

**Montserrat—Overseas Territory of the United Kingdom:  
Assessment of the Supervision and Regulation of the Financial Sector—  
Review of Financial Sector Regulation and Supervision**

This review of financial sector regulation and supervision in **Montserrat** in the context of the offshore financial center assessment program contains technical advice and recommendations given by the staff team of the International Monetary Fund in response to the authorities of Montserrat's request for technical assistance. It is based on the information available at the time it was completed in **October 2003**. The views expressed in these documents are those of the staff team and do not necessarily reflect the views of the government of **Montserrat** or the Executive Board of the IMF.

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**ASSESSMENT OF THE SUPERVISION AND REGULATION OF THE  
FINANCIAL SECTOR**



**Review of Financial Sector Regulation and Supervision**

**Montserrat**

**October 2003**

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## PREFACE

At the request of the authorities, an MAE-led mission visited Montserrat from October 21 to November 1, 2002, to assess observance of financial sector supervisory standards in the context of a Module 2 offshore financial center assessment<sup>1</sup>. The mission assessed the extent to which the regulatory and supervisory arrangements for the offshore financial sector complied with internationally accepted standards in the offshore banking sector. The assessment also included an evaluation of measures related to anti-money laundering and combating the financing of terrorist (AML/CFT) based on the October 11, 2002 version of the AML/CFT Methodology (Methodology), which was endorsed by the Financial Action Task Force (FATF).

Prior to the mission, it was agreed with the authorities that, with the exception of the AML/CFT components, the domestic financial sector would not be assessed at this time as this was to be covered as part of a regional FSAP in 2003 of countries comprising the Organization of Eastern Caribbean States. This did not pose practical difficulties for the mission because the domestic banking sector is governed by separate legislation and is supervised by the regional Eastern Caribbean Central Bank (ECCB).

The mission reviewed all of the relevant legislation and documentation, and held discussions with the regulatory authorities, government officials, the Governor, and representatives from the banking industry. The mission was grateful for the excellent cooperation, support, frankness and gracious hospitality of the staff of the Financial Services Commission (FSC), government officials, and representatives of the banking sector.

The mission was led by Mr. Manuel Vasquez (MAE), and included Ms. Margaret Cotter (LEG), Mr. Anthony Maxwell (Banking Advisor), Mr. Timothy Sullivan (Banking Advisor), and Ms. Candice Huggins (AML/CFT Advisor). Mr. Pierre Lapaque, independent law enforcement expert from the OAS-CICAD, conducted an assessment of the implementation of the criminal law enforcement elements of the AML/CFT Methodology.

The report consists of two volumes. Volume I presents a general overview of the financial system and the AML/CFT framework as well as a summary of the assessment findings and recommendations. Volume II presents a detailed assessment of compliance with the supervisory and regulatory principles relative to the Basel Core Principles for Effective Banking Supervision (BCP), and a detailed assessment of Montserrat's AML/CFT regime.

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<sup>1</sup> A Module 2 assessment is described in SM/00/136, Offshore Financial Centers—The Role of the IMF.

## EXECUTIVE SUMMARY

Montserrat has one of the smallest financial sectors of the six UK Overseas Territories. Besides offshore banking, there is very little economic and financial activity largely due to the devastation caused by the eruptions of the Soufriere Hills volcano which began in 1995. As a result of these eruptions, about two-thirds of the population left the Island but some have since returned.

Whilst the volume of economic and financial sector activity contracted due to the volcanic eruptions, 11 offshore banks remain, down from 15 in 2000. Two banks are licensed to operate in the domestic banking sector. All of the offshore banks are owned and controlled by Latin American interests. During the time of the mission only three offshore banks had opened small offices in Montserrat.<sup>2</sup> None of the offshore banks have a meaningful physical presence (mind and management) on the Island that would enable comprehensive ongoing supervision by the FSC. However, MOUs have been entered into with overseas regulators that provide a mechanism for collaboration in the supervision of most of the offshore banks.

The volcanic eruptions effectively suspended financial sector supervision in the offshore sector between 1996 and 1999, with bank records becoming irretrievable. The whole supervisory process resumed almost from scratch after 1999, and in 2001 a Financial Services Commission was established by law that has commenced to put in place supervisory arrangements for the offshore banks. The FSC recently signed Memoranda of Understanding (MOUs) with four regulators from Central and South America to participate in the supervision of the offshore banks with affiliates in those two regions. At the time of the mission, these MOUs had not been fully implemented particularly with respect to onsite inspections. The FSC recently held prudential meetings with offshore bank representatives overseas and is in process of enhancing offsite supervision. There is still a need to more clearly ascertain whether the ownership and control structure of some of the offshore banks will allow overseas regulators to conduct consolidated supervision. As well, restrictions on access to customer account information contained in three of the MOUs will limit the ability of the overseas regulator to effectively supervise these banks.

The FSC currently does not have sufficient staff and resources to conduct onsite examinations of offshore banks. To help resolve its capacity constraints, the FSC entered into a MOU with the ECCB in September 2002 to assist the FSC in supervising offshore banks. The ECCB will take the lead supervisory role but regulatory authority will remain with the FSC and the Governor. Prudential regulations are still required to be issued under the Financial Services Commission Act, 2001 to effectively implement the MOU.

Although the MOUs with the ECCB and overseas regulators should significantly enhance the FSC's supervisory capacity, the mission recommended that the authorities remove the restriction on access to information placed on the overseas regulators. In addition, where

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<sup>2</sup> Two more offshore banks are reported to have opened offices after the mission.

offshore banks cannot be subject to effective ongoing supervision, the mission recommended the authorities to either require such entities to establish a substantive physical presence on the Island or to cease operations.

Montserrat's is materially non-compliant or non-compliant with most of the Basel Core Principles (CPs), particularly those relating to prudential requirements and supervision. However, the legal framework relating to autonomy and supervisory powers was found to be relatively sound particularly with regards to CPs on licensing and information sharing. To address the identified shortcomings, this report recommends the development and implementation of regulations and guidelines setting forth prudential standards. This report also recommends: granting the supervisor the authority to take a range of remedial actions; working with the ECCB to ensure that the MOU is implemented expeditiously and clarifying the respective roles of the ECCB and FSC in enforcement actions; augmenting acquisition/investment approval requirements; and specifying accounting and auditing standards. The authorities were also urged to fully implement the MOUs with the overseas supervisors that would enable onsite inspections of offshore banks including a review of compliance with Montserrat's anti-money laundering laws and Practice Code.

A fuller assessment of Montserrat's compliance with the CPs is being undertaken as part of a review of the ECCB's supervisory systems during an FSAP carried out in September – October 2003.

