



First Follow-Up Report

Guyana

November 10, 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

GUYANA – FIRST FOLLOW-UP REPORT

I. Introduction

1. This report presents an analysis of Guyana’s report to the CFATF Plenary regarding progress made to correct the deficiencies identified in its third round Mutual Evaluation Report (MER). The third round Mutual Evaluation Report of Guyana was adopted by the CFATF Council of Ministers in May 2011 in Honduras. Guyana was placed on expedited follow-up and required to report every Plenary. Guyana has submitted information in the attached matrix on measures taken since the Mutual Evaluation to comply with the examiners’ recommendations. Based on the review of actions taken by Guyana to meet the recommendations made by the examiners, a recommendation will be made as to whether Guyana should remain on expedited follow-up or be placed on regular follow-up. Guyana was rated partially compliant or non-compliant on 16 Core and Key Recommendations and 25 other Recommendations. The Core and Key Recommendations are indicated in italics in the table below.

Table 1; Ratings of Core and Key Recommendations

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

2. With regard to the remaining Recommendations, Guyana was rated partially compliant or non-compliant on twenty-seven (27) as indicated below:

Table 2: Non Core and Key Recommendations rated Partially Compliant and Non-Compliant

Partially Compliant (PC)	Non-Complaint (NC)
R. 6 (Politically exposed persons)	R. 8 (New technologies & non face-to-face business)
R. 9 (Third parties and introducers)	R. 12 (DNFBP – R.5,6,8-11)
R. 15 (Internal controls, compliance & audit)	R. 16(DNFBP – R.13-15 & 21)
R. 17 (Sanctions)	R. 19 (Other forms of reporting)
R. 28 (Powers of competent authorities)	R. 21 (Special attention for higher risk countries)
R. 29 (Supervisors)	R.22 (Foreign branches & subsidiaries)
R. 33 (Legal persons – beneficial owners)	R. 24 (DNFBP – regulation, supervision and monitoring)
R. 39 (Extradition)	R. 25 (Guidelines & Feedback)
SR. VI (AML requirements for money value transfer services)	R. 27 (Law enforcement authorities)
SR. IX (Cross-border Declaration & Disclosure)	R. 30 (Resources, integrity and training)
	R. 31 (National co-operation)

	R. 32 (Statistics)
	R. 34 (Legal arrangements – beneficial owners)
	R. 37 (Dual criminality)
	R. 38 (MLA on confiscation and freezing)
	SR. VII (Wire transfer rules)
	SR. VIII (Non-profit organizations)

3. The following table gives some idea of the level of risk in the financial sector by indicating the size and integration of the sector in Guyana.

**Table 3: Size and integration of Guyana’s financial sector
As at July 31, 2011**

		Banks	Other Credit Institutions*	Securities±	Insurance	TOTAL
Number of institutions	Total #	6	6	2	16	30
Assets	US\$	1,540M	278M.	55M	143M	2,016M
Deposits	Total: US\$	1.311M	216M	Nil	Nil	1,527M
	% Non-resident	4 %	8%	Nil	Nil	4%
International Links	% Foreign-owned:	% of assets	% of assets	% of assets	% of assets≠	% of assets
		56%	2%	Nil	27%	45%
	#Subsidiaries abroad					
		Nil	Nil	Nil	6	6

* Includes finance companies, merchant banks, microfinance, trust companies and building society

± Includes stockbrokers, investment companies

≠ Includes local parents and overseas subsidiary data since separate balance sheet data is not available

II. Summary of progress made by Guyana

4. Since the MER, the authorities in Guyana have been assessing various means to achieve compliance. Some of these measures under consideration include the issuing of directives to relevant financial institutions and appropriate training programs. The authorities advised that since the on-site visit the Anti-Money Laundering and Countering the Financing of Terrorism Regulations 2010 (AMLCFTR) was enacted in September 2010. The AMLCFTR was enacted to supplement the legislative provisions of the Anti-Money Laundering and Countering the Financing of Terrorism Act (AMLCFTA) and dealt with identification, record keeping, reporting, and training procedures. The Financial Intelligence Unit (FIU) has also been involved in providing training to relevant Government agencies, supervisory authorities and reporting entities to increase awareness and understanding of their respective responsibilities and obligations under the AMLCFTA and the AMLCFTR. Additionally, the human and physical resources of the FIU have been substantially increased as part of a plan to improve the capacity of the FIU to fulfill its legislative responsibilities. This report will assess measures that have been put in place to comply with the examiners’ recommendations.

Core Recommendations

Recommendation 1

5. The first recommendation to amend money laundering offences in the AMLCFTA to include “assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions” in accordance with the Vienna and Palermo Conventions is being considered by the relevant authority.

6. The other recommendation requires the criminalization of illicit trafficking in stolen and other goods and smuggling as serious offences and predicate offences for money laundering. The authorities advise that illicit trafficking in stolen and other goods is criminalized under section 236 of the Criminal Law (Offences) Act Cap 8:01 as follows:

1) “Everyone who receives any chattel, money, valuable security, or other property, the stealing, taking, extortion, obtaining, embezzling, or otherwise disposing whereof amounts to a felony, either at common law or by virtue of this Act or of any other written law for the time being in force, knowing it to have been feloniously stolen, taken, extorted, obtained, embezzled, or disposed or, shall be guilty of felony, and may be indicted and convicted whether as an accessory after the fact, or for a substantive felony; and, in the latter case, whether the principal felony has or has not been previously convicted or is or is not amenable to justice.

(2) Every receiver aforesaid, however convicted, shall be liable to imprisonment for fourteen years.”

7. The above provision criminalizes illicit trafficking in stolen and other goods. The penalty of fourteen years imprisonment makes the offence a serious offence and therefore a predicate offence for money laundering as defined in section 3(5) of the AMLCFTA.

8. Smuggling is criminalized under section 218(d)(e) as follows:

“Every person who knowingly acquires possession of or is in any way knowingly concerned in carrying, removing, depositing, concealing, or in any manner dealing with any goods with intent to defraud the revenue of any duties thereon, or to evade any prohibition or restriction of or applicable to such goods; or is in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any import or export duties of customs, or of the laws, and restrictions of the customs relating to the importation, unloading, warehousing, delivery, removal, loading and exportation of goods, shall be liable for each such offence to a fine of treble the value of the goods or ten thousand dollars at the election of the Comptroller; and to imprisonment for one year and all goods in respect of which any such offence shall be committed shall be forfeited.”

9. The above provision fully complies with the requirement to criminalize smuggling and the penalty of one year imprisonment makes it a serious offence and therefore a predicate offence for money laundering in accordance with section 3(5) of the AMLCFTA. While one of the examiners’ recommendations has been met, the other remains outstanding.

Recommendation 5

10. The first recommendation requires the establishment of a threshold for the application of CDD measures for occasional transactions in accordance with FATF standards. The FATF standards require a threshold of above US\$15,000 for occasional transactions. Regulations 4(2) and 4(3) of the AMLCFTR require reporting entities to ensure proper customer identification by identifying and verifying the identity of customers when carrying out among other instances, one or more occasional transactions that equal or exceed one million Guyana dollars which is equivalent to US\$4,880. This requirement is more stringent than the FATF standard of US\$15,000.

11. The second recommendation requires that reporting entities be obligated to obtain information on the ownership of customers who are legal persons or legal arrangements. The authorities advise that Regulation (4) subsection (5) of the AMLCFTR states as follows:

“For customers who are legal persons or legal arrangements, the reporting entity shall obtain and verify –

- a) the customer's name and legal form, including obtaining proof of incorporation or similar evidence of establishment or existence such as a certificate of incorporation or a trust instrument;
- b) the names and addresses of members of the customer's controlling body such as for companies the directors, for trusts the trustees and for limited partnerships the general partners and senior management such as the chief executive officer;
- c) the legal provisions that set out the power to bind the customer such as the memorandum and articles of association or trust instrument;
- d) the legal provisions that authorise persons to act on behalf of the customer such as a resolution of the board of directors or statement of trustees on opening an account and conferring authority on those who may operate the account; and
- e) the identity of the physical person purporting to act on behalf of the customer, using source documents as provided for in these Regulations. “

12. In addition to the above subsection 15(4) (c) of the AMLCFTA requires the identification of the beneficial ownership and control structure of legal entities. The above provision requires information on ownership of customers which are either legal persons or arrangements and therefore comply with the examiners' recommendation.

13. The next recommendation requires reporting entities to determine the natural persons that ultimately own or control the customer. The authorities advise that subsections 15(4) (a) and 15(4) (c) of the AMLCFTA provides for the examiners' recommendation since they stipulate that a reporting entity when establishing a business relationship must obtain information on the purpose and nature of the business relationship. In the case of legal entities conducting transactions, reporting entities are required to adequately identify the beneficial owner, take reasonable measures to identify and verify its beneficial ownership and control structure, including information relating to-

- i. The customer's name legal form, address and directors;

- ii. The principal owners and beneficiaries and control structure
- iii. Provisions regulating the power to bind the entity, and to verify that any person purporting to act on behalf of the customer is so authorized and identify those persons

14. While the above provisions require the identification and verification of beneficial ownerships and information on beneficiaries, the terms beneficial ownership and beneficiaries are not defined in the AMLCFTA to specify natural persons. As such the provisions do not comply with this recommendation.

15. The following recommendation requires reporting entities to verify the legal status of specific legal arrangements such as trusts. Regulation 4 sub section (5) of the AMLCFTR requires that a reporting entity obtain and verify from legal arrangements, the customer's name and legal form, including obtaining the trust instrument. Additionally, the reporting entity is required to obtain and verify the names and addresses of the trustees. This provision complies with the examiners' recommendation.

16. The recommendations for a definition of beneficial ownership in relation to legal entities to be set out in the AMLCFTA and reporting entities to be required to perform enhanced due diligence for higher risk categories of customers are being considered by the relevant authority.

17. The next recommendation stipulates that reporting entities should be required to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers. The authorities cite section 15(2) of the AMLCFTA as complying with this recommendation since it provides for reporting entities to establish and verify the identity of any customer by requiring the applicant to produce an identification record or such other reliable, independent source document as the FIU may request. Additionally, section 15(3) of the AMLCFTA stipulates that the above requirements are applicable when a reporting entity establishes a business relationship or during a transaction and section 15(4) extends these requirements to include beneficial owners. A similar obligation is also stated in regulation 4 subsection 3 of the AMLCFTR. The above provisions would require identification and verification of identity during the course of establishing a business relationship or conducting transactions and therefore complies with the examiners' recommendation.

