cooperation is also provided under the Conventions. These instruments attempt to facilitate international cooperation insofar as it relates to criminal, civil enforcement and administrative investigations, inquiries and proceedings relating to financing of terrorism, terrorism acts and terrorist organisations.
830. The effectiveness of international cooperation is however impeded by the legislative and other deficiencies noted throughout this report in the areas of financing of terrorism, terrorism and terrorist organisations. The noted deficiencies concerning extradition in Belize also impede the country's ability to comply fully adhere with Special Recommendation V.

Recommendation 32

831. The assessors were advised that the office of the Attorney General processed 16 requests for mutual legal assistance dealing with money laundering for the period 2006 to 2009. The assessors are of the opinion that the above statistics reflect a very low rate of requests for mutual assistance processed by Belize given that the country is a known transshipment point for narcotics and has moreover experienced a sharp increase in crime levels over the last few years.

6.5.2 Recommendations and Comments

Recommendation 40

832. Legislation should be created empowering the police, the customs authorities and other law enforcement agencies to undertake international cooperation inquiries for and on behalf of foreign countries.
833. Legislation should be created empowering the Office of the Attorney General and the Ministry of Foreign Affairs to undertake international cooperation inquiries for and on behalf of foreign countries.
834. The human and other resources of the Ministry of Foreign Affairs/Office of the Attorney General should be strengthened to properly manage requests for international cooperation with foreign countries.

Special Recommendation V

835. The legislative and other deficiencies noted throughout this report in the areas of financing of terrorism, terrorism and terrorist organisations should be remedied to facilitate for improved international cooperation in these areas.
836. The noted deficiencies concerning extradition in Belize should be remedied to facilitate improved international cooperation that is consistent with Special Recommendation V.

6.5.3 Compliance with Recommendation 40 and Special Recommendation V

| | Rating | Summary of factors relevant to s.6.5 underlying overall rating |
|-------------|---------------|---|
| R.40 | PC | • There is no legislation empowering the police, the customs authorities and |

| | | |
|------|----|---|
| | | <p>other law enforcement agencies to undertake international cooperation inquiries for and on behalf of foreign countries;</p> <ul style="list-style-type: none"> • There is no legislation empowering the Office of the Attorney General and the Ministry of Foreign Affairs to undertake international cooperation inquiries for and on behalf of foreign countries. |
| SR.V | NC | <ul style="list-style-type: none"> • The legislative and other deficiencies noted throughout this report in the areas of financing of terrorism, terrorism and terrorist organisations affect improved international cooperation in these areas; • The noted deficiencies concerning extradition in Belize also affect improved international cooperation that is consistent with Special Recommendation V. |

7. OTHER ISSUES

7.1 Resources and statistics

| | Rating | Summary of factors relevant to Recommendations 30 and 32 and underlying overall rating |
|------|--------|--|
| R.30 | NC | <ul style="list-style-type: none"> • There is inadequate staffing at the FIU currently to allow it to effectively carry out its functions as investigator, prosecutor and supervisory authority. • The present IT configuration of the FIU does not provide adequate security or storage for the functions of the FIU. • The office space presently being occupied by the FIU is inadequate and lacks the potential for expansion and greater storage capacity. • Members of staff at the FIU have not been provided with examiner specific training to facilitate them in carry out their functions as Supervisory Authority. • Limited numbers of the Customs Department staff have been exposed to AML/CFT training. • Lack of human and technical resource to facilitate effective enforcement of Customs Act. • No in-depth background checks are done on officers applying to join the Customs Department. • No ML/TF training has been received by members of the ADU or the MCU. • There are an inadequate number of police officers assigned to the ADU to allow it effectively police Belize's 8866 square miles of land and sea. |

| | | |
|------|----|---|
| | | <ul style="list-style-type: none"> • There is very limited office space available to the MCU to facilitate it in carrying out of its functions. The MCU is equipped with one (1) vehicle, firearms and computers. • There are no cameras, tape recorders or bullet proof vest assigned to the ADU. Training obtained by the members of the Unit is mostly on the job training; especially when collaborating with the FIU in joint investigations; legal advice is provided by the DPP on a needs basis. • The human and other resources of the Ministry of Foreign Affairs/Office of the Attorney General are inadequate to properly manage requests for international cooperation with foreign countries. • The competent authorities are not properly equipped to efficiently manage requests for mutual legal assistance. |
| R.32 | PC | <ul style="list-style-type: none"> • No statistics on the following: • Other formal requests for assistance made or received by the FIU, including whether the request was granted or refused; • Spontaneous referrals made by the FIU to foreign authorities; • Formal requests for assistance made or received by supervisors relating to or including AML/CFT including whether the request was granted or refused; • No statistics on number of reports filed on cross border transportation of currency and bearer negotiable instruments or international wire transfers; • Comprehensive statistics are not maintained at the FIU that would lend to analysis efforts, identification of trends, typologies and techniques; • No mechanism in Belize whereby the authorities review the effectiveness of their systems for combating money laundering and terrorist financing on a regular basis. |

7.2 Other relevant AML/CFT measures or issues

Assessors may use this section to set out information on any additional measures or issues that are relevant to the AML/CFT system in the country being evaluated, and which are not covered elsewhere in this report.

7.3 General framework for AML/CFT system (see also section 1.1)

Assessors may use this section to comment on any aspect of the general legal and institutional framework within which the AML/CFT measures are set, and particularly with respect to any structural elements set out in section 1.1, where they believe that these elements of the general framework significantly impair or inhibit the effectiveness of the AML/CFT system.

TABLES

Table 1: Ratings of Compliance with FATF Recommendations

Table 2: Recommended Action Plan to improve the AML/CFT system

Table 3: Authorities' Response to the Evaluation (if necessary)

- **Table 1. Ratings of Compliance with FATF Recommendations**

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (na).

| Forty Recommendations | Rating | Summary of factors underlying rating |
|--|---------------|---|
| Legal systems | | |
| 1. ML offence | PC | <p>Schedule II of the MDA does not include the range of narcotics drugs and psychotropic substances set out in tables I and II of the Annex to the Vienna Convention.</p> <p>The following criminal offences are not a part of Belize's criminal laws (1) illicit arms trafficking (2) extortion (3) piracy and (4) insider trading.</p> <p>The offence of theft in the second schedule of the MLTPA contains a minimum property value of BZ\$10,000 (\$5,000.00 USD).</p> <p>The low number of ML convictions demonstrates ineffective implementation which may be due to insufficient training of the law enforcement agencies and judiciary.</p> |
| 2. ML offence – mental element and corporate liability | LC | The low number of ML convictions demonstrates ineffective implementation which may be due to insufficient training of the law enforcement agencies and judiciary. |
| 3. Confiscation and provisional measures | LC | <p>Section 67 of the MLTPA does not facilitate the making of ex parte applications for the seizure and detention of terrorist cash.</p> <p>.Ineffective implementation of seizure,</p> |