Where progress has been achieved in developing a comprehensive AML/CFT legislative and regulatory framework, significant gaps remain in its implementation, particularly in the offshore banking sector. Nonetheless, the authorities should be commended for their efforts in spite of severe capacity constraints. The primary money laundering legislation provides appropriate tools for the criminalization, freezing and confiscation of the proceeds of crime, and for international cooperation. The anti-money laundering Regulations impose broad obligations on financial institutions for customer identification, record-keeping, monitoring and reporting of suspicious transactions. These Regulations should be upgraded to bring them in line with international standards. An AML Practice Code has been issued under the Proceeds of Crime Act to give practical directions for compliance with the Regulations. Although the Code only represents good practice and is not mandatory, the Regulations provide that a court may take it into account in determining whether a person has complied with the Regulations.

A number of recommendations were made to improve the legislative and regulatory framework, particularly in the areas of extradition, affirmative requirements for financial institutions to file suspicious activity reports (STRs), and streamlined Regulations and Practice Code. The Regulations and the Code also require enhancements in the area of customer due diligence. The legal role and capacity of the financial intelligence unit (Money Laundering Reporting Authority) should be strengthened. In addition, there is a need to introduce measures to implement counter-terrorism financing provisions, particularly those relating to the Terrorism Orders and the FATF 8 Special Recommendations. The recommendations to fully implement the MOUs with the ECCB and overseas supervisors, including the removal of restrictions on access to customer account information, will also

strengthen Montserrat's AML/CFT efforts. Additional recommendations are contained in the detailed assessment report.

The Montserrat authorities should also investigate the reasons for the absence of STRs submitted by financial institutions. Only one offshore bank has filed suspicious activity reports so far. The authorities maintain that suspicious transactions that also affect the overseas affiliates of the Montserrat offshore banks are reported to the overseas competent authorities. However, this does not absolve the offshore banks of their responsibility under Montserrat legislation.

## **I. FINANCIAL SYSTEM OVERVIEW**

### **A. Background**

1. Montserrat is a British Overseas Territory of 102 square kilometers (39 square miles) located in the Caribbean Sea southeast of Puerto Rico. It is a tropical volcanic mountainous island with a small coastal lowland, with negligible natural resources. Its capital Plymouth was abandoned in 1997 due to volcanic activity when most of the population either left the island or were relocated to the northwest of the Island.
2. Severe volcanic activity commenced in 1995 which had a devastating effect on its economy. The eruption of 1997 closed the airport and seaports, causing further economic dislocation. At that time two-thirds of the population of 12,000 inhabitants left the Island. Some began to return in 1998, but the lack of housing and general infrastructure discouraged a return. The agricultural sector continues to be affected by the lack of suitable land for farming and prospects for the economy depend largely on developments in relation to the volcano and on public sector construction activity. The UK government introduced a US\$122.8 million three-year aid program to help reconstruct the Island. About half of the Island is expected to remain uninhabitable at least for another decade.

### **Government**

3. Montserrat is an internally-governing Overseas Territory whose Government is run through a Governor appointed by the Crown, and by Executive and Legislative Councils. His Excellency the Governor retains responsibility for internal security, external affairs, defense, the public service and offshore finance. The Head of Government is the Chief Minister while the Executive Council consists of the Governor, the Chief Minister, three other ministers, the Attorney General and the Finance Secretary.
4. The legislative branch consists of a Legislative Council with 11 seats, nine of which are popularly elected, and serve for five-year terms. The Attorney General and the Finance Secretary serve as ex-officio members. The focus of the island's government has been on ensuring the safety of the population of about 4,000 and rebuilding the island's basic infrastructure. In spite of this, much attention has been placed by government on improving the financial regulatory and supervisory framework for the offshore sector.

## **Economic activity**

5. Montserrat's main economic activity is in construction and government services which together accounted for about 50 percent of GDP in 2000 when it was EC\$76 million<sup>3</sup> (2000—at market prices). In contrast, banking and insurance together accounted for less than 10 percent of GDP in 2000. The unemployment rate in 1998 was estimated at 6 percent. Montserrat's domestic financial sector is very small and has seen a reduction in offshore finance in recent years with only 11 offshore banks remaining. The insurance, company and trust services sectors are negligible. No securities business is known to exist both in the domestic and offshore sectors.

6. Like other offshore centers, Montserrat does not tax offshore corporations. In addition, there are no exchange controls below transactions totaling EC\$250,000, and the official currency is the Eastern Caribbean Dollar. Montserrat is a member of the Eastern Caribbean Currency Union which includes Anguilla, Antigua and Barbuda, Dominica, Grenada, Montserrat, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines. All of these countries use the Eastern Caribbean dollar as their currency which is issued by the Eastern Caribbean Central Bank headquartered in St. Kitts

7. Real GDP continues to decline from EC\$122 million in 1995 to about EC\$60 million in 1999, with the rate of decline peaking at -21.5 percent for 1996. The decline in economic activity reflected in large part the completion of major projects in both the private and public sectors. However, the rate of decline has been slowing markedly since 2000 and 2001, when GDP contracted by less than 3 percent. In 2002, the GDP growth rate reverted to a positive 4.6 percent reversing the declining trend over the past six years.

8. Government services and construction activity are the two largest contributors to economic activity on the Island. Government services have averaged about 32 percent of GDP for the past five years while construction has averaged about 24 percent. Growth prospects largely depend on activity in the construction sector and is contingent on the severity of volcanic activity and on the receipt of grant funding. The following table shows GDP over that last five years.

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<sup>3</sup> Exchange rates: US\$1.00 = EC\$2.68 (fixed since 1976)

Table 1. Estimated Gross Domestic Product, 1996 – 2000  
(In EC\$ millions)

Year	Real GDP at factor cost	Percent change
1996	95.9	(21.5)
1997	76.7	(20.0)
1998	68.9	(8.6)
1999	60.3	(12.5)
2000	58.6	(2.8)
2001	56.9	(2.9)
2002	59.5	4.6

Source: ECCB

## B. Financial Institutions and Markets

9. Montserrat has the smallest financial sector of the six UK Overseas Territories and, except for banking services, it has the least offshore activity of any of these territories.

10. Whilst the volume of financial services activity has fallen significantly since the volcanic eruption, there are 11 licensed offshore banks, down from 15 in 2000. Two banks are licensed to operate in the domestic market. Total deposits for the domestic banking sector have been declining and stood at around EC\$130 million at the end of 2001, of which about EC\$22 million constituted claims by non-residents. Foreign currency deposits in the domestic banking sector total about EC\$3.5 million.

11. Offshore banks reported total deposits and assets as at June 30, 2002 of US\$870.6 million and US\$995.7 million, respectively. Efforts are underway to implement suitable arrangements for the supervision for these banks through MOUs with the ECCB and overseas regulators. These MOUs could provide a mechanism through which overseas regulators can participate in the supervision of offshore banks, particularly in the conduct of onsite inspections<sup>4</sup>. All of the offshore banks are owned and controlled by interests in Latin America.

12. Offshore company business is negligible with less than 50 registered international business companies. There are no licensed trust companies and, as in other jurisdictions, there is no requirement to register trusts in Montserrat.

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<sup>4</sup> None of these banks has a meaningful physical presence on the Island.