18. The following recommendation requires reporting entities to be prohibited from opening an account or commencing a business relationship or performing a transaction in the absence of satisfactory evidence of identity as stipulates in criteria 5.3 to 5.6 and being required to consider making a suspicious transaction report. The authorities are of the view that the initial requirements for customer due diligence (CDD) measures as set out in sub sections 15(2) and 15(3) of the AMLCFTA comply with the recommendation in that it can be inferred that reporting entities are prohibited from opening accounts or commencing a business relationship or performing transactions without satisfactory evidence of identity. The requirements are applicable in circumstances of establishing a business relationship, conducting an occasional transaction or wire transfer or where there is suspicion of money laundering or doubts about the veracity or previously obtained identification data.

19. The above provision does not meet the recommendation since it only creates the obligation for CDD measures to be carried out and does not directly prohibit reporting entities as required in the examiners' recommendation.

20. The last recommendation stipulates that reporting entities be required to terminate a business relationship due to the inability to obtain information set out in criteria 5.3 to 5.6 and consider making a suspicious transaction report. The authorities refer to subsection 15(10)(c) of the AMLCFTA as complying with the recommendation since it requires in the case of existing customers at the time of the AMLCFTA coming into force where at the end of six months or further period up to three months, a reporting entity is unable to verify the identity of a customer, the reporting entity shall terminate the business relationship. The above provision is specific to existing customers at the time of the AMLCFTA coming into force and therefore does not cover any customers acquired since, particularly in instances where doubts about the veracity or adequacy of previously obtained customer identification data develop and does not specify criteria 5.3 to 5.6 or require consideration of making a suspicious transaction report. The analysis above reveals that while four recommendations have been met, four still remain outstanding.

Recommendation 10

21. The only action recommended by the examiners is for all financial institutions to be required to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority. Regulation 9(1) of the AMLCFTR requires a reporting entity to ensure that any records required to be maintained under the AMLCFTR are capable of retrieval in legible form without undue delay. The records referred to are identification and transaction records as set out in regulations 6 and 7 of the AMLCFTR. This provision complies with the examiners' recommendation.

Recommendation 13

22. The examiners' first recommendation requires the criminalization of illicit trafficking in stolen and other goods and smuggling as serious offences and predicate offences for money laundering. This recommendation is dealt with under Recommendation 1 in this report.

23. With regard to the examiners' recommendation that the reporting requirement for terrorist financing in the AMLCFTA should include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organizations, the reporting requirement in the AMLCFTA refers to funds connected to terrorist financing offences. The authorities advise that the AMLCFTA defines terrorist financing to include " willfully providing or collecting funds, by any means, directly or indirectly, with the unlawful intention that they should be used or in the knowledge that they are to be used in full or in part-

- a) to carry out terrorist acts;
- b) by a terrorist organization; or
- c) by an individual terrorist"

24. The definition above with regard to funds intended to be used in full or part to carry out terrorist acts or by a terrorist organization meets part of the examiners' recommendation. The authorities advise that consideration will be given to including funds suspected of being linked, or related to terrorism financing as part of the reporting obligation.

25. The other recommendation for the requirement to report suspicious transactions to apply regardless of whether they are thought, among other things to involve tax matters is being considered by the relevant authority. Based on the above, this Recommendation remains substantially outstanding.

Special Recommendation II

26. The first recommendation requires that the definition of property should include assets of every kind, whether tangible or intangible, legal documents or instruments in any form, including electronic or digital evidencing title to, or interest in assets of every kind. The authorities have stated that “things in action” which is part of the definition of property in the AMLCFTA would cover the above since thing in action means:

- (a) A proprietary right in personam, such as a debt owed by another person, a share in a joint-stock company, or a claim for damages in tort.
- (b) The right to bring an action to recover a debt, money, or thing.
- (c) Personal property that one person owns but another person possesses, the owner being able to regain possession through a lawsuit.

27. While the above covers some intangible assets, the definition above does not comply with the examiners’ recommendation.

28. The recommendation for terrorist financing offences to be extended to any funds whether from a legitimate or illegitimate source is being considered by the relevant authority.

29. The next recommendation requires that a provision be inserted allowing for terrorist financing offences to apply regardless of whether the person alleged to have committed the offence is in the same country or a different one from where the terrorist(s)/terrorist organization is located or the terrorist act(s) occurred/will occur. The authorities advise that section 7 of the AMLCFTA provides for offences created by the AMLCFTA to be tried, judged and sentenced in Guyana regardless of whether the offence occurred in Guyana or in another jurisdiction. This provision provides for extra-territorial jurisdiction and thereby complies with the examiners’ recommendation.

30. With regard to the recommendation that the competent authorities should ensure that the relevant entities are aware and trained as to their obligations under the AMLCFTA to report and investigate SARs and where applicable prosecute those in breach of financing of terrorism (FT), the FIU is in the process of sourcing competent persons to provide appropriate ML/FT training for staff of the Director of Public Prosecutions (DPP), the Guyana Police Force (GPF), the Customs Anti-Narcotics Unit (CANU) and the Guyana Revenue Authority (GRA). Given the above, all the examiners’ recommendations except for on are outstanding.

Special Recommendation IV

31. At the present time the examiners’ recommendations are being considered by the relevant authorities. This Recommendation remains outstanding.

Special Recommendation II and IV

32. The situation remains unchanged from the last Follow-Up Report when the authorities advised that the examiners’ recommendations are to be incorporated in the Terrorism Act. These Recommendations remain outstanding.

Key Recommendations

Recommendation 3

33. The first recommendation requires the definition of property liable for confiscation in the AMLCFTA to be amended to include indirect proceeds of crime including income, profits or other benefits from proceeds of crime and property held by third persons and assets of every kind, whether tangible or intangible. The authorities have stated that “things in action” which is part of the definition of property in the AMLCFTA would cover the above for the same reasons as indicated in the above section of this report dealing with Special Recommendation II. However, while the definition of “things in action” does cover some intangible assets it does not comply with the examiners’ recommendation.

34. The other recommendation requires competent authorities to provide resources to ensure that the requisite agencies are trained under the recent legislation in order to enable effective implementation. The authorities advise that supervisory authorities, reporting entities and other Government agencies are made aware of the legislative obligations through continuous meeting and discussions with the FIU to enable effective implementation. Details on these meetings and discussions are set out in the section of this report dealing with Rec. 30. Given the above the examiners’ recommendations have been partially met.

Recommendation 4

35. At the present time the examiners’ recommendations are being considered by the relevant authorities. This Recommendation remains outstanding.

Recommendations 23

36. The examiners’ recommended actions are being considered by the relevant authority. As such, this Recommendation remains outstanding.

Recommendation 26

37. The examiners’ first recommendation for the FIU to issue guidelines in accordance with the AMLCFTA on the manner of STR reporting to all reporting entities and to consider issuing to the wider public a circular concerning money laundering and the financing of terrorism is being considered by the FIU. The FIU is also in the process of developing a website which will provide the public with pertinent information on money laundering and financing of terrorism.

38. The next recommendation requires the FIU to urgently implement its plans for new personnel and facilities and consider safeguards to reduce the vulnerability of its database. At present, the FIU has a staff of five persons including a well qualified database administrator who is responsible for the FIU’s information technology needs. The FIU has its own office building equipped with modern security cameras in and around the office and fire proof safes to secure and safeguard information.

39. With regard to reducing the vulnerability of the database, only two (2) desktop computers in the FIU have direct internet access. These computers are independent of the network connected to the FIU database. The network with access to the FIU database comprises six (6) desktop computers. The database is housed on a server located in a separate room equipped with security cameras and accessed only by the Database Administrator and Director of the FIU. The server is

prohibited internet access. Access to the database is controlled by means of login credentials which are assigned for the sole purpose of data input by the entry operators. Access to historical data is only granted to the Director of the FIU and the Database Administrator.

40. Network policies have been established and implemented through programming the server and each of the desktop computers connected to the database to deny access to storage devices such as flash drives for data transfer. All events are recorded on a log file which can only be viewed by the Director of the Database Administrator. As already mentioned the server, database and network are isolated with no connection to any other system or the internet. All database backup copies are stored on tapes in an encrypted format and stored offsite at one of the country's most secure sites by the Database Administrator. The above measures comply fully with the examiners' recommendation.

41. The recommendation for the authorities to reconsider their policy regarding the FIU releasing public reports and allowing for the issuing of periodic reports which include statistics, typologies and trends is being considered by the relevant authority. Given the above, two of the examiners' recommendations remain outstanding.

Recommendations 35 and 36

42. The examiners' recommendations are being considered by the relevant authority. These Recommendations are therefore outstanding.

Recommendation 40

43. The examiners' recommended actions are being considered by the relevant authority. As such, this Recommendation remains outstanding.

Special Recommendation I

44. The recommendations for the AML/CFT legislation to be amended to comply with S/RES/1267(1999) and S/RES/1373(2001) for freezing funds of designated persons/organizations, and for competent authorities to provide or issue guidance to financial institutions with regard to obligations to freeze assets of persons listed by the UNSCR 1267 Committee are being considered by the relevant authority.

45. With regard to the recommendation for training for the relevant entities to be aware of their obligations under legislation, the authorities advise that reporting entities have been benefitting from AML/CFT training conducted by the FIU as already mentioned under Rec. 30. Given the above most of the recommendations remain outstanding.

Special Recommendation III

46. All of the examiners' recommendations except for one are presently being considered by the relevant authority. With regard to the recommendation for training for the relevant entities to be aware of their obligations under legislation, the authorities advise that the FIU is in the process of sourcing competent persons to provide appropriate ML/FT training for staff of the DPP, the GPF, CANU and the GRA. Given the above most of the recommendations remain outstanding.

Special Recommendation V

47. The examiners' recommendation is being considered by the relevant authority. This Recommendation is therefore outstanding.

Other Recommendations

Recommendation 6

48. The examiners' recommendation that reporting entities be required to obtain senior management approval to continue a business relationship with a customer who is subsequently found to be a politically exposed person (PEP) or becomes a PEP is being considered by the relevant authority.

49. With regard to the recommendation for supervisory authorities to ensure that all financial institutions are aware of the legal requirements concerning PEPs the authorities advise that on five occasions in November and December 2010, discussions were held specifically about the obligations concerning PEPs with representatives from respectively financial institutions, money transfer agencies, licensed cambio dealers and a casino. Given the above, the examiners' first recommendation remains outstanding.

Recommendations 8

50. The examiners' recommendations are being considered for possible inclusion in future training and directives to be issued to financial institutions. All examiners' recommendations remain outstanding.

Recommendation 9

51. The relevant authority is considering issuing directives based on the recommended actions to financial institutions. All the examiners' recommendations remain outstanding.

