

FINAL



Third Follow-Up Report

Anguilla

October 12, 2012

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ANGUILLA: THIRD FOLLOW-UP REPORT

I. Introduction

1. This report represents an analysis of Anguilla's report back to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The third round Mutual Evaluation Report of Anguilla was adopted by the CFATF Council of Ministers in July 2010, using the Round Robin process. Based on the review of actions taken by Anguilla since its Mutual Evaluation to meet the outstanding recommendations made by the Examiners, a recommendation was made in the First Follow-Up Report that Anguilla would remain in expedited follow-up and report back to Plenary in November 2011, at which time a determination would be made as to whether Anguilla would remain on expedited follow-up or be placed on regular follow-up.
2. Anguilla received ratings of PC on five (5) of the sixteen (16) Core and Key Recommendations as follows:

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

3. With regard to the other non- Core or Key Recommendations, Anguilla was rated partially compliant or non-compliant, as indicated below.

| Partially Compliant (PC) | Non-Compliant (NC) |
|--|--|
| R. 9 (Third parties and Introducers) | R. 20 (Other NFBP & secure transaction techniques) |
| R. 12 (DNFBPs – R. ,6,8-11) | SR. VIII (Non profit organisations) |
| R. 14 Protection & no Tipping-off | |
| R. 16 (DNFBP-R. 13-15 &21) | |
| R. 17 (Sanctions) | |
| R. 21 (Special attention for higher risk countries) | |
| R. 24 (DNFBP-regulation, supervision and monitoring) | |
| R. 25 (Guidelines and feedback) | |
| R. 29 (Supervisors) | |
| R. 30 (Resources) | |
| R. 32 (Statistics) | |
| SR. VI (AML requirements for MVTs) | |
| SR. VII (Wire transfer rules) | |
| SR. IX (Cross border declaration & disclosure) | |

4. The following table is intended to assist in providing an insight into the level of risk in the main financial sectors in Anguilla.

Size and integration of Anguilla's financial sector¹

Figures as of 30 June 2012

| | | Banks | Other Credit Institutions* | Securities | Insurance | TOTAL |
|-------------------------------|----------------------|----------------------|----------------------------|-------------|-------------|-------------------|
| Number of institutions | Total # | 7 | 3 | 1 | 306 | 317 |
| Assets | US\$ | 1,172M | 15 M | N/A | N/A | 1,187M |
| Deposits | Total: US\$ | 886M | 0.11M | N/A | N/A | 886.11M |
| | % Non-resident | % of deposits 45% | 0 | N/A | N/A | 45% |
| International Links | % Foreign-owned: | % of assets 8% | % of assets 0 | % of assets | % of assets | % of assets 8% |
| | #Subsidiaries abroad | 0 | 0 | N/A | 3 | 3 |

II. Summary of progress made by Anguilla

Implementation of legislation:

- Since Anguilla's Second Follow-Up Report was presented at the November 2011 Plenary in Venezuela, Anguilla has continued the implementation of AML provisions in the Proceeds of Crime Act (POCA) with two (2) money laundering convictions, which were obtained on October 7th 2011. An additional nine (9) new money laundering investigations have been undertaken. In the area of Orders under the POCA, the Anguilla High Court has issued one (1) new Restraint Order, the FCIU has obtained twelve (12) Production Orders (Section 136 of POCA) and forty-four (44) requests² have been made by the Reporting Authority (Section 118(2)(b) of the POCA) through the FIU for information supplementary to SARs. The Authorities have also noted that in June 2012, the Royal Anguillan Police Force (RAPF) made a cash seizure in connection with the investigation of ML and the predicate offence. There has also been implementation of the FSC Act, in that two (2) requests for information were made under the Act, with one request being fully complied with and the other is currently being processed.

Amended or proposed legislation

- With regard to legislation, the Authorities have noted that a consultant has been engaged to draft further amendments to the FSC Act and these are being finalised. This would impact R. 5, where amendments will allow the FSC powers regarding enforcement action for domestic banks. Additional amendments that will positively impact compliance with

¹ 1. The figure shown for Banks includes two subsidiaries of two indigenous banks. Credit institutions include the Anguilla Mortgage Finance Company (AMFC), the Anguilla Development Board (ADB) and the TECCU Credit Union. AMFC and ADB are not regulated by the Commission. 2. The FSC is in the process of compiling a database to capture the insurance data. 3. Insurance includes 273 captive companies administered thorough insurance managers.

² The additional requests bring the current total requests to ninety-five (95). The Authorities have also noted that there is a 97% compliance rate from the various institutions that have been required to respond to the requests.

R. 5 include the following: Amendments to the AML/CFT Regulations and Code (will deal in part with R. 5, 6, 13, 15, 16) are also being concluded and will then be taken to Executive Council for approval and Gazetting. More specifically, with regard to R. 15, Section 5 of the Code is being amended to include a requirement that service providers maintain an audit function to test compliance with the procedures, policies and controls. Additionally, Section 34 of the Code is being amended to require that access to customer identification data and due diligence information be provided to appropriate staff of the service provider. The Administrative Penalties Regulations, 2012 made under the FSC Act, are being finalised by the legislative drafter so that they can be taken to the Executive Council for approval and gazetting. An amendment will also be made to Section 15 (2) of the AML/CFTR to deal with the issue of numbered accounts. With regard to compliance with R. 12, 13, 16, 17, 23, 24, 29 and SR. VII the Non-Regulated Service Providers Regulations have been amended and re-characterised as the Externally and Non-Regulated Service Providers Regulations. The amendments, as well as amendments to POCA, are expected to incorporate supervision by entities licensed by the ECCB and ECSRC. The Anguillan Authorities have also noted that amendments to the POCA to deal with R.14 have been will be drafted and will soon be finalised.

Training and Public Awareness³

4. With regard to PEPs, an AML/CFT seminar was held on the 13-14 June 2011 during which the FSC, the FIU and the Attorney General's Chambers made presentations to the industry detailing the procedures for enhanced due diligence for PEPs. With regard to the consideration of including domestic PEPs in the AML/CFT framework, the Anguillan Authorities have considered the matter and the necessary amendments to the AML/CFT Regulations have been drafted and approved by the FSC Board. Since the Second FUR, the FIU has made another four (4) presentations to stakeholders, including financial institutions, MSBs, NPOs and the general sector regarding the functions of the FIU, enhanced due diligence, PEPs both foreign and domestic, and emerging ML/FT trends within Anguilla and the world.

Core Recommendations

Recommendation 5

5. With regard to the Examiners' recommendation concerning numbered accounts, it was previously noted that the Anguillan Authorities were considering an amendment to Section 15 of the AML/CFTR. In the previous Report, it was noted that a consultant had been engaged to draft the necessary amendments to the Regulations and Code. At present, the wording has been drafted and is undergoing the approval process. The draft wording prohibits a service provider from setting up or maintaining a numbered account, an anonymous account or an account in a name which is known to be or suspected of being fictitious. The Examiners' recommendation, while closer to fruition, has not been met. With regard to the Examiners' recommendations pertaining to the inclusion of private banking and trusts that operate as personal asset holding vehicles in the Regulations and Code and specific guidance as it relates to the application of reduced or simplified CDD they remain outstanding since the AML/CFT Regulations and Code are still to be amended as noted earlier. With regard to the clarification of the legal

³ These are measures that have been undertaken or considered for Recommendations that were rated 'LC'.

framework for the application of administrative sanctions by the FSC as it relates to domestic banks, as noted in the previous report, that responsibility was given to the FSC following discussions with the bodies of the Eastern Caribbean Currency Union and the ECCB. Currently, the Administrative Penalties Regulations, 2012 and Externally and Non-Regulated Service Providers Regulations, as well as amendments to POCA are being finalised with the legislative drafter to be taken to the Executive Council for signature as noted above. The Examiners' recommendations in this regard remain not met. With regard to the Examiners' recommendation that the Anguillan Authorities consider providing specific guidance with regard to the application of reduced or simplified CDD measures, the Board of the FSC has given consideration to the Examiners' recommendation and determined that no action will be taken at this time. The Board is of the view that Anguilla's regime of full due diligence keeps Anguilla's standards higher than international practice and that this higher standard is justified. The Board has noted that it will reconsider the issue at a future time in the context of the new FATF Recommendations and Standards. The Examiners' recommendation has been met since the recommended consideration of the issue has been given. Based on the aforementioned, three of the four recommendations made by the Examiners remain outstanding.

Recommendation 13 and SR. IV

6. The Examiners' recommendation pertaining to the MLRO's discretion with regard to attempted transactions, as noted in the previous Report, is to be addressed in the amendments to the AMLL/CFT Regulations and Code. At present, those amendments are being finalised. Accordingly, the recommendation remains outstanding. With regard to the recommendation that service providers should be provided with specific guidance as to how to deal with breaches that involve tax matters, the Authorities have noted that they have drafted amendments to the Code which is currently being finalised. Additionally, new draft paragraphs have been added to the Guidance Notes that specifically state that reporting requirements are applicable to predicate offences that are tax offences or that may involve tax matters. Since the issue is still under consideration the Examiners' recommendation has not been met. The clarification of the legal framework for the application of administrative sanctions by the FSC; has been discussed above in R.5 and the general overview. The recommendation remains outstanding. Based on the aforementioned, none of the Examiners' recommendations with regard to Rec. 13 have been met as yet, although there has been some progress.
7. With regard to compliance with SR. IV, the status is the same as noted above for R. 13 as it pertains to attempted transactions. Accordingly, compliance with the Examiners' recommendation remains outstanding.

Key Recommendations

Recommendations 23

8. As previously noted in the Second Follow-Up Report, and as discussed above, the Authorities have drafted additional amendments to the Non-Regulated Service Providers Regulations, (now referred to as the Externally and Non-Regulated Service Providers Regulations) and to POCA which will incorporate the supervision of entities licensed by

the ECCB and the ECSRC. The Authorities have also noted that the Externally Regulated and Non Regulated Service Providers Regulations are under review and are currently being finalised. Accordingly, the Examiners' recommendation remains outstanding. With regard to fit and proper test at the time of licensing for the directors, senior managers and shareholder controllers of MSBs the Authorities have reviewed the applications of the four (4) MSBs. Two (2) have been granted one (1) has been denied and one (1) has been recommended for denial. Accordingly, all MSBs operating in Anguilla have been subjected to the fit and proper test contained at Section 5(4) of the MSB Act. It is important to note that the fit and proper requirements under the MSB Act and the Cooperative Societies Act are subject to the 'fit and proper' guidelines adopted by the FSC pursuant to Section 49 of the FSC Act through their classification as 'financial services enactments' under the Financial Services Enactments Regulations. The Examiners' recommendation has been complied with. With regard to the supervision of financial cooperatives for AML/CFT compliance, the Authorities have engaged in further consultations regarding AML/CFT compliance with the Executive of the cooperative society on July 2, 2012. The Examiners' recommendation in the latter regard remains partially met.

Recommendation 26

9. With regard to the Examiners' recommendation to consider enacting separate legislation for the creation of the FIU in order to alleviate the problem with autonomy, the Authorities considered this option at MLRA meeting on September 27, 2012 and determined that at this time there were insufficient resources available to undertake separate legislation and that the issue may be reconsidered at a latter time. The Examiners' recommendation for this issue has been met. In November 2011, the Executive Council authorised the creation of a Financial Analyst position under the Governor's Office budget, thereby creating a separation of the intelligence and investigative functions. This person is now in place in the FIU. In May 2012, the Government of Anguilla agreed to increase the police budget to pay the salary of an Inspector (Financial Crime). Additionally, on the issue of budget, the Executive Council noted that increased financial resources from the Consolidated Fund will be necessary in order to have an effective Financial Crime Investigation, Financial Intelligence Unit and Financial Analysis Unit. The fire resistant file cabinets that were previously recommended by the MLRA have been purchased and have been put into use. Accordingly, the deficiency noted by the Examiners in that regard has been cured. With regard to office space for the FIU, the Authorities have noted that new office space for the FIU and the FCIU is currently under construction.