13. There are no licensed offshore insurance companies and seven foreign insurance companies carry on domestic business. In respect of securities and investment business, there is no identified activity although there is an Exempt Mutual Funds Act.

### **C. Regulatory Framework, Oversight and Market Integrity Arrangements**

14. Under the constitution the Governor has overall responsibility for the offshore sector. The ECCB is responsible for supervising domestic banks but will participate in the supervision of offshore banks through a recent MOU with the FSC. Responsibility for the supervision of domestic insurance rests with the FSC. Company and trust services also come under the supervision of the FSC but activity in this sector is negligible.

15. The FSC currently has on its staff one full time supervisor and an administrative assistant. The Commissioner of the FSC, who is also the Director of Financial Services in Anguilla, is the only staff with extensive experience in regulatory matters. His term of office as Commissioner, which was expected to end in December 2002, continues while steps are underway to find a suitable replacement.

#### **Offshore banking**

16. The legislation relating to offshore banking in Montserrat is the Offshore Banking Act (OB Act) and the Financial Services Commission Act, 2001 (FSC Act). The OB Act sets out a regime for the licensing of offshore banks, and also addresses other issues including: capital and reserves; restriction on business; returns and accounts; examination and audit; receivership, liquidation, and reorganization; and other general and administrative matters. The FSC Act establishes the FSC and sets forth its functions and powers; establishes the position of Commissioner and the Commission's directors; gives rules related to the membership of directors; addresses the Commission's operations, governance, sources of funding, confidentiality, and power to make regulations; and provides for other general and administrative matters.

17. The Governor has constitutional responsibility for the offshore banks and, in his capacity as Governor-in-Council, has the power to issue regulations under the Offshore Banking Ordinance. The FSC is responsible for supervision but does not have the adequate capacity to conduct comprehensive supervision of offshore banks, particularly with respect to routine onsite examinations. A MOU was signed in September 2002 by the FSC and the ECCB in an effort to alleviate this constraint. The FSC also recently signed supervisory MOUs with four "home" regulators from Central and South America. Although several prudential visits have been made to the overseas offices of all the offshore banks, none has been subject to onsite inspections and steps to strengthen offsite supervision have only recently been initiated. Table 2 indicates the country of origin of the offshore banks

Table 2. Offshore Banks Country of Origin/Location<sup>5</sup>

No. of Banks	Country	MOU with “Home Supervisor”
2	Panamá	Yes
2	Ecuador	Yes
3	Costa Rica	Yes
3	Guatemala	Yes
1	Brazil	No

18. In order for the MOUs to be effectively implemented, the mission urged the authorities to remove the restriction on access to customer information contained in three of the MOUs with overseas regulators.

#### **Anti-money laundering**

19. The principal AML legislation includes the Proceeds of Crime Act; the Money Laundering Reporting Authority Act; the Drug Trafficking Offences Act; the Criminal Justice (International Cooperation) Ordinance; the Exchange of Information Act; Regulations; the Practice Code on the Prevention of Money Laundering; and the Anti-Terrorism (Financial and other Measures, Overseas Territories) Order.

20. Much progress has been achieved in the AML/CFT legislative and regulatory framework but more intensified efforts in the area of implementation are required, particularly in the offshore banking sector. The authorities should be commended for their efforts in putting in place a fairly comprehensive legal and regulatory framework for countering money laundering and the financing of terrorism. The primary money laundering legislation provides appropriate tools for the criminalization, freezing and confiscation of the proceeds of crime, and for international cooperation. AML Regulations impose legal obligations on financial institutions with respect to customer identification, record-keeping, monitoring and reporting of suspicious transactions but requires upgrading in a number of

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<sup>5</sup> Two of these banks are not located/managed in the country of origin. Five of the 11 banks are parallel-owned institutions by holding companies while one is a standalone shell bank. The ability of the “home supervisors” to effectively carry on consolidated supervision of these banks under the MOUs is still to be tested.

21. areas. An AML Practice Code<sup>6</sup> has been issued under the Proceeds of Crime Act to give practical directions to assist with compliance with the Regulations.

22. Full implementation of the MOUs with the ECCB and overseas regulators is recommended particularly with regards to supervision of compliance with AML/CFT requirements. The Montserrat authorities should also review the reasons for the absence of STRs submitted by offshore banks and take appropriate action for failure to report.

### **Previous regulatory reviews**

23. In March 1999 the UK Government White Paper "Partnership for Progress and Prosperity: Britain and the Overseas Territories" was presented to the UK Parliament. The White Paper recognized that the international financial service industry has grown dramatically in recent decades and that a significant number of the Overseas Territories have developed offshore financial sectors and so diversified their economies. The White Paper further commented that it was essential for the future of the financial services sector that the Overseas Territories reputation for honest administration and probity be preserved and enhanced. Pursuant to this objective, KPMG was appointed in December 1999 to assess the Overseas Territories' performance against international standards and good practice, and to make recommendations for improvement where any territory falls below those standards. The KPMG review found that Montserrat is committed to continuing to develop its financial services sector and that it has made efforts to introduce appropriate anti-money laundering measures. Nevertheless, it highlighted a number of deficiencies in the regulatory regime related to the lack of resources and manpower. The situation in Montserrat was further viewed as posing a risk of abuse by criminals in the financial sector and remedial action was recommended.

24. In January 2000, the Caribbean Financial Action Task Force (CFATF) carried out an evaluation of Montserrat's anti-money laundering regime, and found that Montserrat was not fully compliant with the FATF and CFATF Recommendations. The CFATF also found that Montserrat was vulnerable to money laundering abuse. The CFATF also identified the need to raise the level of awareness of money laundering risk in the financial sector and to strengthen the supervisory framework. The authorities were commended for their efforts in addressing these concerns in spite of the difficult economic situation.

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<sup>6</sup> The Code represents good practice but it is not mandatory. However, a court may take the Code into account in determining whether a person has complied with the Regulations.

## **II. STRENGTHS AND VULNERABILITIES IN THE FINANCIAL REGULATORY AND SUPERVISORY ARRANGEMENTS**

### **A. Observance of Financial System Standards and Codes: Summary Assessments and Recommended Action**

#### **Basel Core Principles for Effective Banking Supervision**

##### *General*

25. This assessment is based on the current state of Montserrat's compliance with the Basel Core Principles for Effective Banking Supervision (CP) conducted as part of the IMF's October 2002 Offshore Financial Center—Module 2 assessment, and updated in September 2003 during the Eastern Caribbean Central Bank (ECCB) Financial Sector Assessment Program (FSAP). Its scope is limited to the regulation and supervision of offshore banks licensed in Montserrat. An assessment of domestic banking regulation and supervision, which is the responsibility of the Eastern Caribbean Central Bank (ECCB), has been carried out separately as part of the 2003 FSAP.

26. This assessment serves several purposes. First, it benchmarks the current state of preparations for the supervision of Montserrat's offshore banks, recognizing the potential for progress through the full implementation of the September 2002 MOU with the ECCB. Second, it suggests a number of further steps, some already contemplated, that will further strengthen the regulation and supervision of offshore banks in Montserrat. Thus, the report provides key input for the development of an action plan to move towards full compliance with the Core Principles.