Recommendation 12

52. The recommended action with regard to the appointment of a designated supervisory authority to oversee the compliance of designated non-financial businesses and professions (DNFBPs) with the AML/CFT requirements is being considered by the relevant authority. This recommendation remains outstanding.

Recommendation 15

53. All of the examiners' recommendations except for one are presently being considered by the relevant authority. In some instances, the issuing of directives to financial institutions concerning particular recommendations is being examined. The remaining recommendation requires that the AMLCFTA provide that the compliance officer and appropriate staff have timely access to customer identification data and other CDD information, transaction records and other relevant information necessary to carry out all their functions. The authorities refer to section 19(2) of the AMLCFTA which stipulates that "A reporting entity shall enable any person identified in accordance with subsection (1)(a) to have reasonable access to information that may be relevant to determining whether sufficient basis exists to report the matter pursuant to section 16." The reference to subsection (1) (a) in the above provisions concerns the appointment of a compliance officer which according to section 19(3) of the AMLCFTA is at management level responsible for the reporting of suspicious transactions. The above provision reads as limiting access to information solely to the compliance officer at management level and does not include appropriate staff. Additionally, reference is made to reporting a matter pursuant to section 16. However, section 16 deals with record keeping requirements rather than reporting obligations. The proper reference should be section 18

which deals with suspicious transaction reporting. Given the above, all recommendations remain outstanding.

Recommendation 16

54. The examiners' recommended action is being considered by the relevant authority. This Recommendation remains outstanding.

Recommendations 17

55. The first recommendation requires that fines for corporate bodies for breaches of AML/CFT obligations under the AMLCFTA be more dissuasive. The authorities advise that section 3(6) of the AMLCFTA provides that a corporate body which contravenes this section is liable to fines ranging from two hundred million dollars to five hundred million dollars (US\$976,000 – US\$2,440,000). It is noted that the offence referred to in this section of the AMLCFTA is the general offence of money laundering. This was noted in the MER and the sanctions were accepted as being dissuasive for general money laundering and financing of terrorism offences. However, with regard to AML/CFT obligations under the AMLCFTA such as CDD, record-keeping, monitoring, reporting, internal controls and wire transfer requirements, and other offences such as tipping off, failure to comply with a production or a monitoring order or provide false documentation, sanctions for corporate bodies need to be more dissuasive.

56. With regard to the recommendation that sanctions of designated authorities under the AMLCFTA should be dissuasive, proportionate and effective and should be applicable to directors and senior management of reporting entities, the authorities advise that sanctions of the supervisory authorities are to be re-examined with a view to complying with the recommendation.

Recommendation 19

57. The examiners recommendation requires that the authorities provide documentation recording the decision not to implement a system for the reporting of all currency transactions above a fixed threshold to a national central agency. The authorities advise that under sub regulation 12(3) of the AMLCFTR money transfer agencies and cambios are required to report to the FIU respectively on any money transfer over two hundred thousand dollars and any cash transaction over two million dollars. Given the above the legal framework for a currency transaction reporting system limited to money transfer agencies and cambios has been established. As such this recommendation has been met.

Recommendation 21

58. The examiners' recommended actions are being considered by the relevant authority. As such this Recommendation remains outstanding.

Recommendation 22

59. The first recommendation requires designated supervisory authorities to impose the obligations of section 22(2) of the AMLCFTA on their respective reporting entities. Section 22(2) of the AMLCFTA provides for the imposition of obligations on reporting entities to ensure that their foreign branches and subsidiaries adopt and enforce measures consistent with the Act to the extent that local laws and regulations so permit. The authorities advise that the FIU will continue to remind the supervisory authorities of their roles and obligations stipulated in section 22(2) of the AMLCFTA through directives/training/meetings. While this measure should improve the awareness of the supervisory authorities to this obligation, there is

need for evidence of the implementation of this obligation by the supervisory authorities either through circulars or directives to their reporting entities.

60. With regard to the other recommendations, the authorities advise that consideration is being given for directives concerning them to be issued to financial institutions. As such this Recommendation remains outstanding.

Recommendations 24

61. The examiners' recommended actions are being considered by the relevant authority. Consideration is also being given to re-examining the sanctions of supervisory authorities with a view to making the sanctions more effective and applicable to directors and senior management of DNFbps. As such this Recommendation remains outstanding.

Recommendation 25

62. The first recommendation requires that the AMLCFTA be amended to require either competent authorities or the FIU to provide financial institutions and DNFbps that are required to report suspicious transactions with adequate and appropriate feedback having regard to the FATF Best Practices Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons. The authorities have referred to sub section 9(4)(1) of the AMLCFTA which states that that the FIU "may periodically provide feedback to other supervisory authorities and other relevant agencies regarding outcomes relating to the reports or information given under the Act". The above provision falls short of the FATF requirement in that it does not include reporting entities and it is discretionary rather than mandatory in nature. As such, the FIU is not directly required to provide general feedback i.e. statistics on STRs with appropriate breakdowns and results on disclosures, information on current techniques, methods and trends or specific feedback to reporting entities and other persons.

63. The other recommendation requires that guidelines to assist financial institutions to implement and comply with their respective AML/CFT requirements be issued. At present, the FIU is considering this recommendation. Given the above, this Recommendation remains outstanding.

Recommendations 27 to 29

64. The examiners' recommended actions are being considered by the relevant authority. These Recommendations remain outstanding.

Recommendation 30

65. The first recommendation is for the FIU to urgently implement its plan for new personnel and facilities. The FIU has advised that presently it has in its employ, one Director, one Legal Adviser, one Financial Analyst, one Database Administrator and one Administrative Officer. Further plans are in place to employ three (3) additional staff by the end of the first quarter in 2012.

66. With regard to the recommendation for staff of the GPF, CANU and DPP to be suitably trained, the authorities advise that plans are in place to provide AML/CFT training to GPF, CANU and DPP staff. No details about these plans have been provided.

67. The recommendations for trained financial investigators to be provided to the GPF and CANU and to consider measures to deal with the integrity problems of the GPF and to increase the number of Customs outposts are being considered by the relevant authorities.

68. In relation to the recommendation for relevant staff of the GRA to be provided with AML/CFT training, the FIU provided training to the GRA in August and October of 2010 and January 2011. Additionally, meetings have been held with senior personnel of the GRA to discuss the applicability of the AMLCFTA and the AMLCFTR in August, September and December of 2010 and May and August of 2011. Consideration is being given for the provision of additional and continuous training to the GRA. As a result of the above measures two of the recommendations have been met and the others remain outstanding.

Recommendation 31

69. The examiners' first recommendation was for the consideration of the establishment of a national body comprised of relevant AML/CFT agencies to facilitate co-operations and co-ordination in implementing AML/CFT policies. At present the authorities advise that a Task Force Committee on Money Laundering was set up to facilitate co-operation and co-ordination in implementing the Anti Money Laundering and Countering the Financing of Terrorism policy and to provide advice to Government and guidance to private entities in relation to Anti Money Laundering and Countering the Financing of Terrorism obligations. The task force comprises representatives from the FIU, the GPF, the DPP, CANU and the GRA (Intelligence Division). Information about the functioning and accomplishments of this Committee should be submitted in future follow-ups.

70. The recommendation that competent authorities should consider establishing explicit mechanisms for consultation between competent authorities, the financial and other sectors is being considered by the relevant authority.

Recommendation 32

71. The first recommendation requires the GRA to maintain statistics on the number of declarations collected and the number of false declarations detected and the amounts of currency involved or resultant cash seizures. The authorities have advised that the GRA regularly submits reports to the FIU on the number of declarations made, false declarations detected etc. The table below shows the number of declaration forms submitted by the GRA to the FIU on a yearly basis.

Table 4: No of Declarations Forms Submitted by GRA to FIU from Jan 2009 – Sept 2011

Year	No of Declaration Forms Collected
2009	1087
2010	1416
Jan-Sept 2011	887
TOTAL	3390

72. No reports of false declarations or cash seizures were submitted to the FIU during the above period. The above figures demonstrate that measures are in place to comply with the examiners' recommendation. All other recommendations requiring the maintenance of statistics for various activities are being considered by the relevant authorities. As such, these recommendations remain outstanding.

Recommendations 33 and 34

73. The examiners' recommendations are being considered by the relevant authority. These Recommendations are therefore outstanding.

Recommendations 37 to 39

74. The examiners' recommendations are being considered by the relevant authority. These Recommendations are therefore outstanding.

Special Recommendations VI to IX

75. The examiners' recommendations are being considered by the relevant authority. These Recommendations are therefore outstanding.

III. Conclusion

76. While the authorities in Guyana have commenced to comply with some of the recommendations in the MER, these measures at present are minimal. There is need to formulate specific measures on a priority basis with timelines for the large majority of the recommendations that are presently under consideration. Additionally, information with regard to available statistics to demonstrate implementation needs to be submitted. Given the above, it is recommended that Guyana remain in expedited follow-up and be required to report to the next Plenary in May 2012.

Guyana_First_Follow-up_Report

**Matrix with Ratings and Follow Up Action Plan 3rd Round Mutual Evaluation
Guyana**

Forty Recommendations	Rating	Summary of factors underlying rating	Recommended Actions	Undertaken Actions
Legal systems				
1. ML offence	PC	<ul style="list-style-type: none"> • ML offences in the AMLCFTA are not consistent with the requirements of the Vienna and the Palermo Conventions. • Illicit trafficking in stolen and other goods and smuggling are not criminalized as a serious offence and are therefore not a predicate offence to ML. 	<ul style="list-style-type: none"> • Amend the ML offences in the AMLCFTA to include “assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions” in accordance with the Vienna and Palermo Conventions. • Illicit trafficking in stolen and other goods and smuggling should be criminalized as a serious offence and a predicate offence to ML. 	<ul style="list-style-type: none"> • The recommended action to amend the ML offences in the AMLCFTA to include “assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions” in accordance with the Vienna and Palermo Conventions, is being considered by the relevant authority. • ii.(a) In Guyana, illicit trafficking in stolen and other goods falls under the offence of ‘Receiving where principal is guilty of felony’. The Criminal Law (Offences) Act Cap. 8:01 provides at s.236 <i>“Everyone who receives any chattel, money, valuable security, or other property, the stealing, taking, extortion, obtaining, embezzling, or otherwise disposing whereof amounts to a felony, either at common law or by virtue of this Act or of any other written law for the time being in force, knowing it to have been feloniously stolen, taken, extorted, obtained, embezzled, or disposed or, shall be guilty of felony, and may be indicted and convicted wither as an accessory after the fact, or for a substantive felony; and, in the latter case, whether the principal felony has or has not been previously convicted or is or is not amenable to justice.</i> <i>Every receiver aforesaid, however convicted, shall be liable to imprisonment for fourteen years.”</i> • ii.(b) The offence of smuggling falls under the Customs Act Cap. 82:01 of the Laws of Guyana. s.218(d)(e) provides <i>“Every person who knowingly acquires possession of or is in any</i>

