July 2011
IMF Country Report No. 11/231

United Kingdom: Anti-Money Laundering/Combating the Financing of Terrorism Technical Note

International Monetary Fund
Washington, D.C.

FINANCIAL SECTOR ASSESSMENT PROGRAM UPDATE

UNITED KINGDOM

ANTI-MONEY LAUNDERING/COMBATING THE FINANCING OF TERRORISM

TECHNICAL NOTE

JULY 2011

INTERNATIONAL MONETARY FUND
LEGAL DEPARTMENT

Contents Page

GLOSSARY

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
ARROW	Advanced Risk Responsive Operative Frame Work
BOE	Bank of England
CDD	Customer due diligence
DNFBPs	Designated Nonfinancial Businesses and Professions
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FSA	Financial Services Authority
FT	Financing of Terrorism
FT Convention	The 1999 International Convention for the Suppression of the Financing of Terrorism
HMRC	Her Majesty's Revenue and Customs
HMT	Her Majesty's Treasury
IMF	International Monetary Fund
JMLSG	Joint Money Laundering Steering Group
MER	Mutual Evaluation Report
ML	Money Laundering
MLRs 2003	Money Laundering Regulations 2003
MLRs 2007	Money Laundering Regulations 2007
MSB	Money Service Business
NC	Noncompliant rating
Palermo Convention	The 2000 United Nations Convention against Transnational Crime
PC	Partially compliant rating
PEPs	Politically exposed persons
POCA	Proceeds of Crime Act 2002
SAR	Suspicious Activity Report
SOCA	Serious Organized Crime Agency
STR	Suspicious Transaction Report
TCSPS	Trust and company service providers
Terrorism Act	The Terrorism Act 2000
TN	Technical Note
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNSCR 1267	UN Security Council Resolution 1267 (1999)
UNSCR 1373	UN Security Council Resolution 1373 (2001)
Vienna Convention	The 1998 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances

I. INTRODUCTION

1. **This Technical Note (TN) provides an overview of the anti-money laundering and combating the financing of terrorism (AML/CFT) framework of the United Kingdom (U.K.).** It includes the main findings of the June 2007 mutual evaluation report (MER) prepared by the Financial Action Task Force (FATF) with respect to the United Kingdom's compliance with the international standard on AML/CFT, the FATF 40 Recommendations and 9 Special Recommendations; it also provides a summary of the progress reported by the British authorities since June 2007 in addressing the most significant deficiencies identified in the MER. This TN does not, however, constitute a reassessment by the Fund of the United Kingdom's AML/CFT regime.

2. **The June 2007 mutual evaluation was conducted by the FATF during a November 27 to December 8, 2006 on-site visit to the United Kingdom.** The MER was discussed and adopted during the June 2007 FATF Plenary meeting. It describes and assesses the relevant AML/CFT legislation, regulation and other enforceable means, the institutional framework, and other systems in place to deter money laundering (ML) and terrorism finance (TF) through financial institutions and designated non-financial businesses and professions (DNFBPs). The MER also addresses the effectiveness of implementation of all these systems and provides recommendations on how certain aspects of the AML/CFT framework could be strengthened.

3. **Overall, the evaluators considered that the United Kingdom had a comprehensive AML/CFT system in place, but that further improvements were needed.** The U.K. level of compliance with the standard was rated "compliant" (C) with 24, "largely compliant" (LC) with 12, "partially compliant" (PC) with 10 and "noncompliant" (NC) with 3 of the 40+9 Recommendations. More specifically, the ratings with respect to the Recommendations that are considered by the FATF to be "core and key"[1] were as follows:

1	3	4	5	10	13	23	26	35	36	40	SRI	SRII	SRIII	SRIV	SRV
C[2]	C	C	PC	C	C	LC	LC	C	LC	C	C	C	C	C	C

[1] Pursuant to the FATF mutual evaluation follow-up procedures, the core Recommendations are Recommendations 1 (criminalization of money laundering), 5 (customer due diligence), 10 (recordkeeping), 13 (suspicious transactions reporting), and FATF Special Recommendations II (criminalization of terrorist financing and associated money laundering) and IV (suspicious transaction reporting related to terrorism); the "key" Recommendations are FATF Recommendations 3 (provisional measures and confiscation), 4 (financial secrecy), 23 (regulation and supervision), 26 (Financial Intelligence Unit), 35 (International conventions), 36 (mutual legal assistance), 40 (international cooperation and exchange of information), and FATF Special Recommendations I (ratification and implementation of UN instruments), III (freezing and confiscation of terrorist assets), and V (international cooperation).

[2] C = Compliant; PC = Partially Compliant; LC = Largely Compliant; NC = Non-compliant.

A list of the 13 Recommendations that were rated PC or NC is provided in Appendix I. Consistent with FATF procedures, upon adoption of the MER, the U. K. was directed to report back to the June 2009 FATF plenary to indicate progress made in addressing the deficiencies noted in the MER with respect to these 13 Recommendations. The authorities provided the required information in June 2009 and indicated that they would report to the FATF Plenary again in October 2009 on the additional steps taken.

4. **The United Kingdom updated its AML CFT legislation in 2007, when the new Money Laundering Regulations (MLRs) took effect.** These Regulations strengthened the legal arrangements within the UK in order to further improve compliance with the FATF Recommendations and implement in part the Third European Union (EU) Money Laundering Directive.[3] The progress made by the British authorities in addressing the most significant deficiencies identified in the MER was analyzed by the FATF in two follow-up reports, respectively in June and October 2009. These reports indicate that, overall, significant progress has been made.

