



Third Follow-Up Report

Guyana

November 2012

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GUYANA – THIRD 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-Compliant (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)

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	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 the jurisdiction's financial sector
As at June 30, 2012**

(US\$ Million)

		Banks	Other Credit Institutions*	Securities**	Insurance+	TOTAL
Number of institutions	Total #	6	6	2	15	29
Assets	US\$M	1,683	290	78	169	2,220
Deposits	Total: US\$	1,430	223	Nil	0	1,652
	% Non-resident	% of deposits				
		4	9		0	5
International Links	% Foreign-owned:	% of assets	% of assets	% of assets	% of assets	% of assets
		54	2	0	22	43
	#Subsidiaries abroad	Nil	Nil	Nil	7	7

* Includes other non-bank licensed financial institutions (LFIs)

** Includes stockbrokers and investment companies which are also LFIs

+ Information submitted by the Insurance Supervision Department

Exchange Rate: US\$1.00 = G\$204.25 (BOG mid-rate)

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. As a result of measures put in place, the examiners' recommended actions for Recommendations 10 and 19 have been met. This report will assess measures that have been put in place to comply with the other examiners' recommendations.

Core Recommendations

Recommendation 1

5. As reported in the last Follow-Up Report one of the three recommendations made by the examiners had been met. With regard to the outstanding two, 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 was referred to the Ministry of Legal Affairs which has made a recommendation to amend the AMLCFTA to the relevant authority. Since the amendment process takes approximately six to eight months, the authorities advise that the necessary Bills should be drafted and presented to Parliament by March 31, 2013.

6. In relation to the last recommendation which stipulates that systems should be put in place to effectively implement the AMLCFTA and relevant Government entities made aware of the legislation and its applicability, the FIU has advised that it has been sensitizing the relevant Government entities on the legislation and its applicability through continuous trainings/discussions and follow-up meetings. This was demonstrated by the submission of information on meetings and training sessions with relevant Government agencies, financial institutions and DNFBPs held in 2010 and 2011. During the period January to October, 10, 2012, the FIU held fourteen (14) meetings and one (1) training session with competent authorities including the Bank of Guyana (BOG), the Director of Public Prosecutions (DPP) and the Guyana Revenue Authority (GRA) and various financial institutions such as a bank, cambios a money transfer agency and the Guyana Bankers’ Association. The meetings with the financial institutions were held to clarify reporting obligations while those with the Government agencies dealt with the relevant roles of the specific agencies. Follow-up training on currency reporting was provided by the FIU to customs officers of the GRA. Given the above, one of the examiners’ recommendations remains y outstanding.

Recommendation 5

7. As noted in the previous Follow-Up Report four of the nine examiners’ recommendations were met by legislative provisions. The status with regard to the remaining recommendations is detailed below.

8. At present, the authorities have advised that the recommendation requiring reporting entities to determine the natural persons that ultimately own or control the customer will be addressed by amending the AMLCFTA and the necessary recommendation has been made to the relevant Minister. .

9. The recommendation for a definition of beneficial ownership in relation to legal entities to be set out in the AMLCFTA has been referred to the Ministry of Legal Affairs which has advised that a recommendation for an appropriate amendment to the AMLCFTA has been made to the relevant Minister.

10. The recommendation for reporting entities to be required to perform enhanced due diligence for higher risk categories of customers has been forwarded to the Bank of Guyana (BOG) which has advised that the matter is being addressed in Guidelines drafted as part of the technical assistance being provided by the US Department of Treasury. It is expected that the draft guidelines will be reviewed and issued to reporting entities by December 31, 2012. It should

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be noted by the authorities that the Guidelines will have to be considered enforceable according to the FATF Methodology in order to comply with the examiners' recommendation. .

11. 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 stipulated in criteria 5.3 to 5.6 and being required to consider making a suspicious transaction report. As noted in the first Follow-Up Report the authorities were 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.

12. 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.

13. 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. In the first Follow-Up Report the authorities referred 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 five recommendations still remain outstanding.

Recommendation 13

14. As reported in the last Follow-Up Report one of the three recommendations made by the examiners had been met. With regard to the other two recommendations 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, and that the requirement to report suspicious transactions should apply to tax matters, the authorities have advised that the Ministry of Legal Affairs has made the necessary recommendation to the relevant Minister for appropriate amending of the AMLCFTA. As such the two recommendations remain outstanding.

Special Recommendation II

15. 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.. At present, the Ministry of Legal Affairs has indicated that a recommendation for an amendment was made to the relevant Minister.

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16. The recommendation for terrorist financing offences to be extended to any funds whether from a legitimate or illegitimate source has also been proposed as an amendment to the AMLCFTA to the relevant Minister.

17. The next recommendation requiring 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 as noted in the Follow-Up Report of November 2011 was met by section 7 of the AMLCFTA.

18. 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), no information has been provided for this Follow-Up Report. Given the above, all the examiners' recommendations except for one are outstanding.

Special Recommendation IV

19. With regard to the recommendation for the reporting requirement for terrorist financing in the AMLCFTA to include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organizations, the authorities have advised that the Ministry of Legal Affairs has made the necessary recommendation to the relevant Minister for the appropriate amendment of the AMLCFTA.

20. In response to the recommendation for the requirement to report suspicious transactions to apply regardless of whether they are thought, among other things to involve tax matters, the authorities have referred to section 18 of the AMLCFTA as a general provision which requires reporting of suspicious transactions in any circumstances thereby incorporating tax matters.

21. Section 18 of the AMLCFTA requires reporting of transactions suspected of being connected to the proceeds of criminal activity, money laundering or terrorist financing. For the purposes of reporting, "proceeds of criminal activity" are defined as any property derived or realized directly or indirectly from a serious offence. Furthermore "serious offence" is defined to include offences punishable by death, life imprisonment or imprisonment of six (6) months or more and offences listed in the Second Schedule of the AMLCFTA. The listed offences in the Second Schedule do not include tax matters. Unless the authorities can provide documentation showing that tax offences are included in the penalty categories above, the examiners' recommendations remains outstanding. Consequently this Recommendation remains outstanding.

Key Recommendations

Recommendation 3

22. 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. At present, the authorities have advised that a recommendation for an appropriate amendment has been made to the relevant authority.

23. 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 the BOG is receiving technical assistance from the US Department of the Treasury including the preparation of training manuals and guidelines for

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various agencies. Draft training manuals for banks, cambios, money transfer agencies and insurance companies have been prepared and are being reviewed. Training will be provided for the mentioned financial institutions by the end of 2012. Information on details of the training being provided to the financial institutions should be provided in future follow-up reports. Given the above the examiners' recommendations remain outstanding.

Recommendation 4

24. The recommendation for the Guyana Securities Council (GSC) to have power to access information relevant to AML/CFT matters from registrants of the Securities Industry Act (SIA) has been made to the relevant Minister. The recommendation for the Chief Co-operative Development Officer (CCDO) to be able to share information from a society registered under the Co-operative Societies Act (CSA) with local and international competent authorities is to be addressed by an amendment to the CSA and the necessary recommendation has been made to the relevant Minister. Given the above, this Recommendation remains outstanding.

Recommendations 23

25. With regard to the first recommendation for a designated supervisory authority to be assigned to ensure that co-operative societies adequately comply with AML/CFT obligations, the Ministry of Finance has indicated that a supervisory authority will be appointed for co-operative societies before October 31, 2012.

26. The second recommendation requires amending the SIA and the CSA 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 authorities have cited section 27 of the CSA and section 116 of the SIA as meeting the requirements of the recommendation. Section 27 of the CSA provides that no member other than a registered society shall hold more than one-fifth of the share capital of any co-operative society. This measure does not provide for the supervisory authority in charge of co-operative societies to have the power of approval over persons who have a significant or controlling interest or hold a management function in co-operative societies thereby allowing for measures such as vetting which can prevent criminals from assuming such positions.

27. Section 116 of the SIA provides for public disclosure of beneficial ownership in certain cases and regulation 11 of the Regulations made under the SIA provides for members to notify the Council and every member and holder of its securities concerning substantial shareholdings. These measures provide for disclosure and do not establish requirements as set out in the examiners' recommendation.

28. The recommendation for the Insurance Act (IA) to be amended to provide for the relevant authorities to take necessary measures to prevent criminal or their associates from holding or being beneficial owners of a significant or controlling interest in financial institutions is still being reviewed to determine whether there is a need for an amendment as recommended.

29. The next recommendation requires amendment of the SIA and the CSA to provide for the directors and senior management of financial institutions to be evaluated on the basis of "fit and proper" criteria. The authorities have cited section 141 of the SIA and regulation 14 of the Regulations made under the SIA as empowering the GSC to evaluate directors and registrants on the basis of "fit and proper" criteria. Regulation 14 requires each regulated entity to inform the GSC about changes in its Board and section 114 provides for the GSC to apply to the Court to declare an individual as an unfit person to be concerned in the management of an issuer. While

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these measures require disclosure of changes in Boards and disqualification of a person in the management of an issuer, they do not provide for the GSC to have the power to evaluate directors and senior management on the basis of “fit and proper” criteria similar to the BOG. With regard to the CSA, the authorities have advised that the necessary recommendation has been made to the relevant Ministry for the appropriate amendment.

30. The last recommendation requires that the Commissioner of Insurance (COI), the GSC and the Division of Co-operatives and Friendly Societies (DCFS) implement AML/CFT supervision for their relevant institutions. The authorities advise that AML/CFT supervision for the COI and the GSC has already been implemented. The BOG supervises all insurance companies and the GSC all registrants under the SIA. No information on the numbers of AML/CFT inspections of insurance companies or securities registrants has been provided for this report. As already noted a designated supervisory authority for co-operative societies is still to be appointed. Given the above this Recommendation remains outstanding.

Recommendation 26

31. As a result of the examiners’ 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, the FIU has sought technical assistance and financial resources for the preparation of Regulations and Guidelines and training instructions for licensed financial institutions and DNFBPs. Guidelines on STR reporting have been drafted and are expected to be reviewed and issued before December 2012.