Guyana_First_Follow-up_Report

		<ul style="list-style-type: none"> The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation. 	<ul style="list-style-type: none"> Systems should be put in place to effectively implement the AMLCFTA and relevant Government entities made aware of the legislation and its applicability 	<p><i>way knowingly concerned in carrying, removing, depositing, concealing, or in any manner dealing with any goods with intent to defraud the revenue of any duties thereon, or to evade any prohibition or restriction of or applicable to such goods; or is in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any import or export duties of customs, or of the laws, and restrictions of the customs relating to the importation, unloading, warehousing, delivery, removal, loading and exportation of goods, shall be liable for each such offence to a fine of treble the value of the goods or ten thousand dollars at the election of the Comptroller; and to imprisonment for one year and all goods in respect of which any such offence shall be committed shall be forfeited.”</i></p> <ul style="list-style-type: none"> As evident from the above, the penalties for the above offences are imprisonment for fourteen years, and a fine of treble the value of the goods or ten thousand dollars ...and to imprisonment for one year and all goods in respect of the offence being forfeited, respectively. These are therefore serious offences under the AMLCFTA which states <i>““serious offence” means a serious offence against a provision of-</i> <i>any law in Guyana, for which the maximum penalty is death or imprisonment for life or other deprivation of liberty of not less than six months;</i> <i>any offence listed in Second Schedule ;</i> <i>or</i> <i>a law of a foreign state, in relation to an act or omission, which had it occurred in Guyana, would have constituted an offence for which the maximum penalty is death, or imprisonment for life or other deprivation of liberty for a period of not less than six months and includes money laundering and terrorist financing or an offence listed in the Second Schedule”.</i>

Guyana_First_Follow-up_Report

				<ul style="list-style-type: none"> • FIU has been sensitizing the relevant Government entities on the legislation and its applicability through continuous trainings/discussions and follow up meetings. (See Appendix I)
2. ML offence – mental element and corporate liability	LC	<ul style="list-style-type: none"> • The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation and minimal resources limit implementation. 		
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> • The definition of property liable for confiscation does not include assets of every kind, whether tangible or intangible, or indirect proceeds of crime including income, profits or other benefits from proceeds of crime or property held by third persons. • Unable to assess effective implementation since there has been no restraint, forfeiture or production orders or search warrants granted under the AMLCFTA due to its recent enactment 	<ul style="list-style-type: none"> • The definition of property liable for confiscation in the AMLCFTA be amended to include indirect proceeds of crime including income, profits or other benefits from proceeds of crime and property held by third persons and assets or every kind, whether tangible or intangible. • The competent authorities should provide resources to ensure the requisite agencies are trained under the recent legislation in order to enable effective implementation. 	<ul style="list-style-type: none"> • The current definition of property in the AMLCFTA includes “Things in action”. According to the Blacks Law Dictionary 8th Ed, <i>“Chose in action also termed thing in action means (a) A proprietary right in personam, such as a debt owed by another person, a share in a joint-stock company, or a claim for damages in tort. (b) The right to bring an action to recover a debt, money, or thing. (c) Personal property that one person owns but another person possesses, the owner being able to regain possession through a lawsuit.”</i> • The definition of “property” provided in the AMLCFTA therefore already includes <i>“indirect proceeds of crime including income, profits or other benefits from proceeds of crime and property held by third persons and assets or every kind, whether tangible or intangible”</i>. • Supervisory authorities, reporting entities and other Government agencies are sensitized on the legislation through continuous meetings and discussions to enable its effective implementation. (See Appendix II)
Preventive measures				
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> • No provision for the GSC to access information relevant to AML/CFT matters 	<ul style="list-style-type: none"> • The GSC should have the power to access information relevant to AML/CFT matters from registrants of the SIA. 	<ul style="list-style-type: none"> • The recommended action is being considered by the relevant authority.

Guyana_First_Follow-up_Report

		<p>from registrants of the SIA.</p> <ul style="list-style-type: none"> No provision for the CCDO to share information from a society registered under the CSA with local and international competent authorities 	<ul style="list-style-type: none"> The CCDO should be able to share information from a society registered under the CSA with local and international competent authorities. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority.
5. Customer due diligence	PC	<ul style="list-style-type: none"> Threshold for the application of CDD measures for occasional transactions has not been prescribed, leaving such determination to the discretion of the reporting entities. No requirement for reporting entities to obtain information on the ownership of customers who are legal persons or legal arrangements. 	<ul style="list-style-type: none"> A threshold for the application of CDD measures for occasional transactions should be prescribed in accordance with the FATF standard. Reporting entities should be required to obtain information on the ownership of customers who are legal persons or legal arrangements. 	<ul style="list-style-type: none"> Regulation 4(2) (b) already makes provision for this recommendation. It stipulates “<i>Customers shall include persons, whether natural, legal, or legal arrangements, who are or who seek to be engaged in one or more occasional transactions with the reporting entity when the total value of the transactions equals or exceeds one million dollars.</i>” (See Appendix III) S. 15(4)(a-c) of the AMLCTFA already makes provision for REs to obtain information on the ownership of customers who are legal persons or legal arrangements. This section provides “<i>Without limiting the generality of subsection (2), a reporting entity shall-</i> (a) <i>when establishing a business relationship, obtain information on the purpose and nature of the business relationship;</i> (b) <i>if the transaction is conducted by a natural person, ...</i> (c) <i>if the transaction is conducted by a legal entity, adequately identify the beneficial owner, take reasonable measures to identify and verify its beneficial ownership and control structure, including information relating to-</i> (i) <i>the customer's name, legal form, address and directors;</i> (ii) <i>the principal owners and beneficiaries and control structure;</i> (iii) <i>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.</i>”
		<ul style="list-style-type: none"> No requirement for reporting entities to 	<ul style="list-style-type: none"> Reporting entities should be required to determine 	<ul style="list-style-type: none"> Already provided for in s. 15(4)(a-c) of the

Guyana_First_Follow-up_Report

		<p>determine who are the natural persons that ultimately own or control the customer.</p> <ul style="list-style-type: none"> No requirement for the verification of legal status of specific legal arrangements such as trusts. 	<p>who are the natural persons that ultimately own or control the customer.</p> <ul style="list-style-type: none"> Reporting entities should be required to verify the legal status of specific legal arrangements such as trusts. 	<p>AMLCTFA. See above.</p> <ul style="list-style-type: none"> Regulation 4(5)(a) &(c) of the Regulations made under AMLCFTA already makes provision for the verification of legal status of specific arrangements such as trusts. It provides that <i>“A reporting entity shall ensure that it knows the true identity of its customers...For customers who are legal persons or legal arrangements, the reporting entity shall obtain and verify –</i> <ul style="list-style-type: none"> <i>(a) the customer’s name and legal form, including obtaining proof of incorporation or similar evidence of establishment or existence such as a certificate of incorporation or a trust instrument.”</i> <i>(b) ...</i> <i>(c) the legal provisions that set out the power to bind the customer such as the memorandum and articles of association or trust instrument...”</i> The recommended action is being considered by the relevant authority.
		<ul style="list-style-type: none"> No definition of beneficial ownership with regard to legal entities. No requirement for reporting entities to perform enhanced due diligence for higher risk categories of customers. No requirement that reporting entities verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers. 	<ul style="list-style-type: none"> A definition of beneficial ownership with regard to legal entities should be set out in the AMLCFTA. Reporting entities should be required to perform enhanced due diligence for higher risk categories of customers. Reporting entities should be required to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. S.15(2) of the AMLCTFA provides <i>“Reporting entities shall establish and verify the identity of any customer of the reporting entity by requiring the applicant to produce an identification record or such other reliable, independent source document as the Financial Intelligence Unit may request”</i> The phrase “establish and verify the identity of <u>any customer</u> of the reporting entity” is all-inclusive and thereby includes ‘occasional customers conducting transactions.’ Further, Regulation 4(2)(b) of the Regulation made under the AMLCTFA defines a customer thus <i>“Customers shall include persons, whether natural, legal, or legal arrangements, who are</i>

Guyana_First_Follow-up_Report

		<ul style="list-style-type: none"> No requirement prohibiting reporting entities from opening an account or commencing a business relationship or performing a transaction in the absence of satisfactory evidence of identity as stipulated in criteria 5.3 to 5.6 and being required to consider making a suspicious transaction report. 	<ul style="list-style-type: none"> Reporting entities should be prohibited from opening an account or commencing a business relationship or performing a transaction in the absence of satisfactory evidence of identity as stipulated in criteria 5.3 to 5.6 and being required to consider making a suspicious transaction report. 	<p><i>or who seek to be engaged in one or more occasional transactions with the reporting entity.”</i></p> <ul style="list-style-type: none"> S. 15.(2) and (3) of the AMLCTFA provides: <ul style="list-style-type: none"> <i>(2) Reporting entities shall establish the identity and verify the identity of any customer of the reporting entity by requiring the applicant to produce an identification record or such other reliable, independent source documents as the Financial Intelligence Unit may request.</i> <i>(3) The requirements of subsection (2) shall apply where-</i> <ul style="list-style-type: none"> <i>(a) a reporting entity establishes a business relationship;</i> <i>(b) in the absence of such a relationship, a reporting entity conducts-</i> <ul style="list-style-type: none"> <i>(i) any transaction in an amount equal to or above the amount prescribed by the Minister, whether conducted as a single transaction or several transactions that appear to be linked and where the amount of the transaction is unknown at the time of the transaction, the identification and verification shall be undertaken as soon as the amount becomes known or the threshold is reached;</i> <i>(ii) any wire transfer as set out in section 20;</i> <i>(c) there is a suspicion of money laundering or terrorist financing; or</i> <i>(d) the reporting entity has doubts about the veracity or adequacy of previously obtained customer identification data.”</i> <p>From the above it can be inferred that reporting entities are prohibited from opening accounts or commencing a business relationships or performing transactions in the absence of satisfactory evidence of identity. In this instance</p>
--	--	---	---	--

