



Fourth Follow-Up Report

Guyana

April 30, 2013

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Guyana Pre-Plenary Final Fourth Follow-Up Report

GUYANA – FOURTH 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. 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)
	R. 37 (Dual criminality)
	R. 38 (MLA on confiscation and freezing)

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	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 September 30, 2012**

(US\$ Million)

		Banks	Other Credit Institutions*	Securities**	Insurance+	TOTAL
Number of institutions	Total #	6	6	2	16	30
Assets	US\$M	1,746	388	78	170	2,382
Deposits	Total: US\$	1,476	228	Nil	0	1,704
	% Non-resident	% of deposits				
		3	9		0	4
International Links	% Foreign-owned:	% of assets	% of assets	% of assets	% of assets^	% of assets
		54	5	0	22	42
	#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

^ includes local parent and overseas subsidiary data since separate balance sheet data is not available

Exchange Rate: US\$1.00 = G\$204.25 (BOG mid-rate at 30.9.12)

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 Anti-Money Laundering and Countering the Financing of Terrorism (AMLCFT) (Amendment) Bill 2013 was presented in Parliament on April 22, 2013 a week before its deadline of April 30, 2013. The Bill seeks to address the legislative amendments required by the examiners' recommended actions in the core and key Recommendations and a majority of the remaining outstanding Recommendations.

5. 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.

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6. The Plenary in November 2012 in the Virgin Islands decided that countries in the International Co-operation Review Group (ICRG) process would be required to achieve substantial progress on outstanding recommendations and fully comply with all outstanding recommended measures in their key and core Recommendations by May 2013. Given the above, this report will assess whether Guyana has achieved full compliance in the outstanding key and core recommendations and the progress made in the remaining outstanding recommendations. As already mentioned Guyana has fully complied with core Recommendation 10. The remaining core and key recommendations are Recs. 1, 5, 13, SR. II, SR. IV, 3, 4, 23, 26, 35, 36, and 40, SR.1, SR. II, and SR. V.

Core Recommendations

Recommendation 1

7. As reported in the Follow-Up Report of May 2012, two of the three recommendations made by the examiners had been met. One of these recommendations is ongoing requiring the submission of data to demonstrate continued implementation. With regard to 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 has been included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013.

8. 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 and from January to October 2012 in previous follow-up reports. During the period October 2012 to March 2013, the FIU held seven (7) meetings and two (2) training sessions with competent authorities including the Bank of Guyana (BOG), the Guyana Revenue Authority (GRA) and the newly appointed Supervisory Authority for Co-operatives, the Supervisory Authority for Registered Charities, the Supervisory Authority for Casinos, the Supervisory Authority for Dealers in Precious and Semi Precious Stones and the Supervisory Authority for Dealers in Precious Metals and various financial institutions such as cambios, money transfer agencies, a casino and the Guyana Bankers’ Association. The meetings with the financial institutions were held to clarify legal 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 outstanding.

Recommendation 5

9. As noted in the Follow-Up Report of November 2011 four of the nine examiners’ recommendations were met by legislative provisions. The outstanding recommendations are as follows:

- a) Reporting entities should be required to determine the natural persons that ultimately own or control the customer.
- b) A definition of beneficial ownership in relation to legal entities should be set out in the AMLCFTA

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- c) Reporting entities should be required to perform enhanced due diligence for higher risk categories of customers
- d) 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 required to consider making a suspicious transaction report.
- e) 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.

10. The authorities have advised that the above outstanding recommendations have been included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. As such, these five recommendations remain outstanding.

Recommendation 13

11. As reported in the Follow-Up Report of November 2011, 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 recommendations have been included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. As such the two recommendations remain outstanding.

Special Recommendation II

12. The first two outstanding recommendations are as follows:

- i. 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.
- ii. Terrorist financing offences should be extended to any funds whether from a legitimate or illegitimate source

13. The authorities have advised that the above outstanding recommendations have been included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013.

14. With regard to the other 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), information has been provided with regard to the FIU providing training to financial entities with regard to their legal obligations as indicated in the section of this report dealing with Recommendation 1. Given the above, two examiners' recommendations are outstanding.

Special Recommendation IV

15. With regard to the two outstanding recommendations 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, and the requirement to report suspicious transactions to apply regardless of whether they are thought, among other things to involve tax matters, the authorities have advised that the recommendations have been included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Consequently this Recommendation remains outstanding.

Key Recommendations

Recommendation 3

16. 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 this recommendation has been included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013.

17. 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 an AML/CFT training workshop was conducted by the US Department of Treasury from December 10 – 13, 2012 for staff of the BOG. . The authorities should continue to submit information on details of the training being provided to all agencies in future follow-up reports. Given the above one of the examiners' recommendations remains outstanding.

Recommendation 4

18. With regard to 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), the authorities have referred to section 22(2) of the AMLCFTA. However, as noted in paragraph 323 of Guyana's MER while "the above provisions permit the designated supervisory authorities to share information with local competent authorities and similar foreign authorities, there is no specific authorisation granting the supervisory authorities access to the books, accounts and other relevant records of their respective licensed reporting entities." The authorities have advised that the AMLCFTA and the SIA will be amended to give the GSC power to access information relevant to AML/CFT matters. These amendments have been included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013.. As such this recommendation remains outstanding. .

19. The authorities have advised that 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 has been addressed with the appointment of the CCDO as the designated AML/CFT supervisory authority for co-operative societies. As such, the CCDO now has the power under section 22(2) (c & d) of the AMLCFTA as a designated authority to share information with local and international competent authorities. This measure complies fully with this recommendation. . Given the above, one of the recommended measures remains outstanding.

Recommendations 23

20. 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 authorities officially designated the CCDO as the AML/CFT supervisory authority for co-operative societies on December 20, 2012.

21. The next three outstanding recommendations are as follows:

1. Amend 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.
2. The Insurance Act (IA) should 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
3. Amend 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

22. The authorities have advised that the appropriate amendments implementing the above recommendations were included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013.

23. 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. An AML/CFT work plan for the insurance sector was submitted. The plan outlines preliminary steps towards the establishment of an AML/CFT supervision regime for insurance companies including the issuance of guidelines, training of stakeholders, and timelines for the drafting and presentation of an amended Insurance Act to Parliament by September 30, 2013. No information with regard to whether the GSC or the DCFS have commenced AML/CFT supervision of their licensees has been provided for this report. Given the above all except one of the examiners’ recommendations remain outstanding.