| | | |
|---|-----------|--|
| | | restraint and confiscation regime. |
| Preventive measures | | |
| 4. Secrecy laws consistent with the Recommendations | PC | <p>No provision allowing the designated supervisory authorities the CBB, SOI, IFSC and Ministry of Finance to share information among themselves.</p> <p>The IFSC can only access information from its supervised entities when necessary for criminal investigations, prosecutions or proceedings.</p> |
| 5. Customer due diligence | NC | <p>No requirement for financial institutions to obtain proof of incorporation or similar evidence to verify legal status of corporate entities.</p> <p>No requirement for financial institutions to verify legal status of legal arrangements such as trusts.</p> <p>No requirement for financial institutions to take reasonable measures to understand the ownership and control structures of legal arrangements or determine who are the natural persons that ultimately own or control legal arrangements.</p> <p>No requirement in legislation or regulations for financial institutions to conduct ongoing due diligence on business relationships.</p> <p>No requirement for financial institutions to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.</p> <p>No requirement for financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction.</p> <p>No requirement prohibiting simplified CDD measures where there is a suspicion of money laundering or terrorist financing or specific higher risk scenarios.</p> |

| | | |
|--------------------------------|----|---|
| | | <p>No requirement for financial institutions when completing the verification of the identity of the customer and beneficial owner following the establishment of the business relationship for the money laundering risks to be effectively managed.</p> <p>No requirement for a financial institution to adopt risk management procedures concerning the conditions under which a customer may utilise a business relationship prior to verification.</p> <p>No requirement for financial institutions to consider making a suspicious transaction report when terminating an application for a business relationship or a one-off transaction due to inability to identify and verify the identity of the applicant.</p> <p>No requirement for financial institutions to consider making a suspicious transaction report when terminating an existing account due to inability to identify and verify the identity of the applicant.</p> <p>Financial institution which have doubts about the veracity or adequacy of previously obtained customer identification are not required to terminate the relationship and considering making a suspicious transaction report on failure to renew customer identification.</p> <p>Unable to assess effectiveness of application of CDD measures to existing customers.</p> |
| 6. Politically exposed persons | LC | <p>No requirement for the senior management of a reporting entity to approve continuing the relationship with an existing customer who subsequently becomes or is found to be a PEP.</p> <p>Some institutions did not have systems to determine whether a potential customer, a customer or beneficial owner is a politically exposed person.</p> |
| 7. Correspondent banking | LC | <p>No requirement for financial institutions to ascertain whether a respondent institution has been subject to a money laundering or terrorist financing investigation or regulatory action.</p> |

| | | |
|---|----|---|
| 8. New technologies & non face-to-face business | NC | <p>No requirement for financial institutions to have policies in place or to take measures to prevent the misuse of technological developments in money laundering or terrorism financing schemes.</p> <p>No requirement for financial institutions to have in place policies and procedures to address specific risks associated with non-face to face business relationships or transactions, particularly when establishing customer relationships and when conducting ongoing due diligence.</p> |
| 9. Third parties and introducers | NC | <p>Financial institutions relying on a third party are not required to immediately obtain from the third party the necessary information concerning the elements of the CDD process in criteria 5.3 to 5.6.</p> <p>The requirement for third parties or intermediaries to be regulated and supervised does not specify this in accordance with the FATF Recs. 23, 24 and 29.</p> <p>Competent authorities do not take into account information available on countries which adequately apply FATF Recs. in determining which countries third parties can be based.</p> <p>Current legislation does not address the FATF requirement for the ultimate responsibility for customer identification and verification to remain with the financial institution relying on the third party.</p> |
| 10. Record keeping | PC | <p>No explicit legal provision requiring financial institutions under the supervision of the CBB, SOI and the FIU to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority.</p> <p>Licenseses of the IFSC are required to ensure that all documentation is accessible within a reasonable time to only court orders or court directives.</p> |
| 11. Unusual transactions | C | This recommendation is fully observed. |
| 12. DNFBP – R.5, 6, 8-11 | PC | Deficiencies identified in Recs. 5, 6 and 8-11 in relation to the above recommendations would also be applicable to the DNFBPs |

| | | |
|---|----|---|
| | | <p>since they are subject to the requirements of the MLTPA.</p> <p>The transaction threshold level for casinos to comply with the requirements of Rec. 5 and Rec. 10 are well above the FATF level of US\$3,000.</p> |
| 13. Suspicious transaction reporting | PC | <p>The obligation to submit suspicious transaction reports does not apply to the proceeds of all FATF predicate offences</p> <p>Low number of STRs submitted by financial institutions suggests that STR reporting is ineffective in non-bank reporting entities.</p> |
| 14. Protection & no tipping-off | LC | <p>No provision for protection against criminal, civil, disciplinary or administrative proceedings for breaches of banking or professional secrecy for reporting STRs to be available even if the underlying criminal activity is not precisely known and regardless of whether illegal activity actually occurred.</p> |
| 15. Internal controls, compliance & audit | PC | <p>No requirement for internal audit to be adequately resourced, independent and include sample testing for compliance.</p> <p>Requirement only allows for reasonable access to information by the AML/CFT compliance officer rather than unimpeded access.</p> <p>Access to information is limited to AML/CFT compliance officers and not extended to other appropriate staff.</p> |
| 16. DNFBP – R.13-15 & 21 | PC | <p>Deficiencies identified in Recs. 13 to 15 and 21 in relation to the above recommendations would also be applicable to the DNFBPs since they are subject to the requirements of the MLTPA.</p> |
| 17. Sanctions | NC | <p>Administrative fines under supervisory sanctions of subsection 22(1) are not dissuasive.</p> <p>Unable to assess effectiveness of supervisory sanctions since none have been applied.</p> |
| 18. Shell banks | PC | <p>No requirement for financial institutions to satisfy themselves that a respondent financial institution in a foreign country</p> |

| | | |
|---|----|---|
| | | does not permit its accounts to be used by shell banks. |
| 19. Other forms of reporting | NC | No consideration has been given to the feasibility and utility of implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national central agency with a computerized data base. |
| 20. Other NFBP & secure transaction techniques | C | This recommendation is fully observed. |
| 21. Special attention for higher risk countries | PC | <p>No measures in place to ensure that financial institutions were advised of concerns about weaknesses in the AML/CFT systems of other countries.</p> <p>No mechanism to apply appropriate counter measures to countries that continue not to apply or insufficiently applies the FATF Recommendations.</p> |
| 22. Foreign branches & subsidiaries | NC | <p>Requirement that the reporting entity should ensure that their foreign branches and subsidiaries adopt and enforce measures consistent with the MLTPA to the extent that local laws and regulations so permit has not been imposed by supervisory authorities.</p> <p>No requirement for financial institutions to pay particular attention that their branches and subsidiaries in countries which do not or insufficiently apply FATF Recommendations observe AML/CFT measures consistent with home country requirements and the FATF Recommendations.</p> <p>No requirement, where the minimum AML/CFT requirements of the home and host countries differ, for the branches and subsidiaries of financial institutions in host countries to apply the higher standard, to the extent that host country laws and regulations permit.</p> <p>The requirement for financial institutions to report to the designated supervisory or regulatory authority or the competent disciplinary authority where the foreign</p> |

