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SOLOMON ISLANDS ME1

Mutual Evaluation Report

Anti-Money Laundering and Combating the Financing of Terrorism

SOLOMON ISLANDS

14 July 2010

The Solomon Islands is a member of the Asia/Pacific Group on Money Laundering. This evaluation was conducted by the World Bank and was then discussed and adopted by the Plenary of the Asia/Pacific Group on Money Laundering as a mutual evaluation on 14 July 2010.

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ACRONYMS

ACFID	Australian Council for International Development
AG	Attorney General
AGC	Attorney General's Chambers
AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
AMLAT	Anti-Money Laundering Assistance Team
AMLC	Anti- Money Laundering Commission
AML/TEG	Anti-Money Laundering Technical Expert Group
BL	Banking Law
BCP	Basel Core Principles
BCR	Border currency report
CBSI	Central Bank of Solomon Islands
CC	Criminal Code
CDA	The Currency Declaration Act
CDD	Customer Due Diligence
CED	Customs and Excise Division
CID	Criminal Investigation Division
COI	Controller of Insurance
CPC	Criminal Procedure Code
CPI	Corruption Perception Index
CSP	Company Service Provider
CTA	Counter-Terrorism Act 2009
CTT	Corruption Targeting Team
DNFBP	Designated Non-Financial Businesses and Professions
DPP	Director of Public Prosecutions
DSE	Development Services Exchange
FATF	Financial Action Task Force
FI	Financial institution
FIA	The Financial Institutions Act 1998
FIU	Financial Intelligence Unit
FMSD	The Financial Markets Supervision Department
FSAP	Financial Sector Assessment Program
FSRB	FATF-style Regional Body
FT	Financing of terrorism
IAIS	International Association of Insurance Supervisors
KYC	Know your customer/client
LEG	Legal Department of the IMF
MACMA 2002	Mutual Assistance in Criminal Matters Act 2002
MEF	Ministry of Economy and Finance
MFA	Ministry of Foreign Affairs
MFD	Monetary and Financial Systems Department of the IMF
MJLA	Ministry of Justice and Legal Affairs
MLPCA	Money Laundering and Proceeds of Crime Act 2002

MLPCAA	The Money Laundering and Proceeds of Crime Amendment Act
ML	Money laundering
MLA	Mutual legal assistance
MLCAB 2009	The Money Laundering and Proceeds of Crime (Amendment) Bill 2009
MOU	Memorandum of Understanding
NPO	Nonprofit organization
NZIAD	New Zealand International AID and Development Agency
OCO	Oceania Customs Organisation
PEP	Politically-exposed person
PPF	Participating Police Force
RAMSI	Regional Assistance Mission to Solomon Islands
RCDF	The Rural Constituency Development Funds
ROSC	Report on Observance of Standards and Codes
RSIPF	The Royal Solomon Islands Police Force
SIFIU	The Solomon Islands Financial Intelligence Unit
SICLAG	Solomon Islands Combined Law Agencies Group
SINPF	Solomon Islands National Provident Fund
SRO	Self-regulatory organization
STR	Suspicious Transaction Report
TCU	Transnational Crime Unit
UN	United Nations Organization
UNSCR	United Nations Security Council Resolution

PREFACE

This assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of the Solomon Islands is based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT assessment Methodology 2004, as updated. The assessment team considered all the materials supplied by the authorities, the information obtained on site during their mission from 7-18 December 2009, and other verifiable information subsequently provided by the authorities. During the mission, the assessment team met with officials and representatives of all relevant government agencies and the private sector. A list of the bodies met is set out in Annex 1 to the detailed assessment report.

The assessment was conducted by a team of assessors composed of staff of the World Bank and an expert acting under the supervision of the World Bank. The evaluation team consisted of: Heba Shamseldin (FPDFI, legal assessor and team leader); Kevin Stephenson (FPDFI, law enforcement assessor); Andre Corterier (FPDFI, financial assessor), Bjarne Hansen (FPDFI, financial assessor) and Caroline Pickering (Manager- Fiji FIU, financial assessor). Mr. Hideaki Usami (APG) Secretariat) participated as an observer during the assessment visit by prior agreement with the authorities. The assessors reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter and punish money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP). The assessors also examined the capacity, implementation, and effectiveness of all these systems.

This report provides a summary of the AML/CFT measures in place in the Solomon Islands at the time of the mission or shortly thereafter. It describes and analyzes those measures, sets out the Solomon Islands levels of compliance with the FATF 40+9 Recommendations (see Table 1) and provides recommendations on how certain aspects of the system could be strengthened (see Table 2).

The assessors would like to express their gratitude to the Solomon Islands authorities for their cooperation and support throughout the assessment mission.

EXECUTIVE SUMMARY

1. The risk of money laundering and terrorism financing is very low. However, the vulnerabilities within the AML/CFT systems are still high. The low level of risk is attributable to an isolated geographic location, very small community which precludes anonymity, unsophisticated financial and commercial sectors, and a strict foreign exchange regime. Vulnerability, on the other hand, stems from severe resource constraints, lack of supervision of the financial sector and other cash dealers, combined with a weak culture of compliance.

2. The main source of illegal proceeds in the Solomon Islands is high level corruption, especially related to the extractive industries, tax crime and customs fraud. Criminals do not resort to complex money laundering schemes. There is anecdotal evidence that proceeds tend to stay within the jurisdiction of the Solomon Islands. The small proportion of proceeds that leaves the country tends to leave in small cash amounts but in a large volume of transactions. Domestically spent proceeds are applied to consumer goods including electronics and vehicles. Other anecdotal evidence indicates that larger corruption payments are sometimes placed in offshore bank accounts.

3. The perception of terrorism and terrorism financing focuses on the international form of these crimes. This may distract the authorities from examining potential terrorism financing risk that may be associated with home-grown ethnic and civil strife. At the moment, the risk of terrorism financing both domestic and international remains very low.

Key Findings

4. The Solomon Islands criminalizes money laundering and terrorism financing in a manner closely consistent with the international standards. There has been one successful conviction for money laundering and no incidents of terrorism financing. Lack of financial investigation skills limit the ability of competent authorities to investigate money laundering and trace the proceeds. Law enforcement authorities favor the enforcement of conventional penal code offences at the expense of other more proceed-generating offences such as illegal logging, fishing and mining. The Solomon Islands does not yet have a freezing mechanism to implement UNSCR 1267 and 1373.

5. The Solomon Islands Financial Intelligence Unit (SIFIU) was created by virtue of a delegation instrument under the auspices of the Money Laundering and Proceeds of Crime Act 2002. Despite lack of clear enabling legislation and severe shortages of resources, the SIFIU has achieved significant strides in overcoming these difficulties and successfully analyzed several STRs, disseminated quality intelligence reports and actively supported investigations that led to successful prosecutions. Currently, only commercial banks file STRs and the overall number remains low. No reports were disseminated in 2009 due to severe skilled staffing shortage.

6. The Solomon Islands has imposed obligations on banks and other non-financial institutions to adopt some AML/CFT measures. These obligations still fall short of the requirements of the international standards especially on beneficial ownership and PEPs. The SIFIU has issued unenforceable guidelines that raised the awareness of the banking sector of some of the missing

requirements. Outside the banking sector implementation is absent and severe capacity and resource constraints and lack of sanctioning powers significantly weaken oversight of all sectors.

7. Law enforcement authorities have extensive powers to confiscate proceeds and terrorist property and to provide mutual legal assistance. The informal cooperation channels both domestic and international are very well-developed and well-utilized.

Legal Systems and Related Institutional Measures

8. **The Solomon Islands have criminalized money laundering according the Vienna and Palermo conventions under the Money Laundering and Proceeds of Crime Act 2002 (MLPCA).** MLPCA came into force in 2006 extending money laundering offences to the proceeds of all serious offences. A number of bills criminalizing special offences such as organized crime and human trafficking are currently in progress. Passing these bills will address the gaps in the scope of the predicate offence that currently exist. The criminal liability of legal persons is a general principle under the Solomon Islands law and the penalties specified for money laundering are within the regional range.

9. **There has been one successful conviction for money laundering.** There are also two pending prosecutions. Law enforcement authorities however focus their resources on enforcing conventional code offences to the neglect of important offences such as illegal logging, illegal fishing and mining offences. This leaves the instruments of fighting money laundering unutilized for the purposes of combating these serious proceed-generating crimes.

10. **Terrorism financing is criminalized under the Counter-Terrorism Act 2009 (CTA).** With minor ambiguity relating to the liability of legal persons for terrorism financing, the act criminalizes terrorism financing in a manner consistent with the international standards. The risk of terrorism financing is low and the Act is new. This explains the absence of terrorism financing investigations to date. Terrorism financing is a predicate offence to money laundering.

11. **The extensive range of confiscation powers available under the MLPCA is not yet sufficiently utilized.** This is due to severe lack in the skills and human resources necessary to conduct financial intelligence gathering and investigation. In addition to the powers under MLPCA, the CTA creates additional *in rem* forfeiture power against terrorist property. The confiscation powers are supported by an equally adequate range of tracing, identification, freezing and seizing powers under both the MLPCA and the CTA.

12. **The Solomon Islands does not yet have in place a freezing mechanism to implement UNSCR 1267 and 1373.** While banks operating in the Solomon Islands apply internal checks against the lists and report suspicion and positive hits to the FIU, this is carried out as a matter of internal control and is not enforceable under domestic law. There is also no basis under the Solomon Islands law for the freezing of such funds or transactions.

13. **The RSIPF faces capacity and resources challenges that undermine its ability to effectively investigate suspected ML/TF violations.** Moreover**,** there is anecdotal evidence that suggest that law enforcement authorities are sometimes the targets of political interference, which obstruct their effort to investigate offences and take appropriate enforcement action. There is a

deficiency of skill in asset tracking and conducting financial investigations. There is also lack of emphasis on investigating money laundering simultaneously with the investigation of the predicate offense. There is commitment and political will to fight money laundering and terrorism financing within the police force. The Director of Public Prosecutions (DPP) is an independent body that is also committed to prosecuting ML/TF cases despite the challenges of lack of experience.

14. **The FIU is receiving, analyzing and disseminating STR reports to the competent authorities.** However, the FIU is hampered by lack of resources and capacity as well as an appropriate legislative framework to achieve its mandate. The FIU lacks the capacity to supervise the reporting obligations of all the designated reporting entities. The FIU does not provide proper feedback to reporting entities and does not publish an annual report. However, the FIU does a good job of promoting domestic cooperation amongst the competent authorities.

15. **The Currency Declaration Act is not officially implemented, though Customs is enforcing the Currency Declaration Act (CDA) at only the international air passenger terminal.** There are no current measures taken to screen sea passengers, crew, postal packages and containerized cargo. The CED should implement programs to address all cross-border movements of currency in accordance with this Act.

Preventive Measures—Financial Institutions

16. **Banks and other financial institutions are subject to some AML/CFT requirements based on the Money-Laundering and Proceeds of Crime Act (MLPCA).** These requirements do not establish an obligation to identify beneficial owners of legal persons, the scope and purpose of a business relationship or ongoing due diligence. There is no requirement for enhanced due diligence of high risk customers. There is significant concern regarding the institutions' ability to identify customers based on the low prevalence of official documentation in the population of the Solomon Islands. There is currently no obligation for specific measures regarding PEPs, although SIFIU has issued guidance in that regard.

17. **Wire transfers are not currently subject to specific AML/CFT obligations.** While a number of requirements are incidentally met due to the licensing process of Central Bank of Solomon Islands (CBSI) and the institutions' internal rules, these requirements are indirect and not supervised.

18. **There is low awareness and compliance with the STR reporting obligation outside of the banking sector.** There have been no STRs from financial institutions outside of the banking sector and there is no effective supervision in this area.

19. **Appointing a money laundering reporting officer and staff training are the only internal control requirements binding upon financial institutions and cash dealers.** To date, only banks have implemented this internal control requirement. While guidance issued by SIFIU indicates that financial institutions should establish the full range of internal controls including internal audit, and staff screening, these requirements are not currently enforceable and compliance is not supervised.

20. **There is significant concern regarding the supervisors' powers to supervise and enforce compliance with AML/CFT obligations.** This is primarily due to significant resource constraints and lack of clear sanctioning power. The supervisory powers and sanctioning abilities are split

between CBSI and SIFIU. SIFIU, the AML/CFT supervisor, does not have the power to impose administrative sanctions. Its only sanctioning power is penal in nature and can only be imposed through a court order.

Preventive Measures—Designated Non-Financial Businesses and Professions

21. **DNFBPs are only partially covered by the legal AML/CFT obligations (casinos and gold dealers).** This leaves out a significant part of the DNFBP coverage required under the FATF Recommendations. In addition, there is no effective implementation of these obligations in the DNFBP sector.

Legal Persons and Arrangements & Non-Profit Organizations

22. **There are weaknesses in the laws and procedures that ensure the availability of information on the beneficial ownership of legal persons and arrangements in the Solomon Islands.** The registrar of companies does not keep accurate and up-to-date information on the ownership and control of registered companies. Company service providers are also not obliged to obtain any information on the ownership and control of the companies they form or to maintain any records. There is therefore no adequate source of information on the beneficial ownership of legal persons in the system. While trusts are recognized they are very rarely present or domestically established. The Solomon Islands relies on law enforcement powers to obtain any information needed on the beneficial ownership of trusts.

23. **The Solomon Islands has yet to undertake a review of the TF risk of its NPO sector and the adequacy of its laws and regulations relating to NPOs.** The NPO sector in Solomon Islands consists of trusts or societies that are regulated by the Charitable Trusts Act and the Co-operative Societies Act. NPOs are currently not subject to any effective supervision or monitoring and there is no provision for regulating funding or expenditure of NPOs or reliable information on the beneficial ownership of operating NPOs. Registrations of NPOs are not updated on a regular basis and it is not possible to determine which still actively exist, as they are not being deregistered.

National and International Co-operation

24. **Solomon Islands' law gives the competent authorities full powers to execute foreign requests for a very wide range of mutual legal assistance.** This is supported by clear legal provisions in the MLPCA, the CTA as well as the Mutual Assistance in Criminal Matters Act 2002. Dual criminality, while construed very broadly, is required for all types of assistance even the least intrusive. With the gaps currently existing in the range of designated categories of predicate offences, this may pose a problem. There are hardly any requests for mutual legal assistance coming to the Solomon Islands and informal channels are always substituted for formal channels.

25. **Solomon Islands law on extradition is highly ambiguous.** The assessors could not establish the extent to which money laundering and terrorism financing are extraditable offences under Solomon Islands law. There is about one foreign extradition request every two years. All previous requests for extradition have been executed successfully. The process of deciding a contested extradition takes a maximum of one month.

26. **Domestic cooperation within the Solomon Islands is progressive and effective.** The MLPCA creates the Anti- Money Laundering Commission (AMLC) and the AMLC has created the Anti-Money Laundering Technical Expert Group (AML/TEG) to manage operational issues concerning AML/CFT. There is a receptive attitude amongst the stakeholders to initiate working groups, task forces and other forums that foster cooperation. One forum, the Solomon Islands Combined Law Agencies Group (SICLAG), needs to gain momentum and meet on a regular basis to continue to foster the cooperative environment already established within the stakeholders.

27. **The Solomon Islands is an active member of a well-developed network of regional information-sharing arrangements.** The competent authorities of the Solomon Islands are not regular recipients of requests for assistance from foreign counterparts. In fact, the FIU has never received a request for assistance and the RSIPF receives requests that are typically of a routine nature. Nevertheless, the FIU and RSIPF have no legal or policy impediments to international cooperation and have expressed their keen desire to cooperate. The FIU should be more assertive in joining Egmont and take the necessary steps to meet the membership requirements.

Other Issues

28. **The lack of a reliable identification system in the Solomon Islands poses a significant challenge to the AML/CFT framework in the country.** Without adequate regulatory and supervisory guidelines on this issue, the implementation of an effective AML/CFT regime is likely to be defeated and vulnerabilities will persist.

29. **High level corruption is a serious problem in the Solomon Islands and one that constitutes a high priority for the Government.** Anecdotal evidence suggests that corruption occasionally interferes with the enforcement of law and order in the country. Should this problem persist, AML/CFT enforcement is not going to be exempt from this political influence. The authorities are aware of the potential power of AML/CFT tools against corruption. The two pending money laundering investigations concern the proceeds of corruption offences.

1. GENERAL

1.1. General Information on Solomon Islands

The Solomon Islands and its Economy

Geography

30. The Solomon Islands is a country in the region of Melanesia (Southwest Pacific) east of Papua New Guinea, and northeast of Australia consisting of nearly one thousand Islands. With the terrain ranging from ruggedly mountainous islands to low-lying coral atolls, the Solomon Islands stretches in a 1,450 kilometre chain southeast from Papua New Guinea across the Coral Sea to Vanuatu. All the Islands together cover a landmass of 28,400 square kilometres.

Demography

31. The Solomon Islands comprises diverse cultures, dialects, and customs. According to latest government statistics, the Solomon Islands has a population of 523,000 (2008). Ninety-three percent are Melanesian, 4% Polynesian and 1.5 Micronesian. In addition, small numbers of Europeans and Chinese are present. About 120 vernacular languages are spoken.

Conflict and Stability

32. The Solomon Islands is striving to recover from a civil conflict that lead to fighting breaking out in 1998, the conflict brought the Solomon Islands to the brink of collapse as ethnic violence, government misconduct and crime lead to the undermining of stability and society in the years to follow. The ethnic conflict was connected to deeply seated problems of land alienation dating back to colonialism, which remained unresolved after independence.

33. The Honiara Peace Accord recognized several root causes of the conflict:

- Land demands – Guadalcanal leaders wanted all alienated land titles, which had been leased to government and to individual developers, to be returned to landowners (including any other land acquired illegally).
- Political demands – Guadalcanal wanted the establishment of a state government in order to have control over: the sale or use of local land; the distribution of wealth derived from local natural resources; and the migration of people in and out of the province.
- Compensation demands – Guadalcanal wanted payment for the lives of its indigenous people, who have been brutally murdered for their lands or for other reasons.

34. The ethnic tension lead to the break out of fighting in 1998, which resulted in around 20,000 dislocated people. In June 2000 Prime Minister Ulufa'alu was kidnapped by a militant organization, originating in the island of Malaita who felt that although he was a Malaitan, he was not doing enough to protect their interests. Ulufa'alu subsequently resigned in exchange for his release[1]. An Australian-brokered peace deal was signed in October 2000 but lawlessness continued.

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[1] BBC

35. As a response to the conflict The Regional Assistance Mission to Solomon Islands (RAMSI) was deployed July 2003 with a sizable international security contingent of police troops. RAMSI is a partnership between the people and Government of Solomon Islands and fifteen contributing countries of the Pacific region, helping the Solomon Islands to lay the foundations for long-term stability, security and prosperity.

36. On 18 April 2006 Snyder Rini was elected Prime Minister of the Solomon Islands in a general election. This sparked rioting in Honiara amidst allegations that the election was fixed with the aid of money from Chinese businessmen.[2] In response RAMSI forces were provisionally bolstered by additional personnel from Australia and New Zealand.

Economy

37. The Solomon Islands' per capita GDP of $474 classifies the Solomon Islands as a lesser developed country with more than 75% of its labour force engaged in subsistence farming and fishing. Until 1998, when world prices for tropical timber fell steeply, timber was Solomon Islands main export product. In recent years, Solomon Islands forests were dangerously overexploited. Other important cash crops and exports include copra and palm oil. In 1998 Ross Mining of Australia began producing gold at Gold Ridge on Guadalcanal. Minerals exploration in other areas continued. However in the wake of the ethnic violence in June 2000, exports of palm oil and gold ceased while exports of timber fell. Exports are just now beginning to recover.

38. Exploitation of the Solomon Islands' rich fisheries resources offers the best prospect for further export and domestic economic expansion. Tourism, particularly diving, is an important service industry for the Solomon Islands. Political instability, security issues, lack of infrastructure, and transportation limitations hamper growth in that industry, however. With the Government now stable there is a potential that the industry will be revitalised as more people are now making Solomon Islands their holiday destination.

39. The IMF reported growth of approximately 7 percent per year in the period from 2003 to 2008. It has projected the economy to grow merely 0.4 percent in 2009 because of the Global financial crisis and by approximately 3 percent growth rate in 2010 and 2011.

Government

40. The Solomon Islands is a parliamentary democracy within the Commonwealth, with a unicameral Parliament and a ministerial system of Government. The British monarch is represented by a Governor General, chosen by the Parliament for a 5-year term. The national Parliament has 50 members, elected for 4-year terms. Parliament may be dissolved by majority vote of its members before the completion of its term. Parliamentary representation is based on single-member constituencies. Suffrage is universal for citizens over age 18. The Prime Minister, elected by

[2] Parts of Honiara were razed and looted, with Chinese-owned property particularly targeted. With up to 90% of their shops burnt down in Chinatown, most Chinese have evacuated the country in fear for their personal safety. Snyder Rini resigned on the floor of Parliament on 26 April after just eight days as Prime Minister and as MPs were due to vote on a motion of no confidence against him.

Parliament, chooses the other members of the cabinet. Each Ministry is headed by a cabinet member, who is assisted by a Permanent Secretary, a career public servant, who directs the staff of the Ministry.

41. For local government, the country is divided into 10 administrative areas, of which nine are provinces administered by elected provincial assemblies, and the 10th is the town of Honiara, administered by the Honiara Town Council.

42. Land ownership is reserved for Solomon Islanders. At the time of independence, citizenship was granted to all persons whose parents are or were both British protected persons and members of a group, tribe, or line indigenous to the Solomon Islands. The law provides that resident expatriates, such as the Chinese and Kiribati, may obtain citizenship through naturalization. Land generally is still held on a family or village basis and may be handed down from mother or father according to local custom. The islanders are reluctant to provide land for non traditional economic undertakings, and this has resulted in continual disputes over land ownership.

43. No military forces are maintained by the Solomon Islands, although the police force of nearly 1100 includes a border protection element. The police also have responsibility for fire service, disaster relief, and maritime surveillance.

The Solomon Islands Legal System

44. The Solomon Islands' legal system is based on English common law. Schedule 3 section 2 of the Constitution of the Solomon Islands 1978 provides:

1. Subject to this paragraph, the principles and rules of the common law and equity shall have effect as part of the law of the Solomon Islands save in so far as:
    (a) they are inconsistent with this Constitution or any Act of Parliament;
    (b) they are inapplicable to or inappropriate in the circumstances of Solomon Islands from time to time; or
    (c) in their application to any particular matter, they are inconsistent with customary law applying in respect of that matter.
2. The principles and rules of the common law and equity shall so have effect notwithstanding any revision of them by an Act of the Parliament of the Unite Kingdom which does not have effect as part of the law of Solomon Islands.

45. The hierarchy of the courts in the Solomon Islands follows the standard model of inferior court, superior court and appeal court. In addition, separate courts have been established to deal with customary land and minor local disputes. A separate appeal court has also been established to deal with customary land appeals.

46. The Constitution of the Solomon Islands under section 77 establishes a High Court which has unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law. It consists of the Chief Justice and puisne judges appointed by the Governor General acting on the advice of the Judicial and Legal Service Commission. Under section 84, the High Court has jurisdiction to supervise any civil or criminal proceedings before any subordinate court and may make

such orders, issue such writs and give such directions as it may consider appropriate for the purpose of ensuring that justice is duly administered by any such court.

47. The Court of Appeal is established pursuant to section 85 of the Constitution and has such jurisdiction and powers to hear and determine appeals in civil and criminal matters as may be conferred on it by this Constitution or by Parliament. It is constituted from time to time as the need arises, by a President and Justices of Appeal, together with the Chief Justice and the puisne judges of the High Court. The President of the court and the Justices of Appeal are appointed by the Governor General acting on the advice of the Judicial and Legal Service Commission.

48. Magistrates' courts are established as courts of record by the Magistrates' Courts Act Cap. 20. They are divided into principal magistrates' courts, magistrates' courts of the first class and magistrates' courts of the second class. Magistrates' courts are constituted by a principal magistrate or magistrate of the relevant class sitting alone. All magistrates are appointed by the Judicial and Legal Service Commission.

49. The local courts are established by Chief Justice's warrant under the Local Courts Act Cap. 19. Each court is constituted in accordance with the law or custom of the area in which it has jurisdiction. The court may sit to hear a case provided that at least three judges are present. The Attorney General, Director of Public Prosecutions and the Public Solicitor are Constitutional offices established pursuant to section 42, 91 and 92 respectively of the Constitution.

Transparency and good governance

50. The World Bank Worldwide Governance Indicators show that there have been great achievements in the areas of control of corruption and rule of law at the beginning of the decade, however the indicator relating to rule of law show that during the last three years no significant improvement has been achieved and that the Solomon Islands remains globally among the 0-25th percentile range on a global scale.

51. Corruption in the Solomon Islands remains a serious challenge. In the last two years (2007-2009), the country's Corruption Perception Index (CPI) score remained stable at 2.8.[3] The Solomon Islands currently holds the 111st position in the CPI global ranking (out of 180 jurisdictions).

52. The Wantok system is a salient feature of social organization in the Solomon Islands. It is a system of relationships/obligations between individuals connected by common origin, hailing from common geographic area, sharing common kinship and common language. The Wantok is simply an extended family or clan ranging from just a few people to several hundreds. In the political and public affairs arenas, the Wantok system can provide a strong incentive for nepotistic and corrupt practices. Politicians and public servants are expected to disseminate funds to the members of their Wantok, this

[3] CPI Score relates to perceptions of the degree of corruption as seen by business people and country analysts, and ranges between 10 (highly clean) and 0 (highly corrupt)

ranges from little things such as assistance in school fees to favours that can be classified as corruption; such as offering a job or contract to a person or persons because they are a 'Wantok'.[4]

53. A report by transparency international in 2004 stated that corruption in Solomon Islands rages from favouritism to Wantoks in the selection of employees, through the bribery of individual officials for expediting document processing, to systematic and elaborate schemes of payoffs and kickbacks involving large resource extraction projects. It was further noted that most corrupt practice pertain to the operations of the public service or government practice.

54. The office of the Auditor-General in 2007 estimated that amounts foregone in lost revenue or corruptly or fraudulently disbursed, as identified in the Office's Special Audits, were some US$58 million over the period of 2001-2004.[5]

55. A controversial issue in the current administrative system concerns the Rural Constituency Development Funds (RCDF), by which each Member of Parliament is given US$135.000-270.000 from Taiwan to distribute directly to constituents[6], according to the information provided the assessment with only little accountability for the way that these funds are distributed.

56. The rationale for the RCDF lies in the poor capacity of the formal administrative structure to deliver services on a local level and that the MPs can get resources to constituents more effectively through this channel. While many of these funds are used for public purposes, such as the building of clinics or schools,[7] the problem is that their distribution tends to be politicized and directed towards constituents that supported the MP, often related to the MPs Wantak, rather than to the MP's district as a whole. There is progress towards greater accountably regarding the use of the funds as the Auditor General is planning to audit these funds in the coming year.

57. The Solomon Islands Government established an Anti-Corruption Taskforce in February 2009 that has been mandated to develop a national Anti-Corruption Policy and to make recommendations on anti-corruption reform, including the establishment of the Independent Commission Against Corruption (ICAC). The Anti-Corruption Taskforce has also been a driving force in the effort of the Solomon Islands to sign the United Nations Convention against Corruption (UNCAC). Currently the Solomon Islands is working towards ratifying UNCAC in 2010.

58. The anti corruption effort has been intensified by strengthening of the Leadership Code Commission via increased personnel enforcing the Leadership Code Act. The act compels leaders to provide full disclosure of their financial affairs, including the finances of family members. Though introduced in 1999 the act has remained ineffective due to lack of skills and a negligible penalty for infringement of merely US$157.

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[4] Solomon times February 16, 2008

[5] An Auditor-General's Insights into Corruption in Solomon Islands Government 2007. Where available records from 2000 was also used

[6] State-Building in the Solomon Islands, Francis Fukuyama 2008

[7] one of the most prevent usage of the funds are to pay the school fees of constituents.

59. Efforts are currently being taken to strengthen the Act. This includes narrowing the scope of who is to provide disclosure from all employees on the public payroll to elected leaders and senior government officials, while at the same time increasing the penalties for not complying with the act.

60. During the on-site visit there was evidence that these accountability and transparency challenges sometimes affected law enforcement efforts. Sometimes this was due to incidence of corruption within the agencies responsible for law enforcement. On other occasions, this was due to high-level political interference in the work of such law enforcement agencies. There was no evidence of such incidents in the area of AML/CFT specifically. There is also now concerted effort and government strategy to deal with the incidence of corruption.

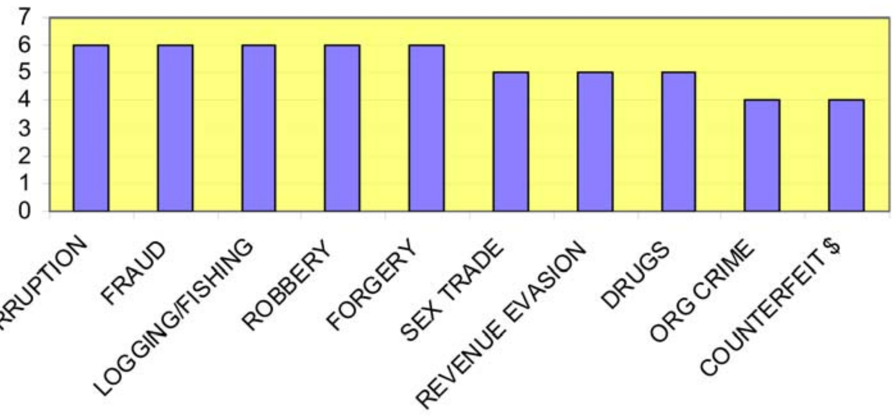
1.2. General Situation of Money Laundering and Financing of Terrorism

Overview of Money laundering threat in the Solomon Islands

61. The FIU with the assistance of the Australian government's Anti-Money Laundering Assistance Team (AMLAT), in September 2008 undertook a study to identify the risk or threat of money laundering and terrorist financing in the Solomon Islands. It should be noted, according to APG, that the Solomon Islands is the only pacific island that has carried out a risk assessment. The report determined the threat of money laundering as relatively low, but recognized that there is a need to develop an effective AML/CFT regime to combat possible money laundering or economic crimes in the future.

62. The following chart shows the findings of the Financial Crimes and Money Laundering Threat Assessment (FCMLTA), consisting of delegates from CBSI, DDP, Auditor General, Royal Solomon Islands Police and SIFIU, conducted in the country for the first time, in 2008. The FCMLTA focused on the FATF categories of predicate offenses and has the following analysis.

– Ratings of Predicate Offenses



Source: SIFIU

Corruption

63. Respondents to the survey noted widespread misuse of official funds, or office, for private financial gain. Numerous Auditor-General reports found that corruption is facilitated by widespread non-compliance with financial legislation and regulations; officials acting beyond their authority;

serious breakdowns in critical management, accounting and record keeping systems; proliferation of unauthorised government bank accounts (over 300); and non disclosure of conflicts of interest. One official during the on-site visit described corruption as 'rampant'. However most of the corruption takes place in the form of nepotisms involving exchange of favours and other benefits that do not involve generating proceeds susceptible to money laundering offences.

Fraud, Forgery and Revenue Evasion

64. According to officials, millions of dollars are lost through fraud by government employees; officials using positions of influence to assist associates to receive benefits; and, lack of capacity to enforce revenue collection or to recover overpayments. Also, concern about land allocations, the issuance of immigration passports and citizenship, and abuse of aviation revenue was raised. Customs fraud and tax evasion, along with corruption, appear to be the most likely predicate offenses related to money laundering. Interlocutors of the assessment team during the onsite advised that there are serious concerns about Customs fraud and tax evasion. One official described the level of compliance with tax regulations as extremely low.

Environmental Crime

65. Respondents noted that illegal logging causes unsustainable deforestation, harms local communities, generates large sums to be laundered, and is a major driver of corruption. Anecdotal evidence indicates that the proceeds generated by the illegal logging are likely laundered in jurisdictions outside the Solomon Islands. Respondents claimed that "hundreds of millions" have been lost from forestry and fisheries revenue. Also, suspicion persists that foreign vessels are a platform for smuggling Solomon Islands wildlife to international markets.

Counterfeit Products and Counterfeit Currency

66. Sales of counterfeit music and movies are common. The Central Bank of Solomon Islands has repeatedly detected counterfeit SI $50 and $100 notes (e.g. 2004, 2007 and 2008). CBSI has also detected counterfeit US dollars. There is suspicion that Asian logging vessels (particularly Malaysian) bring counterfeit currency into Solomon Islands to finance forestry operations. However, officials advised during the onsite visit that the amount of counterfeit currency circulating the Solomon Islands is relatively low.

Sexual Exploitation

67. Concern was expressed about trafficking Asian women into the Solomon Islands for prostitution, as allegedly occurs in neighbouring PNG. Important clientele were considered to be casino and nightclub patrons, and employees of the logging and fishing industries. There are also reports of Solomon Islands women and girls entering prostitution in Honiara and in the forestry camps.

Illicit Drugs

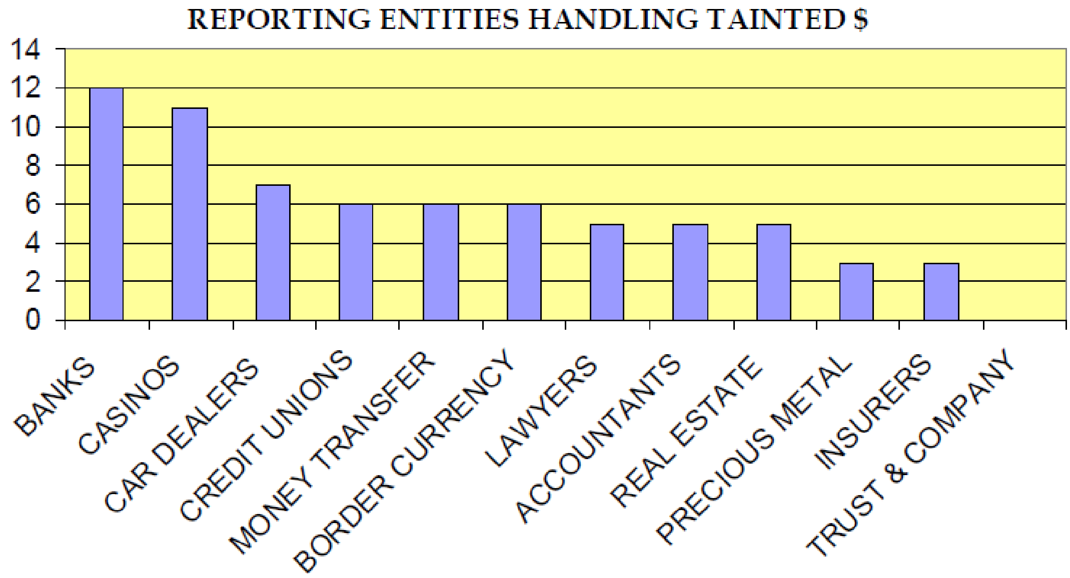
68. Cannabis production and sale are common. There are suspicions that cannabis is also smuggled from PNG to the Solomon Islands. There is also local dealing in cannabis but it is relatively small compared to other jurisdictions. According to officials, the level of narcotics smuggling and trafficking is relatively low and not a significant source of illegal proceeds to be laundered.

