

**Cayman Islands: Report on the Observance of Standards and Codes,
FATF Recommendations for Anti-Money Laundering
and Combating the Financing of Terrorism**

This Report on the Observance of Standards and Codes on the FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism for the Cayman Islands was prepared by the Caribbean Financial Action Task Force (CFATF), using the assessment methodology adopted by the FATF in February 2004 and endorsed by the Executive Board of the IMF in March 2004. The views expressed in this document, as well as in the full assessment report, are those of the CFATF and do not necessarily reflect the views of the Government of the Cayman Islands or the Executive Board of the IMF.

A copy of the full assessment report can be found on the website of the CFATF at <http://www.cfatf-gafic.org/>



Caribbean Financial Action Task Force

Cayman Islands

**Report on Observance of Standards and Codes (ROSC)—FATF Recommendations for
Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)**

ABBREVIATIONS

AMLSG	Anti-Money Laundering Steering Group
CDD	Customer Due Diligence
CIMA	Cayman Islands Monetary Authority
CIREBA	Cayman Islands Real Estate Brokers Association
DNFBPs	Designated Non-Financial Businesses and Professions
FCU	Financial Crime Unit
FRA/FIU	Financial Reporting Authority
FT	Terrorism Financing
GNs	Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands
JIU	Joint Intelligence Unit
MDL	Misuse of Drugs Law
ML	Money Laundering
MLR	Money Laundering Regulations
NPOs	Non-Profit Organizations
PCCL	Proceeds of Criminal Conduct Law
RCIP	Royal Cayman Islands Police
SARs	Suspicious Activity Reports
SRO	Self-Regulatory Organization
TL	Terrorism Law
TUNMOTO	Terrorism (United Nations Measures)(Overseas Territories) Order, 2001

A. Introduction

1. This Report on the Observance of Standards and Codes for the FATF 40 Recommendations for Anti-Money Laundering (AML) and 9 Special Recommendations on Combating the Financing of Terrorism (CFT) was prepared by Mrs. Maurene Simms (financial expert from the Bank of Jamaica, Jamaica), Mr. Garvin Gaskin (legal expert from the Attorney General Chambers of The Bahamas), Inspector William Malone (law enforcement expert from the Royal Canadian Mounted Police, Canada), Mr. Michael Vallely (financial expert from the Financial Crimes Enforcement Network, USA), and Mr. Roger Hernandez from the Caribbean Financial Action Task Force (CFATF) Secretariat. The report provides a summary of the anti-money laundering/combating the financing of terrorism (AML/CFT) measures in place in Cayman Islands and of the level of compliance with the FATF 40+9 Recommendations, and contains recommendations on how the AML/CFT system could be strengthened. The assessment is based on the information available at the time of the mission from June 4–15, 2007, and was conducted using the 2004 Assessment Methodology. The Mutual Evaluation Report on which this document is based was adopted by the CFATF Plenary held during November 19–23, 2007. The views expressed here, as well as in the detailed assessment report, are those of the CFATF and do not necessarily reflect the views of the Government of Cayman Islands or the Executive Board of the International Monetary Fund.

B. Key Findings

2. The Cayman Islands' legal framework for combating money laundering (ML) and terrorism financing (FT) is comprehensive. All designated categories of offences enumerated in the FATF 40 Recommendations are predicate offences under Cayman law. The criminalization of FT is in accordance with FATF requirements. The confiscation regime meets most standards and is effective. There are no specific provisions for asset tracing but these are to be incorporated in proposed revised legislation.

3. The Cayman Islands' financial intelligence unit, the Financial Reporting Authority (FRA), is effective and is a focal point of the AML/CFT regime. It was admitted to the Egmont Group in 2001. The law enforcement and prosecutorial authorities are adequately empowered and competent to investigate and prosecute ML and terrorism financing offences. Requirements for a combined declaratory and disclosure system for the cross-border movement of cash and negotiable monetary instruments have been recently introduced.