| | | |
|--|-----------|---|
| | | branch or subsidiary is unable to adopt and observe certain AML/CFT measures has not been imposed by the supervisory authority. |
| 23. Regulation, supervision and monitoring | PC | <p>No requirement for changes in management or shareholding of insurance companies to be approved by the SOI on the basis of a fit and proper assessment.</p> <p>Applications for licences for associations of underwriters and insurance intermediaries are not required to be subject to fit and proper assessment.</p> <p>Shareholders or owners of IFS practitioners are not subject to fit and proper assessment.</p> |
| 24. DNFBP - regulation, supervision and monitoring | NC | <p>Casinos are not subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF Recommendations.</p> <p>Designated supervisory for casinos does not have the power to request regular reporting or access any information necessary to carry out its functions in particular monitoring.</p> <p>Fines applicable by the designated supervisory authority under section 22(1) of the MLTPA are not dissuasive.</p> <p>No requirement for information on natural persons behind the corporate shareholders of applicants for licences for the provision of gaming facilities by hotels for their guests.</p> <p>No adequate provisions in relation to the granting of licences for gaming premises and the use of gaming machines to prevent criminals or their associates from holding or being beneficial owner of a significant or controlling interest, holding a management function in or being an operator under these licences.</p> <p>No comprehensive regulatory and supervisory regime to ensure effective</p> |

| | | |
|---|----|--|
| | | implementation of AML/CFT measures required under the FATF Recommendations has been instituted for other DNFBPs except for trust and company service providers. |
| 25. Guidelines & Feedback | NC | <p>Feedback is limited only to acknowledgement of receipt of STRs.</p> <p>No guidelines have been issued for the DNFBPs except for the trust and company service providers.</p> <p>No guidelines have been issued for licensees of the SOI and IFSC.</p> |
| Institutional and other measures | | |
| 26. The FIU | PC | <p>Minimal security arrangements for custody of information with main vulnerabilities being security and IT support provided by personnel not in the employ of the FIU.</p> <p>Minimal feedback is provided to financial institutions and DNFBPs by the FIU in relations to STRs filed or requests made of the institutions.</p> <p>No publicly released periodic reports which include statistics, typologies and trends as well as information regarding activities.</p> <p>Operational independence of the FIU is vulnerable to external influence.</p> |
| 27. Law enforcement authorities | PC | No measures, whether legislative or otherwise, to allow competent authorities investigating ML cases to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering. |
| 28. Powers of competent authorities | LC | No written provisions granting the FIU powers to be able to take witness statements for use in investigations and prosecutions of ML, FT and predicate offenses in Belize. |
| 29. Supervisors | PC | <p>IFSC does not carry out AML/CFT on-site inspections.</p> <p>IFSC does not have the power to carry out on-site inspection except for international insurance companies.</p> |

| | | |
|--|-----------|--|
| | | <p>The IFSC can only access or compel production of records from licensees under the MFA and the IIA.</p> |
| <p>30. Resources, integrity and training</p> | <p>NC</p> | <p>There is inadequate staffing at the FIU currently to allow it to effectively carry out its functions as investigator, prosecutor and supervisory authority.</p> <p>The office space presently being occupied by the FIU is inadequate and lacks the potential for expansion and greater storage capacity.</p> <p>Members of staff at the FIU have not been provided with examiner specific training to facilitate them in carry out their functions as Supervisory Authority.</p> <p>Limited numbers of the Customs Department staff have been exposed to AML/CFT training.</p> <p>Lack of human and technical resource to facilitate effective enforcement of Customs Act.</p> <p>No in-depth background checks are done on officers applying to join the Customs Department.</p> <p>No ML/TF training has been received by members of the ADU or the MCU.</p> <p>There are an inadequate number of police officers assigned to the ADU to allow it effectively police Belize's 8866 square miles of land and sea.</p> <p>There is very limited office space available to the MCU to facilitate it in carrying out of its functions. The MCU is equipped with one (1) vehicle, firearms and computers.</p> <p>There are no cameras, tape recorders or bullet proof vest assigned to the ADU. Training obtained by the members of the Unit is mostly on the job training; especially when collaborating with the FIU in joint investigations; legal advice is provided by</p> |

| | | |
|---------------------------------------|----|--|
| | | <p>the DPP on a needs basis.</p> <p>The human and other resources of the Ministry of Foreign Affairs/Office of the Attorney General are inadequate to properly manage requests for international cooperation with foreign countries.</p> <p>The competent authorities are not properly equipped to efficiently manage requests for mutual legal assistance.</p> |
| 31. National co-operation | NC | <p>No mechanism in place for policy makers, supervisors and other competent authorities to co-operate and where appropriate coordinate domestically with each other concerning the development and implementation of policies and activities to combat money laundering and terrorist financing.</p> |
| 32. Statistics | NC | <p>No statistics on the following:</p> <p>Other formal requests for assistance made or received by the FIU, including whether the request was granted or refused;</p> <p>Spontaneous referrals made by the FIU to foreign authorities;</p> <p>Formal requests for assistance made or received by supervisors relating to or including AML/CFT including whether the request was granted or refused;</p> <p>Comprehensive statistics are not maintained at the FIU that would lend to analysis efforts, identification of trends, typologies and techniques;</p> <p>No mechanism in Belize whereby the authorities review the effectiveness of their systems for combating money laundering and terrorist financing on a regular basis.</p> |
| 33. Legal persons – beneficial owners | NC | <p>Information on the companies register is limited to legal ownership and does not</p> |

| | | |
|--|----|---|
| | | <p>include beneficial ownership information and is not necessarily reliable.</p> <p>Registered agents are not subject to on-site inspection and it is not clear how reliable the beneficial ownership information of IBCs they maintain would be.</p> <p>There are no specific measures to ensure that bearer share warrants for local companies are not misused for money laundering.</p> <p>Reliability and implementation of measures for the immobilisation of bearer shares of IBCs by registered agents is doubtful since registered agents are not subject to on-site inspections to check these measures.</p> |
| 34. Legal arrangements – beneficial owners | NC | <p>Registration of domestic trusts is optional and the register is not open to public inspection.</p> <p>No requirements for financial institutions to verify legal status of legal arrangements such as trusts.</p> <p>The register of international trusts is inadequate as it does not include information on beneficiaries of trusts.</p> <p>Scope and reliability of information on domestic and international trusts maintained by relevant DNFBPs and trust agents respectively is doubtful since there is no inspection regime to verify the information.</p> <p>Neither the register of international foundations nor registered agents are required to maintain adequate information on the control of foundations.</p> |
| International Co-operation | | |
| 35. Conventions | PC | <p>There is no legislation in Belize that fully implements Articles 8, 10, 11, 15, 17 and 19 of the Vienna Convention, Articles 20, 24, 25, 30 and 31 of the Palermo Convention and Articles 6, 13, 14, 15 and 16 of the Terrorist Financing Convention.</p> |
| 36. Mutual legal assistance (MLA) | LC | <p>The Belize/USA Treaty Act does not provide that a request for mutual legal assistance</p> |