II. CONTEXT

5. **The following sections provide background information on the U.K. ML and TF situation; U.K. strategies and priorities to prevent ML and TF; and an overview of the legal and institutional AML/CFT framework.**

A. Money Laundering and Terrorism Finance Situation

6. **The MER indicates that the overall threat to the United Kingdom from serious organized crime and related money laundering was high.** The U.K. law enforcement has estimated that the economic and social costs of serious organized crime, including the costs of combating it, at upwards of £20 billion[4] a year. The total quantified organized crime market in the United Kingdom was reportedly worth about £15 billion per year as follows: drugs (50 percent); excise fraud (25 percent); fraud (12 percent); counterfeiting (7 percent); and organized immigration crime (6 percent). Estimated total recoverable criminal assets per annum at the time were £4.75 billion, of which it was estimated that £2.75 billion was sent overseas. According to the assessment, cash remained the mainstay of most serious organized criminal activity in the United Kingdom

7. **At the time of the assessment, the following typologies were of most concern to U.K. law enforcement:** cash/value couriering; financial abuse through certain nonfinancial

[3] Directive 2005/60/EC of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

[4] At the time of the on-site visit, £1.00 = 1.48 EUR or US$1.93.

businesses and professions, as well as through money transmission agents (including Hawala and other alternative remittance systems); cash-rich businesses and front companies; high-value assets and property; abuse of bank accounts, and other over-the-counter financial sector products.

8. **The United Kingdom has had substantial experience responding to terrorist threats and addressing the support networks that make terrorist acts possible.** The principal terrorist threat facing the United Kingdom identified in the assessment was from Islamic extremists. Attacks have been carried out in Britain by both British nationals and by outsiders. The use of banks to move terrorist funds overseas was thought to have declined in response to the tightening of controls in that sector. Two areas that were identified in the assessment as being of growing concern were the abuse of charitable organizations to raise and distribute funds, and the abuse through money service business (MSB) sector (including alternative remittance services) to move funds.

B. AML/CFT Strategies and Priorities

9. **According to the assessment, the United Kingdom was committed to identifying and interdicting the flow of illicit funds across and within its borders, and to the disruption and dismantling of the money laundering and terrorist finance networks that move such funds.** This was made clear in the government's Anti Money Laundering Strategy, published in October 2004. The government's policies for AML/CFT were underpinned by three key objectives: to *deter***,** through the establishment of enforceable safeguards and supervision; to *detect,* using the financial intelligence generated by money laundering controls to identify and target criminals and terrorist financiers; and to *disrupt*, maximizing the use of available penalties such as prosecutions or asset seizures.

10. **As of the 2007 MER, the United Kingdom's priorities were:** the domestic implementation of the Third EU Money Laundering Directive, and the adoption of appropriate domestic controls derived from the payments regulation and the mandatory declaration of currency regulation; reform of the "suspicious activity reporting" framework further to a comprehensive analysis of its current effectiveness (the Lander Review); development of an enhanced regulatory environment for MSBs based on a domestic assessment of their significance in facilitating ML and TF; an assessment of the extent to which current controls for charitable organizations are fit for purpose in respect of TF; the European Commission's 2005 "Communication" on this topic and domestic intelligence assessments; and measures to further restrict couriering cash through the implementation of a new set of European controls.

11. **The United Kingdom's annual threat assessment on serious and organized crime included a section on ML that analyzed the effectiveness of the United Kingdom's controls in meeting the threat and identified areas for improvement.** Law enforcement and the wider AML/CFT community contributed to the development of these threat

assessments. At the time of the FATF on-site visit, a joint Treasury–Home Office–SOCA exercise was underway to map and define U.K. strategy on ML and FT for the future. This AML/CFT strategy was published on February 28, 2007.

C. Legal and Institutional AML/CFT Framework

12. **According to the MER, the United Kingdom had a comprehensive legal structure to combat ML and TF.** The ML offense was broad, fully covering the elements of the Vienna and Palermo Conventions, and the number of prosecutions and convictions was increasing. The TF offense was also broad. The introduction of the Proceeds of Crime Act 2002 (POCA) had a significant and positive impact on the United Kingdom's ability to restrain, confiscate, and recover proceeds of crime. The United Kingdom also established an effective terrorist asset-freezing regime. Overall, the U.K. Financial Intelligence Unit (FIU) appeared to be generally effective. The United Kingdom also designated a number of competent authorities to investigate and prosecute ML and TF offenses. Measures for domestic and international cooperation were generally comprehensive.

13. **All types of "financial institutions" as defined in the FATF Recommendations are active in the United Kingdom and all are covered by the MLRs.** The United Kingdom is a major international center for investment and private banking and had one of the largest commercial banking sectors in the world. The U.K. insurance industry is the largest in Europe and third largest in the world. The United Kingdom is also one of the largest fund-management markets in the world. It has a strong international orientation and attracted significant overseas funds (an estimate of the U.K. funds management industry at the end of 2004 was that over £2,960 billion of funds were under management, which included international private wealth management, hedge funds, and private equity).