4. The preventive system for financial institutions incorporates most of the FATF Recommendations and applies to a range of financial institutions and most of the designated non-financial businesses and professions (DNFBPs) as defined by the FATF. While there are measures in place to deal with customer due diligence (CDD) requirements, a number have not been enacted legislatively as required by the FATF standards. Record-keeping, monitoring and reporting requirements are comprehensive. Legislative requirements for wire transfers enacted in June 2007 are compliant with SR VII but not enforceable until January 1, 2008.

5. There is a strong compliance culture in the Cayman Islands. Most suspicious activity reports (SARs) are submitted by banks and 10 percent by lawyers. There is one supervisory authority, responsible for all financial institutions as defined by the FATF. Supervision is comprehensive but some constraints are posed by inadequate quantity of human resources. All DNFBPs are included in the AML/CFT framework except for casinos which are prohibited and, at the time of the on-site visit, dealers in precious metals and precious stones. DNFBPs are subject to the same AML/CFT requirements as financial institutions and deficiencies noted with regard to these requirements are also applicable to DNFBPs.

6. The provision of corporate and trust services are regulated activities subject to the AML/CFT requirements. Supervisory, law enforcement and judicial authorities have power to readily access information on beneficial ownership and trusts from financial and trust service providers. While the Cayman Islands has a system for licensing and registering non-profit organizations (NPOs) there is no agency responsible for ongoing monitoring.

7. There is a high degree of co-operation among competent authorities in the Cayman Islands in operational matters related to AML/CFT. A wide range of mutual legal assistance is available in criminal matters. Money laundering, terrorist financing and terrorism offences are extraditable offences. In general, law enforcement, the FRA and supervisors can engage in a wide range of international cooperation.

C. Legal Systems and Related Institutional Measures

8. Money laundering has been criminalized in the Cayman Islands under the Misuse of Drugs Law (MDL) and the Proceeds of Criminal Conduct Law (PCCL) in accordance with the Vienna and the Palermo Conventions, save in one minor technical aspect in relation to the former, which does not impact effectiveness. The Cayman Islands largely applies the threshold approach with regard to predicate offences to ML and incorporates all designated categories of offences mainly in the Penal Code. Extraterritorial and appropriate ancillary offences are covered in domestic legislation and criminal liability extends to legal persons. There have been five ML prosecutions in the Cayman Islands since 2003.

9. Terrorist financing is criminalized under the Terrorism (United Nations Measures) (Overseas Territories) Order, 2001 (TUNMOTO) and the Terrorism Law (TL). TUNMOTO was made pursuant to UNSCR 1373 and extended by the UK to all its overseas territories. The TL is domestic legislation criminalizing terrorism and FT, in accordance with the UN Convention on the Suppression of the Financing of Terrorism. Terrorist financing offences are indictable and therefore predicate offences for ML. There have been no FT investigations or prosecutions in the Cayman Islands to date. The authorities indicate that this is due to absence of cause.

10. The system for the confiscation, freezing and seizure of the proceeds of crime is comprehensive and meets most of the standards. While the police may obtain production orders for purposes of investigation and treatment of confidential information, there are no specific asset-tracing provisions. These will be provided for in a proposed revision/consolidation of the PCCL and the MDL. The regime for the freezing of funds used

for FT complements the ML system in its compliance with FATF requirements. While lists promulgated by the UN Sanctions Committee and other competent authorities are legally recognized, there is no provision under Cayman Islands law for listings of terrorists/terrorist organizations to be promulgated domestically, on an independent basis, except as may be potentially accommodated under the general regulation-making power of the TL. While there have been no restraints or confiscation in relation to FT, the ML confiscation system has been very effective.

11. The FRA, the Cayman Islands' financial intelligence unit, is a statutory agency within the government's Portfolio of Legal Affairs and subject to the oversight of the Anti-Money Laundering Steering Group (AMLSG). The structure accords sufficient operational autonomy and allows the FRA to carry out its statutory mandate effectively. The FRA is an administrative/civilian entity responsible for receiving, analyzing and disseminating SARs. The FRA has adequate powers to obtain information and direct access to a number of government and public databases. The FRA's relationship with reporting entities is excellent. While the FRA issues an annual report, it has not to date developed any sort of comprehensive typologies and/or trend analysis for the report.