Other Recommendations

Recommendations 9 and 14

10. As noted above, the amendments to the AML/CFT Code and Regulations are still being finalized for enactment. Accordingly, there is no change in compliance with the Examiners' recommendation pertaining to E.C. 5.3 to 5.6 (CDD information from Introducers) and the Examiners' recommendation remains outstanding. With regard to the Examiners' recommendation that consideration should be given to requiring that a service provider accept introduced business solely from an introducer or intermediary who itself has face-to-face contact when completing CDD measures, the Anguillan

Authorities have considered this recommendation and determined that no action should be taken. There has been no change to compliance with the recommendations for R. 14 since they await the necessary amendments to POCA. Accordingly, these recommendations regarding R. 14 and one of the recommendations regarding R. 9 remain outstanding.

Recommendations 12

11. As noted in the previous Report, the outstanding recommendations pertaining to Rec. 5 are still outstanding for Rec. 12 and accordingly the Examiners' recommendation has still not been met. With regard to the other recommendations made by the Examiners, supervision of DNFBPs is still outstanding as full implementation of a supervisory regime awaits the passage of the Externally and Non-Regulated Service Providers Regulations. The recommendation pertaining to outreach and training for DNFBPs has been partially met since as aforementioned the relevant Regulations still need to be enacted.

Recommendations 16 and 24

12. As noted previously above for other recommendations made by the Examiners, compliance with R. 16 awaits the finalisation of the amendments to the AML/CFT Code and Regulations. The Externally and Non-Regulated Service Providers Regulations have to be finalised for compliance with the other outstanding recommendation for R. 16 and also for compliance with R. 24 as it pertains to regulation of the DNFBP sector. With regard to R. 24, the Authorities have also noted that the FSC has approved the recruitment of a regulator for the AML/CFT Unit who will specifically assist with the supervision of the NRSPs. The recruitment process has already begun. With regard to training for the DNFBP sector, the FIU has, since the last follow-up report, made four (4) presentations regarding the functions of the FIU, reporting requirements, enhanced due diligence, PEPs (foreign and domestic) and emerging ML trends in Anguilla and the world to stakeholders, including DNFBPs. Compliance with R. 16 is still outstanding and compliance with R. 24 remains partially met

Recommendation 17 and Special Recommendation VII

13. The Examiners' recommendations under Rec. 17 all pertain to the sanctions framework with emphasis on the ECCB's and the ECSRC's powers to sanction for AML/CFT breaches. As noted in the Second follow-up report, the FSC has been assigned responsibility as the regulator for the non-regulated service providers, including those who are externally regulated. The Externally and Non-Regulated Service Providers Regulations have been drafted and are being finalised by the Anguillan Authorities. Accordingly, compliance with R. 17 has not been met. With regard to SR. VII, this same regime (i.e. as for R. 17) will also be applicable for compliance with SR. VII. As noted in the previous report, the issue with regard to payment chains as it pertains to ensuring that full originator information accompanies wire transfers has still not been addressed. Accordingly, the Examiners' recommendations have not been met with regard to R. 17 and SR. VII.

Recommendation 20

14. There has been no change since the last follow-up report and consequently none of the Examiners' recommendations have been met.

Recommendation 21

15. With regard to this Recommendation, the Examiners' recommended that Section 22 of the AML/CFTR be amended to authorise the relevant authorities to require service providers to take appropriate counter-measures against countries that do not apply or insufficiently apply the FATF Recommendations. To date, there have still been no amendments, however they have been drafted and are currently being finalised. The Examiners' recommendation has not been met. With regard to the consideration of a wider range of counter-measures against countries that fail to apply appropriate AML/CFT standards, the Authorities have given consideration to a wider range of counter measures as evidenced in the draft amended legislation and accordingly have met the Examiners' recommendation. However, as noted in the previous Report, the FSC has issued an Advisory in response to the FATF statements with regard to countries with weak AML/CFT systems. See. www.fsc.org.ai/PDF/PRESS%20RELEASEFATF1.2012Lpdf for a copy of the Notice. The Examiners' recommendations with regard to Rec. 21 remain not met.

Recommendation 25

16. The Examiners' recommendation that sector specific guidance on ML and TF be placed in the Guidance Notes is still outstanding. With regard to the recommended review of the FSC Act, the FSC (Amendment) Act, 2012 is still being finalised. The Authorities have also noted that the FIU has published its Annual Report for 2011 as had been done in the two previous years. As with the previous Annual Reports, this Report contains general feedback, including statistics and information on current techniques, methods and trends or typologies. The Annual Report has been disseminated via Egmont Secure Web Portal and to the various sectors in Anguilla.

Recommendation 29

17. With regard to Rec. 29, the Examiners recommended that the Banking Act be amended to provide the ECCB with the power to examine licensees to ascertain their compliance with other statutes especially where AML/CFT is concerned and also to grant the ECCB the power to apply sanctions for AML/CFT breaches. A recommendation was also made that the ECSRC be expressly granted power to supervise its licensees for AML/CFT. As previously noted, based on discussions between the ECCB and the relevant regulatory authorities, the FSC was given the responsibility of supervising domestic banks and their offshore subsidiaries in relation to AML/CFT. In this regard, the AML/CFT Unit of the FSC has conducted a compliance visit to one (1) of Anguilla's four (4) domestic banks. As noted earlier (see paragraph 8 above re. R. 23), with regard to the application of fit and proper testing for the directors etc of MSBs, four (4) MSBs were reviewed for licensing, two (2) were granted licenses one (1) was denied and one (1) was recommended for denial. Accordingly, there has been implementation of the MSB Act and it is expected that the compliance monitoring aspect of the Act will also be implemented. Based on the aforementioned, the Examiners' recommendations with regard to the examination of licensees of the ECCB and ECSRC has been partially met in

that the authority to do so has been given to the FSC and they have started some onsite examinations. The enactment of the relevant amended legislation should result in full compliance with the outstanding recommendations.

Recommendation 30

18. The work of training and increasing resources continues and as expected there is continuous compliance with the Examiners' recommendations in this regard. Specifically, with regard to training during the period October 31 to December 9, 2011, a representative of the UK Crown Prosecution Services was seconded to the Attorney General's Chambers. Workshops were also conducted for prosecutors and law enforcement, including Customs, Immigration and members of the FIU and the Guns and Firearms Taskforce on all aspects of prosecuting ML cases including restraint and confiscation. Customs officers attended training modules on cash seizures and asset forfeiture. In November 2011, a member of the FIU also attended a week long training in the UK which was presented by the National Policing Improvement Agency (NPIA) and included topics such as mutual assistance and international cooperation, drug and illegal migrant trafficking, and organised crime investigation. During the period February 7-9, 2012 a prosecutor from the Attorney General's Chambers and a member of the Criminal Investigation Division (CID) attended a workshop which covered topics that included mutual legal assistance and international cooperation, drug and illegal migrant trafficking and organised crime investigation. In March and April 2012, the FSC conducted two (2) training sessions for personnel engaged in AML/CFT compliance activities. The Authorities have also noted ongoing training of the Judiciary starting with a Training Seminar/Workshop for Magistrates and Prosecutors held from November 1-3rd 2010, St Johns, Antigua. Topics for the Seminar included 'Prosecuting Money Laundering Offences and forfeiture of Proceeds of Crime; An Introduction to Comparisons in Confiscation and Asset Forfeiture.' More recently, a Workshop was held for Magistrates of the Eastern Caribbean and Barbados from April 2 – 3rd 2012, Bridgetown, Barbados. The Workshop included topics such as the proceeds of crime with special focus on the forfeiture and seizure of cash. The training of Judges meets the Examiners' requirement to have the Judiciary trained in financial investigations, civil/criminal forfeiture and ML/FT.
19. With regard to human resources, as noted above, a Financial Analyst has been added to the staff of the FIU. Additionally, the Financial Services Commission Board increased its staffing capacity in March 2012 by the addition of an administrative assistant and in April 2012 by the addition of two (2) regulators. The Board has also approved the recruitment of a regulator to join the AML/CFT Unit to assist with the NRSPs and the recruitment process has begun. The Authorities have also noted that a consultant sponsored by the Commonwealth Secretariat joined the FSC in March 2012 to assist with the oversight of the insurance sector. The FSC has also finalized and implemented an AML/CFT Compliance Examination Manual to guide personnel who are responsible for AML/CFT compliance visits.
20. The recommendations that the office space for the FIU should be increased is being addressed as noted above with the construction of a building to house the FIU. With regard to the recommendation for fire proof filing cabinets, these have been purchased and are in use and so this recommendation has been fully complied with. Based on the aforementioned, all of the Examiners' recommendations have been addressed to some degree with the exception of the recommended amendment of the POCA to make the

institutional arrangements between the roles and functions of the policy making MLRA and operational FIU clear, and training for Judges. Anguilla is encouraged to continue with its training of relevant staff as recommended by the Examiners.

Recommendation 32

21. The Authorities have noted that Customs reports all cross border incidents relating to cash and monetary instruments to the FIU and also documents them in the OTRICS (now referred to as the 'Patriach') System., which allows Customs to maintain statistics on these matters. The Examiners' recommendation in this regard has been met. With regard to the documentation of all cross border incidents on the OTRICS System so that timely access to the information can be received by the Police and the FIU and other competent authorities, the Authorities have noted that the data entered into the OTRICS System is accessible to the FIU so that it can be analysed for any trends that may give rise to suspicion. The Examiners' recommendation has been partially met, since it is unclear as to whether the Police and other competent authority have access. The information in the matrix in more than one instance refers to information obtained by the Police, FIU and other competent authorities, while the issue is access to information from Customs. Additionally, the issue of the timeliness of access has not been addressed. The Examiners' recommendations with regard to appropriate mechanisms to allow for collection and analysis of statistics on wire transfers by the FIU is being addressed in that the FIU and FSC are currently working on the development of a template for the collection of useful statistics on wire transfers. The Examiners' recommendation in this regard however remains outstanding.

Special Recommendations VI

22. The pending applications for MSB licences noted in the last report have not been granted and currently there are only two (2) licensed MSBs in Anguilla. Consequently, the Examiners' recommendation to have all of the existing MVTs licensed without delay has been met. With regard to the recommendation that licensed MVT operators should be required to maintain a current list of agents and the list be available for inspection by the FSC and that there be an amendment to Section 17(3) of the MSB Act, there has been no additional update and accordingly, the Examiners' recommendations in that regard remain outstanding.

Special Recommendation VIII

23. The Anguillan Authorities have noted that the registration of NPOs continues to be positive with a twenty-five percent (25%) increase in registration since the last follow-up report. With regard to the outreach programme to the NPOs, from September 2011 to date, the FIU has made four (4) presentations to stakeholders, including NPOs. As noted above the presentations have focused on the functions of the FIU, reporting requirements etc. (See. Paragraph 12 above). As with the previous FURs, there was no information provided by Anguilla with regard to an AML/CFT Code specifically for NPOs.

Special Recommendation IX

24. The only outstanding recommendation was the removal of the incorrect signage at the ports of entry. The Authorities have currently noted that the incorrect signage has been

replaced with correct signs. Accordingly, Anguilla has fully complied with the Examiners' recommendations for SR. IX.