Recommendation 26

24. 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 issued Guidelines on Suspicious Transaction Reporting to financial institutions in January 2013. No information with regard to whether consideration was given to issuing a circular to the public has been provided for this report. Given the above, this recommendation has been partially met.

25. 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.

26. 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 was agreed by the relevant authority. The FIU issued its first statistical reports on its website on January 31, 2013. Information on typologies and trends were not included. Given the above, one of the examiners' recommendations has been met while the remaining two were partially met.

Recommendations 35

27. 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.

28. 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 requires further deliberations as it is a policy issue.

29. 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. The authorities have advised that relevant amendments to the MACMA were included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. As such, these articles are still partially outstanding.

30. 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 has not been provided for this report.

31. 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 have not been provided for this report.

32. 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.

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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.

33. 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. This complies with Article 20 of the Palermo Convention.

34. 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. A copy of the Evidence Act with the relevant provision has been submitted for this report.. No information with regard to the provision of physical protection of witnesses has been provided for this report. As such, this article has been partially met. Given the above while one article has been met, some have been partially met, others need additional information for verification and some are outstanding. As such, this Recommendation remains largely outstanding.

Recommendation 36

35. 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 advised that this was addressed by amending MACMA accordingly in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013.

36. 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. The authorities have submitted for this report a document entitled “Procedure for executing requests for Mutual Legal Assistance “under a general heading “Ministry of Home Affairs”. The document as submitted does not provide details on agencies or officials or their positions and functions during each step in the process. Additionally, there is nothing on the document i.e. an official logo to suggest that it is an authentic document from the Ministry of Home Affairs. As such, the document is unacceptable. It is noted that the documents offers no timelines for any part of the process stating that it depends on the information submitted and the nature of the request. The submission of 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 would be necessary to enable an assessment as to the timeliness of the process. 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

37. The first recommendation requires the development of procedures for spontaneous exchange of information. The authorities have advised that a MOU for the exchange of information has been drafted and forwarded to the Attorney General's office for review and finalization by March 2013. There is no indication as to the identity of the parties of the MOU. Additionally the FIU is in regular contact with local and international intelligence and law enforcement agencies on matters of mutual interest. The authorities advise that for spontaneous exchange of information, contact can be made directly with the Director, FIU or the Commissioner of Police through INTERPOL or the Head of Customs Anti-Narcotics Unit (CANU) for urgent requests for exchange of information. The above measures appears to deal more with informal rather than the spontaneous sharing of information which involves sharing information considered relevant with other foreign competent authorities or sharing relevant information not indicated in an original request from another authority. As such, the above does not provide details about the procedures for spontaneous exchange of information.

38. The last recommendation that the COI should have confidentiality obligations that include exchanged information will be addressed by amending the Insurance Act accordingly and was presented in Parliament on April 22, 2013. As such, this Recommendation remains outstanding.

Special Recommendation I

39. The recommendations for the AML/CFT legislation to be amended to comply with S/RES/1267(1999) and S/RES/1373(2001) for freezing funds of designated persons/organizations and for competent authorities to provide or issue guidance to financial institutions with regard to obligations to freeze assets of persons listed by the UNSCR 1267 Committee were included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Once the necessary amendments have been enacted, the relevant guidelines will be issued. .

40. With regard to the recommendation for training for the relevant entities to be aware of their obligations under legislation, information has been provided under Rec. 1 in this report. Given the above, two recommendations remain outstanding.

Special Recommendation III

41. The recommendations 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 and for the development and implementation of procedures for delisting requests, unfreezing funds and providing access to frozen funds was included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22,2013.

42. The recommendation for the issuing of guidance to financial institutions with respect to obligations under the freezing mechanisms required by S/RES/1267/(1999) and S/RES/1373(2001) was included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Once the necessary amendments have been enacted, the relevant guidelines will be issued. With regard to the recommendation for training for the relevant entities to be aware of their obligations under legislation, information has been provided under Rec. 1 in this report. Given the above, three recommendations remain outstanding.

Special Recommendation V

43. 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 was expected by December 31, 2012. No additional information has been submitted for this report. This Recommendation is therefore outstanding.

Other Recommendations

Recommendation 6

44. 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 was included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013.

45. With regard to the recommendation for supervisory authorities to ensure that all financial institutions are aware of the legal requirements concerning PEPs the authorities advised in the previous follow-up report that programs to ensure that financial institutions are aware of the requirements of the AML/CFT legislation including the provisions dealing with PEPs were ongoing. Information regarding these programs is set out under Rec. 1 of this report. Given the above, one of the examiners' recommendations remains outstanding.

Recommendations 8

46. The authorities advise that the examiners' recommendations were included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. As such, all examiners' remain outstanding.

Recommendation 9

47. The authorities have advised that the first recommendation for financial institutions to be required to satisfy themselves that third parties are regulated and supervised in accordance with Recommendation 23, 24 and 29 and have measures in place to comply with customer due diligence requirements set out in Recommendation 5 is addressed under section 15(8) of the AMLCFTA. However, paragraph 316 of Guyana's MER notes "the requirement in the above provision that a third party or intermediary is regulated and supervised is general and does not specify that supervision should be in accordance with FATF Recommendations 23, 24 and 29 as set out in the FATF criterion Information with regard to the criteria of these Recommendations in assessing supervision could be detailed in guidelines to the financial institutions. The provision also refers to a third party or intermediary having measures in place to comply with the requirements set out in section 16. Section 16 of the AMLCFTA deals with record keeping and retention obligations similar to those of Recommendation 10, however, the criterion requires that measures should comply with CDD requirements set out in Recommendations 5 and 10." The authorities advise that this recommendation is included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. As such, this recommendation remains outstanding.

48. With regard to the recommendation that competent authorities should determine and inform financial institutions in which countries third parties that meet the conditions can be based

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by taking into account information available on whether these countries adequately apply the FATF Recommendations, the authorities indicate that this will be addressed by the issuance of guidelines. These guidelines are presently being reviewed before a final draft is ready to be sent to the relevant stakeholders for their feedback/comments before publication. Given the above, all examiners' recommendations remain outstanding.