12. The Cayman Islands has designated authorities to investigate and prosecute ML and FT offences and has equipped them with the necessary powers. The Financial Crime Unit (FCU) of the Royal Cayman Islands Police (RCIP) has the remit for criminal investigations of all offences related to financial crime including ML and FT. The Legal Department of the Portfolio of Legal Affairs has the responsibility for the prosecution of these and all other criminal offences. The work of the FCU is complemented by the Joint Intelligence Unit (JIU) which consists of officers from the RCIP, Customs and Immigration. The primary function of the JIU is to gather and disseminate intelligence to both domestic and international law enforcement agencies to facilitate criminal investigations. The various agencies appear to be adequately structured, funded and resourced to effectively carry out their functions.

13. As of August 10, 2007, the Cayman Islands enacted the Customs (Money Declarations and Disclosures) Regulations, 2007. These regulations establish the legal framework for a mandatory declaratory system for the cross-border movement of cash that is inbound and a disclosure system for money that is outbound, and imposes requirements for compliance with SR IX. The system is to be implemented by the Customs Service of the Cayman Islands. As these measures were implemented within the two-month period after the on-site visit, the effectiveness of the system cannot be assessed. The Custom Service plays a vital role in collecting revenue for the government treasury and works in a cooperative manner with local competent authorities and international counterparts. At the time of the on-site visit, it was apparent that the Customs Service was operating with insufficient financial and human resources.

D. Preventive Measures – Financial Institutions

14. The application of the AML/CFT measures to the financial system and the DNFBPs in the Cayman Islands is not based on risk in the manner contemplated in the FATF 40

Recommendations. Simplified CDD measures are only permitted in circumstances defined in the Money Laundering Regulations (MLR) and the Guidance Notes (GNs). The preventive system and other AML/CFT requirements apply to a range of financial institutions and most of the DNFBPs as defined by the FATF. While there are measures in place to deal with most CDD requirements, a number have been implemented through guidance rather than enacted legislatively as required by the FATF standards. There is no requirement to verify that a person acting on behalf of a legal person or arrangement is so authorized, and to identify and verify the identity of that person. Financial institutions are not required to routinely ensure that CDD documentation and data are kept up-to-date and there is no express requirement for simplified CDD measures to be unacceptable in higher risk scenarios.

15. There are no specific provisions dealing with correspondent banking, albeit that the activity is limited. Provisions are in place with regard to the risks associated with non-face to face business and misuse of technological developments. Although financial institutions may rely on third parties to introduce business, requirements for immediate information on elements of the CDD process, and the regulation and supervision of the introducer, are not as extensive as required by the FATF standards.

16. There are no impediments to competent authorities' access to information in the course of their duties. Recordkeeping requirements meet most of the standards but legislative requirements for wire transfers which fully comply with SR VII enacted in June 2007 (without a *de minimis* limit) do not become enforceable until January 1, 2008. There are obligations to monitor complex, unusual large transactions or unusual patterns of transactions, and a requirement to keep the findings of enquiries of these transactions available for competent authorities and auditors. However, the five- year retention period required by Recommendation 21 is not specified.

17. The SAR reporting obligation is sound and has no *de minimis* limits. While there is no explicit requirement regarding reporting attempted suspicious transactions, attempted offences are inherently provided for by virtue of the relevant definition under the Interpretation Law. There is no clear guidance in the GNs with regard to the treatment of attempted suspicious transactions or the consequences of non-reporting. While there are provisions against "tipping off", they do not cover the filing of SARs for drug- related ML, only applications for production orders or search warrants. This will be dealt with in the proposed revision/consolidation of the PCCL and the MDL.

18. Requirements for internal controls, compliance and audit meet most of the standards. The requirements for audit and the appointment of the AML/CFT compliance officer are not specific enough for the FATF requirements. There is no requirement for financial institutions to put in place screening procedures to ensure high standards when hiring employees. Obligations for ensuring that overseas branches, subsidiaries, agencies and representatives offices observe AML standards equivalent to Cayman Islands were recently issued. The establishment of shell banks in the Cayman Islands was prohibited since 2001 with the introduction of legislated requirements for physical presence. However, financial institutions are not prohibited from having relationships with such banks or with respondent banks that do.