27. The assessment was carried out by independent bank supervision experts, and included an examination of the legal framework as it related to offshore banking. The self-assessment questionnaire, completed in 2002, also provided some useful information, although much more useful information was provided in meetings with the Commissioner, who made himself freely available. Meetings were held with local junior management of one of the offshore banks that currently maintain a limited, record-keeping office in Montserrat and two local attorneys who act as local Authorized Agents for most of the offshore banks. The assessment reviewed ECCB draft off-site surveillance and on-site examination procedures for offshore banking; however, there were no meetings with ECCB officials, nor was there a review of ECCB prudential policies or guidelines, which will only have effect once they are formally adopted by the FSC. The update review in September 2003 consisted of a half-day meeting in Anguilla with the Commissioner.

##### *Institutional and macroprudential setting, market structure overview*

28. The Governor has overall constitutional responsibility for international financial services in Montserrat. In his capacity as Governor-in-Council, he has the authority to issue regulations under the Offshore Banking Act and the Financial Services Commission Act. A Financial Services Commission (FSC) was created by law in November 2001 to license and

supervise the financial services sector, including offshore banks.<sup>7</sup> The FSC has responsibility for, *inter alia*, all aspects of financial institution supervision including granting and revoking licenses; monitoring compliance with anti-money laundering requirements; and maintaining relations with foreign regulatory authorities. The Governor appoints all of the members of the FSC including a Commissioner, who acts as the chief executive officer, and three other members.

29. None of the 11 offshore banks licensed in Montserrat has a substantive physical presence (mind and management) on the Island although three (later increased to five) have opened local offices largely in response to the US Patriot Act requirements. All of the offshore banks are controlled by interests in Central America and South America. At the time of the mission, two banks were direct subsidiaries of foreign banks while the remaining institutions were either affiliated with financial groups through holding company structures, as parallel banks, or were shell institutions.

### ***General preconditions for effective banking supervision***

30. Montserrat is a member of the Eastern Caribbean Currency Union. It has a very small domestic banking sector which is supervised by the ECCB under the uniform Banking Act. The ECCB has a fairly well developed regulatory and supervisory structure. Offshore banks are regulated under the Offshore Banking Act, and are subject to supervision under by the FSC. The Governor retains overall regulatory responsibility for the offshore financial sector, including for offshore banking. Both the Offshore Banking Act and the Financial Services Commission Act provide the legal framework for the supervision of the 11 offshore banks. While the legal structure is largely adequate, the absence of a substantial physical presence in Montserrat by a number of the offshore banks, and limited supervisory capacity of the FSC, pose a significant limitation to the conduct of ongoing effective supervision by the FSC. The MOUs entered into with the ECCB and the overseas regulators seek to address this concern. However, the MOUs are still to be fully implemented.

### **Main findings**

31. The assessment of compliance with the Basel Core Principles found that Montserrat is either materially non-compliant or non-compliant with many of these principles. While the legal framework for the FSC and the offshore banks is largely satisfactory, there is an urgent need to introduce prudential requirements relating to: credit and market risks; internal controls; audit and accounting standards. The assessment also found that offsite surveillance needs to be

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<sup>7</sup> The assessment of Montserrat's compliance with the Basel Core Principles for Effective Banking Supervision (CP) did not cover domestic banking regulation and supervision, which are the main responsibility of the Eastern Caribbean Central Bank (ECCB). Domestic banking supervision was reviewed in September 2003 as part of the ECCB FSAP.

enhanced, that comprehensive onsite examinations have not been conducted by the FSC, and that there is an acute scarcity of supervisory resources particularly for onsite inspections. As already noted, there are problems relating to the existence of shell and parallel banks, and other banks that due to their group structures frustrate consolidated supervision. With regards to money laundering, the absence of onsite inspections has not allowed the authorities to review compliance with the anti-money laundering laws and Practice Code of Montserrat.

32. To address some of these concerns, the FSC has entered into MOU with the ECCB and with four overseas regulatory agencies in Central and South America, to assist with the supervision of the offshore banks. These MOU have not been fully implemented, particularly with respect to onsite examinations, where there are problems of communication and coordination. Three MOU impose restrictions on access by overseas regulators to customer account information that will significantly restrict their ability to supervise banks for prudential and anti-money laundering/combatting the financing of terrorism purposes. The FSC plans to develop and implement prudential regulations and/or guidelines with the assistance of the ECCB.

33. Representatives from the FSC are aware of the weaknesses in the legal and prudential framework and on the need to implement the supervisory MOU. Efforts are underway to enhance offsite supervision but the implementation of a program of periodic onsite inspections has not commenced. Table 1 discusses the main recommendations following from the assessment of the Basel Core Principles.

#### ***Objectives, autonomy, powers and resources (CP 1)***

34. Montserrat has a relatively well-developed legal and regulatory framework with adequate provisions for information sharing and permissible activities. Provisions relating to the independence of the FSC, licensing procedures and enforcement powers are also strong. However, there is a need to clarify the need for an amendment to the FSC Act to bring the MOU with the ECCB into effect, and for establishing the respective supervisory roles and objectives of the ECCB and the FSC. MOU with four overseas regulators in Latin America are still to be fully implemented. There is still a need to increase and broaden the professional and managerial strength of the FSC as well as enhance its supervisory powers to address compliance and safety and soundness concerns.

#### ***Licensing and structure (CPs 2–5)***

35. Provisions relating to the licensing and ownership of banks, as well as the range of permissible activities, are relatively sound. However, legal provisions only partly address criteria for appropriately judging investment proposals or for addressing the banks' capacity to take on major investments or acquisitions. The Offshore Banking Act does require prior approval of the FSC for investments in certain financial and non-financial institutions.

#### ***Prudential regulations and requirements (CPs 6–15)***

36. Montserrat lacks effective legal and regulatory provisions, and supervisory procedures for addressing key prudential requirements. The over-riding deficiency in all

cases identified is the absence, with the resulting operational deficiencies, of comprehensive and appropriate regulations or guidelines on prudential matters, although the regulatory power is available to the supervisor to issue such regulations and/or guidelines. The MOU between the ECCB and the FSC commits the FSC to adopt and implement internationally accepted supervisory standards, and to require the implementation of standards of sound business and financial practice. The FSC recognizes these deficiencies and is addressing them in consultation with the ECCB; prudential guidelines on loan classification criteria and provisioning were issued in September 2002. With regards to money laundering, the FSC has not reviewed the extent to which offshore banks are complying with anti-money laundering legislation and the Practice Code of Montserrat.