Recommendation 12

49. 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 dealt with by the appointment of designated authorities on December 20, 2012 for casinos, dealers in precious and semi precious stones, dealers in gold bullion, trust or company service providers, registered charities, co-operatives, financial leasing, money transfer agencies and insurance companies. Information on the establishment and operations of these designated authorities in overseeing the compliance of the DNFBPs should be submitted in future follow-up reports to ensure implementation. Given the above, this recommendation has been partially met.

Recommendation 15

50. 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 addressed by the issuance of guidelines. These guidelines are presently being reviewed before a final draft is ready to be sent to the relevant stakeholders for their feedback/comments before publication.

51. As noted in the previous follow-up report, 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 was partially met by regulations 16, 17 and 18 of the AMLCFTR. These provisions include all the examiners' recommendation except for information on current ML and FT techniques, methods and trends.

52. The remaining recommendations were included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Given the above, only one recommendation has been partially met and the remaining four are outstanding.

Recommendation 16

53. 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 dealt with by the appointment of designated authorities on December 20, 2012 for casinos, dealers in precious and semi precious stones, dealers in gold bullion, trust or company service providers, registered charities, co-operatives, financial leasing, money transfer agencies and insurance companies. Information on the establishment and operations of these designated authorities in overseeing the compliance of the DNFBPs should be submitted in future follow-up reports to ensure implementation. Given the above, this recommendation has been partially met.

Recommendations 17

54. The authorities advise that the examiners' recommendations were included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. As such, all examiners' remain outstanding.

Recommendation 21

55. 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 submitted copies of circulars based on the FATF public statements published on June 22, 2012, October 19, 2012, and February 22, 2013 which were issued to reporting entities on August 17, 2012, November 1, 2012 and March 4, 2013.. This measure will be ongoing.

56. The remaining recommendations were included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. As such, two recommendations remain outstanding.

Recommendation 22

57. 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. In the previous follow-up report the authorities 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.

58. The authorities advise that the recommendation for financial institutions to 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 was included in the AMLCFT (Amendment) Bill which was presented in Parliament on April 22, 2013.

59. The recommendation for financial institutions to 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 will be addressed by the BOG issuing relevant instructions to financial institutions.

60. The last recommendation for financial institutions to be required to ensure that branches and subsidiaries in host countries apply the higher standard where minimum AML/CFT obligations of home and host countries differ was included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Given the above, this recommendation remains outstanding.

Recommendations 24

61. The recommendation that casinos be subject to a comprehensive regulatory and supervisory regime that ensures effective implementation of AML/CFT measures has been initially addressed by the appointment on December 20, 2012 of the Gaming Authority as the

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supervisory authority for supervising compliance of casinos with AML/CFT laws and regulations. Information on the implementation of a comprehensive regulatory and supervisory regime by the Gaming Authority should be submitted in future follow-up reports. As such, this recommendation has been partially met.

62. 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 this was addressed by amending the Gambling Prevention Act in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013..

63. The recommended action for the appointment of a designated supervisory authority to oversee the compliance of DNFBBPs 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 DNFBBPs, the authorities have advised that this was included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. As such two of the examiners' recommendations have been partially met and the other two are outstanding.

Recommendation 25

64. The authorities advise that the first recommendation requiring that the AMLCFTA be amended to require either competent authorities or the FIU to provide financial institutions and DNFBBPs 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 was included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013.

65. 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 presently being reviewed before a final draft is ready to be sent to the relevant stakeholders for their feedback/comments before publication. Given the above, this Recommendation remains outstanding.

Recommendations 27

66. 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 was not addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. The authorities advised that a decision was taken for this recommendation to be reviewed at a policy level as it would require an important policy shift in criminal procedure and the laws of evidence. This recommendation remains outstanding.

Recommendation 28

67. 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 was reviewed by the legislative draftsman who has advised that this recommendation requires a policy decision. The authorities advised that a decision was

taken for this recommendations to be reviewed at a policy level as it would require an important policy shift in criminal procedure and the laws of evidence. This Recommendation remains outstanding.

Recommendation 29

68. With regard to 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 the authorities advise that this recommendation was included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013.

69. 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 with the appointment of the CCDO on December 20, 2012 as a supervisory authority to check compliance of co-operatives with AML/CFT obligations, that the CCDO will be able to apply the sanctions that are available under section 23 of the AMLCFTA to designated supervisory authorities. While this meets the requirements of the recommendation it should be noted that one of the deficiencies indicated under Recommendation 17 is that sanctions of the designated supervisory authorities under the AMLCFTA are not dissuasive, proportionate or effective or applicable to directors and senior management of reporting entities. The authorities have advised that this recommendation was included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013 as indicated under Rec. 17 of this report. Given the above, one of the recommendations remains outstanding.

Recommendation 30

70. 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. At present, the FIU has advised that there is no need for additional staff as formerly stated since the newly appointed supervisory authorities for DNFBPs are not part of the FIU.

71. 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 advised in the last follow-up report that funds had been made available through the CBSI to provide training and equipment for the GPF and CANU. A work plan and draft Terms of Reference had been prepared. The Terms of Reference was signed on October 25, 2012 and is due to expire on September 30, 2013. In January 2013 discussions were held between the FIU and the representatives from the US Department of Treasury's Office of Technical Assistance to formalize the work plan. One of the main objectives of the work plan is training for the staff of GRA, CANU, GPF, DPP, FIU and the Judiciary/Magistracy. Training is due to commence by March 31, 2013.

72. 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 (OPR) 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.

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73. As a result of the MER recommendation, the OPR was decentralized from September 2012 with one Head Office with ten (10) officers to include units in other divisions in the GPF with a staff of seventeen (17) bringing the overall staff to twenty-seven (27). A reform program involving integrity testing training and other related training in professional standards is to be undertaken during 2013. Additionally, as part of a capacity building exercise, GPF Standing Orders have been disseminated and lectures on interview techniques, statement taking, report writing, evidence and procedure, judges rule and adhering to the general powers of arrest have been conducted for officers of the GPF. The above measures should help to promote the level of professionalism of the GPF. Statistics about the numbers of officers who have been charged and dismissed for the last three years would help in assessing whether the problem of integrity in the GPF is being dealt with in an effective manner. 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.

74. 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. At present, the GRA is awaiting approval of the Government for the establishment of another outpost at Morawhanna.