19. The Cayman Islands Monetary Authority (CIMA) is the sole regulator of the financial sector in the Cayman Islands responsible for all financial institutions operating under the regulatory laws including money service businesses. CIMA is also responsible for ongoing supervision of compliance with AML/CFT obligations. CIMA's supervisory regime is comprehensive and incorporates on-site and off-site functions utilizing a risk-based supervisory approach and techniques. The various regulatory laws provide for licensing, on-site inspections, fit and proper criteria and access to information in accordance with FATF standards. Although staff is competent, experienced and well-trained, some constraints are posed by their number. CIMA's powers of enforcement and sanction are broad but limited in relation to the GNs since specific requirements for FT are not fully incorporated in the GNs. The GNs do not incorporate guidance for dealers in precious metals and precious stones

E. Preventive Measures – Designated Non-Financial Businesses and Professions

20. The range of DNFBPs covered by the AML/CFT framework in the Cayman Islands includes most of the FATF categories. The types of DNFBPs that are not covered are casinos which are prohibited and, at the time of the onsite visit, dealers in precious metals and precious stones. On August 10, 2007, dealers in precious metals and precious stones were brought under the AML/CFT regime but were granted a transitional grace period from criminal sanctions until January 1, 2008. The covered DNFBPs are subject to the same requirements as financial institutions to identify customers, keep records, monitor transactions, and report suspicious transactions to the FRA. Deficiencies already noted with regard to these requirements for financial institutions are also applicable to the DNFBPs.

21. While CIMA's AML/CFT supervisory program under the regulatory laws is extensive, covering most of the DNFBPs, it does not include real estate agents, brokers and real estate activities of lawyers. The real estate sector's interests are represented primarily by the Cayman Islands Real Estate Brokers Association (CIREBA). CIREBA functions as an informal self-regulatory organization (SRO) in relation to AML/CFT matters. It has retained a consultant to conduct AML/CFT audit of its members and developed a model AML compliance manual. The Cayman Islands has extended the suspicious reporting obligation to all persons, businesses and professions operating in the jurisdiction, not just financial institutions and DNFBP's. The FRA has advised retailers of high value goods about their reporting obligations.

F. Legal Persons and Arrangements & Non-Profit Organizations

22. While the Cayman Islands has a system of central registration for companies, the information maintained does not include beneficial ownership data except in respect of ordinary (i.e. domestic) companies. Beneficial ownership is maintained by company service providers, who account for 92 percent of company registrations. All financial service providers are required to maintain beneficial ownership information on their customers. Provision of corporate services is a regulated activity which is governed by the MLR and therefore subject to CDD, record-keeping and other requirements. Specific guidance is also provided for corporate service providers in the GNs regarding the required due diligence on

companies. CIMA, law enforcement and judicial authorities all have power to readily access beneficial ownership information from financial service providers when necessary.

23. There is no central filing requirement for trusts and no register of all trusts in the Cayman Islands, except in relation to exempted trusts. Provision of trust services is a regulated activity which is governed by the MLR and therefore subject to CDD, record-keeping and other requirements. Specific guidance is also provided for trust service providers in the GNs regarding the required due diligence on settlors, settled assets, and beneficiaries. Information on trusts maintained by licensed trust service providers can be readily accessed by the investigative and examination powers of the regulatory and law enforcement authorities under the relevant statutes.

24. The Cayman Islands has a system for licensing and registering NPOs. This system, while allowing for initial due diligence at the time of licensing, does not have an agency responsible for ongoing monitoring. No competent authority has undertaken any formal outreach efforts to the NPO sector regarding AML/CFT requirements or best practices. Competent authorities are presently developing outreach measures for the sector and considering the designation of appropriate points of contact and procedures to respond to any international requests for information regarding NPOs that may be suspected of FT or other forms of terrorist support.