| | | |
|--------------------------------------|---------------|---|
| | | <p>cannot be denied on the ground of secrecy or confidentiality.</p> <p>The existence of two competent authorities for the receipt and processing of requests for mutual legal assistance may potentially reduce the effectiveness of the system.</p> <p>There are no arrangements for the best venue for prosecuting defendants in cases where such may be facilitated in more than one country.</p> |
| 37. Dual criminality | LC | The Belize/USA Treaty Act requires dual criminality in relation to search, seizure and forfeiture. |
| 38. MLA on confiscation and freezing | LC | <p>Section 76 of the MLTPA does not state that the Supreme Court and the other competent authorities shall expeditious handle requests for mutual assistance from other countries.</p> <p>No provisions allowing for mutual legal requests for property of corresponding value in the Belize/Caribbean Treaty Act, the Belize/USA Act or the MLTPA.</p> |
| 39. Extradition | NC | <p>The procedures for extradition are long and unwieldy.</p> <p>Belize has only concluded extradition treaties with the USA and Guatemala.</p> <p>Effective implementation is adversely affected by the competent authority not being appropriately equipped.</p> |
| 40. Other forms of co-operation | PC | <p>There is no legislation empowering the police, the customs authorities and other law enforcement agencies to undertake international cooperation inquiries for and on behalf of foreign countries.</p> <p>There is no legislation empowering the Office of the Attorney General and the Ministry of Foreign Affairs to undertake international cooperation inquiries for and on behalf of foreign countries.</p> |
| Nine Special Recommendations | Rating | Summary of factors underlying rating |
| SR.I Implement UN instruments | PC | There is no legislation in Belize that fully implements Articles 6, 12,13,14,15 and 16 of |

| | | |
|---|-----------|---|
| | | the Terrorist Financing Convention. |
| SR.II Criminalise terrorist financing | PC | <p>The definition of the term “funds” does not include the qualifying phrase or the qualifying term “in any form including electronic or digital” into the description of legal documents and instruments that prove a defendant’s title or interest in property.</p> <p>Prosecution of the range of ancillary offences set out under section 68(2) of the same Act is not exempt from being required to establish that funds provided by the defendant were actually used in the commission of a terrorist act.</p> <p>No provision for the prosecution of a defendant who commits an ancillary terrorist financing offence in another jurisdiction.</p> <p>The DPP and the FIU’s parallel jurisdiction to prosecute financing of terrorism matters in Belize could adversely affect implementation.</p> |
| SR.III Freeze and confiscate terrorist assets | PC | <p>Section 76 of the MLTPA does not expressly provide that assistance rendered to a superior court or competent authority of another jurisdiction must be facilitated expeditiously by the Belizean counterparts.</p> <p>Unable to assess the practical effectiveness of provisions giving effect to freezing mechanisms initiated in other jurisdictions due to lack of requests.</p> <p>Definition of terrorist property does not extend to property jointly owned or controlled directly or indirectly by terrorists, those who finance terrorism or terrorist organisations or property derived or generated from funds or other assets owned or controlled directly or indirectly by terrorists, those who finance terrorism or terrorist organisations.</p> <p>There is no legislative or other provision that enables the authorities to publicly delist</p> |

| | | |
|--|----|---|
| | | <p>persons or entitles in a timely manner.</p> <p>There is no legislative or other provision that requires competent authorities to communicate to the financial sector actions taken under the freezing mechanisms in essential criteria III.1 to III.3.</p> <p>Section 40 (2) of the MLTPA which enables a court to consider the reasonable living expenses of an applicant's dependants and an applicant's debts incurred in good faith may undermine the intended effect of S/RES1452.</p> <p>Reporting entities do not have clear guidance as it relates to their obligations for the freezing of funds belonging to terrorists on the United Nations designated list.</p> <p>Designated supervisory authorities are not required to monitor compliance with the provisions concerning SRIII.</p> <p>Section 67 (1) of the MLTPA does not enable an affected party to apply to the court for relief against an order seizing and detaining terrorist cash.</p> |
| SR.IV Suspicious transaction reporting | PC | <p>Low number of STRs submitted by financial institutions suggests that STR reporting is ineffective in non-bank reporting entities.</p> |
| SR.V International co-operation | NC | <p>The deficiencies identified with regard to MLAT for ML are also applicable for FT.</p> <p>Deficiencies noted with regard to extradition are also applicable for FT.</p> <p>The legislative and other deficiencies noted throughout this report in the areas of financing of terrorism, terrorism and terrorist organisations affect improved international cooperation in these areas.</p> <p>The noted deficiencies concerning extradition in Belize also affect improved international cooperation that is consistent with Special Recommendation V.</p> |

| | | |
|--|----|--|
| SR VI AML requirements for money/value transfer services | PC | <p>Supervisory fines under the MLTPA are not dissuasive for financial institutions.</p> <p>Number of inspections suggests ineffective monitoring.</p> |
| SR VII Wire transfer rules | NC | <p>Definition of originator information does not include the originator's address.</p> <p>No provision for a receiving intermediary financial institution to keep records (for five years) of all information received from an ordering financial institution in the case where technical limitations would prevent the full originator information that should accompany a cross border wire transfer from being transmitted with a related domestic wire transfer.</p> <p>No requirement for beneficiary financial institutions to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information.</p> <p>The fine penalty is not dissuasive nor is it applicable to directors and senior management.</p> |
| SR.VIII Non-profit organisations | NC | <p>There has been no review of the adequacy of Belize's laws and regulations relating to NPOs to determine the sector's susceptibility to being used by terrorist organisations or for terrorist activities.</p> <p>There has been no outreach programme to the NPO sector in Belize to raise awareness about the risks of terrorist abuse and the available measures to protect against such abuse and promote transparency, accountability, integrity and public confidence in the administration and management of all NPOs.</p> <p>No monitoring or supervision of NPOs and churches incorporated under the Companies Act.</p> <p>There is presently no legislation in Belize that authorises public access to NGO information duly retained by the RNGO.</p> |

| | | |
|--|------------------|---|
| | | <p>There is no legislation that imposes other criminal, civil or administrative sanctions for violations of oversight measures or rules relating to NGOs further to those prescribed under section 18 of the NGOA.</p> <p>There is no legislation that requires NGOs to maintain records of their domestic and international transactions for a minimum period of five years.</p> <p>No measures to ensure effective cooperation, coordination and information sharing between the FIU and the RNGO.</p> |
| <p>SR.IX Cross Border Declaration & Disclosure</p> | <p>PC</p> | <p>No provision for restraint of negotiable instruments.</p> <p>Provision does not allow for the seizure of currency under amounts of BZ\$10,000.</p> <p>Penalties for making a false declaration or failure to make a declaration do not extend to directors and senior management of legal persons.</p> <p>The fine for legal persons who make a false declaration or fail to make a declaration is not dissuasive.</p> |