75. In relation to the recommendation for relevant staff of the GRA to be provided with AML/CFT training, it was noted in the previous report that follow-up training on currency reporting was provided to customs officers of the GRA in October 2012. No additional information as being submitted for this report. As a result of the above, three (3) of the recommendations have been met and the others remain outstanding.

Recommendation 31

76. 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 and terrorist financing. As noted in the previous follow-up report it was not possible to assess the effectiveness of this measure since information about the functioning and accomplishments of this Committee had not been submitted. The situation remains unchanged for this report.

77. 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 indicated in the last follow-up report. As such, only one of the recommendations has been partially met.

Recommendation 32

78. 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

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involved or resultant cash seizures. The following tables gives a monthly breakdown of foreign
currency declarations received by the GRA during 2012 and for first three months of 2013;

Table 4: Monthly Foreign Currency Declarations for 2012 – GRA

Months	Year 2012
	No of Declaration Forms
January	101
February	76
March	78
April	99
May	96
June	88
July	81
August	67
September	88
October	94
November	83
December	52
TOTAL	1003

Table 5: Monthly Foreign Currency Declarations for first quarter of 2013 – GRA

Months	Year 2013
	No of Declaration Forms
January	75
February	68
March	76
TOTAL	219

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79. No false declarations or cash seizures have been reported for the period.

80. 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 submitted information in the last follow-up report for the period January to August 2012. The same information has been submitted for this report for 2012 since no requests were made or received after the last report.

Table 6: Request for Information made to FIU for 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 7: Request for Information made by FIU – Guyana for 2012

	DATE OF REQUEST	AGENCY REQUESTING	NATURE OF REQUEST	INFORMATION REQUESTED
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		INFORMATION		
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, 2012	FID - Jamaica	Investigation purpose	Information regarding subject

81. Additionally, no requests for assistance were made or received by supervisory authorities nor were there any spontaneous referrals for 2012.

82. 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. In 2011, six mutual legal assistance requests were received while seven were sent. During 2012, two mutual legal assistance requests were received while eight were sent. Information as to the nature of the request, whether it was granted or refused and the time required to respond should be included with the above.

83. 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. In the last report it was indicated that the Government was appealing a decision of the High Court to stop the last extradition request. No information has been submitted for this report with regard to the status of the last extradition report referred to above or as to whether there has been any further extradition requests. As such, this recommendation remains outstanding.

84. 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. There has been improved compliance with one of the examiners' recommendations above. The authorities should note that recommendations relating to statistics require information to be submitted for each follow-up report to demonstrate continuing implementation. Given the above, the level of compliance with the Recommendation has improved since the last Follow-Up Report.

Recommendations 33 and 34

85. The recommendations were included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Consequently, these Recommendations remain outstanding.

Recommendations 37

86. The recommendations were addressed by amending MACMA accordingly in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Given the above, this Recommendation remains outstanding.

Recommendation 38

87. As noted in the previous follow-up report three of the examiners' recommendations had been met with two still outstanding. At present, the recommendation for guidelines or procedures in regard to timelines to facilitate an expeditious response to mutual legal assistance to be developed and implemented is to be addressed by the Ministry of Home Affairs which will seek to develop and implement guidelines in respect of timelines to facilitate an expeditious response to mutual legal assistance.

88. 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 advised in the previous follow-up report that there is no hindrance under MACMA to coordinating such actions with other countries/jurisdictions. The authorities have submitted for this report a document entitled "Procedure for coordinating seizure and confiscation actions with other jurisdiction in relation to ML/TF matters "under a general heading "Ministry of Home Affairs". The document as submitted consists of three lines of text. There is no detail as to the specific steps in the process, or the actions to be undertaken at each step. Additionally, there is nothing on the document i.e. an official logo to suggest that it is an authentic document from the Ministry of Home Affairs. As such, the document is unacceptable. Given the above both recommendations remain outstanding.

Recommendation 39

89. 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. The authorities submitted statistics in the previous report regarding extradition for the period 2005 to June 2012. While these statistics demonstrated implementation of the arrangements under the Fugitive Offenders Act, there was no indication as to the time taken to respond to the initial request or the various stages of the process. As such, there is no way to assess whether the requests were handled without undue delay. Consequently, this recommendation remains outstanding.

Special Recommendations VI

90. 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. In the previous follow-up report The Central Bank of Guyana advised that a system for monitoring money transfer agencies/agents was implemented since 2011 and that all money transfer agencies and a few agents had been inspected. From December 2010 to March 2012, the BOG inspected 6 money transfer agencies and 8 money transfer agents. The BOG has advised that 5 money transfer agencies and 2 money transfer agents were inspected for the year 2012. No AML/CFT breaches were detected except for one agency which began to comply as instructed before the completion of the examination. The above demonstrates continuing compliance with

the examiners' recommendation. The authorities should seek to ensure ongoing implementation for future Follow-Up Reports.

91. 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.

92. 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 authorities have advised that the recommendation was included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Given the above, only one recommendation remains outstanding.

Special Recommendation VII

93. The authorities have advised that five of the examiners' recommendations including that originator information be defined in the AMLCFTA in accordance with SR VII, that subsections 20(3) and 20(4) of the AMLCFTA be amended in accordance with the exemptions in SR VII, that record-keeping requirements and effective risk-based procedures for wire transfers be imposed on financial institutions and that sanctions for breaches of wire transfer provisions in section 20 of the AMLCFTA be dissuasive and proportionate and applicable to directors and senior management of reporting entities were included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013.

94. With regard to the recommendation for measures to be put in place to effectively monitor compliance with the requirements of SR VII, as already noted the BOG was appointed the designated supervisory on December 20, 2013 for money transfer agencies. As indicated an inspection regime has been established by the BOG for these entities and its other licensees including the commercial banks. This regime includes checking for compliance with the obligations of the AMLCFTA which include provisions dealing with the requirements of SR VII. As such, the above demonstrates that the BOG has put in place measures to effectively monitor compliance with the requirements of SR VII. There is need to submit information with regard to the measures taken by other supervisory authorities to monitor compliance with the requirements of SR VII. Consequently, this recommendation has been partially met. Given the above, five recommendations remain outstanding while one has been partially met.