G. National and International Co-operation

25. There is a high degree of co-operation among competent authorities in the Cayman Islands in operational matters related to AML/CFT. This co-operation also extends to policy issues which are subject to the oversight of the AMLSG. The AMLSG promotes effective collaboration between regulators and law enforcement agencies, monitors interaction and co-operation with overseas FIUs and review and discusses proposed AML/CFT amendments. The Cayman Islands has substantially implemented the Vienna, Palermo and the Terrorist Financing Conventions and the provisions of S/RES 1267(1999) and S/RES/1373 (2001). While the Vienna Convention has been extended to the Cayman Islands by the UK, the Palermo and the Terrorist Financing Conventions have not.

26. A wide range of mutual legal assistance is available including at investigative stages in criminal matters. While dual criminality is a condition, technical differences in categorizing and denominating an offence do not pose an impediment. Pure fiscal matters are dealt with under the Tax Information Authority Law. Arrangements for coordinating seizure and confiscation actions with other countries can be put in place. While there is no formal asset forfeiture fund, seized funds are paid into general revenue and then segregated internally to be applied to AML and anti-narcotics purposes. The provisions for mutual assistance do not include facilitating the voluntary appearance of persons not in lawful custody for the purpose of providing information or testimony to the requesting country.

27. Money laundering, terrorist financing and terrorism offences are extraditable offences. The Cayman Islands is able to extradite its own nationals to other states. While dual criminality is required for extradition, technical differences in offence taxonomy do not

pose an impediment. There have been only two extradition requests, both in 2005, which were granted.

28. In general law enforcement, the FRA and supervisors can engage in a wide range of international cooperation. Cayman Island authorities attempt to render assistance to foreign authorities as expeditiously as possible. As a matter of practice, foreign agencies must disclose the nature and purpose of their inquiries. The Cayman Islands appears to have adequate safeguards and controls to ensure that information received by competent authorities is used only in an authorized manner.

H. Other Issues

29. On the whole, competent authorities appear to be adequately resourced and structured to effectively perform their functions. However, staff levels at CIMA appear to pose some constraints. HM Customs also appears to have insufficient human resources to effectively carry out all its functions.

30. The extent of statistics maintained by the various authorities is appropriate and relevant to their functions. However, the Customs Service does not yet maintain statistics on the cross-border transportation of currency and bearer monetary instruments, due to recent implementation of SR IX. Additionally, detailed statistics on the number of requests for assistance made by domestic law enforcement authorities and supervisors are not maintained.

Summary Table of Observance and Key Recommendations

FATF 40+9 Recommendations ¹	Key Assessor Recommendations
1. Legal System and Related Institutional Measures	
Criminalization of Money Laundering R. 1 – LC R. 2 – C R. 32 – LC	<ul style="list-style-type: none"> • It is recommended that the requirement of intent to avoid prosecution or to avoid the making or enforcement of a confiscation order be removed from the ML offence of concealing, disguising, converting or transferring property
Criminalization of Terrorist Financing SR. II – LC R. 32 – LC	
Confiscation, freezing, and seizing of proceeds of crime R. 3 – LC R. 32 – LC	<ul style="list-style-type: none"> • It is recommended that the proposed revision/consolidation of the MDL and the PCCL which will include specific asset-tracing and comprehensive civil forfeiture provisions be enacted
Freezing of funds used for terrorist financing SR. III – LC R. 32 – LC	<ul style="list-style-type: none"> • There is a need for the development of a publicly known listing and delisting process for independent domestic designations, whether by way of s. 60 of the TL or otherwise . • There is need for legislative provisions for independent domestic listing and delisting.
The Financial Intelligence Unit and its functions R. 26 – LC R. 30 – PC R. 32 – LC	<ul style="list-style-type: none"> • Despite the enhanced level of training, the FRA should take measures to establish a more formalized AML/CFT training program for its employees to ensure that they remain abreast of current trends and typologies. This could be accomplished through the development of partnerships with foreign FIUs, law enforcement, CIMA and representatives from the financial sector. • The FRA or CIMA should mandate that all SARs which are filed by reporting entities follow the prescribed format which is outlined in Appendix J of the GNs. At the time of the onsite the SAR reporting format was simply a “suggested” format. This would reduce the probability of key information being left out of the SARs and therefore enhance the ability of the FRA analysts in identifying transactions of a criminal nature. • The current practice concerning the onward disclosure of SAR information appears to be occurring in a timely manner. In the opinion of the assessment team, consideration should be given to the removal of the requirement that the Director of the FRA seek permission from the AG prior to the dissemination of information to a foreign FIU. This would significant