14. **According to the assessment, the effectiveness of preventive measures for financial institutions varied, but the situation was expected to improve with the implementation of the Third EU Money Laundering Directive later in 2007.** As identified in the MER, the main customer-due-diligence (CDD) deficiencies were that the identification and verification of the identity of beneficial owners of accounts were not required by law or regulation. Record-keeping and suspicious transaction (or activity) reporting requirements were viewed as comprehensive and effective; however, the Financial Services Authority (FSA) had extensive powers to monitor and ensure compliance by the financial institutions it regulated. While the assessment viewed the supervisory system as comprehensive for larger firms, supervision of certain smaller firms (including some small banks, insurance companies, securities dealers, and investment managers) was thought to require enhancement. In response to these findings, the FSA commenced a project looking at AML/CFT systems and controls in small firms: 159 small firms were selected across the wholesale and retail sectors, and a report was published in May 2010. In addition, the FSA's

Financial Crime Operations Team now routinely visits small firms as part of its case work and ongoing thematic work, and has visited a total of 337 firms from 2007 to 2010.

15. **All types of DNFBPs, as defined in the FATF Recommendations, are active in the United Kingdom and all are covered by the MLRs.** The DNFBPs appeared to be effectively complying with their STR obligations. There was generally comprehensive monitoring of casinos, lawyers, and certain accountants; the main deficiencies identified in the assessment were the lack of AML/CFT supervision for the real estate and company service provider sectors and certain unregulated accountants.

16. **The United Kingdom has a wide range of legal persons and arrangements.** Legal forms include: Companies Act companies and other forms of companies (both public and private), partnerships, and societies. Trusts are a longstanding, popular, and integral part of the legal and economic landscape of the United Kingdom

III. Key Findings of MER and Remedial Action Taken by Authorities

17. **This section relates to the evaluators' key findings and, where relevant, the remedial actions taken by the authorities to address the deficiencies noted in the following areas:** (i) legal system and related institutional measures; (ii) preventive measures for financial institutions; (iii) preventive measures for DNFBPs; (iv) legal persons and arrangements and nonprofit organizations; and (v) international cooperation.

Legal Systems and Related Institutional Measures

18. **Money laundering offenses in the United Kingdom were viewed in the assessment as being comprehensive in their scope and appeared to be used frequently.** The introduction of POCA brought about a major improvement over earlier legislation in that it is no longer necessary for the authorities to distinguish between drug trafficking and other predicate offenses in order to prosecute ML offenses. In England and Wales, the number of investigations, prosecutions, and convictions under POCA increased substantially each year since POCA first came into force in 2003.

19. **The provisions criminalizing TF were viewed as having a generally broad coverage.** As required by the standard, the provisions specifically covered the collection or provision of funds to be used for a terrorist act and the provision of funds to be used by a terrorist organization or an individual terrorist; the provisions also appeared to be sufficient to cover collection of funds for use by terrorist organizations and individual terrorists.

20. **The United Kingdom had a comprehensive regime to confiscate criminal proceeds.** The introduction of POCA had a significant and positive impact on the United Kingdom's ability to restrain, confiscate, and recover proceeds of crime. The provisions of the Act, particularly on the criminal confiscation side, appeared to be working

reasonably well in practice, in the view of the assessors. The United Kingdom also had sufficient provisional measures to freeze and seize property and instrumentalities.

21. **The United Kingdom had established an effective terrorist asset-freezing regime.** As an EU member, the United Kingdom was bound by the EU freezing mechanism and domestic measures expanded upon the coverage of the EU regulations. These measures included a domestic designation process that appeared to be rapid and efficient; a total of 84 individuals and 58 entities had been designated under the 2006 UN Order at the time of the on-site visit. Failure to abide by an asset freeze under the Order was punishable by seven years imprisonment and an unlimited fine. The Bank of England (BOE), as Her Majesty's Treasury's (HMT's) agent on asset freezing, was responsible for issuing notices with respect to persons designated and maintained a consolidated sanctions list on its website. The United Kingdom used the powers available under the orders on a number of occasions to take rapid asset freezing action against suspected terrorists.

22. **Since March 2006, the U.K. FIU has been housed within the Serious Organized Crime Agency (SOCA) and, according to the assessors, operated with a high degree of independence.** Overall, the U.K. FIU substantially met the standard and appeared to be generally effective; the private sector reported improved relations and cooperation since the transfer of the FIU responsibilities to SOCA in March 2006.

23. **The United Kingdom took a proactive approach to pursuing not only predicate offenses, but also the proceeds of crime and the financial aspects of terrorist cases.** The United Kingdom designated a number of competent authorities to investigate and prosecute ML offenses. Investigation and prosecution agencies included, for the United Kingdom: SOCA and Her Majesty's Revenue and Customs (HMRC); for England and Wales: the Crown Prosecution Service and the Revenue and Customs Prosecution Office; for Northern Ireland: the Public Prosecution Service of Northern Ireland; for Scotland: the Crown Office and Procurator Fiscal Services and the Scottish Crime and Drug Enforcement Agency. There were also 43 regional police forces in England and Wales, eight in Scotland, and one in Northern Ireland. The National Terrorist Finance Investigation Unit actively pursued terrorist financing issues in conjunction with all terrorism investigations. The various agencies appeared to be adequately structured, funded, and resourced to carry out their functions effectively. Integrity standards, including standards of confidentiality, were high for investigators and prosecutors.