Human Trafficking-

69. There was not any substantive evidence of Human Trafficking in the country. The general risk for this crime is low.

The priority of banks and financial services

70. In Threat Assessment conducted by the FIU with the assistance of the AMLAT the respondents considered in what sectors the proceeds from the aforementioned crimes may be laundered.. The table below ranks the respondents' opinions about the entities most likely to be utilized to launder illegal proceeds.



Source: SIFIU

71. However, broadly speaking, most of the interlocutors of the assessment team described the risk of money laundering in the Solomon Islands as more significant than indicated in the 2008 study. These interlocutors mentioned corruption, fraud and environmental crimes as the most prevalent predicate offenses for money laundering.

72. Some reports indicate that some government officials in the Solomon Islands perceive that corruption, illegal logging, and illegal fishing resulted in hundreds of millions of SI dollars of lost revenue.[8] It is unlikely, that a significant portion of these illegal proceeds are laundered through the Solomon Islands. Since the raw materials (fish and timber) are exported from the Solomon Islands and sold on foreign markets, it is improbable that the proceeds generated by the illegal logging and illegal fishing would move through the financial sector of the Solomon Islands. However, the proceeds from bribes and other related illegal activity could move through the commercial banks or "cash dealers." Some interlocutors advised the assessment team during the onsite visit of the possibility that corrupt officials have foreign bank accounts and the proceeds are deposited without moving through the Solomon Islands' financial sector. While this risk is perceived as very low it still poses a problem with the potential for money laundering.

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[8] Masalai-I-Tokaut, April 27, 2006, *Solomons - Logging Corruption Ruins A Nation*

73. Some interlocutors of the assessment team described schemes of money laundering whereby the illegal proceeds never enter the financial institutions of the Solomon Islands; the agreements to engage in corrupt practices occur in foreign jurisdictions; payments for corrupt practices are paid in foreign currency, not Solomon Island Dollars, and are deposited into accounts outside the Solomon Islands. The proceeds of the more lucrative crimes like illegal logging and illegal fishing accrue overseas and the government of the Solomon Islands does not have the law enforcement capacity to pursue these funds. Moreover, the Solomon Islands is unattractive to foreign proceeds because of the serious lack of investment opportunities and the fact that the introduction of such funds into the system would immediately raise red flags.

74. The Wantok System is another possible recipient of illegal proceeds generated by public and political corruption and other related criminal offenses. Many officials and others advised that if a Member of Parliament does not disburse cash to his/her Wantok the chances of re-election are minimal. Many interlocutors of the assessment team during the onsite visit indicated that the existence of the Wantok system of patronage significantly subverts democratic institutions and has hampered good governance and transparency in the Solomon Islands.

75. There is general recognition in government agencies that the financial sector presents the most significant risk of money laundering. Corruption is considered such a problem that Prime Minister Dr. Derek Sikua established the Anti Corruption Taskforce in the first quarter of 2009 which comprises of both public and private sector representatives with a fundamental mandate to develop a national Anti Corruption Policy.[9] One official described the impact of corruption on law and order as "extremely significant." The Heritage Foundation Report has stated that the law provides criminal penalties for official corruption, but it has not been implemented effectively, and officials often engage in corrupt practices with impunity.[10] In March 2005, the Solomon Islands Government commissioned a Department of Natural Resources audit of the Forestry Department and the collection of royalty payments and fees by the logging industry. The Report found that large amounts of tax were not being paid by logging companies as they routinely bribed politicians to obtain unlawful 'exemptions'.[11]

76. The geography of the Solomon Islands presents challenges to the effective curtailment of many of these crimes, and the attendant money laundering. Consisting of many islands that stretch for 1,450 kilometers from Papua New Guinea across the Coral Sea to Vanuatu, the Solomon Islands does not have a military or coast guard and relies on roughly eleven hundred (1,100) police officers and eighty-five (85) Customs officers to prevent smuggling and other illegal activity. Solomon Islands officials advised that the Police have boats but no fuel to patrol. Moreover, other officials advised

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[9] Sol/GOVT, November 20, 2009, *Malaita Premier says poverty is the main source of corruption in Solomon Islands*

[10] Heritage Foundation Report – 2009 Index of Economic Freedom

[11] Sol/GOVT, November 20, 2009, *Malaita Premier says poverty is the main source of corruption in Solomon Islands*

that many areas where illegal logging is likely occurring are in very remote areas, not readily accessible; therefore, receive little attention from authorities.

77. Since 2006, the Solomon Islands has put in place a number of measures to detect and deter money laundering, and has made appreciable efforts to implement those measures. Financial crimes enforcement has increased since the enactment of the Money Laundering and Proceeds of Crime (Amendment) Act 2004 (No.7 of 2004), enacted in 2006, and there have been investigations and charges of money laundering. One case has resulted in a conviction while others are still pending. Despite the apparent high level of corruption, the Solomon Islands should be applauded for successfully prosecuting powerful political figures for corruption and related offenses.

78. The level of corruption, the lack of supervision of casinos and other DNFBPs, the lack of capacity to properly monitor the commercial banks, suggests that the vulnerability to exploitation is significant. However, the volume of illegal proceeds currently moving through the financial sector of the Solomon Islands is likely very low. Despite the incidence of proceed-generating crime, this rarely translates into domestic money laundering. Moreover, the proceeds that are generated domestically are often spent on consumables and spread amongst a large number of people that constitute the dependants of the beneficiary as a result of the Wantok or tribal system adhered to in the Solomon Islands. Furthermore, due to its small population and diminutive financial sector, it does not appear to be an attractive place for foreign money launderers who wish to maintain anonymity.

79. There is much less awareness of the risk of terrorist financing. Officials indicated that the actions of many during the ethnic violence of 2000 and rioting in April 2006 would have constituted terrorism offenses had the CTA been enacted. If such violations occur in the future, officials advised that charges would likely be brought against the perpetrators in accordance with the CTA. Officials also advised that the use of the CTA to fight domestic forms of corruption was discussed during the Parliamentary debates of the Act.

Attractiveness of Solomon Islands for Money Laundering

80. While the risk of money laundering is arguably very low in the country, it still poses a problem with the potential for money laundering and related financial crime because of low capacity of law enforcement and regulators; a culture lacking in compliance; and the presence of the Wantok System. However, the Solomon Islands is an isolated Pacific island chain with an unsophisticated financial sector, a small population which make anonymity difficult and a stringent foreign exchange regime, making it difficult to move hard currency through the financial system. The SI dollar is of little value outside the Solomon Islands.

Attractiveness of Solomon Islands for Terrorism Financing

81. The risk of terrorism financing in the country is low and thus poses a minimal threat in the country. However, the lack of resources and technical capabilities of some of the stakeholders that are mandated to combat terrorism financing exposes the Solomon Islands to genuine vulnerabilities. The ethnic tensions that occurred early in the decade indicate that there are elements that believe in utilizing terror for political gain. It is unclear if this violence was supported by financing but some interlocutors indicated that “deals were made.” In terms of being a haven for international terrorism financing, it is unlikely that the Solomon Islands would be an attractive venue. The isolation, small population and small, unsophisticated financial sector would make anonymity difficult; therefore, somewhat risky for those financing terrorism.

1.3. Overview of the Financial Sector

82. The Solomon Islands financial sector is small and comprises of three foreign commercial[12] operating as branches in the Solomon Islands. The Financial Markets Supervision Department (FMSD) within the CBSI is the supervisory and regulatory body for licensed institutions under the Financial Institutions Act 1998 (FIA), Insurance Act and Credit Unions Act. The Foreign Exchange Act is administered by International department in CBSI. and the Gaming and Lotteries Act by the Ministry of Home Affairs.

Statistical Table 1. Structure of Financial Sector, 2009

	Number of Institutions	Total Assets	Legislation	Authorized/ Registered Supervised by:
Commercial banks	3	US$240 million	FIA	FMSD
Credit institutions	1	US$3.9 million	FIA	FMSD
Pension fund	1	US$14 million	FIA & NPF Act	FMSD
Insurance companies & brokers	9	US$9.9million	Insurance act	FMSD
Credit Unions	11	U$4.6 million	Credit Union Act	FMSD
Real Estate	5	-	-	-
Foreign exchange	5	-	Foreign Exchange Act	International Dept
Money transmitters	2	-	Foreign Exchange Act	International Dept
Casinos	2	-	Gaming and Lotteries Act	Ministry of Home Affairs
Lawyers, Notaries and Accountants		-	-	-
Dealers in precious metals and precious stones	10-15	-		Ministry of Mines and Energy

[12] Consisting of Australia and New Zealand Banking Group Limited, Bank South Pacific and Westpac Banking Corporation

Statistical Table 2. Financial Activity by Type of Financial Institution

Type of financial activity (See glossary of the 40 Recommendations)	Type of financial institution that performs this activity	AML/CFT regulator & supervisor
1. Acceptance of deposits and other repayable funds from the public (including private banking)	1. Banking Business and Credit Institutions as licensed under the Financial Institutions Act 1998 e.g. commercial banks and credit institutions 2. Credit Unions as licensed under the Credit Union Act and Savings Clubs	1. FIU
2. Lending (including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfeiting))	1. Banking Business and Credit Institutions 2. Credit Unions	1. FIU
3. Financial leasing (other than financial leasing arrangements in relation to consumer products)	1. Banking Business and Credit Institutions	1. FIU
4. The transfer of money or value (including financial activity in both the formal or informal sector (e.g. alternative remittance activity), but not including any natural or legal person that provides financial institutions solely with message or other support systems for transmitting funds)	11. Banking Business 2. Money Transfer Agency e.g. Western Union as licensed under the Exchange Control Act	1. FIU
5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveler's cheques, money orders and bankers' drafts, electronic money)	1. Banking Business and Credit Institutions 2. Credit Unions	1. FIU
6. Financial guarantees and commitments	1. Banking Business	1. FIU
7. Trading in: (a) money market instruments (cheques, bills, CDs, derivatives etc.); (b) foreign exchange; (c) exchange, interest rate and index instruments; (d) transferable securities; (e) commodity futures trading	1. Banking Business	1. FIU
8. Participation in securities issues and the provision of financial services related to such issues	Not Applicable	-
9. Individual and collective portfolio management	1. Trustee Companies	-
10. Safekeeping and administration of cash or liquid securities on behalf of other persons	1. Banking Business and Credit Institutions 2. Credit Unions	1. FIU
11. Otherwise investing, administering or managing funds or money on behalf of other persons	1. Trustee Companies	-
12. Underwriting and placement of life insurance and other investment related insurance (including insurance	1. Insurance Companies 2. Insurance Intermediaries	1. FIU

undertakings and to insurance intermediaries (agents and brokers))		
13. Money and currency changing	1. Banking Business 2. Money Changers as licensed under the Exchange Control Act	1. FIU

Commercial Banking Business

83. The commercial banks are licensed under the provisions of the FIA. The FMSD is responsible for licensing and performing prudential supervision while it only assists the FIU who performs the AML/CFT supervision. The banking business sector in Solomon Islands is dominated by branches of foreign owned banks. Two are branches of Australian banks, ANZ and WBC, and one is a branch of a bank in Papua New Guinea, Bank South Pacific. Of the three commercial banks, two have branches and agencies in the provinces and Honiara. There is a total of 14 branches and 10 agencies.

84. Bank South Pacific was issued a license as a foreign branch operation on 12th January 2007 after it acquired the 100% interest in National Bank of Solomon Islands Limited. It only became fully operational on 1st August 2007 when the local bank ceased to operate as a bank in Solomon Islands. The commercial banks consolidated balance sheet amounted to US$240 million as at quarter end March 2009.

Credit Institutions

85. There is only one credit institution in SI, Credit Corporation (SI) Ltd with a total balance sheet of US$3.9 million as of March 2009. The institution was issued a license in July 2005 and commenced reporting to CBSI from December 2005. It is a subsidiary of a licensed financial institution in Papua New Guinea and its operations include chattel mortgage, general financing and investments similar to a usual financial institutions

86. Credit Institutions are licensed under the FIA "as any financial institution other than a bank" and prudential supervision is performed by FMSD.

Insurance Industry

87. The supervision of the Insurance industry was transferred from the Ministry of Finance and Treasury to the CBSI in 2003. This transfer of function was only completed in 2006 when an insurance officer was appointed by the CBSI.

88. The Insurance companies and intermediaries are licensed under the Insurance Act Cap 82 and supervised by the Office of the Controller of Insurance (COI). The COI function is now located within FMSD-CBSI. The Governor of CBSI was appointed the Controller of Insurance and this decision was gazetted in 2008.

89. The insurance industry in Solomon Islands comprises of two non-life insurers, one life insurer, three insurance brokers and three insurance corporate agents. All insurers are branches of insurance companies whose head offices are in New Zealand and Australia. All insurance brokers are locally owned companies operating in the country and one insurance corporate agent is from Australia while another two corporate agents are locally owned.

90. Non-life insurers are QBE (international) Insurance Ltd and Tower Insurance Ltd with the Family Assurance Limited being life insurers. Insurance brokers include: MAT Insurance brokers

Limited, BJS United Insurance Brokers Limited and Solomon Insurance Brokers Limited. Corporate insurance agents are ANZ bank, Guadalcanal Travel Services and MARSH (Qld) Pty Ltd.

91. In terms of reporting, COI receives reports (including profit & loss statements and balance sheet statements) on quarterly basis from all insurers and all insurance brokers and not from insurance corporate agents.

92. The non-life insurers provide covers for business classes including: all risks, burglary, contractors risks, employees/workers compensation, fire, household owners, marine cargo, marine hull, miscellaneous, motor vehicles, motor compulsory third party, personal accident, general accident and public liability that have policy term of 1 year. The life insurer provides endowment insurance cover that has maturity term of 55 years.

93. Insurance brokers currently carry out intermediary functions for non-life insurance businesses within the SI, in addition some overseas insurance brokers and insurers do provide some elements of business that are not provided by the local market.

94. The FMSD, given the novelty of its responsibility in this area performed the basic tasks of formulating a reporting requirement that required insurance companies/intermediaries to submit quarterly reports, which only commenced in 2006. Progress has also been made in creating a reporting database. The department also pursued a Vehicle Reporting Database with the Ministry of Finance to enable monitoring of Third Party Compulsory Insurance.

95. The combined assets for the Insurance companies as of December 2008 amounted to US$10 million. A total net premium of US$4.1 million was generated by the insurance companies.

Credit Unions

96. The credit unions are formed between members who have a common bond. Credit Unions receive savings from members and make lending based on the member’s shares. The credit unions are licensed under the Credit Union Act 1986 and FMSD performs the supervisory role on behalf of the Registrar of Credit Unions. The Governor of the CBSI is the Registrar of Credit Unions.

97. A total of 178 credit unions are now registered with the Registrar of Credit Unions however most have ceased to operate. There are 11 credit unions that are known to be operating, 8 of which are currently reporting to the Registrar’s Office and all are located in Honiara. The consolidated balance sheet of the eight reporting credit unions amounted to $31.4 million in December 2008. Membership total was 3,778.

Superannuation Fund

98. The Solomon Islands National Provident Fund (SINPF) is a statutory savings scheme and a defined contribution fund established in 1976. In 2003, NPF was deemed a licensed financial institution under the FIA and subject to prudential regulation and supervision by FMSD. As a statutory authority, the fund is also subject to its own legislation, the SINPF Act. The SINPF Act requires that employers make compulsory contributions of 12.5% of gross salary per employee. This payment contribution comprises 5% deducted from member’s monthly gross salary and 7.5% contributed by the employer on behalf of the employee/member.

99. The Fund in 2007 has diversified its investment portfolio to engage in offshore investments. Offshore Term Deposits were placed with ANZ Singapore, BSP PNG and Gaden Lawyers Trust Fund (PNG) amounted to US$17.3 million as at December 2008. The SINPF also invested in offshore

shares and equities totalling up to a value of US$14.1 million in December 2008. The listed equity investments are Bank South Pacific, Vanguard US S&P 500 Stock Index Fund, Vanguard European Stock Index Fund and, UBS Australian Share Fund.

100. As of 28 February 2009, the total balance sheet footings of the Fund were US$122 million. Total membership was 142,944.

Moneychangers and Remittance Businesses

101. There are two Money Transfer Services, Bank South Pacific Agency and Western Union and three Money Changers, Pacific Casino, SolPost, King Solomon are licensed under the Exchange Control Act and administered by the International Department within the Central Bank. The scope of business includes exchanging one currency for another, but they are also authorized to transfer, and deliver funds on behalf of others, including transmitting money to other countries.

Security market

102. There is no security market in the country, however only CBSI is issuing some government bonds and treasury bills in the country. A dedicated unit within the CBSI looks after this service.

1.4. Overview of the DNFBP Sector

Casino Sector

103. There are two casinos in operation in the country. They are licensed under the Gaming and Lotteries Act and supervised by the Ministry of Home Affairs.

Dealers in precious metals and precious stones

104. The Ministry of Mines and Energy is responsible for licensing and regulating dealers in the gold sector. There is a handful of these dealers in the market that are not currently subject to any AML/CFT requirements.

Real Estate Sector

105. There is at this stage only a small and unregulated real estate market in the country and very few real estate agents serving as intermediaries in real estate transactions. Real estate transactions are often conducted in cash directly between the buyer and seller. Occasionally, real estate dealers may be involved in the transaction especially when it involves government or business property. There is no proper body that governs their operations and according to the Threat Assessment by FIU and the AMLC, the risk of money laundering in this sector is low.

Lawyers, Notaries and Accountants

106. The Solomon Islands Institute of Accountants – which is responsible for the certification of public accountants in the country, was established in 1982 to regulate, improve and develop the practice of the profession of accountancy in the country. However, the team learnt that the institute remains largely inactive.[13]

[13] Accounting and culture: The case of Solomon Islands, Pacific Accounting Review, Volume 21, Number 3, 2009)

107. The Solomon Islands Bar Association is responsible for the legal practitioners in the country. One has to be admitted to the local Bar before she/he can practice in the country. However there is only modest self-regulation of lawyers. There are currently approximately 60 lawyers in the Solomon Islands.

108. The notary function is carried out by lawyers appointed by the Chief Justice.

1.5. Overview of commercial laws and mechanisms governing legal persons and arrangements

109. The legal system of the Solomon Islands recognises and creates several types of legal persons. These being: (i) Companies created under the Companies Act Cap. 175; (ii) Cooperative societies formed under the Cooperative Societies Act Cap 164; and (iii) Charitable trusts incorporated under the Charitable Trusts Act Cap. 55.

110. As a common law system, the Solomon Islands allows for the creation and recognises trusts. Trusts are common law arrangements and are not governed or registered under statute.

Companies

111. Registration of companies is undertaken by the Registrar of Companies. The legal persons in the Solomon Islands are companies incorporated under the *Companies Act Cap.175*. Under this Act, companies may be limited by share, limited by guarantee or unlimited. Legal persons may be members of companies, with the exception that a subsidiary company cannot ordinarily be a member of its holding company. Legal persons may also be directors of companies. Standard arrangements relating to Shareholders and Directors apply. Records are available for public search.

112. Companies fall into the categories of either public companies or private companies. Private companies are subject to lesser requirements in some respects (for e.g. minimum number of shareholders) than public companies but are prohibited from issuing prospectuses inviting subscriptions for shares.

113. The team could not obtain a total number of all registered companies in the Solomon Islands. The Registrar of Companies did not hold aggregate statistics. The Registrar indicated that there are approximately 200 companies registered every year. There was no information on the number of public v. Private companies.

114. All foreign companies operating in the Solomon Islands must be registered with the Foreign Investment Division- Ministry of Commerce (formerly the Foreign Investment Board). Since 2006, approximately 1000 foreign businesses were registered by the division. Only approximately 10% of which are companies. The remaining populations of registered businesses are unincorporated.

115. While Australia contributes the largest number of registered businesses in the Solomon Islands. This includes businesses owned by Australian Chinese. The biggest sector in terms of foreign investment is forestry.

Co-operative Societies
116. Co-operative societies may be registered under the Co-operative Societies Act Cap. 164. Co-operative societies are required to maintain a list of members which must be made available for inspection by the public. The provisions of the Companies Act do not apply to cooperative societies.

Charitable trusts
117. The charitable trusts are regulated by statute. The trustees of a charitable trust or a society fulfilling the role of a board of a charitable trust may apply for incorporation under the Charitable Trusts Act Cap.55.

Non-Profit Organisation
118. There are several Non Profit Organisations in the country that are either registered as Charitable Trusts or as Cooperative societies. Incorporation is voluntary and is usually undertaken for reasons such as tax exemption regarding import/export and protecting the name of the charitable trust. There are approximately 700 registered non profit bodies in the Solomon Islands, however the scarcity of updates regarding NPOs registration makes it difficult to assess the operational scale of these. The main ones are: the Red Cross, Transparency International (Solomon Islands Chapter), Solomon Islands Planned Parenthood Association, the Solomon Islands Christian Association, the Solomon Islands Football Association and etc.

119. Development Services Exchange (DSE) is a national NGO umbrella body seeking to strengthen effective NGO coordination through facilitating a range of activities and opportunities which involve the sharing of relevant and timely information, experiences and ideas among NGOs and with others interested in civil society, as well as producing training and education materials for NGOs. There are currently 44 members of DSE, membership of DSE is voluntary and is renewed on a yearly basis. DSE is funded mainly by New Zealand International AID and Development Agency (NZIAD) and by membership fees[14][15]. DSE has no regulatory power over its members and but can reject member from renewing their membership should they not follow the objects and mission of DSE.

1.6. Overview of strategy to prevent money laundering and terrorist financing

AML/CFT Strategies and Priorities

120. The Solomon Islands Anti-Money Laundering Regime has been established approximately 3 years ago and despite being a small island country with significant capacity constraints, the authorities have demonstrated dedication to the global fight against money laundering and terrorist financing. As part of its ongoing commitment the authorities have pointed out that a number of legislative reforms are currently underway. These include as a matter of priority:

[14] The yearly membership fees are; International NGOs-US$105, Local NGOs-US$65, Community Based Organizations US$25and Associate member fee-US$45

[15] In addition EU, AusAID, the Australian Council for International Development (ACFID) and the Centre for Democratic Institutions has also provided some funding

- The Money Laundering and Proceeds of Crime (Amendment) Bill 2009 (MLCAB 2009), which is currently being revised by the Ministry of Justice and Legal Affairs (MJLA). The authorities indicated that they anticipate the Bill to be passed into law by March 2010. This Bill is expected to fill several critical gaps in the current Money Laundering and Proceeds of Crime Act.
- The pending Extradition Bill should remove many of the issues with the current framework. However the timeframe for the issuance of this bill remains unclear as of this moment.
- The Solomon Islands is currently working on a Currency Transaction Reporting Bill in an effort to implement a CTR regime.
- A number of bills criminalizing special offences such as organized crime and human trafficking are currently in progress. Once passed these bills will address existing gaps in the scope of the predicate offence.
- Reviewing the general legislation regarding NPOs.

121. The Solomon Islands Government is in the process of signing the Vienna Convention, Palermo Convention as well as to the 1999 UN International Convention for the Suppression of the Financing of Terrorism. This process has been delayed for two reasons: the first one is the lack of a legal officer in the ministry of Foreign Affairs until mid 2009, and the second one is the Ministry's preference to implement treaties in domestic law before proceeding to ratification. This process of implementation has been delayed by a significant volume of laws that are undergoing reforms.

122. The Solomon Islands government through the AMLC is planning to introduce the cash transaction reporting system together with electronic funds transfer reporting system. The movement of cash by money launderers may be difficult to detect. However with the introduction of these two reporting requirements, the FIU will have more resources to monitor unusual wire transfers and cash deposits from different account holders both within and outside the country. This could be useful in deterring money laundering and terrorist financing as well as preventing fraud, corruption, and theft, all of which are predicate offences for money laundering. However, at the time of the onsite visit, the FIU did not have the IT capacity to manage this proposed regime.

123. In an effort to promote national cooperation the government has initiated the Solomon Islands Combined Law Agencies Group (SICLAG) that is set out to promote timely exchange of information, facilitate opportunities for sharing resources, facilitate communication, develop joint targeting strategies, training opportunities, capacity building and foster cooperation.

124. The SIFIU is actively attempting to secure the sponsorship support of existing Egmont members to initiate the application process. In addition outreach, awareness raising and training are amongst the authorities' on-going priorities

The Institutional Framework for Combating Money Laundering and Terrorist Financing

125. The AMLC is the national body that oversees the anti-money laundering and counter terrorist financing policy development in the country. It was formally established in 2007 upon the implementation of the second part of the MLPCA. The Commission is chaired by the Attorney General, and is constituted by the Police Commissioner, Permanent Secretary of the Department of Finance, Governor of the CBSI and such other technical experts appointed by the Minister of Justice on the recommendation of the Commission. The Head of the SIFIU also attends the meetings and acts

as secretary. The AMLC meets on a quarterly basis or on needs basis to advise the Solomon Islands government on policies related to money laundering and terrorist financing.

126. Beside the AMLC as the National Coordinating Committee which advises the Government on AML/CFT development in the country, there is also a group which was formed by a resolution by the AMLC referred to as the AML/TEG that comprises of the FIU as Chairman with membership of the DPP, Manager Financial Markets and Supervision (Ag), Assistant Commissioner of Police, National Country Manager Border Control and Enforcement (Customs representative), Immigration and Attorney General's Chambers. The role of the AML/TEG is three pronged: First, to work on AML/CFT operational tasks within their respective law enforcement agencies; second, to implement the MLPCA during the course of their agencies' duties; third, ensure that the Solomon Islands implement all the FATF 40 + 9 Recommendations

127. Apart from the above mentioned bodies, there are also several Ministries that play a part in developing policies and mechanisms against money laundering, terrorism financing and economic crime in the country:

Ministries

a. **The Ministry of Finance** The Ministry of Finance is represented in the AMLC through its Permanent Secretary. It is also represented in the AML/TEG through the Customs and Excise Division (CED) which is actively participating in enforcing some of the AML/CFT measures at the borders. The CED is responsible for enforcing measures against importation and exportation of currencies.
b. **The Ministry of Justice**, including the central authorities for international co-operation The Ministry of Justice is the principal Ministry responsible for the administration of the MLPCA, Counter Terrorism Act 2009 (CTA), and providing assistance for extradition matter. Also, through the Attorney General's Chambers administer the Mutual Assistance in Criminal Matters Act 2002.   It is also the Ministry that looks after the Attorney General's Chambers, which in turn provides the budget for the SIFIU's operations.

c. **The Ministry of Home Affairs** is the primary Ministry responsible for the licensing and supervision of Casinos under the MLPCA. It does not, however, have any direct involvement in money laundering and counter terrorism. Home Affairs is also the ministry for overseeing the NGO/NPO sector, however, they do not currently have any policy to regulate and monitor the NGO/NPO Sector.

d. **The Ministry of Foreign Affairs and External Trade** is the Ministry responsible for the Solomon Islands' implementation of UN Security Council Resolutions and for treaty ratification including the ratification of the Vienna and Palermo Conventions. The Ministry does not play any role in international cooperation.

e. **The Ministry of Land, housing and Survey** is the ministry responsible for the law relating to legal persons and arrangements through the Registrar Generals office, which is under the Ministry. The Registrar General's office can register a company, partnership, or a Charitable Trust. The registrar administers 10 different registries including land title, charitable trusts and business names with approximately 10 employees.

Criminal justice and operational agencies

a. **The Solomon Islands Financial Intelligence Unit (SIFIU):** The SIFIU is currently the leading agency against money laundering and related economic crimes in the country. It is located within the CBSI and currently staffed with three officers. Two officers are employed by the CBSI but on secondment to the SIFIU. The third staff member is a RSIPF Detective from the Corruption Targeting Team of the RSIPF who is on secondment to the FIU. The budgetary support of the FIU this year comes from the Ministry of Justice and Legal Affairs (MJLA) & Attorney General's Chambers allocation with some incidental cost by the CBSI. The FIU head reports to the AMLC Chairman who is the Attorney General.

b. **The Police:** The Royal Solomon Islands Police Force (RSIPF) Police Commissioner is a member of the AMLC-the National Coordinating body against money laundering in the country. Although he does not participate personally in the AMLC Meetings he is being represented by the Assistant Commissioner of Police (Crime and Intelligence). There are roughly 1,100 RSIPF officers. within the RSIPF the Criminal Investigation Division (CID) is established to conduct criminal investigations. Within the CID there is a special Corruption Targeting Team (CTT) which was established in 2004 and consists of six (6) investigators. The CTT provides the results of their investigation to the DPP for further consideration. The RSIPF has additionally recently established the Transnational Crime Unit (TCU) (February 2009) mandated to coordinate, gather and analyse tactical intelligence targeting transnational crimes inclusive of money laundering, terrorist financing and related crimes.

c. **The Office of the Director of Public Prosecution:** Money laundering and related economic crimes are prosecuted by the Office of the Director of Public Prosecutions (DPP). The DPP is one of the leading members of the AML/TEG. At the time of the assessment, there were about 10 prosecutors including RAMSI supported personnel. There are currently two persons working on AML cases. The DPP is a constitutional office that functionally independent. From a budgetary perspective, the office of the DPP is not currently independent in that it receives its budget from the Ministry of Justice. It is however free to allocate it budget as it sees fit.

d. **The Customs and Excise Division:** The CED is represented in the AML/TEG. The CED is responsible for the implementation of the Currency Declaration Act 2009 (CDA) which is the principal Act for the Border Currency Reporting regime. The CED officers stationed at the airports and seaports also check for smuggling of prohibited goods or items into the country and CED is planning to establish Tri-agency Border Unit with RSIPF and the Immigration.

RAMSI

128. RAMSI was deployed in July 2003 after a request for assistance from the Solomon Islands Government as a result of the ethnic tension. RAMSI consists of participants from 15 counties in the pacific[16] and aims to help the people and the Government of Solomon Islands to restore the rule of law that had previously broken down as a result of the ethnic conflict. The Parliament, the Government, the Constitutional Office holders and the Public Service all remain responsible for exercising their respective functions, and they remain accountable to the people of the Solomon Islands.

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[16] The participation countries are, Australia, Cook Island, Federated States of Micronesia, Fiji, Kiribati, Marshall Island, Nauru, New Zealand, Niue, Palau, PNG, Samoa, Tonga, Tuvalu and Vanuatu.

129. The task of Ramsi is to help the Solomon Islands to lay the foundations for long-term stability, security and prosperity – through support for improved law, justice and security; for more effective, accountable and democratic government; for stronger, broad-based economic growth; and for enhanced service delivery.

RAMSI consists of three overall components.

- The Participating Police Force (PPF) is made up of 300-350 police officers and initially had a very direct role in restoring law and order. The PPF has continued to work in partnership with the Solomon Islands Police Force focusing on developing their capacity through training and providing advice.[17]

- The Combined Task Force is the military component of RAMSI that provides security and support to the PPF and works in partnership with the Solomon Islands Police Force. The Combined Task Force consist of approximately 150 persons.

- The Civilian Development Programs consist of three pillars: law & justice, the machinery of government and economic governance & growth. They each work in partnership with the relevant ministries of the Solomon Islands government and deploy approximately 200 persons.

130. Under the Civilian Development Programs, RAMSI has provided funding for an expatriate Public Solicitor and fourteen experienced expatriate lawyers are working in the Public Solicitor's Office alongside their Solomon Islands colleagues, providing legal advice to the Government. Similar advisors in the Chambers of the Attorney General provide assistance in the review and drafting Solomon Islands' laws. RAMSI is also funding the provision of two additional High Court judges.

131. RAMSI played a central role in the establishment of SIFIU by providing funding to support the Unit for its first three years. Additionally the FIU also receives technical assistance through the AMLAT. AMLAT was established in 2005 to provide technical assistance and training to Pacific Island countries and is part of the Australian Attorney-General's Department

Financial sector bodies

- The CBSI is the Institution that is responsible for licensing commercial banks, insurance companies and none bank financial institutions. such as money remitters and bureaux de change.

- The CBSI is also the Supervisor of financial institutions, including the supervisor for banking and other credit institutions, insurance, and securities and investment.

[17] Some of the areas in which the PPF work closely in an advisory role with the SIPF are: General Duties policing, investigations, forensics and interview procedures

- The FIU is the Supervisory authority responsible for monitoring and ensuring AML/CFT compliance by other types of financial institutions, in particular bureaux de change and money remittance businesses.

DNFBPs and other Sectors

a. **Casinos Supervisory Authority:** The Ministry of Home Affairs issues the license for the Casinos under the Gaming and Lotteries Act Cap 139. They also have supervisors which are responsible for checking the operations and accounts of casinos in the country.

b. **The Registrar General's** office is responsible for the registration of companies, charitable trusts, and non profit organisations in the country. The Registrar of Companies as a custodian holds all documents required for the corporation, including the articles of incorporation and by-laws. The registered entities are required to file an annual return following each annual general meeting with the Registrar, these annual returns includes a range of information including all the details required to be set out in the register of directors and secretaries for each of the directors and the secretary immediately after the Annual General Meeting, and a list of names and addresses of all current members, however there is severe lack of implementation as some companies has not reported for 10 years or more. The Registrar General's offices do not perform on-site inspections and do not have any sanctioning power for not complying the power to deregister, which is not exercised. There is a significant lack of capacity and resources within The Registrar General's office

Approach Concerning Risk

132. The authorities have not pursued the application of a risk-based approach as an integral part of the Solomon Islands regulatory framework for combating money laundering and terrorist financing. Although after the Financial Crime and Money Laundering Risk Assessment the FIU and the AMLC have agreed to enforce compliance on certain institutions pursuant to the MLPCA. There needs to be more discussion on this matter by the AMLC/FIU before there is a substantive policy approach adopted in implementation of the AML/CFT regime under the relevant requirements and international standards and SI's local legislation.