¹ **Compliant (C)**: the Recommendation is fully observed with respect to all essential criteria. **Largely compliant (LC)**: there are only minor shortcomings, with a large majority of the essential criteria being fully met. **Partially compliant (PC)**: the country has taken some substantive action and complies with some of the essential criteria. **Non-compliant (NC)**: there are major shortcomings, with a large majority of the essential criteria not being met. **Not applicable (NA)**: a requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country.

	<p>mitigate the risk of any unnecessary delay in exchanging SAR information.</p> <ul style="list-style-type: none"> • The FRA should also focus on the development of analytical products/reports in collaboration with its partners (e.g. law enforcement and CIMA) to identify new ML/FT trends and/or typologies. They should also continue to provide feedback to both financial and non-financial reporting entities concerning the submission of SARs and, they should actively seek out opportunities to participate in training seminars and media programs to educate both professionals and the public on AML/CFT matters. • The FRA should also develop a website which would be readily accessible to the general public. The content of this website should include; the mandate and responsibilities of the FRA, all relevant AML/CFT laws and regulations, GNs, legal obligations to files SARs, contact information for general inquiries, links to other AML/CFT resources, (e.g. CFATF, FATF, IMF, Egmont Group), as well as, any other information that would be considered useful to educate and inform the general public and AML/CFT investigative partners. • An enhanced outreach program should also be considered by the FRA in order to educate businesses and the general public on various typologies, trends and other matters related to AML/CFT. • In the 2005/2006 FRA Annual Report statistics show that the total number of SARs from 2002 to 2006 has dropped from 443 in 2002 to 221 in 2005/6 (approx. 50% decrease). At the time of the onsite visit the FRA stated that this decrease may be due to one of the following reasons: firstly, that in the wake of the introduction of the MLR in 2002 and the retrospective due diligence requirement, there was a reporting spike. Secondly, that defensive reporting may have been occurring in response to the establishment in 2000 of a direct offence for failure to disclose knowledge or suspicion of money laundering. Cayman Islands authorities should continue to monitor this closely to ensure that the level of vigilance of the reporting entities is not waning and that complacency is not setting in. • Consideration should also be given to legislative amendments to the PCCL which would allow the FRA to directly impose administrative sanctions or penalties on those entities who fail to comply with reporting obligations, in addition to the criminal penalty. Currently, CIMA may impose regulatory sanctions against entities that it regulates for failure to have the reporting systems and procedures required by the MLR in place. An FRA sanction would streamline the process and reduce the workload of CIMA.
<p>Law enforcement, prosecution and other competent authorities R.27 – C R. 28 – C R. 30 – PC R. 32 – LC</p>	<ul style="list-style-type: none"> • Despite the high level of experience and competence of the FCU, consideration should be given to the development of a more formal training process. This could include a basic financial crime course which would include elements of AML/CFT. In addition to this, measures to ensure that all investigators within the FCU remain up to date vis-à-vis the latest trends and typologies should also be considered. • Legislative authorities within the Cayman Islands should also take steps to allow judicial authorization for the monitoring of bank accounts in matters related to money laundering. This currently exists for matters related to FT; however it has not yet been extended to ML. It is expected that this will be