32. The recommendation requiring the FIU to urgently implement its plans for new personnel and facilities and consider safeguards to reduce the vulnerability of its database was dealt with by measures set out in the November 2011 Follow-Up Report. These measures complied fully with this examiners’ recommendation.

33. 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 has been agreed by the relevant authority. The first report is due to be released by October 31, 2012. Given the above, two of the examiners’ recommendations remain outstanding.

Recommendations 35

34. The authorities have advised that with regard to the examiners’ recommendation for the competent authorities to take steps to fully implement the Vienna, Palermo and Terrorist Financing Conventions that Guyana continuously seeks to implement the relevant measures. The basis for this particular recommendation as indicated in the text of Guyana’s MER was gaps in the legislative framework in relation to the enactment of various articles of the UN Conventions. These articles as identified in the MER were as follows;

- Articles 7, 8, 10 and 11 of the Vienna Convention
- Articles 7, 18, 19, 20, 24, 25, 29 of the Palermo Convention
- Article 1(1) of the Terrorist Financing Convention.

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35. The authorities have advised that Articles 8 of the Vienna Convention and Article 25 of the Palermo Convention and Article 1(1) of the Terrorist Financing Convention are to be implemented.

36. Articles 7 of the Vienna Convention and Article 18 of the Palermo Convention are concerned with the requirements of mutual legal assistance. These have been incorporated in the Mutual Assistance in Criminal Matters Act No 38 of 2009 (MACMA) which was assented to in June 2010. However, it is noted that there are outstanding recommended actions under recommendations 36, 37 and 38 which deal with mutual legal assistance which are relevant to fully comply with the designated articles. As such, these articles are still partially outstanding.

37. Article 10 of the Vienna Convention requires parties to co-operate directly or through competent international or regional organizations to assist and support transit states and in particular developing countries in need of such assistance and support, to the extent possible, through programmes of technical co-operations or interdiction and other related activities. Guyana has advised that being considered a transit state, it has received assistance in respect of the effective control and prevention of illicit traffic from countries e.g. USA, Canada and international organizations such as the United Nations Office on Drugs and Crime (UNODC). Details on the above mentioned assistance would be appropriate to verify compliance.

38. Article 11 of the Vienna Convention along with Article 20 of the Palermo Convention deals with controlled delivery. Article 11 addresses controlled delivery at the international level and Article 20 deals with it at both international and domestic levels. The authorities have advised that though there is no legislation dealing with the issue, law enforcement agencies can and have used controlled delivery at the national and international level on a case-by-case basis. Details on when controlled delivery was last used would be appropriate to verify compliance.

39. Article 19 of the Palermo Convention requires States to consider concluding bilateral or multilateral agreements whereby in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities can establish joint investigative bodies or allow for joint investigations by agreement on a case –by-case basis. The authorities have advised that joint investigations have been undertaken by agreement on a case-by-case basis. Information as to when and who were party to such joint investigations and the terms of the agreements should be provided to verify compliance.

40. Article 20 of the Palermo Convention in addition to addressing controlled delivery as already mentioned also dealt with other special investigative techniques such as electronic or other forms of surveillance and undercover operations to be used at the international level either through appropriate bilateral or multilateral agreements or on a case-by-case basis. The authorities have advised that electronic or other forms of surveillance is provided for under section 4(1) of the Interception of Communications Act no 21 of 2008 which provides for the application for a warrant to intercept and record via means of public or private telecommunications systems. Additionally, electronic surveillance and undercover operations have been implemented at the international level on a case-by-case basis. As indicated above, information on referenced instances should be provided to verify compliance.

41. Article 24 of the Palermo Convention requires States to take appropriate measures to provide effective physical protection of witnesses where necessary and to permit witness testimony in a manner that ensured the safety of the witness. The authorities advise that section 73A of the Evidence Act (per Evidence (Amendment) Act No.19 of 2008) allows for the taking of oral evidence and making submissions to the Court by audio visual link. Documentation to verify this assertion needs to be submitted. No information with regard to the provision of physical protection of witnesses has been provided for this report. Given the above while some

of these provisions have been partially met, others need additional information for verification and some are outstanding. As such, this Recommendation remains largely outstanding.

Recommendation 36

42. The first recommendation requires that the range of possible mutual legal assistance should include freezing, seizure or confiscation of assets of corresponding value. The authorities have referred to section 76(2) of the AMLCFTA which states that “The Court or the competent authority may receive a request from the Court or competent authority of another state to identify, trace, produce, freeze, seize or forfeit the property, proceeds, or instrumentalities connected to money laundering offence, terrorist financing offences and serious offences, and may take appropriate actions, ...” However as noted in paragraph 585 of Guyana’s MER this list comprises of property, proceeds and instrumentalities and does not include assets of corresponding value as required by the examiners’ recommendation.

43. The other recommendation requires 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. The authorities have advised that the Ministry of Home Affairs has developed clear and efficient processes to ensure that requests for mutual legal assistance are executed without delay. Section 23(1) of the MACMA provides that the Minister of Home Affairs shall as soon as practicable accept and carry out a request made in accordance with the Act. While the legislative provision establishes a requirement, no information on the actual processes, the various agencies or entities involved and the actual length of time taken to respond to any mutual legal assistance requests in 2011 and 2012 has been submitted. As such it is not possible to assess the effectiveness of the mechanisms put in place to address the recommendation. Given the above this Recommendation remains outstanding.

Recommendation 40

44. The first recommendation requires the development of procedures for spontaneous exchange of information. The authorities have referred to section 22 of MACMA which allows for the transmission of an informal request for mutual legal assistance as complying with the recommendation. However, it should be noted that the reference to exchange of information under Recommendation 40 excludes channels and mechanisms established for mutual legal assistance or extradition as set out in criterion 40.2 of same Recommendation. As such, the referenced section does not comply with the examiners’ recommendation. The authorities also advised that urgent requests for the exchange of information can be facilitated through direct contact with the relevant law enforcement agency. This response does not provide details about the procedures for spontaneous exchange of information.

45. The last recommendation that the COI should have confidentiality obligations that include exchanged information is still being considered by the relevant authority. As such, this Recommendation remains outstanding.

Special Recommendation I

46. The recommendation 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 has been referred to the Ministry of Legal Affairs which has indicated that the necessary recommendation was made to the relevant Minister. The recommendation 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 is still being considered by the relevant authority. A further report is expected by December 31, 2012.

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47. With regard to the recommendation for training for the relevant entities to be aware of their obligations under legislation, no update has been provided to demonstrate continued implementation of this recommendation following on from what was reported in the first Follow-Up Report. Given the above, this recommendation remains outstanding.

Special Recommendation III

48. The recommendation for the competent authorities to amend the legislation to comply with the requirements of S/RES/1267/(1999) and S/RES/1373(2001) for freezing funds of designated persons/organizations has been forwarded to the Ministry of Legal Affairs which has indicated that the necessary recommendation was made to the relevant Minister. The recommendations for the development and implementation of procedures for delisting requests, unfreezing funds and providing access to frozen funds and issuing guidance to financial institutions with respect to obligations under the freezing mechanisms required by S/RES/1267/(1999) and S/RES/1373(2001) are still being considered by the relevant authority with a further report expected by December 31, 2012. . With regard to the recommendation for training for the relevant entities to be aware of their obligations under legislation, the authorities advise that the relevant entities will be provided with training through the Caribbean Basin Security Initiative (CBSI) as mentioned in relation to recommendation 30. Given the above this Recommendation remains outstanding.

Special Recommendation V

49. The situation remains as reported in the last Follow-Up Report with the examiners' recommendation still being considered by the relevant authority. A further report is expected by December 31, 2012. This Recommendation is therefore outstanding.

Other Recommendations

Recommendation 6

50. The authorities have advised that 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 will be issued as a directive to all reporting entities by December 31, 2012. The authorities advise that directives will be issued in accordance with regulation 20 of the AMLCFTR. Failure to comply with a directive is a summary offence under regulation 19 of the AMLCFTR for which the offender will be liable to be proceeded against and punished accordingly.

51. With regard to the recommendation for supervisory authorities to ensure that all financial institutions are aware of the legal requirements concerning PEPs the authorities have advised that programs to ensure that financial institutions are aware of the requirements of the AML/CFT legislation including the provisions dealing with PEPs are expected to be ongoing. No information regarding details of these programs has been submitted for this report. Given the above, the examiners' recommendations remain outstanding.

Recommendations 8 and 9

52. The authorities advise that the examiners' recommendations will be addressed by the issuance of guidelines by the supervisory authority. At present, guidelines have been drafted awaiting the approval of the BOG and it is anticipated that the recommended action will be implemented by December 31, 2012. Consequently all examiners' recommendations remain outstanding.

Recommendation 12

53. 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 was referred to the Ministry of Finance. The authorities have advised that research into issues concerning this recommendation is being conducted and a supervisory authority for DNFBPs is expected to be appointed before October 31, 2012. Guidelines and/or regulations for DNFBPs are also expected to be prepared with assistance from the US Department of Treasury. Guidelines will be issued in accordance with regulation 21 of the AMLCFTR and as already noted above with directives, failure to comply is a summary offence under regulation 19 of the AMLCFTR for which the offender will be liable to be proceeded against and punished accordingly. As such, this recommendation remains outstanding.

Recommendation 15

54. The authorities advise that directives to address the recommendation that competent authorities should ensure that all financial institutions update their current policies and that the update versions are based on the AMLCFTA will be issued by the BOG to financial institutions before December 31, 2012. The recommendation that the requirements of Rec. 15 be applicable to individuals who carry on business solely or with a staff and management of less than five persons is expected to be further discussed in September 2012 as a further legal opinion on the matter is being sought from the Attorney General's Chambers.

55. The recommendation that 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 will be addressed by the issuance of guidelines by the supervisory authority. At present, guidelines have been drafted, awaiting the approval of the BOG and it is anticipated that the guidelines will be finalized and issued before December 31, 2012.