III. Conclusion

25. Anguilla continues to address the outstanding recommendations by the drafting of amendment legislation to the AML/CFT Code and Regulations, the POCA and other pieces of legislation. (See. Implementation of legislation). The outstanding Core Recommendations (Recs. 13 and SR. IV) have still not been met, while R. 5 has been partially met, since the relevant amendments to the legislation have not been made. With regard to the Key Recommendations, Recs. 23 and 26 remain partially met. Of the remaining recommendations, (Recs. 9, 14, 17, 20, 21, 24, 25, 29, 32, SRs. IV, VI, VII, VIII & IX), SR. IX has been fully met while, some have been partially complied with, while the majority have not been met.
26. Anguilla continues to make slow but steady progress with regard to addressing the recommendations made by the Examiners. This seems in part due to the economic downturn which has affected the ready availability of resources. However there has been continued implementation of the POCA in the form of ML investigations, prosecutions and convictions. Consequently, it is recommended that Anguilla report back to the November 2013 Plenary, with the understanding that all the relevant legislation would have been enacted and that the deficiencies noted above would have been fully addressed.

| FATF 40+9 | Rating | Summary of Factors for Rating | Recommended Actions | Actions Undertaken by Anguilla to August 2012 |
|--|--------|--|--|--|
| Legal systems | | | | |
| 1. ML offense | LC | There have been no ML prosecutions under the POCA, thus effectiveness cannot be duly determined. | <ul style="list-style-type: none"> • The Anguillan Authorities should ensure that the relevant bodies engage in consistent and apposite training on the ML provision of the POCA with the aim of obtaining ML prosecutions and convictions. | <ul style="list-style-type: none"> • Since POCA was passed, 11 charges of money laundering have been laid in the Court. It is anticipated that 3 additional charges will be brought to Court in the near future. • Since the last Follow-Up Report, 16 money laundering charges have been filed before the courts in Anguilla, bringing the total to 27. Most of these cases have yet to come to trial; none has been dismissed. • ML conviction obtained on 18 April 2011. • 2 day workshop during the last week of March 2011 on implementation of the POCA, its investigative powers and measures for freezing, seizure, confiscation and prosecution of ML offences attended by 4 members of AG's Chambers and 4 members of the FIU. • 7 Oct. 2011: 2 ML convictions obtained • Since the last follow-up report, 9 new ML investigations have been undertaken. • 31 October to 9 December 2011: Representative of UK Crown Prosecution Services seconded to AG's Chambers for 6 weeks. Workshops conducted for prosecutors and law enforcement on all aspects of prosecuting ML offences, including restraint and confiscation. |
| 2. ML offense–mental element and corporate liability | LC | There have been no ML prosecutions under the POCA, thus effectiveness cannot be duly determined. | | <ul style="list-style-type: none"> • ML conviction obtained on 18 April 2011. • Prosecution of 26 ML charges under POCA currently pending |

| FATF 40+9 | Rating | Summary of Factors for Rating | Recommended Actions | Actions Undertaken by Anguilla to August 2012 |
|--|--------|---|--|---|
| 3. Confiscation and provisional measures | LC | There have been no confiscations, restraints and/or seizures under the POCA or the CFT legislation, thus effectiveness cannot be duly determined. | <ul style="list-style-type: none"> • The police/FIU should endeavour to make use of the restraint, confiscation and other measure in the POCA and the anti-terrorism legislation. | <ul style="list-style-type: none"> • 7 Oct. 2011: 2 ML convictions obtained • Since its passage in July 2009, the Reporting Authority, through the FIU, has made 31 requests under section 118(2)(b) for information supplementary to SARs, with full compliance from the institutions. • On the 18th of May, Anguilla received word from Denmark that a conviction had been obtained and a forfeiture order entered with regard to \$1.2 million USD currently frozen in Anguillan accounts . The necessary documentation has recently been received from Denmark and, when the Court reconvenes after the summer holiday, the Danish Forfeiture Order will be enforced in Anguilla as an external order pursuant to Schedule 3 of the POCA. • \$1.2MM successfully confiscated in December 2010 via enforcement of a foreign confiscation order pursuant to Schedule 3 of the POCA. • Using the restraint provisions of POCA, 5 Restraint Orders have been granted by Anguilla's High Court. • Since the last Follow-Up Report, the Reporting Authority, through the FIU, has made 20 requests under POCA section 118(2)(b) for information supplementary to SARs, bringing the total to 51, with over 90% compliance from a wide variety of institutions. • 31 October to 9 December 2011: Representative of UK Crown Prosecution Services seconded to AG's Chambers for 6 weeks. Workshops conducted for prosecutors and law enforcement on all aspects of prosecuting ML offences, including restraint and confiscation. • Since the last Follow-Up Report, 1 |

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
Anguilla November 2012 Plenary**

| FATF 40+9 | Rat -ing | Summary of Factors for Rating | Recommended Actions | Actions Undertaken by Anguilla to August 2012 |
|------------------|---------------------|--------------------------------------|----------------------------|--|
| | | | | <p>additional Restraint Order has been granted by Anguilla’s High Court using POCA’s restraint provisions of POCA.</p> <ul style="list-style-type: none"> • Since the last Report, the FCIU has obtained 12 Production Orders under POCA section 136 for information relating to ML investigations. • In June 2012, the RAPF made a cash seizure in connection with the investigation of ML and the predicate offence. An order to extend the detention of the seized cash was made under POCA section 109. • Since the last follow up report the Reporting Authority, through the FIU, has made 44 requests under POCA section 118(2)(b) for information supplementary to SARs. This brings the total to 95, with over 97% compliance from the wide variety of institutions. |

| FATF 40+9 | Rating | Summary of Factors for Rating | Recommended Actions | Actions Undertaken by Anguilla to August 2012 |
|---|--------|--|--|--|
| Preventive measures | | | | |
| 4. Secrecy laws consistent with the Recommendations | LC | Information sharing by the FSC with foreign regulators could be subject to court override. | <ul style="list-style-type: none"> The Anguillan Authorities should consider reviewing Section 20 of the FSC Act to ensure that there is no impediment to the sharing of information as contemplated by the FATF. | <ul style="list-style-type: none"> Application of FSC Act s. 20 will be modified by the FSC (Amendment) Act, 2010, which the Authorities anticipate will be passed in the very near future. Specifically, a new section 20A provides, in pertinent part, as follows— “Effect of application to set notice aside 20A. (1) An application to the Court under section 20(7) does not relieve a person from compliance with the notice issued by the Commission. ... (3)Where this subsection applies, notwithstanding section 24(3), the Commission shall not disclose to any other person any information provided, or documentation produced, to it in compliance with the notice to which the application or intended application relates— (a) unless required or permitted to do so by the Court, whether on the application of the Commission or otherwise; or (b) as permitted by subsection (4). (4)The Commission may disclose information or documentation to which subsection (3) relates if it has reasonable grounds for believing that the immediate disclosure of the information or documentation is necessary— (a) to protect and preserve assets, or the value of assets, that are in jeopardy; or (b) to assist in the prevention of the commission of an offence, whether in or outside Anguilla. ... (8)Nothing in this section affects the disclosure of any information or documentation by the Commission prior to the receipt of a notice under subsection (2)(a) or the service of the application under subsection (2)(b).” |

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| | | | | <p>In effect, a legal challenge does not relieve a person from compliance with the request. A person may still apply to the court to keep the FSC from further disclosing the information provided. However, the FSC may nevertheless immediately disclose the information if it has reasonable grounds for believing that the disclosure is necessary to assist in the prevention of the commission of an offence, whether that offence takes place within or outside Anguilla.</p> <ul style="list-style-type: none"> • Industry consultation process for the Bill for the FSC (Amendment) Act, 2011 has concluded. Amendments arising from consultation are being finalised and the Bill will be taken to Executive Council for approval and placement on the legislative agenda. • Since the last Follow-Up Report, two requests for information were made under Section 20 of the FSC Act, with full compliance from the institutions. • Amendments to the FSC (Amendment) Act, 2012 are being finalised • Since the last Follow-Up, 2 requests for information were made under section 20 of the FSC Act, one request was fully complied with by the service provider and the other is currently being processed. |

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| 5. Customer due diligence | PC | <p>Effectiveness cannot be assessed due to the recent passage of the POCA, Regulations and the Code.</p> <p>The regime for the supervision of and sanction powers for domestic banks and their off-shore subsidiaries ambiguous.</p> <p>No requirement in the Regulations or Code that enhanced due diligence be applied to private banking, trusts that operate as personal holding vehicles and nominee arrangements.</p> | <ul style="list-style-type: none"> • The Regulations and Code should expressly prohibit numbered accounts or alternatively, specify how these should be treated. • Regulations and Code should include private banking, trusts that operate as personal asset holding vehicles and nominee arrangements as cases in which it is recommended that enhanced due diligence be applied. • For clarity, the Authorities should consider providing specific guidance as it relates to the application of reduced or simplified CDD measures, as a result of required risk assessment by service providers. • The Authorities should clarify the legal framework for the application of administrative sanctions by the FSC, as it relates to domestic banks. | <ul style="list-style-type: none"> • Amendment of AML/CFTR section 15 to add a definition of “anonymous account” that expressly includes numbered accounts is under consideration by the Authorities. The addition of such a definition would make it clear that numbered accounts are expressly prohibited. It is anticipated that drafting of an amending regulation will commence in the near future. • The FSC has prepared a paper addressing the need to resolve this matter, and other related issues, and circulated same to the ECCB and other countries who subscribe to the ECCB Agreement. • The matter of regulatory collaboration with ECCB/ECSRC/FSC had been afforded a confirmed place on the agenda of the ROC regional video conference scheduled for September 03, 2010. • Amendment of AML/CFTR section 12, relating to enhanced CDD measures and on-going monitoring is under consideration by the Authorities. It is anticipated that drafting of an amending regulation will commence in the near future. • Discussions were held with the FSC and ECCB on 3 September 2010, 3 December 2010 and 4 March 2011. It was agreed that responsibility for the AML/CFT oversight for domestic banks and their off-shore subsidiaries, including the ability to enforce sanctions for non-compliance, was to lie with the domestic jurisdiction. For Anguilla, this decision places the responsibility with the FSC. The Anguilla Authorities have requested an analysis of Anguilla’s legislative framework to ensure that the FSC has the necessary legal authority to meet this obligation. • A multilateral memorandum of understanding (MMOU) provides a framework for regulatory co-operation and direct, reciprocal, communication between the ECCB, ECSRC and the domestic regulatory bodies. Anguilla is a signatory to this MMOU, which is now in force. Under the terms of this MMOU, information obtained in the course of an |

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| | | | | <p>inspection by the ECCB or by the FSC may be shared directly with the other regulator.</p> <ul style="list-style-type: none"> • A consultant has been engaged to draft the necessary amendments to the AML/CFT Regulations and Code. • Correspondence dated 7 June 2012 from the Deputy Governor at the Eastern Caribbean Central Bank confirmed that the responsibility of the AML/CFT oversight for domestic banks and their offshore subsidiaries, as well as the authority to impose sanctions for AML/CFT breaches, lies with the domestic regulators. • A consultant has been engaged to draft amendments to the FSC Amendment Act 2012 to allow the FSC powers regarding enforcement action for domestic banks. • FSC (Administrative Penalties) Regulations, 2012 will expand and more fully articulate the FSC's authority to impose sanctions for AML/CFT breaches. These regulations are being finalised with the legislative drafter to be taken to the Executive Council for signature. • Amendments to the AML/CFT Regulations and Code are being concluded and will be taken to Executive Council for approval and Gazetting. |