Guyana_First_Follow-up_Report

		<ul style="list-style-type: none"> Except in the case of customers at the time of the enactment of the AMLCFTA, there is no requirement for financial institutions to terminate a business relationship due to the inability to obtain information set out in criteria 5.3 to 5.6 and consider making a suspicious transaction report. 	<ul style="list-style-type: none"> Reporting entities should be required to terminate a business relationship due to the inability to obtain information set out in criteria 5.3 to 5.6 and consider making a suspicious transaction report. 	<p>therefore, there would be no need for the reporting of a suspicious transaction report.</p> <ul style="list-style-type: none"> S. 15.(10)(c) of the AMLCTFA makes provision for this recommendation. It provides <i>“In the case of an existing customer at the time of this Act coming into force where at the end of the six months or further period of up to three months, as the case may be, a reporting entity is unable to verify the identity of a customer, the reporting entity shall terminate the business relationship with such a customer.”</i>
6. Politically exposed persons	PC	<ul style="list-style-type: none"> No requirement for reporting entities to obtain senior management approval to continue a business relationship with a customer or beneficial owner who is subsequently found to be a PEP or becomes a PEP. Limited awareness by financial institutions about the legal requirements concerning PEPs. 	<ul style="list-style-type: none"> Reporting entities should be required to obtain senior management approval to continue a business relationship with a customer who is subsequently found to be a PEP or becomes a PEP. The supervisory authorities should ensure that all financial institutions are aware of the legal requirements concerning PEPs 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. Financial institutions are continuously being sensitized on various sections of the legislation (particularly s.15 (4)(d)), as well as the AMLCFT Regulations, hence these institutions are aware of the legal requirements concerning PEPs. (See Appendix IV)
7. Correspondent banking	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. No requirement for financial institutions to ascertain for themselves that the AML/CFT controls of a respondent institution are adequate and effective. 	<ul style="list-style-type: none"> 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. Financial institutions should have to ascertain for themselves that the AML/CFT controls of a respondent institution are adequate and effective. 	<ul style="list-style-type: none"> The recommended action is being considered for possible inclusion in future trainings and directives to be issued to financial institutions. The recommended action is being considered for possible inclusion in future trainings and directives to be issued to financial institutions.
8. New technologies & non face-to-face business	NC	<ul style="list-style-type: none"> No requirement for financial institutions to have policies in place or take such measures to prevent the misuse of technological developments in ML or TF schemes. No requirement for financial institutions to have policies and procedures in place to 	<ul style="list-style-type: none"> Financial institutions should be required to have policies in place or take such measures to prevent the misuse of technological developments in ML or TF schemes. Financial institutions should be required to have policies and procedures in place to address specific 	<ul style="list-style-type: none"> These recommendations are being considered for possible inclusion in future trainings and directives to be issued to financial institutions.

Guyana_First_Follow-up_Report

		<p>address specific risks associated with non-face to face business relationships or transactions.</p>	<p>risks associated with non-face to face business relationships or transactions. These policies and procedures should apply when establishing customer relationships and conducting ongoing due diligence.</p> <ul style="list-style-type: none"> Financial institutions should also be required to have measures for managing risks including specific and effective CDD procedures that apply to non-face to face customers. 	
9. Third parties and introducers	PC	<ul style="list-style-type: none"> Authorities have issued no guidance in relation to which countries third parties that meet FATF conditions can be based. Financial institutions are not required to satisfy themselves that third parties are regulated and supervised in accordance with Recommendations 23, 24 and 29 and have measures in place to comply with CDD requirements set out in Recommendation 5. 	<ul style="list-style-type: none"> Financial institutions should be required to satisfy themselves that third parties are regulated and supervised in accordance with Recommendations 23, 24 and 29 and have measures in place to comply with CDD requirements set out in Recommendation 5. Competent authorities should determine and inform financial institutions in which countries third parties that meet the conditions can be based by taking into account information available on whether these countries adequately apply the FATF Recommendations 	<ul style="list-style-type: none"> Consideration is being given for directives to be issued to financial institutions, based on the recommended action. The recommended action is being considered by the relevant authority.
10. Record keeping	PC	<ul style="list-style-type: none"> No requirement for 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. 	<ul style="list-style-type: none"> All financial institutions should be required to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority 	<ul style="list-style-type: none"> Regulation 9(1) of the Regulations made under AMLCFTA makes provision for reporting entities to ensure that any records required to be maintained under these Regulations are capable of retrieval in legible form without undue delay. In addition, the FIU has since 2006, implemented a system whereby when requesting information from reporting entities, such information is required within seven (7) days from the date of request. (See Appendix V) <p>Further, s. 9(4)(o) of the AMLCFTA provides <i>“The Financial Intelligence Unit- shall, in respect of the entities for which it has been designated, exercise the powers set out in section 18 and in relation to this, may enter the premises of any reporting entity during ordinary business hours to inspect any record kept by the reporting entity, and ask any question relating to such record, make notes and take copies of whole or any part of the record.”</i></p>

Guyana_First_Follow-up_Report

11. Unusual transactions	LC	<ul style="list-style-type: none"> Findings on complex, unusual, large transactions or unusual patterns of transactions with no apparent or visible economic or lawful purpose are available only to the FIU and not all competent authorities and auditors. No requirement that findings on background and purpose of transactions should be kept available for at least five years.. 	<ul style="list-style-type: none"> Guyana should amend its legislation so as to require financial institutions to make the findings on complex, unusual, large transactions or unusual patterns of transactions with no apparent or visible economic or lawful purpose available to all competent authorities and auditors for at least five years. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority.
12. DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> The deficiencies identified in section 3 in relation to Recs. 5, 6 and 8 – 11 are also applicable to DNFBPs. 	<ul style="list-style-type: none"> It is recommended that a designated supervisory authority be appointed as soon as possible for the DNFBPs to oversee compliance with the of requirements of the AMLCFTA. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority.
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> Requirement to make a STR does not apply to funds from the designated predicate offence of illicit trafficking in stolen or other goods and smuggling. Reporting requirement for terrorist financing does not include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organisations No provision specifying that the requirement to report suspicious transactions should apply regardless of whether they are thought, among other things, to involve tax matters. 	<ul style="list-style-type: none"> Illicit trafficking in stolen and other goods and smuggling should be criminalized as a serious offence and a predicate offence to ML. Reporting requirement for terrorist financing in the AMLCFTA should include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organisations. The requirement to report suspicious transactions should apply regardless of whether they are thought, among other things, to involve tax matters. 	<ul style="list-style-type: none"> Already dealt with at No. 1(ii) above- offences are criminalized as serious offences in Guyana. The AMLCFTA defines terrorist financing to mean <i>“wilfully providing or collecting funds, by any means, directly or indirectly, with the unlawful intention that they should be used or in the knowledge that they are to be used in full or in part-</i> <ul style="list-style-type: none"> <i>(a) to carry out terrorist acts;</i> <i>(b) by a terrorist organisation; or</i> <i>(c) by an individual terrorist ”</i> <p>Evidently the above definition already includes part of what is being recommended, we will however consider including in the definition “funds suspected of being linked, or related to”.</p> The recommended action is being considered by the relevant authority.

Guyana_First_Follow-up_Report

		<ul style="list-style-type: none"> Unable to assess effectiveness of the reporting system due to the unavailability of statistics on suspicious transaction reporting 		
14. Protection & no tipping-off	LC	<ul style="list-style-type: none"> No specific requirement that the protection of staff of financial institutions for reporting STRs is available even if the staff of financial institutions did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred. 	<ul style="list-style-type: none"> The protection of staff of financial institutions for reporting STRs should be explicitly available even if the staff of financial institutions did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred. 	<ul style="list-style-type: none"> S. 11(2) of the AMLCFTA offers protection to staff of reporting entities. Financial institutions are no exception. It provides “<i>No civil or criminal liability action may be brought nor may any professional sanction be taken against any person or agent of any reporting entity for breach of any restriction on disclosure who in good faith transmits information or submits reports to the Financial Intelligence Unit.</i>”
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> No requirement for individuals who carry on business solely or with a staff and management of less than five persons to comply with the requirements of Rec. 15. Access to information is restricted to the reporting function and only to compliance officers appointed at management level rather than to all appropriate staff engaged in the compliance function. No requirement for the audit function of financial institutions to be adequately resourced and independent and compliance testing of procedures, policies and controls to include sample testing. The training obligation of financial institutions is not ongoing and does not include new developments, including information on current ML and FT techniques, methods and trends; clear explanation of all aspects of AML/CFT laws 	<ul style="list-style-type: none"> The competent authorities should ensure that all financial institutions update their current policies and that the updated versions are based on the AMLCFTA. The requirements of Rec. 15 should be applicable to individuals who carry on business solely or with a staff and management of less than five persons. The AMLCFTA should provide that the compliance officer and appropriate staff have timely access to customer identification data and other CDD information, transaction records and other relevant information necessary to carry out all their functions. Financial institutions should be required to ensure that their audit function is adequately resourced and independent and compliance testing of procedures, policies and controls include sample testing. 	<ul style="list-style-type: none"> We are considering issuing directives to financial institutions regarding the updating of their policies based on AMLCFTA. The recommended action is being considered by the relevant authority. S. 19(2)(a) of the AMLCFTA provides “<i>A reporting entity shall enable any person identified in accordance with subsection (1)(a) to have reasonable access to information that may be relevant to determining whether sufficient basis exists to report the matter pursuant to section 16.</i>” It is therefore inferred that staff acting on the instructions/directions of the compliance officer would also have such access. We are considering issuing directives to financial institutions concerning the recommendation made.