***Methods of ongoing supervision (CP 16–20)***

37. Montserrat has not yet commenced a full onsite inspection program for offshore banks, and offsite supervision procedures needs to be strengthened. In addition, the absence of a meaningful physical presence (mind and management) by the banks in Montserrat does not facilitate periodic onsite inspections by the FSC/ECCB. At least two institutions appear to meet the definition of “shell” banks and, as such, prompt action should be taken either to have real mind and management established in Montserrat, or to close them down. Although the ECCB has developed draft offsite and onsite supervision processes, they have not been applied to offshore banks, pending the implementation of the MOU. Through the use of MOU, the FSC plans to initiate a program of joint onsite examinations with four overseas supervisors from Central and South America, and to share periodic quarterly bank returns with them. Several onsite inspections have been carried out under the MoU with the parent supervisors, but a detailed onsite inspection program covering all the banks will not be carried out until 2004. Restrictions on access to customer account information imposed on the overseas regulators by three of the MOU should be removed. The FSC recently introduced enhanced quarterly reporting requirements for offshore banks which reportedly has helped improve the dialogue with bank management, although ECCB review and reporting based on the quarterly returns is only expected to commence in late 2003. CP 20 (consolidated supervision) was determined to be not applicable.

***Information requirements (CP 21)***

38. The FSC needs more control over the choice of accounting standards and the scope of, and standards to be applied in, external and internal audits. In addition, it should have the power to revoke the appointment of external auditors.

***Formal powers of supervision (CP 22)***

39. When the FSC believes that a bank is facing serious financial difficulties, is in breach of applicable legislation, or is carrying on business that is detrimental to the public interest, it has the power to, inter alia: revoke and suspend a license, impose conditions on licensees, require the substitution of directors, and appoint official controllers. However, the FSC currently lacks authority, backed by appropriate legal or administrative sanctions against the bank and management, to take a range of remedial actions to address problems such as

failure to meet prudential requirements and violations of regulations. The respective enforcement powers of the FSC and the ECCB under the MOU also need to be clarified. The FSC concurs that a range of penalties for non-compliance is necessary.

***Cross-border banking (CPs 23–25)***

40. CPs 23 and 24 were determined to be not applicable. Appropriate provisions exist in the law for cooperating with foreign regulators in the supervision of the local affiliates of foreign banks. The MOU with four overseas supervisors were signed pursuant to these provisions.

Table 3. Montserrat—Recommended Action Plan to Improve Compliance of the Basel Core Principles

Reference Principle	Recommended Action
Responsibilities and Objectives – CP 1(1)	Review the need for enabling legislation to allow the ECCB to participate fully in the supervision process, particularly with respect to the implementation of the MOU.
Legal Framework – CP 1(4)	Review the need to amend the Offshore Banking (OB) Act and the FSC Act to more clearly set out their powers to address compliance and safety and soundness concerns, including compliance with anti-money laundering requirements.
Licensing criteria - CP 3	Augment the licensing criteria to cover corporate governance, and other issues as described in the detailed assessment report.
Investment criteria - CP 5	Define types and amounts of acquisitions and investments requiring supervisory approval, beyond what is now addressed in the OB Act.
Capital Adequacy - CP 6 Credit Policies – CP 7 Loan Evaluation and Loan Loss Provisioning – CP 8 Large Exposure Limits – CP 9 Connected Lending – CP 10 Country Risk – CP 11 Market Risk – CP 12 Other Risks – CP 13 Internal Control and Audit – CP 14	Implement appropriate prudential regulations or guidelines for offshore banks taking into account those that the ECCB has issued for the domestic banks, and addressing the issues noted in each case under the main findings above.
Money Laundering – CP 15	Fully implement the MOUs with the ECCB and the overseas regulators, particularly with respect to the conduct of onsite examinations, and ascertain compliance with Montserrat’s AML/CFT requirements.
On-Site and Off-Site Supervision – CP 16	Intensify efforts to fully implement the off-site surveillance and on-site examination processes that have recently been put in place through the MOU signed with the ECCB and the overseas regulators. Address the issue of shell banks, to the extent any such banks are still licensed in Montserrat.

Reference Principle	Recommended Action
Bank Management Contact – CP 17	Intensify efforts to thoroughly understand the activities of all of the offshore banks through frequent, comprehensive meetings with bank management, as well as through off-site surveillance and on-site examinations.
Off-site Supervision – CP 18	Establish the principles and norms regarding the consolidation of accounts as well as the accounting techniques to be used.
Validation of Supervisory Information – CP 19	Provide for the validation and examination of supervisory reporting, including returns related to capital adequacy.
Information Requirements – CP 21	Grant the supervisor the authority to specify the accounting standards to be used in preparing supervisory and audit reports.
Formal Powers of Supervision – CP 22	Grant the supervisor the authority, backed by legal sanctions, to take an appropriate range of remedial actions and to impose penalties, etc. beyond the range currently provided for in the law.
Cross-Border Banking - CP 25	Continue to take steps, in concert with the ECCB, to ensure that the cross-border MOUs work effectively in practice.

### Authorities' response

41. The Montserrat Government was pleased to respond to the IMF assessment. In October 2002, the IMF conducted a Module 2 Assessment of Montserrat's financial services sector. The results of this assessment were discussed and updated in September and October 2003, as part of the FSAP for the Eastern Caribbean Currency Union. Consequently, the IMF's offshore BCP experts discussed with the Commissioner of the Financial Services Commission (FSC) the following Action Plan required to meet the recommendations of the assessment. The following three main areas were identified for action:

- (a) A review of Montserrat's existing Offshore Banking Ordinance to bring it into line with proposed amendments to the (domestic) Banking Act in order to address a number of the IMF recommendations.

**Response:** A review of the proposed amendments to the Banking Act has been undertaken and a new draft Offshore Banking Act has been drafted, which will cover most of the IMF recommendations. This will also ensure that both the domestic Banking Act and the Offshore Banking Ordinance are consistent in meeting BCP regulatory requirements.

- (b) To issue Regulations and Guidance Notes in order to give new or amended directions and guidance to banks with respect to certain risk areas.

**Response:** In June 2003, the FSC wrote to the Barbados-based Caribbean Technical Assistance Center, (CARTAC) with a request for technical assistance on drafting the above Regulations and Guidelines. CARTAC responded that, since it was doing similar work for

ECCB, the FSC should liaise with ECCB on these issues. This has been done and ECCB has advised that a deadline of end October 2003, has been set for completion and internal review of the first drafts. A date of 31st December has been set by Montserrat, subject to ECCB and CARTAC meeting their target date, to have the respective directions and guidelines ready for consultation and subsequent issuance.

- (c) To complete on-site inspections under the various Memoranda of Understanding, which have been signed by Montserrat with the ECCB, and with the 'home' supervisors of the countries, where the Montserrat banks operate.