24. **The system for disclosing cross-border movements of currency and bearer negotiable instruments appeared to be generally effective.** However, the assessors found that U.K. authorities did not have the authority to detain cash purely for a false disclosure and there was no requirement to retain, at a minimum, the amount and identification of the bearer in the amount of disclosures where there was a false disclosure, although cash seizure provisions allowed individual officers significant discretion to take action on the basis of

"reasonable grounds to suspect" test. Nor was there a specific requirement to maintain this data in the event of a suspicion of ML/FT. EU Council Regulation No. 1889/2005 ("the Cash Controls Regulation") applied in the United Kingdom as of June 15, 2007. The regulation was based on a declaration system that complemented the then-existing disclosure system, although the declaration provisions applied only to cross-border movements of currency and bearer negotiable instruments into and out of the EU.

Preventive Measures—Financial Institutions

25. **The MLRs, POCA and the Terrorism Act applied to all financial institutions carrying out financial activities as defined by the FATF.** For FSA-regulated firms, additional obligations were set forth in the FSA Handbook, and included additional regulatory requirements as well as guidance. The Joint Money Laundering Steering Group (JMLSG) Guidance Notes provided further detail to the MLRs. However, the Guidance Notes as a whole could not be considered as "other enforceable means" as defined by the FATF, which, notably, entailed that compliance was not fully ensured on a number of relevant criteria.

26. **The United Kingdom used a risk-based approach to financial sector regulation.** In general, the risk-based approach applied to two main areas (i) the JMLSG Guidance Notes generally indicated that firms should apply the particular guidance to the extent that that was required, taking into account the firm's risk-based view on the need to do so in order to meet its more high-level obligations under the MLRs and the FSA Handbook; and (ii) the level of supervision that a financial institution received by the FSA was also determined on a risk-based approach.

27. **The MLRs contained basic customer identification requirements.** These applied to situations when customers were establishing business relations or conducting transactions over €15,000, and when a suspicion of ML and TF arose. Overall, however, the CDD requirements contained a number of gaps. For example, there was no requirement in law or regulation to identify the beneficial owner or to take reasonable measures to verify the identity of the beneficial owner or to determine who are the natural persons that ultimately own or control the customer, including those persons who exercise ultimate effective control over a legal person or arrangement or for ongoing monitoring. Further, certain elements were not addressed in law, regulation, or other enforceable means, such as an obligation to apply CDD to existing customers on the basis of materiality and risk, and measures for enhanced due diligence were not sufficient.

28. **Other preventive measures were encouraged on a risk-based approach in the guidance, but were not strictly required, although there was evidence that the majority of firms address AML/CFT risk in line with the available guidance.** The assessors recommended that U.K. authorities take steps to ensure that such measures were mandated in

a number of areas, including to obtain information on the intended purpose and nature of the business relationship; to specify the procedures for ongoing due diligence in compliance with the FATF Recommendations; and to require that financial institutions maintain documents and ensure that other CDD data remains up-to-date and relevant by undertaking regular reviews. The second follow-up report indicates that the authorities have made "significant progress" in addressing deficiencies involving Recommendation 5 (customer due diligence) through the adoption of the Money Laundering Regulations 2007 (MLRs 2007). This led the FATF to conclude that, although a few shortcomings remain, the United Kingdom has taken significant action to bring its compliance to a level essentially equivalent to LC.

29. **Regarding politically-exposed persons (PEPs), the assessors recommended that U.K. authorities create enforceable obligations as required by the standard.** In addition, while current language in the JMLSG Guidance on correspondent banking was generally comprehensive and appeared to cover the main areas of Recommendation 7, the Guidance did not constitute other enforceable means, also as required by the standard. According to the second follow-up report, both of these deficiencies were generally remedied by the adoption of MLRs 2007.

30. **Regarding introduced business, there were no other enforceable means that required financial institutions to be satisfied that the introducer would make ID and other relevant documentation available upon request.** Financial institutions were not required to satisfy themselves that the third party was regulated and supervised (in accordance with Recommendations 23, 24, and 29—regulation and supervision), and to have measures in place to comply with the CDD requirements. Since then, the deficiencies noted with respect to Recommendation 24 (regulation and supervision of DNFBPs) have been largely remedied through the adoption of the MLRs 2007. The FSA has also implemented a program of intensive supervision, via the Advanced Risk Responsive Operating Frame Work (ARROW) program, which involves in-depth file reviews, interviews with senior management and staff where appropriate, and monitoring of post-visit remedial work. Between 2007 and 2010, 313 banks, 127 securities companies, 155 insurance undertakings, and 120 other financial institutions have been reviewed by the FSA.

31. **There were no financial institution secrecy laws in the United Kingdom that inhibited the implementation of the FATF Recommendations, and record-keeping requirements were deemed to be comprehensive.** The new EU Regulation No. 1781/2006, in force since January 1, 2007, generally meets the technical requirements as set out in Special Recommendation VII (wire transfers). However, the derogation set forth in the EU Regulation for wire transfers within the EU (classified as domestic) transfers was not in compliance with the standard. In addition, sanctions for noncompliance were not effective or dissuasive. According to the most recent follow-up report, these deficiencies were fully remedied through the adoption of the Transfer of Funds (Information on the Payer)

Regulations 2007, except for the derogation issue, which is the subject of a continuing policy debate within the European Union.