Progress Since the Last IMF/WB Assessment or Mutual Evaluation

133. This is the first time the Country has gone through this process of mutual evaluation by either the World Bank or APG thus we do not have any prior recommendations to work on for this

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

2.1. Criminalization of Money Laundering (R.1 & 2)

2.1.1. Description and Analysis[18]

134. Legal Framework: Money laundering is criminalized under s. 17 of the Money Laundering and Proceeds of Crime Act 2002 (MLPCA). The MLPCA is currently undergoing substantial revisions.

135. During the time of the on-site visit A Money Laundering and Proceeds of Crime (Amendment) Bill 2009 (MLCAB 2009) i was being revised by the Ministry of Justice and Legal Affairs with a view to passing it to Cabinet for adoption in preparation for Parliamentary discussions. The Bill passed into law on 21 April 2010 and came into force on May 14, 2010. Even though the new law makes significant changes and addresses a number of the deficiencies identified in this report, its adoption more than 60 days from the end of the on-site mission, leaves these developments beyond the scope of this assessment. However, the assessors note in a series of footnotes throughout the report, the key instances where the new law affects the description and analysis of key deficiencies.

136. Section 7 of the Bill repeals s.17 of the MLPAC and creates a new money laundering offence that amends substantially the elements of the current offence. While noting in the report wherever necessary the amendments introduced by the Bill, the current s. 17 of the MLPCA will form the basis of this assessment.

137. Ancillary liability is established in Chapters V, XXXiX and XL of the Penal Code.

Criminalization of Money Laundering (c. 1.1—Physical and Material Elements of the Offense):

138. S. 17 of the MLPCA criminalizes a range of conducts as constituting money laundering acts. Section 17 reads: “(1) A person commits the offence of money laundering if the person (a) acquires, possesses or uses property, knowing; or having reason to believe that it is derived directly or indirectly from acts or omissions- (i) in Solomon Islands which constitute an offence against any law of the Solomon Islands punishable by imprisonment for not less than twelve months; (ii) outside the Solomon Islands which, had they occurred in Solomon Islands, would have constituted an offence against the law of Solomon Islands arid punishable by imprisonment for not less than twelve months. (2) renders assistance to another person for: (i) the conversion or transfer of property derived directly or indirectly from those acts or omissions, with the aim of concealing or disguising the illicit origin of that property, or of aiding any person involved in the commission of the offence to evade the legal consequences thereof; or (ii) concealing or disguising the true nature, origin, location, disposition, movement or ownership of the property derived directly or indirectly from those acts or omissions.”

[18] For all recommendations, the description and analysis section should include the analysis of effectiveness, and should contain any relevant statistical data.

139. The Acts of Laundering: S. 17(1)(a) criminalizes as money laundering the acts of acquisition, possession and use of property derived from an offence. This is the widest form of money laundering envisioned under the Vienna and Palermo conventions and it seems by the structure of s.17 to be placed as the principal money laundering offence in the Solomon Islands. The criminalization of these broad acts is not qualified by any requirement of particular purpose or criminal result. In that way, it seems that this paragraph alone encompasses most of the possible acts of laundering that could take place.

140. S. 17(1)(b) criminalizes the acts of "conversion or transfer" of property derived from the commission of an offence and the acts of "concealing or disguising" the nature, origin, location, disposition, movement, or ownership of such property, which constitute the other two sets of conducts that are required to be criminalized under the Vienna and Palermo conventions. There is however a minor ambiguity resulting from the facts that s. 17(1)(b) only criminalizes "rendering assistance to another person" for converting or transferring and concealing or disguising. This language seems therefore to exclude the acts of the principal person himself who is doing these acts on his own and not in assistance of another. Discussions with the Attorney General on the genesis of this language and what it means for the prosecution of money laundering, the AG's office confirmed that this language is meant to capture third party money laundering acts. He also confirmed that the offences of acquisition, possession and use are intended to be so broad as to encompass all likely acts of laundering. The one conviction that was achieved for money laundering involved acts of conversion proceeds conducted by the person who committed the offence and the conviction was secured under s. 17(1)(a) of "acquisition, possession and use." This confirms the AG's explanation.

141. Whatever the impact of "rendering assistance" is on the scope of the criminalization of the concealment, disguise, conversion and transfer acts of money laundering, the gap between the Solomon Islands law and the international conventions in this regard is very small. This is because of the breadth of the s.17(1)(a). It is difficult to envision an act of concealment, disguise, conversion or transfer that does not involve acquisition, possession or use.

142. It is worth noting here that the Bill replaces the language of "rendering assistance" with a general criminalization of the acts of conversion, transfer, concealment and disguise that is consistent with the provisions in the Vienna and Palermo conventions.

The Laundered Property (c. 1.2):

143. S. 2 of MLPCA defines property as "currency and all other real or personal property of every description whether situated in Solomon Islands or elsewhere and whether tangible or intangible, and includes an interest in any such property." The definition is very broad and that was confirmed in discussions with the Attorney General. It does leave out of the definition of property "legal documents or instruments evidencing title to or interest." This is an element that is required to be included by the standard. The Attorney General (AG) indicated that this would be implicit in the broad words of the definition. There is no case law at this stage to show how the courts would approach the issue.

144. Worth noting the Bill adopts a broader definition that alleviates any ambiguity in the current one. The Bill's language is fully consistent with the international standard definition.

145. The definition of the Act does not set any value threshold on what may constitute laundered property. Discussions with the authorities confirmed that property of any value could be the subject of money laundering acts.

146. Money laundering also extends to property derived directly or indirectly from a serious offence as defined by the Act. S. 2 of the Act adopts a broad definition of proceeds that includes: “any property derived or realised directly or indirectly from a serious offence and includes, on a proportional basis, property into which any property derived or realised directly from the offence was later successively converted, transformed or intermingled, as well as income, capital or other economic gains derived or realised from such property at any time since the offence.”

Proving Property is the Proceeds of Crime (c. 1.2.1):

147. There is nothing in the Act that requires prior conviction of a predicate offence to prove that the property is proceeds. Discussions with the DPP confirms that in practice the DPP’s office would not be reluctant to bring a case to the court for money laundering only without prior prosecution for the predicate offence that generated the proceeds. This approach was considered in relation to illegal logging offences where the DPP’s office considered prosecuting land owners for the royalties they receive for the use of their land for illegal logging purposes using s. 17(1)(a) without any prosecution of the actual illegal logging acts or conviction of any person for the acts of illegal logging under applicable laws. While this enforcement strategy has not yet been used, the lack of conviction for a predicate offence was not perceived as an obstacle.

The Scope of the Predicate Offenses (c. 1.3-1.4):

148. The MLPCA extends the scope of the predicate offence to all serious offences and adopts a threshold that defines what constitutes a serious offence. Based on this approach any offence punishable by imprisonment for a maximum term not less than twelve months is a predicate offence to money laundering. This threshold is consistent with the international standard. The Bill maintains the same broad approach.

149. The table below summarizes the range of offences available in the Solomon Islands within each of the designated categories of offences under the standard;

FATF designated categories of offences	**Relevant Legislation**
Participation in an organised criminal group and racketeering	Transnational Crimes Bill 2009
Terrorism including terrorism financing	Counter Terrorism Act 2009
Trafficking in human beings and Migrant smuggling	Transnational Crimes Bill 2009 – clause 5 Deportation Act Cap. 58 – section 4
Sexual exploitation including children	Transnational Crimes Bill 2009 – clause 4 Penal Code Cap.26 – sections 148, 149, 150, 153

Illicit trafficking in narcotic drugs and psychotropic substances	Illicit Drug Control Bill 2009 – clauses 4, 5, 6
Illicit arms trafficking	Firearms and Ammunition (Amendment) Act 2000 – section 40B
Illicit trafficking in stolen and other goods	Penal Code – sections 313, 314
Corruption and bribery	Penal Code - section 91
Fraud	Penal Code – sections 283, 284, 285, 286, 306
Counterfeiting currency	Penal Code – sections 352 (refers to coins only), 365
Counterfeiting and piracy of goods	Copyright Act Cap. 138 – section 20
Environmental crime (illegal fishing, illegal logging)	Fisheries Act 1998 – section 14, 16 Forest Resources and Timber Utilisation Act Cap.40 – sections 4, 27, and 29.
Murder, grievous bodily injury	Penal Code – sections 200 and 226
Kidnapping, illegal restrain and hostage taking	Penal Code – sections 250, 253 Counter Terrorism Act 2009 – section 8
Robbery and theft	Penal Code – sections 263, 266, 274, 293
Smuggling	Transnational Crimes Bill 2009 – clauses 23, 24,
Extortion	Penal Code – section 92
Forgery	Penal Code – section 336, 345
Piracy	Penal Code – section 65
Insider trading and market manipulation	No legislative provision since there is no stock market in the SI.

150. Based on the table above, the Solomon Islands does not currently criminalize any acts within the following categories: Participation in an organized criminal group, Trafficking in human beings and migrant smuggling, smuggling, and insider trading. The range of environmental crimes in the Solomon Islands is also limited. Many of these weaknesses will be addressed by the passing of pending bills, most notably the Transnational Crime Bill.

Extraterritorially Committed Predicate Offenses (c. 1.5):

151. S.17 of the MLPCA provides explicitly that the predicate offence to money laundering extends to the proceeds of any act or omission committed outside the Solomon Islands as long as this act or omission would have constituted an offence punishable by not less than twelve months imprisonment had it been committed inside the Solomon Islands. The Act, therefore, does not require dual criminality. It is sufficient that the act or omission would be an offence in the Solomon Islands regardless of whether it constituted an offence in the country where it was committed.

152. The implications of the requirement of criminalization under Solomon Islands law of any act committed extraterritorially and generated proceeds that was laundered in the Solomon Islands is that the lack of criminalization in the Solomon Islands of acts within some of the designated categories of offences means that laundering the proceeds generated from these offences in the Solomon Islands would not constitute an offence.

Laundering One's Own Illicit Funds (c. 1.6):

153. S.17 MLPCA extends the offence to the person who has committed the predicate offence. Mere possession, acquisition or use of the property derived from the predicate offence is sufficient to constitute money laundering. This is confirmed by the court decision in R. v. Fatah Idris where the defendant was convicted for laundering the proceeds of crimes that he himself had committed.

Ancillary Offenses (c. 1.7):

154. The Penal Code establishes a wide range of ancillary offences that apply to any act or omission punishable by law. S. 21 of the Penal Code criminalizes aiding, abetting, counseling, and procuring another person to commit an offence. The person who commits any of these ancillary offences is guilty of an offence of the same kind as the offence committed and is liable to the same punishment.

155. Attempt is criminalized in very broad terms by virtue of sections 378-379 of the Penal Code. Based on s. 379 of the Code, an attempt to commit a s.17 MLPCA money laundering offence would constitute a misdemeanor punishable by up to three years of imprisonment.

Additional Element—If an act overseas which does not constitute an offense overseas, but would be a predicate offense if occurred domestically, lead to an offense of ML (c. 1.8):

156. It is immaterial under s.17 of the MLPCA whether the act or omission constitutes an offence where it was committed. It is sufficient that it would constitute an offence had it occurred in the Solomon Islands.

Liability of Natural Persons and the Mental Element (c. 2.1-2.2):

157. Natural persons are liable for money laundering offences under s. 17 of the MLPCA when they commit any of the acts or omissions proscribed by this section "knowing or having reason to believe" that the property is derived from an offence. The mental element is defined broadly here because it is not restricted to actual knowledge instead it is sufficient to have a reason to believe. This is consistent with the international standard.

158. There is nothing in the Act that prevents the use of inference to prove the mental element. Discussions with the authorities indicated that such evidence would be admissible in proof of the mental element. It is worth noting that the Bill is explicit on the use of inference to prove the knowledge from objective factual circumstances.

Liability of Legal Persons (c. 2.3):

159. The Interpretation Act defines a person as both natural and legal person. This means that the criminal liability for money laundering extends to legal persons. The MLPCA provides in s. 17(2)(b) a specific sanction to be applied when the offence is committed by a body corporate. This confirms that the money laundering offence extends to both natural and legal persons.

Liability of Legal Persons should not preclude possible parallel criminal, civil or administrative proceedings & c. 2.4):

160. The Attorney General confirmed that the legal person and the natural person working for it are two separate personalities under the law. Parallel proceedings are therefore possible against both of them for the same offence.

Sanctions for ML (c. 2.5):

161. S.17(2) of the MLPCA sets the penalties for individuals committing money laundering at a fine not exceeding one hundred and fifty thousand dollars or imprisonment for a term not exceeding ten years or both. A body corporate is liable for a fine not exceeding two hundred thousand dollars. In addition, the director of public prosecutions may apply to the court within six months after the conviction for the money laundering offence for a confiscation order against property that is tainted in respect of the offence. The DPP may also apply within the same timeframe for a pecuniary penalty order against the person in respect of benefits derived by the person from the commission of the offence.

162. The level of penalties set for money laundering makes it a felony according to the Penal Code definition of felony. In our assessment, the sanctions available to the courts are of sufficient range allowing for the application of penalties proportional to the gravity of the acts. They are also of sufficient gravity that should they be applied consistently, they should have a deterrent effect. So far there has been one conviction for money laundering in which the court imposed a sanction of 4 years imprisonment plus full confiscation of the seized assets. To that extent the sanctions seem effective.

163. The table below shows the level of sanctions in the region illustrating that the Solomon Islands approach is consistent with the regional trend.

Country	**Imprisonment**	**Fine**	**Fine to Legal Persons**
Australia	12months to 25 years	60 to 1,500 penalty units	same with natural persons
Cook Islands	up to 5 years	up to $50,000	up to 5 times
Fiji	not exceeding 20 years	not exceeding $120,000	up to 5 times
NewZealand	up to 7 years		subject to fine though there is no

			explicit description.
Palau	not more than 1 year and 1 day	not more than double the amount laundered	an amount equal to two times the fines specified for natural persons
Samoa	7 years	SAT1 million	same with natural persons
Vanuatu	up to 10 years	10 million vatu	50 million vatu

Statistics (R.32):

164. To date, there has been one conviction for money laundering in the Solomon Islands. There are currently 3 money laundering cases being investigated in preparation for trial.

2.1.2. Recommendations and Comments

165. There is a growing awareness of money laundering offences and the importance of asset investigation and confiscation in the Solomon Islands. There is also clear investment in capacity building in these areas. Capacity issues are however still an obstacle to the full utilization of these financial tools of criminal law enforcement.

166. Discussions with the authorities including: the Prime Minister, the Attorney General, the Solomon Islands Royal Police Force (SIRPF) including the corruption targeting team, the DPP, and the SIFIU have all revealed prioritization of the use of money laundering to fight corruption. One of the three pending cases of money laundering involves proceeds of corruption. There is a clear government priority in that regard.

167. Penal law enforcement in general and money laundering offences by consequence are selectively applied. There is a clear bias within the Police and the DPPs office in favor of pursuing traditional penal law offences such as conversion, forgery, fraud and burglary. This is by contrast to special offences such as forestry, mining and fishery offences, which go often uninvestigated. This is largely due to corruption within the relevant licensing and monitoring bodies, capacity issues aggravated by the geographic remoteness of the locations where such offences take place, and ambiguity of land ownership rights.

168. Despite the weaknesses identified above, the Solomon Islands has achieved a good level of effectiveness as reflected in the successful prosecution of one money laundering offence and the pending money laundering investigations and prosecutions. In reaching this conclusion, the assessors took into consideration the severe resource constraints that the authorities operate within. The assessors also took into account the low risk of money laundering manifest in the Solomon Islands.

169. In determining the rating for Recommendation 1, the assessors gave weight to the technical deficiencies identified in the scope of the money laundering offence and the shortcomings in the degree of effectiveness. The weight given to these identified weaknesses was influenced by three factors: the low level of risk of ML, the resource and capacity constraints recognized by the team, the actual significant commitment of resources to AML/CFT that was observed by the assessment team and the concrete results achieved in the form of conviction, investigation and prosecution for money laundering.

170. For the authorities to achieve compliance with the international standard and effective utilization of money laundering offences, the following steps could be taken:

- Passing the pending MLPCAB, which addresses the weaknesses identified in the description above, especially;[19]
    - The gaps in the definition of proceeds.
    - The ambiguity in the definition of the acts of laundering stemming from the use of the phrase "rendering assistance."
- Passing the other pending bills including the Transnational Crimes Bill and the Illicit drug control bill to ensure that the Solomon Islands criminalizes sufficient range of acts in all the designated categories of offences.
- Intensifying the training of the Police in the conduct of financial investigation.
- Training the DPPs staff and the courts prosecuting and trying money laundering cases.
- Raising awareness of the law enforcement authorities in the utility of using money laundering and asset tracing as a tool to fight forestry, mining and fisheries offences.
- Providing the competent law enforcement authorities with specialized training in the use of money laundering to fight corruption.

2.1.3. Compliance with Recommendations 1 & 2

	Rating	Summary of factors underlying rating[20]
R.1	**LC**	• **The Solomon Islands does not criminalize acts within a number of the designated categories of predicate offences.** • **The definition of "conceal or disguise" and "convert or transfer" as acts of laundering suffers from some ambiguity.[21]** • **The definition of proceeds does not extend to legal documents evidencing title.[22]** • **The effectiveness issue as identified in relation to R.2 below**

[19] As notes above, the Bill passed on 21 April 2010, amending the definition of proceeds and the offence of money laundering.

[20] These factors are only required to be set out when the rating is less than Compliant.
[21] This ambiguity was removed by the adoption of the MLPCAA(2010).

[22] This gap was bridged by the amendment to the definition of property introduced by the MLPCAA(2010).

R.2	**LC**	**Enforcing against money laundering remains limited and is totally absent in relation to some important categories of predicate offences such as forestry, fishery and mining offences. This is mitigated by the low risk of money laundering and heavily determined by the severe lack of resources**

2.2. Criminalization of Terrorist Financing (SR.II)

2.2.1. Description and Analysis

171. Legal Framework: Counter-Terrorism Act 2009 (CTA 2009). CTA is a new law. It was passed by Parliament on 13 July 2009 and came into force in October 2009.

Criminalization of Financing of Terrorism (c. II.1):

172. The CTA 2009 criminalizes the financing of terrorism offences under section 6.

173. S. 16 criminalizes making available, providing or collecting funds or property or providing financial services directly or indirectly for any of the following:

(1) Facilitating, planning or carrying out a terrorist act;

(2) Facilitating any other activity of a terrorist or a terrorist organization.

(3) The use or benefit of a terrorist or a terrorist organization.

174. The acts criminalized under the section 6 capture and go beyond the acts of "collect and provide" that are required to be criminalized under SR.II.

175. Definition of Funds: While the term funds is not defined in the Act, the term property is defined in s. 2 very broadly to include: "(a) assets of every kind, whether corporeal or incorporeal, moveable or immoveable, tangible or intangible, however acquired; (b) legal documents or instrument in any form including electronic or digital evidencing title or interest in such assets; (c) a legal or equitable interest, whether full or partial in any such assets or property described in paragraph (a) or (b)."

176. The broad definition of the term property is consistent with the definition of funds under the international standard and from that angle it renders the scope of the financing offences under s. 6 of the Act consistent with the standard. It is also worth noting that the provision is explicit that the source of funds is irrelevant and the offence occurs whether the funds are derived from legal or illegal sources.

177. **Definition of Terrorist Act:** A "terrorist act" is defined in s. 2 of the CTA 2009 to include:

(1) any act or threat to cause: serious physical injury or harm to a person, serious damage to property, a person's death, endangering a person's life.

178. any act or threat contrary to or constituting an offence under any of the United Nations Conventions or Protocols set out in the schedule to the Act. The Schedule to the Act reproduces the Annex to the Predicate Offense for Money Laundering (c. II.2):

(2) Jurisdiction for Terrorist Financing Convention.

(3) Any act or threat to seriously interfere with or seriously disrupts or destroys an electronic system.

When the action or threat is done with the intention of:

(1) Advancing a political, religious, or ideological cause.

(2) Coercing or influencing or attempting to influence by intimidation the Government, provincial government, international organization or foreign currency; or

(3) Intimidating the public or a section of the public.

179. While the definition of acts of terrorism captures all the acts proscribed by the Terrorist Financing Convention, there is a minor inconsistency. S. 2 of the Act requires a purposeful element for the acts or threats that are carried out contrary to one of the Schedule conventions. Under the TF Convention, the acts proscribed by the anti-terrorism conventions listed in the Annex are supposed to fall within the meaning of terrorism regardless of the purpose for which they were committed. The gap, however, is likely to be negligible the acts proscribed by the conventions are clear acts of terror it is highly unlikely that any of them would lack the purpose of intimidating the public or a section of the public.

180. **Definition of Terrorist:** S. 2 of the CTA 2009 defines a "terrorist" as any individual who: commits or attempts to commit a terrorist act, participates as an accomplice in a terrorist act, organizes or directs other individuals to commit a terrorist act, facilitates the formation of or establishes a terrorist organization, contributes to the commission of a terrorist act by a group of individuals acting with common purpose. This definition is consistent with the definition adopted by the international standard.

181. **Definition of Terrorist Organization:** S. 2 of the CTA 2009 defines "terrorist organisation" to mean an organization that is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, is declared to be a terrorist organization under the s.13 of the CTA, participates as an accomplice in a terrorist act; or contributes to the commission of a terrorist act by a group of individuals acting with a common purpose. The definition is sufficiently broad and is therefore consistent with the definition adopted by the international standard.

182. Section 6(2) provides that the offence of financing occurs even if the act of terrorism did not occur or was not attempted. It also provides that the offence occurs even if the funds were not actually used to commit or attempt the terrorist act.

183. **Ancillary Liability for Terrorism Financing Offences;** In addition to the ancillary offences established by the penal code and under chapters Chapters V, XXXiX and XL, which were discussed under R. 1 above and are applicable to the CTA 2009 offences, the CTA 2009 creates a range of

ancillary offences to s. 6 terrorism financing offence. S. 6(Offense (c. II.3) makes it an offence to participate as an accomplice in the commission of a s.6 offence, organizes or directs others to commit an offence or intentionally contributes to the commission of a terrorism financing offence by a group of individuals acting with common purpose.):

184. S. 19 of the CTA 2009 creates an offence of conspiracy to commit an offence under the Act including s. 6 financing offences. The conspiracy occurs whether the other person is inside or outside the Solomon Islands. The offence of conspiracy is punishable by the same penalty prescribed for the offence to which the conspiracy relates.

185. **S.** 20 of the CTA 2009 criminalizes the acts of aiding, abetting, attempt, counseling or procurement. These ancillary offences are also punishable by the same penalties prescribed for the principal offence.

Predicate Offense for Money Laundering (c. II.2):

186. As discussed in relation to R. 1 above, the predicate offence for money laundering extends to any offence punishable by imprisonment for maximum term not less than twelve months. The penalty defined for s. 6 terrorism financing is liable on conviction to imprisonment for a term not exceeding ten years. This means that terrorism financing is a predicate offence for money laundering.

Financing a foreign terrorist act, terrorist or terrorist organization (c. II.3):

187. S. 6(2) (c) provides that the offence in s. 6 occurs regardless of the foreign country in which the terrorist act is intended or does occur. Based on this provision and considering that the definition of both terrorist and terrorist organization are both derivative and revolve around the definition of a terrorist act, it is clear that financing a terrorist or a terrorist organization that are located in foreign country would constitute a criminal offence in accordance with s. 6 of the Act. There is nothing in the definition of terrorist and terrorist organization that would restrict their meaning to those present in the territory of the Solomon Islands.

The Mental Element of the TF Offense (applying c. 2.2 in R.2):

188. S. 6 terrorism financing offence is an intentional offence that only occurs if the acts are committed knowingly. The CTA 2009 is not implicit on the use of inferences and circumstantial evidence to prove the mental element. There is however nothing to prevent it.

Liability of Legal Persons (applying c. 2.3 & c. 2.4 in R.2):

189. The definition of person in the Interpretation Act includes both natural and legal person. This means that the meaning of person in the CTA 2009 extends to both natural and legal person. It is however somewhat ambiguous whether the terrorism financing offence under s. 6 extends to legal persons. The ambiguity stems from the fact the section does not specify a penalty for entities who commit the criminal offence proscribed by s. 6(1) even s. 6(4) defined explicitly the penalty applicable to entities who commit the offence proscribed in s. 6(3). The assessors could not establish a reason for this variation in approach and the issue of the liability of legal persons for the offence of financing remains unclear.

Sanctions for FT (applying c. 2.5 in R.2):

190. Terrorism financing is punishable under s. 6(1) by imprisonment for a term not exceeding 10 years. The severity of the sanctions should be dissuasive and the discretion given to the court in determining the sanction within this maximum threshold allows it to apportion the sanction based on the degree of gravity. The statute is new and the risk of terrorism financing is low. It is therefore difficult to establish the effectiveness of the defined sanctions.

Statistics (R.32):

191. There has not been any cases of terrorism financing in the Solomon Islands. The authorities were however aware of the law and of its potential application to local terrorist activities.

2.2.2. Recommendations and Comments

192. One of the main obstacles to the effective utilization of CTA 2009 is likely to be the authorities' perception of terrorism and terrorism financing risks. Discussions with the authorities have revealed a prevailing understanding that the CTA is concerned with international terrorism as opposed to possible home-grown terrorist activities. Also, the overall perception of what terrorism means seemed to link the concept of terrorism with particular religious groups; namely, Muslims. This understanding became apparent in the statements of one law enforcement officer who highlighted the terrorism risk of Muslims in the Solomon Islands referring to an incident of fraud committed by a Muslim. Discussions however with more senior officers in the Force confirmed that some of the local preoccupation with the small 350 persons-Muslim community that is present in the Solomon Islands is attributable to their difference from the generally Christian population rather than any particular risks specific to them. The senior officers also confirmed that whatever incidents of terrorism, such as the violence that occurred during the latest period of ethnic tension is homegrown and tend to be disorganized. These statements confirm the assessors' perception of the low risk of terrorism financing in the Solomon Islands.

193. The legal arsenal available to the Solomon Islands' authorities is sufficient to grant the authorities the necessary legal powers to respond to any possible incidents of terrorism financing either domestic or involving cross-border activities.

194. In order to achieve full compliance with the standard and enhance the possible utilization of the tools available under the Act should the risk arises, the authorities should consider:

- Clarify the liability of legal persons for terrorism financing.

- Conduct a risk assessment that identifies both the levels and typologies of home-grown terrorism as well as the risks of cross-border terrorism financing activities.

2.2.3. Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR.II	**LC**	**- The law is ambiguous on the liability of legal persons for terrorism financing.** **- `The SI's law requires a purposive element even for the offences created by one of the listed conventions when none is required under the listed conventions.** **- The CTA is new and it is implemented in a very low risk context. Effectiveness therefore has no bearing on the rating.**

2.3. Confiscation, freezing and seizing of proceeds of crime (R.3)

2.3.1. Description and Analysis

195. Legal Framework: The Money Laundering and Proceeds of Crime Act (2002). MLPCA creates a comprehensive deprivation framework that applies

196. Confiscation of Property related to the proceeds ML, FT or other predicate offenses including property of all serious crime. Serious crime is defined in the Act as any offence "for which the maximum penalty is imprisonment or other deprivation corresponding value (c. 3.1):

197. Confiscation of liberty for a period not less than twelve months." Prior to the enactment of the MLPCA, general provisions on confiscation contained in the Penal Code applied. The MLPCA framework forms the basis of this assessment.

Property Subject to Confiscation (c. 3.1):

198. The confiscation provisions of the MLPCA extend to all serious offences as defined in the Act. This means that the confiscation regime created by the MLPCA is applicable to money laundering, terrorism financing and to all the predicate offences to money laundering under Solomon Islands Law

199. The framework created by the MLPCA to deprive the offender of the proceeds of crime empowers the DPP to seek one or both of the following orders: (Property Derived from Proceeds of Crime (c. 3.1) a confiscation order against the property that is tainted in respect of the offence; (2) a pecuniary penalty order against the person in respect of benefits derived by the person from the commission of the offence. Understanding the scope of "property subject to confiscation" will be based on the analysis of the scope of these two types of orders that are available to the DPP.

200. Confiscation orders apply against tainted property. According to s.33 of the MLPCA tainted property means property that was used in or in connection with the commission of the offence, and property derived, obtained or realized as a result of the commission of the offence. The definition of

tainted property is fairly broad and it seems to extend the scope of confiscation to the proceeds of serious crime including money laundering and terrorism financing as well as to the instrumentalities used in the commission of the offence. It does not however extend to instrumentalities *intended* for use in the commission of the offence.

201. Pecuniary penalty orders apply against a person to recover any benefits he derived from the commission of the offence. Section 10 of the MLPCA defines the meaning of benefiting from a serious offence as including any payments or other reward received in connection with a serious offence or any pecuniary advantage derived from the commission of a serious offence whether that offence was committed by the person who benefited or by someone else. The scope of pecuniary penalty orders covers property derived directly or indirectly from the proceeds of a serious offence as required by the international standard.

202. The MLPCA extends the scope of confiscation and pecuniary penalty orders to property held by a person other than the criminal offender in several instances. (.1) confiscation orders extend to any property held by a person to whom a defendant has directly or indirectly made a gift (s. 2). (2) pecuniary penalty orders apply to benefits derived or obtained or otherwise accruing to another person at the request or direction of the offender (s.9); (3) the court may apply the pecuniary penalty order to any property that is subject to the effective control of the person against whom the order is being sought whether or not he has legal or equitable interest in the property or any right or privilege in connection with the property (s. 46). applying c. 3.1):

203. It is clear from the above that the Act gives the authorities a range of powers to extend the confiscation and pecuniary penalty orders to property held by third parties where there is evidence that this property is proceeds as broadly defined in the Act.

204. Pecuniary penalty orders are value based and they are issued against the person not against specific property. Confiscation orders are issued against specific property but s. 38 gives the court the power to order a person to pay an amount equal to the value of the property in circumstances where the tainted property or part thereof or interest therein cannot be confiscated. S. 38 lists a number of situations where confiscation may not be executed against the property, such as when the property cannot be located or when it is located outside the Solomon Islands, or when it has been commingled with other property that cannot be divided without difficulty.

205. So MLPCA creates a framework for assessing the value of the proceeds and ordering the payment of this value either through pecuniary penalty orders or through order of a payment instead of confiscation. Sections 39 and 47 of MLPCA provide that the enforcement of these payment orders are to be treated as if they were a fine imposed on the person in respect of a conviction for a serious offence. This referral triggers the application of sections 25-28 of the of the Penal Code pertaining to the enforcement of fines, which give the court the discretion to "issue a warrant for the levy of the amount ordered on the immovable and movable property of the offender by distress and sale under warrant" (s. 25(d)(ii)). Based on this analysis, the proceeds of crime framework in the Solomon Islands creates a value confiscation regime that meets the requirements of the standard. The payment orders system set up by the Act is supported by the enforcement mechanism established in the Penal Code serve the function of a value confiscation regime because it allows the courts to assess the value of the assets that should be recovered from the offender and enforce the order to pay this value against any of the assets of the offender regardless of whether they were tainted or not.

Provisional Measures to Prevent Dealing in Property subject to Confiscation (c. 3.2):

206. Section 49 gives the police seize any property found in the course of a search that the police officer believes on reasonable grounds to be tainted property. This means that seizure measures are available against the instrumentalities and the proceeds of serious offences. Alternatively, the DPP may apply for a restraining order against any tainted property under s. 55 *et seq.* of the MLPCA. The order prohibits "the defendant or any person from disposing of or otherwise dealing with the property or such part thereof or interest therein as is specified in the order except in such manner as may be specified in the order. Upon the request of the DPP, if the circumstances so require, the court may appoint a person to take custody of the property or part thereof and to require any person having possession of the property to give possession to the person appointed by the court.

207. While, seizure of property by the police is not available in relation to property that constitute benefits derived from the commission of a serious offence that maybe subject to pecuniary penalty order under the MLPCA instead of confiscation. Instead, only a restraining order by the court supported by possible surrender of custody to a person appointed by the court is the only available provisional measure under the Act for the preservation of property derived directly or indirectly from the proceeds of a serious offence.

208. Based on the above the assessors conclude that the MLPCA gives the authorities sufficient powers to preserve the property subject to confiscation consistent with the requirements of Recommendation 3.

Ex Parte Application for Provisional Measures (c. 3.3):

209. Both the applications for a warrant to seize tainted property and the application for a restraining order can be made ex parte under the MLPCA.

Identification and Tracing of Property subject to Confiscation (c. 3.4):

210. The MLPCA gives the competent authorities a wide range of search, monitoring an disclosure powers that are specifically designed to enable the authorities identify and trace property for the purposes of confiscation:

211. S. 70 of the MLPCA gives a police officer the power to obtain a court order requiring a person who is in possession or control of any document relevant to identifying, locating, quantifying property or any document relevant to locating or identifying any document necessary for the transfer of any such property to deliver this document to the officer. This production order is supported in case of failure to comply by a fine not exceeding one thousand Solomon dollars for individuals and two thousand for body corporate. For individuals an imprisonment of up to one year is also possible. Note however that this order may not be used to obtain bankers books and it only applies once a person has been convicted of a serious offence.

212. S. 21 gives the AMLC and the Police the power to obtain a very similar order to the production order described above. S. 21 orders are called "property tracking and monitoring orders." Bankers records are also not excluded from the scope of this order. Under s. 21(b) , the court may extend the tracking order by compelling the financial institution or cash dealer to produce to the

Commission or the police order all information obtained about any transaction conducted by or for that person during such period before or after the order as the Court directs.

213. Ss. 49-50 gives a police officer the power to search for tainted property. The scope of the search extends to the person, any cloth worn by the person, any property that is apparently in the person's immediate control, the land and the premises. This search should be conducted on basis of a search warrant issued upon request by a magistrate on basis of reasonable grounds for suspecting that there is tainted property in any of the places covered by the search. S. 51 allows the police officer to conduct the search without warrant in cases of emergency where the circumstances are so urgent that they require immediate exercise of the power.

214. MLPCA gives the Commission and the police powers to allow them to determine whether any property belongs to or is in the possession or under the control of any person. As shown in the analysis of confiscation orders and pecuniary penalty orders above, establishing the fact of ownership, possession or control are prerequisite to the determination of whether a property is liable to confiscation or should be subject to a pecuniary penalty order.