56. The recommendation that the training obligation of financial institutions should be ongoing and include new developments, such as information on current ML and FT techniques, methods and trends, clear explanations of all aspects of AML/CFT laws and obligations, and in particular requirements concerning CDD has been partially met by regulations 16, 17 and 18 of the AMLCFTR. Regulation 16 of the AMLCFTR requires reporting entities to provide training for all directors, partners, all other persons involved in management and all key staff to ensure that they are aware of the provisions of the AMLCFTA and any regulations made under it, their personal obligations under those enactments, the manual of compliance procedures and internal reporting procedures established under the AMLCFTR. Regulation 17 requires the provision of training appropriate to particular categories of staff in customer identification, recording-keeping, the recognition and handling of suspicious transactions and other procedures. Finally, regulation 18 requires the provision of refresher training for key staff at least once a year. These provisions include all the examiners' recommendation except for information on current ML and FT techniques, methods and trends.

57. The authorities have advised that the BOG is receiving technical assistance from the US Department of the Treasury including the preparation of training manuals and guidelines for various agencies. Draft training manuals for banks, cambios, money transfer agencies and insurance companies have been prepared and are being reviewed. Training will be provided for the mentioned financial institutions by the end of 2012.

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58. 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. As noted in the last Follow-Up Report the authorities referred 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. At present, the authorities have cited sub-regulation 11(1) (e) of the AMLCFTR which requires reporting entities to ensure “that the Compliance Officer has reasonable access to any other information which may be of assistance to that Compliance Officer”. However, given the definition of compliance officer as set out in the AMLCFTA, this provision does not provide for appropriate staff to also have access to relevant information. Given the above, only one recommendation has been partially met and the remaining four are outstanding.

Recommendation 16

59. The recommended action with regard to the appointment of a designated supervisory authority to oversee the compliance of DNFBPs with the AML/CFT requirements was referred to the Ministry of Finance. The authorities have advised that research into issues concerning this recommendation is being conducted and a supervisory authority for DNFBPs is expected to be appointed before October 31, 2012. Guidelines and/or regulations for DNFBPs are also expected to be prepared with assistance from the US Department of Treasury. As such this Recommendation remains outstanding.

Recommendations 17

60. The situation as noted in the last Follow-Up Report remains the same with both recommendations outstanding.

Recommendation 21

61. With regard to the recommendation that effective measures should be established to ensure that financial institutions are advised of concerns about AML/CFT weaknesses in other countries, the authorities have advised that a circular based on the FATF public statement published on June 22, 2012 was issued to reporting entities on August 17, 2012. This measure will be ongoing. The recommendation for 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 to be examined and written findings to be made available to assist competent authorities and auditors is expected to be addressed by December 31, 2012. The recommendation for provisions to allow for the application of countermeasures against countries that do not or insufficiently apply the FATF Recommendations was referred to the Ministry of Legal Affairs which has made the necessary recommendation for amending the AMLCFTA to the relevant Minister. Based on the above, one (1) of the recommendations has been met and two (2) remain outstanding.

Recommendation 22

62. 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 have provided a copy of a letter written in June 2012 to the BOG advising of this recommendation and requesting copies of any guidance/instructions issued to financial institutions in accordance with measure. At the date of this report no such documentation has been submitted.

63. With regard to the other recommendations, these will be addressed by the issuance of Guidelines by the BOG. The review and issuance of these Guidelines are expected to be completed before December 31, 2012. As such this Recommendation remains outstanding.

Recommendations 24

64. The recommendation that casinos be subject to a comprehensive regulatory and supervisory regime that ensures effective implementation of AML/CFT measures will be initially addressed by the appointment of a supervisory authority before October 31, 2012. With regard to the recommendation that the Gaming Authority 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, the authorities advise that the Gaming Authority has been and continues to assess an applicant's suitability to carry on licensed activities including investigating the integrity of the beneficial owners if necessary. The authorities have referenced regulation 11 of the Gambling Prevention (Establishment of Gaming Authority) Regulations 2008 with regard to this recommendation. It is noted that this particular regulation is identified in paragraph 516 of Guyana's MER and analyzed in paragraph 517 as follows;

“The above provision appears to give the Gaming Authority discretion in considering the integrity of the applicant, partner, shareholders, the directors and office holders of the applicant. There is no reference to assessing the integrity of beneficial owners and no basis on which integrity will be tested. Additionally there is no indication as to whether assessment of the integrity of an applicant would be done on a regular basis or just at the application for a licence.”

65. Given the above the Gaming Authority is not required to fulfill the examiners' recommendation which remains outstanding.

66. The recommended action for the appointment of a designated supervisory authority to oversee the compliance of DNFBCs with the AML/CFT requirements has already been dealt with under Recommendation 12 in this report. With regard to the recommendation for re-examining the sanctions of supervisory authorities with a view to making the sanctions more effective and applicable to directors and senior management of DNFBCs, the authorities have advised that this will be addressed in the Regulations expected to be prepared for the DNFBCs with the assistance of the US Department of Treasury. As such this Recommendation remains outstanding.

Recommendation 25

67. The first recommendation requires that the AMLCFTA be amended to require either competent authorities or the FIU to provide financial institutions and DNFBCs that are required to

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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. In the Follow-Up Report of November 2011, the authorities 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.

68. The other recommendation requires that guidelines to assist financial institutions to implement and comply with their respective AML/CFT requirements be issued. The authorities advise that guidelines have already been drafted for financial institutions under the technical assistance package by the US Department of Treasury. These guidelines are currently being reviewed by the BOG and will be fully implemented by December 31, 2012. Given the above, this Recommendation remains outstanding.

Recommendations 27

69. As noted in the last Follow-Up Report the examiners’ recommended action for written laws or measures authorizing 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 evidence gathering had been forwarded to the Ministry of Legal Affairs which is presently considering the matter. This recommendation remains outstanding.

Recommendation 28

70. The recommendation for 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 has been agreed to by the Ministry of Legal Affairs which has indicated that the necessary recommendation was made to the relevant Ministry. This Recommendation remains outstanding.

Recommendation 29

71. The recommendation for the GSC to have the power to compel production or obtain access to all records, documents or information relevant to monitoring of compliance has been forwarded by the GSC to the relevant Minister for an appropriate amendment to the SIA. With regard to the recommendation that the CCDO should have enforcement or sanctioning powers for failure of co-operatives to comply with AML/CFT obligations, the authorities advise that a supervisory authority will be appointed for co-operatives before October 31, 2012 which will have sanctioning powers under section 23 of the AMLCFTA. This Recommendation remains outstanding.

Recommendation 30

72. The first recommendation is for the FIU to urgently implement its plan for new personnel and facilities. Since the first Follow-Up Report in November 2011, the FIU has been implementing its plan for new personnel and facilities. To date the FIU has in its employ, one Director, one Legal Adviser, two Financial Analysts, one Database Administrator and one Administrative Officer. . Plans are in place to employ two (2) additional staff by the end of the October, 2012 as an integral part of the appointment of a supervisory authority for DNFBPs.

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73. With regard to the recommendations for the provision of trained financial investigators for the Guyana Police Force (GPF) and Customs Anti Narcotics Unit (CANU) and appropriate ML/FT training for the staff of the GPF and CANU, the authorities advise that funds have been made available through the CBSI to provide training and equipment for the GPF and CANU. A work plan and draft Terms of Reference have been prepared and are being reviewed. Once approved, training for the GPF and CANU is expected to commence at the end of September 2012.

74. With regard to the recommendations for the authorities to consider measures to deal with the integrity problems of the GPF, the GPF has advised that measures to address integrity problems include an Office of Professional Responsibility and vetted units that acquire intelligence and investigate organized crime. The functions of the Office of Professional Responsibility include the investigations of alleged misconduct against the members of the GPF, monitor investigations of personnel complaints in divisions and branches and work to increase level of public confidence in the integrity and professionalism of the GPF. As at May 2012, the unit was operating with a staff of ten with one officer engaged in financial audit with the Police Finance Office.

75. It should be noted that the Office of Professional Responsibility was established in 1999 and it therefore does not appear to be a measure implemented to address the examiners' recommendation. No information has been provided as to whether there have been any changes in the operation of the Office of Professional Responsibility arising from the examiners' recommendation. It is therefore not possible to assess the implementation of this recommendation.

76. The recommendation for the staff of the Director of Public Prosecutions (DPP) to be provided with ML training is also expected to be included as part of the technical assistance being negotiated for the GPF and the CANU as indicated above. This also similarly applies for the recommendation for relevant AML/CFT training for the staff of the GSC, BOG and the DCFS.

77. With regard to the recommendation for the authorities to consider increasing the number of Customs outposts to ensure security at borders, the authorities have advised that the GRA has established two (2) customs outposts, one at Mabura and another at Kurupukari and another is to be set up pending approval from the Government.

78. In relation to the recommendation for relevant staff of the GRA to be provided with AML/CFT training, follow-up training on currency reporting was provided to customs officers of the GRA in October 2012. As a result of the above, three (3) of the recommendations have been met and the others remain outstanding.

Recommendation 31

79. 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. As noted in the Follow-Up Report of November 2011, the authorities advised 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). The Task Force has reportedly reviewed a number of issues for increasing co-operation and creating general focus for addressing money laundering

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and terrorist financing. Since information about the functioning and accomplishments of this Committee has not been submitted it is not possible to assess the effectiveness of this measure..

80. The recommendation that competent authorities should consider establishing explicit mechanisms for consultation between competent authorities, the financial and other sectors is still being considered by the relevant authority. As such, only one of the recommendations has been partially met.

Recommendation 32

81. 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. Information was submitted in the Follow-Up Report of November 2012 showing the number of declaration forms submitted by the GRA to the FIU on a yearly basis for the period 2009 to September 2011. The following table gives a monthly breakdown of foreign currency reports received by the GRA during the first eight months of 2012;

Table 4: Foreign Currency Declarations for January to August 2012 – GRA

Months	No of Declaration Forms
January	94
February	76
March	108
April	73
May	84
June	95
July	75
August	63
TOTAL	668

82. There were no reports of false declarations or cash seizures by the GRA for the period January to August 2012. Information on these measures should be submitted at each Follow-Up Report to demonstrate continued implementation.