Special Recommendation VIII

95. With regard to the recommendations concerning NPOs, the authorities have advised that on December 20, 2012, the Registrar of Friendly Societies was appointed the supervisory authority for all charities registered under section 11 of the Friendly Societies Act. Registered charities include all friendly societies/NPOs, benevolent societies, working men's clubs and other authorized societies. The authorities advise that with the appointment of the supervisory authority all of the recommendations in relation to NPOs will be dealt with accordingly.

Special Recommendation IX

96. The recommendation for the extension of the implementation of the cross-border declaration system to include bearer negotiable instruments was included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013.

97. 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,

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proportionate and effective, the authorities advise that this recommendation was included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. As such, the recommendation remains outstanding.

98. 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 was also included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Consequently, this Recommendation remains outstanding.

III. Conclusion

99. 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. 4, 23, 26, 12, 16, 24, 29, and SR VII. While the authorities in Guyana have commenced to comply with some of the recommendations in the MER, these measures are still minimal, the most prominent for the reporting period being the appointment of designated supervisory authorities DNFBPs. Most proposed measures include legislative amendments in particular amendments to the AMLCFTA, and issuance of guidelines.

100. It is noted that Guyana presented in Parliament on April 22, 2013, the AMLCFT (Amendment) Bill 2013 which seeks to address the legislative amendments required in the examiners' recommended actions in the core and key Recommendations 1, 3, 4, 5, 13, 23, 36, 40, SR. I, SR. II, SR. III and SR. IV and the remaining Recommendations 6, 7, 8, 9, 11, 14, 15, 16, 17, 18, 21, 22, 24, 25, 27, 29, 33, 34, and 37. The enactment of the AMLCFT (Amendment) Bill 2013 should substantially enhance the level of compliance of a majority of the outstanding Recommendations, particularly the core and key Recommendations.

101. 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 however, 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.

102. With regard to the decision of the November 2012 Plenary concerning full compliance with all outstanding core and key recommendations by all jurisdictions in the ICRG process, Guyana still has outstanding recommendations in fifteen (15) core and key Recs. 1, 5, 13, SR. II, SR. IV, 3, 4, 23, 26, 35, 36, and 40, SR.1, SR. II, and SR. V. Given that Guyana already had a High Level Mission in March 2013, the next step the Plenary can consider as a result of Guyana's failure to comply with the decision taken by Plenary in November 2012 is in the context of the application of recommendation 21 Members issue a formal CFATF statement to the effect that the Member jurisdiction is insufficiently in compliance with the FATF Recommendations, and recommend appropriate action and consider whether additional counter-measures are required. Given the above, it is also recommended that Guyana remains in enhanced 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. A private sector legal consultant has been contracted to draft the required legislative amendments in tandem with the Legislative draftspersons from the Attorney General’s Chambers. The Terms of Reference contains 3 deliverables as follows: The First Draft of amendments – January 31, 2013; Amended Draft for Cabinet’s approval – February 15, 2013; and Amendment Bill for Parliament – April 30, 2013. The AMLCFT (Amendment) Bill 2013 was presented in Parliament on April 22, 2013. 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</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 	<p><i>way knowingly concerned in carrying, removing, depositing, concealing, or in any manner dealing with any goods with intent to defraud the revenue of any duties thereon, or to evade any prohibition or restriction of or applicable to such goods; or is in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any import or export duties of customs, or of the laws, and restrictions of the customs relating to the importation, unloading, warehousing, delivery, removal, loading and exportation of goods, shall be liable for each such offence to a fine of treble the value of the goods or ten thousand dollars at the election of the Comptroller; and to imprisonment for one year and all goods in respect of which any such offence shall be committed shall be forfeited.”</i></p> <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> <p><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></p> <p><i>(b) any offence listed in Second Schedule ; or</i></p> <p><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”. (This recommendation was met – see paragraph 9 Guyana 1st Follow up Report).</i></p> <p>iii. FIU has been sensitizing the relevant Government entities on the legislation and its applicability through ongoing training/discussions and follow up meetings. <i>(This recommendation was met – see paragraphs 5 and 6 Guyana 3rd Follow up</i></p>
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			applicability	<i>Report).</i>
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 	<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 	i. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013.

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		<p>crime including income, profits or other benefits from proceeds of crime or property held by third persons.</p> <ul style="list-style-type: none"> • 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 	<p>benefits from proceeds of crime and property held by third persons and assets of every kind, whether tangible or intangible.</p> <ul style="list-style-type: none"> • The competent authorities should provide resources to ensure the requisite agencies are trained under the recent legislation in order to enable effective implementation. 	<p>Comment as per recommendation 1 above regarding amendments applies.</p> <p>ii. AML/CFT Training/Workshop was facilitated by the US Department of Treasury from 10-13 December, 2012 for staff of the Bank Supervision, International, and Insurance Departments. Also on January 18 and 20, 2013 AML/CFT training was conducted by the FIU for the Compliance Officers of the Cambios and Money Transfer Agencies respectively. (See workshop/training information attached and marked Appendix A)</p>
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. 	<p>i. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</p> <p>ii. The CCDO was on December 20, 2012 appointed as the AML/CFT supervisory authority for co-operative societies registered under the CSA. By virtue of this appointment the CCDO now has the power under s.22(2) (c & d) of the AMLCFT Act to share information as recommended with local and international competent authority.</p>

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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 	<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 	<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>” (This recommendation was met – see paragraph 10 Guyana 1st Follow up Report). 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>” (This recommendation was met – see paragraph 12 Guyana 1st Follow up Report). iii. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies. iv. Regulation 4(5)(a) &(c) of the Regulations made
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		<p>status of specific legal arrangements such as 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>legal status of specific legal arrangements such as 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>under AMLCFTA already makes provision for the verification of legal status of specific arrangements such as trusts. It provides that <i>“A reporting entity shall ensure that it knows the true identity of its customers...For customers who are legal persons or legal arrangements, the reporting entity shall obtain and verify –</i></p> <ul style="list-style-type: none"> <i>(a) the customer’s name and legal form, including obtaining proof of incorporation or similar evidence of establishment or existence such as a certificate of incorporation or a trust instrument.”</i> <i>(b) ...</i> <i>(c) the legal provisions that set out the power to bind the customer such as the memorandum and articles of association or trust instrument...” (This recommendation was met – see paragraph 15 Guyana 1st Follow up Report).</i> <p>v. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</p> <p>vi. Same action as above.</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 transactions.’ Further, Regulation 4(2)(b) of the Regulation made under the AMLCTFA defines a customer thus <i>“Customers shall include persons,</i></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. 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 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. 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><i>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> (This recommendation will be fully satisfied once the term “beneficial ownership” is defined in the AMLCFT Act. This will be done as stated at Rec 5(v) above).</p> <p>viii. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</p> <p>ix. Same action as above.</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. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</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 ongoing. Reporting entities are reminded of the legal requirements concerning PEPs at every meeting/training. (Please refer to training information in Appendix A)</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. 	<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. 	<p>i. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above</p>