	<p>addressed in the new consolidation of the PCCL and MDL which is currently being developed.</p> <ul style="list-style-type: none"> • The FCU, the Legal Department, the FRA and other competent authorities are also encouraged to pursue AML/CFT cross training opportunities where possible. Particular emphasis should be placed on the cooperative analysis of ML/FT trends and typologies, as well as, the identification of new investigative techniques and international “best practices”.
<p>Cross Border Declaration or disclosure SR. IX– PC</p>	<ul style="list-style-type: none"> • It is the assessment team’s recommendation that Cayman Islands Customs authorities should consider the implementation of new investigative techniques and methods similar to those outlined in the Best Practices Paper for SR IX, e.g. canine units specifically trained to detect currency. • Customs officials should also consider working more closely with the FRA and other law enforcement authorities to develop typologies, analyze trends and share information amongst themselves to more effectively combat cross border ML and FT issues
2. Preventive Measures: Financial Institutions	
<p>Risk of money laundering or terrorist financing</p>	
<p>Customer due diligence, including enhanced or reduced measures R. 5 – PC R. 6 – LC R. 7 – NC R. 8 – LC</p>	<ul style="list-style-type: none"> • Financial institutions should be legislatively required to undertake CDD measures when they have doubts as to the veracity or adequacy of previously obtained customer identification data. • Financial institutions should be legislatively required to verify that persons purporting to act on the behalf of a customer is so authorized and identify and verify the identity of that person. • Financial institutions should be legislatively required to determine the natural persons who ultimately own or control the customer. • Financial institutions should be legislatively required to conduct ongoing due diligence on the business relationship • Financial institutions should be required to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking routine reviews of existing records. • Simplified CDD measures should be unacceptable in specific higher risk scenarios. • Financial institutions should be required to obtain senior management approval to continue a business relationship once a customer or beneficial owner is found to be, or subsequently becomes a PEP • The specific requirements of Recommendation 7 with regard to cross-border correspondent banking and other similar relationships should be imposed on financial institutions in the Cayman Islands. • Financial institutions should be required to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions

<p>Third parties and introduced business R. 9 – PC</p>	<ul style="list-style-type: none"> • Financial service providers relying on a third party should be required to immediately obtain from the third party the necessary information concerning all relevant elements of the CDD process in criteria 5.3 to 5.6. • Financial service providers should take adequate steps to be satisfied that the regulation and supervision of eligible introducers is in accordance with Recommendations 23, 24 and 29. The eligible introducers should have measures in place to comply with the CDD requirements of Recommendations 5 and 10. • Guidance should be issued with regard to circumstances where an eligible introducer confirms that it is not required to have evidence of identity of its client if the business relationship pre-dated the AML regime of its country of domicile
<p>Financial institution secrecy or confidentiality R. 4 – C</p>	
<p>Record keeping and wire transfer rules R. 10 – LC SR. VII –PC</p>	<ul style="list-style-type: none"> • Financial institutions should be required to maintain records of account files and business correspondence for the same period as identification data. • The retention period for identification records for accounts dormant for longer than five years as stated in Regulation 12 (4) should be repealed.
<p>Monitoring of transactions and relationships R. 11 – LC R. 21 – LC</p>	<ul style="list-style-type: none"> • Financial institutions should be required to keep findings regarding enquiries about complex, unusual large transactions or unusual patterns of transactions available for competent authorities and auditors for at least five years. • The authorities should be able to apply appropriate counter-measures against countries which do not or insufficiently apply the FATF Recommendations.
<p>Suspicious transaction reports and other reporting R. 13 – LC R. 14 – LC R. 19 – C R. 25 – LC SR. IV – LC</p>	<ul style="list-style-type: none"> • GNs should provide clear and unambiguous guidance as to the treatment of attempted suspicious transactions. • The proposed revision/consolidation of the PCCL and the MDL prohibiting disclosing of information in relation to the filing of SARs for drug-related ML should be enacted as soon as possible
<p>Internal controls, compliance, audit and foreign branches R. 15 – PC R. 22 – LC</p>	<ul style="list-style-type: none"> • Financial institutions should be required to put in place screening procedures to ensure high standards when hiring employees. • Financial institutions should be required to designate an AML/CFT compliance officer at management level. • CIMA should provide detailed guidance on an appropriate AML/CFT internal audit function for all FSPs • Regulations should be amended to permit the person responsible for considering whether a SAR should be submitted to have unimpeded access to relevant information
<p>Shell banks R. 18 – PC</p>	<ul style="list-style-type: none"> • Financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks • Financial institutions should be required to satisfy themselves that

	respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks
Supervisory and oversight system—competent authorities and SROs Role, functions, duties and powers (including sanctions) R. 17 – C R. 23 – LC R. 25 – LC R. 29 – LC R. 30 – PC R. 32 – LC	<ul style="list-style-type: none"> • CIMA should review present staff complement with a view to improving supervisory coverage. • The GNs should be amended to specifically cover terrorism financing. • The GNs should be extended to dealers in precious metals and precious stones.
Money value transfer services SR. VI – LC	
3. Preventive Measures: Non-Financial Businesses and Professions	
Customer due diligence and record-keeping R. 12 – PC	<ul style="list-style-type: none"> • The GNs should cover dealers in precious metals and stones.
Suspicious transaction reporting R. 16 – PC	
Regulation, supervision, monitoring, and sanctions R. 24 – LC R. 25 – LC	<ul style="list-style-type: none"> • It is recommended that the authorities in Cayman Islands implement a monitoring program to ensure that real estate agents, brokers, dealers in precious metals and precious stones and lawyers when dealing with real estate transactions comply with AML/CFT measures.
Other designated non-financial businesses and professions R. 20 – C	
4. Legal Persons and Arrangements & Nonprofit Organizations	
Legal Persons—Access to beneficial ownership and control information R. 33 – C	
Legal Arrangements—Access to beneficial ownership and control information R. 34 – C	
Nonprofit organizations SR. VIII – PC	<ul style="list-style-type: none"> • The authorities should undertake an outreach programme to the NPO sector with a view to protecting the sector from terrorist financing abuse. • A supervisory programme for NPOs should be developed to identify non-compliance and violations. • Systems and procedures should be established to allow information on NPOs to be publicly available. • Points of contacts or procedures to respond to international inquiries regarding terrorism related activity of NPOs. should be put in place.
5. National and International Cooperation	
National cooperation and	

coordination R. 31 – C R. 32 – LC	
The Conventions and UN Special Resolutions R. 35 – LC SR. I – LC	<ul style="list-style-type: none"> • Due extensions of the said conventions are required.
Mutual Legal Assistance R. 36 – LC R. 37 – C R. 38 – C SR. V – LC R. 32 – LC	<ul style="list-style-type: none"> • The CJICL should be amended to include facilitating the voluntary appearance of persons not in lawful custody for the purpose of providing information or testimony to the requesting country as a listed purpose for mutual legal assistance • The authorities may also consider an express enactment creating an asset forfeiture fund, with appropriate obligations and applications; rather than the current, but non-binding segregation in practice..
Extradition R.39 – C R.37 – C SR.V – LC R. 32 – LC	
Other Forms of Cooperation R. 40 – C SR. V – LC R. 32 – LC	<ul style="list-style-type: none"> • Cayman Islands authorities should maintain detailed statistics on the number of requests for assistance made by domestic law enforcement authorities and supervisors including whether the request was granted or refused. • CIMA should review present staff complement with a view to improving supervisory coverage. • The financial and human resources of the Customs service be increased to enable the Customs service to carry out its duties and functions in an effective manner.
6. Other Issues	
Other relevant AML/CFT measures or issues	
General framework – structural issues	

I. Authorities' Response

The Cayman Islands is appreciative of the thorough 3rd-round evaluation performed by the CFATF assessors. Since receipt of the resultant evaluation report, and as formally reported to the CFATF May 2008 and November 2008 Plenaries, the Cayman Islands has fast-tracked implementation of the assessors' recommendations as reproduced in the Summary Table of this ROSC by making the necessary changes to primary legislation (the Proceeds of Crime Law, 2008, enacted in June 2008 and brought into force in August 2008 in replacement of the former Proceeds of Criminal Conduct Law); to the Money Laundering Regulations (2008 Revision) (the Money Laundering (Amendment) Regulations, 2008, brought into force in October 2008); and to the Cayman Islands' 'other enforceable means', the Guidance Notes (amendments effected during the 4th quarter of 2008). Through this and administrative actions, the Cayman Islands has therefore substantially implemented the assessors' recommendations and is due to report back to the November 2009 CFATF Plenary on minor items outstanding.

In addition, in June 2008 the Cayman Islands upgraded its anti-corruption regime by way of the Anti-Corruption Law, 2008. This Law fully implements the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the UN Convention against Corruption.