83. With regard to the recommendation for statistics on formal requests for assistance made or received by the FIU or the supervisory authorities or spontaneous referrals to be maintained, the FIU has submitted information as follows:

Table 5: Request for Information made to FIU for Jan – Aug 2012

	DATE OF REQUEST	AGENCY REQUESTING INFORMATION	NATURE OF REQUEST	INFORMATION REQUESTED
1	February 8, 2012	SOCA/Topaz	Investigation purpose	Information regarding subject
2	February 22, 2012	Scotland Yard	Criminal investigation	Information regarding subject
3	May 1, 2012	Canadian Intelligence – Trinidad & Tobago	Investigation purpose	Information regarding subject
4	March 26, 2012	Financial Investigation Agency – British Virgin Islands	Intelligence purposes	Information regarding subject
5	May 30, 2012	Royal Canadian Mounted Police (RCMP)	Intelligence purposes	Bank records of subjects
6	June 20, 2012	FIU – Trinidad & Tobago	Intelligence purposes	<ul style="list-style-type: none"> • Criminal history; • Financial information; • Travel pattern; • Details of any business registered in Guyana; • Other information

Table 6: Request for Information made by FIU – Guyana for Jan-Aug 2012

	DATE OF REQUEST	AGENCY REQUESTING INFORMATION	NATURE OF REQUEST	INFORMATION REQUESTED
1	June 18, 2012	FIU - Grenada	Investigation purpose	Information regarding subject
2	July 19, 2012	FIU -Barbados	Investigation purpose	Information regarding subject
3	July 19, 2012	FIU - Jamaica	Investigation purpose	Information regarding subject
4	August 9, 2012	FIU - Barbados	Investigation purpose	Information regarding subject
5	August 9,	FID - Jamaica	Investigation	Information regarding

2012		purpose	subject
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84. The above information partially meets the examiners' recommendation in providing data from the FIU. No information from the supervisory authorities or about spontaneous referrals has been submitted.

85. In relation to the recommendation for the maintenance of statistics on mutual legal assistance or other international requests for co-operation, the authorities have advised that the Ministry of Home Affairs is responsible for and does maintain these statistics. However, no such statistics were presented for this report.

86. In response to the recommendation for the maintenance of statistics on extradition the Ministry of Home Affairs has advised that during the period 2005 to June 2012, Guyana received six requests for extradition. Of these requests one was stopped by a High Court ruling and another was not complied with due to insufficient evidence. Two of the requests resulted in warrants for arrest being issued and in one case the person consented to the extradition request. At present the Government is appealing a decision of the High Court to stop the last extradition request. Given the above, this recommendation has been met.

87. With regard to the recommendation for the authorities to implement a regular review of the AML/CFT systems in Guyana, the authorities have advised that such a measure will be implemented. There is need to submit details about which body will be responsible for this review and how and when it will be conducted. Given the above, the level of compliance with the Recommendation has improved since the last Follow-Up Report.

Recommendation 33

88. The recommendation that the Companies Act 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 was referred to the Ministry of Legal Affairs which has indicated that a recommendation for amendment was made to the relevant Minister. The other recommendation is still being considered by the relevant authority and a further report is due by December 31, 2012. This Recommendation remains outstanding.

Recommendation 34

89. The recommendation 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 has been referred to the Ministry of Legal Affairs which has identified it as a policy issue and referred it to the relevant authority. The other recommendation is still being considered by the relevant authority and a further report is due by December 31, 2012. This Recommendation remains outstanding.

Recommendations 37

90. The first recommendation requires provisions which allow for the granting of mutual legal assistance in the absence of dual criminality for less intrusive and non-compulsory measures. The authorities advise that section 23(3) of MACMA provides that a request may be refused by the Central Authorities if the request does not satisfy the requirements of dual criminality. Since refusal is not mandatory, each case is considered on its merits in deciding

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whether or not the mutual assistance request should be granted or refused. While the above provision allows for the granting of mutual legal assistance in the absence of dual criminality, this is not an explicit requirement. Given the discretionary nature of the decision which as indicated is based on the merits of individual cases, there is need to advise as to whether written internal criteria or guidance have been established for such decisions and if there have been instances when mutual legal assistance was granted in the absence of dual criminality.

91. The next recommendation requires measures to ensure that technical differences in categorization and denomination of offences in laws of other countries do not impede the provision of mutual legal assistance. The authorities advise that a request for assistance is not refused under MACMA because of the reason stipulated in the examiners' recommendation. However, there is no information as to what measures are in place to implement this recommendation.

92. The last recommendation stipulates provisions which allow for extradition in the absence of dual criminality for less intrusive and non-compulsory measures. The authorities advise that the Fugitives Offenders Act which governs extradition does not prevent the extradition of a person because of the absence of dual criminality. However, the recommendation requires that provisions should be established. Given the above, This Recommendation remains outstanding.

Recommendation 38

93. The recommendation for guidelines or procedures in regard to timelines to facilitate an expeditious response to mutual legal assistance to be developed and implemented has been referred to the Ministry of Legal Affairs which will seek to develop and implement guidelines in respect of timelines to facilitate an expeditious response to mutual legal assistance.

94. With regard to the recommendation that there should be provisions allowing for requests relating to property of corresponding value, the authorities advise that sections 34 and 35 of MACMA provides for the acceptance of requests for assistance relating to restraining and confiscation/forfeiture orders of the proceeds of the serious offence or any property available for the satisfaction of the order or to which the order would apply are or is suspected on reasonable ground to be in Guyana. These sections as noted above in particular the reference to any property available comply with the examiners' recommendation.

95. In relation to the recommendation that the authorities should put in place arrangements regarding co-coordinating seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters the authorities advise that there is no hindrance under MACMA to coordinating such actions with other countries/jurisdictions. However, no information on whether specific measures or procedures are in place to provide for such coordination has been submitted for this report.

96. The next recommendation requires the authorities in Guyana to 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. The authorities have advised that section 34 (8) of the MACMA provides that all property confiscated or forfeited as a result of requests from other countries shall be distributed between the Consolidated Fund and the requesting country and may be donated to any person or organization as agreed between the central authority for Guyana and the central authority for the requesting country. This provision in detailing the distribution of confiscated property complies with the examiner's recommendation. The last recommendation requires the authorities in Guyana to consider a provision that provides for the sharing of confiscated assets resulting from coordinated law

enforcement efforts between jurisdictions. As section 34(8) of the MACMA allows for the sharing of confiscated assets with requesting countries, this recommendation has been met.

97. Given the above, three of the recommendations have been met with two still outstanding.

Recommendation 39

98. The examiners' recommended action requires that procedures or measures 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. The authorities advise that under the auspices of the Fugitive Offenders Act adequate arrangements are in place for the expeditious handling of extradition requests and proceedings relating to ML and FT. While these measures were noted in the MER there were no statistics to verify whether these measures operated in an expeditious manner. Given the above, the authorities should provide relevant statistics to demonstrate timely response to extradition requests and proceedings relating to ML and FT. Consequently, this recommendation remains outstanding.

Special Recommendations VI

99. The first recommendation requires that a system for monitoring money transfer agencies/agents for compliance with AML/CFT requirements be implemented as soon as possible. The Central Bank of Guyana has advised that a system for monitoring money transfer agencies/agents was implemented since 2011 and that all money transfer agencies and a few agents have been inspected. From December 2010 to March 2012, the BOG inspected 6 money transfer agencies and 8 money transfer agents. Since no AML/CFT breaches were detected, no sanctions were imposed. While this demonstrates compliance with the examiners' recommendation for this report, the authorities should seek to ensure ongoing implementation for future Follow-Up Reports.

100. As noted in the previous Follow-Up Report the recommendation that money transfer agencies be required to maintain a current list of their agents which must be made available to the designated competent authority has been met.

101. The last recommendation requires the amendment of the penalties in the MTALA to make them dissuasive, proportionate and applicable to directors and senior management of money transfer agencies. The Bank of Guyana has advised that it considers the range of sanctions in the MTALA to be proportionate and applicable to any person at any level who acts in contravention of the legislation.

102. As noted in Guyana's MER, there are three sanctions for breaches in the MTALA. Section 11 provides for the BOG to suspend or revoke a licence or certificate of registration for contravention or failure to comply with any provision of the AMLCFTA or the MTALA. Additionally, subsection 17(2) stipulates that any person who contravenes any provision of the Act for which no penalty has been specified is liable on summary conviction to a fine of G\$500,000 (US\$2,440) and imprisonment for one year. The only provision that has a specific sanction is subsection 17(1) which imposes a penalty on summary conviction of a fine of G\$250,000 (US\$1,220) and imprisonment for 6 months for the failure of any licensee, money transfer agents or any of their directors, managers, officers or employees to submit any accounts, books, records, documents, electronic data or other relevant information requested during an examination by the BOG. The above sanctions are limited and include only minimal fines and terms of imprisonment to suspension, or revocation of the licence or certificate of registration. There is no provision for graduated sanctions. While the fines and imprisonment are applicable to both natural and legal persons and therefore could be applicable to directors and senior

management, the levels are not dissuasive particularly in relation to legal persons or corporate entities. As such, this recommended action is only partially met.

103. Given the above, only one recommendation which has been partially met is still outstanding.

Special Recommendation VII

104. The recommendations for originator information to be defined in the AMLCFTA in accordance with SR VII and for subsections 20(3) and 20(4) of the AMLCFTA to be amended in accordance with the exemptions in SR VII has been assessed by the Ministry of legal Affairs which has indicated that the necessary recommendations for amendments to the AMLCFTA has been made to the relevant Minister. The recommendations requiring the imposition of record-keeping requirements and effective risk-based procedures for wire transfers on financial institutions are to be addressed by the issuance of guidelines by the BOG. The review and issuance of the guidelines are to be completed before December 31, 2012.