32. **There was no specific obligation to monitor all complex, unusual large transactions, to examine as far as possible the background and purpose of such transactions and to set forth findings in writing.** However, there was generally comprehensive guidance in the JMLSG Guidance Notes, and the FSA-regulated institutions seemed to follow the guidance effectively. The assessors recommended that U.K. authorities adopt more specific requirements for financial institutions to monitor transactions involving certain countries and to set forth findings in writing. According to the most recent follow-up report, the authorities have since addressed these deficiencies through the adoption of MLRs 2007.

33. **The obligations on the regulated sector to submit suspicious activity reports (SARs) were comprehensive.** In line with the standard, there was no *de minimus* limit and attempted transactions were also subject to the reporting obligations. Immunity from prosecution was provided for those persons who reported suspicions to the U.K. FIU in good faith. "Tipping off" was an offense, as was "prejudicing an investigation." The assessors nevertheless expressed some concerns regarding the implementation of the reporting obligations because it seemed that many banks interpreted the legislation as requiring them, after a SAR was filed, to seek consent on every subsequent transaction over £250 for that same customer.

34. **Overall, the system of internal controls was viewed by the assessors as being generally strong and complete.** The FSA's supervisory approach in AML/CFT focused on the internal controls and compliance arrangements financial institutions have in place to prevent ML and TF as part of wider systems and controls issues. The assessors nonetheless recommended that the United Kingdom adopt more specific rules relating to foreign branches and subsidiaries in relation to the requirements of Recommendation 22, which the authorities did with respect to non-EEA countries with the introduction of Regulation 15 of the MLRs 2007. Since then, FSA supervisory visits include a review of controls over all foreign branches and subsidiaries as part of the ARROW assessment. This review entails looking at instructions to and requirements on foreign branches and subsidiaries as well as at internal audit programs and reports. The scope of the assessment would cover controls to prevent fraud and money laundering, including CDD measures, ongoing monitoring, and record keeping.

35. **In line with the standard, shell banks were not permitted to be established or to continue to operate in the United Kingdom.** There was, however, no obligation for financial institutions not to enter into, or continue, correspondent banking relationships with shell banks, nor was there a requirement for them to satisfy themselves that respondent

financial institutions in a foreign country did not permit their accounts to be used by shell banks. However, the JMLSG Guidance Notes provided guidance in this area. As indicated in the most recent follow-up report, these concerns have since been fully addressed by the adoption of MLRs 2007.

36. **The FSA was the prudential and designated AML/CFT regulator for financial institutions carrying out activities under the Financial Services and Markets Act.** The FSA had extensive powers to monitor and ensure compliance by the financial institutions it regulates. The FSA had the authority to conduct on-site inspections to ensure compliance; such inspections included the review of policies, procedures, books, and records, and extended to sample testing. As a whole, the FSA seemed adequately funded, staffed, and had sufficient technical and other resources to fully and effectively perform its functions.

37. **There were a variety of criminal sanctions available in various pieces of AML/CFT legislation.** The FSA also had a broad range of administrative sanctions available to it to use against financial institutions as well as managers and directors, including unlimited financial penalties, public censure, prohibition, variation or cancellation of permission to operate or carry out certain functions, injunctions, and issuance of a formal caution.

38. **Ongoing supervision of financial institutions was determined by a risk-based approach.** This internal process was called ARROW. The FSA measured the risk (the impact and probability) before deciding on the nature of its supervisory relationship or the action, if any, that needed to be taken and by whom, to mitigate the risk. The FSA undertook an "impact" assessment of each financial institution to measure the size of the firm and number of customers.

39. **For the largest financial institutions—(39 complex major retail groups, which account for about 80 percent of retail business in the United Kingdom, and 43 major wholesale groups)—where the potential impact of failure on consumers and the wider economy was high (i.e., "high impact"), the FSA adopted "close and continuous" supervision, with more intense supervision and regular risk assessments (typically, every 12–24 months).** All firms were subject to baseline (off-site) monitoring and to "Thematic Work," which aimed to assess, score, and mitigate the risks of a particular issue. The normal output from this work was usually in the form of a communication to the regulated sector or individual institutions, discussion papers, or guidance on the FSA website.

40. **While the supervisory system was generally comprehensive for the larger "high impact" firms, there was less adequate supervision for certain smaller firms (including some small banks, insurance companies, securities dealers, and investment managers).** In these cases, the risk assessment and resulting level of supervision often relied too heavily

on the size of the financial institutions and did not always adequately take AML/CFT risk into account. There also appeared to be an over-reliance on interview-based visits without sample testing. The authorities mentioned that the scope of supervision has been improved since then, as the MLRs 2007 designated the FSA as the competent authority for leasing companies, and the Office of Fair Trading as the competent authority for consumer credit.

41. **From November 30, 2001 through 2007, the FSA's Enforcement Division dealt with 167 cases relating to financial crime (including market-abuse matters); of these cases, 18 related specifically to AML compliance.** Of these, three resulted in a private warning, eight in a fine, two in a variation of the firm's permissions, and one in a prohibition (for a total of 14 enforcement actions). Having regard for the size of the United Kingdom's financial sector, the number of FSA disciplinary sanctions since 2001 seemed relatively low, in the view of the assessors. Between 2007 and 2010, the authorities conducted 200 enforcement actions against firms and individuals for financial crime (7 of which were for failure to comply with AML measures) for a total amount of fines of £41,413,887.