215. Section 74 of the MLPCA gives a police officer upon obtaining a warrant the power to search any land or premises and seize any document relevant to identifying, locating, quantifying property or any document relevant to locating or identifying any document necessary for the transfer of any such property to deliver this document to the officer. This search warrant is only available where a person has been charged or convicted of a serious offence.

216. S. 77 of the MLPCA gives the DPP or a police officer the authority to apply ex parte to a judge for a "monitoring order" directing a financial institution to disclose information obtained by the institution about transactions conducted through an account held by a particular person with the institution. This order is available where there are reasonable grounds to suspect that person in respect of whose account the order is sought has committed, was involved in the commission, or is about to be involved in the commission of a serious offence or has benefited directly or is about to benefit from the commission of a serious offence. These monitoring orders are subject to a confidentiality obligation enforceable by a penal sanction of a fine and/ or a term of imprisonment.

217. It is apparent from the above that MLPCA gives the competent authorities a wide range of powers that when applied effectively should allow them to identify and trace the full range of property subject to confiscation as defined by the international standard.

Protection of Bona Fide Third Parties and Power to Void Actions (c. 3.5-6):

218. S. 36 of the MLPCA sets the general rules for the protection of the rights of third parties against confiscation orders that may affect their rights. S. 36 gives any person who claims an interest in the property subject to confiscation to apply to the court for an order declaring the nature, extent and value at the time the order was made of the person's interest. If the confiscation order has already been issued and executed, the competent court shall direct that the property or part thereof to which the interest of the applicant relates be returned to the applicant; or an amount equivalent to the value of the interest of the applicant be paid to the applicant.

219. S. 36 is only one aspect of the protection given to bona fide third parties. In each situation where the interest of such a party is likely to be affected by the confiscation order or the pecuniary penalty order or by a provisional measure, the acts grants the third party both a notification right and a right to present his claims to a competent court. The table below summarizes the protection of third party rights under the MLPCA:

Section	Measure	Protection
s. 29	Application for a confiscation order	• 14 day written notice of the application to any affected third party. • Right to appear and adduce evidence at the hearing of the application. • Court discretion to order publication in the gazette and a newspaper a notice of the application.
s. 30	Amendment to the application for confiscation	• 14 day written notice of the application to any affected third party. • Right to appear and adduce evidence at the hearing of the application.
s. 32	*In rem confiscation oder*	• Notice of application to the any affected third party before hearing the application. • Mandatory publication in the gazette and a newspaper a notice of the application.
s. 33(4)	Court consideration of a confiscation application.	• Having regard for the rights, interests if any of third parties in the property.
s. 35	Voiding a conveyance or transfer of seized or restrained property.	• The transfer or conveyance shall not be set aside if it was made for valuable consideration to a person acting in good faith and without notice.
s. 38	Payment instead of confiscation	• Applies when the property has been transferred to a third party acting in good faith.

s. 46	Extending the pecuniary penalty order to property to property not owned by the person but subject to his effective control	• Written notice to any third party who may have an interest in this property. • Right to appear and adduce evidence at the hearing.
s. 53	Seizing property	• A third party with interest in the property may apply for an order that the property be returned.
s. 55	Filing an application for a restraining order against property	• The application must be served on all persons interested in the application who shall have the right to appear at the hearing and to be heard. This is unless the application is made ex parte.
ss. 59 & 63	Issued Restraining order	• A copy of the restraining order is served on all affected by the order. • Right to apply to the court at any time for an order to revoke or vary the restraining order.

220. It is worth noting that the Penal Code also protects the rights of bona fide third parties that may be affected by a court warrant enforcing a fine or similar payment order against a property of the defendant. Section 28(4-10) sets a procedure for the third party affected by the warrant to challenge the warrant and to protect his interest in the property.

Statistics (R.32):

221. The assessment team did not receive any statistics on instances of confiscation and the amounts seized or confiscated. The DPP informed the team that confiscation proceedings remain limited and that this is largely due to lack of capacity in financial investigation and analysis amongst the competent authorities.

222. The team however received a copy of the High Court Decision in *R. v. Idris* in which the court ordered the confiscation of US7,250, GBP$1,800 and NZD$3,390. The cash was confiscated as money “derived as a result of the commission of the offence under s. 33 of the MLPCA.

Additional Elements (Rec 3)—Provision for a) Confiscation of assets from organizations principally criminal in nature; b) Civil forfeiture; and, c) Confiscation of Property which Reverses Burden of Proof (c. 3.7):

223. S. 32 of the MLPCA allows *in rem* confiscation in situations where the defendant has died or absconded subject to certain conditions.

224. Reversal of the burden proof: S. 33(2) allows the court to infer that property is tainted property from the fact that it was in the person's possession at the time or immediately after the commission of the offence for which the person was convicted. The same may be inferred if the property was acquired by the person before, during or within a reasonable time after the period of the commission of the offence and it cannot be reasonably accounted for on basis of the legitimate income of that person. This inference holds in the absence of evidence to the contrary. Section 42(3) also creates a similar presumption that the court may rely on in determining whether a person has benefited from the commission of a serious offence for the purposes of issuing a pecuniary penalty order. These two sections in fact reverse the burden of proof for the purposes of the confiscation procedures.

2.3.2. Recommendations and Comments

225. The main obstacle to the full utilization of the sophisticated confiscation regime created by the MLPCA is the competent authorities' capacity to conduct financial analysis and investigation. This capacity issue is currently being addressed and the authorities are befitting from the capacity building resources that are made available to them through the Regional Technical Assistance Mission. Commitment was expressed by the DPP to make more use of the confiscation powers available under the law to attack the proceeds of crime. [Insert text here]

226. There was anecdotal evidence that sometimes political interference affects certain agencies ability to confiscate assets involved in offences against Solomon Islands law. While the governance situation is improving under the auspices of the current government and its anti-corruption agenda, some instances of such interference still occur.

227. For the authorities to achieve effective use of the confiscation tools available under the laws and to achieve full compliance with the international standards in this area, the authorities should consider:

- Building the capacity of the police in conducting proceeds investigation in a timely manner.
- Protecting law enforcement authorities against any political interference in the exercise of their powers.

2.3.3. Compliance with Recommendation 3

	Rating	Summary of factors underlying rating
R.3	LC	**The authorities do not yet make adequate use of their confiscation powers. This is mitigated by the low level of proceed generating crimes in the jurisdiction.** **Instrumentalities intended for use are not covered by the confiscation regime.** [23]

2.4. Freezing of funds used for terrorist financing (SR.III)

2.4.1. Description and Analysis

228. Legal Framework: CTA 2009 Part 3- Terrorist Organizations. Part 3 of the CTA creates a designation mechanism for terrorist organizations. It does not however create a freezing mechanism as such. The Act is new and these provisions have not yet been put into practice. This section will summarize the designation mechanism created.

Freezing Assets under S/Res/1267 and 1373 (c. III.1-3):

229. Currently the Solomon Islands do not have a freezing mechanism in place. Section 13 of the CTA 2009 gives the Minister responsible for national security upon the recommendations of the Commission of Police the power to declare an entity to be a terrorist organization and publish that declaration in the Gazette. The recommendation of the Commissioner should be based on reasonable grounds that the entity has committed, attempted to commit a terrorist act, or participated, or engaged directly or indirectly in preparing, planning, assisting or facilitating the commission of a terrorist act regardless of whether the act has or will occur. The recommendation of the Commissioner may also be based on the fact that the entity is identified, either directly or through a defined mechanism, in a decision of the UN Security Council Resolution relating wholly or partly to terrorism.

230. Based on the description above, s. 13 creates a mechanism by which UN Security Council designations as well as the designations of other domestic authorities may be adopted and disseminated domestically through a binding domestic instrument. The process described in section 13 seems to allow designation and dissemination without delay. The process however has not yet been utilized.

231. The CTA 2009 does not create a freezing mechanism as such. It does however make it a criminal offence for a person to receive funds or to make funds available either directly or indirectly, intentionally or recklessly to an entity which is a terrorist organization. This offence is punishable for a term not exceeding 20 years. While this provision makes it an offence for a bank for example to

[23] This gap was addressed by the MLPCAA(2010), which amended s.33 of the MLPCA(2002) to include property "intended for use."

receive the funds of a criminal organization or to make funds available for a terrorist organization, it does not oblige the person who received such funds to freeze them.

232. The designation mechanism under Part 3 of the CTA does not extend to individuals. It only concerns entities.

Extension of c. III.1-III.3 to funds or assets controlled by designated persons (c. III.4):

233. There is currently no freezing mechanism in place.

Communication to the Financial Sector (c. III.5):

234. There is currently no communication of existing UN lists to the financial sector. The designation system that is created by the CTA once utilized will rely on dissemination through the official Gazette. This dissemination mechanism will need to be enforced by other ways of informing the financial sector and the designated non-financial businesses and professions because the official Gazette may not be readily available to them or regularly consulted by them.

Guidance to Financial Institutions (c. III.6):

235. There has not been any guidance so far for financial institutions on how to handle assets that are subject to freezing requirements.

De-Listing Requests and Unfreezing Funds of De-Listed Persons (c. III.7):

236. Section 14 of the CTA 2009 creates a detailed system for delisting entities that are designated under the designation mechanism of Section 13.

237. **Unfreezing Procedures of Funds of Persons Inadvertently Affected by Freezing Mechanism (c. III.8):** There is currently no freezing mechanism in place.

Access to frozen funds for expenses and other purposes (c. III.9):

238. There is currently no freezing mechanism in place.

Review of Freezing Decisions (c. III.10):

239. There is currently no freezing mechanism in place.

Freezing, Seizing and Confiscation in Other Circumstances (applying c. 3.1-3.4 and 3.6 in R.3, c. III.11):

240. All the freezing, seizing and confiscation powers described under R. 3 are equally applicable to the terrorism financing offences created by s. 6 of the CTA 2009 on the basis that this offence meets the definition of a serious offence under MLPCA.

241. In addition, the Part 6 of the CTA 2009 creates another set of forfeiture measures that are applicable specifically to terrorist property without prejudice to any other forfeiture measures available under any other law.

242. The forfeiture powers available under Part 6 of the CTA extend to terrorist property. Terrorist property is defined under s.1 of the Act to include: (a) proceeds from the commission of a terrorist act; (b) money or other property which has been, is being, or is likely to be used to commit a terrorist act; (c) money or other property which has been or being, or is likely to be used by a terrorist organization; or (d) property owned, controlled, derived or generated from property owned or controlled, by or on behalf of a terrorist organization.

243. The definition above is broader than the definition of property subject to confiscation under the MLPCA in that it extends to not only instrumentalities used but also to instrumentalities intended for use. This is a gap under MLPCA that is filled by this specific provision in relation to terrorism financing.

244. The CTA 2009 also introduced an *in rem* forfeiture power in relation to terrorist property. Under s. 37gives the Attorney General the power to apply for a forfeiture order against property if he has reasonable grounds to believe that it is terrorist property in accordance with the definition of the Act. Civil procedures apply to this application and the application does not require prior conviction of the person who owns or controls the property or any other person.

245. All the identification and tracing powers available under the MLPCA are also available for the purposes of tracing and identifying the instrumentalities and proceeds of the terrorism financing offence created under s. 6 of the CTA.

Protection of Rights of Third Parties (c. III.12):

246. The third party protection available under the MLPCA is also available the terrorism financing offences under s. 6. The forfeiture measures provided for under Part 6 of the CTA 2009 adopt the same approach to the protection of bona fide third parties. The scheme of protection relies on allowing sufficient notice of the measure that may affect the rights of a third party and giving that party a right to be heard. The provisions consequently give the courts the power to make orders that ensure that the interests of the party concerned are not affected.

247. In relation to the *in rem* forfeiture measures allowed under s. 37 of the CTA 2009, the Act requires that any person who is known to own or control the property subject to the application should be named as a defendant to the application and should be served with the application. If the court is satisfied that any defendant in the proceedings has any interest in the property, did not know and could not reasonably be expected to know that the property was terrorist property, and was not a member of a terrorist organization the court must determine the extent of that person's interest and may order that it is not affected by the order (s. 38). A person who has an interest in the property and who claims an interest in the property and who was not served by the application may apply to the court within six months of the forfeiture order and request a revocation of the order. The court then has the same power to determine the interest of the applicant and to revoke the order to the extent that it affects that interest (s. 39).

Enforcing the Obligations under SR III (c. III.13):

248. The Solomon Islands do not currently have a system for freezing assets pursuant to Resolutions 1267 and 1373.

Statistics (R.32):

249. There has not been any cases of terrorism financing in the Solomon Islands. The authorities were however aware of the law and of its potential application to local terrorist activities.

Additional Element (SR III)—Implementation of Measures in Best Practices Paper for SR III (c. III.14):

Additional Element (SR III)—Implementation of Procedures to Access Frozen Funds (c. III.15):

2.4.2. Recommendations and Comments

250. The Solomon Islands do not yet have in place procedures implementing the freezing requirements under Resolutions 1267 and 1373. The lists are not circulated to the financial institutions and there is no freezing power in place that could be used to implement these resolutions.

251. Banks operating in the Solomon Islands are all foreign owned and they check all transactions and accounts against sanctions list as a matter of corporate practice and home country regulation. They report to the SIFIU when they encounter transactions involving sanctioned persons or entities. The SIFIU in practice checks the transactions and takes steps to verify whether the match is positive or a false positive. Two such incidents were shared with the team by both the SIFIU and the Bank concerned. In the first incident the SIFIU verified the name and the transaction and found the incident to be a false match. Mere mixed identity. In the second instance, the transaction involved a sanctioned country and the SIFIU instructed the Bank not to execute the transaction. As a result, the Bank declined to receive the wire transfer pertaining to that transaction.

252. For the Solomon Islands to achieve effective compliance with SRIII, the authorities should consider:

- Setting up a system for the circulation and enforcement of the UN Security Council designation list.
- Operationalize the designation system created under CTA 2009 and utilize to give effect to Resolutions 1267 and 1373.
- Give guidance to financial institutions and DNFBPs on how to implement the requirements of resolutions 1267 and 1373.

2.4.3. Compliance with Special Recommendation III

	Rating	Summary of factors underlying rating
SR.III	**PC**	**The Solomon Islands does not yet have in place a system for the implementation and enforcement of UN Security Counsel Resolutions 1267 and 1373.**

Authorities

2.5. The Financial Intelligence Unit and its Functions (R.26)

2.5.1 Description and Analysis

253. Legal Framework: The Money Laundering and Proceeds of Crime Act (MLPCA) gave the FIU functions to the AMLC. Section 11(2)(a-b) of the MLPCA provides that the AMLC - shall receive reports of suspicious transactions issued by financial institutions and cash dealers; and, shall send any such report to the appropriate law enforcement authorities, if having considered the report, the AMLC also has reasonable grounds to suspect that the transaction is suspicious.

254. The Money Laundering and Proceeds of Crime Amendment Act (MLPCAA), was enacted in 2004 establishing the Solomon Islands Financial Intelligence Unit within the Central Bank for the purposes of assisting the AMLC in the performance of its functions. The MLPCAA 2004 gave the AMLC the power to delegate to the Financial Intelligence Unit any or all the functions the Commission is required to perform under the MLPCA. The AMLC issued an instrument delegating powers to the FIU on April 3, 2006. The following powers were delegated to the FIU: shall receive reports of suspicious transactions issued by financial institutions and cash dealers; shall send any such report to the appropriate law enforcement authorities, if having considered the report, the FIU also has reasonable grounds to suspect that the transaction is suspicious; may enter the premises of any financial institution or cash dealer during ordinary business hours to inspect any record kept pursuant to section 14(1) of the MLPCA, and ask any question relating to such record, make notes and take copies of the whole or any part of the record; shall send to the appropriate law enforcement authorities, any information derived from an inspection carried out pursuant to the report, if it gives the FIU reasonable grounds to suspect that a transaction involves proceeds of crime; may instruct any financial institution or cash dealer to take such steps as may be appropriate to facilitate any investigation anticipated by the FIU; may compile statistics and disseminate information within Solomon Islands or elsewhere, make recommendations arising out of any information received, issue guidelines to financial institutions and advise the Minister of Finance; shall create training requirements and provide such training for any financial institution in respect of transactions record-keeping and reporting obligations provided for in sections 13(1) and 14(1) of the MLPCA; may consult with any relevant person, institution or organization for the purpose of

exercising its power or duties under paragraphs Section 14 (c), (f) or (g); shall not conduct any investigation into money laundering, other than for the purpose of ensuring compliance by a financial institution.

255. The authorities advised the team during the onsite assessment in December 2009 that a new bill, the MLPCAB, will likely be presented to Parliament in March 2010. The authorities provided a copy of this bill and initial review indicates that it will improve the current legal framework concerning the FIU.

Establishment of FIU as National Centre (c. 26.1):

256. The FIU is a unit established within the CBSI, which operates under an instrument of delegation from the AMLC [Legal Notice 22], April 3, 2006, issued pursuant to the powers given to the Commission under the MLPCAA 2004. The MLPCA designates that the AMLC shall receive reports of suspicious transactions; shall send any such report to the appropriate law enforcement authorities, if having considered the report, has reasonable grounds to suspect that the transaction is suspicious. The MLPCA does not mandate that the AMLC, and by delegation the FIU, should “analyze” the STRs. Nevertheless, during the onsite visits, the FIU was able to demonstrate that they do conduct basic analysis of STRs utilizing the limited resources available.

257. The MLPCA mandates that financial institutions and cash dealers should report STRs to the FIU if they have reasonable grounds to suspect that information that it has concerning the transaction may be relevant to the investigation or prosecution of a person for a serious offence. This formula is too restrictive and places a burden on financial institutions and cash dealers to determine what is relevant to an investigation or prosecution. Typically most financial institutions and cash dealers do not have the capacity to make such determinations. Nevertheless, in practice, as was discovered during the onsite visit in December 2009, the financial institutions report suspicious transactions to the FIU without attempting to determine if the transaction may be relevant to the investigation or prosecution. The CTA designates TF as a serious offense. Serious offense means an offence against a provision of - (i) any law in Solomon Islands, for which the maximum penalty is imprisonment or other deprivation of liberty for a period of not less than twelve months; or (ii) a law of a foreign State, in relation to acts or omissions, which had they occurred in Solomon Islands would have constituted an offence for which the maximum penalty is imprisonment or other deprivation of liberty of not less than twelve months. The AMLC, and by delegation the FIU, is therefore the national center to receive STRs related to TF. The FIU demonstrated during the onsite visit that they go beyond merely receiving, analyzing and disseminating disclosure of STR and other related information. The FIU actively supports subsequent police investigations and often has direct contact with the Office of the Public Prosecutor providing support and advice. Moreover, the FIU has the statutory authority to request additional from financial institutions and cash dealers and also has access to commercial, administrative and police records. The FIU has direct access to information held by other administrative governmental bodies upon request and has access to police information and often utilizes the police officer seconded to the FIU to obtain this information.

258. Upon receipt of an STR, the SIFIU conducts the process of analysis in the following manner. The SIFIU first checks its own database to determine if the subject of the STR already exists within the database (previous STRs or by other sources of information). In furtherance of the analysis, and if deemed necessary, the SIFIU typically contacts the source of the STR and requests further information related to the STR, i.e., bank statements, etc. and other account information relevant to the analysis. Also, the SIFIU requests information from any other relevant government institution in furtherance of the analysis, i.e., Company of Registrar's Office, Immigration Department, Customs, Police, etc. The SIFIU incorporates the findings of additional information related to the original STR into a final analytical report before submitting such report to the prosecutor or police for further appropriate action.

Guidelines to Financial Institutions on Reporting STR (c. 26.2):

259. The FIU has provided financial institutions and some other reporting entities with guidance regarding the manner of reporting. However, dissemination of these guidelines to Cash Dealers is very limited, partially as a result of manpower constraints. The FIU has a designated STR form and has advised reporting entities on the manner of reporting, e.g., email, fax or hand delivery. In December 2008 the FIU issued the Solomon Islands Financial Intelligence Unit, Money Laundering and Proceeds of Crime Act 2002, Guidelines for Financial Institutions & Cash Dealers. This document is sixty-eight pages and provides an STR reporting form with explanatory notes.

Access to Information on Timely Basis by FIU (c. 26.3):

260. While considering STR data, the FIU has recourse to its own transactions database and supplementary information obtained from financial reporting entities. The FIU has direct access to financial information derived from the delegated authority of the AMLC which powers derive from the MLPCA The MLPCA authorizes the AMLC to have direct access to financial information related to STRs. The FIU also has the power to instruct any financial institution or cash dealer to take such steps as may be appropriate to facilitate any investigation anticipated by the Commission. While the SIFIU does not keep statistics recording requests for additional information, it does appear that the SIFIU routinely submits such requests and received the requested information in a timely manner.

261. The FIU advised that they utilize "FIU in a Box," a system provided to them by the Australian government. When discussing the system with the authorities, the assessors, during the onsite visit, surmised that the capabilities of this data system were not fully utilized by the FIU. Assessors were given the impression that the system was only utilized as a source of data entry and not for analysis. At the time of the onsite assessment, the FIU was not linked to any network that allowed it to obtain information from administrative or law enforcement entities electronically.

262. The FIU does not have statutory authority to obtain law enforcement information but the authorities have stated that the FIU can access law enforcement information through a representative of the RSIPF that is seconded to the FIU. Therefore, information from government agencies can be obtained through the police powers of the analyst seconded by the RSIFP. Authorities advised that the RSIPF seconded officer typically requests this information, verbally, from counterparts and receives it within the same day. At the time of the onsite visit, this RSIPF officer, although officially seconded to the FIU, had not been reporting to the FIU since May 2009. It was unclear to assessors how the FIU was obtaining law enforcement and other administrative information during this period.

263. The FIU has access to administrative data, for example registries of property, business registries or other similar records, but must pay a fee to receive records from the Business Registry Office. The MLPCA does not authorize the FIU access to administrative information but authorities advised that they request and receive this information from such administrative institutions without interference. However, the lack of automated records in most administrative agencies often results in time delays. In discussions with some administrative authorities, they advised that they receive and favorably respond to requests from the FIU. During the onsite visit, the team visited most of the listed entities, and in most instances the records of those agencies were not computerized, and the information from their holdings could only be accessed through a slow and painstaking manual search of hard-copy records.

264. There appears to be no current provisions for the FIU to obtain or access data on cross border currency declarations or seizure of undeclared funds by Customs or other authorized officers. However, authorities advised, during the onsite visit, that copies of immigration forms that include a completed currency declaration section, by passengers arriving and departing the Solomon Islands, are provided to the FIU by Customs. Authorities advised that the FIU receives these forms within three days after receipt.

265. The FIU has access to commercially or publicly available information sources. The FIU advised that they subscribe to World Check and utilize it when conducting checks of STR data.

266. Despite having no specific legislation in place directing Customs or other authorized officers to share reports and information related to cross border movements of currency over 50,000 SI dollars, Customs share such reports with the FIU and is able to do so within the authority of the Official Secrets Act.

Additional Information from Reporting Parties (c. 26.4):

267. Under the MLPCA, Section 11 (2) © (e), the FIU can directly inspect and instruct any financial institution and cash dealer to provide additional information relating to any transactions that have been reported to the FIU or that is related to an STR. This power is adequate and allows the FIU to properly undertake its functions. Moreover, the FIU under the MLPCA, Section 22 (1) (2), (1) may make application to the Court, after satisfying the Court that a financial institution or cash dealer has failed to comply with any obligation provided for under sections 12, 13, 14, 15 or 16, obtain an order against all or any officers or employees of the institution or dealer in such terms as the Court deems necessary, in order to enforce compliance with such obligation. (2) In granting the order pursuant to subsection (1), the Court may order that should the financial institution or cash dealer fail without reasonable excuse to comply with all or any provisions of the order, such institution, dealer, officer or employee shall pay a financial penalty in the sun and in the manner directed by the Court. The SIFIU does not record statistics concerning requests for additional information related to STRs received from reporting parties. However, it appears that it is normal practice, when appropriate, to submit such requests and receive such information in a timely manner.

Dissemination of Information (c. 26.5):

268. Under the MLPCA the FIU is authorized to send reports to the appropriate law enforcement authorities, if having considered the report, the FIU also has reasonable grounds to suspect that the

transaction is suspicious. Moreover, the FIU can send to the appropriate law enforcement authorities any information derived from an inspection carried out of a financial institution or cash dealer if it gives the FIU reasonable grounds to suspect that a transaction involves proceeds of crime. This aforementioned inspection can only occur when it relates to information of an e STR submitted by the financial institution or cash dealer.

269. The FIU is authorized to provide reports to the appropriate law enforcement authorities whom in practice includes, but is not limited to, the RSIPF and the DPP. Most reports generated by the FIU are submitted to the RSIPF. The FIU conducts an analysis of the STRs received, drafts a report, and discloses the reports to the RSIPF.

Operational Independence (c. 26.6):

270. There is no legal provision that creates the position of Director of the FIU. The MLPCAA delegates the authority of the AMLC to the FIU but does not address the Director's position or authority. Moreover, the MLPCAA allows the AMLC to revoke, at will, the delegated authority given to the FIU. The MLPCAA simply delegates the authorities of the AMLC to the FIU without addressing any issues related to the Director of the FIU, e.g., if and how the Director is to report to the AMLC; how the Director is recruited, appointed, disciplined, terminated or evaluated. This is not addressed in any other provisions. The MLPCAA establishes the FIU as a unit within the CBSI for the purpose of assisting the AMLC in the performance of its functions. However, the MLPCAA or any other provision provides no information describing the relationship between the CBSI and the FIU.

271. The FIU is located in a small office within the CBSI building. The FIU is staffed by three (3) personnel, the Director, Compliance Officer and Analyst. The Director and Compliance Officer are assigned to the FIU and salaries are paid by the CBSI. The Analyst is seconded to the FIU from the RSIPF. The authorities have described that the FIU "is meant to be an autonomous unit in terms of its operations, to some extent it is still controlled by the CBSI as it is the host of the FIU office." There are no provisions that make any mention of the role of the CBSI as it relates to control over the FIU. Moreover, the salary of the seconded RSIPF officer, the Analyst, is funded primarily by the RSIPF, with an additional bonus funded by the FIU. The RSIPF officer did not report to the FIU from May 2009 – December 2009, and the MOU signed between the FIU and RSIPF on August 8, 2008 reserves the right of the Commissioner of the RSIPF to recall the seconded officer from seconded duty with very little notice. The FIU does not have an analyst(s) that is FIU staff.

272. Security of the FIU office is provided by the CBSI. The FIU's IT systems are located within the FIU office and maintained by the Director of the FIU. The FIU does not have a separate budget. The budget is a part of the financial plan of the Attorney General's Chambers which is ultimately approved by the Minister of Justice and Legal Affairs. The salaries of the Director and Compliance Officer are paid by the CBSI and reimbursed by the Attorney General's Chambers. The FIU has informal input into the budget setting process and submits its budget request through the AMLC. Its expenditures must be approved by the Attorney General and payment of invoices is managed through the CBSI.

273. The FIU discloses its intelligence reports to the RSIPF. The Director of the FIU does not seek approval of the CBSI or the AMLC before disseminating the reports to the RSIPF. During the onsite visit, the FIU maintained that they have operational independence and have never experienced any interference from any outside bodies. The FIU advised that they advise the AMLC of their operations in a quarterly report. The report includes FIU expenditures, numbers of STR's, international cooperation and any other relevant updates on important issues.

274. Even though the MLPCAA describes the FIU as a Unit established within the CBSI, there is no other provision that describes the relationship between the FIU and the CBSI. Moreover, there is no provisions that discusses the relationship between the FIU and AMLC; e.g., how the staff are recruited, disciplined, terminated, funded, etc.

Protection of Information Held by FIU (c. 26.7):

275. The FIU is located within the CBSI. Access to the CBSI is restricted; however, once in the CBSI, there are no additional stringent security measures protecting the FIU office. Other staff of the CBSI could conceivably enter the FIU office without much difficulty. The STR information is stored by the Director of the FIU and access to this information is restricted by the Director and is maintained in the FIU's office. The data collected by the FIU is automatically "backed-up" weekly, but stored within the same office space. The FIU disseminates information in accordance with the MLPCA and its own Standard Operating Procedures.

Publication of Annual Reports (c. 26.8):

276. The FIU publishes an annual report that is included within the Central Bank of Solomon Islands website. However, the annual report does not include statistics, typologies and trends.

Membership of Egmont Group (c. 26.9):

277. The FIU is not a member of Egmont. The FIU is actively attempting to secure the sponsorship support of existing Egmont members to initiate the application process.

Egmont Principles of Exchange of Information Among FIUs (c. 26.10):

278. Not being an Egmont Member the FIU has indicated that it does not have regard to the Egmont Group Statement of Purpose and its Principles for Information Exchange between Financial Intelligence Units for Money Laundering cases. However, during the onsite visit, authorities acknowledged the important guidance concerning the role and functions of FIUs, mechanisms for exchanging information expressed by Egmont and were eager to share information in accordance with these guidelines.

Adequacy of Resources – FIU (R. 30)

279. The FIU is staffed by two personnel from the CBSI and one seconded personnel from the RSIPF. The total compliment of the FIU is three (3), to include the Director, Compliance Officer and Analyst. The FIU is woefully understaffed and under its current configuration cannot meet its mandate. The small staff appears reasonably well qualified, although the diversity of staff skills could be expanded and more training provided in analytic methods and research skills. Because relevant governmental data bases are not yet automated, there is no technical capacity for online access to such data bases that are relevant to case analysis. The process of analyzing STRs is laborious, time consuming and places considerable demands on the FIU. This work needs to be adequately resourced.

280. The FIU is mandated to provide training to financial institutions concerning record keeping and reporting obligations; conduct inspections of reporting entities relating to STRs of; compile

statistics, disseminate reports and make recommendations. With only one Compliance Officer, this is extremely difficult to achieve. Additional resources are required to meet such demands. Furthermore, resources are needed for the case analytic role of STRS and other reports; and, to conduct more strategic research and analysis on the scope and trends of money laundering in the Solomon Islands. In addition, the resource requirement will be more acute as soon as the CTA and CDA are more effectively implemented.

281. The current office space arrangement for the FIU is inadequate. There is scarce space for the current staffing level and no space for any additional staff.

282. Staff of the FIU, employed by the CBSI and RSIPF, are recruited and screened in the same way as other staff of the CBSI and RSIPF. Employees of the CBSI are subject to background checks and police clearance. The RSIPF is held to high professional standards invoked by the RSIPF. There is no additional requirement for enhanced screening of FIU staff. There are no special provisions for the recruitment of the Director, Compliance Officer, and the Analyst was recruited from an internal vacancy announcement advertised internally among RSIPF officers. The current vetting process is lacking considering the high sensitivity of the information flows to and from the FIU. The FIU staff is paid salaries in accordance with the CBSI pay scale which is higher than equivalent positions in the public service sector. The authorities advised that salaries for the FIU are considered above-average, but slightly below the private sector. The RSIPF officer receives special compensation for being assigned to the FIU. There are no special restrictions on extra-curricular political or business activities. The Leadership Code Commission collects asset declarations of all public servants to include the CBSI and RSIPF. The FIU's budget is a specified part of the Attorney General Chamber's budget, and individual expenditures are approved by the Director and all expenditures are reviewed quarterly by the Chairman of the AMLC, the Attorney General. However, there are no legal provisions ensuring the Director's control of FIU's expenditures.

283. The FIU provides opportunities for ongoing training to its staff typically sponsored by other donors, e.g., AMLAT, RAMSI, and others. The FIU is mildly active in providing training for reporting entities as well as law enforcement and prosecutorial authorities. The AMLC and FIU observed that additional skills development would be desirable. Detailed information of training is provided in the chart below: Director of the FIU attended the following AML/CFT workshops in the past 4 years:

2005	**2006**	**2007**	**2008**	**2009**
APG Typology Workshop, Nadi, Fiji	Pacific FIU Workshop, Sydney	Pacific FIU Workshop, Sydney	Pacific FIU Workshop, Brisbane	APG Mutual Evaluation of Cook Islands
IT Pacific Data Base Training Workshop, Sydney Australia	Cook Islands FIU Attachment	AML/CFT Workshop Sydney	Anti-Terrorism Workshop, Port Vila Vanuatu	Preparatory Workshop for Jurisdiction undergoing ME in 2009, Brunei
	APG Annual Meeting,	APG Annual	APG Annual	

	Manila, Philippines	Meeting, Perth Australia	Meeting Bali Indonesia	
	Fiji FIU attachment	AML/CFT Supervisors Workshop in Port Vila, Vanuatu	IMF AML/CFT Workshop for Pacific Islands Countries, Singapore	
	APG Typology Workshop, Jakarta Indonesia	APG Typology Workshop, Bangkok, Thailand	APG Typology Workshop, Colombo, Sri Lanka	
		AML/CFT Evaluators Training, Singapore	Financial Analysis Workshop, Sydney Australia	
		ACAMS training, Sydney December	NPO AML Workshop, Nadi Fiji	
	Trainings Attended by the Compliance Officer			
		Cook Islands FIU Compliance attachment	NPO AML Workshop, Nadi Fiji	Preparatory Workshop for Jurisdiction undergoing ME in 2009, Brunei
		AML/CFT Supervisor's Workshop, Port Vila Vanuatu	APG Annual Meeting, Bali Indonesia	
			AML/CFT Evaluators Training	

Source: SIFIU

Statistics (R.32)

284. The FIU adequately maintains statistics as to the numbers and types of reports received, from which reporting entities, as well as on the number of reports analyzed and disseminated to the RSIPF, and those that lead to major investigations. It has yet to receive any request from a foreign FIU.

Suspicious Transaction Received from Commercial Banks

2005	2006	2007	2008	2009
5	47	11	23	64

Referral to Law Enforcement (RSIPF)

2005	2006	2007	2008	2009

0	9	3	7	3

Referrals that resulted in Major Investigations

2005	2006	2007	2008	2009
0	0	1	3	3

Source: SIFIU

Analysis of effectiveness:

285. The SIFIU has done a good job overcoming the challenges and obstacles involved in developing a working FIU. The FIU has successfully analyzed several STRs, disseminated quality intelligence reports to the RSIPF and actively supported investigations that lead to successful prosecutions. Many interlocutors during the onsite visit commented on the integrity, professionalism and steady effort exhibited by the FIU.