**Response:** A difficulty facing the FSC in its ability to supervise its offshore banks on-site is the fact that the operational bases and mind and management of all of the offshore banks are located in South and Central America. Another complicating factor is that the operational language is Spanish and, in one case, Portuguese. These difficulties have been noted by the IMF in their Report. Five of the offshore banks have been required to set up offices and maintain records in Montserrat, that can be inspected locally by the FSC. The remaining six offshore banks, apart from one bank, are direct subsidiaries of a domestic bank, which is duly regulated by the 'home' supervisor. Nevertheless it is essential that on-site inspections of each Montserrat offshore bank be carried out, as required under the BCP recommendations. To date, inspections of four Montserrat banks have been carried out during 2003 under the respective Memorandum of Understanding. The IMF has recommended that all remaining banks be subject to an on-site examination as soon as possible, and it is intended that a program be put in place for the remaining banks by December 31, 2003, to be carried out over the subsequent 12 months. It is intended that this program will also involve technical assistance from ECCB and a number of issues raised by the Basel Committee in respect of offshore banks generally are to be discussed with ECCB during 2003.

### **III. REPORT ON OBSERVANCE OF STANDARDS AND CODES—FATF RECOMMENDATIONS FOR ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM**

#### **A. Introduction**

42. This Report on the Observance of Standards and Codes for the FATF 40 Recommendations for Anti-Money Laundering and 8 Special Recommendations for the Financing of Terrorism was prepared by a team of assessors that included staff of the International Monetary Fund (IMF) and experts under the supervision of IMF staff. An independent law enforcement expert (IAE) not under the supervision of IMF also participated in the assessment. IMF staff reviewed the relevant AML/CFT laws and regulations, and supervisory and regulatory systems in place to deter money laundering

(ML) and financing of terrorism (FT) in the regulated financial sector. The IAE reviewed the capacity and implementation of criminal law enforcement systems.<sup>8</sup>

43. This report provides a summary of the level of observance with the FATF 40+8 Recommendations, and proposes a number of measures for strengthening compliance with these Recommendations. The views expressed in this document are those of the team members and do not necessarily reflect the views of the Government of Montserrat or the Executive Board of the IMF.

### **B. Information and Methodology used for the Assessment**

44. In preparing the detailed assessment, IMF staff and other experts under the supervision of the IMF reviewed the relevant AML/CFT laws, regulations, guidelines and associated instruments, as well as the supervisory and regulatory systems in place to counter money laundering and the financing of terrorism in the regulated financial sector. The review of the financial sector focused mainly on the banking sector. The IAE not under the supervision of IMF staff reviewed the capacity and implementation of criminal law enforcement systems.<sup>9</sup> The assessment is mainly based on information available at the time of the mission which was completed on November 1, 2002.

### **C. Main Findings**

#### **Criminal justice measures and international cooperation**

45. **Montserrat has a relatively comprehensive legal and institutional AML/CFT framework, particularly with respect to measures to combat terrorism and terrorist financing; criminalization of offenses; confiscation of the proceeds of criminal conduct; international cooperation; and law enforcement and prosecution powers.** Its legal framework contains many of the principal elements required for compliance with international standards and progress has been made in addressing a number of recommendations made in the KPMG Report.<sup>10</sup> Notwithstanding, significant impediments exist in the implementation of ML and FT laws, largely due to resource constraints

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<sup>8</sup> The assessment team consisted of Mr. Manuel Vasquez (Mission Chief, MAE); Ms. Margaret Cotter and Mr. Stuart Yikona (both LEG); Ms. Candice Huggins (Technical Expert), and Mr. Pierre Lapaque (Independent Law Enforcement Expert, Organization of American States–CICAD). Ms. Cotter, Ms. Huggins and Mr. Lapaque were part of a larger OFC mission led by Mr. Vasquez to Montserrat, October 21–November 1, 2002.

<sup>9</sup> Throughout this report, the assessments relating to law enforcement conducted by the IAE are shown in italics.

<sup>10</sup> 1999 UK Review of Financial Regulation in the Caribbean Overseas Territories and Bermuda.

associated with economic dislocation caused by the volcanic eruptions, and the absence of an effective supervisory regime for offshore banks.

### ***Criminalization of ML and FT***

46. As an Overseas Territory of the United Kingdom (UK), Montserrat is not able to ratify Conventions but depends upon extensions to it by the UK. Montserrat has implemented in local legislation the provisions of the Vienna Convention. Although the UN International Convention for the Suppression of the Financing of Terrorism has not been extended to it, relatively strong legislative measures have been introduced to implement the applicable provisions of this Convention, including UN Security Council Resolution 1373. The Palermo Convention has not been implemented and the UK is still to ratify and extend it to Montserrat.

47. Money laundering is criminalized and extends to the proceeds of all serious offences with the exception for money laundering by persons who had also committed domestic drug trafficking offences (self-laundering). There are significant dissuasive penalties for criminal conduct associated with ML and FT. The ML and FT offences apply to both individuals and legal entities and in most cases to criminal acts committed in Montserrat and in other jurisdictions. Additional steps are still required, however, to allow for the extradition of offenders associated with terrorist financing and money laundering, and for complying with the FATF 8 Special Recommendations on terrorism finance. The Montserrat authorities plan to adopt a number of provisions contained in the UK's Proceeds of Crime Act to strengthen its anti-money laundering regime.

### ***Confiscation of proceeds of crime or property used to finance terrorism***

48. Legal provisions for the seizure and confiscation of funds derived from or used for the financing of terrorism are strong. The laws allow the authorities to freeze property related to ML but only after criminal proceedings have been initiated. For FT-related crimes, ex parte restraint orders can be obtained once a criminal investigation has commenced but before proceedings have been instituted. Although adequate provisions exist that allow for the issue of orders for the production of material, they could be enhanced to provide for account monitoring and tracing orders to assist with the identification and tracing of property associated with ML. Account monitoring orders are available only for terrorist related offences. The authorities should also consider amending the CJICO provision relating to searches to remove the limitation to searches of offenders' premises. Some of the deficiencies identified could be remedied if Montserrat adopts the relevant provisions of the new UK Proceeds of Crime Act, as currently envisioned. Adequate provisions exist in the legislation to protect the rights of bona fide third parties.

49. *Law Enforcement Considerations—Although some ML investigations have been conducted, there have been no prosecutions for ML or FT offences. Consequently, no property has been seized or confiscated and there is no immediate need to establish a system for keeping such statistics. A few police officers have been trained in basic ML investigations but no prosecution staff has been trained in either ML or FT issues.*

***The FIU and processes for receiving, analyzing and disseminating intelligence***

50. A financial intelligence unit, the Reporting Authority (RA), was only recently created by law in September 2002 and is not as yet operational. Although its functions are to receive suspicious activity reports related to ML and forward them for investigation and prosecution, the law does not impose a specific duty to receive and analyze such reports. There is no specific provision in the law that requires reporting institutions to provide additional information to the RA upon request. With respect to FT cases, suspicious activity reports are to be provided directly to the police or to the Governor. The RA has access to financial, administrative and law enforcement databases and is authorized to disclose information to law enforcement authorities in Montserrat and abroad subject to certain safeguards on the use of such information and the protection of the rights of innocent third parties. In practice, the RA forwards reports of suspicious activity for investigation to the police or customs authorities and to the UK's White Collar Crime Investigation Team (WCCT) based in Florida, USA.