Guyana_First_Follow-up_Report

		and obligations, and in particular, requirements concerning CDD.	<ul style="list-style-type: none"> The training obligation of financial institutions should be ongoing and include new developments, including information on current ML and FT techniques, methods and trends; clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD. 	<ul style="list-style-type: none"> We are considering issuing directives to financial institutions concerning the recommendation made
16. DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> The deficiencies identified in section 3 in relation to Reccs. 13, to 15, and 21 are also applicable to DNFBPs 	<ul style="list-style-type: none"> It is recommended that a designated supervisory authority be appointed as soon as possible for the DNFBPs to oversee compliance with the of requirements of the AMLCFTA 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority.
17. Sanctions	PC	<ul style="list-style-type: none"> Fines applicable to corporate bodies for breaches of AML/CFT obligations under the AMLCFTA are not dissuasive. Sanctions of designated supervisory authorities under the AMLCFTA are not dissuasive, proportionate or effective and are not applicable to directors and senior management of reporting entities 	<ul style="list-style-type: none"> Fines applicable to corporate bodies for breaches of AML/CFT obligations under the AMLCFTA should be dissuasive. Sanctions of designated supervisory authorities under the AMLCFTA should be dissuasive, proportionate and effective and should be applicable to directors and senior management of reporting entities. 	<ul style="list-style-type: none"> S. 3(6) of the AMLCFTA provides that a corporate body who contravenes this section commits an offence and shall be liable to a fine of not less than two hundred million dollars nor more than five hundred million dollars. In Guyana, the minimum sum of US\$1m is considered dissuasive. Consideration is being given for the level of sanctions of supervisory authorities to be re-examined with a view of making the sanctions more effective and applicable to directors and senior management of reporting entities.
18. Shell banks	LC	<ul style="list-style-type: none"> No requirement that financial institutions satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks 	<ul style="list-style-type: none"> Financial institutions should be required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. In order to remove any ambiguity with regard to the possible establishment of shell banks in Guyana provision allowing for the registration of shell banks in the Company Act should be repealed. 	<ul style="list-style-type: none"> We believe that s.15(7)(c) of the AMLCFTA makes provision for the recommendation made. It states <i>“Banks or financial institutions shall not maintain any business relationship with other 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”</i>. We are however; still examining the AMLCFTA to be absolutely positive. The recommended action is being considered by the relevant authority.
19. Other forms of reporting	NC	<ul style="list-style-type: none"> No documentary evidence of the decision not 	<ul style="list-style-type: none"> The authorities should provide documentation 	<ul style="list-style-type: none"> No decision was taken not to implement a

Guyana_First_Follow-up_Report

		to implement a system for the reporting of all currency transactions above a fixed threshold to a national central agency..	recording the decision not to implement a system for the reporting of all currency transactions above a fixed threshold to a national central agency.	system for the reporting of all currency transactions above a fixed threshold to a national central agency. For example, Regulation 12 of the Regulations made under the AMLCFTA provides: <i>(3) Without prejudice to the generality of the foregoing provisions, a reporting entity shall report to the Financial Intelligence Unit as soon as practicable - (a) where the reporting entity is a money transfer agency, any money transfer over two hundred thousand dollars; (b) where the reporting entity is a cambio, a purchase over four hundred thousand dollars and a sale over one million dollars; and (c) any cash transaction over two million dollars.</i>
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> There are no measures in place to ensure that financial institutions are notified about AML/CFT weaknesses in other countries. Only complex, unusual large transactions with no apparent economic or visible lawful purpose from countries which do not or insufficiently apply the FATF Recommendations are examined and written findings kept. There are no provisions in place that allow the authorities to apply counter measures to countries that do not or insufficiently apply the FATF Recommendations 	<ul style="list-style-type: none"> Effective measures should be established to ensure that financial institutions are advised of concerns about AML/CFT weaknesses in other countries. The background and purpose of all transactions having no apparent economic or visible lawful purpose with persons from or in countries which do not or insufficiently apply the FATF Recommendations should be examined and written findings made available to assist competent authorities and auditors. There should be provisions to allow for the application of countermeasures to countries that do not or insufficiently apply the FATF Recommendations. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority.
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> Supervisory authorities have not imposed the requirements for foreign branches and subsidiaries of section 22(2) of the AMLCFTA on their respective reporting entities. No requirement for financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures 	<ul style="list-style-type: none"> Designated supervisory authorities should impose the obligations stipulated in section 22(2) of the AMLCFTA on their respective reporting entities. Financial institutions should be required to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with FATF 	<ul style="list-style-type: none"> FIU will continue to remind supervisory authorities of their roles and obligations stipulated in s.22(2) of the AMLCFTA through directives/trainings/meetings. Consideration is being given for directives to be issued to financial institutions as per recommendation.

Guyana_First_Follow-up_Report

		<p>consistent with FATF Recommendations to the extent that host country laws and regulations permit.</p> <ul style="list-style-type: none"> No requirement for financial institutions to pay particular attention that the principle stated in section 22(2) of the AMLCFTA is observed with respect to branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations. No requirement for financial institutions to ensure that branches and subsidiaries in host countries apply the higher standard where minimum AML/CFT obligations of home and host countries differ. 	<p>Recommendations to the extent that host country laws and regulations permit.</p> <ul style="list-style-type: none"> Financial institutions should be required to pay particular attention that the principle stated in section 22(2) of the AMLCFTA is observed with respect to branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations. Financial institutions should be required to ensure that branches and subsidiaries in host countries apply the higher standard where minimum AML/CFT obligations of home and host countries differ. 	<ul style="list-style-type: none"> We are considering issuing directives to financial institutions based on the recommendation made. We are considering issuing directives to financial institutions based on the recommendation made.
<p>23. Regulation, supervision and monitoring</p>	<p>NC</p>	<ul style="list-style-type: none"> No designated supervisory authority has been assigned to ensure that co-operative societies adequately comply with AML/CFT requirements. The SIA and the CSA do not provide for their relevant authorities to take necessary measures to prevent criminals or their associates from holding or being the beneficial owners of a significant or controlling interest or holding a management function in financial institutions. The IA does not provide for necessary measures to prevent criminals or their associates from holding or being the beneficial owners of a significant or controlling interest in financial institutions. The SIA and the CSA do not provide for directors and senior management of financial institution to be evaluated on the basis of “fit and proper” criteria. 	<ul style="list-style-type: none"> A designated supervisory authority should be assigned to ensure that co-operative societies adequately comply with AML/CFT obligations. The SIA and the CSA should be amended to provide for their relevant authorities to take necessary measures to prevent criminals or their associates from holding or being the beneficial owners of a significant or controlling interest or holding a management function in financial institutions. The IA, should be amended to provide for the relevant authorities to take necessary measures to prevent criminals or their associates from holding or being the beneficial owners of a significant or controlling interest in financial institutions. The SIA and the CSA should be amended to provide for directors and senior management of financial institution to be evaluated on the basis of “fit and proper” criteria. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority.

Guyana_First_Follow-up_Report

		<ul style="list-style-type: none"> Neither the COI, the GSC or the DCFS have implemented AML/CFT supervision for their relevant financial institutions 	<ul style="list-style-type: none"> The COI, the GSC and the DCFS should implement AML/CFT supervision for their relevant financial institutions 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority.
24. DNFBP – regulation, supervision and monitoring	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. The provision for the Gaming Authority to assess the integrity of an applicant is discretionary, limited to licensing, does not include beneficial owners, and does not specify fit and proper criteria. No designated supervisory authority appointed for DNFbps to oversee compliance with AML/CFT requirements. Sanctions of designated supervisory authorities under the AMLCFTA are not dissuasive, proportionate or effective and are not applicable to directors and senior management of DNFbps 	<ul style="list-style-type: none"> 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. The Gaming Authority should be required to assess the integrity of an applicant, partner, shareholder, directors, office holders of an applicant and beneficial owner on the basis of fit and proper criteria on a regular basis. A designated supervisory authority should be appointed for DNFbps to oversee compliance with AML/CFT requirements as soon as possible. Sanctions of designated supervisory authorities under the AMLCFTA should be dissuasive, proportionate and effective and applicable to directors and senior management of DNFbps. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. Consideration is being given for the level of sanctions of supervisory authorities to be re-examined with a view of making the sanctions more effective and applicable to directors and senior management of DNFbps.
25. Guidelines & Feedback	NC	<ul style="list-style-type: none"> No requirement for competent authorities or the FIU to provide financial institutions and DNFbps that are required to report suspicious transactions with adequate and appropriate feedback. No guidelines to assist financial institutions and DNFbps to implement and comply with their respective AML/CFT requirements have been issued 	<ul style="list-style-type: none"> The AMLCFTA should be amended to require competent authorities or the FIU to provide financial institutions and DNFbps that are required to report suspicious transactions with adequate and appropriate feedback having regard to the FATF Best Practices Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons. Guidelines to assist financial institutions to implement and comply with their respective AML/CFT requirements should be issued 	<ul style="list-style-type: none"> S.9(4)(l) of the AMLCFTA already makes provision for FIU to provide feedback to the bodies required under the Act to report suspicious transaction. It provides that “<i>The Financial Intelligence Unit may periodically provide feedback to other supervisory authorities and other relevant agencies regarding outcomes relating to the reports or information given under the Act.</i>” FIU is considering the recommendation for guidelines to implement and comply with their respective AML/CFT to be issued to financial institutions.

Guyana_First_Follow-up_Report

Institutional and other measures				
26. The FIU	NC	<ul style="list-style-type: none"> • No guidelines regarding the manner of STRs reporting have been issued to financial institutions and other reporting entities. • Minimal security arrangements for custody of information with the main vulnerability being IT support provided by personnel not in the employ of the FIU. • No requirement to publicly release periodic reports to include statistics, typologies and trends. • While lack of statistics limits assessment of effectiveness, the operations of the FIU are adversely affected by lack of resources. 	<ul style="list-style-type: none"> • In accordance with the AMLCFTA requirement the FIU should issue guidelines on the manner of STRs reporting to all reporting entities. A circular to the wider public concerning money laundering and financing of terrorism could also be considered. • The FIU should urgently implement its plans for new personnel and facilities and consider safeguards to reduce the vulnerability of its database. • The authorities should reconsider their policy regarding the FIU releasing public reports and allow for the issuing of periodic reports which include statistics, typologies and trends. 	<ul style="list-style-type: none"> • FIU is considering the recommendation for guidelines to be issued on the manner of STRs reporting to all reporting entities. FIU is also in the process developing a web site which will provide the public with pertinent information on money laundering and financing of terrorism. • The FIU currently has in its employ an IT Specialist; hence the vulnerability of its database is no longer at risk. (See Appendix VI) • The recommended action is being considered by the relevant authority.
27. Law enforcement authorities	NC	<ul style="list-style-type: none"> • No written laws or measures authorising the GPF to postpone or waive the arrest of suspected persons and/or the seizure of money for the purpose of identifying persons involved in money laundering or for evidencing gathering. • Lack of trained financial investigators limits effective implementation of ML/FT investigations. 	<ul style="list-style-type: none"> • There should be written laws or measures authorising the GPF to postpone or waive the arrest of suspected persons and/or the seizure of money for the purpose of identifying persons involved in money laundering or for evidencing gathering. 	<ul style="list-style-type: none"> • The recommended action is being considered by the relevant authority.
28. Powers of competent authorities	PC	<ul style="list-style-type: none"> • No written law or measure for the taking of witnesses' statements for use in investigations and prosecutions of ML, FT and other underlying predicate offences or in related actions 	<ul style="list-style-type: none"> • There should be a law or measure to allow for the taking of witnesses' statements for use in investigations and prosecutions of ML, FT and other underlying predicate offences or in related actions 	<ul style="list-style-type: none"> • The recommended action is being considered by the relevant authority.
29. Supervisors	PC	<ul style="list-style-type: none"> • GSC does not have power to compel production or obtain access to all records, documents or information relevant to monitoring of compliance. 	<ul style="list-style-type: none"> • GSC should have the power to compel production or obtain access to all records, documents or information relevant to monitoring of compliance. 	<ul style="list-style-type: none"> • The recommended action is being considered by the relevant authority.