286. **T**he Solomon Islands FIU is a significant player, leader, and contributing member of the larger AML community. It has solid leadership and a small motivated staff that appears reasonably well qualified for its tasks, although the diversity of staff skills could be improved. In November 2009, the FIU developed its own *Standard Operating Procedures* manual, a thirty-nine (39) page document that covers a wide range of the FIU's operations. The FIU has been making significant effort to function as well as it can within the framework of its existing circumstances. As already noted above, the FIU does not have easy access to other governmental data bases or external information sources to facilitate its work and strengthen its analysis. Such access typically involves labor intensive manual searches and coordination with other administrative bodies. Despite these challenges, authorities responded favorably when asked about the quality of the FIU's reports and other work.

287. In light of the extensive use of cash in the Solomon Islands economy, and given the available information about the extent of corruption, environmental crimes and other economic crime, the reporting levels of suspicious transactions seem fairly low. Table 1, below shows the level of suspicious transaction reporting from 2005-2009:

Table 1. Suspicious Transaction Reports Received

2005	5
2006	47
2007	11
2008	23
2009	64
TOTAL	150

Source: SIFIU

288. As indicated in Table 1 above, in 2007, the FIU received only 11 suspicious transaction reports compared to 47 reports in 2006. All reports were submitted by, the three (3) commercial banks operating in the Solomon Islands. Not one cash dealer has ever submitted an STR to the FIU.

Authorities advised that the drop in 2007 was a result of the high turnover rate of Money Laundering Reporting Officers (Risk &Compliance Officers) within the three (3) commercial banks. Authorities advised that there was a lack of AML/CFT awareness and a lack of expertise and understanding of reporting obligations by the newly assigned Money Laundering Reporting Officers.

289. The lack of any reports being generated by Cash Dealers suggests that the FIU has not been too assertive in reaching out to this group and informing them of their STR reporting requirements and providing adequate training on suspicious transaction reporting obligations. Interlocutors advised the assessors, during the onsite visit, that many staff of the commercial banks do not receive adequate training on AML/CFT matters. Moreover, the assessors were advised, that despite efforts by the commercial banks to minimize its influence, the Wantok system could play a role by limiting the numbers of STRs reported.

290. The operations of the FIU are hampered by not having official, full-time FIU staff. The RSIPF officer seconded to the FIU was absent from May 2009 - December 2009. Thus, at the time of the onsite visit, the number of FIU reports referred to the RSIPF in 2009 was three (3). Authorities advised that the absence of the seconded RSIPF Officer was the main reason for only three reports being disseminated to the RSIPF. During this period, authorities admitted that analysis of STRs virtually desisted somewhat explaining why the SIFIU received sixty-four (64) STRs and only disseminated three (3) referrals to law enforcement in 2009.

291. Despite the lack of legislation enabling the FIU to better achieve its mandate, and severe staff and other resource shortages, the FIU has made strides in developing a rather skilled institution and recently played a significant role in the successful prosecution of two foreign nationals in violation of the MLPCA. However, with only a seconded RSIPF officer to conduct analysis, the assessment team has serious concerns about the sustainability of the level of effectiveness demonstrated so far. The absence of this seconded officer from May – December 2009, has already had a tremendous negative impact on its effectiveness.

2.5.2 Recommendations and Comments

Recommendations:

- The FIU should develop a “core workforce” of FIU staff members and not rely solely on seconded personnel to conduct analysis functions. The FIU should be properly staffed with a core workforce. Current staffing levels make it extremely difficult for the FIU to fulfill its core functions

- The FIU is under-resourced, and should receive additional funding to achieve its existing mandate, and to better equip itself to undertake more comprehensive analysis in order to enhance its effectiveness.

- The operational independence of the FIU should be further strengthened giving the FIU sole authority to determine its internal processes and staff recruitment.

- The SIFIU’s Annual Report should include statistics and information about money laundering and terrorism financing trends and typologies.

- The FIU should provide more guidance to Cash Dealers and other reporting entities on the manner of reporting, to include specification of reporting forms procedures to be adhered.

- The authorities should support the FIU's attempts to join Egmont.

- Comments: The FIU should be provided with proper and adequate office space that ensures suitable security of its premises and financial data.

- The authorities should consider legislation to ensure that the FIU has express legal authority to access administrative and law enforcement information related to its mandate in a timely manner.

- Consideration should be given to enhanced screening of FIU staff and management, given the sensitivity of the information assets of the organization. .

- Consideration should be given to having the FIUs intelligence data stored on a separate hard drive, downloaded on a periodical basis and stored in a secure offsite location. The authorities should consider relieving the FIU of its AML/CFT inspection functions and consider allocating these functions to the CBSI. The current low STR reporting levels could be attributed to the fact that the FIU does not have enough resources to properly engage with all the reporting entities.

- The authorities should also encourage the FIU to focus on strategic analysis and provide the requisite resources. The FIU needs to acquire more analytic and information management tools and receive tactical as well as strategic analysis training.

- The FIU should consider streamlining the STR reporting form and making it more user-friendly.

- The FIU should offer more frequent training to a wide segment of the RSIPF, Customs, Inland Revenue, Auditor General's Office and other relevant stakeholders on the role and functions of the FIU. This training should clarify to the competent authorities that the FIU is not to be utilized to circumvent the warrant requirements to obtain financial records.

- After developing their core, the FIU should consider expanding the secondment concept and invite seconded personnel from other relevant agencies to enhance, not replace, this core workforce.

2.5.3 Compliance with Recommendation

	Rating	Summary of factors relevant to s.2.5 underlying overall rating
R.26	**PC**	• **FIU not properly staffed or resourced; the only analyst is seconded personnel, resulting in a substantial impact on effectiveness;** • **Cash dealers not provided enough guidance on reporting requirements; no STRs filed by Cash Dealers;** • **No legal provisions creating the position of Director of the FIU, defining relationship to the AMLC, or CBSI; concerns about operational independence;** • **No statistics, trends or typologies included in the publication of periodic reports**

2.6. Law enforcement, prosecution and other competent authorities—the framework for the investigation and prosecution of offenses, and for confiscation and freezing (R.27, & 28)

2.6.1. Description and Analysis

292. Legal Framework: The Constitution, MLPCA, Police Act of 1972, CTA and CPC establish the legal framework for the investigatory and prosecutorial authorities of the Solomon Islands. The MLPCA expanded the law enforcement tools for money laundering investigation by increasing the scope and application of ML crimes, expanding the list of predicate offenses for ML, authorizing broad and expeditious confiscation, seizure and freezing of property, proceeds and instrumentalities of crime, designating the responsibilities of law enforcement personnel. The MLPCAA created the FIU as the central recipient and repository of suspicious and other transaction reporting and analysis. And it streamlined the process for police and prosecutors to obtain financial information in aid of their money laundering investigations and prosecutions.

Designation of Authorities for ML/FT Investigations (c. 27.1):

293. The MLPCA, CTA and the Police Act of 1972 provide the RSIPF with the authority to conduct investigations of money laundering and terrorism financing offences. Part III of the Constitution creates the office of the Director of Public Prosecutions and gives it the power to “Institute and undertake criminal proceedings against any court (other than a court-martial) in respect of any offence alleged to have been committed by that person.” The DPP is therefore competent authority to prosecute terrorism financing, money laundering offences, and all related offences.

294. There are roughly 1,100 RSIPF officers and 14 prosecutors assigned to the DPP staff. During the onsite visit in December 2009, there were no exclusively designated prosecutors to manage ML/TF prosecutions. However, authorities advised the assessment team, during the onsite visit, that they were considering making such a designation in the near future. It is worth noting that it is not the practice in Solomon Islands to create narrowly specialized units or task prosecutors with exclusively defined subject specialization. A policy of general practice and mobility of staff between different areas of practice is consistent with the limited resources available to the prosecutor's office specifically and available to government agencies more generally. Moreover, as a result of a lack of skilled criminal investigators, the RSIPF focuses on investigating murder, rape, and assaults more so than financial related crimes, such as ML/TF. This is not reflective of attitudes that ML/TF is less important, but reflective that with limited resources the crimes investigated are prioritized.

295. Within the RSIPF the Criminal Investigation Division (CID), a dedicated division, is established to conduct criminal investigations. Within the CID is a special Corruption Targeting Team (CTT) which was established in 2004 and consists of six (6) investigators. The CTT is the designated unit within the RSIPF to investigate ML/TF offenses. The CTT provides the results of their investigation to the DPP for further consideration.

296. The DPP determines whether an investigation of suspected money laundering or terrorism financing will be presented for prosecution. This may be based on transaction reports received from the FIU and further investigated by the RSIPF or on information received from other sources. The prosecutor can provide advice to the RSIPF upon receiving a brief of evidence and a written request for advice. The advice may include requisitions for additional material considered appropriate.

Ability to Postpone / Waive Arrest of Suspects or Seizure of Property (c. 27.2):

297. There exists no statutory authority allowing the RSIPF to postpone or waive arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering. However, there is no provision that prohibits the RSIPF from executing such measures. As a matter of policy, the RSIPF can postpone or waive arrest and the seizure of money in furtherance of the investigation. The authorities advised the assessment team during the onsite visit that they were amenable to utilizing such investigative techniques if the opportunity was presented. However, at the time of the onsite visit, no such opportunity had arisen.

Additional Element—Ability to Use Special Investigative Techniques (c. 27.3) :

298. The RSIPF has no statutory authority to utilize special investigative techniques such as undercover operations, controlled deliveries, electronic intercepts, etc. However, there are no provisions that prohibit the utilization of such techniques by the RSIPF. It is unclear whether the protection for privacy of home and other property under Article 9 of the Constitution may limit the ability of electronic surveillance in the absence of explicit legal authority to conduct such surveillance. At the time of the onsite visit, the authorities advised that they have not had the occasion to utilize such techniques and lack the capacity and resources to conduct controlled deliveries, undercover operations, electronic intercepts and other special investigative techniques.

Additional Element—Use of Special Investigative Techniques for ML/FT Techniques (c. 27.4):

299. As noted in the paragraph directly above, the RSIPF appear to have no statutory limitations to utilize special investigative techniques during a ML/TF investigation, but do not have the capacity or resources to employ such techniques and have not had the opportunity to attempt to use such techniques.

Additional Element—Specialized Investigation Groups & Conducting Multi-National Cooperative Investigations (c. 27.5):

300. There are no specialized units within the RSIPF investigating the proceeds of crime. However, the CTT and the newly formed Transnational Crime Unit (TCU) (February 2009) advised assessors during the onsite visit, that they do focus on identifying and tracing proceeds of crime during the course of their investigations. At the time of the onsite visit, the authorities admitted that they lack the proper capacity and resources to conduct these types of investigations.

301. The RSIPF have not had the opportunity to utilize special investigative techniques in the context of co-operative investigations with competent authorities in other countries. The authorities advised during the onsite visit that they would be willing to utilize special investigative techniques if circumstances, resources and capacity allowed.

Additional Elements—Review of ML & FT Trends by Law Enforcement Authorities (c. 27.6):

302. The FIU in cooperation with the RSIPF conducts an annual risk analysis of ML/TF and disseminates the findings of the annual report to the appropriate law enforcement and administrative bodies. The first risk analysis and subsequent report was conducted in 2008.

Ability to Compel Production of and Searches for Documents and Information (c. 28.1):

303. The MLPCA and Criminal Procedure Code (CPC) authorize prosecutors and RSIPF officers to obtain necessary information from reporting entities. The information gathered in accordance with the aforementioned Acts is available for use during investigations and prosecutions. The RSIPF allowed assessors to view documentation related to one hundred twenty-four (124) investigations on money laundering and/or a wide range of predicate offenses that included a summary investigation log that indicated that the RSIPF regularly compels the production of records, executes search warrants, and the seizure of evidence.

Power to Take Witnesses' Statement (c. 28.2):

304. The RSIPF and the ODPP have the authority to take witness statements for the use as evidence in investigations and prosecutions for ML/TF and other offenses. The RSIPF allowed assessors to view documentation related to one hundred twenty-four (124) investigations on a wide range of predicate offenses that included a summary investigation log that indicated that the RSIPF regularly took witness statements.

Statistics (R.32)

305. The RSIPF allowed assessors to view documentation that summarized one hundred twenty four (124) investigations of money laundering and/or predicate offenses. These documents were more of a brief outline, summary investigative log rather than pure statistical data. There are no comprehensive statistics maintained by the ODPP or RSIPF specifically dedicated to money laundering or terrorist financing investigations. Nevertheless, the assessment team could determine by reviewing the summary investigative logs that the authorities could gain some benefit from the log as it relates to their effectiveness in combating money laundering and terrorism financing.

Adequacy of resources – LEA (R. 30)

306. The DPP is adequately structured, staffed, resourced and funded by the government of the Solomon Islands and provided financial and personnel support by the RAMSI. RAMSI currently funds trainings and provides four (4) prosecution advisors to the DPP. The Constitution ensures the DPP operational independence and autonomy. The assessment team during the onsite visit were impressed by the dedication and professionalism portrayed by the DPP. The authorities were keen to admit that the staff of the DPP was somewhat inexperienced in prosecuting ML/TF cases, but were excited by the challenge and had already achieved some success.

307. The CTT and TCU of the CID (RSIPF) struggle to combat money laundering and terrorism financing as a result of inadequate resources. The authorities advised that they need four (4) more officers to be assigned to the CTT in order to manage the current case load. Other interlocutors of the assessment team during the onsite visit, described the CID as being "overwhelmed" by the number of cases. The newly formed TCU has a staff of three (3) officers. In addition the authorities advised that the officers assigned to the CTT and TCU did not have enough technical knowledge to properly conduct financial investigations. In terms of funding, technical and other resources, the units were poorly equipped. For example, there are four (4) different units within CID and only two (2) vehicles. The units do not have internet access, adequate office space, desks, shortage of computers and related technical support. All investigative units lack vehicles to take investigators to crime sites or to conduct other tasks.

308. Corruption is of grave concern in the Solomon Islands, including among law enforcement authorities. In addition, the Wantok system is ingrained in society and makes it difficult for law enforcement officials to put the rule of law before the Wantok. To guard against this, the DPP conducts background checks, including police checks, of all employees and compels a high level of integrity, confidentiality and professionalism from the entire staff. The authorities advised that there are no periodic updates to the background investigations.

309. The RSIPF conducts similar background checks on all candidates to become police officers. However, there was no indication that there were any periodic updates. Some interlocutors of the assessment team during the onsite visit advised that many police officers that were involved in criminal acts during the ethnic riots in 2006 were still employed with the police. The authorities advised that they have tried to "weed out" the "bad apples" through capacity building, new recruits, retirement, strengthening internal discipline and termination,

310. AML/CTF enforcement issues are relatively new for Customs, becoming involved 2008.

Previously, Customs focused solely on revenue matters with little regard for AML/CFT issues. The recent enactment of the CDA and CTA has brought Customs into the AML/CFT regime of the Solomon Islands. Customs has only eighty-five (85) officers to enforce the Customs laws and the CDA. Customs is understaffed and under resourced. Moreover, Customs has not received adequate training concerning implementation and enforcement of the CDA. During the onsite visit, interlocutors advised the assessment team that serious resource and corruption issues negatively impact Customs ability o achieve its mandate. The authorities candidly admitted that Customs is not exposed to proper technical training.

Analysis of effectiveness

311. There appears to be no central point at which consolidated records are received or held, and each of the stakeholders keeps records differently, which makes it difficult to portray the number of cases investigated and prosecuted and to assess the effectiveness of the overall effort. However, from information obtained from the DPP it appears that the DPP has conducted three (3) prosecutions for money laundering offenses. There were no cases prosecuted for terrorism financing. The FIU played an active role in the successful prosecution of two foreign nationals for money laundering offenses and four (4) of their intelligence reports disseminated to the RSIPF resulted in the initiations of major investigations.

312. The key stakeholders that make up the AML/CFT regime in the Solomon Islands are doing their best to make it work effectively. However, there is a significant lack of resources and specialized skills especially within the RSIPF, Customs and FIU. There is a lack of focus on asset tracing, linking predicate offenses to money laundering offenses, and a shortage of specialized skills to conduct financial investigations. Communication and coordination between most stakeholders is quite good. The CDA has been passed by Parliament in 2009 but the assessment team was advised that it would not be implemented until January 1, 2010. Therefore, effectiveness could not be determined. There does not appear to be a plan for strengthening the capacities of critical elements of the key stakeholders, nor does there appear to be coordinated effort to provide training to those elements.

313. The entire AML system is critically underfunded. The police suffer from severe shortages of personnel, material, operating funds, special equipment, vehicles, IT systems, training, etc. The FIU suffers from an acute shortage of human resources, office space and equipment. The DPP seems to be the healthiest stakeholder involved in combating money laundering and terrorism financing. The DPP lacks substantial experience in prosecuting ML cases. Implementation of the MLPCA is relatively recent and the DPP is reliant on the RSIPF to present ML cases for prosecution. The CTA was just enacted in 2009, so it was very difficult to determine effectiveness. As mentioned, there have been no prosecutions for terrorism financing. However, as previously mentioned, the risk that entities within the Solomon Islands are being used to launder money or to finance terrorism is very low. Therefore, it is reasonable for the authorities to focus their limited resources on more traditional crimes like murder, rape, and assault. The authorities have expressed their commitment to meet international standards in this field but find it difficult as a result of the lack of human and other resources.

2.6.2. Recommendations and Comments

314. The assessors recommend that the authorities provide an infusion of resources to support and

advance the work of the AML community, focusing primarily on the RSIPF, Customs and FIU. The CTT and TCU are acutely deprived of adequate human resources, equipment and special training. The assessors recommend that the RSIPF initiate and support the practice of considering conducting ML investigations concurrently with applicable predicate offense investigations. Likewise, the RSIPF should increase the asset tracing capacity within CID, especially within the TCU and CTT. The RSIPF should initiate training programs and other methods to enhance the capacity of investigators to perform asset tracing while investigating financial crimes.

315. The assessors recommend that the authorities provide the required technical training to Customs, and also initiate an infusion of human and other resources. The authorities should initiate anti-corruption programs to help enhance Customs' effectiveness. Moreover, training of Customs officers concerning implementation and enforcement of the CDA should be a priority.

316. The authorities should consider putting in place measures, whether legislative or otherwise, that provide law enforcement or prosecution authorities with an adequate legal basis for the use of a wide range of special investigative techniques when conducting ML and FT investigations.

2.6.3. Compliance with Recommendations 27 & 28

	Rating	Summary of factors relevant to s.2.6 underlying overall rating
R.27	**LC**	• **Resources, capacity and expertise to conduct and prosecute ML/TF investigations is minimal;**
R.28	**C**	

2.7. Cross Border Declaration or Disclosure (SR.IX)

2.7.1. Description and Analysis

317. Legal Framework: Section 19 of the MLPCA establishes a framework for the seizure and detention of suspicious imports or exports of currency. In 2009, the Currency Declaration Act (CDA 2009) was issued setting a general framework for cross-border currency declaration. The Act came into force on 1 January 2010. While CDA 2009 was not in force during the on-site mission, it came into force during the period of 60 days following the on-site mission. It is therefore taken into consideration for the purposes of this assessment. Despite the absence of specific legal basis, the CED has used its general powers to impose an obligation on travelers to declare the movement of currency above a certain threshold. This de facto system of declaration will be considered for the purposes of this assessment.

Mechanisms to Monitor Cross-border Physical Transportation of Currency (c. IX.1):

318. Since April 2009, all the incoming and outgoing persons have been obliged to fill in a passenger card, which is used for immigration, quarantine, and customs purposes and includes a question requiring passengers to answer if they are in possession of SBD50,000 or more. If a person confirms that he is carrying more than this defined threshold, then this person must fill in an additional border currency report (BCR) and submit it to a customs.

319. Prior to the entry into force of the CDA 2009 and during the on-site mission, this rule did not apply to crew members or to passengers other than air passengers. Moreover, it was not implemented to currency sent in or out of Solomon Islands by sea, air, or postal cargo. The scope of the obligation also extended only to "coin and paper money of Solomon Islands or of foreign country." It, therefore, did not extend to "bearer negotiable instruments as required by the standard.

320. While the Customs and Excise Act extended the powers of the customs authorities to currency and other negotiable instruments, it was not the practice of customs to exercise their inspection powers in relation to such cargo. Customs authorities, because of their emphasis on duty collection, focused only on taxable and prohibited goods and did not concern themselves until the implementation of the declaration system in April 2009 with the transport of currency and other negotiable instruments.

321. Section 3 of the CDA 2009, imposes an obligation to any person to declare any amount exceeding SID$50,000 in the following situations: (1) when the person enters or leaves the Solomon Islands with this amount; and/or (2) when the person sends out or receives into the Solomon Islands this amounts by any means including post, courier and transshipment.

322. Section 2 of the Act defines currency to include not only local and foreign coins and paper money, but also any instrument that may be exchanged for money including all forms of bearer instruments, and precious metals. However, it is unclear to which extent effectiveness is secured owing to the newness of the act.

Request Information on Origin and Use of Currency (c. IX.2):

323. Though the Customs and Excise Act gives customs broad powers to ask questions and conduct searches, its provision is mainly aimed at incoming passengers and the questioning power was ambiguous. These powers were never applied in relation to cross-border movement of currency and other negotiable instruments. The declaration system that was imposed as of April 2009 was not supported by any rules granting such powers in relation to false declarations or failure to declare. The CDA 2009 rectifies this gap. Article 4 of the Act gives any authorized officer the power to question any person entering or leaving the Solomon Islands on the "source, ownership, acquisition, use or intended destination of any currency in that person's possession or custody." This power applies whether the currency is declared or not.

324. Section 5 of the Act, also gives the authorized officer extensive search powers of the person, his belongings, premises, and craft, vehicle or vessel. These powers apply when there is suspicion that the person is carrying currency obtained through unlawful conduct or intended for use in unlawful conduct regardless of whether a declaration has been made or not and regardless of the amount.

325. These powers are available in addition to any powers given to the authorized officer under any other law. An authorized officer is defined under the Act broadly to include: a customs officer, an immigration officer, a police officer and a quarantine officer.

Restraint of Currency (c. IX.3):

326. Sections 19(1) of MLPCA2002 grants an authorized officer, including a customs officer, the power to seize currency, if the amount is more than the prescribed sum and the officer has reasonable grounds to suspect that the currency is derived from or intended by any person for use in the commission of a money-laundering offence. Section 19(2) of MLPCA 2000 provides that currency may be seized up to 72 hours without a magistrate order. A magistrate has the power to extend this seizure of currency for a period not exceeding 3 months. This period is too short for prosecutions to be over, but a judge may order extension of the seizure up to 2 years from the first order by renewing the order under Section 7(2)(a) of CDA, which is effective after January 1, 2010.

327. The powers given under Section 19(1) are too narrow in that in that they only apply to local and foreign coins and paper money and not to negotiable instruments. They are also narrow, in that they only apply when the currency exceeds a certain threshold. The standard requires that these powers should apply when there is suspicion of money laundering or terrorism financing and regardless of any applicable threshold.

328. Section 6 of the CDA 2009 maintains similar limitations on the seizure powers available to the authorized officers. While the Act broadens the scope of the powers to other negotiable instruments as well as precious metals, it maintains the threshold condition for the exercise of seizure powers in relation to currency that is derived from an unlawful source or intended for use for an unlawful purpose. Section 6(1)(c) also makes the use of seizure powers in relation to undeclared currency exceeding the prescribed threshold conditional on evidence that it is intended for use in unlawful conduct. Under the standard, these powers should be available to competent authorities in cases of failure to declare, false declaration, or mere suspicion of money laundering or terrorism financing.

Retention of Information of Currency and Identification Data by Authorities when appropriate (including in Supra-National Approach) (c. IX.4):

329. When a declared amount of currency a person possesses is more than SBD50,000, the person must fill up a BCR and submit it to a customs officer. When a person makes a false declaration and there is no reasonable ground for suspicion, the same conduct will be made.

330. Moreover, when CED assumes there is a reasonable ground to suspect the currency is for ML/TF purpose, Section 19(1) allows a CED officer to seize the currency and CED issues a Currency Seizure Report. It might be a reasonable ground to suspect the money could have been used or may be used for ML if a reason is given by the law enforcement agency for alert that supports an assumption that large amount of cash could be generated from this illegal activity and the passenger is carrying 50,000SBD or more.

331. Original BCRs and CSRs are hand delivered to and stored at FIU and their photocopies are sent to RSIPF while CED files the photocopies. However, there is a concern of loss of the documents as long as the physical delivery is made. It is recommended to deliver the data on the electronic system.

Access to Information by FIU (including in Supra-National Approach) (c. IX.5):

332. An original BCR is sent to FIU after it is submitted to a customs where a person declares that he/she is in possession of more than SBD50,000 of currency and there are no reasonable grounds to suspect the currency is in relation to ML.

333. A CSR is completed besides BCR when a person declares that he/she is in possession of more than SBD50,000 of currency or a person failed to declare and is found to be in possession of excessive currency and there are reasonable grounds to suspect the currency is in relation to ML. A copy of BCR and CSR are retained at CED and sent to RSIPF while FIU receives their original documents. Therefore, CED, FIU, and RSIPF share the same information about physical transport of currency.

Domestic Cooperation between Customs, Immigration and Related Authorities (c. IX.6):

334. Information on BCR and CSR are shared with CED, FIU, and RSIPF where there is a currency declaration more than SBD50,000. CED works close with the immigration and quarantine for a daily duty and works with RSIPF for a customs-related offence. CED has signed an MOU with FIU for information sharing and CED is a member of the Combined Law Agency Group with the immigration and RSIPF. CED is planning to establish Tri-agency Border Unit with RSIPF and the immigration. They are drafting an MOU and signing it next year aiming for joint investigation and operation, information sharing, spontaneous decision making and establishment of intelligence cells.

International Cooperation between Competent Authorities relating to Cross-border Physical Transportation of Currency (including in Supra-National Approach) (c. IX.7):

335. CED is a member of World Trade Organisation and Oceania Customs Organisation (OCO). The OCO provides a platform within which regional customs administrations are able to source, share, exchange, or provide intelligence information which can be accessed by international counterparts.

336. A diagnostic evaluation is being taken that will form part of the application to World Customs Organisation. An MOU on mutual assistance on customs matters is being finalized with Papua New Guinea and consideration is also given to establishing an MOU with Australia.

Sanctions for Making False Declarations / Disclosures (applying c. 17.1-17.4 in R.17, c. IX.8):

337. Section 212 of Customs and Excise Act [Cap. 121] provides that any person who makes false declaration or fails to declare shall incur a penalty of SBD1,000. However, Section 3(3) of CDA is applicable on and after January 1, 2010, providing more specifically that any person who fails to declare or falsely declares the currency amount to a customs officer is subject to a fine not exceeding 500,000 penalty units, imprisonment for not exceeding five years, and/or currency forfeiture.

Sanctions for Cross-border Physical Transportation of Currency for Purposes of ML or TF (applying c. 17.1-17.4 in R.17, c. IX.9):

338. The physical cross-border movement of currency and other negotiable instruments would constitute money laundering or terrorism financing if the currency is derived from an offence or if the

movement of currency is aimed at providing property for any of the purposes defined in a. 16 of the CTA. Therefore, the sanctions available for money laundering or terrorism financing as analyzed in the relevant sections of this report will apply equally to this type of conduct.

Confiscation of Currency Related to ML/FT (applying c. 3.1-3.6 in R.3, c. IX.10):

339. Since the acts of cross-border movement of currency may constitute acts of money laundering or terrorism financing when all the elements of the offence are proved, the confiscation measures available under the MLPCA and the CTA will also apply. These measures have been analyzed in detail in the discussion of the R. 3 in this report.

Notification of Foreign Agency of Unusual Movement of Precious Metal and Stones (c. IX.12):

340. The CDA does not provide a framework for the notification of the CED or other competent authorities when discovering any unusual cross-border movement of gold, precious metals or precious stones. However, OCO, to which Solomon Islands belongs, offers a framework through which CED is able to notify the country from which precious stones and metal with unusual movement originated or to which they are destined and seek assistance through it.

Safeguards for Proper Use of Information (including in Supra-National Approach) (c. IX.13):

341. All the original BCRs are hand delivered to FIU and retained there. The data are stored in a secure database in an electronic format. Their copies are also hand delivered to RSIPF. CED files copies of BCRs.

Training, Data Collection, Enforcement and Targeting Programs (including in Supra-National Approach) (c. IX.14):

342. No specific money laundering training has been conducted for customs staff. However, in 2008 and 2009 officers were trained on border currency reporting by AMLAT and provided with awareness sessions by SIFIU.

343. Personal data are collected through passenger cards and BCRs for those who carries more than SBD50,000 or its equivalent in foreign currencies. The data on those documents are given to FIU and RSIPF and shared among those organizations.

344. CEA stipulates regulations under which CED executes its authority, including questioning on a false declaration and sanctions are regulated by CEA and MLPCA. However, after January 1, 2010 CDA has been effective and it provides more specific definition.

345. A targeting program is not in place though there may be some occasions where other law enforcement agencies alert to CED on a passenger.

Supra-National Approach: Timely Access to Information (c. IX.15):

346. Not applicable.

Additional Element—Implementation of SR.IX Best Practices (c. IX.16) :

347. Solomon Islands has implemented some of SRIX Best Practices though not all of them. After CDA came into effect on January 1, 2010, there will be fewer obstacles for implementing more Practices due to more specific definition of power stipulated in the Act.

Additional Element—Computerization of Database and Accessible to Competent Authorities (c. IX.17):

348. FIU stores the data written on BCRs, CSRs, and passenger cards sent from CED in their computerized database and used for customer profiling and intelligence collation.

Statistics (R.32)

349. It is April 2009 when a question on possession of equal to or more than SBD50,000 or its equivalent of currency was added in a passenger card and BCR was also adopted. There were 14 cases of declaration and one case of undeclared currency from April 2009 to December of the same year. However, no comprehensive statistics is available for the last 4 years.

Adequacy of Resources – Customs (R.30)

350. There is a minimum level of academic achievement of a certificate or diploma from a recognized institution for recruiting staff. All staff must pass a police and medical check and are required to submit a code of conduct.

351. The lack of financial resources gives an effect on practicing customs duty. The lack of inspection tools and devices is a concern for ensuring effectiveness.

352. AMLAT provided training on border currency reporting in 2008 and 2009. FIU also provided training about money laundering awareness session in 2008 and 2009.

2.7.2. Recommendations and Comments

353. CDA provides CED with more specific authority than existing acts and its range of definition is broader. It is possible that the act will contribute to the enforcement toward AML/CFT by CED as the act is effective since January 1, 2010.

354. Currency declaration system started in April, 2009. Statistics available shows there were 14 cases of declared currency and one case of undeclared currency from April to December, 2009. There seems to be a concern regarding its effectiveness.

355. It is advisable Solomon Islands CED take it into account to introduce non-intrusive devices and also to adopt a targeting system for more effective detection of false declaration.

356. An approval of CBSI is necessary for persons traveling out of Solomon Islands to take more than 30,000SBD or its equivalent. It is desirable to share the information of such persons between CBSI and CED.

357. The assessors recommend that, if Solomon Islands wishes to comply with the Recommendations in this part of the report, it should:

- Apply the same currency declaration to passengers by sea and crew and implement a declaration system with a prescribed form to currency carried or to be carried into and out of Solomon Islands by sea, air, or postal cargo.

2.7.3. Compliance with Special Recommendation IX

	Rating	Summary of factors relevant to s.2.7 underlying overall rating
SR.IX	**PC**	**Currency declaration system is applied only for passengers by air.**

3. PREVENTIVE MEASURES —FINANCIAL INSTITUTIONS

<u>Customer Due Diligence & Record Keeping</u>

3.1. Risk of money laundering or terrorist financing

358. The Solomon Islands has not adopted a risk based approach in the implementation of the AML/CFT measures in its financial sector. There is no requirement in the laws & regulations for financial institutions to conduct AML/CFT risk assessment; classify customers on basis of risk or to conduct enhanced CDD on high risk categories of customers.

359. Except for an exemption provision in Section 12(5) of the MLPC Act, the legislation generally applies the AML/CFT requirements without distinction to all financial and DNFBP sectors covered.

360. Section 12(5) of the MLPC Act provides for the exemption of CDD measures where –

a) the applicant is itself a financial institution or a cash dealer to which the MLPC applies;
b) there is a transaction or a series of transactions taking place in the course of a business relationship, in respect of which the applicant has already produced satisfactory evidence of identity.

361. This exemption provision is generally allowed by the international standards.

362. The FIU Guidelines has provisions which require financial institutions to apply CDD measures on a risk based approach. The Guideline also requires enhanced CDD for high risk customers. However, the Guideline is not considered as meeting the FATF definition of "other enforceable means."

363. Discussions with the Solomon Islands authorities indicated that they would be supportive of implementing the risk based approach especially in view of the desire to have rural banking services and taking into account difficulties faced by ordinary customers to provide adequate ID evidence. The draft AML Bill does not introduce requirements for risk based implementation of the AML/CFT measures, thus there are no immediate plans to introduce the risk based approach.

Definition of Financial Institutions

364. The MLPC Act uses the terms "financial institutions" and "cash dealers" to describe entities required to comply with AML/CFT requirements in the Solomon Islands.[24]

365. "Financial institution" is defined in the Financial Institutions Act (1998) as including banks and entities engaging in activities recognized by the CBSI as customary banking practice. At the time

[24] The definitions of "financial institutions" and "cash dealers" for the purpose of AML/CFT measures have been expanded in the Money Laundering and Proceeds of Crime (Amendment) Act of 2010.

of the assessment the banking sector accounted for 64% of the financial system, with three commercial banks (operating 14 branches) existing in the Solomon Islands.

366. Discussions with CBSI revealed that while it has not issued a formal notification of what activities are considered “customary banking activities” they informed the assessment team that this would include activities relating to credit or lending services, money or currency changing and remittance services.

367. The definition of “financial institution” under the Financial Institutions Act does not explicitly cover all the categories of entities covered in the FATF definition. Categories of entities that are not explicitly defined as financial institutions under the FIA include those entities engaged in:

- lending;
- financial leasing
- the transfer of money or value
- financial guarantees and commitments
- trading in money market instruments, foreign exchange, exchange, interest rate and index instruments, transferable securities, commodity futures trading
- individual and collective portfolio management
- safekeeping and administration of cash or liquid securities on behalf of other persons
- otherwise investing, administering or managing funds or money on behalf of other persons
- money and currency changing.