51. A non-mandatory ML Practice Code has been issued under the law to provide practical guidance to reporting entities for complying with the ML Regulations. Regulated entities that fail to report suspicious transactions may, as a general rule, be subject to certain sanctions including the suspension or revocation of their licenses. The authorities plan to draft amendments to the relevant law to enhance and broaden the legal scope of the RA's duties, including its power to request additional information from reporting parties. Specific provisions requiring that suspicious activity reports be disclosed to the RA rather than to the police are also recommended both for ML and FT matters. A tipping-off offence for drugs-related money laundering should also be introduced.

52. *Law Enforcement Considerations—The RA is comprised of the Attorney General, the Commissioner of Police and the Director of Financial Services/Commissioner. As of the date of the mission the RA had not met as yet and it is too early to ascertain the adequacy of its structure, staff and funding resources. Nonetheless, about 20 reports of suspicious activity have been filed by an offshore bank with the Financial Services Commission. These have all been referred to WCCT due to their international connection.*

***Law enforcement and prosecution authorities, powers and duties***

53. Law enforcement authorities have adequate powers to compel the production of financial records by applying to the Court for an order that requires financial institutions to make available material for investigations. More robust provisions that allow for obtaining account monitoring and tracing orders, similar to those contained in the new UK Proceeds of Crime Act and in the FT laws, would enhance the powers of the law enforcement authorities.

54. *Law Enforcement Considerations—Montserrat has trained only two police officers in basic ML investigation techniques in courses organized by the Trinidad and Tobago-based Caribbean Anti-Money Laundering Programme. No specialized training has been provided for prosecutors on ML but they have remained abreast of ML issues through participation in regional seminars. No training on FT has been provided to either police or prosecution staff.*

*In practice, police officers were not very familiar with the legal framework and tools available for investigating ML and FT offences. The use of investigation techniques such as controlled delivery and undercover operations is possible in Montserrat. However, these techniques have not been used in the past. To date no criminal or civil sanctions have been applied in ML or FT cases.*

### ***International cooperation***

55. The law allows Montserrat to provide, on a discretionary basis, a wide range of assistance to foreign authorities in relation to criminal investigations and proceedings. Compulsory measures are also allowed under the legislation and in particular under an MLAT with the USA. There is also provision in the law for the authorities to enforce foreign confiscation and restraining orders in relation to both ML and FT cases, though for ML cases, there is a need for the issue of Orders designating jurisdictions whose orders are recognized by Montserrat. The RA can also share information freely with the Montserrat police and foreign law enforcement authorities. In addition, the police can access Interpol and a regional information sharing network (OTCRIS) to communicate with their counterparts in other jurisdictions. A main drawback to international cooperation is the inability under the law to extradite individuals for ML and FT cases. Nonetheless, the Governor is authorized to deport or exclude individuals from Montserrat who are deemed to be “undesirable.”

56. *Law Enforcement Considerations—In light of the small number of requests for legal assistance from other countries (approximately one every five years under the MLAT with the USA), there is no immediate need to maintain statistics and assign staff solely for this purpose. There have been no requests involving ML or FT cases.*

### ***Preventive measures for financial institutions***

#### *Prudentially-regulated sectors (Banking)*

57. **Montserrat has established a Financial Services Commission (FSC) that is responsible for the supervision of financial institutions other than domestic banks, and is the agency primarily charged with the supervision of compliance with AML/CFT requirements. Significant staff and resource constraints, however, limit its ability to effectively supervise offshore banks in spite of ongoing efforts to involve the Eastern Caribbean Central Bank (ECCB) and overseas regulators in their supervision.**

### ***General framework***

58. Montserrat has passed anti-money laundering Regulations and a non-mandatory Practice Code issued by the Governor under the ML legislation to give practical guidance to financial institutions for complying with the ML Regulations. Although the Code only represents good practice and is not mandatory, the Regulations provide that a court may take it into account in determining whether a person has complied with the Regulations. The Regulations and Practice Code apply to a wide range of financial institutions but do not specifically cover offshore banks, mutual funds and insurance business by reference to the

applicable laws. Confidentiality and secrecy laws do not inhibit implementation of AML/CFT legislation. Neither the ML Regulations nor the Practice Code makes provision for FT issues.

59. With the creation of the FSC in 2001 as a relatively autonomous supervisory body, an appropriate mechanism was established to supervise for compliance with the ML Regulations and any related laws and guidelines. The FSC has supervisory responsibility for offshore banking, insurance, trust and company service providers, investments and asset management services. To strengthen AML/CFT supervision, the FSC Act should provide the FSC with appropriate administrative and disciplinary sanctioning authority, in line with those contained in the Anguillian draft FSC Act.

60. The ability of the FSC to supervise for AML/CFT compliance is significantly constrained by the absence of a substantive physical presence by the offshore banks in Montserrat. Full implementation of the supervisory MOUs with the ECCB and the four overseas regulators should partly address this limitation but there is still a need to lift the restrictions on access to customer account information contained in some of these MOUs.

#### ***Customer due diligence, monitoring of transactions and record keeping***

61. The ML Regulations require financial institutions to have procedures for conducting customer identification but not an explicit requirement to identify their customers, thus raising issues with regard to the enforcement and effectiveness of customer due diligence requirements. Procedures to maintain records of customer identification and transactions for five years are also required under the ML Regulations. An explicit requirement for customer identification and record keeping, with clear sanctions for non-compliance, would strengthen and clarify the customer due diligence requirements and make them more consistent with the Practice Code. The Montserrat authorities plan to introduce a number of improvements to the ML Regulations, broadly similar to those planned for Anguilla, including: (i) creating an affirmative obligation to conduct customer identification/due diligence and record keeping; (ii) provisions for internal audit; and (iii) an explicit requirement to retain records of customers and transactions, including for unusual and suspicious transactions. In addition, the authorities plan to introduce in regulations provisions for complying with the FATF 8 Special recommendations particularly those relating to funds (wire) transfers. Legislative initiatives are also planned with respect to money remittance firms which will come under the supervision of the FSC and/or the ECCB.

#### ***Suspicious activity reporting***

62. The ML Regulations provide a framework for filing suspicious activity reports but do not explicitly require the filing of such reports. The authorities plan to introduce an affirmative obligation in the law with appropriate sanctions for non-compliance. The Practice Code requires that reports be made promptly but does not give a timeframe by which they are to be submitted to the authorities. It also provides general guidelines for monitoring and identifying suspicious ML activity. In practice, very few STRs have been filed with the RA indicating a possible weakness in compliance. No industry guidelines have been issued for FT.

**Medium-term challenge**

63. The main challenge facing the authorities is in the implementation of an effective mechanism for verifying compliance with AML/CFT requirements by the offshore banks. While the MOUs with foreign regulators and the ECCB should help address this concern, there could be practical and legal limitations to their full implementation that should be resolved, including the restriction on access to customer account information. There is also a need to upgrade the staff capacity of the FSC that, because of the volcanic threat to the Island, may not be easily achieved.