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| | | | | <ul style="list-style-type: none"> • With respect to numbered accounts, Anguilla will seek to amend regulate 15(2) to read as follows: “A service provider shall not set up or maintain a numbered account, an anonymous account or an account in a name which it knows, or has reasonable grounds to suspect, is fictitious.” • With respect to the private banking, trusts that operate as personal holding vehicles and nominee arrangements, Anguilla will seek to amend the Code to require a service provider to carry out enhanced due diligence in the examples of higher risk category customers provided in the Methodology • With respect to reduced or simplified CDD measures, the Board of the FSC considered the Assessor’s recommendation and determined that no action be taken in respect of that recommendation at this time. The Board noted that Anguilla’s regime of full due diligence keeps Anguilla’s standards higher than international practice. The Board agreed that the higher standard is justified. The Board will reconsider the issue at a later date, after the new methodology is published and the Revised Standards are more fully understood. |

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| 6. Politically exposed persons | LC | Effectiveness of implementation cannot be assessed given the recent passage of the Regulations and Code compounded by the limited human resource capacity both in the FSC and at most service providers in this area. | <ul style="list-style-type: none"> • The Anguillan Authorities should consider including domestic PEPs in the AML/CFT framework. • The Anguillan Authorities should consider having the UK extend the United Nations Convention against Corruption to their jurisdiction. | <ul style="list-style-type: none"> • In April 2011, Executive Council agreed in principle to the extension of the United Nations Convention against Corruption to Anguilla and requested a legislative analysis to ascertain the changes necessary to implement the Convention. • The FIU has made 4 presentations to stakeholders, including financial institutions and NPOs, regarding PEPs (domestic and foreign) and the need to implement enhanced CDD when dealing with such persons. • An AML/CFT Seminar was held on 13 and 14 June 2011 in which the FSC, FIU and the Attorney General Chambers made presentations to industry detailing procedures for enhanced due diligence including politically exposed persons. • Anguilla Authorities have considered including domestic PEPs in the AML/CFT framework and the necessary amendments to the AML/CFT Regulations have been drafted and approved by the Board of the FSC. • The FIU has made 4 presentations to stakeholders, including financial institutions, Money Service Businesses, NPOs and the general sector regarding the functions of the FIU, the reporting requirements, enhanced due diligence, PEPs both foreign and domestics, emerging ML/TF trends within Anguilla and the world. |
| 7. Correspondent banking | LC | Effectiveness of implementation cannot be assessed given the recent passage of the Code, however the | <ul style="list-style-type: none"> • The Anguillan Authorities should consider extending the requirements with regard to cross-border | Anguilla Authorities have considered the Assessor's recommendation and, based |

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| | | <p>risk as it relates to cross-border correspondent banking in the jurisdiction is low.</p> <p>Cross-border correspondent banking requirements do not extend to other financial institutions that may engage in similar cross-border relationships.</p> | <p>correspondent banking to other financial institutions that may engage in similar cross-border relationships.</p> | <p>on the low level of risk, determined that no action was necessary at this time.</p> |

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| 8. New technologies & non face-to-face business | LC | Effectiveness cannot be assessed due to the recent passage of the POCA, Regulations and the Code. | <ul style="list-style-type: none"> The Regulations and or Code should provide for specific guidance (in line with Basel paper on Risk Management Principles for Electronic Banking) on measures to be applied in the delivery of electronic services to effectively mitigate the risk of ML/TF through this delivery channel. | <ul style="list-style-type: none"> Sector specific guidance is under consideration by the Authorities |
| 9. Third parties and introducers | PC | <p>Effectiveness cannot be assessed due to the recent passage of the POCA, Regulations and Code.</p> <p>No requirement for financial institutions to immediately obtain necessary information on the elements of the CDD process in criteria 5.3 to 5.6.</p> <p>High level of inherent risks presented by an introducer chain.</p> | <ul style="list-style-type: none"> The Anguillan Authorities should amend the Code or Regulations to require financial institutions to immediately obtain CDD information (E.C. 5.3 to 5.6) from Introducers. The Anguillan Authorities should consider amending the Regulations or Code to include the requirement that a service provider accept introduced business solely from an introducer or intermediary who itself has face to face contact when completing CDD measures on which the service provider rely. | <ul style="list-style-type: none"> Amendment of AML/CFTC section 26(1)(e), relating to information to be obtained where the service provider intends to rely on an intermediary, is under consideration by the Authorities. It is anticipated that drafting of the recommended amendments to the AML/CFTC will commence in the near future. A consultant has been engaged to draft the necessary amendments to the AML/CFT Regulations and Code. This amendment, or an amendment to this effect, remains under consideration by Authorities. Anguilla Authorities have considered the Assessor's recommendation regarding a requirement that service providers accept business solely from an introducer or intermediary who itself has face to face contact and determined that no action should be taken. |
| 10. Record keeping | LC | Effectiveness cannot be assessed due to recent passage of the POCA, Regulations and Code. | | <ul style="list-style-type: none"> All service providers inspected to date (21 as of 31 July) have demonstrated full compliance with AML/CFT record keeping requirements. |
| 11. Unusual transactions | LC | Effectiveness cannot be assessed due to recent passage of the POCA, Regulations and Code. | | <ul style="list-style-type: none"> During 2011, 60% of all SARs received by the Financial Intelligence Unit were categorised as unusual transactions. In 2012, as of July, 51% were categorised |

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| | | | | as unusual transactions. |

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| 12. DNFBP–R.5, 6, 8-11 | PC | <p>Due to the recent enactment of the AML & CFT Code, effective implementation of AML/CFT measures as they relate to all DNFBPs cannot be assessed.</p> <p>Deficiencies noted in Recs, 5, 6, 8-11, are also applicable to DNFBPs</p> | <ul style="list-style-type: none"> Deficiencies identified for all regulated businesses as noted for Recommendations 5, 6, 8-11 in the relevant sections of this report are also applicable to DNFBPs The outreach and training for DNFBPs, especially those which were not previously licensed by the FSC should be enhanced. Supervision of the entire DNFBP sector should commence without delay. | <ul style="list-style-type: none"> An AML/CFT and Legal Services Unit has been established within the FSC. Responsibilities include implementation of a regulatory regime for NPOs and DNFBPs. Regulations specific to DNFBPs are in the final stages of the drafting process. Authorities anticipate they will come into effect in the very near future. The FSC has developed an outreach plan for DNFBPs, including a series of handshake visits by the Commission, a formal training programme jointly conducted with the FIU, and a brochure for DNFBPs will be posted to the FSC website. This plan will be implemented immediately on the coming into force of the DNFBP Regulations. Industry consultation process for the Non-Regulated Service Providers (Registration) Regulations, 2011 concluded. Amendments arising from consultation are being finalised and the Regulations will be taken to Executive Council for approval and Gazetting. Additional amendments to the Non-Regulated Service Providers Regulations necessary to incorporate supervision of entities licensed by the ECCB and ECSRC have been drafted. Externally Regulated and Non-Regulated Service Providers Regulations under review by Anguilla Authorities. |
| 13. Suspicious transaction reporting | PC | <p>No explicit requirement to include attempted transaction in SARs.</p> <p>Issues regarding the effective implementation of sanctions.</p> | <ul style="list-style-type: none"> The Regulations or Code should be amended to make mandatory the requirement for the MLRO of a service provider to make a report to the Reporting Authority with regard to attempted transactions. The Authorities should clarify the legal framework for the application of administrative sanctions by the FSC, as it relates to domestic banks. | <ul style="list-style-type: none"> Amendment of AML/CFT section 30 to add a provision removing the MLRO's discretion in the event of an attempted transaction is under consideration by the Authorities. Such a provision would make it clear that the MLRO is required to report all attempted transactions, regardless of the amount, to the Reporting Authority. It is anticipated that drafting of the recommended amendments to |

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| | | | <ul style="list-style-type: none"> • Service providers should be provided with specific guidance as to how to treat with breaches that involve tax matters. | <p>the AML/CFTC will commence in the near future.</p> <ul style="list-style-type: none"> • The FSC has prepared a paper addressing the need to resolve this matter, and other related issues, and circulated same to the ECCB and other countries who subscribe to the ECCB Agreement. • The matter of regulatory collaboration with ECCB/ECSRC/FSC had been afforded a confirmed place on the agenda of the ROC regional video conference scheduled for September 03, 2010. • A consultant has been engaged to draft the necessary amendments to the AML/CFT Regulations and Code. • Discussions were held with the FSC and ECCB on 3 September 2010, 3 December 2010 and 4 March 2011. It was agreed that responsibility for the AML/CFT oversight for domestic banks and their off-shore subsidiaries, including the ability to enforce sanctions for non-compliance, was to lie with the domestic jurisdiction. For Anguilla, this decision places the responsibility with the FSC. The Anguilla Authorities have requested an analysis of Anguilla's legislative framework to ensure that the FSC has the necessary legal authority to meet this obligation. • Correspondence dated 7 June 2012 from the Deputy Governor at the ECCB confirmed that the responsibility of the AML/CFT oversight for domestic banks and their offshore subsidiaries as well as the issuing of sanctions for AML/CFT breaches lies with the national regulators. The national regulator in this instance is the FSC. Additional amendments to the Non-Regulated Service Providers Regulations necessary to incorporate supervision of entities licensed by the ECCB and ECSRC have |

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| | | | | <p>been drafted. Externally Regulated and Non-Regulated Service Providers Regulations under review by Anguilla Authorities.</p> <ul style="list-style-type: none"> • Amendments to the AML/CFT Regulations and Code necessary to implement the Assessor’s recommendation are being finalised. • Amendments to the Code to include guidance concerning the requirement to report tax offences are included in the draft amendments to the AML/CFT Code, which are currently being finalised. New paragraphs (x) to (xii) have been added to the Guidance Notes following AML/CFT Code section 31 (reports to Reporting Authority) and spell out specifically that reporting requirements apply to predicate offences that are tax offences or that may involve or relate to tax matters. |

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| 14. Protection & no tipping-off | PC | <p>Tipping-off offence not applicable to SARs that are being reported to the FIU.</p> <p>No explicit protection for financial institutions, their directors and employees from criminal or civil liability for breach of contract etc. for reporting suspicious transactions.</p> | <ul style="list-style-type: none"> The relevant legislation should be amended so that the offence of tipping-off is applicable where a SAR is being reported. The relevant legislation should be amended to make explicit the protection provided to financial institutions, their directors and employees from criminal or civil liability for breach of any restriction on disclosure of information, breach of contract etc. for reporting their suspicion in good faith. | <ul style="list-style-type: none"> Amendment of the POCA section 131(2)(a) is under consideration by the Authorities. Such an amendment would adjust the verb tense so that a disclosure in the process of being made, as opposed to one that has been made, would be captured as well. It is anticipated that drafting of the recommended amendments to the POCA will commence upon resolution of the issues arising from the relationship between the FSC and the ECCB/ECSRC. A consultant has been engaged to draft the necessary amendments to the AML/CFT Regulations and Code. Amendments to POCA necessary to implement the Assessor's recommendation with respect to tipping off, and protection provided to financial institutions, their directors and employee are being finalised. |
| 15. Internal controls, compliance & audit | LC | <p>No requirement to maintain an adequately resourced and independent audit function to test AML/CFT compliance.</p> <p>No provision for other appropriate staff to have timely access to customer identification data and other CDD information.</p> | <ul style="list-style-type: none"> The Regulations and or Code should be amended to include a requirement to maintain an adequately resourced, independent internal audit function to test compliance (including sample testing) with a service providers AML/CFT framework. Appropriate staff other than the MLCO should have timely access to customer identification data and other CDD information. . | <ul style="list-style-type: none"> AML/CFTR section 20 and AML/CFTC section 8 are under review to determine what amendments might be made to clarify the existing provisions that establish the requirement to maintain an adequately resourced, independent internal audit function to test compliance. Amendment of AML/CFTC section 34, relating to the manner in which records are kept, is under consideration by the Authorities. It is anticipated that drafting of the recommended amendments to the AML/CFTC will commence in the near future. A consultant has been engaged to draft the necessary amendments to the AML/CFT Regulations and Code. The following amendments to the AML/CFT Regulations and Code are |