368. Based on discussions with CBSI, the FIU and the industry, the assessment team noted that entities engaged in money and currency changing, money remittance and provision of credit and lending were required to comply with the MLPC Act despite there being no formal notification from CBSI under the Financial Institutions Act of their being regarded as a “financial institution”. While provision of credit and lending all into the Financial Institutions Act’s definition of “banking businesses” without more, money remittances are covered by the MLPCA’s definition of “cash dealers” while currency changing is brought under coverage through the Foreign Exchange Control Act’s implementing regulation, which limits such activities to banks, themselves explicitly covered by the MLPCA.

369. While the Financial Institutions Act has adequate provisions to rope into the AML/CFT framework all the sectors required by the FATF standards, the absence of any formal guidelines from CBSI of what is defined as “other customary banking activities” may undermine the effectiveness of the AML/CFT regime in the Solomon Islands.

370. Cash dealers” is broadly defined in the MLPC Act as including non-bank financial institutions such as insurers; insurance intermediaries; persons in the business of issuing and managing means of payment, securities dealers and futures brokers.

371. The insurance sector consists of two general insurance companies; one life insurance company; three insurance brokers and three insurance corporate agents. While securities dealers and futures brokers are covered in the AML/CFT framework, this sector did not exist in the Solomon Islands at the time of the assessment. There was no capital market at the time of the visit.

372. The MLPC Act goes beyond the scope of the international standards in including (1) all types of insurance rather than just life and investment type insurance (2) trustees and managers of unit trusts.

373. The draft MLPCA Bill's definition of "financial institutions" uses an approach similar to that found in the FATF Recommendations.

3.2. Customer due diligence, including enhanced or reduced measures (R.5 to 8)

3.2.1. Description and Analysis

374. Legal Framework: MLPC Act (2002) s.12 (Verification of Customer's Identity); Financial Institutions Act (1998) s.21(Identification of Transactors)

375. In April 2009, the FIU issued a Guideline (hereinafter FIU Guideline) to all financial institutions and DNFBPs providing detailed AML/CFT requirements further to that outlined in the MLPC Act. The Guideline also introduces additional AML/CFT measures which are not included in the MLPC Act.

376. The FIU does not have direct powers to sanction financial institutions for non-compliance with the Guideline, thus it is not enforceable by the FIU. Therefore the Guideline will not be considered as "other enforceable means" for the purpose of the assessment of implementation of AML/CFT preventive measures and will not impact the compliance ratings.

377. The authorities provided the assessors with a proposed Money Laundering and Proceeds of Crime Amendment Bill (2009), hereinafter draft MLPCA Bill. The provisions of this MLPCA Bill will be referred to as necessary in the relevant sections of this Report. Given the fact that this is still in draft form, the contents of the MLPCA Bill will have no impact on the compliance ratings.

378. The draft Bill proposes to repel sections in the MLPC Act relating to CDD and also introduce additional CDD requirements that are not in the MLPC Act. These amendments or new requirements in the Bill will only be noted briefly in the Report where relevant. This Report will not assess the MLPCA Bill's consistency with the Recommendations.

Prohibition of Anonymous Accounts (c. 5.1):

379. Section 13(2) of the MLPC Act requires that customer accounts of a financial institution or cash dealer be kept in the true name of the account holder. Section 18 of the MLPC Act makes it an offence for a person to open or operate an account with a financial institution or cash dealer in a false name. This meets the requirements of the international standards. The draft MLPCA Bill aims to introduce further provisions explicitly prohibiting financial institutions from opening or maintaining anonymous or fictitious accounts. Discussions with banks noted that accounts are normally opened and kept in the name of the customers. They also stated that they do not open or maintain numbered only accounts. The CBSI also stated that they have never come across anonymous or numbered only accounts during the on-site compliance visits to banks by SIFIU-CBSI.

When is CDD required (c. 5.2):

380. Section 12 of the MLPC Act requires a financial institution to establish the identity of an applicant when the applicant seeks to enter into a business relationship with it or to carry out a transaction or series of transactions. Thus there is a general requirement under the MLPC Act for financial institutions to conduct due diligence of persons or customers applying to enter into a business relationship or applying to conduct an occasional transaction. This is generally in line with the international standards. Section 12 does not exclude occasional transactions below a certain threshold as allowed for by the international standards.

381. The MLPC Act is insufficient in that it does not explicitly require the following (1) CDD of customers in situations where there is a suspicion of money laundering or terrorist financing (2) CDD of customers in circumstances where the financial institution has doubts about the adequacy of previously obtained customer identification data.

382. Part 2 of the FIU Guideline outlines circumstances when CDD should be conducted. However, this is not enforceable. The draft MLPCA Bill also contains provisions on the timing of CDD.

383. Discussions with local financial institutions revealed that customer identification is generally conducted when persons first apply to enter into the business relationship. For occasional customers, very basic customer identification, (simply collection of customer details) is conducted before processing the transaction.

Identification measures and verification sources (c. 5.3):

384. Section 12 of the MLPC Act generally requires a financial institution to “establish” the true identity of an applicant seeking to enter into a business relationship or to carry out a transaction. Section 12 requires that the true identity of the applicant be established by means of a birth certificate, passport or other official means of identification and in the case of a body corporate, a certificate of incorporation together with a copy of the latest annual return sub mitted to the Registrar of Companies in terms of the Companies Act.

385. Section 12 of the MLPC Act requires verification of customer details to reliable, independent source document as required by Recommendation 5. Section 12 applies this verification requirement to all customers whether permanent or occasional and whether natural or legal persons or legal arrangements. This is consistent with the standards.

386. Part 2 of the FIU Guideline also contains requirements for customer identification and verification. It also contains a comprehensive list of official and non-official identification documents that may be used for verifying a customer. These include current driver’s license, employment identification card, work permit, Government health card, public utilities record etc. The Guideline provides a useful alternative to financial institutions on the types of identification documents that they may use. However, as noted earlier the Guideline is not considered enforceable. The draft MLPCA Bill proposes to introduce requirements for financial institutions to identify and verify the identity of customers.

387. Financial institutions faces huge challenges in conducting customer verification measures required by the MLPC Act due to the fact that majority of Solomon Islanders do not have official identification documents. According to estimates provided, more than 50% of the population live outside of Honiara and have no formal identification documents. A very small section of the population have a passport and only 27% of the population have a superannuation ID card. Discussions with authorities also revealed that Solomon Islanders, due to many factors, do not commonly register persons at births. Authorities stated that not all Solomon Islanders were registered with the Registrar of Birth's Office at the time of the on-site assessment. There is also no national ID card for the Solomon Islands. This limited access of Solomon Islanders to official identification documents will significantly hinder the effectiveness of the CDD measures and the overall AML framework in the Island.

388. The banks had processes for identifying and verifying their permanent customers. Two of the three banks interviewed had comprehensive procedures for CDD of customers which were based on their foreign Head Office CDD policies and procedures. However, identification and verification of occasional customers is considered weak.

389. The insurance company visited indicated that they collected various details of their customers such as name, date of birth, residential address and occupation. The forex company that was interviewed indicated that they mainly focused on collection of details of name and residential address of customers. Both entities indicated that it was not their standard practice to verify all customer details collected to supporting identification documents.

Identification of Legal Persons or Other Arrangements (c. 5.4):

390. There are no requirements under the current laws, regulations or other enforceable means for financial institutions to (1) verify that any person purporting to act on behalf of a legal person customer is so authorized and to identify and verify the identity of this person; (2) verify the legal status of a customer that is a legal person or a legal arrangement such as a trust.

391. The draft MLPCA Bill proposes to introduce requirements on identification of legal persons and arrangements.

392. The FIU Guidelines contains detailed requirements on identification of legal persons including the types of identification to be used to verify legal persons. However, this is not enforceable.

393. Discussions with the banks noted that they did undertake verifications of the persons acting on behalf of customers who are legal persons and arrangements. They also adopted measures to verify the legal status of the legal person or arrangement. The insurance company that was interviewed indicated that while they collected details of the legal person, they did not undertake verifications on any person acting on behalf of the legal person or verification of the status of the legal person. The Forex company which was interviewed during the assessment indicated that they collected details of the person conducting transaction on behalf of a legal person. However they did not verify the identity of any such person or verify whether he or she was authorized to act on behalf of the legal person. The Forex Company also indicated that they do not, as a business practice, verify the legal status of any legal persons that does business with it.

Identification of Beneficial Owners (c. 5.5; 5.5.1 & 5.5.2):

394. Under section 12(2) of the MLPC Act, a financial institution or cash dealers is required to take all reasonable measures to establish whether an applicant is acting on behalf of another person. Under section 12(3), if it appears to a financial institution or cash dealer that an applicant is acting on behalf of another person, reasonable measures should be taken by the financial institution or cash dealer to establish the true identity of any person on whose behalf or for whose ultimate benefit the applicant may be acting in the proposed transaction, whether as trustee, nominee, agent or otherwise. The definition of "beneficial owner" under the MLPC Act falls short of the FATF definition in the following aspects: (1) it does not require that this be the natural person on whose behalf or for whose ultimate benefit the applicant may be acting in the proposed transaction; (2) it does not incorporate those persons who exercise ultimate effective control over a legal person or arrangement.

395. The verification measures of section 12 of the MLPC Act is required for applicants of a continuing business or in the absence of such business relationships, applicants of any transaction; and for applicants that are natural or legal persons. This is consistent with the international standards.

396. The MLPC Act is lacking in that it does not have an explicit requirement for financial institutions to understand the ownership and control structure of legal persons and arrangements as is required by the international standards.

397. The FIU Guideline requires CDD of beneficial owners of companies & trusts. The draft MLPCA Bill proposes to introduce requirements for financial institutions to identify and verify the beneficial owners of customers.

398. Discussions with the banks indicated that their CDD measures for legal persons were oriented towards establishing the identities of any natural person(s) acting on behalf of the legal person and identities of any shareholder. Their CDD practices did not focus on establishing the identity of the natural person(s) who ultimately own or control (beneficial owner or controller) the legal person. CDD measures for identifying the beneficial owners of customers that are natural persons are also considered weak.

399. Based on interviews, there was no indication that identification of beneficial owners or controllers was undertaken in the non-bank financial sectors.

Information on Purpose and Nature of Business Relationship (c. 5.6):

400. There are no requirements under the current laws, regulations or other enforceable means for financial institutions to obtain information on the purpose and intended nature of the business relationship.

401. The draft MLPCA Bill aims to introduce requirements addressing the purpose and nature of a business relationship.

402. Only one of the three banks interviewed collected information from customers on the purpose and intended nature of the business relationship. This was normally done during the account opening stage. The non-bank financial institutions interviewed did not collect this information.

Ongoing Due Diligence on Business Relationship (c. 5.7; 5.7.1 & 5.7.2):

403. There are no requirements under the MLPC Act for financial institutions to conduct ongoing due diligence on the business relationship with its customers. Further the MLPC Act does not require financial institutions to undertake scrutiny of transactions undertaken throughout the course of a business relationship to ensure that the transactions being conducted are consistent with the financial institutions' knowledge of the customer, their business and risk profile or where necessary, the source of funds. There are also no requirements for financial institutions to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant.

404. The draft MLPCA Bill proposes to impose requirements on financial institutions for ongoing due diligence on business relationships. Part II of the FIU Guidelines requires financial institutions to conduct on-going due diligence on relationship with each customer and scrutiny of any transactions undertaken by customers to ensure that the transaction being conducted is consistent with the institution's knowledge of the customer, the customer's business and risk profile.

405. All the banks interviewed stated that they had in place measures for scrutinizing customers' transactions. These measures ranged from manual monitoring by customer service staffs of customers' transactions to more complex and automated computer based monitoring systems. However, there was no indication that this included measures for ensuring that customer CDD information is kept up-to-date.

Risk—Enhanced Due Diligence for Higher Risk Customers (c. 5.8):

406. The MLPC Act does not require financial institutions to identify higher risk categories of customers, business relationships or transactions and to conduct enhanced due diligence on such categories of customers or transactions.

407. The draft MLPCA Bill contains provisions for enhanced due diligence of customers who are politically exposed persons. The FIU Guideline imposes requirements for financial institutions to conduct additional CDD measures on high risk customers, business relationships or transactions. However, as discussed earlier, this is not considered enforceable.

408. Only one of the three banks interviewed had in place measures for identifying higher risk customers and business relationship and conducting enhanced due diligence on these customers or business relationships. The other two banks and financial institutions interviewed did not have measures in place for enhanced due diligence of higher risk customers.

Risk—Application of Simplified/Reduced CDD Measures when appropriate (c. 5.9-5.12):

409. The MLPC Act does not allow financial institutions to implement the CDD measures on a risk based approach. Financial institutions are required to apply all the CDD measures specified within the MLPC Act equally to all customers or transactions regardless of the risk of money laundering and terrorist financing they may pose. The MLPC Act therefore does not specify any simplified CDD measures.

410. The FIU Guideline requires that CDD be applied on a risk basis.

Timing of Verification of Identity— (c. 5.13-5.14):

411. Section 12 of the MLPC Act generally indicates that identification and verification of customers must be undertaken when entering into a business relationship or in the absence of a business relationship, before conducting a transaction.

412. The possible delay of this verification process is not provided for in the MLPC Act.

413. The draft MLPCA Bill proposes to determine the timing of identification and verification requirements of any particular customer or class of customers by regulations.

414. Based on discussions with banks, verification of customers' identities is normally conducted when entering into a business relationship. Verification of occasional customers is rarely undertaken. As discussed earlier, the non-bank financial sector does not verify their customers' identities to supporting identification documents.

Failure to Complete CDD before commencing the Business Relationship (c. 5.15-5.16):

415. Under section 18(3) of the MLPC Act, any financial institution or cash dealer that fails to undertake the measures required under the said Act, including those measures relating to CDD, commits an offence and on conviction is liable:

a) in the case of an individual, to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment not exceeding ten years or to both such fine and imprisonment; or

b) in the case of a body corporate, to a fine not exceeding five hundred thousand dollars.

416. Pursuant to section 21 of the Financial Institutions Act, any senior official of a bank who makes or authorizes any transaction without establishing the true identity of the persons concerned in the transaction, commits an offence and on conviction is liable to a fine of twenty thousand dollars or imprisonment of one year or both.

417. The above provisions prohibit financial institutions from establishing business relations and/or conducting transactions for customers in situations where they are unable to fulfill the required CDD measures. This is consistent with the international standards.

418. However the law is lacking in that it does not require financial institutions to consider making a suspicious transaction report in such cases where it is unable to undertake the CDD requirements. This is inconsistent with Recommendation 5.

419. The draft MLPC Bill proposes to introduce requirements on financial institutions for cases of failure to conduct CDD before commencing the business relationship.

420. Discussions with banks revealed that applications for new accounts are rejected if customers are not able to meet the CDD requirements. However, as noted earlier verification of occasional customers is inadequate. Non-bank financial institutions are not implementing the CDD measures.

Existing Customers—CDD Requirements (c. 5.17):

421. The current laws, regulations or other enforceable means do not require financial institutions to perform CDD on existing customers on the basis of materiality and risk as required by the international standards.

422. Financial institutions have not adopted measures to update the CDD data and records of customers existing before the MLPC Act came into force.

Existing Anonymous-account Customers – CDD Requirements (c. 5.18):

423. Section 13(2) of the MLPC Act requires that customer accounts be kept in the true name of the account holder. There are no explicit requirements for financial institutions to conduct CDD on anonymous accounts existing before the enforcement of the current AML/CFT laws.

424. Financial institutions interviewed do not open or operate accounts in anonymous or numbered accounts.

Risk Management System for PEPs (c. 6.1-6.4):

425. There are no requirements under the current laws, regulations or other enforceable means for financial institutions to put in place appropriate management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person.

426. There are also no requirements for financial institutions to obtain senior management approval for establishing business relationships with a PEP; to take reasonable measures to establish the source of wealth or funds of customers or beneficial owners who are PEPs; or to conduct enhanced ongoing monitoring of transactions with PEPs customers.

427. The draft MLPCA Bill contains provisions on due diligence of PEPs. The FIU Guideline also contains requirements for financial institutions to put in place measures addressing PEPs. However, these requirements are not enforceable.

428. Two of the three banks interviewed had documented risk management measures for dealing with PEPs. However, the assessors were not satisfied that all financial institutions (banks and no-banks) were effectively implementing enhanced CDD measures for dealing with PEPs.

Domestic PEPs—Requirements (Additional Element c. 6.5):

429. The draft MLPCA Bill proposes to extend the international requirements on PEPs to local PEPs.

Domestic PEPs—Ratification of the Merida Convention (Additional Element c. 6.6):

430. The Solomon Islands has not signed or ratified the UN Convention against Corruption.

Cross Border Correspondent Accounts and Similar Relationships (c.7.1- c.7.5)

431. There are no requirements under the current laws, regulations or other enforceable means for financial institutions to adopt risk control measures for dealing with cross border correspondent banking and other similar relationships as required by the international standards.

432. The draft MLPC Bill aims to fill this gap by imposing these requirements on financial institutions.

433. Discussions with the banks noted that they did not provide correspondent banking services to foreign banks and intermediaries.

Misuse of New Technology for ML/FT (c. 8.1- c.8.2):

434. There are no requirements under the current laws, regulations or other enforceable means for financial institutions to have policies in place or to undertake necessary measures to prevent the misuse of technological developments in money laundering or terrorist financing schemes.

435. There are also no requirements under the current laws or regulations for financial institutions to have policies and procedures to mitigate the risk associated with non-face-to-face business relationships or transactions.

436. The FIU Guideline outlines some measures for mitigating risk associated with establishing business relationships with non-face-to-face customers.

437. Two of the three banks interviewed provided basic non-face-to-face banking services for account holders such as ATM services or internet enquiry services. However none of the banks interviewed provided account opening services through non-face-to-face means. Other non-bank financial institutions do not provide non-face-to-face services, as customers had to physically go to the financial institutions' offices to engage their services.

Analysis of Effectiveness

438. Overall the current framework for CDD measures in the Solomon Islands financial sector is greatly inconsistent with the international standards and is therefore considered weak.

439. The MLPC Act fails to capture key CDD requirements of the international standards such as those on CDD for legal persons and arrangements, ongoing due diligence, obtaining information on the purpose and intended nature of a business relationship and enhanced due diligence of high risk customers. The FIU Guideline which was issued in April 2009, contains key CDD requirements which is not in the MLPC Act. However, the effectiveness of the Guideline is limited by the fact that it is recently issued and is not enforceable by the FIU.

440. The MLPC Act exceeds the requirement of the international standards in certain aspects. In particular it requires CDD of all occasional customers which may be burdensome on financial institutions and will likely hinder the effectiveness of the CDD framework. The MLPC Act also covers entities not included in the FAFT definition of financial institutions such as general insurers and intermediaries and trustees and managers of unit trusts. This wide coverage may burden the compliance resources of regulatory authorities and hinder effectiveness of implementation of the CDD measures.

441. It was evident from the interviews held that only the banking sector is implementing CDD measures. However, these CDD measures are weak because they do not include measures such as CDD of legal persons and arrangements, on-going due diligence and enhanced due diligence of high risk customers. Current CDD requirements of the MLPC Act such as verification of occasional customers are not properly implemented within the sector. There is no implementation of CDD measures in the non-banking financial sector. Since the introduction of the MLPC Act, regulatory AML/CFT compliance efforts by the FIU and CBSI have been targeted only at the banks. However, it is important to also note that the banking sector is the largest financial sector accounting for 64% of the total assets of the overall financial system.

442. As discussed earlier, financial institutions in the Solomon Islands are challenged by factors beyond their control when implementing CDD measures. Majority of the Solomon Islands population do not have acceptable identification documents which can be relied upon for verification purposes. Financial institutions also raised the issue of difficulty and delays in accessing accurate company records for CDD verification purpose. Company records are manually maintained and are not always updated by the companies for changes in shareholders. This poses a challenge on local financial institutions in obtaining accurate and timely information on the beneficial owners of legal persons. These underlying issues hinder the effectiveness of CDD measures of financial institutions.

443. The MLPC Act does not allow financial institutions to adopt a risk based approach in implementing its AML/CFT requirements. Thus financial institutions are required to apply the CDD and other AML/CFT measures without distinction to all its customers regardless of the risk of money laundering and terrorist financing that they may pose on the institution. This will highly likely overburden the compliance efforts and resources of the local financial institutions and therefore undermine the effectiveness of the MLPCA Act.

3.2.2. Recommendations and Comments

444. The CDD framework and requirements of the MLPC Act on financial institutions greatly falls short of the international standards. A detailed analysis of the weaknesses in the legislation is provided above.

445. In addition, the blanket approach of the MLPC Act in imposing its requirements on covered financial institutions without consideration of the money laundering and terrorist financing risk is a concern especially in view of the limited compliance and enforcement capacity of the Solomon Islands financial institutions and regulatory authorities. The FATF Recommendations allow countries to implement the international requirements on a risk based approach taking into account the risks and vulnerabilities of a country. The international standards also allow countries to permit financial institutions to use a risk-based approach to discharging their AML/CFT obligations. Solomon

Islands's failure to use this flexibility available under the international standards will over burden the compliance resources of financial institutions and enforcement capacity of regulatory agencies to a point which may prove detrimental to the effectiveness of the overall AML/CFT regime.

446. Authorities need to address the problem of lack of identification documents among its general population. The requirement to register all new born Solomon Islanders must be enforced. Authorities may consider as a medium to long term measure implementing a national identification system focusing on new born children and accessible adults. This will ensure that Solomon Islanders are not restricted from accessing financial services due to CDD requirements and will also enable financial institutions to meet their CDD obligations.

447. In order to achieve full compliance with international standards and to achieve effective implementation, the authorities should consider the following recommendations:

- Explicitly require under the legislation that financial institutions conduct CDD of customers in (1) situations where there is a suspicion of money laundering or terrorist financing (2) circumstances where the financial institution has doubts about the adequacy of previously obtained customer identification data.[25]

- Impose an obligation on financial institutions to (1) verify any persons acting on behalf of legal persons or arrangements and (2) verify the legal status of customers that are legal persons or arrangements.[26]

- The definition of "beneficial owner" under the MLPC Act to be made consistent with the definition in the international standards. In particular it should be defined as including: (1) the *natural* person on whose behalf or for whose ultimate benefit the applicant may be acting in the proposed transaction; (2) those persons who exercise ultimate effective control over a legal person or arrangement.

- Require financial institutions to understand the ownership and control structure of legal persons and arrangements. Require financial institutions to obtain information on the purpose and intended nature of the business relationship with customers. [27]

- Require financial institutions under the legislation to conduct ongoing due diligence on the business relationship with its customers including ensuring that CDD information and documents is kept up-to-date.[28]

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[25] Section 4(12A), Money Laundering and Proceeds of Crime (Amendment) Act 2010 introduces provisions requiring CDD in these circumstances..

[26] Section 4(12C), Money Laundering and Proceeds of Crime (Amendment) Act, 2010 addresses these CDD requirements for legal persons.

[27] Section 4(12C)(c), Money Laundering and Proceeds of Crime (Amendment) Act, 2010 introduces this requirement to obtain information on the purpose and intended nature of the business relationship.

- Require financial institutions to perform CDD on existing customers on the basis of materiality and risk.

- Require financial institutions to put in place risk management systems and due diligence measures for dealing with PEPs.[29]

- Enforce the implementation of CDD measures in the financial sector (especially in the non-bank financial sectors, namely insurance, non-bank foreign exchange and money transfer sectors) through targeted awareness programs and CDD guidelines.

- Require financial institutions to adopt risk control measures for dealing with cross border correspondent banking and other similar relationships.[30]

- Require financial institutions to have in place policies or measures to prevent the misuse of technological developments in money laundering or terrorist financing schemes or for dealing with non-face-to-face business relationships or transactions.

3.2.3. Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
R.5	**NC**	1. There is very weak implementation of CDD measures in the banking sector. There is no indication of implementation of CDD measures in the non-bank financial sector. 2. Verification of occasional customers is weak in the banking sector and not done in the non-bank financial sector. 3. There are no requirements for financial institutions to verify the status of legal persons or arrangements and to verify any person acting on behalf of a legal person or arrangement. 4. The definition of the MLPC Act for "beneficial owner" does not fully meet

[28] Section 4(12I), Money Laundering and Proceeds of Crime (Amendment) Act, 2010 introduces provisions which partly addresses the requirements for financial institutions to conduct ongoing due diligence on its business relationships.

[29] Section 4(12C)(d), Money Laundering and Proceeds of Crime (Amendment) Act, 2010 introduces measures for dealing with PEPs.

[30] Section 4(12D), Money Laundering and Proceeds of Crime (Amendment) Act 2010 contains measures for cross border correspondent banking.

		the definition of the international standards. 5. There is no explicit requirement in the legislation for financial institutions to understand the ownership and control structure of legal persons and arrangements. 6. No requirements for financial institutions to obtain information on the purpose and intended nature of the business relationship. 7. No requirements for financial institutions to conduct ongoing due diligence on the business relationship with its customers. 8. Financial institutions are not required to conduct enhanced due diligence on higher risk customers. 9. Financial institutions are not required to perform CDD measures on existing customers on the basis of materiality and risk.
R.6	**NC**	• There are no requirements for financial institutions to have in place risk management system and due diligence measures for politically exposed persons.
R.7	**NC**	• There are no requirements for financial institutions to adopt risk control measures for dealing with cross border correspondent banking and other similar relationships.
R.8	**NC**	• There are no requirements for financial institutions to have policies or measures to prevent the misuse of technological developments in money laundering or terrorist financing schemes or for dealing with non-face-to-face business relationships or transactions. • Banks interviewed do not establish business relationship with non-face-to-face customers.

3.3. Third Parties And Introduced Business (R.9)

3.3.1. Description and Analysis

Legal Framework: no provisions in the MLPC Act.

Requirement to Immediately Obtain Certain CDD elements from Third Parties (c. 9.1-c.9.5):

448. There are no provisions in the current laws permitting financial institutions to rely on intermediaries or other third parties to perform CDD on customers as allowed for under the international standards.

449. The draft MLPC Bill aims to introduce provisions allowing financial institutions to rely on intermediaries to conduct customer CDD.[31] The FIU Guidelines contains provisions for reliance on third parties to conduct CDD. However, the Guideline is not enforceable.

450. Banks interviewed normally conducted their own CDD processes on customers. There is no implementation of CDD measures in the non-bank financial sectors.

3.3.2. Recommendations and Comments

451. While there are no provisions in the law prohibiting or allowing reliance on third parties for CDD, financial institutions do not in practice rely on third parties for CDD. Banks, as a matter of Head Office Group policy, conducted their own CDD processes on their customers

3.3.3. Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R.9	PC	• The MLPC Act is silent on the issue of reliance on intermediaries or third parties for customer CDD. However, in practice Banks do not rely on third parties for customer CDD.

3.4. Financial Institution Secrecy or Confidentiality (R.4)

3.4.1. Description and Analysis

452. Legal Framework: There is no overarching secrecy requirement along the lines of a general privacy protection in law or regulation of the Solomon Islands which would inhibit the authorities' ability to access required information for supervisory or other purposes. Private financial information is protected by common law banker's confidentiality. This does not prevent the Central Bank's supervision department from accessing such information, however, as the Central Bank is empowered, under Art. 11 (1) of the FIA, to conduct on-site inspections or have on-site inspections conducted by designees and is given access to all of the institution's books according to Art. 11 (2). It derives inspection powers from sections 5 *et seq.*, in particular section 9, of the Insurance Act vis-à-vis insurance companies in its role as Controller of Insurance.

[31] Section 4(12E), Money Laundering and Proceeds of Crime (Amendment) Act 2010 introduces provisions allowing financial institutions to rely on an intermediary or a third party to conduct CDD on its customers.

453. Common law banker’s confidentiality is not understood, in the Solomon Islands, to limit the exchange of information originating from banks once it is in the hands of public authorities. The public authorities’ secrecy obligation arises solely from the Official Secrets Act, which in section 5 (1) a) allows a government agent to communicate confidential information to any “… person to whom it is in the interest of the State … to communicate it”. This gives other government authorities access to information which the authorities with own or borrowed inspection powers have gained.

454. The AMLC and, by delegation, the FIU derives its powers of inspection and access to an obligor’s books from section 11 (2) of the MLPCA. Section 23 of the MLPCA provides that "The provisions of this Act shall have effect notwithstanding any obligations as to secrecy or other restriction on disclosure or information imposed by law or otherwise”. This, in connection with the inspection powers under section 11 (2) of the MLPCA, gives sufficient access to the AMLC and, by delegation, to the FIU, to client information held by financial institutions.

3.4.2. Recommendations and Comments

3.4.3. Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
R.4	**C**	

3.5. Record keeping and wire transfer rules (R.10 & SR.VII)

3.5.1. Description and Analysis

455. Legal Framework: Section 13 of the MLPC Act (Establish and Maintain Customer Records)

Record-Keeping & Reconstruction of Transaction Records (c. 10.1 & 10.1.1):

456. Section 13(1)(a) of the MLPC Act requires financial institutions and cash dealers to establish and maintain records of all transactions exceeding such amount of currency or its equivalent in foreign currency as may be specified from time to time by the Minister of Finance, carried out by it.

457. Section 13(3) of the MLPC Act requires that records maintained must contain sufficient details to identify the following:

1. name, address and occupation (or where appropriate business or principal activity) of each person conducting the transaction or if known, on whose behalf the transaction is being conducted;
2. the method used by the financial institution or cash dealer to verify the identity of each such person;
3. the nature and date of transaction;

4. the type and amount of currency involved; (5) type and identifying number of account involved in the transaction;
5. if a negotiable instrument is used in the transaction, the name of the drawer of the instrument, name of the institution on which it was drawn, name of the payee if any, amount and data of the instrument, any number of the instrument and details of any endorsements appearing on the instrument, institution on which instrument is drawn;
6. the name and address of the financial institution or cash dealer and of the officer, employee or agent of the financial institution or cash dealer involved in the report.

458. While the details required by law fulfill the requirements of Recommendation 10, Section 13 of MLPC Act falls short of the international standards in that it requires records of only those transactions that exceed a certain monetary threshold which will be set by the Minister of Finance. The international standard requires that records be maintained on all transactions regardless of the value of the transaction and to include both international and domestic transactions. At the time of the assessment, the Minister of Finance had not set this threshold. The banks operating in Solomon Islands, as branches of internationally active banks, nevertheless kept records of all transactions due to the in-house regulations imposed upon them by their head offices. The insurance company visited by the assessment team indicated that it, too, kept full records of all its transactions, This was confirmed through an on-site visit by CBSI. Other obligated entities generally did not keep transaction records beyond those required by general bookkeeping purposes.

459. Section 13 of the MLPC Act implies that these record-keeping requirements apply to domestic and international transactions. This is consistent with the international standards.

460. Under section 13(4) of the MLPC Act, these transaction records must be kept for a period of at least five years from the date the relevant business or transaction was completed. This meets the general retention period requirement of the international standards. The MLPC Act also allows the Commission (and by extension, the FIU) to instruct financial institutions or cash dealers "take such steps as may be appropriate to facilitate any investigation anticipated by the Commission". Retaining documents for a longer period than the regular requirement would seem to fall into the remit of this power.

461. The draft MLPCA Bill contains provisions on record keeping, which partly address some of the shortcomings in the MLPC Act. Part II of the FIU Guideline also contains requirements on record keeping with regards to types of records to be maintained and length of time it should be maintained. The record retention provision laid out in the Guideline is not consistent with that laid out in the MLPC Act. As discussed earlier, the FIU Guideline is not considered enforceable.

Record-Keeping for Identification Data, Files and Correspondence (c. 10.2):

462. Section 13(1)(b) of the MLPC Act states that where evidence of a person's identity is obtained, a financial institution or cash dealer shall establish and maintain a record that indicates the nature of the evidence obtained, and which comprises either a copy of the evidence or such information as would enable a copy of it to be obtained. Section 13(3) specifies further that these records must contain details on (1) name, address and occupation of each person conducting the

transaction or if known, on whose behalf the transaction is being conducted; (2) method used by the financial institution or cash dealer to verify the identity of each such person.

463. Under section 13(4) of the MLPC Act, these identification records must be kept for a period of at least five years from the date the relevant business or transaction was completed.

464. Discussions with financial institutions noted that they maintained records of customer information and correspondences.

Availability of Records to Competent Authorities in a Timely Manner (c. 10.3):

465. There are no requirements under the MLPC Act for financial institutions to ensure that all customer and transaction records and information are available on a timely basis to domestic authorities upon appropriate authority. FIA 1998 requires FI to produce timely records and information.

466. Discussions with the FIU noted that it was generally satisfied with response from financial institutions to its requests for information and records. Interviews with banks revealed that they were generally cooperative with requests under court order for financial records from law enforcement agencies. The CBSI have also undertaken compliance visits to banks and were provided all necessary records for their purpose.. The Police stated that there were cases where records requested from financial institutions for investigative purposes could not be located as these probably has been misplaced However, the assessment team was convinced that overall, where available, financial records were provided to law enforcement agencies and other competent authorities in a timely manner when requested to do so.

Originator information SR.VII.1-3 & SR.VII.5-7:

467. There is no obligation in law, regulation or OEM for full originator information to accompany wire transfers. As a matter of fact, however, originator information is required on the Telegraphic Application form. In addition, guidance issued by the AMLC to commercial banks and cash dealers under the MLPCA states that "'The FATF requires that financial institutions must include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent, and the information should remain with the transfer or related message throughout the payment chain.'

Maintenance of Originator Information ("Travel Rule") (SR..VII.4):

468. There is no obligation in law, regulation or OEM requiring risk-based procedures of financial institutions vis-à-vis wire transfers not accompanied by full originator information. However, guidance issued by the FIU to commercial banks and cash dealers requires "Reporting institutions should conduct enhanced scrutiny of and monitor for suspicious activity, any funds transfers that do not contain complete originator information- i.e. name, address and account number. Should problems of verification arise that cannot be resolved, or if satisfactory evidence is not produced to or obtained by a reporting institution, it should not proceed any further with the transaction unless directed in writing to do so by the FIU and must report the attempted transaction to the FIU as a suspicious transaction."

469. There have not been any attempts to monitor specific compliance with the suggestions established through the FIU's guidance. As the issue of wire transfers is currently only dealt with in guidance, the sanctions regime of the Solomon Islands does not apply to them.

470. The Solomon Islands are in the process of updating the MLPCA. According to the bill currently tabled, section 13 of the future act would require that full originator information is included and passed along with both domestic and international wire transfers irrespective of the amount involved, and would punish failure to comply with this obligation with a fine of up to 20,000 fine units and/or up to two years imprisonment for natural persons, and up to 50,000 fine units for legal persons.