**Summary assessment against the FATF Recommendations**

64. **Overall, Montserrat’s compliance with the FATF 40+8 Recommendations is relatively strong with respect to the legal framework.** However, important improvements are required in the area of extradition, the regulations and the Practice Code. Adoption of some of the provisions of the new UK Proceeds of Crime Act would also strengthen the legal framework. Implementation of the Recommendations particularly, those relating to the financial sector, is weak. The absence of an effective supervisory framework for AML/CFT in the offshore banking sector is of particular concern. Table 7 below summarizes recommended action in areas that would assist the authorities in further strengthening the AML/CFT regime.

Table 4. Recommended Action Plan to Improve Compliance with the FATF Recommendations

Reference FATF Recommendation	Recommended Action
<b>40 Recommendations for AML</b>	
General framework of the Recommendations (FATF 1-3)	<p>Consider amending the Drugs Trafficking Offences Act to provide that disclosures to the Reporting Authority (FIU) are not treated as breaches of any restriction on disclosure of information.</p> <p>Consider broadening the disclosure provisions in the Eastern Caribbean Central Bank Agreement Act to enable the ECCB to disclose information to financial institution supervisors.</p> <p>In conjunction with the United Kingdom, introduce legislative mechanisms to allow for extradition for money laundering and terrorist financing.</p>
Scope of the criminal offense of money laundering (FATF 4-6)	None.
Provisional measures and confiscation (FATF 7)	None.
General role of financial system in combating ML (FATF 8-9)	None.

Reference FATF Recommendation	Recommended Action
Customer identification and record-keeping rules (FATF 10-13)	<p>Impose an explicit requirement on financial institutions to identify clients and conduct other due diligence.</p> <p>Enhance ML Regulations to: prohibit transactions until identification is complete; provide sanctions for failure to identify customers; require verification of identify particularly for legal entities. Also, consider requiring re-verification of existing clients, particularly relevant to offshore banks.</p> <p>Fully implement the MOUs with the ECCB and overseas regulators, especially with respect to the examination of offshore banks for compliance with Montserrat AML/CFT customer identification and recordkeeping requirements.</p> <p>Enhance the ML Regulations to specifically require that: records are kept for a period longer than five years on request from law enforcement authorities and that they be sufficient to reconstruct transactions and be available for inspection.</p>
Increased diligence of financial institutions (FATF 14-19)	<p>Enhance the ML Regulations and Practice Code to specifically require institutions to monitor for unusual and complex transactions.</p> <p>Introduce an explicit requirement in the ML Regulations to promptly report suspicious transactions and introduce a tipping-off prohibition for drug trafficking money laundering.</p> <p>Consider integrating the mechanism for reporting of suspicious transactions relating to both ML and FT.</p> <p>Implement a comprehensive onsite inspection program to ascertain the reason for the absence of reports from most offshore banks.</p>
Measures to cope with countries with insufficient AML measures (FATF 20-21)	<p>Introduce requirements for financial institutions to give enhanced scrutiny to transactions, particularly wire transfers, with counterparties from jurisdictions with inadequate AML/CFT regimes and provide appropriate guidance in the Practice Code.</p>
Other measures (FATF 22-25)	<p>Introduce in the Practice Code appropriate guidance for offshore banks that deal with offshore shell companies.</p>
Implementation & role of regulatory and other administrative authorities (FATF 26-29)	<p>Fully implement a program of supervision of offshore banks for AML/CFT, particularly through onsite inspections, in collaboration with the ECCB and overseas supervisors as appropriate.</p> <p>Remove the restriction on access to customer account information from MOUs with overseas regulators.</p> <p>Extend the ECCB guidelines on correspondent and shell banking relationships to offshore banks.</p> <p>Ascertain whether offshore shell corporations have any direct or indirect ownership interests in licensed offshore banks.</p>

Reference FATF Recommendation	Recommended Action
Administrative Cooperation – Exchange of general information (FATF 30-31)	None.
Administrative Cooperation – Exchange of information relating to suspicious transactions (FATF 32)	None.
Other forms of cooperation – Basis & means of cooperation in confiscation, mutual assistance, and extradition (FATF 33-35)	Designate by Orders those jurisdictions whose confiscation orders are recognized by Anguilla.
Other forms of cooperation – Focus of improved mutual assistance on money laundering issues (FATF 36-40)	Consider amending the Criminal Justice (International Cooperation) Act relating to searches to remove the limitation on searches of the offenders’ premises.  Allow under law for extradition for money laundering and terrorist financing.
<b>8 Special recommendations on terrorist financing</b>	
I. Ratification and implementation of UN Instruments	Extend the International Convention for the Suppression of the Financing of Terrorism to Montserrat.
II. Criminalizing the financing of terrorism and associated money laundering	None.
III. Freezing and confiscating terrorist assets	None.
IV. Reporting suspicious transactions related to terrorism	Introduce in the Practice Code guidelines for the recognition and reporting of suspicious transactions relating to FT.
V. International Cooperation	In conjunction with the United Kingdom, introduce legislative mechanisms to allow for extradition for terrorist financing.
VI. Alternative remittance	Consider bringing money remittance firms under the supervision of the FSC or ECCB for CFT purposes, as appropriate.
VII. Wire transfers	Make the Directive on wire transfers legally binding and issue industry guidelines to assist with implementation.
VIII. Non-profit organizations	Not assessed.

Table 5. Other Recommended Actions

Reference	Recommended Action
<i>Law Enforcement</i>	<i>Enhance training for law enforcement officers, particularly on ML and FT trends and typologies.</i>

**Authorities’ response**

65. Montserrat agreed to be assessed under the new AML/CFT Methodology document, which was introduced shortly before the IMF assessment. As a result the IMF has made a number of AML/CFT recommendations, which are accepted. Montserrat was pleased to learn that the IMF considers Montserrat to have a relatively robust legal and institutional AML/CFT framework.

66. Montserrat’s existing Proceeds of Crime legislation and Anti-Money Laundering Regulations and Guidance Notes on the Prevention of Money Laundering were largely

drafted on similar UK legislation in place at the time. Since then, the UK has adopted a new Proceeds of Crime Act, and the proposed adoption by Montserrat of a number of new measures contained in that new Act, should go a long way to meeting the IMF's legal and institutional recommendations directed at Montserrat's current AML legislation. In addition, the IMF recommends that a number of provisions already contained in the Guidance Notes for the Prevention of Money Laundering should be transferred into existing Regulations to give them more force of law. Montserrat has already identified these provisions and the Regulations are being amended accordingly. A number of other minor recommendations concerning Montserrat's AML Regulations are also being included.

67. It is noted however that since the IMF Report the FATF has issued its revised 40 Recommendations and these are also to be reviewed in conjunction with Montserrat's existing and proposed AML Legislation and Regulations.

68. The IMF also recommends that Montserrat's Money Laundering Reporting Authority should take on a more centralized structure, and that Montserrat should develop more in-house investigative expertise. Montserrat is reviewing this requirement within the limited resources that it has at its disposal.