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		<ul style="list-style-type: none"> 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 have to ascertain for themselves that the AML/CFT controls of a respondent institution are adequate and effective. 	<p>regarding amendments applies.</p> <p>ii. Same action 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 specific risks associated with non-face to face business relationships or transactions. 	<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 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. 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. 	<p>i. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</p> <p>ii. Same action as above.</p> <p>iii. Same action as above.</p>
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 was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</p> <p>ii. As indicated in previous updates, this recommendation will be addressed by the issuance of Guideline. The Draft Guidelines were reviewed by BOG and comments/feedback was sent to the Consultant from the US Department of Treasury. The BOG is awaiting a response from the Consultant after which a final draft will be prepared. In keeping with the consultative approach the final draft will be sent to the relevant stakeholders for their comments/feedback before publication.</p>

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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	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. 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. 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> ” (This recommendation was met – see paragraph 21 Guyana 1 st Follow up Report).
11. Unusual transactions	LC	<ul style="list-style-type: none"> • Findings on complex, unusual, large transactions or unusual patterns of transactions with no apparent or visible economic or lawful purpose are available only to the FIU and not all competent authorities and auditors. • No requirement that findings on background and purpose of transactions should be kept available for at least five years. 	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. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.
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.	Supervisory Authorities were appointed for the following DNFbps on December 20, 2012. <ul style="list-style-type: none"> - Casinos - Dealers in precious and semi precious stones - Dealers in gold bullion - Trust or company service providers. Supervisory Authorities were also appointed on the same date for the following <ul style="list-style-type: none"> - Registered Charities - Cooperatives - Financial Leasing - Money Transfer Agencies - Insurance Companies (See copy of appointment letter attached and

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				marked Appendix B).
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • Requirement to make a STR does not apply to funds from the designated predicate offence of illicit trafficking in stolen or other goods and smuggling. • Reporting requirement for terrorist financing does not include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organisations • No provision specifying that the requirement to report suspicious transactions should apply regardless of whether they are thought, among other things, to involve tax matters. • 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. 	<p style="text-align: center;">marked Appendix B).</p> <ul style="list-style-type: none"> i. Already dealt with at No. 1(ii) above- offences are criminalized as serious offences in Guyana. (This recommendation was met – see paragraph 9 Guyana 1st Follow up Report). ii. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies. iii. Same action as above
14. Protection & no tipping-off	LC	<ul 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. 	<ul 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. 	<ul style="list-style-type: none"> i. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> • No requirement for individuals who carry on business solely or with a staff and management of less than five persons to comply with the requirements of Rec. 15. • Access to information is restricted to the reporting function and only to compliance officers appointed at management level rather than to all appropriate staff engaged in the compliance function. • No requirement for the audit function of financial institutions to be adequately resourced and independent and compliance testing of procedures, policies and controls to include sample testing. 	<ul style="list-style-type: none"> • The requirements of Rec. 15 should be applicable to individuals who carry on business solely or with a staff and management of less than five persons. • The AMLCFTA should provide that the compliance officer and appropriate staff have timely access to customer identification data and other CDD information, transaction records and other relevant information necessary to carry out all their functions. • Financial institutions should be required to ensure that their audit function is adequately resourced and independent and compliance testing of procedures, policies and controls include sample testing. 	<ul style="list-style-type: none"> i. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies. ii. Same action as above. iii. Same action as above.

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		<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. 	<ul style="list-style-type: none"> The training obligation of financial institutions should be ongoing and include new developments, including information on current ML and FT techniques, methods and trends; clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD. The competent authorities should ensure that all financial institutions update their current policies and that the updated versions are based on the AMLCFTA. 	<p>iv. Same comment at Rec. 3(ii) above.</p> <p>v. As indicated in previous updates, this recommendation will be addressed by the issuance of Guideline. The Draft Guideline was reviewed by BOG and comments/feedback was sent to the Consultant from the US Department of Treasury. The BOG is awaiting a response from the Consultant after which a final draft will be prepared. In keeping with the consultative approach the final draft will be sent to the relevant stakeholders for their comments/feedback before publication.</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. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</p> <p>ii. Same action as above.</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. In order to remove any ambiguity with regard to the possible establishment of shell banks in Guyana 	<p>i. This recommendation was reviewed – We are of the opinion that s.15(7)(c) of the AMLCFT Act satisfies this recommendation. It states “<i>Banks or financial institutions shall not maintain any business relationship with other banks that do not maintain a physical presence under the laws of which they were established, unless they are part of a financial group subject to effective consolidated supervision.</i>”</p> <p>ii. We are of the opinion that this recommendation is addressed in the provisions of the Companies Act</p>

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			provision allowing for the registration of shell banks in the Company Act should be repealed.	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’). We observed that no mention of the above submission was made in Guyana’s 2nd or 3rd Follow-up Reports.
19. Other forms of reporting	NC	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.	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.	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: <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> <i>(a) where the reporting entity is a money transfer agency, any money transfer over two hundred thousand dollars;</i> <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> <i>(c) any cash transaction over two million dollars. (This recommendation was met – see paragraph 57 Guyana 1st Follow up Report).</i>
21. Special attention for higher risk countries	NC	• There are no measures in place to ensure that financial institutions are notified about AML/CFT weaknesses in other countries.	• Effective measures should be established to ensure that financial institutions are advised of concerns about AML/CFT weaknesses in other countries.	i. Circulars based on the public statement issued on June 22, 2012 and October 19, 2012 by FATF were issued to reporting entities on August 20, 2012 and