Guyana_First_Follow-up_Report

		<ul style="list-style-type: none"> • CCDO does not have enforcement or sanctioning powers for failure of co-operatives to comply with AML/CFT obligations 	<ul style="list-style-type: none"> • The CCDO should have enforcement or sanctioning powers for failure of co-operatives to comply with AML/CFT obligations 	<ul style="list-style-type: none"> • This recommendation will be forwarded to the relevant authority.
30. Resources, integrity and training	NC	<ul style="list-style-type: none"> • Lack of trained financial investigators in the GPF and CANU • No ML training of staff of the DPP • NO ML/FT training of staff of GPF and CANU • Integrity of GPF is in doubt • GSC and DCFS do have adequate staff and resources to carry out their functions. • Staff of GSC and DFSC have not received AML/CFT training. • Insufficient AML/CFT training of staff of BOG. • The FIU is inadequately staffed. 	<ul style="list-style-type: none"> • The FIU should urgently implement its plans for new personnel and facilities. • The authorities should provide trained financial investigators for the GPF and CANU. • The authorities should consider measures to deal with the integrity problems of the GPF. • Staff of the GPF and CANU should be provided with appropriate ML/FT training. • Staff of the DPP should be provided with ML training. • The authorities should consider increasing the number of Customs outposts to ensure security at borders. • Relevant staff of the GRA should be provided with AML/CFT training. 	<ul style="list-style-type: none"> • FIU has already commenced implementation of its plans for new personnel and facilities. To date FIU has in its employ, one Director, one Legal Adviser, one Financial Analyst, one Database Administrator and one Administrative Officer. Further plans are in place to employ three (3) additional staff by the end of the first quarter in 2012. (See Appendix VII) • The recommended action is being considered by the relevant authority. • The recommended action is being considered by the relevant authority. • Plans are in place to have the staff of GPF and CANU trained in the area of ML/FT. • Plans are in place to have the staff of DPP trained in the area of ML/FT. • This recommendation is being considered by the relevant authority. • Staff of GRA has already begun to benefit from AML/CFT training. However, consideration is still being given for the provision of additional and continuous trainings. (Pls. refer to Appendix II)
31. National co-operation	NC	<ul style="list-style-type: none"> • There is no structured coordination and cooperation between the policy makers, the FIU, law enforcement and supervisors and other agencies concerning the development and implementation of policies and activities 	<ul style="list-style-type: none"> • The authorities should consider the establishment of a national body comprised of relevant AML/CFT agencies to facilitate co-operation and co-ordination in implementing AML/CFT policy and to provide advice to Government and guidance to private entities in relation to AML/CFT 	<ul style="list-style-type: none"> • A Task Force Committee on Money Laundering was established comprising representatives from FIU, the Money Transfer Agency, GPF, DPP, CANU, and GRA. (See Appendix VIII)

Guyana_First_Follow-up_Report

		to combat money laundering and terrorist financing.	obligations.	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority.
32. Statistics	NC	<ul style="list-style-type: none"> No regular review of the effectiveness of the AML/CFT systems. No statistics on formal requests for assistance made or received by the FIU or the supervisory authorities or spontaneous referrals are maintained. No statistics on extradition are maintained. No statistics on mutual legal assistance or other international requests for co-operation are maintained. No statistics in reference to any of the requirements in SR IX were available. No statistics on the number of STRs received or disseminated by the FIU or the number of times information was exchanged with authorities in other countries were available. 	<ul style="list-style-type: none"> GRA should maintain statistics on the number of declarations collected and the number of false declarations detected and the amounts of currency involved or resultant cash seizures. The authorities should implement a regular review of the AML/CFT systems in Guyana. The authorities should maintain statistics on mutual legal assistance or other international requests for co-operation. The authorities should maintain statistics on extradition. Statistics on formal requests for assistance made or received by the FIU or the supervisory authorities or spontaneous referrals should be maintained. 	<ul style="list-style-type: none"> We will seek to determine whether GRA maintains statistics on the number of declarations collected, the number of false declarations detected, and the amount of currency involved or resultant cash seizures. It should be noted however that GRA regularly submits reports to FIU on the number of declarations made, false declaration detected etc. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority.
33. Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> The Registrar of Companies does not have legal authority to ensure that adequate, accurate and complete information about beneficial owners is available to them or to law enforcement authorities. No restrictions on the use of nominee shareholders and directors in the Companies 	<ul style="list-style-type: none"> The CA should be amended to provide the Registrar of Companies with the requisite legal authority to ascertain the beneficial ownership of all companies and to ensure that information about beneficial ownership in the register of companies is adequate, accurate and current. The authorities should consider the prohibition of the use of nominee shareholders and directors 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority.

Guyana_First_Follow-up_Report

		Act nor is it possible for the Registrar of Companies to determine if nominees are being used.	unless measures are taken to ensure that adequate, accurate and complete beneficial information is made available to the Registrar of Companies.	
34. Legal arrangements – beneficial owners	NC	<ul style="list-style-type: none"> No legal requirement under the AMLCFTA for the verification of the legal status of trusts. No standard requirement for the recording of beneficial ownership information on trusts, so the nature of information collected will vary. Lawyers and accountants are not subject to monitoring for their AML/CFT obligations and it is not clear how reliable their information on trusts would be.. 	<ul style="list-style-type: none"> It is recommended that Guyana should implement measures to ensure that its commercial laws require adequate transparency concerning the beneficial ownership and control of trusts and other legal arrangements. Measures should also be implemented to ensure that adequate, accurate and timely information is available to law enforcement authorities concerning the beneficial ownership and control of trusts. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority.
International Co-operation				
35. Conventions	PC	<ul style="list-style-type: none"> The Vienna, Palermo and Terrorist Financing Conventions have not been fully implemented 	<ul style="list-style-type: none"> The competent authorities in Guyana should take steps to fully implement the Vienna, Palermo and Terrorist Financing Conventions. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority.
36. Mutual legal assistance (MLA)	NC	<ul style="list-style-type: none"> Range of MLA provided for under Part VI of the AMLCFTA only applies to countries that have in force a bi-lateral or multi-lateral MLA Treaty with Guyana, thus Guyana does not provide the widest range of mutual legal assistance. Range of possible mutual legal assistance does not include freezing, seizure or confiscation of assets of corresponding value. No clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delay. Unable to assess effectiveness due to lack of 	<ul style="list-style-type: none"> Range of possible mutual legal assistance should include freezing, seizure or confiscation of assets of corresponding value. Clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delay should be developed and implemented. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority.

Guyana_First_Follow-up_Report

		statistics and the recent enactment of the AMLCFTA		
37. Dual criminality	NC	<ul style="list-style-type: none"> No provisions which allow for the granting of mutual legal assistance in the absence of dual criminality for less intrusive and non-compulsory measures. No measures for technical differences in categorisation and denomination of offences in laws of other countries not to impede the provision of mutual legal assistance. No provisions which allow for extradition in the absence of dual criminality for less intrusive and non-compulsory measures. 	<ul style="list-style-type: none"> There should be provisions which allow for the granting of mutual legal assistance in the absence of dual criminality for less intrusive and non-compulsory measures There should be measures to ensure that technical differences in categorisation and denomination of offences in laws of other countries do not impede the provision of mutual legal assistance. There should be provisions which allow for extradition in the absence of dual criminality for less intrusive and non-compulsory measures 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority.
38. MLA on confiscation and freezing	NC	<ul style="list-style-type: none"> No guidelines or procedures in regard to timelines to facilitate an expeditious response to MLA. No provisions dealing with requests relating to property of corresponding value. No arrangements regarding co-ordinating seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters. Unable to assess effectiveness due to lack of statistics and the recent enactment of the AMLCFTA. 	<ul style="list-style-type: none"> Guidelines or procedures in regard to timelines to facilitate an expeditious response to MLA should be developed and implemented. There should be provisions allowing for requests relating to property of corresponding value. The authorities should put in place arrangements regarding co-ordinating seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters. The authorities in Guyana should consider establishing an asset forfeiture fund into which all or a portion of confiscated property will be deposited and will be used for law enforcement, health, education or other appropriate purposes. Authorities should consider a provision under Guyana law that provides for sharing of confiscated assets where confiscation directly or indirectly results from co-ordinated law enforcement efforts between jurisdictions 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority.

Guyana_First_Follow-up_Report

39. Extradition	PC	<ul style="list-style-type: none"> Unable to assess effectiveness due to the lack of statistics on extradition 	<ul style="list-style-type: none"> Procedures or measures should be put in place to facilitate the timely response to requests for extradition and proceedings relating to ML and FT and to ensure such requests are handled without undue delay. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority.
40. Other forms of co-operation	PC	<ul style="list-style-type: none"> No procedure for spontaneous exchange of information. The COI does not have confidentiality requirements that include exchanged information. Unable to assess effectiveness of international co-operations due to lack of statistics on formal requests for assistance made or received by the FIU or the supervisory authorities or spontaneous referrals and the recent enactment of the AMLCFTA 	<ul style="list-style-type: none"> Procedures for spontaneous exchange of information should be developed. The COI should have confidentiality obligations that include exchanged information 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority.
Nine Special Recommendations		Summary of factors underlying rating		
SR.I Implement UN instruments	PC	<ul style="list-style-type: none"> The Guyana Authorities have not implemented S/RES/1267(1999) and S/RES/1373(2001) 	<ul style="list-style-type: none"> The AMLCFT legislation should be amended to provide compliance with S/RES/1267(1999) and S/RES/1373(2001) for freezing funds of designated persons/organisations, and also develop and implement procedures for delisting requests and unfreezing of funds. The competent authorities should provide or issue guidance to financial institutions with respect to obligations to freeze assets of persons listed by the UNSCR 1267 Committee and the EU. There should be training for the relevant entities so that they are aware of their obligations under the legislation and in order for the legislation to be implemented effectively. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. Reporting entities are benefitting from ongoing training on Anti-Money Laundering & Countering the Financing of Terrorism facilitated by FIU as mentioned above.