105. The recommendation for measures to be put in place to effectively monitor compliance with the requirements of SR VII are still being considered by the relevant authority with a further report expected by December 31, 2012. The last recommendation for sanctions for breaches of wire transfer provisions in section 20 of the AMLCFTA to be dissuasive and proportionate and applicable to directors and senior management of reporting entities is expected to be addressed by December 31, 2012. As a result this Recommendation remains outstanding.

Special Recommendation VIII

106. With regard to the recommendation concerning NPOs, the authorities have advised that a supervisory authority will be appointed for all friendly societies/NPOs, benevolent societies, working men's clubs and specially authorized societies registered under the Friendly Societies Act by October 31, 2012. The appointed supervisory authority will be lawfully required to supervise the respective reporting entities in accordance with sections 22 and 23 of the AMLCFTA. Consequently, the authorities are of the view that the recommendations in relation to NPOs should be addressed. Given the above, this Recommendation remains outstanding..

Special Recommendation IX

107. The recommendation for the extension of the implementation of the cross-border declaration system to include bearer negotiable instruments was forwarded to the Ministry of Legal Affairs which has indicated that a recommendation for the amendment was made to the relevant Minister.

108. With regard to the recommendation that sanctions for false declarations should be extended to legal persons, their directors and senior management and should be dissuasive, proportionate and effective, as noted in the last Follow-Up Report the Ministry of Legal Affairs advised that in the laws of Guyana reference to any person includes a reference to a legal person by virtue of the Interpretation Act. However as noted in the MER, section 6(5) of the Foreign Exchange (Miscellaneous Provisions) Act, (FEMPA) which deals with failure to disclose or willfully making a false declaration refers specifically to a traveler which would suggest that liability for this offence is strictly limited to natural persons and cannot be extended to legal persons and their directors who have consented or connived in the offence. As such, the provision does not reference a person and therefore does not include legal persons. With

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regard to amending the penalty to make it dissuasive, the Ministry of Legal Affairs advises that this is a policy issue for further consideration by the relevant authority.

109. The recommendation for Guyana to 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 the MER to ensure that it can do so effectively in the cross-border context is still being considered by the relevant authority and a report is expected by December 31, 2012. Consequently, this Recommendation remains outstanding.

III. Conclusion

110. The overall situation as noted in the previous Follow-Up Report has changed little except for the improvement in the level of compliance with Recs. 21, 35, 38, 32 and SR VI. While the authorities in Guyana have commenced to comply with some of the recommendations in the MER, these measures are still minimal. Most proposed measures include legislative amendments, enactment of regulations and issuance of guidelines. The provision of training for financial institutions and competent authorities is also being planned as part of technical assistance being provided through the CBSI. There is need for the authorities to demonstrate continued implementation by submitting information for each report regarding the provision of training both to the competent authorities and the financial institutions, the on-site AML/CFT inspection activity of the BOG, GSC and CCDO and the various statistical information required under Rec. 32. Given the above, it is recommended that Guyana remain in expedited follow-up and be required to report to the next Plenary in May 2013.

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**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. • The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation. 	<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"> i. The Ministry of Legal Affairs having assessed the recommendation has indicated that a recommendation for the amendment was made to the relevant Minister. The amendment process takes approximately 6 to 8 months. It is anticipated that by March 31, 2013 the necessary Bills for the recommendations requiring amendment would have been drafted and laid before Parliament. 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 <ul style="list-style-type: none"> (1) <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> (2) <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 way knowingly concerned in carrying, removing, depositing, concealing, or in any</i>

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			<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>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> <p>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></p> <ul style="list-style-type: none"> <i>(a) 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>(b) any offence listed in Second Schedule ; or</i> <i>(c) 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> <p>iii. FIU has been sensitizing the relevant Government entities on the legislation and its applicability through ongoing training/discussions and follow up meetings.</p>
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2. ML offence – mental element and corporate liability	LC	i. 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 of 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"> i. The Ministry of Legal Affairs having assessed the recommendation has indicated that a recommendation for the amendment was made to the relevant Minister. ii. The Bank of Guyana is receiving technical assistance from the US Department of Treasury. Included in the technical assistance package is the preparation of training manuals and guidelines for the various agencies. To date draft training manuals have been prepared for the Banks, Cambios, Money Transfer Agencies and Insurance Companies. These training manuals are currently being reviewed. It is anticipated that the above groups of Licensed Financial Institutions will receive training under the AMLCFT Act by December 31, 2012.
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 from registrants of the SIA. • 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 GSC should have the power to access information relevant to AML/CFT matters from registrants of the SIA. • 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"> i. The Guyana Securities Council having assessed the recommendation has indicated that the necessary recommendation was made to the relevant Minister. ii. The Co-operative Society having assessed the recommendation has indicated that this issue will be addressed by amending the Co-operative Societies Act. To this effect the necessary recommendation was made to the relevant Minister.

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<p>5. Customer due diligence</p>	<p>PC</p>	<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. • No requirement for reporting entities to determine who are the natural persons that ultimately own or control the customer. • No requirement for the verification of legal status of specific legal arrangements such as 	<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. • Reporting entities should be required to determine who are the natural persons that ultimately own or control the customer. • Reporting entities should be required to verify the legal status of specific legal arrangements such as 	<ul style="list-style-type: none"> i. 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>” ii. 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> <ul style="list-style-type: none"> (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> <ul style="list-style-type: none"> (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>” iii. The Ministry of Legal Affairs having assessed the recommendation has indicated that this issue will be addressed by amending the provisions of the AMLCFT Act. To this effect the necessary recommendation was made to the relevant Minister. iv. Regulation 4(5)(a) &(c) of the Regulations made under AMLCFTA already makes provision for the verification of legal status of specific arrangements
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		<p>trusts.</p> <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. 	<p>trusts.</p> <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. 	<p>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></p> <ul style="list-style-type: none"> (a) <i>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>” (b) ... (c) <i>the legal provisions that set out the power to bind the customer such as the memorandum and articles of association or trust instrument...</i>” <p>v. The Ministry of Legal Affairs having assessed the recommendation has expressed its agreement with the recommendation made and has indicated that a recommendation to address this issued was made to the relevant Minister.</p> <p>vi. As indicated at Rec. 3 above, the Bank of Guyana is receiving technical assistance from the US Department of Treasury for the drafting of Guidelines on AML/CFT and the development of Examination Manual among other things. This recommendation is being addressed in the Guidelines which have already been drafted for review by the Bank. It is anticipated that the Guidelines will be reviewed and issued to reporting entities by December 31, 2012.</p> <p>vii. 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>”</p> <p>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</p>
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		<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>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 or who seek to be engaged in one or more occasional transactions with the reporting entity.</i>”</p> <p>viii. S. 15.(2) and (3) of the AMLCTFA provides:</p> <p><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></p> <p><i>(3) The requirements of subsection (2) shall apply where-</i></p> <p><i>(a) a reporting entity establishes a business relationship;</i></p> <p><i>(b) in the absence of such a relationship, a reporting entity conducts-</i></p> <p><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></p> <p><i>(ii) any wire transfer as set out in section 20;</i></p> <p><i>(c) there is a suspicion of money laundering or terrorist financing; or</i></p> <p><i>(c) the reporting entity has doubts about the veracity or adequacy of previously obtained customer identification data.”</i></p> <p>From the above it can be inferred that reporting entities are prohibited from opening accounts or commencing a</p>

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		<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>business relationships or performing transactions in the absence of satisfactory evidence of identity. In this instance therefore, there would be no need for the reporting of a suspicious transaction report.</p> <p>ix. 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>”</p>
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 	<p>i. A decision has been taken to issue directives to all reporting entities regarding obtaining senior management’s approval as recommended. This is expected to be done by December 31, 2012.</p> <p>ii. Financial institutions are regularly being sensitized on various sections of the AMLCFT Act (particularly s.15 (4)(d)) which deals with PEPs, as well as the AMLCFT Regulations. These sensitization programmes are expected to be ongoing.</p>
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. 	<p>i. This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority. Guidelines already drafted awaiting the approval of the Bank of Guyana. It is anticipated that the recommended action will be implemented by December 31, 2012.</p> <p>ii. Same as above.</p>
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 address 	<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 	<p>i. This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority. Guidelines already drafted awaiting the approval of the Bank of Guyana. It is anticipated that the recommended action will be implemented by December 31, 2012.</p> <p>ii. Same as above.</p>

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		specific risks associated with non-face to face business relationships or transactions.	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. <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. 	iii. Same as above.
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 	<p>i. This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority. Guidelines already drafted awaiting the approval of the Bank of Guyana. It is anticipated that the recommended action will be implemented by December 31, 2012.</p> <p>ii. Same as above.</p>
10. Record keeping	PC	i. 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.	i. 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	<p>i. 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.</p> <p>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.</p> <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>

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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. 	i. 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.	i. The Ministry of Legal Affairs having assessed the recommendation has indicated that a recommendation to amend the AMLCFT Act was made to the relevant Minister.
12. DNFBP – R.5, 6, 8-11	NC	i. The deficiencies identified in section 3 in relation to Recs. 5, 6 and 8 – 11 are also applicable to DNFBPs.	i. It is recommended that a designated supervisory authority be appointed as soon as possible for the DNFBPs to oversee compliance with the requirements of the AMLCFTA.	<p>i. The Minister of Finance is in agreement with this recommendation. To date research has been conducted to determine:</p> <ul style="list-style-type: none"> (a) Whether the DNFBPs are already governed by any legislation; (b) Whether new legislation is required; (c) Whether there is need to amend current legislations; (d) Whether these bodies require licencing/registration and KYC process; and (e) Whether any existing committee/body could be appointed SA for the respective DNFBP rather than appointing new SAs. <p>Based on the results of the above research, supervisory authority for DNFBPs will be appointed before October 31, 2012. To accompany these appointments guidelines and/or regulations for DNFBPs are expected to be prepared with assistance from the US Department of Treasury.</p>