• **Table 2: Recommended Action Plan to Improve the AML/CFT System**

| AML/CFT System | Recommended Action (listed in order of priority) |
|--|---|
| 1. General | No text required |
| 2. Legal System and Related Institutional Measures | |
| 2.1 Criminalisation of Money Laundering (R.1 & 2) | <p>The authorities should consider amending Schedule II of the MDA to include the range of narcotics drugs and psychotropic substances set out in tables I and II of the Annex to the Vienna Convention.</p> <p>The authorities should consider promulgating legislation to introduce the following criminal offences into the laws of Belize (1) illicit arms trafficking (2) extortion (3) piracy and (4) insider trading.</p> <p>The authorities should consider amending the second schedule of the MLTPA to remove the present minimum property value of BZ\$10,000 (\$5,000.00 USD) that attaches to the offence of theft.</p> <p>The authorities should consider making legislative amendments that would remove the possible constitutional concerns over the DPP and FIU’s parallel jurisdiction to prosecute money laundering offences in Belize.</p> |
| 2.2 Criminalisation of Terrorist Financing (SR.I) | <p>The authorities should consider amending the definition of the word “funds” in section 2 (1) of the MLTPA to incorporate the qualifying terms “however acquired” and “in any form including electronic or digital” into the description of legal documents and instruments that prove a defendant’s title or interest in property.</p> <p>The authorities should consider amending section 68(3) of the MLTPA to include the range of ancillary offences set out under section 68(2) of the same Act.</p> <p>The authorities should consider amending section 68(1)(b) of the MLTPA to provide for the prosecution of a defendant who commits an ancillary terrorist financing offence in another jurisdiction.</p> <p>The authorities should consider making legislative amendments that would remove the constitutional</p> |

| | |
|--|--|
| | <p>concerns relating to the DPP and FIU's parallel jurisdiction to prosecute financing of terrorism matters in Belize.</p> |
| <p>2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)</p> | <p>The authorities should consider amending section 67 of the MLTPA to facilitate the making of ex parte applications for the seizure and detention of terrorist cash.</p> |
| <p>2.4 Freezing of funds used for terrorist financing (SR.III)</p> | <p>The authorities should consider amending section 76 of the MLTPA to provide that assistance rendered to a superior court or competent authority of another jurisdiction must be facilitated expeditiously by the Belizean counterparts.</p> <p>The authorities should consider promulgating legislation that would enable the authorities to publicly delist persons or entities in a timely manner.</p> <p>The authorities should consider promulgating legislation that requires competent authorities to communicate to the financial sector actions taken under the freezing mechanisms in essential criteria III.1 to III.3.</p> <p>The definition of terrorist property in the MLTPA should extend to property jointly owned or controlled directly or indirectly by terrorists, those who finance terrorism or terrorist organisations or property derived or generated from funds or other assets owned or controlled directly or indirectly by terrorists, those who finance terrorism or terrorist organisations.</p> <p>The authorities should consider amending section 40 (2) of the MLTPA to exclude from its ambit the reasonable living expenses of an applicant's dependants and an applicant's debts incurred in good faith.</p> <p>Designated supervisory authorities should be required to monitor compliance with the provisions concerning SRIII.</p> <p>The authorities should consider providing reporting entities with clear guidance as it relates to their obligations for the freezing of funds belonging to terrorists on the United Nations designated list.</p> <p>The authorities should consider amending section 67 (1) of the MLTPA to enable an affected party to apply to the court for relief against an order seizing and detaining terrorist cash.</p> |
| <p>2.5 The Financial Intelligence Unit and its functions (R.26)</p> | <p>Belize should consider providing a more secure location for its FIU, since information held at the FIU may be accessed by persons other than FIU staff, since the</p> |

| | |
|---|---|
| | <p>security officers of the Central Bank building has access to the FIU offices after work hours.</p> <p>The FIU should consider providing its own IT service by either employing an IT Administrator or training someone in-house to carry out these functions in order to remove the reliance on Central Bank IT staff.</p> <p>The FIU should consider removing internet access from its server on which sensitive data and information is stored and establish a system where their server is stand alone. Consideration should be given to storing the FIU’s server backups offsite.</p> <p>The FIU should consider the implementation (procurement) of a database system to store its STR and other data as well as analytical tools to assist its Financial Investigators with their analysis.</p> <p>Measures should be considered to ensure the operational independence of the FIU.</p> <p>The FIU should consider implementing a mechanism that allows for the provision of some level of feedback to financial institutions and DNFBPs that pertains to STRs submitted to it, requests made of these institutions, and the provision of information that contains trends, statistics and typologies.</p> <p>The FIU should consider making its Annual Report public and include statistics, typologies and trends as well as information regarding its activities in it.</p> |
| <p>2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)</p> | <p>Belize should consider taking measures, whether legislative or otherwise, that allow competent authorities investigating ML cases to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering.</p> <p>The authorities should consider written provisions granting the FIU powers to be able to take witness statements for use in investigations and prosecutions of ML, FT and predicate offences in Belize.</p> |
| <p>2.7 Cross Border Declaration & Disclosure</p> | <p>The authorities should amend the MLTPA with a provision for the restraint of negotiable instruments.</p> <p>Section 38 of the MLTPA should be amended to allow for the seizure of currency of any amount.</p> |

| | |
|---|---|
| | <p>Penalties for making a false declaration or failure to make a declaration should be extended to directors and senior management of legal persons.</p> <p>The fine for legal persons who make a false declaration or fail to make a declaration should be made dissuasive.</p> |
| 3. Preventive Measures – Financial Institutions | |
| 3.1 Risk of money laundering or terrorist financing | |
| 3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8) | <p>Regulation 4 of the MLPR and section 15(1) of the MLTPA should be amended to correct the inconsistency in the transaction threshold.</p> <p>Financial institutions should be required to obtain proof of incorporation or similar evidence to verify legal status of corporate entities.</p> <p>Financial institutions should be required to verify legal status of legal arrangements such as trusts.</p> <p>Financial institutions should be required to take reasonable measures to understand the ownership and control structures of legal arrangements or determine who are the natural persons that ultimately own or control legal arrangements.</p> <p>Financial institutions should be required either in legislation or regulations to conduct ongoing due diligence on business relationships.</p> <p>Financial institutions should be required to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.</p> <p>Financial institutions should be required to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction.</p> <p>Simplified CDD measures should be prohibited when there is a suspicion of money laundering or terrorist financing or specific higher risk scenarios.</p> <p>Financial institutions should be required when completing the verification of the identity of the customer and beneficial owner following the establishment of the</p> |