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| | | | | <p>being finalised with the consultant—</p> <ul style="list-style-type: none"> ◦ amendment to s. 5 of the Code to include a requirement that service providers maintain an audit function to test compliance with requisite procedures, policies and controls. ◦ amendment to s. 34 of the Code to require access to customer identification data and due diligence information to be provided to appropriate staff of the service provider. |

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| 16. DNFBP–R.13-15 & 21 | PC | <p>Deficiencies identified for financial institutions for R13, R15 and R21 in sections 3.7.3, 3.8.3 and 3.6.3 of this Report are also applicable to DNFBPs.</p> <p>Due to the recent enactment of the Code, it is difficult to assess whether all DNFBPs have been filing STRs and SARs.</p> <p>DNFBPs are not required to file SARs on attempted suspicious transactions regardless of the amount of the transaction.</p> | <ul style="list-style-type: none"> • The AML & TF Code should be amended to include attempted transactions. • Other recommendations set out in section 3.7 of this Report as they relate to Recommendation 13 would also pertain to this section. | <ul style="list-style-type: none"> • Amendment of AML/CFT section 30 to add a provision removing the MLRO’s discretion in the event of an attempted transaction is under consideration by the Authorities. Such a provision would make it clear that the MLRO is required to report all attempted transactions, regardless of the amount, to the Reporting Authority. It is anticipated that drafting of the recommended amendments to the AML/CFT will commence in the near future. • An AML/CFT and Legal Services Unit has been established within the FSC. Responsibilities include implementation of a regulatory regime for NPOs and DNFBPs. • Regulations specific to DNFBPs are in the final stages of the drafting process. Authorities anticipate they will come into effect in the very near future. • The FSC has developed an outreach plan for DNFBPs, including a series of handshake visits by the Commission, a formal training programme jointly conducted with the FIU, and a brochure for DNFBPs will be posted to the FSC website. This plan will be implemented immediately on the coming into force of the DNFBP Regulations. • By application of section 24(2)(c) of the AML/CFTR, the requirement for DNFBPs to file SARs on attempted suspicious transactions came into effect as of 1 November 2009. • A consultant has been engaged to draft the necessary amendments to the AML/CFT Regulations and Code. • Industry consultation process for the Non-Regulated Service Providers (Registration) Regulations, 2011 concluded. Amendments arising from consultation are being finalised and the Regulations will be taken to Executive Council for approval and Gazetting. • Amendments to the AML/CFT Regulations and Code necessary to implement the Assessor’s |

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| | | | | <p>recommendation are being finalised.</p> <ul style="list-style-type: none"> • Additional amendments to the Non-Regulated Service Providers Regulations necessary to incorporate supervision of entities licensed by the ECCB and ECSRC have been drafted. NRSP Regulations have been renamed as the Externally Regulated and Non-Regulated Service Providers Regulations and are currently being finalised by Anguilla Authorities. |

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| 17. Sanctions | PC | <p>The ECCB does not have the power to sanction for AML/CFT breaches.</p> <p>System for levying administrative fines on domestic banks and their offshore banking subsidiaries for breaches of the POCA, Regulations and Code may be ineffective.</p> <p>The ECSRC does not have the power to sanction for AML/CFT breaches.</p> <p>The ECCB may only apply sanctions where breaches were discovered during an examination.</p> <p>The sanction powers available to the ECCB are not congruent to those available under the POCA framework for AML/CFT breaches.</p> <p>Applicable sanctions under the POCA and the Code are fairly new therefore effectiveness cannot be properly tested.</p> | <ul style="list-style-type: none"> • The Authorities should clarify the framework for the application of sanctions (including the levying of administrative fines on domestic banks and their offshore banking subsidiaries), given that all AML/CFT supervisory and sanction powers are vested in the FSC, which has no delegation powers in this regard. • The Banking Act should be amended so that ECCB could be granted the power to apply sanctions for AML/CFT breaches. • The Securities Act should be amended so that the ECSRC could be granted the power to apply sanctions for AML/CFT breaches. | <ul style="list-style-type: none"> • The FSC has prepared a paper addressing the need to resolve this matter, and other related issues, and circulated same to the ECCB and other countries who subscribe to the ECCB Agreement. • The matter of regulatory collaboration with ECCB/ECSRC/FSC had been afforded a confirmed place on the agenda of the ROC regional video conference scheduled for September 03, 2010. • Amendment of the Banking Act is addressed in the FSC's paper referred to above and will be considered by the parties. • Amendment of the Securities Act is addressed in the FSC's paper referred to above and will be considered by the parties. • Discussions were held with the FSC and ECCB on 3 September 2010, 3 December 2010 and 4 March 2011. It was agreed that responsibility for the AML/CFT oversight for domestic banks and their offshore subsidiaries, including the ability to enforce sanctions for non-compliance, was to lie with the domestic jurisdiction. For Anguilla, this decision places the responsibility with the FSC. The Anguilla Authorities have requested an analysis of Anguilla's legislative framework to ensure that the FSC has the necessary legal authority to meet this obligation. • In the discussions noted above, amendments to the Banking Act and the Securities Act were considered. However, as these acts are harmonised throughout the region, it was determined that amending them was not a suitable solution. Instead, each regulatory authority was to determine their powers under the AML/CFT framework, or other relevant legislation, in their jurisdiction. As noted above, the Authorities have requested an analysis of Anguilla's legislative framework to ensure that the FSC has the necessary legal authority to meet its oversight responsibilities. <p>• Correspondence dated 7 June 2012</p> |

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| | | | | <p>from the Deputy Governor at the ECCB confirmed that the responsibility of the AML/CFT oversight for domestic banks and their offshore subsidiaries as well as the issuing of sanctions for AML/CFT breaches lies with the national regulators. The national regulator in this instance is the FSC. Additional amendments to the Non-Regulated Service Providers Regulations necessary to incorporate supervision of entities licensed by the ECCB and ECSRC have been drafted. Externally Regulated and Non-Regulated Service Providers Regulations under review by Anguilla Authorities.</p> |

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| 18. Shell banks | C | This Recommendation has been fully observed. | The Anguillan Authorities should consider including an explicit prohibition of shell banks in the Regulations or Code. | Shell banks are explicitly prohibited in law by the Prohibition of Licensing of Shell Banks Regulations, 2009 (No. 26 of 2009); made by the Governor in Council on 24 September, and effective from 30 September, 2009. |
| 19. Other forms of reporting | C | This Recommendation is fully observed. | | |
| 20. Other NFBP & secure transaction techniques | NC | The two institutions identified by the authorities as being at risk for AML/CFT are not subject to the requirements of Recommendations 5, 6, 8, 11, 13 – 15, 17 and 21. The Payment Systems Bill has not yet been implemented. | <ul style="list-style-type: none"> All institutions other than DNFBS and designated financial institutions, which pose a potential AML/CFT risk should be required to adhere to the FATF AML/CFT requirements. Lotteries in particular should be subject to licensing and supervisory requirements. The Payment Systems Bill should be implemented without delay. | <ul style="list-style-type: none"> The internet platform for securities training has been informed by the FSC of the need to be licensed by the ECSRC without delay. The Authorities are actively considering application of AML/CFT requirements to lotteries ECSRC has indicated to the Anguilla FSC that they are working with internet platform for securities trading on the licensing application process. |
| 21. Special attention for higher risk countries | PC | Service providers only required to apply enhanced CDD and ongoing monitoring regarding dealings and transactions with countries with weak AML/CFT systems. Effectiveness cannot be assessed due to recent passage of the POCA, Regulations and Code. | <ul style="list-style-type: none"> Regulation 22 should be amended to authorise the relevant authorities to require service providers to take appropriate actions or counter-measures for countries that do not apply or insufficiently apply the FATF Recommendations. The Anguillan Authorities should consider a wider range of counter-measures that should be taken against countries that fail to apply appropriate AML/CFT standards. | <ul style="list-style-type: none"> Amendment of AML/CFTR section 22 is under consideration by the Authorities. It is anticipated that drafting of the recommended amendments to the AML/CFTR will commence in the near future. Advisory issued by FSC in response to FATF statements re Iran and DPRK, as well as countries with weak AML/CFT systems. (See http://www.fsc.org.ai/PDF/Notice%20for%20Overseas%20Jurisdictions.pdf for copy of Notice) Advisory issued by FSC in response to most recent FATF statements regarding countries with weak AML/CFT systems. (See http://www.fsc.org.ai/PDF/PRESS%20RELEASE%20FATF%201.2012.pdf for copy of Notice) The amendments necessary to meet the assessor's recommendation regarding section 22 of the AML/CFT |

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| | | | | <p>Regulations have been drafted and are currently being finalised.</p> <ul style="list-style-type: none"> • The Anguillan Authorities have considered the range of counter-measures that may be taken against countries that fail to apply appropriate AML/CFT standards. Amendments to the AML/CFT Regulations have been drafted to include new provisions that set out a wider range of counter-measures and create offences for non-compliance. |

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| 22. Foreign branches & subsidiaries | C | This Recommendation has been fully observed. | | |
| 23. Regulation, supervision and monitoring | PC | <p>Fit and Proper requirements do not currently apply to money service providers and credit unions</p> <p>Financial Co-operatives (Credit Unions) are not supervised for AML/CFT compliance.</p> <p>Lack of legal jurisdiction by the ECCB to effectively supervise AML/CFT implementation in domestic banks and their offshore subsidiary banks.</p> <p>The ECSRC does not conduct onsite inspections of any kind on its licensees and lacks power to inspect and sanction for AML/CFT purposes.</p> <p>The ECCB cannot directly share information with the FSC on AML/CFT matters pertaining to licensees without an MOU.</p> <p>MSBs are not yet subject to a licensing regime.</p> | <ul style="list-style-type: none"> • The POCA and its attendant Regulations should make clear the role of the ECCB as it relates to the supervision of AML/CFT implementation in domestic banks and other financial institutions licensed under the Banking Act. • The Directors, Senior Managers and Shareholder controllers of Money Services Businesses and Financial Co-operatives should be subject to a fit and proper test at the time of licensing. • Financial Co-operatives should be supervised for AML/CFT compliance. | <ul style="list-style-type: none"> • The FSC has prepared a paper addressing the need to resolve this matter, and other related issues, and circulated same to the ECCB and other countries who subscribe to the ECCB Agreement. • The matter of regulatory collaboration with ECCB/ECSRC/FSC had been afforded a confirmed place on the agenda of the ROC regional video conference scheduled for September 03, 2010. • Amendment of the POCA and its attendant Regulations is addressed in the FSC's paper referred to above. Whether such an amendment is necessary and the extent of any such amendment will be dependant on the outcome of the decisions taken by the ECCB and other parties to the ECCB Agreement. • Two of the four Money Services Businesses operating on Anguilla have become licensed under the MSB Act. As such, they were subjected to the fit and proper test. The FSC is actively working with the remaining companies to complete application process. • Amendment of the Co-operative Societies Rules to impose fit and proper requirements on committee members and treasurers is under consideration by the Authorities. • The Anguillan Authorities are considering a harmonized draft of new Co-operative Societies legislation. Such legislation would make Anguilla's only co-operative society a "service provider" for the purposes of the AML/CFT legislation and would bring them under the supervision of the FSC for AML/CFT compliance. • Discussions were held with the FSC and ECCB on 3 September 2010, 3 December 2010 and 4 March |