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<p>13. Suspicious transaction reporting</p>	<p>NC</p>	<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. • Unable to assess effectiveness of the reporting system due to the unavailability of statistics on suspicious transaction reporting. 	<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. 	<ol style="list-style-type: none"> i. Already dealt with at No. 1(ii) above- offences are criminalized as serious offences in Guyana. ii. The Ministry of Legal Affairs having assessed the recommendation has indicated that this issue will be addressed by amending the AMLCFT Act. To this effect, the necessary recommendation was made to the relevant Minister. iii. Same as above.
<p>14. Protection & no tipping-off</p>	<p>LC</p>	<ol style="list-style-type: none"> i. 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. 	<ol style="list-style-type: none"> i. 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. 	<ol style="list-style-type: none"> i. 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>”
<p>15. Internal controls, compliance & audit</p>	<p>PC</p>	<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 	<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 	<ol style="list-style-type: none"> i. This issue will be addressed by the Bank of Guyana which is the supervisory authority for financial institutions. Directives to this effect will be issued to financial institutions before December 31, 2012. ii. A decision has not yet been made regarding this issue. It is expected to come up for further discussion again in September 2012, as we are seeking further legal opinion from the Attorney General’s Chambers. iii. S. 19(2)(a) of the AMLCFTA provides “<i>A reporting entity shall enable any person identified</i>”

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		<p>resourced and independent and compliance testing of procedures, policies and controls to include sample testing.</p> <ul style="list-style-type: none"> 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 and obligations, and in particular, requirements concerning CDD. 	<p>customer identification data and other CDD information, transaction records and other relevant information necessary to carry out all their functions.</p> <ul style="list-style-type: none"> 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. 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. 	<p><i>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></p> <p>It is therefore inferred that staff acting on the instructions/directions of the compliance officer would also have such access.</p> <p>iv. This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority. With assistance from the US Department of Treasury, the necessary guidelines are already in draft awaiting the approval of the Bank of Guyana. It is anticipated that the draft guidelines would be finalised and issued before December 31, 2012.</p> <p>v. As indicated at Rec. 3 above, draft training manuals have already been prepared for the Banks, Cambios, Money Transfer Agencies and Insurance Companies. These training manuals are currently being reviewed. It is anticipated that the above groups of Licensed Financial Institutions will receive the relevant training by December 31, 2012.</p>
16. DNFBP – R.13-15 & 21	NC	i. The deficiencies identified in section 3 in relation to Recs. 13, to 15, and 21 are also applicable to DNFBPs.	i. It is recommended that a designated supervisory authority be appointed as soon as possible for the DNFBPs to oversee compliance with the requirements of the AMLCFTA.	i. This recommendation is addressed at recommendation 12(i) above.
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. 	<p>i. 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.</p> <p>ii. 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.</p>
18. Shell banks	LC	i. 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. 	i. 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</i>

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			<ul style="list-style-type: none"> • 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. 	<p><i>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". We are however; still examining the AMLCFTA to be absolutely positive.</i></p> <p>ii. We are of the opinion that this recommendation is addressed in the provisions of the Companies Act No. 29 of 1991 which requires that both local and external companies should have a physical presence in Guyana. Section 5 (1)(b) requires a registered office to be situated in Guyana and sections 310 (2) (a) and (d) and 316 (1) (l) require an external company to have a principal office in Guyana from which it regularly transacts its business. Section 8(1) of the Financial Institutions Act prohibits the use of the word "bank" in business names, unless an entity is licensed by the Bank of Guyana to conduct banking business and the Registrar of Companies is aware of this. The onsite examination by the Bank of Guyana and ongoing documentary requirements banks are required to satisfy, would not allow for the operation of a shell bank. (see copy of these sections attached and marked 'Appendix C')</p>
19. Other forms of reporting	NC	<p>i. No documentary evidence of the decision not to implement a system for the reporting of all currency transactions above a fixed threshold to a national central agency.</p>	<p>i. The authorities should 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.</p>	<p>i. There was no decision not to implement a 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 (which was enacted after the MEV) provides:</p> <p><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 -</i></p> <p><i>(a) where the reporting entity is a money transfer agency, any money transfer over two hundred thousand dollars;</i></p> <p><i>(b) where the reporting entity is a cambio, a purchase over four hundred thousand dollars and a sale over one million dollars; and</i></p> <p><i>(c) any cash transaction over two million dollars.</i></p>

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<p>21. Special attention for higher risk countries</p>	<p>NC</p>	<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"> i. A Circular based on the public statement issued on June 22, 2012 by FATF was drafted and will be issued to reporting entities before August 31, 2012. We will continue to advise reporting entities of concerns about AML/CFT weaknesses in other countries as ii. The recommended action is still being considered by the relevant authority. It is anticipated that this issue will be addressed by December 31, 2012. iii. The Ministry of Legal Affairs having assessed the recommendation has indicated that this issue will be address by amending the AMLCFT Act. To this effect the necessary recommendation was made to the relevant Minister.
<p>22. Foreign branches & subsidiaries</p>	<p>NC</p>	<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 consistent with FATF Recommendations to the extent that host country laws and regulations permit. • 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 	<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 Recommendations to the extent that host country laws and regulations permit. • 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 	<ul style="list-style-type: none"> i. Notice was sent to all supervisory authorities informing them of the requirement to impose the obligations stipulated in section 22(2) of the AMLCFTA on their respective reporting entities. (See copy of Notice attached and marked 'Appendix D') ii. This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority (Bank of Guyana). As stated above Guidelines are already drafted and awaiting the approval of the Bank of Guyana. The review and issuance of the Guideline would be completed before December 31, 2012. iii. Same as above. iv. Same as above.

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		countries apply the higher standard where minimum AML/CFT obligations of home and host countries differ.	higher standard where minimum AML/CFT obligations of home and host countries differ.	
23. Regulation, supervision and monitoring	NC	<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"> i. The Ministry of Finance having assessed the recommendation has indicated that a supervisory authority will be appointed for co-operative societies as well as DNFBPs before October 31, 2012. Our comments at Rec. 12 above are also applicable to this recommendation. ii. We are of the opinion that the provisions of the Cooperative Society Act Cap. 88:01 and the Securities Industry Act 1998 adequately address this recommendation. Section 27 of the Cooperative Society Act Cap. 88:01 provides that no member, other than a registered society, shall hold more than one-fifth of the share capital of any co-operative society. (See copy of this section attached and marked ‘Appendix E’). Section 116 of the Securities Industry Act 1998 makes provision for public disclosure of beneficial ownership in certain cases, while regulation 11 of the Regulations made under the Securities Industry Act provides for members to notify the Council and every member and holder of its securities concerning substantial shareholdings. (See copy of provisions attached and marked ‘Appendix F’). iii. The Insurance Act is currently being reviewed to determine where there is a need for an amendment as recommended. iv. We are of the opinion that the Securities Industry Act does not require amendment as recommended since this Act and the Regulations made thereunder empower the Council to evaluate directors and registrants on the basis of “fit and proper” persons. Regulation 14 of Regulations made under Security Industries Act 1998 requires each regulated entity to immediately inform the GSC about changes in its Board and section 141 of the Securities Industry

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		<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 	<p>Act 1998 provides for the GSC to apply to the Court to declare an individual as an unfit person to be concerned in the management of an issuer. (See copy of these provisions attached and marked ‘Appendix G’).</p> <p>The Cooperative Society having assessed the recommendation has indicated that the necessary recommendation was made to the relevant Minister for the necessary amendment to be made.</p> <p>v. AML/CFT supervision for COI and GSC is already being implemented. The Bank of Guyana supervises all insurance companies while the Guyana Securities Council supervises reporting entities that carries on the following activity or business:</p> <ul style="list-style-type: none"> trading for own account or for account of customers in money market instruments, foreign exchange, financial futures and options, exchange and interest rate instruments, and transferable securities; underwriting share issues and participation in such issues; advice to undertakings on capital structure, industrial strategy and related questions, and advice and services relating to mergers and the purchase of undertakings; money-broking; venture risk capital; and unit trusts. <p>Supervisory authority for the Friendly Societies will be appointed by October 31, 2012 along with the other supervisory authorities.</p>
<p>24. DNFBP – regulation, supervision and monitoring</p>	<p>NC</p>	<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. 	<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. 	<p>i. Supervisory authority will be appointed for Casinos before October 31, 2012. Our comments at Rec. 12 above are also applicable to this recommendation.</p> <p>ii. As part of the process of granting licences, the Gaming Authority has been and will continue to assess the applicant’s suitability to carry on licensed activities including investigating the integrity of the beneficial owners if necessary.</p>

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		<ul style="list-style-type: none"> No designated supervisory authority appointed for DNFBBs 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 DNFBBs. 	<ul style="list-style-type: none"> A designated supervisory authority should be appointed for DNFBBs 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 DNFBBs. 	<p>iii. This issue is already addressed at Rec. 12 above.</p> <p>iv. This recommendation will be addressed in the Regulations which are expected to be prepared for DNFBBs with assistance from the US Department of Treasury.</p>
25. Guidelines & Feedback	NC	<ul style="list-style-type: none"> No requirement for competent authorities or the FIU to provide financial institutions and DNFBBs that are required to report suspicious transactions with adequate and appropriate feedback. No guidelines to assist financial institutions and DNFBBs 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 DNFBBs 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. 	<p>i. 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></p> <p>ii. As indicated at Rec. 5(vi) above, guidelines have already been drafted for financial institutions under the technical assistance package by US Department of Treasury. These guidelines are currently being reviewed by the Bank of Guyana. It is anticipated that this recommendation will be fully implemented by December 31, 2012.</p>
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 	<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. 	<p>i. The FIU has been engaged in negotiations with various heads of missions, visiting professionals and representatives of the USA, Canada, Britain, and the European Union to obtain technical assistance and financial resources for the preparation of Regulations and Guidelines and Training instructions for LFI's and DNFBBs. While talks are continuing a Terms of Reference is being finalized for signing. It is expected that this will be concluded by September 15, 2012. Guidelines on the manner of STRs will be prepared under this project.</p> <p>ii. The FIU currently has in its employ an IT Specialist; hence the vulnerability of its database is no longer at risk. Please find below information on safeguards</p>