42. **The JMLSG Guidance was the key document that provided practical interpretation to financial institutions in complying with AML/CFT legislation, FSA AML rules and generic industry practice guidance.** These were extensive, comprehensive documents, and were viewed by the assessors as having been extremely useful for the industry. The FSA also established a number of mechanisms to help financial institutions to comply with their regulatory requirements.

43. **The HMRC supervised MSBs, including money exchangers and money/value transfer offices.** The HMRC also had adequate powers to obtain access to all records, document or information relevant to monitoring compliance. The HMRC was able to issue a warning letter and impose financial penalties up to £5,000. According to the assessors, adequate sanctions were not available for use against directors and senior managers. The authorities mentioned, however, that HMRC can, where individuals are involved in businesses that consistently fail to comply with their AML obligations, classify them as not "fit and proper" under regulation 28(2)(e)-(g) leading to the removal of the business' ability to trade and for the individual to continue working in a Money Service Business.

Preventive Measures—DNFBPs

44. **All DNFBPs were covered under the MLRs 2003.** The JMLSG Guidance notes did not apply, but guidance to supplement the MLRs 2003 had been issued to all DNFBP sectors. While the MLRs 2003 imposed certain CDD measures, recordkeeping, and other preventative measures, the deficiencies were the same as indicated above for financial institutions. As with the CDD deficiencies relating to Recommendation 5 noted above, the second follow-up report indicates that the MLRs 2007 now largely address these concerns.

45. **The DNFBPs had comprehensive obligations to report suspicious activities, and appeared to be adequately complying with these obligations.** However, as with financial institutions, the assessors recommended that the U.K. authorities adopt stronger obligations to monitor transactions in line with Recommendations11 and 21. The assessors also recommended that the United Kingdom require estate agents to identify the buyer of real estate. According to the most recent follow-up report, the deficiencies noted with respect to these two recommendations have since been largely corrected through the introduction of MLRs 2007, and the enactment of amendments to the Counter-Terrorism Act.

46. **At the time of the assessment, the supervisory framework for casinos was in transition.** In general, legal or regulatory measures were in place to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a casino. Sanctions available to the Gambling Commission included those that go against the licensing requirements and collusion of staff in illegal activities. Possible sanctions for AML/CFT breaches generally included the authority to issue warnings and revoke a license. The assessors considered that these were not sufficient and therefore recommended that the range of sanctions be expanded. It was expected that that this would be achieved once the new Gambling Act 2005 came into force later in 2007. According to the latest follow-up report, the MLRs 2007 generally address these deficiencies.

47. **Legal professionals were subject to a generally adequate system of AML/CFT monitoring conducted by the various self-regulatory organizations for England, Wales, Northern Ireland, and Scotland.** Accountants that were members of professional bodies also received adequate AML monitoring; however, assessors expressed a concern about the numerous accountants who are not members of professional bodies. In addition, real estate agents and trust and company service providers who were not lawyers or accountants are not yet supervised for AML/CFT. High-value dealers, including dealers in precious metals and stones, were subject to the same system of monitoring that HMRC applies to MSBs. The authorities generally addressed these issues with the introduction of the MLRs 2007.

Legal Persons and Arrangements & Nonprofit Organizations

48. **At the time of the assessment, the United Kingdom had a wide range of legal persons and arrangements.** Legal forms included: Companies Act companies and other forms of companies (11,500 public and over two million private companies), partnerships, and societies. The United Kingdom had a registration system for most of these legal persons; all companies formed under the Companies Act were required to have a registered office in the United Kingdom and to keep an up-to-date register of the names and addresses of its members. Trusts were a longstanding, popular, and integral part of the legal and economic landscape of the United Kingdom

49. **The United Kingdom's approach to preventing the unlawful use of legal persons and legal arrangements for ML and TF relied on the investigative and other powers of law enforcement, regulatory, supervisory, and other competent authorities to obtain or get access to information.** While the investigative powers were generally sound, there were no appropriate measures in place to ensure that there was adequate, accurate, and timely information on the beneficial ownership and control of legal persons that could be obtained or accessed in a timely fashion by competent authorities. Information on the companies' registrar pertains only to legal ownership/control (as opposed to beneficial ownership), was not verified and was not necessarily reliable. Directors and shareholders could be nominees and other legal persons, which has the potential to slow down the investigative trail. The assessors recommended that the U.K. authorities review the AML/CFT system to determine ways in which adequate and accurate information on beneficial ownership may be made available on a timely basis to law enforcement authorities. According to the latest follow-up report, the deficiencies regarding Recommendation 33 (legal persons) have not been addressed and no further action is expected from the authorities on bearer shares. With respect to Recommendation 34 (legal arrangements), however, whilst the MLRs 2007 deal with the supervision issues relating to trust and company service providers (TCSPs), the beneficial ownership issue remains unaddressed. The authorities mentioned that they nevertheless keep these issues under active consideration.

50. **England, Wales, and Scotland had well-established systems for the regulation of charities with adequate provision for the registration, transparency, supervision, and investigation of charities.** The Charity Commission had extensive legal powers to allow it to sanction wrongdoing or mismanagement in charities or anything purporting to be a charity in England and Wales. The Charity Commission conducted 400 targeted "Review Visits" each year to review compliance with the Charities Act 1993. These were normally based on information submitted in the annual returns. At the time of the assessment, however, no supervisory regime applied to Northern Ireland (although legislation was being drafted at the time of the on-site visit). Since then, a system similar to the English regime for charities was established for Northern Ireland through the Charities Act (Northern Ireland) 2008. While the registration of charities has yet to commence within Northern Ireland, transitional provisions have brought within the jurisdiction of the Charity Commission for Northern Ireland institutions that are operating in Northern Ireland and have been granted tax exceptions. This enables the Charity Commission to investigate and, if necessary, sanction misconduct or mismanagement in the administration of those institutions.