Analysis of Effectiveness

471. The MLPC Act generally addressed the measures required by the international standards on record keeping. However, certain provisions such as the requirement under section 13(1) of the MLPC Act that only records of transactions exceeding a certain limit may effectiveness of the implementation of any record keeping measures by financial institutions.

472. Discussions with banks noted that they generally maintain records of all transactions as part of business practice. The non-bank institutions interviewed also maintained basic records of transactions conducted.

473. CBSI stated that they are generally satisfied with the record keeping measures undertaken in the banks and the one insurance company that they examined..

3.5.2. Recommendations and Comments

474. In order to achieve compliance with the international standards and effective AML/CFT measures the authorities should consider the following recommendations:

- Require by law that financial institutions establish and maintain records of all transactions, whether domestic or international transactions and regardless of the value of the transaction.
- Clarify the current requirements in the MLPC Act to require financial institutions to maintain customer identification data and records for at least five years following the termination of an account or business relationship.
- Require by law that financial institutions must ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority.
- Authorities should take measures to ensure that all covered financial institutions are effectively implementing the record keeping requirements.
- Entities dealing with wire transfers should be obliged to make sure that full originator information accompanies each wire transfer, to pass along such originator information with a wire transfer, and to conduct enhanced scrutiny regarding possibly suspicious transactions in regard to wire transfers without full originator information.

3.5.3. Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R.10	**PC**	• The MLPC Act requires records of only those transactions over a certain monetary limit. • Financial institutions in practice do maintain records of all transactions and customer information. • Financial institutions are not explicitly required by law to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities. However there is existing practice in this area. •
SR.VII	**NC**	• No obligation in law, regulation or OEM to include full originator information with the wire transfer, to pass originator information along with a wire transfer or to conduct enhanced scrutiny regarding possibly suspicious transactions in regard to wire transfers without full originator information.

3.6. Monitoring of Transactions and Relationships (R.11 & 21)

3.6.1. Description and Analysis

475. Legal Framework: There are no provisions for monitoring of transactions under the MLPC Act.

Special Attention to Complex, Unusual Large Transactions (c. 11.1):-c.11.3):

476. There are no requirements under the current laws, regulations or other enforceable means for financial institutions to pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. Financial institutions are also not required to examine as far as possible the background and purpose of any such transaction, to document their findings and to keep these findings available for competent authorities as required under the international standards.

477. Part II of the FIU Guidelines requires financial institutions to conduct on-going due diligence on relationship with each customer and scrutiny of any transactions undertaken by customers to ensure that the transaction being conducted is consistent with the institution's knowledge of the customer, the customer's business and risk profile.

478. Interviews of the banks revealed that they employed various measures for monitoring customers' accounts and transactions for complex or unusual transactions or unusual patterns of transactions. There was no indication that the non-bank financial institutions conducted any systematic monitoring of customers' transactions.

Special Attention to transactions from some Countries, Recommendations (c. 21.1-3):

479. Financial Institutions in the Solomon Islands are specifically required to pay special attention to countries not or insufficiently applying the FATF recommendations in the process of customer

identification. Section 12 (4) a) of the MLPCA provides that "…[i]n determining what constitutes reasonable measures for the purpose of subsection (1) or (3), regard shall be had to all the circumstances of the case, and in particular as - (a) to whether the applicant is a person based or incorporated in a country, in which there are in force provisions applicable to it to prevent the use of the financial system for the purpose of money laundering".

480. However, there is no obligation to examine transactions with no apparent or visible lawful purpose from such jurisdictions, nor does the current legal regime provide for the application of counter-measures regarding countries which are known not to apply the FATF recommendations. Additionally, there is some concern that the resource constraints of the supervisors do not allow effective supervision of the obligations.

481. Under the amendment bill to the MLPCA currently tabled, section 12J (2) will require reporting institutions to pay special attention to: "(a) to any business relation or transaction with any person in another country that does not have any adequate system or law in place to prevent or deter money laundering or the financing of terrorism".

Analysis of Effectiveness

482. The absence of clear requirements in the MLPC Act for financial institutions to monitor customers' transactions is inconsistent with the international standards.

483. Banks interviewed indicated that they did monitor their customers' transactions as part of their business practice. As at the date of the on-site mission, the FIU had received a total of 102 suspicious transactions. All of these suspicious transactions were reported by the banks. A number of these STRs have resulted in open investigations by the Police for money laundering and other predicate offences. This indicates that banks to some extent had effective monitoring measures in place.

484. Based on discussion with the non-bank financial institutions, there was no indication that this sector had monitoring measures in place. This may also explain the fact that the FIU has not received a suspicious transaction report from the non-bank financial institutions since the STR requirements came into force in 2006.

3.6.2. Recommendations and Comments

485. In order to achieve compliance with the international standards and effective AML/CFT measures, the authorities should:

- Require that financial institutions pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose.[32]

[32] Section 4(12I)(2), Money Laundering and Proceeds of Crime (Amendment) Act, 2010 introduces provisions for monitoring of transactions and business relationships.

- Require that financial institutions to examine as far as possible the background and purpose of any such unusual transactions; to document their findings and to keep these findings available for competent authorities.
- Establish means to inform financial institutions of concerns about weaknesses in the AML/CFT systems of other countries and to enact countermeasures against such countries.

3.6.3. Compliance with Recommendations 11 & 21

	Rating	Summary of factors underlying rating
R.11	**NC**	• Financial institutions are not required to pay special attention all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. • Financial institutions are also not required to examine as far as possible the background and purpose of any such transaction, to document their findings and to keep these findings available for competent authorities. • Other than the banks, there is no implementation of monitoring measures in the non-bank financial sector.
R.21	**PC**	• No requirement to inspect transactions without visible purpose, no means to inform or establish counter-measures.

3.7. Suspicious Transaction Reports and Other Reporting (R.13-14, 19, 25 & SR.IV)

3.7.1. Description and Analysis[33]

486. Legal Framework: The Money Laundering and Proceeds of Crime Act (MLPCA) section 14 (Financial institutions and cash dealers to report suspicious transactions) states that: (1) whenever a financial institution or cash dealer is a party to a transaction and has reasonable grounds to suspect that information that it has concerning the transaction may be relevant to the investigation or prosecution of a person for a serious offence, it shall as soon as possible but not later than three working days after forming that suspicion and whenever possible before the transaction is carried out- (a) take reasonable measures to ascertain the purpose of the transaction, the origin and ultimate destination of the funds involved, and the identity and address of any ultimate beneficiary; (b) prepare a report of the transaction in accordance with subsection (2); and (c) communicate the information contained therein to the Commission in writing or in such other form as the Minister of Finance may from time to time approve. (2) A report required by subsection (1) shall - (a) contain particulars of the matters specified in subsection (1) (a) and in section 12(1); (b) contain a statement of the grounds on which the financial institution or cash dealer holds the suspicion; and (c) be signed or otherwise authenticated by the financial institution or cash dealer. (3) A financial institution or a cash dealer

[33] The description of the system for reporting suspicious transactions in section 3.7 is integrally linked with the description of the FIU in section 2.5 and the two texts need not be duplicative. Ideally, the topic should be comprehensively described and analyzed in one of the two sections, and referenced or summarized in the other.

which has reported a suspicious transaction in accordance with this Part shall, if requested to do so by the Commission, give such further information as it has in relation to the transaction.

487. The Money Laundering and Proceeds of Crime Act (MLPCA) gave the FIU functions to the AMLC. Section 11(2)(a-b) of the MLPCA provides that the AMLC - shall receive reports of suspicious transactions issued by financial institutions and cash dealers; and, shall send any such report to the appropriate law enforcement authorities, if having considered the report, the AMLC also has reasonable grounds to suspect that the transaction is suspicious. The Money Laundering and Proceeds of Crime Amendment Act (MLPCAA), was enacted in 2004 establishing the Solomon Islands Financial Intelligence Unit within the Central Bank for the purposes of assisting the AMLC in the performance of its functions. The MLPCAA 2004 gave the AMLC the power to delegate to the Financial Intelligence Unit any or all the functions the Commission is required to perform under the MLPCA. The AMLC issued an instrument delegating powers to the FIU on April 3, 2006.

Requirement to Make STRs on ML and TF to FIU (c. 13.1 & IV.1):

488. The MLPCA requires an STR to be filed to the AMLC (and by legal instrument the FIU as described above,) by a financial institution or cash dealer, when that entity has reasonable grounds to suspect that information that it has concerning the transaction may be relevant to the investigation or prosecution of a person for a serious offence, it shall as soon as possible but not later than three working days after forming that suspicion and whenever possible before the transaction is carried out- (a) take reasonable measures to ascertain the purpose of the transaction, the origin and ultimate destination of the funds involved, and the identity and address of any ultimate beneficiary; (b) prepare a report of the transaction in accordance with subsection (2); and (c) communicate the information contained therein to the Commission (FIU) in writing or in such other form as the Minister of Finance may from time to time approve. Serious offense includes money-laundering and its predicate offenses, and terrorism financing. Therefore, financial institutions are required by law to report to the FIU a STR when it has reasonable grounds to suspect that funds are related to a serious criminal offense which includes terrorism financing.

STRs Related to Terrorism and its Financing (c. 13.2):

489. The MLPCA obligates financial institutions and cash dealers to report STRs when they have reasonable grounds to suspect that information that it has concerning the transaction may be relevant to the investigation or prosecution of a person for a serious offence. Terrorism financing is classified as serious offense; therefore the aforementioned are obligated to file an STR.

No Reporting Threshold for STRs (c. 13.3):

490. The obligation to file an STR hinges on grounds of suspicion alone and is not limited by any thresholds. . The MLPCA does not specifically require financial institutions to report "attempted" transactions; however, the SIFIU advises the financial institutions to report attempted transactions. In practice financial institutions report attempted transactions and one such reporting of an attempted transaction, reported to the FIU, lead to the successful prosecution of a predicate offense

Making of ML and TF STRs Regardless of Possible Involvement of Tax Matters (c. 13.4, c. IV.2):

491. As tax evasion is a predicate offense in the Solomon Islands, there is no exception for the STR reporting obligation based on tax matters.

Additional Element - Reporting of All Criminal Acts (c. 13.5):

492. All predicate offenses for money laundering are considered serious offenses; therefore, in accordance with Section 14 of the MLPCA, financial institutions and cash dealers are required to file STRs with the FIU when they have reasonable grounds to suspect that information that it has concerning the transaction may be relevant to the investigation or prosecution of a person for a serious offence.

Protection for Making STRs (c. 14.1):

493. Section 24 of the MLPCA states that "no action, suit or other proceedings shall lie against any financial institution or cash dealer, or any officer, employee or other representative of the institution acting in the ordinary course of the person's employment or representation, in relation to any action taken in good faith by that institution or person pursuant to section 14(1)" (the STR reporting obligation)) of the Act. "No suit … shall lie …" is understood by the Attorney General of the Solomon Islands and the assessment team as affirmatively stating that no legal course of action can be brought, no matter what legal construction it might arise from, against employees (etc.) of obligated entities relating to "… any action taken in good faith by that institution or person pursuant to …" its reporting obligations. As managers and directors are also employed by the institutions in question, this is affirmatively understood to include directors and managers. Whether or not the reporting entity was certain of an underlying criminal action when making its report is therefore also immaterial, as all the protecting clause requires is that the report was made in good faith.

Prohibition Against Tipping-Off (c. 14.2):

494. Section 18 (5) of the MLPCA states any person who discloses to another person any information of a report being prepared under section 14 or other information or matter likely to prejudice any investigation of an offence or possible offence of money laundering shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one month. This level of sanction is comparable to other offences of similar level of seriousness in the Solomon Islands. The SI is currently in the process of reforming its penalty system across the board and these reforms will extend to this offence automatically bringing its level of sanction to the same level attached to comparable offences.

Additional Element—Confidentiality of Reporting Staff (c. 14.3):

495. There are no such provisions within the MLPCA, but the Official Secrets Act would prevent government officials from disclosing such information.

Consideration of Reporting of Currency Transactions Above a Threshold (c. 19.1):

496. The Solomon Islands are currently working on a Currency Transaction Reporting Bill.

Additional Element—Computerized Database for Currency Transactions Above a Threshold and Access by Competent Authorities (c. 19.2):

497. There does not appear to be a plan currently in place to establish a computerized database for Currency Transaction Reports once the CTR Bill has been passed and implemented. The current budgetary and IT restraints makes it difficult for the SIFIU to procure the necessary hardware/software to manage a CTR regime.

Additional Element—Proper Use of Reports of Currency Transactions Above a Threshold (c. 19.3):

498. There is no active CTR regime in the Solomon Islands. There are no reports of currency transactions above a threshold.

Guidelines for Financial Institutions with respect to STR and other reporting (c. 25.1) [Note: guidelines with respect other aspects of compliance are analyzed in Section 3.10]:

499. The FIU has distributed the *Guidelines for Financial Institutions* and *& Cash Dealers* to financial institutions and cash dealers in December 2008. This publication is sixty-five (65) pages and describes in detail reporting entities obligations and instructions on reporting. The commercial banks interviewed commented that the guidelines provided by eth SIFIU were too nonspecific and that interaction between them and the SIFIU for additional follow-up too infrequent.

Feedback to Financial Institutions with respect to STR and other reporting (c. 25.2):

500. The commercial banks interviewed indicated that there was no feedback provided by the SIFIU concerning submission of STRs.

Statistics (R.32):

Statistics from the SIFIU

Suspicious Transaction Received from Commercial Banks (2005-2009)

2005	2006	2007	2008	2009
5	47	11	23	64

Referral to Law Enforcement (RSIPF)

2005	2006	2007	2008	2009
0	9	3	7	3

Referrals that resulted in Major Investigations

2005	2006	2007	2008	2009
0	0	1	3	3

501. Further analysis of effectiveness reveals that the STR reporting regime is operational as far as the banking sector is concerned. While there is no express legal obligation to actively monitor for suspicious or unusual transactions in law, regulation or other enforceable means, resulting in a rating of NC for Recommendation 11, as a matter of fact all of the three banks operating in the Solomon Islands do possess relatively sophisticated transaction monitoring systems as they are branches or subsidiaries of larger foreign banks which have implemented more stringent group-wide compliance measures. As such, the banks do monitor their business for unusual or suspicious transactions and file STRs as appears warranted. Such STRs have been disseminated by SIFIU and resulted in investigations and a conviction. Therefore, as far as the banking sector is concerned, the STR reporting regime in the Solomon Islands appears to be fully operational.

502. The regime is deficient in terms of effectiveness in that outside of the banking sector, STR reporting is effectively non-existent. The assessment team is of the opinion that in the context of the Solomon Islands' shallow and highly concentrated financial market, this does not call for a further downgrade of the rating with respect to Recommendation 13. The little money flow there is in the Solomon Islands passes nearly entirely through the banks, including foreign exchange. The credit unions are generally established by small farmers' cooperatives, often in outlying islands. The remaining financial sector is vanishingly small even by Solomon Islands' standards.

3.7.2. Recommendations and Comments

503. The STR regime implemented in the Solomon Islands is operational. However, considering the presence of corruption, tax offenses and other economic crimes, the level of STR reporting could be slightly improved. Also, the FIU has never received an STR from a Cash Dealer. This result suggests that there is non-compliance in this sector. The FIU should initiate a strategy to address this issue.

504. Many reporting entities complained about the complexity of the current STR reporting form issued by the FIU. These obligors stated that the four (4) page form was too cumbersome and not user-friendly. The authorities should consider streamlining the current reporting form and consult with obligors during the reformation process.

505. The sanction for tipping off seems somewhat benign – one thousand dollar fine and no more than one month in prison. The authorities should consider increasing the sanction. However, the current penalty is not currently considered to be deficient in the light of the standard of living in Solomon Islands (2008 estimate of GDP per capita is 9,903 SBD) and comparison to other serious offences in the jusridiction.

506. As discussed in Section 2.5, the MLPCA mandates that financial institutions and cash dealers should report STRs to the FIU if they have reasonable grounds to suspect that information that it has concerning the transaction may be relevant to the investigation or prosecution of a person for a serious offence. This formula is too restrictive and places a burden on financial institutions and cash dealers to determine what is pertinent to an investigation or prosecution. Typically most financial institutions and cash dealers do not have the capacity to make such determinations. The authorities should consider less restrictive language and not burden financial institutions and cash dealers with determining if a transaction is relevant to an investigation or prosecution.

507. In determining the rating for Recommendation 13 and SR. IV, the assessors gave weight to the technical deficiencies identified in the scope of reporting and the shortcomings in the degree of effectiveness. The weight given to these identified weaknesses was influenced by four factors: the low level of risk of ML and TF, the resource and capacity constraints recognized by the team, the actual significant commitment of resources to AML/CFT that was observed by the assessment team and the concrete results achieved in the form of money laundering conviction and investigation emanating directly from STRs.

508.

3.7.3. Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2), and Special Recommendation IV

	Rating	Summary of factors underlying rating
R.13	**LC**	• **Lack of compliance by Cash Dealer Sector** • **Lack of specific legislation requiring the reporting of attempted transactions** • **The deficiencies identified in relation to the scope of the predicate offence under R. 1 also affect the scope of the reporting obligation.**
R.14	**C**	
R.19	**C**	
R.25	**LC**	• **Little applicable guidance to the non-banking sector.**
SR.IV	**LC**	• **Lack of implementation outside banking sector**

Internal controls and other measures

3.8. Internal Controls, Compliance, Audit and Foreign Branches (R.15 & 22)

3.8.1. Description and Analysis

509. Legal Framework: There is currently no requirement in law, regulation or OEM for financial institutions to establish and maintain internal procedures, policies and controls to prevent ML and FT beyond the establishment of a MLRO and a requirement for employee training in AML/CFT issues.

510. Guidance issued by the FIU, however, provides that reporting institutions “are required to have in place adequate policies, practices and procedures that promote high ethical and professional standards and prevent the institution from being used, intentionally or unintentionally, by criminal elements”. Moreover, the MLPCA Bill provides that a“… financial institution or cash dealer shall establish and maintain internal reporting procedures to (a) take appropriate measures for the purpose of making employees aware of the laws of Solomon Islands relating to money laundering, and related policies established and maintained by it pursuant to this Act”.

Internal policies and controls/screening, training, audit R.15.1-4):

511. According to section 15a) of the MLPCA, financial institutions and cash dealers are required to appoint an officer who is in charge of STR reporting. However, in practice only the commercial banks had done so. Other entities did not seem to be aware of this obligation and there was no supervision or enforcement in this regard.

512. There is currently no requirement in law, regulation or OEM regarding an internal audit function. However, according to guidance issued by it, “the SIFIU expects that a reporting institution’s compliance function should provide an independent evaluation of the institution’s own policies and procedures, including legal and regulatory requirements. Its responsibilities should include ongoing monitoring of staff performance through sample testing of compliance and review of exception reports to alert senior management or the Board of Directors, if it believes management is failing to address KYC procedures in a responsible manner. Internal audit plays an important role in independently evaluating the risk management and controls, through periodic evaluations of the effectiveness of compliance with KYC policies and procedures, including related staff training”. I

513. According to section 16 b) of the MLPCA, every financial institution and cash dealer must “…provide its employees with appropriate training in the recognition and handling of money laundering transactions.”. The commercial banks indicated that they had sent an employee or employees to the training session held by SIFIU when the latter issued its guidance paper – there did not seem to be training beyond this basic step, nor was employee training emphasized vis-à-vis other obligated entities.

514. While there is currently no obligation or guidance to maintain ongoing training of their employees, the current MLPCA Bill provides in section 16: “A financial institution or cash dealer shall establish and maintain internal reporting procedures to … (b) provide its employees with appropriate training in the recognition and handling of money laundering transactions”.

515. There is not currently an enforceable requirement for financial institutions to put in place screening procedures regarding their employees. However, even now the Guidelines for Financial Institutions require that reporting institutions "… must put in place screening procedures to ensure high standards when hiring employees and to prevent the employment of persons convicted of offences involving fraud and dishonesty. According to this unenforceable guidance, employee screening procedures must ensure that:

- employees have the high level of competence necessary for performing their duties;
- employees have appropriate ability and integrity to conduct the business activities of the reporting institution;
- potential conflicts of interests are taken into account, including the reporting background of the employee;
- fit and proper and code of conduct requirements are defined;
- persons charged or convicted of offences involving fraud, dishonesty or other similar offences are not employed by the reporting institutions".

516. Given the degree of scrutiny required to ensure that only sufficiently educated staff are hired and the potential for conflicts of interest presented by the Wantok system of obligations, all private sector representatives met during the on-site visit indicated that they did indeed have stringent screening procedures in place.

517. While not required, the current structure with commercial banks is that the compliance officer of the Solomon Islands subsidiary is a management level officer and reports to the top level management in the Solomon Islands, often with a separate, parallel reporting line to the foreign bank's head of group compliance. Other financial institutions did not regularly have a dedicated compliance officer. Thus, to the degree that the function of the compliance officer was exercised, it was exercised by management itself.

Application to branches and subsidiaries R.22.1-2

518. There are no requirements in law, regulation or other enforceable means requiring foreign branches and subsidiaries of financial institutions based in the Solomon Islands to observe AML/CFT measures consistent with home country requirements. The Solomon Islands do not have any locally based, internationally active financial institutions. This is not expected to change within the next couple of years.

Additional Element—Consistency of CDD Measures at Group Level (c. 22.3): As there are no internationally active institutions, this does not apply.

Analysis of Effectiveness

519. The identified weaknesses in the MLPC Act in addressing internal control measures result in a deficiency regarding Recommendation 15. In addition, outside of the banking sector effective implementation of an STR reporting system is lacking.

520. However, banks as the major financial institutions in Solomon Islands were quite aware of their legal obligations and generally went even beyond them based upon the strong guidance issued by SIFIU and the requirements of their foreign parent companies.

521. When analyzing the situation of the Solomon Islands, it appears that the definitions for ratings of “Non-Compliant” and “Partially Compliant” are not, on their face, mutually exclusive: The Solomon Islands have taken some substantive action while retaining major shortcomings. In this context it appears necessary to decide whether the substantive actions taken seem to outweigh the remaining, if major, shortcomings to justify a rating of Partially Compliant. In the view of the assessment team, this is the case in the Solomon Islands. While many of the requirements which should be in law, regulation or OEM under the Methodology are only present in non-enforceable form, the banking sector as the lion’s share of the Solomon Islands’ financial market does comply with most of these requirements. Based on an analysis of risk and to what areas of the overall AML/CFT system the country should devote further resources to, the higher rating was deemed to be justified.

522. Moreover, as a result of guidance issued by a competent authority (backed up in no small part by group-wide requirements of foreign parent companies), the banks do effectively comply with most of the requirements Recommendation 15 seeks to have imposed upon them. As very little money moves around the Solomon Islands outside of the banking sector and there is thus effective compliance regarding the spectrum of the market representing the largest share of the market by volume as well as most of the risk, the assessment team deemed the higher rating of PC appropriate.

3.8.2. Recommendations and Comments

523. In order to achieve compliance with the international standards and effective AML/CFT measures, the authorities should:

- Explicitly require under the law for financial institutions to establish and maintain internal AML/CFT procedures, policies and controls relating to the prevent money laundering and terrorist financing. These should, amongst other things, cover issues on CDD, record retention and detection of suspicious transactions.

- Require financial institutions to maintain adequately resourced and independent audit functions to test their compliance with AML/CFT requirements and to adopt employee screening procedures.

524. The Solomon Islands do not have any locally based, internationally active financial institutions. This is not expected to change within the next couple of years. Not addressing possible foreign branches of future domestic financial institutions does not appear to be a significant weakness of the financial system at this point in time.

3.8.3. Compliance with Recommendations 15 & 22

	Rating	Summary of factors underlying rating
R.15	**PC**	• There are no binding requirements for financial institutions to establish and maintain internal AML/CFT procedures, policies and controls relating to CDD, record retention, detection of suspicious transactions and other related measures. • There are no requirements for financial institutions to maintain adequately resourced and independent audit functions to test their compliance

		with AML/CFT requirements or to adopt employee screening procedures. • No implementation of these measures in the non-bank financial sector, and implementation in the banking sector is not sufficient.
R.22	**N/A**	• All banks in Solomon Islands are themselves subsidiaries of foreign banks. There are no local financial institutions with foreign subsidiaries, nor is this likely to change within the next couple of years.

3.9. Shell Banks (R.18)

3.9.1. Description and Analysis

525. According to section 5 (5) of the Financial Institutions Act, in "… considering an application, the Central Bank shall have regard to … the need for and the viability of the financial institution proposed, its ownership spread, the financial capacity, history and qualifications of the applicant, promoters, substantial shareholders and management, their character and experience, the proposed financial institution's accounting, risk management and internal control systems, the adequacy and the structure of its capital and the business activities it intends to undertake". In addition, section 5 (6) requires that where "…the applicant is a foreign financial institution, the Central Bank shall in addition to the matters specified in subsection (5) have regard to-

(a) the institution's international reputation;
(b) the ownership spread of the institution or of its holding company;
(c) the relevant law and regulatory requirement relating to the licensing and supervision of financial institutions in its country of incorporation;
and shall require- (i) written information from the supervisory authority in the applicant's country of incorporation that the supervisory authority has no objection to the proposal to carry on banking business in Solomon Islands …".

526. This framework creates ample opportunity for the Central Bank to satisfy itself that an institution is not a shell bank. The Central Bank has never issued a license to a shell bank. In addition, the Central Bank has proven vigilant regarding entry into the financial sector of the Solomon Islands, for example by recognizing the proposed "financing" (lending, though without deposit taking) business of an applicant as "other banking business" under section 2 (1), lit. b) of the definition. The Solomon Islands therefore do not approve the establishment of shell banks. As such shell banks have not existed in the Solomon Islands, and there is therefore no issue of continuing operation of existing shell banks.

527. While correspondent banking with shell banks is not currently ruled out by enforceable means, the Guidelines issued by SIFIU establish that "… banks should refuse to enter into or continue a correspondent banking relationship with a bank incorporated in a country in which it has no physical presence and which is unaffiliated with a regulated financial group (i.e. shell banks). Furthermore, banks should not open correspondent accounts with banks that deal with shell banks. Banks should pay particular attention when continuing relationships with respondent banks located in jurisdictions that have poor KYC standards or have been identified as being "non-cooperative" in the fight against money laundering. Banks should establish that their respondent banks have due diligence standards consistent with the principles outlined in this guideline and employ enhanced due diligence procedures with respect to transactions carried out through the correspondent accounts. As

far as effectiveness is concerned, all banks active in the Solomon Islands were visited by the inspection team, none of them had any correspondent banking relationships. Therefore, little weight was accorded to this deficiency.

3.9.2. Recommendations and Comments

528. The Solomon Islands should explicitly outlaw the operation of correspondent banking relationships with shell banks and require that those Financial Institutions which may at some point in the future enter into correspondent banking relationships satisfy themselves that their correspondent banks do not allow shell banks to make use of their accounts.

3.9.3. Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
R.18	**LC**	**Correspondent banking relationships with shell banks are not prohibited by enforceable means.**

Regulation, supervision, guidance, monitoring and sanctions

3.10. The Supervisory and Oversight System—Competent Authorities and SROs. Role, Functions, Duties, and Powers (Including Sanctions) (R. 23, 29, 17 & 25)

3.10.1. Description and Analysis

529. Legal Framework: According to section 4 (d) of the Central Bank Act, one of the functions of the Central Bank of the Solomon Islands is "to supervise and regulate banking business".

530. According to section 2(1) of the FIA, "banking business" is essentially defined as the business of deposit taking and lending, "or any related activity which the Central Bank may consider appropriate". Lending, financial leasing and factoring were businesses which the Central Bank's Financial Markets Supervision Department indicated were regarded as such "related activity". The Central Bank could point to a recent case in which a financing company from outside of the Solomon Islands had wanted to register as a commercial company without license from the Central Bank but had been told that it would require a license for banking business and had then decided not to proceed with the venture. The Credit Corporation of PNG is currently the only financial institution carrying out banking business without a license for deposit taking, which makes it a "credit institution" (rather than a bank) under the FIA.

531. Issuing and managing means of payment, money or value transfer are all limited to entities specifically licensed for these businesses through the Central Bank by virtue of sections 3 to 6 of the Exchange Control Regulation. Only the commercial banks operating in SI, Western Union and the post have been so licensed by CBSI. Currency exchange is also limited to "authorized dealers" (authorized by the CBSI), outside of the commercial banks there are currently five such money exchangers (mostly the larger hotels in Honiara), with a sixth about to be licensed. These entities are also supervised by the CBSI, according to sections 20 and 21 of the Foreign Exchange Control Regulation.

532. The governor of the Central Bank also serves as the Registrar of Credit Unions, whose role is to supervise Credit Unions by virtue of section 50 of the Credit Union Act.

533. The Solomon Islands do not have an organized securities market. While some corporations limited by shares (section 3(2)a) of the Companies Act) may sell their shares, they would do so over-the-counter only. This exchange of shares is not supervised in any form. Trading of shares does not appear to be a common occurrence. There does not appear to be an investment business outside of the commercial banks, as the CBSI would consider such to be "banking business".

534. The insurance business is regulated by virtue of the Insurance Act. The Governor of the Central Bank has been appointed as Controller of Insurance in accordance with section 3 of the Insurance Act. Section 11 of the MLPCA establishes the Anti-Money-Laundering Committee (AMLC) and gives it a broad range of inspection and supervisory powers. According to section 11A of that act (as amended), the AMLC can delegate these powers and functions to the FIU, which it has done through the Articles of Delegation, a process described in more detail in section 2.5.1 of this report.

Competent authorities - powers and resources: Designation of Competent Authority (c. 23.2); Power for Supervisors to Monitor AML/CFT Requirement (c. 29.1); Authority to conduct AML/CFT Inspections by Supervisors (c. 29.2); Power for Supervisors to Compel Production of Records (c. 29.3 & 29.3.1); Adequacy of Resources – Supervisory Authorities (R.30)

535. Supervision of the Solomon Islands financial sector is shared between the Central Bank of the Solomon Islands (CBSI) and the Solomon Islands Financial Intelligence Unit (SIFIU). Inside CBSI, the Financial Markets Supervision Department (FSMD) is in charge of financial market oversight and supervises banks and financing companies, though not wire transfer services. FMSD is mandated with the primary responsibilities of licensing, regulating and supervision of financial institutions in the Solomon Islands under the FIA and the Central Bank Act 1982. It undertakes the prudential supervision of the financial services industry to ensure a sound financial structure. The Department also administers the Office of the Registrar of Credit Unions and the Office of the Controller of Insurance, tasked with monitoring compliance with the Credit Union Act and the Insurance Act, respectively (the Governor of the Central Bank is also the "Controller of Insurance" and the "Registrar of Credit Unions").

536. Under the MLPCA, the office which the law initially envisioned to receive STRs and empowered to supervise compliance with AML/CFT obligations is the Anti-Money-Laundering Commission (AMLC). This commission, chaired by the Attorney General, is now serving as a regularly meeting high-level policy-making, implementation and coordination body. It has delegated its functions relating to STRs and supervision to SIFIU in line with Art. 11A of the MLPCA and the Articles of Delegation (see section 2.5.1 of this report). While the MLPCA does not explicitly charge AMLC or SIFIU with the supervision of compliance with obligations the law entails, it does grant AMLC and, by delegation, SIFIU supervisory powers. It is the AMLC which has charged SIFIU with fulfilling a supervisory role in this regard. In so doing, the Solomon Islands have designated SIFIU as the competent authority for ensuring compliance of local financial institutions and DNFBPs (to the degree that they are covered by the MLPCA's obligations, see section 4.1.1 of this report) with their AML/CFT obligations under the MLPCA.

537. SIFIU is legally empowered to monitor and ensure compliance with their obligations by the obligated entities, through the powers granted to it by virtue of the MLPCA and the Articles of Delegation (2.5.1 of the report) and charged with carrying out this duty by the AMLC.

538. In particular, it is given the authority to conduct inspections of financial institutions, including onsite inspections, by virtue of the AMLC's delegation of its power under section 11(2)c) of the MLPCA, which provides that it "may enter the premises of any financial institution or cash dealer during ordinary business hours to inspect any record kept pursuant to section 14(1), and ask any question relating to such record, make notes and take copies of the whole or any part of the record". Section 14(1) of the MLPCA refers to records kept in relation to STRs[34].

539. The inspection of customer data unrelated to suspicious transaction reporting falls into the responsibility of the CBSI' FMSD team. The power to conduct on-site inspections is derived from section 11 of the Financial Institutions Act, which provides: "(1) The Central Bank may, under conditions of confidentiality, initiate on-site examinations of the accounts and affairs of any licensed financial institution and any of its branches, agencies or offices. Such examinations may be conducted by Central Bank officers or by other persons designated as examiners by the Central Bank, (hereinafter referred to as "examiners".) (2) A licensed financial institution under examination shall make available for the inspection of the examiners all cash and securities of the institution and all accounts, books, vouchers, minutes and any documents or records that are relevant to its business as may be required, within the time specified by the examiners. (3) The examiners may make copies of and take away for further scrutiny, any papers or electronically stored data they require."

540. The FIA does not relate to insurance companies. The Insurance Act gives the power of oversight to the Controller of Insurance, but expressly limits these powers to prudential issues. Given the extremely small insurance sector in the Solomon Islands, very little weight was accorded to this deficiency.

541. In practice, SIFIU and FMSD work around their segregated responsibilities by conducting joint inspections, thereby utilizing their ability to work with others in the exercise of their inspection powers conferred by section 11(2)h) MLPCA and section 11(1) FIA, respectively. Between both supervisors, they are empowered to access all documents or information related to accounts or other business relationships, or transactions, including any analysis a financial institution may have made to detect unusual or suspicious transactions. These powers can be exercised independent of a court order.

542. The on-site inspections conducted by the joint FMSD/SIFIU team examined the institutions' policies, procedures, books and records. Sample testing is a standard component of these on-site inspections.

543. FMSD staff comprises 2 senior supervisors, 4 supervisory staff and 1 support staff. The law does not confer a supervisory role in AML/CFT matters on CBSI/FMSD as such. However, as Art. 21

[34] It appears that the Money Laundering Act as amended on 15 April 2010 limits SIFIU's inspection powers in that section 11 H (2) d) in connection with section 11 K requires consent or a court warrant, though SIFIU remains able to demand production of records (section 13 C),

of the (prudentially oriented) FIA includes extensive CDD requirements and FMSD regularly checks banks' compliance with this, FMSD does fulfill a role in AML/CFT supervision. In addition, SIFIU leverages heavily off the on-site inspection teams of FMSD, which do on-site inspections of the banks in the Solomon Islands on a two-year cycle.