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		<ul style="list-style-type: none"> • 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"> • 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. 	<p>November 5, 2012 respectively. The FIU will continue to advise reporting entities of concerns about AML/CFT weaknesses in other countries. (See Circulars attached and marked Appendix C)</p> <ul style="list-style-type: none"> ii. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies. ii. Same action as above.
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> • Supervisory authorities have not imposed the requirements for foreign branches and subsidiaries of section 22(2) of the AMLCFTA on their respective reporting entities. • No requirement for financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures 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 countries apply the higher standard where 	<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 higher standard where minimum AML/CFT 	<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 proof of enforcement of obligations by BOG attached and marked Appendix D) ii. The Draft Guidelines were reviewed by BOG and comments/feedback was sent to the Consultant from the US Department of Treasury. The BOG is awaiting a response from the Consultant after which a final draft will be prepared. In keeping with the consultative approach the final draft will be sent to the relevant stakeholders for their comments/feedback before publication. iii. The relevant instructions to be issued to Financial Institutions by the Bank of Guyana. iv. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above

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		minimum AML/CFT obligations of home and host countries differ.	obligations of home and host countries differ.	regarding amendments applies.
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. • Neither the COI, the GSC or the DCFS have implemented AML/CFT supervision for their relevant financial institutions 	<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. • The COI, the GSC and the DCFS should implement AML/CFT supervision for their relevant financial institutions 	<ul style="list-style-type: none"> i. A supervisory authority for Co-operatives was appointed on December 20, 2012. ii. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies. iii. Same action as above. iv. Same action as above. v. The FIU is currently working with the appointed supervisory authorities to ensure that they understand their role and obligations under the AMLCFT Act and that they enforce and implement AML/CFT supervision accordingly.
24. DNFBP – regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • Casinos are not subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF Recommendations. • The provision for the Gaming Authority to assess the integrity of an applicant is discretionary, limited to licensing, does not include beneficial owners, and does not specify fit and proper criteria. 	<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. 	<ul style="list-style-type: none"> i. The Gaming Authority was appointed supervisory authority for Casinos on December 20, 2012. With this appointment Casinos will be monitored to ensure that they are effectively implementing the AML/CFT measures required under the AMLCFT Act and by extension the FATF Recommendations. ii. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.

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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 was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</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. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</p> <p>ii. As indicated in previous updates, this recommendation will be addressed by the issuance of Guidelines. The Draft Guidelines were reviewed by BOG and comments/feedback was sent to the Consultant from the US Department of Treasury. The BOG is awaiting a response from the Consultant after which a final draft will be prepared. In keeping with the consultative approach the final draft will be sent to the relevant stakeholders for their comments/feedback before publication.</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 of the FIU. 	<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. Guidelines on Suspicious Transaction Reporting were issued to financial institutions and other reporting entities in January 2013. (See copy attached and marked Appendix E).</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 implemented to reduce the vulnerability of the database. <u>Internet Security</u></p>

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		<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>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. (<i>This recommendation was met – see paragraph 34 Guyana 2nd Follow up Report</i>).</p> <p>iii. The FIU has commenced releasing public reports and allowing for the issuing of periodic reports which include statistics, typologies and trends. Statistics on STRs, foreign currency reports and threshold reports were published on FIU's website on January 31, 2013. (See copy of statistics attached and marked Appendix F)</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 addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.
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. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.
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 	<p>i. This recommendation was reviewed - The GSC being a AML/CFT supervisory authority has such powers under s.22(2) of the AMLCFT Act.</p> <p>ii. On December 20, 2012 the CCDO was appointed the AML/CFT supervisory authority for Co-operatives. The sanctioning powers available to supervisory authorities under s. 23 of the AMLCFT Act are therefore available to the CCDO.</p>
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 be used to strengthen counternarcotics control capabilities in Guyana.

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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. 	<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. 	<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. The TOR was signed on October 25, 2012 and will expire on September 30, 2013. On January 23, 2013, two representatives from the US Department of Treasury Office of Technical Assistance met with the FIU to further discuss and formalize the work plan. One of the objectives of the work plan is training for the relevant staff of GRA, CANU, GPF, DPP, FIU, and the Judiciary/Magistracy. Training will commence by Marcy 31, 2013.</p> <ul style="list-style-type: none"> ii. Staff of the DPP will benefit from training provided to GPF and CANU under the project at Rec. 30 (i) above. iii. Staff of the GPF and CANU will benefit under 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 still being reviewed by GSC and DCFS for implementation. vi. The staff of GSC, DCF and the BOG will benefit from AMLCFT training which will be conducted under the CBSI project mentioned at Rec. 30(i) above.
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		<ul style="list-style-type: none"> • Insufficient AML/CFT training of staff of BOG. • The FIU is inadequately staffed. 	<ul style="list-style-type: none"> • The FIU should urgently implement its plans for new personnel and facilities. • The authorities should 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>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 of supervisory authorities for DNFbps. <i>(This recommendation was met – see paragraph 34 Guyana 2nd Follow up Report).</i></p> <p>viii. Customs outposts were established at Mabura and Kurupukari are operational. GRA is awaiting the approval of the Government for the establishment of another outpost at Morawhanna. (See copy of letter to this effect attached and marked Appendix G).</p> <p>ix. This is ongoing – for 2012 training was conducted for Customs Officers stationed at the Cheddi Jagan International Airport on October 9, 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 Appendix H for statistics for 2012)</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 Criminal Matters Act No. 38 of 2009, the Ministry of Home Affairs is responsible for and does maintain records on mutual legal assistance</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>requests and other related international requests for cooperation. (See Appendix I for statistics on MLA for 2012)</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’ (This recommendation was met – see paragraph 86 Guyana 3rd Follow up Report).</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’) (Refer to appendix F for statistics for 2012) (This recommendation was met – see paragraph 82 Guyana 3rd Follow up Report).</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. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</p> <p>ii. Same action as above.</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 	<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 addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</p> <p>ii. Same action as above.</p>

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		it is not clear how reliable their information on 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. Further amendments to be considered. A decision was taken for this recommendation to be reviewed at a policy level as it would require significant legal amendments to major laws in the country.
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. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</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> <p>The Ministry of Home Affairs has developed clear and</p>

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				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. (See MLA process outlined in appendix J)
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. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies. ii. Same action as above. iii. Same action as above.
38. MLA on confiscation and freezing	NC	<ul style="list-style-type: none"> No guidelines or procedures in regard to timelines to facilitate an expeditious response to MLA. No provisions dealing with requests relating to property of corresponding value. No arrangements regarding co-ordinating seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters. Unable to assess effectiveness due to lack of 	<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 	<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. This recommendation was met – paragraph 94 – Guyana 3rd Follow up Report. 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. (See procedures for coordinating seizure and confiscation in Appendix K)