National and International Cooperation

51. **National cooperation and coordination between U.K. policy makers, the FIU, law enforcement and supervisors, and other competent authorities appeared to be effective at the time of the assessment both at the policy and operational levels.** The system benefited from an effective network of interdepartmental and interagency contact and

cooperation, both for policy and for operational matters. In addition, the United Kingdom regularly reviewed the effectiveness of its AML/CFT systems; results and recommendations of the reviews were endorsed by ministers and were being implemented.

52. **The United Kingdom has ratified and implemented the provisions of the Vienna, Palermo and FT Conventions and the provisions of United Nations Security Council Resolutions (UNSCRs) 1267 (1999) and 1373 (2001).** The United Kingdom had broad legal provisions to facilitate requests for mutual legal assistance. Standard evidence- gathering mechanisms have recently been reviewed and updated in the Crime (International Cooperation) Act 2003, and new provisions have been introduced to allow for the restraint and confiscation of instrumentalities of crime at the request of foreign jurisdictions. New legislation has also been introduced under POCA to give effect to foreign restraint, confiscation, and forfeiture orders in both the criminal and civil contexts.

53. **In line with the standard, there were no unduly restrictive measures placed on the provision of assistance, and dual criminality was only required for certain coercive measures such as search warrants.** In these cases, the United Kingdom appeared to have no legal or practical impediment to rendering assistance where both countries criminalize the conduct underlying the offense. The United Kingdom was able to share confiscated or forfeited assets with other jurisdictions and, internally, was able to use funds confiscated to provide incentives to law enforcement and prosecution agencies in their work. However, the assessors raised concerns about the ability of the U.K. authorities (excluding Scotland) to handle routine or non-urgent mutual legal assistance requests in a timely and effective manner. Substantial progress has been achieved since then in practice with a significant reduction of the backlog of cases of 67 percent and of the length of time to bring a case to completion.

54. **ML and TF were extraditable offenses; there were no restrictive conditions or impediments existing in law for extradition.** The United Kingdom was able to extradite its own nationals. Overall, the United Kingdom had systems in place for adequate administrative cooperation, equally for the FIU, law enforcement, and financial supervisors.

55. **Competent authorities, including law enforcement and the FSA, appeared to be adequately structured and resourced to effectively perform their functions.** However, the assessors recommended that in order to more effectively perform its tasks, the HMRC should deploy a broader allocation of resources at all levels of ML/FT risk for the MSB sector. They also recommended that the FIU increase its resources in order to meet commitments made under government reviews. The HMRC is now carrying out a comprehensive program to take on new staff and train existing staff. SOCA, which houses the FIU, is currently undergoing a restructuring in advance of its prospective amalgamation with other agencies into the new National Crime Agency to be launched in 2012.

56. **In general, the various U.K. authorities maintained a wide range of statistics on the full range of AML/CFT matters.** However, with regard to MLA requests, there were no statistics on the breakdown of the offenses concerned in each case (i.e., ML, predicate offenses, or TF), on the number granted and refused, or the time required to respond. At the time of the assessment, information technology provisions for MLA requests were under review by the U.K. Central Authority. Finally, comprehensive statistics were not available for the number of SARs analyzed and disseminated by the FIU.

APPENDIX I. LIST OF CORE AND OTHER RECOMMENDATIONS AND SPECIAL RECOMMENDATIONS

Rated as partially compliant (PC) or noncompliant (NC), deficiencies noted in MER, and FATF conclusions in follow-up reports

FATF Recommendations	Rating	Deficiencies Noted in MER[5]	FATF Conclusions in Follow-up Reports
R.5 – Customer due diligence	PC	No requirement in law or regulation re: (#1) Identifying and verifying beneficial owner; (#2) Verify that any person purporting to act on behalf of the customer is so authorized; (#3) Identification where there are doubts regarding previously obtained customer data; (#4) Obtaining information on the purpose and nature of the business relationship; (#5) Ongoing monitoring/ongoing CDD & up-to-date records; (#6) Additional measures for high- risk scenarios; (#7) Termination of relationship if CDD cannot be conducted; (#8) Application of CDD to existing customers on basis of materiality and risk: (#9) Also, problems with reduced CDD (EU equivalence); and (#10) CDD exemption could still apply when ML is suspected within a business relationship.	Significant progress in addressing R.5 issues through adoption of MLRs 2007; framework enhanced to an LC rating.
R.6 – Politically exposed persons	NC	No currently enforceable obligations.	MLRs 2007 addresses most of the required criteria.
R.7 – Cross border correspondent relationships	NC	No currently enforceable obligations.	MLRs 2007 addresses most of the required criteria.
R.9 – Third parties and introducers	PC	(#1) Information provided on the CDD process makes only limited reference to beneficial owners; (#2) No enforceable requirement that financial institutions will make ID and other relevant documentation available on	MLRs 2007 addresses most of the required criteria.