| | |
|--|--|
| | <p>business relationship to ensure that the money laundering risks are effectively managed.</p> <p>Financial institutions should be required to adopt risk management procedures concerning the conditions under which a customer may utilise a business relationship prior to verification.</p> <p>Financial institutions should be required to consider making a suspicious transaction report when terminating an application for a business relationship or a one-off transaction due to inability to identify and verify the identity of the applicant.</p> <p>Financial institutions should be required to consider making a suspicious transaction report when terminating an existing account due to inability to identify and verify the identity of the applicant.</p> <p>Financial institution which have doubts about the veracity or adequacy of previously obtained customer identification should be required to terminate the relationship and considering making a suspicious transaction report on failure to renew customer identification.</p> <p>Financial institutions should be required to obtain senior management approval to continue a business relationship with an existing customer or beneficial owner who subsequently becomes or is found to be a PEP.</p> <p>Authorities should ensure that all financial institutions in Belize have in place systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person.</p> <p>Financial institutions should be required to ascertain whether a respondent institution has been subject to a money laundering or terrorist financing investigation or regulatory action.</p> <p>Financial institutions should be required to have policies in place or to take measures to prevent the misuse of technological developments in money laundering or terrorism financing schemes.</p> <p>Financial institutions should be required to have in place policies and procedures to address specific risks associated with non-face to face business relationships or transactions, particularly when establishing customer relationships and when conducting ongoing due diligence.</p> |
|--|--|

| | |
|---|---|
| | |
| <p>3.3 Third parties and introduced business (R.9)</p> | <p>Financial institutions relying on a third party should be required to immediately obtain from the third party the necessary information concerning the elements of the CDD process in criteria 5.3 to 5.6.</p> <p>Third parties or intermediaries should be regulated and supervised in accordance with the requirements of FATF Recs. 23, 24 and 29.</p> <p>Competent authorities should take into account information available on countries which adequately apply FATF Recs. in determining which countries third parties can be based.</p> <p>The ultimate responsibility for customer identification and verification should remain with the financial institution relying on the third party.</p> |
| <p>3.4 Financial institution secrecy or confidentiality (R.4)</p> | <p>The designated supervisory authorities, the Central Bank, SOI, IFSC and Ministry of Finance should have the power to share information among themselves.</p> <p>The IFSC should be able to access information from its supervised entities as necessary for carrying on its functions.</p> |
| <p>3.5 Record keeping and wire transfer rules (R.10 & SR.VII)</p> | <p>Financial institutions under the supervision of the Central Bank, SOI, the FIU and the IFSC should be required to ensure that all customer and transaction records and information are available on a timely basis to all domestic competent authorities upon appropriate authority.</p> <p>The definition of originator information should include the originator's address or a national identity number, customer identification number or date and place of birth.</p> <p>A receiving intermediary financial institution should be required to keep records (for five years) of all information received from an ordering financial institution in the case where technical limitations would prevent the full originator information that should accompany a cross border wire transfer from being transmitted with a related domestic wire transfer.</p> <p>Beneficiary financial institutions should be required to adopt effective risk-based procedures for identifying and</p> |

| | |
|---|--|
| | <p>handling wire transfers that are not accompanied by complete originator information.</p> <p>The fine penalty of section 19(5) of the MLTPA should be dissuasive and applicable to directors and senior management.</p> |
| <p>3.6 Monitoring of transactions and relationships (R.11 & 21)</p> | <p>Measures should be put in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries.</p> <p>A mechanism should be in place to apply appropriate counter measures to countries that continue not to apply or insufficiently applies the FATF Recommendations.</p> |
| <p>3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)</p> | <p>The authorities should extend the range of predicate offences for ML to include all the FATF designated categories of offences by criminalizing illicit arms trafficking, extortion, piracy and insider trading.</p> <p>Specific guidance should be provided for reporting entities as to how to treat suspicious transactions involving tax matters.</p> <p>There should be provision for protection against criminal, civil, disciplinary or administrative proceedings for breaches of banking or professional secrecy for reporting STRs even if the underlying criminal activity is not precisely known and regardless of whether illegal activity actually occurred.</p> <p>Belize should consider the feasibility and utility of implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national central agency with a computerized data base.</p> <p>The FIU should provide general feedback to financial institutions with regard to statistics on the number of disclosures or information on current techniques, methods, trends and typologies.</p> <p>Specific guidance should be provided for reporting entities as to how to treat suspicious transactions involving tax matters.</p> |
| <p>3.8 Internal controls, compliance, audit and foreign branches (R.15 &</p> | <p>Financial institutions should be required to maintain adequately resourced, independent internal audit function</p> |

| | |
|--|---|
| 22) | <p>which includes sample testing for compliance.</p> <p>Financial institutions should be required to ensure timely access by the AML/CFT compliance officer and other appropriate staff to information necessary to consider the reporting of suspicious transactions.</p> <p>The requirement that the reporting entity should ensure that their foreign branches and subsidiaries adopt and enforce measures consistent with the MLTPA to the extent that local laws and regulations so permit should be imposed by supervisory authorities.</p> <p>Financial institutions should be required to pay particular attention that their branches and subsidiaries in countries which do not or insufficiently apply FATF Recommendations observe AML/CFT measures consistent with home country requirements and the FATF Recommendations.</p> <p>Financial institutions should be required, where the minimum AML/CFT requirements of the home and host countries differ, to ensure that branches and subsidiaries in host countries apply the higher standard, to the extent that host country laws and regulations permit.</p> <p>The requirement for financial institutions to report to the designated supervisory or regulatory authority or the competent disciplinary authority where the foreign branch or subsidiary is unable to adopt and observe certain AML/CFT measures should be imposed by the supervisory authority.</p> |
| 3.9 Shell banks (R.18) | <p>The authorities should enact measures that require financial institutions to satisfy themselves that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.</p> |
| 3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25) | <p>Administrative fines under supervisory sanctions of subsection 22(1) should be dissuasive.</p> <p>Changes in management or shareholding of insurance companies should be approved by the SOI on the basis of a fit and proper assessment.</p> <p>Applications for licences for associations of underwriters and insurance intermediaries should be subject to fit and</p> |

| | |
|--|--|
| | <p>proper assessment.</p> <p>Shareholders or owners of IFS practitioners should be subject to fit and proper assessment.</p> <p>Guidelines should be issued for licensees of the SOI and IFSC.</p> <p>The IFSC should implement AML/CFT on-site inspections of its reporting entities.</p> <p>IFSC should have the power to carry out on-site inspection of all its reporting entities.</p> <p>The IFSC should have access or be able to compel production of records from all its reporting entities.</p> |
| 3.11 Money value transfer services (SR.VI) | Supervisory fines under the MLTPA should be dissuasive. |
| 4. Preventive Measures – Non-Financial Businesses and Professions | |
| 4.1 Customer due diligence and record-keeping (R.12) | <p>Deficiencies identified in Recs. 5, 6 and 8-11 in relation to the above recommendations would also be applicable to the DNFBPs since they are subject to the requirements of the MLTPA. Implementation of the specific recommendations in the relevant sections of this Report will also apply to listed DNFBPs.</p> <p>The transaction threshold level for casinos should be amended in the MLTPA to comply with the requirements of Rec. 5 and Rec. 10.</p> |
| 4.2 Suspicious transaction reporting (R.16) | Deficiencies identified in Recs.13 to 15 and 21 in relation to the above recommendations would also be applicable to the DNFBPs since they are subject to the requirements of the MLTPA. Implementation of the specific recommendations in the relevant sections of this Report will also apply to listed DNFBPs. |
| 4.3 Regulation, supervision and monitoring (R.24-25) | <p>Casinos should be subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF Recommendations.</p> <p>Designated supervisory for casinos should have the power</p> |