Guyana_First_Follow-up_Report

<p>SR.II Criminalise terrorist financing</p>	<p>PC</p>	<ul style="list-style-type: none"> • Definition of property does not include assets of every kind, whether tangible or intangible, legal documents or instruments in any form, including electronic or digital evidencing title to, or interest in assets of every kind. • No provision in the legislation extending terrorist financing to funds whether from a legitimate or illegitimate source. • No specific provision allowing for terrorist financing offences to apply regardless of whether the person alleged to have committed the offence is in the same country or a different one from where the terrorist(s)/terrorist organisation is located or the terrorist act(s) occurred/will occur. • The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation. 	<ul style="list-style-type: none"> • The definition of property should include assets of every kind, whether tangible or intangible, legal documents or instruments in any form, including electronic or digital evidencing title to, or interest in assets of every kind. • Terrorist financing offences should extend to any funds whether from a legitimate or illegitimate source. • A provision should be inserted allowing for terrorist financing offences to apply regardless of whether the person alleged to have committed the offence is in the same country or a different one from where the terrorist(s)/terrorist organisation is located or the terrorist act(s) occurred/will occur. • It is difficult to assess effectiveness as there were no prosecutions in regard to the FT and the competent authorities should ensure that the relevant entities are aware and trained as to their obligations under the AML/CFT to report and investigate SAR's and where applicable prosecute those in breach of FT 	<ul style="list-style-type: none"> • The current definition of property in the AMLCTFA includes "Things in action". According to the Blacks Law Dictionary 8th Ed, <i>Chose in action</i> also termed <i>thing in action</i> means (a) A proprietary right in personam, such as a debt owed by another person, a share in a joint-stock company, or a claim for damages in tort. (b) The right to bring an action to recover a debt, money, or thing. (c) Personal property that one person owns but another person possesses, the owner being able to regain possession through a lawsuit. • The recommended action is being considered by the relevant authority. • We believe that s. 7 of the AMLCFTA adequately provides for this recommendation. It states "<i>Notwithstanding anything to the contrary contained in any other law, the offences created by this Act shall be tried, judged and sentenced by a court in Guyana regardless of whether or not the serious offence occurred in Guyana or in another territorial jurisdiction, but without prejudice to extradition when applicable in accordance with the law.</i>" • FIU is in the process of sourcing competent resource persons to provide appropriate ML/FT training for staff of DPP, GPF, CANU and GRA.
<p>SR.III Freeze and confiscate terrorist assets</p>	<p>NC</p>	<ul style="list-style-type: none"> • The legislation does not include provisions for freezing funds of persons designated by the UN Al-Qaida and Taliban Sanctions Committee (S/RES/1267) or in the context of S/RES/1373; • There are no procedures in place for delisting 	<ul style="list-style-type: none"> • The competent authorities in Guyana should amend the legislation to comply with the requirements of S/RES/1267(1999) and S/RES/1373(2001) for freezing funds of designated persons/organisations. • The authorities should develop and implement 	<ul style="list-style-type: none"> • The recommended action is being considered by the relevant authority. • The recommended action is being considered by

Guyana_First_Follow-up_Report

		<p>requests, unfreezing of funds or providing access to frozen funds in relation to S/RES/1267 or S/RES/1373;</p> <ul style="list-style-type: none"> No guidance has been issued to FI's or the regulated sector in respect of obligations to comply with or implement measures concerning the freezing mechanisms required under S/RES/1267(1999) and S/RES/1373(2001). The AMLCFTA as it relates to freezing, seizing and forfeiture of funds of terrorists or terrorists' organisations has not been implemented. 	<p>procedures for delisting requests, unfreezing of funds and providing access to frozen funds.</p> <ul style="list-style-type: none"> The competent authorities should provide or issue guidance to financial institutions with respect to obligations in taking action under the freezing mechanisms required by S/RES/1267/(1999) and S/RES/1373(2001). There should be training for the relevant entities so that they are aware of their obligations under the legislation and in order for the legislation to be implemented effectively. 	<p>the relevant authority.</p> <ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. FIU is in the process of sourcing competent resource persons to provide appropriate ML/FT training for staff of DPP, GPF, CANU and GRA
SR.IV Suspicious transaction reporting	PC	<ul style="list-style-type: none"> Reporting requirement for terrorist financing does not include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organisations. No provision specifying that the requirement to report suspicious transactions should apply regardless of whether they are thought, among other things, to involve tax matters. Unable to assess effectiveness of the reporting system due to the unavailability of statistics on suspicious transaction reporting 	<ul style="list-style-type: none"> Reporting requirement for terrorist financing in the AMLCFTA should include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organisations. The requirement to report suspicious transactions should apply regardless of whether they are thought, among other things, to involve tax matters. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority.
SR.V International co-operation	NC	<ul style="list-style-type: none"> The deficiencies noted with regard to Recs. 36, 37 and 38 are applicable in relation to terrorist financing. The deficiencies noted with regard to Recs. 39 and 37 are applicable in relation to terrorist financing. The deficiencies noted with regard to Rec. 40 are applicable in relation to terrorist financing. 	<ul style="list-style-type: none"> Recommended actions noted with regard to Recs. 36, 37, 38, 39 and 40 should apply to terrorist financing. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority.
SR.VI AML requirements for	PC	<ul style="list-style-type: none"> No requirement for licensed or registered 	<ul style="list-style-type: none"> A system for monitoring money transfer 	<ul style="list-style-type: none"> The recommended action is being considered by

Guyana_First_Follow-up_Report

<p>money/value transfer services</p>		<p>money transfer agencies to maintain a current list of their agents which must be made available to the BOG.</p> <ul style="list-style-type: none"> • No system for monitoring money transfer agencies/agents for compliance with AML/CFT requirements. • Penalties under the MTALA are not dissuasive or proportionate and do not extend to the directors or senior management of money transfer agencies. 	<p>agencies/agents for compliance with AML/CFT requirements be implemented as soon as possible.</p> <ul style="list-style-type: none"> • Money or value service providers should be required to maintain a current list of its agents, which must be made available to the designated competent authority. • Penalties under the MTALA should be amended to be dissuasive and proportionate and applicable to the directors and senior management of money transfer agencies 	<p>the relevant authority.</p> <ul style="list-style-type: none"> • The recommended action is being considered by the relevant authority. • The recommended action is being considered by the relevant authority.
<p>SR VII Wire transfer rules</p>	<p>NC</p>	<ul style="list-style-type: none"> • No definition of originator information in the AMLCFTA. • No requirement for a receiving intermediary financial institution to keep a record of all the information received from an ordering financial institution in a situation where technical difficulties prevent the full originator information accompanying a cross-border wire transfer from being transmitted along with a related domestic wire transfer. • No requirement for financial institutions to have effective risk-based procedures in place to identify wire transfers lacking complete originator information. • No measures in place to effectively monitor compliance with the requirements of SR VII. • Sanctions for breaches of wire transfer provisions in section 20 of the AMLCFTA 	<ul style="list-style-type: none"> • Originator information should be defined in the AMLCFTA in accordance with SRVII. • Subsections 20(3) and 20(4) of the AMLCFTA should be amended in accordance with the exemptions in SR VII. • Receiving intermediary financial institution should be required to keep a record for five years of all the information received from an ordering financial institution in a situation where technical difficulties prevent the full originator information accompanying a cross-border wire transfer from being transmitted along with a related domestic wire transfer. • Financial institutions should be required to have effective risk-based procedures in place to identify wire transfers lacking complete originator information. • Measures should be put in place to effectively monitor compliance with the requirements of SR 	<ul style="list-style-type: none"> • The recommended action is being considered by the relevant authority. • The recommended action is being considered by the relevant authority. • This recommendation is being considered with a view of issuing appropriate directives to financial institutions. • This recommendation is being considered with a view of issuing appropriate directives to financial institutions. • The recommended action is being considered by the relevant authority.

Guyana_First_Follow-up_Report

		are neither dissuasive or proportionate and are not applicable to directors and senior management of reporting entities	<p>VII.</p> <ul style="list-style-type: none"> Sanctions for breaches of wire transfer provisions in section 20 of the AMLCFTA should be dissuasive and proportionate and applicable to directors and senior management of reporting entities. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority.
SR.VIII Non-profit organisations	NC	<ul style="list-style-type: none"> No review of the adequacy of laws and regulations that relate to NPOs or of the activities, size and other relevant features of NPOs in order to identify features and types of NPOs at risk of being misused for terrorist financing. No outreach to NPO sector with a view to protecting the sector from terrorist financing abuse. Supervision and monitoring of NPOs under the FSA is not effective. No requirement for NPOs other than registered charities to maintain for a period of at least five years, records of domestic and international transactions and make them available to appropriate authorities. Limited measures for authorities to gather information and investigate NPOs; No appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs that are suspected of terrorist financing or other forms of terrorist support 	<ul style="list-style-type: none"> The authorities should review the adequacy of laws and regulations that relate to NPOs and the activities, size and other relevant features of NPOs in order to identify features and types of NPOs at risk of being misused for terrorist financing. An outreach programme to NPO sector with a view to protecting the sector from terrorist financing abuse should be implemented. The authorities should implement a system of effective supervision and monitoring of all NPOs. All NPOs should be required to maintain for a period of at least five years, records of domestic and international transactions and make them available to appropriate authorities. Measures should be established to ensure that competent authorities can gather information and investigate NPOs; Appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs that are suspected of terrorist financing or other forms of terrorist support should be designated. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority. The recommended action is being considered by the relevant authority.
SR.IX Cross Border Declaration & Disclosure	PC	<ul style="list-style-type: none"> Requirements for cross-border declarations being implemented do not include bearer negotiable instruments 	<ul style="list-style-type: none"> The authorities should extend the implementation of the cross-border declaration system to include bearer negotiable instruments. 	<ul style="list-style-type: none"> The recommended action is being considered by the relevant authority.

Guyana_First_Follow-up_Report

		<ul style="list-style-type: none"> • Sanctions for false declarations do not extend to legal persons and are not dissuasive or proportionate. • Deficiencies with regard to the absence of provisions for freezing of funds of persons pursuant to S/RES/1267(1999) and S/RES/1373(2001) as noted in section 2.4 are applicable. • Unable to assess effectiveness due to lack of relevant statistics. 	<ul style="list-style-type: none"> • Sanctions for false declarations should be extended to legal persons, their directors and senior management and should be dissuasive, proportionate and effective. • Guyana should enhance its ability to freeze the assets of persons designated pursuant to S/RES/1267/(1999) and S/RES/1373(2001) as recommended in section 2.4 of this report, to ensure that it can do so effectively in the cross-border context. 	<ul style="list-style-type: none"> • The recommended action is being considered by the relevant authority. • The recommended action is being considered by the relevant authority.
--	--	--	--	--