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| | | | | <p>2011. It was agreed that responsibility for the AML/CFT oversight for domestic banks and their offshore subsidiaries, including the ability to enforce sanctions for non-compliance, was to lie with the domestic jurisdiction. For Anguilla, this decision places the responsibility with the FSC. The Anguilla Authorities have requested an analysis of Anguilla's legislative framework to ensure that the FSC has the necessary legal authority to meet this obligation.</p> <ul style="list-style-type: none"> • As noted in the previous Follow-Up Report, 2 MSBs are licensed. The application of one of the remaining MSBs has been determined and the licence was not granted. MSB operations by that entity have been terminated. <p>The application for licensing of the last MSB is under consideration, with an AML/CFT onsite visit scheduled in the next week. It is anticipated that the application will be determined soon thereafter.</p> <ul style="list-style-type: none"> • FSC provided AML/CFT training to the MSBs in May 2011. • FSC along with the FIU provided several training sessions on AML/CFT training to financial institutions staff and board of directors in October and November 2010 and April 2011. • The Anguilla FSC has engaged the co-operative society in consultations. An on-site inspection is soon to be scheduled. • Correspondence dated 7 June 2012 from the Deputy Governor at the Eastern Caribbean Central Bank confirmed that the responsibility of the AML/CFT oversight for domestic banks and their offshore subsidiaries as well as the issuing of sanctions for AML/CFT breaches lies with the national regulators. The national regulator in |

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| | | | | <p>this instance is the Financial Services Commission. Additional amendments to the Non-Regulated Service Providers Regulations necessary to incorporate supervision of entities licensed by the ECCB and ECSRC have been drafted. Externally Regulated and Non-Regulated Service Providers Regulations under review by Anguilla Authorities.</p> <ul style="list-style-type: none"> • The applications of the four (4) Money Services Businesses have been determined with two MSBs granted licences, one (1) has been denied and one (1) has been recommended for denial. In the latter case, although the decision has not been finalised, the fit and proper test was applied in making the recommendation for denial. All MSBs operating in Anguilla are now licensed and were made subject to the fit and proper test. • Further consultations were held with the Executive of the co-operative society on 2 July 2012. • An AML/CFT Seminar was held with industry members on 13 and 14 June 2012. Presentations were made by the Chairman, Director and member of the FSC, FIU along with a feature address by the Attorney General. • The MSB Act sets out a “fit and |

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| | | | | <p>proper” test in s. 5(5) of the MSB Act and, as “financial services enactment” under the Financial Services Enactments Regulations, MSBs are subject to the “fit and proper “ guidelines adopted by the FSC under s. 49 of the FSC Act. Credit Unions are also subject to the FSC’s “fit and proper” guidelines, as the Co-operative Societies Act is also a “financial services enactment”.</p> |

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| 24. DNFBP - regulation, supervision and monitoring | PC | <p>Unable to assess effective implementation of the Code due to its recent enactment.</p> <p>DNFBPs which are not licensed by the FSC are not monitored for compliance with AML/CFT statutes.</p> <p>Resources available to the FSC are inadequate to allow for proper supervision of the DNFBP sector.</p> | <ul style="list-style-type: none"> • Training and outreach to the DNFBP sector should continue. | <ul style="list-style-type: none"> • An AML/CFT and Legal Services Unit has been established within the FSC. Responsibilities include implementation of regime for NPOs and DNFBPs. • Regulations specific to DNFBPs are in the final stages of the drafting process. Authorities anticipate they will come into effect in the very near future. • Once the DNFBP Regulations are in effect, the FSC will implement its outreach plan, including a series of handshake visits by the Commission, a formal training programme jointly conducted with the FIU, and a brochure for DNFBPs will be posted to the FSC website. • Industry consultation process for the Non-Regulated Service Providers (Registration) Regulations, 2011 concluded. Amendments arising from consultation are being finalised and the Regulations will be taken to Executive Council for approval and Gazetting. • The Financial Services Commission has, as of July 2011, further increased its capacity by filling the position of Deputy Director. • Additional amendments to the Non-Regulated Service Providers Regulations necessary to incorporate supervision of entities licensed by the ECCB and ECSRC have been drafted. Externally Regulated and Non-Regulated Service Providers Regulations under review by Anguilla Authorities. • The FSC Board has approved the recruitment of a regulator for the AML/CFT unit specifically to assist with the supervision of the NRSPs and recruitment has begun. |

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| | | | | <ul style="list-style-type: none"> • Since the last Report, the FIU has made 4 presentations to stakeholders, including DNFBPs, regarding the functions of the FIU, the reporting requirements, enhanced due diligence, PEPs both foreign and domestics, emerging ML/TF trends within Anguilla and the world. |

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| 25. Guidelines & Feedback | PC | <p>No general feedback given with regard to SARs statistics, current techniques, methods, typologies and trends.</p> <p>The Guidance Notes do not contain sector specific information.</p> <p>The effectiveness of the newly issued Guidance provided in the Code could not be assessed due to the recent passage of the Code.</p> <p>Unable to assess effective implementation of the Code due to its recent enactment.</p> | <ul style="list-style-type: none"> • Sector specific guidance on money laundering and terrorist financing should be placed in the Guidance Notes. • The review of the FSCA should commence as soon as possible and the range of sanctions available to the FSC be made more proportional and dissuasive. | <ul style="list-style-type: none"> • The FIU has published its Annual Report for 2009, which contains general feedback, including statistics and information on current techniques, methods and trends or typologies. • Review of the FSC Act has been completed and an Amending Act is in the final stages of the drafting process. It is anticipated that this Act will be passed in the very near future. • The FIU has published its Annual Report for 2010, which contains general feedback, including statistics and information on current techniques, methods and trends or typologies. • Industry consultation process for the Bill for the FSC (Amendment) Act, 2011 has concluded. Amendments arising from consultation are being finalised and the Bill will be taken to Executive Council for approval and placement on the legislative agenda. • Administrative Penalties Regulations made under the FSC Act are currently being drafted. • The FIU has published its Annual Report for 2011, which contains general feedback, including statistics and information on current techniques, methods and trends or typologies. The published annual report has been disseminated via Egmont Secure Web Portal and to the various to the sectors in Anguilla. • Amendments to the FSC (Amendment) Act, 2012 are being finalised. |
| Institutional and other measures | | | | |

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| 26. The FIU | PC | <p>The FIU is not an autonomous body.</p> <p>Office space not sufficient at the FIU to adequately accommodate the staff.</p> <p>Amount of FIU staff not sufficient to allow inclusion of the DNFbps in the regulatory regime.</p> <p>No fire resistant filing cabinets for the storage of the SARs.</p> | <ul style="list-style-type: none"> • The Anguillan Authorities should consider enacting separate legislation for the creation and functions of the FIU so as to alleviate the problem with autonomy. | <ul style="list-style-type: none"> • During the past year, the MLRA has actively considered many issues relevant to the administration and structure of the Financial Intelligence Unit. These issues include establishment of the Financial Intelligence Unit as an autonomous body and recruitment of additional personnel. • To date, the MLRA has approved— <ul style="list-style-type: none"> • rental of additional, secure, office space outside the RAPF headquarters • immediate recruitment of a financial analyst • establishment of an independent budget to cover training and other needs of the Financial Intelligence Unit • purchase of fire resistant filing cabinets for the storage of SARs • Administrative arrangements necessary to implement these decisions are currently underway. • In November 2011, Executive Council authorised the creation of a Financial Analyst position under the Governor’s Office budget, achieving the separation of intelligence and investigative functions in line with international standards. The Financial Analyst is now in situ. • In May 2012, the Government of Anguilla agreed to increase the police budget to pay the salary of an Inspector-Financial Crime • Executive Council noted that effective Financial Crime Investigation Unit, |

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| | | | | <p>Financial Intelligence Unit and Financial Analysis Units will require increased financial resources from the Consolidated Fund in future financial years</p> <ul style="list-style-type: none"> • Fire resistant file cabinets have been purchased and put into use • New office space for the FIU and the FCIU adjacent to the Royal Anguilla Police Force building is currently under construction. • On 27 September 2012, the MLRA considered enacting separate legislation regarding the FIU. The MLRA concluded that, at this time, there were not sufficient resources available to undertake separate legislation; however, it will reconsider the issue at a later date. |

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| 27. Law enforcement authorities | C | This Recommendation has been fully observed. | | |
| 28. Powers of competent authorities | C | This Recommendation has been fully observed. | | |
| 29. Supervisors | PC | <p>The FSC which is responsible for ensuring AML/CFT compliance does not monitor the domestic banking sector, which is the largest component of the financial sector in Anguilla.</p> <p>The ECCB which does conduct the onsite inspections (though it does not have the authority to do so), does not share the information directly with the FSC.</p> <p>The FSC does not ensure that recommendations for remedial action as set out in the ECCB's report are implemented.</p> <p>The ECCB has no legal authority to conduct onsite AML/CFT inspections.</p> <p>The ECSRC has no authority to conduct onsite AML/CFT inspections.</p> | <ul style="list-style-type: none"> • The Banking Act should provide that the ECCB can examine licensees to ascertain compliance with other statutes that apply to these entities, especially where AML/CFT is concerned. • The Banking Act should be amended so that ECCB could be granted the power to apply sanctions for AML/CFT breaches. • The ECSRC should be expressly given the authority to supervise its licensees for AML/CFT. • The MSB Act should be implemented without delay. | <ul style="list-style-type: none"> • The FSC has prepared a paper addressing the need to resolve this matter, and other related issues, and circulated same to the ECCB and other countries who subscribe to the ECCB Agreement. • The matter of regulatory collaboration with ECCB/ECSRC/FSC had been afforded a confirmed place on the agenda of the ROC regional video conference scheduled for September 03, 2010. • Amendment of the Banking Act is addressed in the FSC's paper referred to above and will be considered by the parties. • Amendment of the Securities Act is addressed in the FSC's paper referred to above and will be considered by the parties. • Two of the four Money Services Businesses operating on Anguilla have become licensed under the MSB Act. The FSC is actively working with the remaining companies to complete application process. • Discussions were held with the FSC and ECCB on 3 September 2010, 3 December 2010, 4 March 2011. It was agreed that responsibility for the AML/CFT oversight for domestic banks and their off-shore subsidiaries, including the ability to enforce sanctions for non-compliance, was to lie with the domestic jurisdiction. For Anguilla, this decision places the responsibility with the FSC. The Anguilla Authorities have requested an analysis of Anguilla's legislative framework to ensure that the FSC has the necessary legal authority to meet this obligation. • The AML/CFT Department of the FSC has |