| | |
|---|---|
| | <p>to request regular reporting or access any information necessary to carry out its functions in particular monitoring.</p> <p>Fines applicable by the designated supervisory authority under section 22(1) of the MLTPA should be dissuasive.</p> <p>Information should be required on natural persons behind the corporate shareholders of applicants for licences for the provision of gaming facilities by hotels for their guests.</p> <p>.</p> <p>There should be adequate measures in relation to the granting of licences for gaming premises and the use of gaming machines to prevent criminals or their associates from holding or being beneficial owner of a significant or controlling interest, holding a management function in or being an operator under these licences.</p> <p>A comprehensive regulatory and supervisory regime to ensure effective implementation of AML/CFT measures required under the FATF Recommendations should be instituted for other DNFBPs except for trust and company service providers.</p> |
| 4.4 Other non-financial businesses and professions (R.20) | |
| 5. Legal Persons and Arrangements & Non-Profit Organisations | |
| 5.1 Legal Persons – Access to beneficial ownership and control information (R.33) | <p>The authorities should consider implementing measures to ensure that the company register maintains adequate, reliable, and timely information on the beneficial ownership of registered companies.</p> <p>Registered agents should be subject to measures to ensure that the beneficial ownership information on IBCs that they maintain is adequate, reliable and timely.</p> <p>There should be measures to ensure that bearer share warrants for local companies are not misused for money laundering.</p> <p>Registered agents should be subject to on-site inspections to ensure that the measures for the immobilisation of bearer shares of IBCs are adequate and reliable.</p> |
| 5.2 Legal Arrangements – Access to beneficial ownership and control | <p>The authorities should consider making it a legal requirement for the registration of all domestic trusts created under the TA.</p> |

| | |
|---|--|
| <p>information (R.34)</p> | <p>Financial institutions should be required to verify the legal status of legal arrangements such as trusts.</p> <p>The register of international trusts should include information on beneficiaries of trusts.</p> <p>The authorities should implement measures to ensure the scope and reliability of information on domestic and international trusts maintained by relevant DNFBPs and trust agents respectively.</p> <p>The register of international foundations and registered agents should be required to maintain adequate, reliable and timely information on the control of foundations.</p> |
| <p>5.3 Non-profit organisations (SR.VIII)</p> | <p>The authorities should consider undertaking a review of the adequacy of Belize’s laws relating to NPOs with a view to determine the sector’s susceptibility to being used by terrorist organisations or for terrorist activities.</p> <p>The authorities should consider implementing an outreach programme to the NPO sector Belize to raise awareness about the risks of terrorist abuse and the available measures to protect against such abuse and promote transparency, accountability, integrity and public confidence in the administration and management of all NPOs.</p> <p>The authorities should implement measures to monitor or supervise NPOs and churches incorporated under the Companies Act.</p> <p>The authorities should promulgating legislation that authorises public access to NGO information duly retained by the registrar.</p> <p>The authorities should consider promulgating legislation that imposes other criminal, civil or administrative sanctions for violations of oversight measures or rules relating to NGOs further to those prescribed under section 18 of the NGOA.</p> <p>The authorities should consider enacting legislation requiring NGOs to maintain records of their domestic and international transactions for a minimum period of five</p> |

| | |
|--|---|
| | <p>years.</p> <p>The authorities should implement measures to ensure effective cooperation, coordination and information sharing between the FIU and the RNGO.</p> |
| 6. National and International Co-operation | |
| 6.1 National co-operation and coordination (R.31) | <p>Belize should consider the formation of a special task force or group comprising various representatives of LEAs, focused on the development and implementation of policies and activities that would foster greater cooperation and coordination among these LEA entities in matters of ML and TF.</p> <p>The authorities should develop a mechanism to review the effectiveness of their systems for combating money laundering and terrorist financing on a regular basis.</p> |
| 6.2 The Conventions and UN Special Resolutions (R.35 & SR.I) | <p>The authorities should consider promulgating legislation to fully implement Articles 8, 11, 15, 17 and 19 of the Vienna Convention, Articles 20, 24, 25, 30 and 31 of the Palermo Convention and Articles 6, 13, 14, 15 and 16 of the Terrorist Financing Convention.</p> |
| 6.3 Mutual Legal Assistance (R.36-38 & SR.V) | <p>The authorities should consider creating a single mutual legal assistance statute in Belize for consistency and convenience and in an effort to avoid confusion.</p> <p>The authorities should consider amending the Belize/USA Treaty Act to provide that a request for mutual legal assistance cannot be denied on the ground of secrecy or confidentiality.</p> <p>The authorities should consider amending section 76 of the MLTPA to include a range of safeguards for the rights of persons who may be subject to requests for mutual legal assistance.</p> <p>The authorities should consider establishing a single competent authority for the receipt and processing of requests for mutual legal assistance.</p> <p>The authorities should consider equipping the competent authority with the appropriate tools to efficiently manage requests for mutual legal assistance.</p> <p>The authorities should consider making arrangements for the best venue for prosecuting defendants in cases where</p> |

| | |
|---|---|
| | such may be facilitated in more than one country. |
| 6.4 Extradition (R.39, 37 & SR.V) | <p>The authorities should consider enacting a single Extradition Act that seeks to simplify and expedite the procedures for extradition applications in Belize whilst safeguarding the rights of the defendant.</p> <p>The authorities should consider concluding extradition treaties with a broader range of countries.</p> <p>The authorities should consider equipping the competent authority with the appropriate tools to efficiently manage requests for extraditions.</p> |
| 6.5 Other Forms of Co-operation (R.40 & SR.V) | <p>Legislation should be created empowering the police, the customs authorities and other law enforcement agencies to undertake international cooperation inquiries for and on behalf of foreign countries.</p> <p>Legislation should be created empowering the Office of the Attorney General and the Ministry of Foreign Affairs to undertake international cooperation inquiries for and on behalf of foreign countries.</p> <p>The human and other resources of the Ministry of Foreign Affairs/Office of the Attorney General should be strengthened to properly manage requests for international cooperation with foreign countries.</p> <p>The legislative and other deficiencies noted throughout this report in the areas of financing of terrorism, terrorism and terrorist organisations should be remedied to facilitate for improved international cooperation in these areas.</p> <p>The noted deficiencies concerning extradition in Belize should be remedied to facilitate improved international cooperation that is consistent with Special Recommendation V.</p> |
| 7. Other Issues | |
| 7.1 Resources and statistics (R. 30 & 32) | <p>Belize should consider relocating the FIU to a larger office space with greater storage capacity to facilitate expansion and greater efficiency within the Unit.</p> <p>The FIU should consider providing examiner specific training to FIU staff to facilitate them in carry out their functions as Supervisory Authority.</p> <p>Belize should consider augmenting the staff at the FIU to allow it to effectively carry out its functions relative to ML, TF, Persecutor and that of Supervisory Authority.</p> |