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		<p>of the FIU.</p> <ul style="list-style-type: none"> • 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"> • 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. 	<p>implemented to reduce the vulnerability of the database.</p> <p><u>Internet Security</u> There are two (2) desktop computers which have direct internet access. These computers are independent of the network which users use to connect to the database. There are six (6) additional desktop computers which are on the network to access the database on a server housed in a separate room equipped with security cameras and accessed only by the Database Administrator and the Director. The server housing the database is strictly prohibited from having internet access hence, a significant reduction of its vulnerability. Further, there is no direct digital input from the internet.</p> <p><u>Database</u> The server housing the database is located in a room equipped with security cameras (only the Director and the Database Administrator have access to this room). There are six (6) desktop computers which access the database. Access to the database is controlled by means of login credentials which were assigned for the sole purpose of data input by the entry operators. Access of historical data is only granted to the Director of the FIU and the Database Administrator.</p> <p>The programming of network policies on server and each of the desktop computers connecting to the database has been implemented to <u>not register</u> storage devices such as flash drives for data transfer. All events are recorded in a log file which is only viewed by the Director or the Database Administrator. In addition, sensitive information is backed up regularly and stored offsite at a secured location.</p> <p>iii. The authorities have considered this recommendation and have agreed that the FIU should commence the practice of releasing public reports and allowing for the issuing of periodic reports which include statistics, typologies and trends. Report to be released by October 31, 2012.</p>
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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. 	i. 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.	i. This recommendation was referred to the Ministry of Legal Affairs and the Ministry has responded as follows - This is a policy issue – to be given further consideration.
28. Owners of competent authorities	PC	i. 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.	i. 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.	i. The Ministry of Legal Affairs having assessed the recommendation has agreed with the recommendation made. It was indicated that the necessary recommendation was made to the relevant Minister.
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. • 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"> • GSC should have the power to compel production or obtain access to all records, documents or information relevant to monitoring of compliance. • 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"> i. The Guyana Securities Council has indicated that a recommendation was made to the relevant Minister for the Security Industries Act to be amended to empower the GSC to compel the production of and access to records, documents and other pertinent information from its Registrants for the purposes of the AML / CFT Act. ii. Supervisory authority to be appointed for Co-operatives before October 31, 2012. Once appointed the supervisory authority will have sanctioning powers under section 23 of the AMLCFT Act for failure of co-operatives to comply with AML/CFT obligations.
30. Resources, integrity and training	NC	• Lack of trained financial investigators in the GPF and CANU	• The authorities should provide trained financial investigators for the GPF and CANU.	i. Through the Caribbean Basin Security Initiative (CBSI), a US and Caribbean partnership designed to advance citizen security in the region, the Guyana Government in April 2011, received a sum US\$98,000 of which \$40,000 is to be spent on AMLCFT and \$58,000 for law enforcement. In May 2012 Guyana again received from the US a sum of \$500,000. \$150,000 to be used for providing training and equipment for the GPF and CANU to improve the capabilities in counter narcotics/terrorism operations; \$100,000 to be used to provide assistance to the FIU, strengthening the rule of law and increasing effectiveness of the judicial system and assisting government entities to enforce the AMLCFT legislation; and \$250,000 to

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		<ul style="list-style-type: none"> • 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"> • Staff of the DPP should be provided with ML training. • Staff of the GPF and CANU should be provided with appropriate ML/FT training. • The authorities should consider measures to deal with the integrity problems of the GPF. • Adequate staff and resources should be provided to the GSC and DCFS to carry out their functions. • Adequate and relevant AML/CFT training should be provided to the staff of GSC, the DCF and the BOG. • The FIU should urgently implement its plans for new personnel and facilities. 	<p>be used to strengthen counternarcotics control capabilities in Guyana.</p> <p>To date a work plan and a draft TOR have been prepared which are currently being reviewed. Based on the approval of the work plan and TOR, it is anticipated that training for GPF and CANU will commence by the end of September, 2012.</p> <ul style="list-style-type: none"> ii. Staff of the DPP are expected to benefit from training provided to GPF and CANU. iii. Staff of the GPF and CANU are expected to benefit from the project at Rec. 30 (i) above. iv. This recommendation was referred to the Guyana Police Force (GPF) and this Agency has responded as follows – The Police have several measures in place to address integrity problems which include an office of Professional Responsibility and vetted units that acquire intelligence and investigate organised crimes. Efforts will be made to develop the capacity of the Office of Professional of Responsibility. Information on the power and functions of the Office of the Professional Integrity and the results of its operation is attached and marked ‘Appendix H’) v. This recommendation is currently being reviewed by GSC and DCFS for implementation. vi. The staff of GSC, DCF and the BOG are expected to benefit from AMLCFT training which will be conducted under the CBSI project mentioned at Rec. 30(i) above. vii. 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, two Financial Analysts, one Database Administrator and one Administrative Officer. Plans are in place to employ two (2) additional staff by the end of October 2012 as this is an exercise that is an integral part of the appointment
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			<ul style="list-style-type: none"> • 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 	<p>of supervisory authorities for DNFbps.</p> <p>viii. This recommendation was referred to the Guyana Revenue Authority and this Agency has responded as follows – The GRA can establish more Customs outposts once the resources become available. Fully operational outposts will be established at Mahura, Kurupukari, and Morawhanna by April 30,2012.</p> <p>ix. This recommendation was referred to the Guyana Revenue Authority and this Agency has responded as follows -The GRA’s training Division with support from the FIU will embark on Training Programmes to ensure that the relevant staff of GRA are provided with AML/CFT training by June 30, 2012</p>
31. National co-operation	NC	<p>i. 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 to combat money laundering and terrorist financing.</p>	<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 obligations. • The competent authorities should consider establishing explicit mechanisms for consultation between competent authorities, the financial sector and other sectors (including DNFBP) that are subject to AML/CFT laws, regulations, guidelines or other measures. 	<p>i. A Task Force Committee on Money Laundering was established comprising representatives from FIU, GPF, DPP, CANU, and GRA.</p> <p>ii. The recommended action is still being considered by the relevant authority.</p>
32. Statistics	NC	<ul style="list-style-type: none"> • 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 mutual legal assistance or other international requests for co-operation are maintained. 	<ul style="list-style-type: none"> • Statistics on formal requests for assistance made or received by the FIU or the supervisory authorities or spontaneous referrals should be maintained. • The authorities should maintain statistics on mutual legal assistance or other international requests for co-operation. 	<p>i. Statistics on formal request for assistance made and received by the FIU are maintained. (See statistics for January to July 2012 attached and marked ‘Appendix I’)</p> <p>ii. As the Minister of Home Affairs is designated as the Central Authority for receiving and transmitting requests for mutual legal assistance under section 3(1) of the Mutual Assistance in</p>

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		<ul style="list-style-type: none"> No statistics on extradition are maintained. 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. No statistics in reference to any of the requirements in SR IX were available. No regular review of the effectiveness of the AML/CFT systems. 	<ul style="list-style-type: none"> The authorities should maintain statistics on extradition. 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. 	<p>Criminal Matters Act No. 38 of 2009, the Ministry of Home Affairs is responsible for and does maintain records on mutual legal assistance requests and other related international requests for cooperation.</p> <p>iii. The Ministry of Home Affairs and the DPP maintain records of extraditions. See statistics for the period 2005 – 2011 attached and marked ‘Appendix J’)</p> <p>iii. The GRA maintains statistics as recommended. (See statistics for January to July 2012 included in threshold report attached and marked ‘Appendix K’)</p> <p>iv. The recommended action was considered and it was agreed that there will be regular review of the AML/CFT systems in Guyana.</p>
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 Act nor is it possible for the Registrar of Companies to determine if nominees are being used. 	<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 unless measures are taken to ensure that adequate, accurate and complete beneficial information is made available to the Registrar of Companies. 	<p>i. The Ministry of Legal Affairs having assessed the recommendation has indicated that a recommendation for the amendment was made to the relevant Minister.</p> <p>ii. The recommended action is still being considered by the relevant authority. Further report is expected by December 31, 2012.</p>
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 	<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. 	<p>i. This recommendation was referred to the Ministry of Legal Affairs and the Ministry has responded as follows – to be referred to the relevant authority for further consideration. This is a policy issue.</p> <p>ii. The recommended action is still being considered by the relevant authority. Further report is expected by December 31, 2012.</p>

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		trusts would be.		
International Co-operation				
35. Conventions	PC	i. The Vienna, Palermo and Terrorist Financing Conventions have not been fully implemented.	i. The competent authorities in Guyana should take steps to fully implement the Vienna, Palermo and Terrorist Financing Conventions.	i. Guyana being a party to these Conventions continuously seeks to implement the measures thereunder.
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 statistics and the recent enactment of the AMLCFTA 	<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. 	<p>i. The Mutual Assistance in Criminal Matters Act 2009 establishes a mechanism for receiving and transmitting requests for mutual legal assistance with Commonwealth countries (designated as such under Article 47 (3) of the 1980 Constitution of the Co-operative Republic of Guyana); a country that is a party to the United Nations Convention against Illicit Traffic in Narcotic drugs and Psychotropic Substances 1988; or any country that has a bilateral or multilateral treaty with Guyana in respect of mutual assistance in criminal matters e.g. Inter-American Convention on Mutual Assistance in Criminal Matters.</p> <p>ii. Requests for assistance under the Mutual Assistance in Criminal Matters Act is sought on the basis of the existence of a ‘criminal matter’ whether it is an investigation or criminal proceedings in respect of an offence committed or suspected on reasonable grounds to have been committed against the laws of the country in question, including money laundering and terrorist financing.</p> <p>Criminal matter is also defined as including forfeiture proceedings and proceedings to restrain or confiscate property or for the imposition of a pecuniary penalty.</p> <p>Requests for assistance can be transmitted, inter alia, for tracing of property; registering/enforcing confiscation/forfeiture, pecuniary penalty or restraining orders; or obtaining a restraining order.</p> <p>These cases involve the proceeds of a serious offence meaning an offence which is punishable by death or a sentence of imprisonment of twelve months (12) or more; relates to taxation; or the proceeds of the offence are or are likely to be worth not less than equivalent of G\$1,000,000 or such other amount as may be prescribed.</p>

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				<p>The Ministry of Home Affairs has developed clear and efficient processes to ensure that requests for mutual legal assistance are executed without delay. Section 23 (1) of the Mutual Assistance in Criminal Matters Act 2009 provides that the Minister of Home Affairs shall as soon as practicable accept and carry out a request made in accordance with the Act.</p>
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"> i. Section 23 (3) of the Mutual Assistance in Criminal Matters Act 2009 provides that a request may be refused by the Central Authority if the request does not satisfy the requirements of dual criminality. As the refusal is not mandatory, each case is considered on its merits in deciding whether or not the mutual assistance request should be granted or refused. ii. A request for assistance is not refused under the Mutual Assistance in Criminal Matters Act 2009 because of any technical differences in categorisation and denomination of offences in the laws of other countries. iii. The Fugitive Offenders Act No. 15 of 1988 does not prevent the extradition of a person because of the absence of dual criminality.