[5] Summary of Table 1, FATF First Follow-up Report, June 23, 2009 as modified by FATF Second Follow-up Report, September 25, 2009.

FATF Recommendations	Rating	Deficiencies Noted in MER[5]	FATF Conclusions in Follow-up Reports
		request; (#3) Firms are not required to satisfy themselves that a third party is regulated and supervised; and (#4) In determining in which countries the third party that meets the conditions can be based, competent authorities only to some extent take into account information on whether countries adequately apply the FATF Recommendations.	
R.11 – Attention to complex, unusual large transactions	PC	(#1) No specific obligation to pay special attention to all complex, unusual, large transactions, etc.; and (#2) No specific requirement to examine as far as possible the background and purpose of such transactions and to set forth findings in writing	MLRs 2007 addresses most of the required criteria.
R.12 – CDD and recordkeeping for DNFBPs	PC	(#1) *Applying R.5:* similar deficiencies as indicated under R.5 (no law or regulation to require CDD when there are doubts about the previously obtained data; no requirements to identify beneficial owner, etc.). Some CDD requirements are in guidance, which are not legally binding; (#2) For casinos, CDD is not required above the 3,000-euro threshold, and it is not clear that casinos can adequately link the incoming customers to individual transactions; (#3) Estate agents are not required to identify the buyer; (#4) *Applying R.6:* No requirements with regard to PEPs that will apply to any of the DNFPBs; (#5) *Applying R.8:* For DNFPBs, there is no obligation to have policies in place or take such measures as may be necessary to prevent the misuse of technological developments in ML/FT; (#6) *Applying R. 9:* For DNFPBs, there are currently no legal obligations with regard to	MLRs 2007 addresses most of the required criteria.

FATF Recommendations	Rating	Deficiencies Noted in MER[5]	FATF Conclusions in Follow-up Reports
		introduced business; (#7) *Applying R.10:* Certain recordkeeping requirements in the FSA rules and JMLSG Guidance do not apply to DNFPBs: no requirement that records must be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity; no explicit requirement in law or regulation to maintain records of account files; and (#8) *Applying R.11*: For DNFPBs there is no specific obligation to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. There is no requirement to examine as far as possible the background and purpose of such transactions and to set forth findings in writing. No requirement to keep such findings available for competent authorities and auditors for at least five years.	
R.18 – Shell banks	PC	(#1) No enforceable obligation for financial institutions not to enter into or continue correspondent banking relationships with shell banks; and (#2) No obligation to require financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.	Fully addressed in MLRs 2007.
R.21 – Special attention to transactions from certain countries	PC	(#1) There is no requirement for financial institutions to give special attention to business with countries which do not sufficiently apply FATF Recommendations. MLR 28 only covers FATF counter-measures, and the guidance of JMLSG only covers part of the financial sector. (#2) No specific requirement to examine as far as possible the background and purpose of	MLRs 2007 and amendments to Counter-Terrorism Act address most of the required criteria.

FATF Recommendations	Rating	Deficiencies Noted in MER[5]	FATF Conclusions in Follow-up Reports
		such transactions and make written findings available for authorities.	
R.22 – Application to foreign branches and subsidiaries	NC	There are currently no requirements relating to foreign branches and subsidiaries.	No new obligations.
R.24 – Regulation and supervision of DNFBPs	PC	(#1) Currently no AML/CFT supervision for real estate agents or TCSPs that are not legal or accountancy professionals, or accountants that are not members of professional bodies (approximately 40,000); (#2) Current sanctions for Gambling Commission are not yet adequate, although this will change once the Gambling Act comes into force in September 2007; (#3) Notaries in England and Wales are not supervised for AML/CFT (unless they are also lawyers or accountants that are members of professional bodies).	MLRs 2007 generally addresses deficiencies.
R.33 – Transparency of legal persons	PC	(#1) While the investigative powers are generally sound, there are not adequate measures in place to ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities; (#2) Information on the companies registrar pertains only to legal ownership/control (as opposed to beneficial ownership) and is not verified and is not necessarily reliable; and (#3) Although the use of share warrants to the bearer is reportedly rare in the UK, there are no specific measures taken to ensure that such warrants are not misused for money laundering other than the inclusion of “cash” in the POCA description.	Deficiencies not addressed; no further action expected from authorities on (#3), bearer shares.
R.34 – Transparency of legal arrangements	PC	(#1) While investigative powers are generally sound, there are not adequate measures in place to ensure that there is adequate, accurate and timely information on the beneficial ownership and	Supervision of TCSPs addressed by MLRs 2007.

FATF Recommendations	Rating	Deficiencies Noted in MER[5]	FATF Conclusions in Follow-up Reports
		control of legal arrangements that can be obtained or accessed in a timely fashion by competent authorities; (#2) There is no standardization of beneficial ownership data held, and the nature of information collected will vary with the provision of any relevant guidance; and (#3) Providers of trust services who are not lawyers or accountants that are members of professional bodies are not monitored for their AML/CFT obligations and so it is not clear how reliable the information they maintain would be.	
SR.VII – Wire transfers	PC	(#1) The derogation in the 3MLD is at odds with SR VII; (#2) Sanctions are not effective or dissuasive; and (#3) Doubts are identified about implementation and effective compliance monitoring.	While there is a continuing policy debate within the EU on (#1), new regulations, the Transfer of Funds (Information on the Payer) Regulations 2007, fully address (#2) and (#3).