| | |
|--|---|
| | <p>Belize's Customs Department should consider conducting a more in-depth background checks on officers applying to join the Customs Department.</p> <p>Belize should consider augmenting the current staff compliment of the Customs Department to allow it to effectively carry out its functions in all of Belize.</p> <p>Belize should consider providing additional technical resources such as sniffer dogs, vehicles and computers and other equipment requested by Custom to allow it to effectively carry out its functions.</p> <p>Belize should consider providing training to staff of the Customs Department in relation to money laundering (especially customs related offences that spawn ML cases) and terrorist financing.</p> <p>Belize should consider providing ML/TF training to members of the ADU and the MCU.</p> <p>Belize should consider procuring an additional engine in order to make the two (2) vessels in its maritime section functional.</p> <p>Belize should consider augmenting the ADU to allow it effectively police Belize's 8866 square miles of land and sea. Though considerable strides have been made in the Unit's anti-drug efforts, inadequate staffing remains one of its major challenges.</p> <p>Belize should consider providing greater office space to the MCU to facilitate it in carrying out of its functions. The ADU is equipped with one (1) vehicle, firearms and computers.</p> <p>Belize should consider providing a wider array of technical resources to the MCU i.e. cameras, tape recorders and bullet proof vest to allow it to effectively carry out its functions.</p> <p>Belize should consider developing a mechanism that provides training to members of the MCU on a more formal basis than what obtains currently which is mostly on the job training; especially when collaborating with the FIU in joint investigations.</p> <p>Belize should consider providing training for judges and courts concerning ML and FT offences, and the seizure, freezing and confiscation of property that is the proceeds</p> |
|--|---|

| | |
|--|--|
| | <p>of crime or is to be used to finance terrorism.</p> <p>The human and other resources of the Ministry of Foreign Affairs/Office of the Attorney General should be strengthened to properly manage requests for international cooperation with foreign countries.</p> <p>The authorities should develop a mechanism to review the effectiveness of their systems for combating money laundering and terrorist financing on a regular basis</p> <p>Statistics should be maintained on the following:</p> <p>Other formal requests for assistance made or received by the FIU, including whether the request was granted or refused;</p> <p>Spontaneous referrals made by the FIU to foreign authorities;</p> <p>Formal requests for assistance made or received by supervisors relating to or including AML/CFT including whether the request was granted or refused;</p> <p>Reports filed on cross border transportation of currency and bearer negotiable instruments or international wire transfers.</p> |
| <p>7.2 Other relevant AML/CFT measures or issues</p> | |
| <p>7.3 General framework – structural issues</p> | |

Table 3: Authorities' Response to the Evaluation (if necessary)

| Relevant sections and paragraphs | Country Comments |
|---|-------------------------|
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

ANNEXES

Annex 1: List of abbreviations

Annex 2: Details of all bodies met on the on-site mission - Ministries, other government authorities or bodies, private sector representatives and others.

Annex 3: Copies of key laws, regulations and other measures

Annex 4: List of all laws, regulations and other material received

ANNEXES

Annex 1

List of Abbreviations

| | |
|---------|--|
| ADU | Anti-Drugs Unit |
| BFIA | Banks and Financial Institutions Act |
| BOPA | Belize Offshore Practitioners Association |
| CA | Companies Act |
| CCLEC | Caribbean Customs Law Enforcement Council |
| CUA | Credit Union Act |
| DPP | Director of Public Prosecutions |
| ECR | Exchange Control Regulations |
| FIU | Financial Intelligence Unit |
| FIUA | Financial Intelligence Unit Act |
| GCA | Gaming Control Act |
| GCGMR | Gaming Control (Gaming Machines) Regulations |
| GCLGPR | Gaming Control (General Regulation of Licensed Gaming Premises) Regulations |
| IA | Insurance Act |
| IBA | International Banking Act |
| IBCs | International Business Companies |
| IFA | International Foundations Act |
| IFSC | International Financial Services Commission |
| IFSCA | International Financial Services Commission Act |
| IFSPCCR | International Financial Services Practitioners (Code of Conduct) Regulations |
| IIA | International Insurance Act |
| MCU | Major Crimes Unit |
| MDA | Misuse of Drugs Act |
| MLPA | Money Laundering (Prevention) Act |
| MLTPA | Money Laundering and Terrorism (Prevention) Act |
| MLTPR | Money Laundering and Terrorism (Prevention) Regulations |
| MOF | Ministry of Finance |
| MFA | Mutual Funds Act |
| MSBG | Money Services Businesses Guidelines |
| NGOs | Non-Governmental Organisations |
| NGOA | Non-Governmental Organisation Act |
| OECD | Organisation for Economic Co-operations and Development |
| RNGO | Registrar of Non-Government Organisations |
| SOI | Supervisor of Insurance |
| TA | Trusts Act |
| TAA | Trust (Amendment) Act |
| WCO | World Customs Organisation |

Details of all bodies met on the on-site mission - Ministries, other government authorities or bodies, private sector representatives and others.

1. Government

Attorney General's Ministry

Ministry of Foreign Affairs & Foreign Trade

2. Operational Agencies

Office of the Director of Public Prosecutions

Belize Police Department

- Anti-Drug Unit
- Major Crimes Unit

Belize Defence Force

National Drug Abuse Control Council

Customs Department

Immigration & Nationality Services

Belize Ports Authority

Belize Companies & Corporate Affairs Registry

3. Financial Sector – Government

Central Bank of Belize

International Financial Services Commission

- International Merchant Marine Registry of Belize

Office of the Supervisor of Insurance

4. Financial Sector – Associations and Private Sector entities

Scotia Bank (Belize) Limited

Heritage International Bank & Trust Limited

Atlantic Bank Limited

Annex 2

Holy Redeemer Credit Union

First Caribbean International Bank

Belize Bank Limited & British Caribbean Bank International Limited

Unit Trust Corporation (Belize) Limited

RF & G Insurance Company Limited

G. A. Roe & Sons Limited

Atlantic Insurance Company Limited

Home Protector Insurance Company

Sagicor Capital Life Insurance Company

Morgan & Morgan

International Services Limited

St. John's Credit Union

Belize Chamber of Commerce & Industry

Belize Offshore Practitioners Association

- 5. DNFBNs**
Castillo, Sanchez & Burrell LLP

2011

© Caribbean Financial Action Task Force