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<p>38. MLA on confiscation and freezing</p>	<p>NC</p>	<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"> i. The Ministry of Home Affairs will seek to develop and implement guidelines or procedures in respect of timelines to facilitate an expeditious response to mutual legal assistance requests. ii. Under sections 34 and 35 of the Mutual Assistance in Criminal Matters Act 2009 requests for assistance relating to restraining and confiscation/forfeiture orders can be accepted where, inter alia, the proceeds of the serious offence or any property available for the satisfaction of the order or to which the order would apply are or is suspected on reasonable grounds in Guyana. iii. If the request for assistance is accepted under the Mutual Assistance in Criminal Matters Act 2009, there is no hindrance to authorities in Guyana coordinating seizure and confiscation actions with other countries/jurisdictions in relation to money laundering or terrorist financing matter. iv. Section 34 (8) of the Mutual Assistance in Criminal Matters Act 2009 provides that all property confiscated or forfeited under that section shall be distributed between the Consolidated Fund and the requesting country; and may be donated to any person or organisation as agreed between the central authority for Guyana and the central authority for the requesting country.
<p>39. Extradition</p>	<p>PC</p>	<ul style="list-style-type: none"> i. Unable to assess effectiveness due to the lack of statistics on extradition. 	<ul style="list-style-type: none"> i. 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"> i. Measures are in place to facilitate the timely response to requests for extradition and proceedings relating to ML and FT. According to section 108 of the AMLCFT Act, money laundering and the financing of terrorism are offences for the purposes of extradition. Therefore, under the auspices of the Fugitive Offenders Act 1988, Act No. 15 of 1988 (as amended by the Fugitive Offenders (Amendment) Act 2009, Act No. 30 of 2009) adequate arrangements are in place for these requests to be handled expeditiously by the Ministry of Foreign Affairs, Ministry of Home

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				Affairs, Director of Public Prosecutions and the Guyana Police Force in order to ensure timely response and action.
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 	<p>i. Section 22 of the Mutual Assistance in Criminal Matters Act 2009 allows for the transmission of an informal request orally in urgent circumstances to the Central Authority for Guyana. An informal request must be acknowledged by the Central Authority within fifteen (15) days of receipt and will be deemed to be withdrawn unless a formal written request is transmitted within seven (7) days or such other period as the Central Authority for Guyana specifies.</p> <p>Currently, urgent requests for the exchange of information can be facilitated through direct contact with the relevant law enforcement agency.</p> <p>ii. This recommendation is still being considered by the relevant authority.</p>
Nine Special Recommendations		Summary of factors underlying rating		
SR.I Implement UN instruments	PC	i. 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 	<p>i. The Ministry of Legal Affairs having assessed the recommendation has agreed with the recommendation made and has indicated that the necessary recommendation was made to the relevant Minister.</p> <p>ii. The recommended action is still being considered by the relevant authority. Further report is expected by December 31, 2012.</p> <p>iii. Reporting entities are benefitting from ongoing training under the Anti-Money Laundering & Countering the Financing of Terrorism Act and</p>

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			legislation and in order for the legislation to be implemented effectively.	Regulations. Training is facilitated by the FIU.
SR.II Criminalise terrorist financing	PC	<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"> This was already addressed at Rec. 3 above. The Ministry of Legal Affairs having assessed the recommendation has indicated that the recommendation will be addressed by amending the AMLCFT and that a recommendation to this effect was made to the relevant Minister. 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>
SR.III Freeze and confiscate terrorist assets	NC	<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 requests, unfreezing of funds or providing access to frozen funds in relation to S/RES/1267 or S/RES/1373; 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 	<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 procedures for delisting requests, unfreezing of funds and providing access to frozen funds. 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). 	<ul style="list-style-type: none"> The Ministry of Legal Affairs having assessed the recommendation has indicated that a recommendation for the amendment was made to the relevant Minister. The recommended action is still being considered by the relevant authority. Further report is expected by December 31, 2012. The recommended action is still being considered by the relevant authority. Further report is expected by December 31, 2012.

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		<p>S/RES/1267(1999) and S/RES/1373(2001).</p> <ul style="list-style-type: none"> The AMLCFTA as it relates to freezing, seizing and forfeiture of funds of terrorists or terrorists' organisations has not been implemented. 	<ul style="list-style-type: none"> 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>iv. The relevant entities will be provided with training through the CBSI project as mentioned at Rec. 30 (i) above.</p>
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. 	<p>i. This recommendation is already addressed at Rec. 13 above.</p> <p>ii. This recommendation was referred to the Bank of Guyana and the Bank has responded as follows - Section 18 of the AML/CFT Act is a general provision which requires reporting of suspicious transactions in any circumstances</p>
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. 	<p>i. Recommended actions noted with regard to Recs. 36, 37, 38, 39 and 40 should apply to terrorist financing.</p>	<p>i. The recommended action is still being considered by the relevant authority. Further report is expected by December 31, 2012.</p>
SR.VI AML requirements for money/value transfer services	PC	<ul style="list-style-type: none"> No requirement for licensed or registered money transfer agencies to maintain a current list of their agents which must be made available to the BOG. No system for monitoring money transfer agencies/agents for compliance with AML/CFT requirements. 	<ul style="list-style-type: none"> A system for monitoring money transfer agencies/agents for compliance with AML/CFT requirements be implemented as soon as possible. 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. 	<p>i. This recommendation was referred to the Bank of Guyana and the Bank has responded as follows - The BOG has implemented a system since 2011 to monitor money transfer agencies (MTAs) and has since examined/ inspected all of the MTAs and a few of their agents. The BOG has indicated that none of its inspections done in accordance with Section 22(2)(a) of the AMLCFT Act revealed any breaches, as such no sanctions were necessary. (See response attached and marked 'Appendix L' for further details).</p> <p>ii. This recommendation was referred to the Bank of Guyana and the Bank has responded as follows - The MTAs are required to submit a current list of</p>

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		<ul style="list-style-type: none"> Penalties under the MTALA are not dissuasive or proportionate and do not extend to the directors or senior management of money transfer agencies. 	<ul style="list-style-type: none"> 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>agents to the BOG when applying for renewal of their licences.</p> <p>iii. This recommendation was referred to the Bank of Guyana and the Bank has responded as follows - Based on the current value of the G\$ the penalties were considered in 2009 when the legislation was enacted to be proportionate to the offence and the value of the G\$ has changed marginally since then. The applicability of the penalties is not limited but applies to any person at all levels who act in contravention of the legislation.</p>
SR VII Wire transfer rules	NC	<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 are neither dissuasive or proportionate and are not applicable to directors and senior management of reporting entities. 	<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 VII. Sanctions for breaches of wire transfer provisions in section 20 of the AMLCFTA should be dissuasive 	<p>i. The Ministry of Legal Affairs having assessed the recommendation has indicated that this issue will be address by amending the AMLCFT Act. To this effect the necessary recommendation was made to the relevant Minister.</p> <p>ii. Same as above.</p> <p>iii. This recommendation would be addressed by the issuance of Guidelines by the Supervisory Authority (Bank of Guyana). As stated above Guidelines are already drafted and awaiting the approval of the Bank of Guyana. The review and issuance of the Guidelines would be completed before December 31, 2012.</p> <p>iv. Same as above.</p> <p>v. The recommended action is still being considered by the relevant authority. Further report is expected by December 31, 2012.</p> <p>vi. This is a policy issue and requires further consideration by the relevant authority. It is</p>

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			and proportionate and applicable to directors and senior management of reporting entities.	anticipated that this will be fully addressed by December 31, 2012.
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. 	<p>i. A supervisory authority will be appointed for all friendly societies/NPOs, benevolent societies, working men's clubs and specially authorised societies and registered under the Friendly Societies Act Cap. 36:04 by October 31, 2012.</p> <p>The appointed supervisory authority will be lawfully required to supervise the respective reporting entities in accordance with sections 22 and 23 of the AMLCFT Act 2009. To this effect all the recommendations in relation to NPOs will be addressed.</p>
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 • Sanctions for false declarations do not extend to legal persons and are not dissuasive or proportionate. 	<ul style="list-style-type: none"> • The authorities should extend the implementation of the cross-border declaration system to include bearer negotiable instruments. • Sanctions for false declarations should be extended to legal persons, their directors and senior management and should be dissuasive, proportionate and effective. 	<p>i. The Ministry of Legal Affairs having assessed the recommendation has indicated that a recommendation for the amendment was made to the relevant Minister.</p> <p>ii. This recommendation was referred to the Ministry of Legal Affairs and the Ministry has responded as follows – in the Laws of Guyana, unless the context otherwise requires, any reference to a person include a reference to a legal person by virtue of our Interpretation Act. No amendment is necessary. Sanction is a policy issue – for further</p>

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		<ul style="list-style-type: none"> • 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"> • 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. 	<p>consideration by the relevant authority..</p> <p>iii. The recommended action is still being considered by the relevant authority. Further report is expected by December 31, 2012.</p>
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