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		<p>statistics and the recent enactment of the AMLCFTA.</p>	<p>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.</p> <ul style="list-style-type: none"> • 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. 	<p>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. These recommendations (iv and v) were met – paragraph 96 – Guyana 3rd Follow up Report.</p>
39. Extradition	PC	<p>i. Unable to assess effectiveness due to the lack of statistics on extradition.</p>	<p>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.</p>	<p>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 Affairs, Director of Public Prosecutions and the Guyana Police Force in order to ensure timely response and action. (Please refer to Rec 32 (iii) above which was met according to paragraph 86 of Guyana 3rd Follow up Report.)</p>
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. 	<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. MOU for the exchange of information was drafted and forwarded to the Attorney General's office for review and finalization. Expected finalization date is March, 2013. The FIU is in regular contact with local and international intelligence and law enforcement agencies on matters of mutual interest. As such for spontaneous exchange of information contact can be made directly with the Director, FIU or the Commissioner of Police through INTERPOL, or the Head of Customs Anti-Narcotics (CANU) for urgent requests for exchange of information.</p> <p>ii. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</p>

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		<ul style="list-style-type: none"> 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. 		
Nine Special Recommendations		Summary of factors underlying rating		
SR.I Implement UN instruments	PC	<p>i. The Guyana Authorities have not implemented S/RES/1267(1999) and S/RES/1373(2001)</p>	<ul style="list-style-type: none"> The AMLCFT legislation should be amended to provide compliance with S/RES/1267(1999) and S/RES/1373(2001) for freezing funds of designated persons/organisations, and also develop and implement procedures for delisting requests and unfreezing of funds. The competent authorities should provide or issue guidance to financial institutions with respect to obligations to freeze assets of persons listed by the UNSCR 1267 Committee and the EU. There should be training for the relevant entities so that they are aware of their obligations under the legislation and in order for the legislation to be implemented effectively. 	<p>i. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</p> <p>ii. This recommendation was partially addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding the amendments applies. After the amendments are enacted the recommended guidelines will be issued.</p> <p>iii. Reporting entities are benefitting from ongoing training under the Anti-Money Laundering & Countering the Financing of Terrorism Act and Regulations. (Please refer to training information in Appendix A)</p>
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 	<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 	<p>i. This was already addressed at Rec. 3 above.</p> <p>ii. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</p> <p>iii. We believe that s. 7 of the AMLCFTA adequately provides for this recommendation. It states <i>“Notwithstanding anything to the contrary</i></p>

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		<p>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.</p> <ul style="list-style-type: none"> The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation. 	<p>same country or a different one from where the terrorist(s)/terrorist organisation is located or the terrorist act(s) occurred/will occur.</p> <ul style="list-style-type: none"> 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. 	<p><i>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.” (This recommendation was met – see paragraph 29 Guyana 1st Follow up Report).</i></p>
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 FT's or the regulated sector in respect of obligations to comply with or implement measures concerning the freezing mechanisms required under S/RES/1267(1999) and S/RES/1373(2001). The AMLCFTA as it relates to freezing, seizing and forfeiture of funds of terrorists or terrorists' organisations has not been implemented. 	<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). 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. 	<ol style="list-style-type: none"> This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies. Same action as above. The undertaken action at SRI(ii) above applies to this recommendation as well. The undertaken action at SRI(iii) above applies to this recommendation as well.
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. 	<ol style="list-style-type: none"> This recommendation is already addressed at Rec. 13 (ii) above. This recommendation is already addressed at Rec. 13 (iii) above.

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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. 	i. Recommended actions noted with regard to Recs. 36, 37, 38, 39 and 40 should apply to terrorist financing.	i. The recommended action is still being considered by the relevant authority. Further report is expected by December 31, 2012.
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. • 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"> • 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. • 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>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). (This recommendation was met – see paragraph 99 Guyana 3rd Follow up Report). (See examination reports from BOG attached and marked Appendix L)</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 agents to the BOG when applying for renewal of their licences. (This recommendation was met – see paragraph 81 Guyana 2nd Follow up Report).</p> <p>iii. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</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 	<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. 	<p>i. This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies.</p> <p>ii. Same action as above.</p>

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		<p>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.</p> <ul style="list-style-type: none"> • 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"> • 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 and proportionate and applicable to directors and senior management of reporting entities. 	<ul style="list-style-type: none"> iii. Same action as above. iv. Same action as above. v. The recommended measures are in place by the BOG –(Please refer to Appendix D) vi. Same action as above.
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 	<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. 	<ul style="list-style-type: none"> i. On December 20, 2012, the Registrar of the Friendly Society was appointed AML/CFT supervisory authority for Registered Charities. Registered Charities include all friendly societies/NPOs, benevolent societies, working men’s clubs and specially authorised societies and registered under the Friendly Societies Act Cap. 36:04. Sections 22 and 23 of the AMLCFT Act set out the role and authority of the supervisory authorities. ii. Further, the AMLCFT Act and Regulations sets out the requirements and obligations of <u>all</u> reporting entities. NPOs as reporting entities that are now being supervised in accordance with the Act and Regulations will be required to act in compliance therewith. iii. Given the above all the recommendations in

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		<p>transactions and make them available to appropriate authorities.</p> <ul style="list-style-type: none"> 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"> 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>relation to NPOs will be addressed accordingly.</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. 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"> 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. Guyana should enhance its ability to freeze the assets of persons designated pursuant to S/RES/1267/(1999) and S/RES/1373(2001) as recommended in section 2.4 of this report, to ensure that it can do so effectively in the cross-border context. 	<ul style="list-style-type: none"> This recommendation was addressed in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Comment as per recommendation 1 above regarding amendments applies. This recommendation was referred to a private legal consultant for a legal opinion. The private legal consultant is of the opinion that since the AMLCFT Act and the Foreign Exchange Miscellaneous Provisions Act both refer to 'traveller' and that a legal person cannot be considered as a 'traveller', it is difficult to fathom how the anticipated circumstance will arise. This recommendation will also be addressed under the US Department of Treasury technical assistance package stated at Rec. 30(i) above.