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| | | | | <p>scheduled 11 AML/CFT compliance visits to be conducted from July 2011 to October 2011. As of 1 September, 6 of the 11 have been completed.</p> <ul style="list-style-type: none"> • Correspondence dated 7 June 2012 from the Deputy Governor at the Eastern Caribbean Central Bank confirmed that the responsibility of the AML/CFT oversight for domestic banks and their offshore subsidiaries as well as the issuing of sanctions for AML/CFT breaches lies with the national regulators. The national regulator in this instance is the Financial Services Commission. Additional amendments to the Non-Regulated Service Providers Regulations necessary to incorporate supervision of entities licensed by the ECCB and ECSRC have been drafted. Externally Regulated and Non-Regulated Service Providers Regulations under review by Anguilla Authorities. • The AML/CFT Unit of the FSC has scheduled 17 AML/CFT compliance visits to be conducted from March to November 2012. As of 31 July 2012, 10 AML/CFT visits were been completed. • The MSB Act has been implemented and all MSBs operating in Anguilla are now licensed and supervised for AML/CFT compliance. Please see discussion at R.23 |

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| 30. Resources, integrity and training | PC | <p>Insufficient training for Customs in cross-border issues and financial investigations.</p> <p>Insufficient office space for the FIU.</p> <p>Lack of sufficient staff to properly review additional sectors.</p> <p>SARs not maintained in fire resistant filing cabinets.</p> <p>Insufficient training in AML/CFT for prosecutors and the Judiciary.</p> <p>Insufficient staff at the FSC, given the number of financial institutions to be supervised.</p> | <ul style="list-style-type: none"> • Customs should be provided more training in cross – border issues, and financial investigations, and asset forfeiture. • The FIU should expand its offices to accommodate the current staff and any future increases in staff. • Anguilla should obtain additional staff at the FIU to prepare for the inclusion of the DNFbps in the regulations and such staff should include a dedicated legal advisor. • The FIU should be provided with fire resistant filing cabinets for the storage of their SARs. • The staff of the FIU should be provided with training in advanced financial investigations, civil and criminal forfeiture provisions and terrorist financing. • The Anguillan Authorities should provide prosecutors and Judges with training in financial investigations, civil/criminal forfeiture, ML/TF. • The Anguillan Authorities should consider amending the POCA to make clear the institutional arrangements between, and the roles and functions of, the policy making MLRA and the operational FIU. • The FSC should be provided with additional staff so as to adequately meet its supervisory functions for all the financial institutions under its supervision. | <ul style="list-style-type: none"> • Customs officers (including Deputy Comptroller) received training in recognition of cash connected with drug cartels on 21 July 2010. • All Customs officers received training in risk assessment during the week of 17 August and the first week of September 2010. A risk assessment team will be formed in the near future to ensure effective implementation of risk assessment techniques. • Authorities are considering secondment of legal counsel to the FIU. • The Financial Services Commission has, as of March 2010, established a dedicated AML/CFT and Legal Services Unit, whose responsibilities include implementation of the regulatory regime for NPOs and DNFbps. • During the past year, the MLRA has actively considered many issues relevant to the administration and structure of the Financial Intelligence Unit. These issues include establishment of the Financial Intelligence Unit as an autonomous body and recruitment of additional personnel. <ul style="list-style-type: none"> • To date, the MLRA has approved— <ul style="list-style-type: none"> • rental of additional, secure, office space outside the RAPF headquarters • immediate recruitment of a financial analyst • establishment of an independent budget to cover training and other needs of the Financial Intelligence Unit • purchase of fire resistant filing cabinets for the storage of SARs • Administrative arrangements necessary to implement these decisions are currently underway. |

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| | | | | <ul style="list-style-type: none"> • Workshop for Eastern Caribbean Financial Investigators and Prosecutors sponsored by the UK FCO held in Antigua 22nd – 23rd March 2011 and attended by Crown Counsel and a member of the Financial Crimes Unit of the RAPF. Topics included review of ML in each jurisdiction including legislation and typologies; establishment of regional computer investigation laboratory; international cooperation and asset sharing; functions of the Serious Organised Crime Agency; audit of financial legislation and updates in ML case law • 2 day workshop during the last week of March 2011 on implementation of the Proceeds of Crime Act 2009, its investigative powers and measures for freezing, seizure, confiscation and civil forfeiture was attended by the following law enforcement authorities— <ul style="list-style-type: none"> ○ All members of the FIU ○ 4 members of Attorney General’s Chambers comprising 2 prosecutors, 1 Civil Crown Counsel and 1 Parliamentary Counsel ○ 2 Customs Officers ○ 1 Immigration Officer ○ Head of the FSC AML/CFT Unit • Magistrates and prosecutor attended week long workshop in November 2010 on the Proceeds of Crime and prosecutions conducted by Mark Sutherland Williams and Dan Suter sponsored by the British High Commission’s Eastern Caribbean Financial Investigation Advisory Team. • High Court Judge and Registrar attended 1 day workshop during the last week of March 2011 on the Proceeds of Crime Act 2009 • Acting Senior Crown Counsel (Criminal) attended Commonwealth Caribbean Prosecutors’ Conference April 29 – May 1, 2011. Conference topics included |

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| | | | | <p>The Proceeds of Crime Act: The Advocate's Perspective and Investigative Tools and Proceedings; Combating the Financing of Terrorism; Extradition: the Approach and Recommended Best Practices.</p> <ul style="list-style-type: none"> • The Financial Services Commission has, as of July 2011, further increased its capacity by filling the position of Deputy Director. • Interviews have been conducted to fill vacancy on Board of Directors by September 30, 2011. • In June 2011, the secondment of a CFTC consultant to the FSC to assist with oversight and training of the Insurance Sector was approved. • Representative of UK Crown Prosecution Services seconded to AG's Chambers for 6 weeks, from 31 October to 9 December 2011. Workshops conducted for prosecutors and law enforcement, including Customs, Immigration and members of the FIU and the Guns and Firearms Taskforce, on all aspects of investigating and prosecuting ML offences, including restraint and confiscation. Specifically, Customs officers attended training modules on cash seizure and asset forfeiture. • Financial Analyst added to staff of FIU • Fire resistant cabinets have been purchased • New office space for the FIU and the FCIU adjacent to the Royal Anguilla Police Force building is currently under |

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| | | | | <p>construction.</p> <ul style="list-style-type: none"> • One member of FIU attended a week-long training in the UK presented by NPIA in November 2011. Topics covered included ML/TF concepts and methods, investigation processes, gathering of intelligence, report writing, investigative tools, confiscation • 7-9 February 2012: Workshop attended by AGC prosecutor and member of Criminal Investigation Division (CID) on serious and organised crime investigation. Topics covered included mutual assistance and international co-operation, drug and illegal migrant trafficking, and organised crime investigation. • The Financial Services Commission increased its staffing capacity in March 2012 by the addition of an administrative assistant and in April 2012 by the addition of two regulators. • The Financial Services Commission Board has also approved the recruitment of a regulator to join the AML/CFT Unit to assist with the NRSPs and recruitment has begun • The vacancy for the FSC Board member was filled in March 2012. • A consultant sponsored by the Commonwealth Secretariat joined the |

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| | | | | <p>FSC in March 2012 to assist with the oversight and training of the Insurance Sector.</p> <ul style="list-style-type: none"> • The FSC has finalised and implemented an AML/CFT Compliance Examination Manual to guide personnel responsible for AML/CFT compliance visits. • In March and April 2012, the FSC conducted 2 training sessions for personnel engaged in AML/CFT compliance activities. |

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| 31. National cooperation | C | This Recommendation has been fully observed. | | |
| 32. Statistics | PC | <p>Customs does not maintain statistics on cross-border transportation of currency and bearer negotiable instruments.</p> <p>No statistics maintained on cross-border incidents prior to 2008.</p> | <ul style="list-style-type: none"> • Customs should maintain statistics regarding cross-border transportation of currency and bearer negotiable instruments. • Customs should ensure that all cross-border incidents be reported and documented on the OTRIS system, thus providing continued and timely access to this information by Police, the FIU and other competent authorities. • The FIU should put in place the appropriate mechanisms to allow for the collection and analysis of statistics on wire transfers carried out by the financial institutions. | <ul style="list-style-type: none"> • An electronic form consistent with the Report of International Transportation of Currency or Monetary Instrument has been programmed into the OTRICS system, enabling access to the information obtained by the Police, FIU and other competent authorities. This new programming is currently undergoing beta testing and it is anticipated that it will be fully operational in the very near future. • Beta testing of an electronic form consistent with the Report of International Transportation of Currency or Monetary Instrument has been completed and brought into active use on the OTRICS system, enabling access to the information obtained by the Police, FIU and other competent authorities. • All data collected since the Report of International Transportation of Currency or Monetary Instruments came into use has been entered into the OTRICS system. This allows Customs to maintain statistics on cross-border transportation of currency and bearer negotiable instruments. The OTRICS system allows data to be broken down and sorted in ways that facilitate analysis. Further, entering this data into the system also allows the FIU, RAPF and other competent authorities continued and timely access to the data. • The FIU and FSC are currently working together to develop a template for useful statistics on wire transfers. |
| 33. Legal persons– | C | This Recommendation has been fully observed. | | |

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| beneficial owners | | | | |
| 34. Legal arrangements – beneficial owners | LC | There have been no onsite examinations/information requests of independent legal professionals (with respect to trusts), or in respect of foundations to duly determine the effectiveness of access, by competent authorities, to required information. | <ul style="list-style-type: none"> It is recommended that the registration of a trust be made mandatory by law. This would allow the competent authorities at a minimum, to be duly aware of all trusts (and their accompanying due details) existent in Anguilla. | |
| International Cooperation | | | | |
| 35. Conventions | LC | The Palermo Convention and the 1999 Terrorist Financing Convention have not been duly extended to Anguilla. | <ul style="list-style-type: none"> Anguilla should request, forthwith, extension of the said un-extended Conventions. | |
| 36. Mutual legal assistance (MLA) | C | This Recommendation is fully observed. | | |
| 37. Dual criminality | C | This Recommendation is fully observed. | | |
| 38. MLA on confiscation and freezing | C | This Recommendation has been fully observed. | | |
| 39. Extradition | LC | There have been no extradition requests to duly determine the effectiveness of MLA in this regard. | | <ul style="list-style-type: none"> Acting Senior Crown Counsel (Criminal) attended Commonwealth Caribbean Prosecutors' Conference April 29 – May 1, 2011. Conference topics included Extradition: the Approach and Recommended Best Practices. |
| 40. Other forms of co-operation | C | This Recommendation has been fully observed. | | |
| 9 Special Recommendations | | | | |
| SR.I Implement UN instruments | LC | The 1999 Terrorist Financing Convention has not been duly extended to Anguilla. | | |
| SR.II Criminalize terrorist financing | LC | There have been no FT investigations or prosecutions under the CFT legislation, thus effectiveness cannot be duly determined. | | <ul style="list-style-type: none"> During 2010, the RAPF undertook an investigation of suspected TF activities. The investigation was recently concluded with no charges being brought. Information gleaned from SARs relating to possible TF activities has been shared via Egmont with |

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| | | | | <p>competent authorities in the relevant jurisdictions.</p> <ul style="list-style-type: none"> • Since the last Report, information retrieved from SARs relating to suspected TF has been disseminated competent authorities in the relevant jurisdictions. |

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
Anguilla November 2012 Plenary**

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| SR.III Freeze and confiscate terrorist assets | LC | There have been no restraints orders made with regard to FT thus effectiveness cannot be duly determined. | <ul style="list-style-type: none"> The Authorities in Anguilla should duly arrange a less vulnerable process of listing and de-listing. | |
| SR.IV Suspicious transaction reporting | PC | <p>No explicit requirement to include attempted transactions in STR.</p> <p>Issues regarding the effective implementation sanctions.</p> | <ul style="list-style-type: none"> The Regulations or Code should be amended to make mandatory the requirement for the MLRO of a service provider to make a report to the Reporting Authority with regard to attempted transactions re financing of terrorism. | <ul style="list-style-type: none"> Amendment of AML/CFTC section 30 to add a provision removing the MLRO's discretion in the event of an attempted transaction is under consideration by the Authorities. Such a provision would make it clear that the MLRO is required to report all attempted transactions, regardless of the amount, to the Reporting Authority. It is anticipated that drafting of the recommended amendments to the AML/CFTC will commence in the near future. See response at R.13. |
| SR.V International cooperation | LC | <p>There have been no MLA requests under the CFT legislation, thus the effectiveness of rendering MLA thereunder cannot be duly determined.</p> <p>There have been no extradition requests in relation to the FT, thus effectiveness cannot be duly determined</p> | <ul style="list-style-type: none"> The Anguillan Authorities should criminalise the commission of terrorist acts as particularized and free standing crimes. | <ul style="list-style-type: none"> Research for precedents of similar legislation has begun. |
| SR.VI AML requirements for money and value transfer services | PC | <p>Money Services Business Act not yet implemented, therefore MVT operators are not licensed under the Act.</p> <p>No requirement for licensed or registered MVT operators to maintain a current list of agents.</p> <p>Penalties lack specificity and proportionality, thereby undermining their effectiveness and dissuasiveness.</p> | <ul style="list-style-type: none"> All existing MVTs service operators should be licensed under the new MSBA without delay. Licensed MVT service operators should be required to maintain a current list of agents. Such a list should be made available for inspection by the FSC. Section 17(3) of the MSBA should refer to mandatory obligations under both AML and CFT enactments. | <ul style="list-style-type: none"> Two of the four Money Services Businesses operating on Anguilla have become licensed under the MSB Act. The FSC is actively working with the remaining companies to complete application process. Licensed MVT service operators are required by Section 9 of the MSB Act requires that an MSB may only carry out business at the location identified in its licence or approved by the Authority (the FSC). Any change in locations (whether by adding or terminating an agency relationship) must be notified to the FSC. As noted above, two of the four MVT service operators in Anguilla are licensed and the FSC is actively working to licence the remaining 2. A request for such amendment has been made to the Legislative Drafting Unit. |

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| | | | | <ul style="list-style-type: none"> • As noted in the previous Follow-Up Report, 2 MSBs are licensed. The application of one of the remaining MSBs has been determined and the licence was not granted. MSB operations by that entity have been terminated. • The application for licensing of the last MSB is under consideration, with an AML/CFT onsite visit scheduled in the next week. It is anticipated that the application will be determined soon thereafter. • The applications of the four (4) Money Services Businesses have been determined with two MSBs granted, one (1) has been denied and one (1) has been recommended for denial. In the latter case, although the decision has not been finalised, the fit and proper test was applied in making the recommendation for denial. All MSBs operating in Anguilla are now licensed and were made subject to the fit and proper test. |

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| SR.VII Wire transfer rules | PC | <p>No requirement for each intermediary and beneficiary financial institution in the payment chain to ensure that full originator information accompanies transfer.</p> <p>Effectiveness cannot be assessed due to recent passage of the POCA, Regulations and the Code and the limited supervisory actions that have been taken.</p> <p>The regime for supervision and sanction powers for domestic banks and their offshore subsidiaries are ambiguous.</p> | <ul style="list-style-type: none"> The Code should explicitly address the issue of a payment chain that may include a series of intermediaries and beneficiary financial institutions whereby each party in the payment chain should be required to ensure that full originator information accompanies a wire transfer is transmitted with the transfer. The regime for supervision and sanction powers for domestic banks and their offshore subsidiaries should be clarified. | <ul style="list-style-type: none"> The FSC has prepared a paper addressing the need to resolve the ambiguities relating to supervision and sanction powers for domestic banks and their offshore subsidiaries, and other related issues, and circulated same to the ECCB and other countries who subscribe to the ECCB Agreement. The matter of regulatory collaboration with ECCB/ECSRC/FSC had been afforded a confirmed place on the agenda of the ROC regional video conference scheduled for September 03, 2010. Discussions were held with the FSC and ECCB on 3 September 2010, 3 December 2010 and 4 March 2011. It was agreed that responsibility for the AML/CFT oversight for domestic banks and their off-shore subsidiaries, including the ability to enforce sanctions for non-compliance, was to lie with the domestic jurisdiction. For Anguilla, this decision places the responsibility with the FSC. The Anguilla Authorities have requested an analysis of Anguilla's legislative framework to ensure that the FSC has the necessary legal authority to meet this obligation. Correspondence dated 7 June 2012 from the Deputy Governor at the ECCB confirmed that the responsibility of the AML/CFT oversight for domestic banks and their offshore subsidiaries as well as the issuing of sanctions for AML/CFT breaches lies with the national regulators. The national regulator in this instance is the FSC. Additional amendments to the Non-Regulated Service Providers Regulations necessary to incorporate supervision of entities licensed by the ECCB and ECSRC have been drafted. Externally Regulated and Non-Regulated Service Providers |

FINAL

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| | | | | Regulations under review by Anguilla Authorities. |

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| SR.VIII Nonprofit organizations | NC | <p>No supervisory programme in place to ensure compliance with AML/CFT legislation.</p> <p>All NPOs are not registered therefore the relevant information on all NPOs is not publicly available.</p> <p>Existing NPOs not required to adhere to AML/CFT legislation.</p> <p>No specified period for all NPOs to keep records.</p> <p>Unable to assess the effectiveness of domestic cooperation due to the current status of the NPO sector.</p> | <ul style="list-style-type: none"> • The Anguillan Authorities should undertake an outreach programme to the NPO sector with a view to protecting the sector from terrorist financing abuse. • The Anguillan Authorities should ensure that AML/CFT policies which specifically pertain to the NPO sector are finalized and implemented without delay. • Outreach programs which include AML/CFT training should be devised to provide instruction for the NPO sector. • A supervisory authority for the NPO sector should be designated without delay. • A mandatory registration/licensing system for all NPOs should be implemented as soon as possible. • The purpose and objectives of all NPOs should be publicly known. • NPOs should be required to adhere to the AML/CFT legislation. • The AML/CFT Code specifically for NPOs should be finalized and implemented without delay. | <ul style="list-style-type: none"> • An AML/CFT and Legal Services Unit has been established within the FSC. Responsibilities include implementation of a regulatory regime for NPOs and DNFBBs. • Implementation of the NPO outreach programme is a high priority for the Unit and has included the following, to date: <ul style="list-style-type: none"> • a series of handshake visits by the Commission to NPOs during the month of August • a formal training program jointly conducted with the FIU will take place September 8, 2010 • an informational brochure for NPOs has been posted to the FSC website at: http://www.fsc.org.ai/PDF/NPO%20Brochure.pdf • NPO Regulations were signed and Gazetted on 28 May 2010. They include policies regarding required disclosures and record keeping. • Part 2 of the NPO Regulations establishes the FSC as the supervisory authority and outlines its functions and duties as such. These specifically include monitoring for compliance with AML/CFT legislation. • Section 5 of the NPO Regulations requires that all NPOs must be registered unless they are exempt. An NPO is exempt if its gross annual income does not exceed \$5,000ECD and its assets do not exceed \$10,000ECD. The registration process is due to be fully implemented by 31 October 2010, as indicated by section 14. • Section 4(2) requires that the purpose and objectives, as well as the identity of the persons who own, control or direct the NPO shall be maintained in a public Register. • As noted above, NPOs will be monitored for compliance with AML/CFT legislation. |

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| | | | | <ul style="list-style-type: none"> • Implementation of the NPO Regulations is currently under way. Initial response from the sector has been positive and many NPOs have applied for registration. The FSC is currently taking steps to identify those NPOs that have not applied for registration and initiate enforcement action. • The AML/CFT Department of the FSC, as part of their NPO outreach programme, published three news releases in the local newspaper and on the FSC website. These news releases are as follows: <ul style="list-style-type: none"> • Safeguarding of the Non-Profit Organisations (NPOs) Sector in Anguilla, which can be found at http://www.fsc.org.ai/PDF/Safeguarding%20NPOs.pdf • Safeguarding of the Non-Profit Organisations (NPOs) Sector in Anguilla – Best Practice Principles, which can be found at http://www.fsc.org.ai/PDF/Safeguarding%20NPOs-Best%20Practice.pdf • Safeguarding of the Non-Profit Organisations (NPOs) Sector in Anguilla – Review of NPOs Regulations, which can be found at http://www.fsc.org.ai/PDF/Safeguarding%20NPOs-Regs.pdf • The NPO outreach programme was continued with presentations made by the FIU regarding potential abuse of NPOs and PEPs (domestic and foreign) and the need to implement enhanced CDD when dealing with such persons. • Registration of the NPOs continues to be positive with 25% increase in registration since the last follow up report. • From September 2011 to date, the FIU has made 4 presentation to |

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| | | | | stakeholders, including NPOs, regarding the functions of the FIU, reporting requirements, enhanced due diligence, PEPs both foreign and domestics, emerging ML/TF trends within Anguilla and the world. |

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| SR.IX Cash Couriers | PC | <p>Cross-border transactions not yet computerized and therefore, not readily available to law authorities in Anguilla.</p> <p>No specialized training in anti-terrorism issues.</p> | <ul style="list-style-type: none"> • Anguillan Authorities/H.M. Customs should remove the incorrect signage with regard to the declaration at its ports of entry. • Anguilla should include in their POCA a section specifically relating to the seizure of cash and bearer negotiable instruments at their borders. | <ul style="list-style-type: none"> • Incorrect signage has been removed; replacement signage will be ordered as soon as austerity measures are lifted. • Amendments proposed to the Customs Act providing specifically for the requirement to declare cash and bearer negotiable instruments at the border (including in the post) and for seizure of same. Amending Act to come into force 30 September 2010. • An electronic form consistent with the Report of International Transportation of Currency or Monetary Instrument has been programmed into the OTRICS system, enabling access to the information obtained by the Police, FIU and other competent authorities. This new programming is currently undergoing beta testing and it is anticipated that it will be fully operational in the very near future. • Customs (Amendment) Act, 2010 came into force on 30 September 2010. It contained the following provisions: Importation and exportation of goods by post ... (2A) Without prejudice to subsection (1) or (2), any person who— (a) claims a letter or postal package arriving in Anguilla; or (b) posts a letter or postal package in Anguilla for transmission abroad; which contains currency, cheques or monetary instruments, or any combination thereof, of or exceeding \$27,000, or the equivalent in any currency or combination of currencies, shall declare and make a report of same in such form and manner and containing such particulars as the Comptroller may direct. (2B) Any person failing to declare and make a report as required under subsection (2A) is guilty of an offence and is liable to a fine of \$10,000 or 3 times the |

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| | | | | <p>value of the currency, cheques or monetary instruments not declared or reported, whichever is the greater.</p> <p>Customs control of persons entering or leaving Anguilla</p> <p>(2) Any person entering or leaving Anguilla shall—</p> <p>(a) if he is in possession of currency, cheques or monetary instruments, or any combination thereof, of or exceeding \$27,000, or the equivalent in any currency or combination of currencies, shall declare and make a report of same in such form and manner and containing such particulars as the Comptroller may direct;</p> <p>...</p> <ul style="list-style-type: none"> • (3) Any person failing to declare any baggage or thing as required under this section is guilty of an offence and is liable to a fine of \$10,000 or 3 times the value of the thing not declared or the baggage or thing not produced, as the case may be, whichever is the greater. <p>• Incorrect signage has been replaced with accurate signs.</p> |