544. SIFIU currently has three staff, one of which is seconded from the Royal Solomon Islands Police Force (RSIPF). The head of the SIFIU has accompanied the on-site inspections of banks carried out by FMSD to conduct joint inspections, allowing him to leverage off the prudential team's manpower and expertise, particularly in regard to CDD/KYC issues (Art. 21 FIA). While SIFIU, and to a degree FMSD, have taken significant steps in addressing AML/CFT compliance issues, SIFIU is understaffed, particularly as the secondee from RSIPF was only partially available. This has meant that, for example, no supervisory visits were conducted vis-à-vis insurance companies or any other businesses outside of the commercial banks. There is also anecdotal evidence that a member of SIFIU was unable to conduct an on-site inspection of a casino, because the latter was unaware of the SIFIU's legal powers. While the resources committed to the establishment and operation of SIFIU were commendable in light of the general resource constraints of the Solomon Islands, turning it into a fully operational authority will require at least one additional full time staff member.

Sanctions: Powers of Enforcement & Sanction (c. 29.4); Availability of Effective, Proportionate & Dissuasive Sanctions (c. 17.1); Designation of Authority to Impose Sanctions (c. 17.2); Ability to Sanction Directors & Senior Management of Financial Institutions (c. 17.3): Range of Sanctions—Scope and Proportionality (c. 17.4)

545. Both SIFIU and CBSI's FMSD are given sanctioning powers. FMSD's sanctioning powers derive from section 17(2) of the Financial Institutions Act (FIA). While the FIA's focus is nearly exclusively that of prudential supervision, section 17(1)b) of the FIA yields two prongs for enforcement measures. Its subsection of lit. ii) deals with solely prudential considerations, whereas lit. i) allows it to employ the sanctioning powers under sub (2) when a licensed financial institution "is carrying on its business in a manner that is detrimental *to the interests of* its depositors, creditors or *the public*" [emphasis added]. The Solomon Islands government has been very active in communicating to the public that it considers money laundering detrimental to the public interest. The sanctioning powers FMSD can employ in such instances are enumerated in section 17(2) FIA as:

> "(a) to direct the licensed financial institution to take whatever action in relation to its business as the
> Central Bank may specify;
> (b) to appoint a qualified person to advise the licensed financial institution on the proper conduct of its bus*iness;*
> *(c) to direc*t the licensed financial inst*itution to* pay such remuneration to a person appointed under paragraph (b) of this subsection, as may be fixed by the Central Bank;
> (d) to revoke the licensed financial institution's licence; or
> (e) to present a Petition to the Court for the winding up of the licensed financial institution.

546. The FIA, in section 20, also offers the possibility of criminal sanctions to both employees and management of a financial institution in certain cases of misconduct:

> "20. Any director, officer, employee, former officer or former employee of a licensed financial institution or of the EDP Servicer of that licensed financial institution, who-
> (a) with intent to deceive -

(i) makes or provides any false or misleading statement, report, return, document or information;
(ii) makes or provides any false or misleading entry in any book or record;
(iii) omits an entry or alters or conceals an entry in any book or record;
(iv) conceals or destroys any information, book, voucher, record, report, return, minutes or document, relating to the accounts, transactions, affairs or business of the financial institution; or
(b) obstructs or endeavours to obstruct-
(i) the proper performance by an external auditor of his duties;
(ii) an on-site examination of the licensed financial institution (or any branch, agency, office, subsidiary or affiliate of that institution) by an examiner appointed by the Central Bank; or
(iii) the proper performance by an advisor or Court Appointed Manager of his duties, commits an offence and shall be liable, on conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment."

547. These actions or inactions would be noticed by the supervisory authorities but prosecuted through the Department of the Public Prosecutor.

548. However, FMSD's sanctioning powers are limited to the banks under its supervision.

549. In addition to the sanctioning regime provided to CBSI's FMSD, SIFIU can apply for a court order to enforce compliance with specific obligations of the MLPCA, which are themselves enforceable by way of financial penalties:

550. "22. (1) The Commission or any police officer may, upon application to the Court, after satisfying the Court that a financial institution or cash dealer has failed to comply with any obligation provided for under sections 12, 13, 14, 15 or 16, obtain an order against all or any officers or employees of the institution or dealer in such terms as the Court deems necessary, in order to enforce compliance with such obligation.

551. (2) In granting the order pursuant to subsection (1), the Court may order that should the financial institution or cash dealer fail without reasonable excuse to comply with all or any provisions of the order, such institution, dealer, officer or employee shall pay a financial penalty in the sun [sic] and in the manner directed by the Court."

552. The term "officer" in both the FIA and MLPCA was indicated to be broadly construed so as to include both directors and senior management.

553. There is some concern that, vis-à-vis banks, there is a gap in the spectrum of available sanctions between the ability to direct particular actions and the revocation of an institution's license, particularly as the only way to impose financial sanctions is predicated on first acquiring a court order and then proving a failure to comply with said order.

554. More importantly, for entities not covered by the Financial Institutions Act, all sanctions under the MLPCA require that a court order is first secured, which in and of itself has no sanctioning effect – such an effect can only be brought about if a court order is issued and SIFIU can later prove that it has been violated. The insurance act offers sanctions in its section 73 which deal exclusively with prudential issues and are limited to no more than 500 Solomon Islands dollars.

555. Therefore, while sanctions are available, for much of the financial sector these require a court order before anything can be done, and are not sufficiently dissuasive as only banks face the possibility of loss of license. So far, no sanctions have been imposed due to AML/CFT violations.

Market entry: Fit and Proper Criteria and Prevention of Criminals from Controlling Institutions (c. 23.3 & 23.3.1); Licensing or Registration of Value Transfer/Exchange Services (c. 23.5); Licensing of other Financial Institutions (c. 23.7):

556. In evaluating applications for a license, the FMSD, according to section 5(5) FIA, looks at "history and qualifications of the applicant, promoters, substantial shareholders and management, their character and experience…". In so doing, according to section 5(3) FIA, "[t]he Central Bank may conduct such investigations as it deems necessary in regard to such application". FMSD indicated that a criminal background check with the police is regularly conducted for each applicant in an application for a license.

557. Natural and legal persons providing a money or value transfer service, or a money or currency changing service, require a license according to sections 3 to 6 of the Foreign Exchange Control Regulation (LN 23/1977).

Ongoing supervision: Regulation and Supervision of Financial Institutions (c. 23.1); Application of Prudential Regulations to AML/CFT (c. 23.4); Monitoring and Supervision of Value Transfer/Exchange Services (c. 23.6); AML/CFT Supervision of other Financial Institutions (c. 23.7); Guidelines for Financial Institutions (c. 25.1):

558. CBSI's FMSD conducts supervision of prudential regulations that are also applicable for AML/CFT purposes. In particular, the extensive rules on CDD and record keeping in section 21 FIA and the scrutiny of an institution's structure and the fit and proper tests conducted on managers in connection with the licensing process according to section 5(5) FIA are utilized to promote the country's declared goal of combating money laundering and the financing of terrorism. In addition, the joint inspections conducted with SIFIU allowed the latter to leverage heavily off the prudential supervisor's resources to the benefit of AML/CFT supervision.

559. The on-site inspections conducted by the joint FMSD/SIFIU team examined the institutions' policies, procedures, books and records. Sample testing is a standard component of these on-site inspections.

560. FMSD staff comprises 2 senior supervisors, 4 supervisory staff and 1 support staff. The law does not confer a supervisory role in AML/CFT matters on CBSI/FMSD as such. However, as Art. 21 of the (prudentially oriented) FIA includes extensive CDD requirements and FMSD regularly checks banks' compliance with this, FMSD does fulfill a role in AML/CFT supervision. In addition, SIFIU leverages heavily off the on-site inspection teams of FMSD, which do on-site inspections of the banks in the Solomon Islands on a two-year cycle.

561. Value transfer and exchange services, as well as other financial activities, are limited to banks and licensed providers by virtue of the licensing regime under sections 3 to 6 of the Foreign Exchange Control Regulation (LN 23/1977) and CBSI's stance on "other activities" under section 2(1) FIA,

respectively. There did not appear to be an informal value transfer sector at work in the Solomon Islands, so that the regulations appeared to keep this sector in controlled formal channels.

562. SIFIU published the "Guidelines for Financial Institutions and Cash Dealers", which provide for a comprehensive set of guidelines regarding the implementation of financial institutions' AML/CFT obligations. However, these guidelines are largely aimed at banks, for which they serve quite well. Other financial services, in particular the DNFBP sector, profit only marginally from these guidelines.

563. On effectiveness, a functioning supervision system regarding AML/CFT compliance seems to exist for the banking sector, though it barely goes beyond this. The assessment team is of the opinion that in the context of the Solomon Islands' shallow and highly concentrated financial market, this does not call for a further downgrade of the rating with respect to Recommendation 23. The little money flow there is in the Solomon Islands passes nearly entirely through the banks, including foreign exchange. The credit unions are generally established by small farmers' cooperatives, often in outlying islands. The remaining financial sector is vanishingly small even by Solomon Islands' standards. The staff of CBSI has recognized this and focused its efforts on the banking sector based on their own risk analysis. The assessment team broadly agrees with their risk analysis.

564. While the resources devoted to AML/CFT supervision in the Solomon Islands are small in comparison to any more developed country, they are large when compared to the overall resource constraints of the Solomon Islands. Between the overall resource envelope and the fact that the Solomon Islands managed to establish a functioning system at least for the banking sector, devotion of further resources to this area does not appear to be called for at this point.

3.10.2. Recommendations and Comments

565. There have not been any on-site inspections for financial institutions other than banks, in particular the "credit institution" operating in the lending business[35].

- The supervisor in charge of AML/CFT compliance should have direct sanctioning powers without necessitating recourse to a court order. It should have the ability to enforce compliance by way of financial sanctions.

- SIFIU needs to provide specific guidance to other financial sectors.

- SIFIU needs to raise awareness of the AML/CFT obligations in the non-banking sector, as well as of its inspection powers, and assert the latter more forcefully.

- In order to further enhance the effectiveness of the system in the long term, the Solomon Islands may consider having the general supervisory authority on AML/CFT matters to be distinct from the FIU with its functions regarding STRs. This should allow one supervisory entity to have all

[35] On March 2010, CBSI conducted its first Insurance onsite after officers are properly trained and believe they acquire the capacity to conduct one and joined by SIFIU for AML compliance.

the requisite inspection and sanctioning powers regarding institutions carrying out Financial Activities. Such AML/CFT supervision should extend to all institutions carrying out Financial Activities, including insurance businesses, and include the ability to impose financial sanctions for non-compliance.

3.10.3. Compliance with Recommendations 17, 23, 25 & 29

	Rating	Summary of factors underlying rating
R.17	**PC**	**Significant sanctions require a court order. No middle ground on sanctions. For parts of the financial sector, not sufficiently dissuasive.**
R.23	**PC**	**Oversight of insurance companies limited to prudential matters.**
R.25	**LC**	**Little applicable guidance to the non-banking sector.**
R.29	**PC**	**Supervisors' powers split up in a way that makes enforcement difficult. Effectiveness issues due to resource constraints.**

3.11. Money or Value Transfer Services (SR.VI)

3.11.1. Description and Analysis (summary)

566. Legal Framework: According to sections 3 to 6 of the Foreign Exchange Control Regulation, money and value transmitter services are limited to businesses licensed by CBSI. CBSI is therefore the competent authority to register money and value transmitters.

567. CBSI has only licensed Western Union, the Solomon Post and commercial banks for these lines of business. For the commercial banks, remarks regarding banks' obligations in relation to Recommendations 4-11, 13-15, 21-23 and SRs I-IX apply equally here. The banks' operations vis-à-vis wire transfers fall under the same supervisory regime as the other business lines of the banks in question, including legal authority and resources. Their wire transfer operations are also supervised by CBSI's Financial Markets Supervision Department.

568. For Western Union and the Solomon Post, the unit in charge of licensing and supervision at CBSI is the International Department. This department runs a similar licensing regime as does FMSD. Again, the deficiencies vis-à-vis Recommendations 4-11, 13-15, 21-23 and SRs I-IX described in their respective sections of this report apply equally here.

569. While the commercial banks' wire transfer operations are effectively supervised as part of FMSD's general supervisory regime, the International Department does not currently have sufficient staff to carry out regular on-site inspections and has not carried out any on-site inspections so far. From a supervisory perspective, supervision of these wire transfer businesses is limited to the Central Bank's interest in the amount of currency in circulation and entering or leaving the country. There is no AML/CFT supervision beyond the initial fit and proper tests during licensing.

570. Both Western Union and the Solomon Post are obligated entities according to the MLPCA. While legally there is both a compliance requirement and a supervisory regime, due to resource constraints there is no supervision to ensure the compliance with these obligations.

571. The Central Bank has not licensed any agents for the commercial banks, Western Union or the Solomon Post – they operate their business exclusively through their branches.

572. The same sanctions are available for failure to comply with AML/CFT obligations in relation to wire transfers as are to any other banking operations.

3.11.2. Recommendations and Comments

573. The supervisor for non-bank money transfer services needs to be adequately resourced to carry out on-site inspections of MVT service providers and establish effective supervision of compliance with the sector's AML/CFT obligations.

3.11.3. Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR.VI	**PC**	**No supervision of non-bank MVT service providers. Same deficiencies in relation to the application of Recommendations 5, 6, 10, 11, 15 and SR VII.**

4. PREVENTIVE MEASURES—DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

4.1. Customer Due Diligence and Record-keeping (R.12)

4.1.1. Description and Analysis

574. Legal Framework: MLPC Act (2002) s.12 (Verification of Customer's Identity); s13 (Maintaining Customer Records)

575. Covered Businesses and Professions: The MLPC Act imposes AML/CFT obligations on "cash dealers" which is defined in section of the MLPC Act as including the following DNFBPs:

1. a person who carries on a business of dealing in bullion;
2. an operator of a casino.

576. The MLPC Act excludes from its coverage the following categories of DNFBPs which are required under the international standards:

1. Real estate agents;
2. Dealers in precious metals;
3. Lawyers, notaries, other independent legal professionals

4. Accountants;
5. Trust and Company Service Providers.[36]

577. The draft MLPCA Bill proposes to fill this gap by extending the AML/CFT requirements to DNFBP sectors that are required under the international standards and currently not being captured in the MLPC Act.

578. The MLPC Act does not differentiate between the DNFBPs and financial institutions in the manner in which the FATF Standards do. The MLPC Act refers to the two sectors of DNFBPs which it covers as "cash dealers" and applies to these two DNFBPs sectors all the AML/CFT measures which are applied to the "financial institutions."

CDD Measures for DNFBPs in Set Circumstances (Applying c. 5.1-5.18 in R. 5 to DNFBP) (c. 12.1):

579. The MLPC Act does not set a threshold for when CDD and other AML/CFT measures should apply for casinos and dealers in bullion as permitted under Recommendation 12. Thus the covered DNFBPs (casinos & dealers in bullion) are required to conduct CDD and other AML/CFT measures regardless of the value of financial transactions that customers engage in.

580. The MLPC Act applies all the CDD measures as described in section 3.2 of this Report to the DNFBPs. Weaknesses in the CDD requirements which were identified for financial institutions in section 3.2 of this Report also apply to the DNFBPs. Discussion with the representatives of the covered DNFBPs indicated that they did not undertake CDD of their clients.

CDD Measures for DNFBPs in Set Circumstances (Applying Criteria under R. 6 & 8-11 to DNFBP) (c.12.2):

581. As discussed in section 3 of this Report, there are no requirements under the MLPC Act or other regulations or enforceable means for AML/CFT measures for dealing with PEPs (Recommendation 6); misuse of technological development and non-face-to-face customers (Recommendation 8); reliance on third parties for CDD (Recommendation 9) and monitoring of transactions (Recommendation 11). DNFBPs are therefore not subject to any such provisions.

582. DNFBPs are also subject to the record keeping requirements that apply to financial institutions under section 13 of the MLPC Act.

Analysis of Effectiveness

583. The effectiveness of the AML/CFT measures within the DNFBP sector is limited due to the MLPC Act's limited coverage over this sector and its failure to capture other DNFBP sectors that

[36] The Money Laundering and Proceeds of Crime (Amendment) Act includes these sectors in its definition of "cash dealers", thus extending the AML/CFT measures to these sectors.

currently exist in the Solomon Islands which are required by the international standards to be subject to AML/CFT measures.

584. The MLPC Act does not adopt a threshold approach to implementation of the CDD requirements in the manner of Recommendation 12. Thus DNFBPs in particular the casinos and dealers in bullion are required to implement all the CDD requirements of the MLPC Act regardless of the value of financial or cash transaction involved. Such a blanket approach in imposing the CDD requirements on the DNFBPs may overwhelm the sector and also be difficult for authorities to enforce in view of the limited resources and capabilities of the regulatory authorities.

585. The CDD, record keeping and monitoring requirements under the current legislative framework falls short of the international standards (Recommendation 5,6, 8-11). Thus any efforts by the DNFBPs to implement the current regime will still be considered ineffective and not meet the international standards.

586. Based on discussion with the sector, there was no indication of implementation of AML/CFT measures in the covered DNFBPs. There is also no AML/CFT supervision of this sector to verify whether there was implementation of the CDD requirements in the MLPC Act.

4.1.2. Recommendations and Comments

587. In order to achieve compliance with the international standards and effective AML/CFT measures, the authorities should:

- Extend the coverage of the AML/CFT framework and measures to all DNFBPs that are required in the international standards such as the real estate agents, dealers in precious metals; lawyers, notaries, accountants and trust and company service providers.
- Adopt the threshold approach allowed for under Recommendation 12 when imposing the CDD obligations of the legislation on the DNFBPs.
- Strengthen the CDD, record keeping and monitoring provisions in the legislations or by regulations as outlined in recommendations under section 3 of this Report.
- Take measures to enforce the implementation of the AML/CFT requirements on the DNFBPs.

4.1.3. Compliance with Recommendation 12

	Rating	Summary of factors relevant to s.4.1 underlying overall rating
R.12	**NC**	• The MLPC Act's coverage of the DNFBP sector is limited and fails to capture all categories of DNFBPs which is required under the international standards. • The requirements under the current laws with regards to CDD and record keeping measures are not in line with the international standards. • The covered DNFPBs are not obligated to put in place measures addressing Recommendation 6,8,9 and 11

4.2. Suspicious Transaction Reporting (R.16)

4.2.1. Description and Analysis

STR Reporting and internal control for DNFBPs (R.16.1-16-3)

588. Legal Framework: The STR reporting regime regarding DNFBPs is the same as the one relating to Financial Institutions (see above), as it derives from the same sections of the MLPCA. However, only gold dealers and casinos are covered under the MLPCA's definition of "cash dealers".

589. Additionally, none of these entities have ever filed an STR, nor is there effective supervision of these entities in AML/CFT matters.

590. As discussed in section 4.1.1 of this Report, there are no requirements under the current laws, regulations or other enforceable means for covered DNFBPs to establish and maintain internal AML/CFT procedures other than for STR reporting or policies and controls to prevent money laundering and terrorist financing. Section 15 and 16 of the MLPC Act (as discussed in section 4.1.1) are also applicable to DNFBPs.

591. Independent Audit of Internal Controls to Prevent ML and TF (applying c. 15.2 to DNFBPs): Lacking a legal requirement for internal controls, there is also no requirement for those internal controls to be audited. This is inconsistent with Recommendation 16.

592. Ongoing Employee Training (applying c. 15.3 to DNFBPs): To the degree that DNFBPs are covered by the MLPCA, section 16 of that act requires ongoing training in AML/CFT matters of their staff. This is consistent with international standards.

593. Employee Screening Procedures (applying c. 15.4 to DNFBPs): The MLPCA does not require DNFBPs to screen their employees. This is inconsistent with Recommendation 16.

594. Discussions with the covered DNFBPs indicated that there has been no implementation of any AML/CFT measures in the sector. There also has been no AML/CFT supervision of the DNFBPs to verify implementation.

595. Additional Element—Independence of Compliance Officer (applying c. 15.5 to DNFBPs): While section 15 of the MLPCA requires those DNFBPs which fall under its coverage to have a money laundering reporting officer, it says nothing about its independence.

596. Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 & 21.1.1): Those DNFBPs covered by the MLPCA in the Solomon Islands are specifically required to pay special attention to countries not or insufficiently applying the FATF recommendations in the process of customer identification.

597. Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2): . However, there is no obligation to examine transactions with no apparent or visible lawful purpose from such jurisdictions.

598. Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3): Also, the current legal regime does not provide for the application of counter-measures regarding countries which are known not to apply the FATF recommendations.

599. Statistics (R.32) The Solomon Islands authorities did not keep statistics on the DNFBP sector which would allow them to review the effectiveness of their AML/CFT regime.

4.2.2. Recommendations and Comments

- The Solomon Islands should extend the coverage of AML/CFT obligations to the full range of the DNFBP sector.

- The Solomon Islands should raise the awareness of the DNFBP sector of its legal obligations and take steps to supervise and, where necessary, enforce those obligations.

4.2.3. Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.2 underlying overall rating
R.16	**NC**	**Only partial coverage of the DNFBP sector,** DNFBPs are not required to adopt internal control measures relating to AML/CFT policies and procedures, internal audit function and screening procedures.

4.3. Regulation, Supervision, and Monitoring (R.24-25)

4.3.1. Description and Analysis

600. Legal Framework: Casinos are “cash dealers” and therefore obligated entities under section 2 of the MLPCA. This extends to them the obligations regarding CDD, record keeping, STR reporting and employee training under sections 12 to 16 of the MLPCA.

Regulation and Supervision of Casinos (c. 24.1, 24.1.1, 24.1.2 & 24.1.3):

601. Casinos are licensed and regulated by the Casino and Lottery Board in the Ministry of Home Affairs. In addition, the SIFIU has the inspection powers conferred upon it by the MLPCA. It is the Casino and Lottery Board which is in charge of granting applications for a gaming license. According to section 20(1) of the Gaming and Lotteries Act, the board has the power “to grant or refuse such applications, as the case may be, after having considered the circumstances relevant to the application”. The number of casinos in Honiara is currently limited by regulation to the existing two casinos, which have been in operation (intermittently, during the time of tension) for a considerable

time. No information was available regarding fit and proper tests conducted on the owners, nor were records being kept relating to the ownership structure of these entities.

602. The Casino and Lottery Board has two inspectors and generally does inspections together with one person each from the Ministry of Commerce, the Department of Inland Revenue, the Ministry of Social Welfare and the Ministry of Women, Youth and Children. Their inspection mandate is limited to health and safety issues.

603. SIFIU has not yet conducted any inspections of casinos and do not appear able to enforce the legal provisions which grant them access for supervisory purposes.

Monitoring Systems for Other DNFBPs (c. 24.2 & 24.2.1):

604. Of the other designated non-financial businesses and persons, only dealers in precious metals are subject to AML/CFT obligations. However, SIFIU is unable to conduct effective oversight.

605. The current MLPCA Amendment Bill is meant to change the AML/CFT regime to include all DNFBPs as obligated entities.

Guidelines for DNFBPs (applying c. 25.1):

606. SIFIU published the "Guidelines for Financial Institutions and Cash Dealers", which apply to casinos and dealers in bullion, though not to other DNFBPs. These guidelines were communicated during a training session to which the FIU had invited, and which was visited by one of the two casinos. In its content, the Guidelines appear quite useful for banks, though less so for other financial institutions and DNFBPs.

Adequacy of Resources – Supervisory Authorities for DNFBPs (R.30)

607. It appears as though currently SIFIU does not have the manpower and the Gaming and Lottery Board does not have the expertise (nor the mandate) to conduct effective AML/CFT supervision of the casinos. There is significant concern that even if and when all DNFBPs are made subject to comprehensive AML/CFT obligations, the supervisory body will not have the resources to effectively supervise the sector.

4.3.2. Recommendations and Comments

- The Solomon Islands should extend their supervisory coverage to all DNFBPs.
- The Solomon Islands should publish sector-specific guidance for DNFBPs on how to comply with their legal obligations.
- The supervisory body in charge of supervising AML/CFT compliance by DNFBPs, now and in future, needs significant strengthening in order to carry out its function.

4.3.3. Compliance with Recommendations 24 & 25 (criteria 25.1, DNFBP)

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R.24	**NC**	**Majority of DNFBPs not covered, casinos not effectively supervised.** **Inability to enforce inspection powers.**
R.25	**LC**	**Little applicable guidance to the non-banking sector.**

4.4. Other Non-Financial Businesses and Professions—Modern-Secure Transaction Techniques (R.20)

4.4.1. Description and Analysis

608. Legal Framework: The Solomon Islands have not extended AML/CFT obligations to any other vulnerable professions. In fact, the current MLPCA lists businesses undertaking financial activities as "cash dealers", such as insurance companies and issuers of travelers' cheques. While the future MLPCA is meant to extend AML/CFT obligations to the entirety of the DNFBP sector, it does not go any further.

Other Vulnerable DNFBPs (applying R. 5, 6, 8-11, 13-15, 17 & 21 c. 20.1):

609. Modernization of Conduct of Financial Transactions (c. 20.2): While the largest denomination bill issued in the Solomon Islands is the 100 SI bill (equivalent to about 15 USD/10 EUR), this does not appear to be due to a conscious decision to limit the transportability of cash. The Solomon Islands are very much a cash-based economy and the realization of Modern Secure Transaction Techniques does not appear to be a pressing concern, nor would it currently appear feasible.

4.4.2. Recommendations and Comments

The Solomon Islands should consider applying Recommendations 5, 6, 8-11, 13-15, 17 and 21 to non-financial businesses and professions (other than DNFBP) that are at risk of being misused for money laundering or terrorist financing.

4.4.3. Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
R.20	**NC**	**There was no consideration of other vulnerable sectors,** **There is currently no strategy to modernize financial transactions or to encourage a move away from cash dealing.**

5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANIZATIONS

5.1. Legal Persons—Access to Beneficial Ownership and Control Information (R.33)

5.1.1. Description and Analysis

610. Legal Framework: Companies Act 1959 as amended.

Transparency Measures to Prevent the Unlawful Use of Legal Persons (c. 33.1-33.2):

611. The Companies Act adopts three transparency mechanisms in relation to Companies established under the Act: (1) Registration requirements with the company registrar as a prerequisite for incorporation; (2) maintenance of records by the company itself during its life; and (3) filing of returns with the company registrar on periodic basis or on event-basis. These measures apply variably to the different types of companies governed by the Act.

612. Upon registration, the applicant must provide in the memorandum of association the names, description and shares of each subscriber.

613. Under the Companies Act, companies, with some variations based on the type of company, are required to keep a number of registers;

(1) A register of members, which contains the name and address of each member as well as the date on which the person was entered as a member plus the number of shares or stocks held by that member. (s. 105)

(2) A register of directors and secretaries containing, in the case of an individual, the current Christian name and surname, any former Christian name or surname, his usual residential address, his nationality and his business occupation, and the particulars of any other directorship held by him. In the case of a corporation its corporate name and registered of principal office.

614. These registers are required to be maintained up-to-date and are open to the public for a fee under the force of the law and with avenues for recourse and compulsion in cases where the register is found inaccessible.

615. The Companies Act imposes a number of obligations upon Companies to file returns to the registrar relating to changes to its members, directors and secretaries. These returns are required to be filed within tight timeframe and are supported by fines albeit of low value.

616. It is worth noting that the information required to be registered or maintained in relation to members, directors and secretaries is of formal nature and does not go to the extent of tracing the beneficial ownership behind the legal person.

617. The team visited the registrar of companies and found the following:

- The registrar administers 10 different registries including land title, charitable trusts and business names with only 10 staff.

- The records are manual and there is no way of cross-checking across various companies for common shareholders or multiple directorships. This capacity is essential for detecting cases of fronting and veiled control of legal persons.

- Companies' compliance with the requirements of submitting annual returns are weak, therefore the registries are not up-to-date.

- The company registry is available for public access for a fee. The fee is not prohibitive and the records tend to be found. Verification with the users of the system during the visit confirmed that users almost always find the records they are looking for even though the process is lengthy and tedious.

- The information submitted to the registrar in relation to the identity of members, directors and secretaries is not verified by the registrar instead it is accepted on its face.

- There is no enforcement of the record-keeping requirements under the Act and the registrars lack any capacity to supervise or enforce.

618. It is therefore justified to conclude that the registrar of companies does not hold sufficient information on the beneficial ownership of companies in the Solomon Islands.

619. Even though the registrar indicated that many of the companies are formed with the use of a lawyer or an accountant, these service providers are currently not required to conduct CDD or maintain records relating to the persons behind the companies they help form.

620. Foreign companies are subject to an additional set of transparency requirements under the Foreign Investment Act 2005. Under the Act, any foreigner who wants to do business in the Solomon Islands must register with the Foreign Investment Division-Ministry of Commerce. Foreign companies must submit a certificate of incorporation and articles of association. The application is submitted by the primary shareholder. The papers need to be verified by the relevant embassy. The Division does not identify the shareholders apart from the applicant. The registrar of the Foreign Investment Division is up-to-date and automated. Information updates are required but the level of compliance stands at 30% with the lowest level of compliance in the logging and fisheries sectors and highest level of compliance in the services sector.

621. Law enforcement authorities have extensive powers to gather evidence as described under R.3, R. 27 and R. 28. These powers maybe used to collect information and gather evidence on the beneficial ownership of companies. This approach is however limited by multiple factors: one the capacity and resource constraints suffered by the police, the lack of available information on beneficial ownership anywhere in the system, and the fact that these powers are only available in the case of the commission of a criminal offence and are not available purely for preventive purposes.

622. The Foreign Investment Division works closely with the police and they receive lots of requests for information from the CID and TCU.

Prevention of Misuse of Bearer Shares (c. 33.3):

623. Art 81 of the Companies Act allows the issuance of share warrant to bearers, which convert a share into a bearer share. The Act only requires registration of the fact that the share is a share warrant and precludes the company from registering the holder of the share as a member on the register. There are no discouraging consequences to holding a share in bearer form. The bearer has all the members' rights and the Act guarantees his entitlement without any constraints.

Additional Element—Access to Information on Beneficial Owners of Legal Persons by Financial Institutions)(c. 33.4):

624. Financial institutions use the registrar on a regular basis but they do not implement proper CDD policies to identify the beneficial owners behind a company. Part of the reason is the difficulty of obtaining beneficial ownership information on the companies in the Solomon Islands.

5.1.2. Recommendations and Comments

625. The corporate sector in the Solomon Islands is limited and there is no evidence that there is wide abuse of corporate bodies for the purposes of money laundering at the moment. The assessors are aware of a pending Companies Bill that should reform the current system of company establishment and regulation. The assessors have not seen the Bill. The AG advised the team that the Bill will not come into force until the registrar it envisions is properly set up.

626. In order for the authorities to achieve compliance with the international standards, the authorities should consider:

- Amending the Companies Act to strengthen the information maintained on the beneficial ownership of companies.
- Strengthen the capacity of the registrar of companies through increased staffing and automation of the registry. The automation system should allow for cross-checks.
- Introduce obligations upon company service providers to conduct CDD and maintain relevant records.

5.1.3. Compliance with Recommendations 33

	Rating	Summary of factors underlying rating
R.33	**NC**	• **There is currently no adequate system for maintaining information on the beneficial ownership of companies.** • **Bearer shares are allowed and there are no measures to mitigate the risks of anonymity associated with them.**

5.2. Legal Arrangements—Access to Beneficial Ownership and Control Information (R.34)

5.2.1. Description and Analysis

627. Legal Framework: Trusts are governed by common law. Solomon Islands law recognizes the trust as a legal arrangement and gives it effect. It also allows the establishment of trusts. The Charitable Trusts Act 1996 governs this category of trusts.

Transparency Measures to Prevent Unlawful Use of Legal Arrangements (c. 34.1):

628. In relation to charitable trusts as defined under the Charitable Trusts Act 1996, the act establishes as system of voluntary registration as described in 5.3. below. This section is, however, voluntary. Furthermore, the Registrar considers the information held in relation to charitable trusts to be confidential and can only be disclosed with the consent of the Charitable Trust or a court order.

629. In relation to trusts in general, including charitable trusts that are not registered, the Solomon Islands relies on the investigative powers of law enforcement authorities. As described in relation to Recommendations 27 and 28, the law enforcement authorities have extensive powers that may be used to uncover the beneficial owners behind a trust. The assessors are not aware of any specific impediments to the use of investigative powers in relation to trusts except the general capacity impediments that face law enforcement authorities as discussed in this report.

Additional Element—Access to Information on Beneficial Owners of Legal Arrangements by Financial Institutions)(c. 34.3):

630. Access is limited and financial institutions are not required to adopt any particular CDD measures in relation to trusts.

5.2.2. Recommendations and Comments

631. Based on interviews with lawyers and accountants, the team was satisfied that the use and presence of trusts is very limited in the Solomon Islands and almost exclusively limited to charitable trusts under the Charitable Trusts Act and professional partnership trusts.

632. In order for the authorities to achieve compliance with the international standards, the authorities should consider:

- Assessing the risk of these vehicles and the capacity of law enforcement powers to obtain information on the beneficial owners behind them.
- Take remedial measures to address any weaknesses identified in this assessment.

5.2.3. Compliance with Recommendations 34

	Rating	Summary of factors underlying rating
R.34	**PC**	The reliance on law enforcement powers suffers from the capacity constraints that affect law enforcement authorities.

5.3. Non-Profit Organizations (SR.VIII)

5.3.1. Description and Analysis

633. Legal Framework: Non-profit activity in The Solomon Islands is governed by either the Charitable Trusts Act 1964 or the Societies Act Cap. 164.

634. The Societies Act applies to Cooperative societies which are associations of minimum 10 persons who have voluntarily joined together to achieve a society which has one of the following objectives: - the promotion of the economic interests of its members in accordance with co-operative principles, or - the facilitation of the operations of such society through the formation of a democratically controlled organization

635. The Charitable Trusts Act provides the legislative framework for a broader range of non profit organisations or associations established for religious, educational, literary, scientific, social or charitable purposes, that are not intended for business gain. Incorporation is voluntary and is usually undertaken for reasons such as tax exemption regarding import/export and protecting the name of the charitable trust.

636. There are no laws in the Solomon Islands regulating fundraising or expenditure by NPOs. Monitoring of these issues by authorities is limited to the obligations of cooperative societies to file annual audited statements of income and expenditure. This is not however enforced in practice. Charitable trusts need not submit information on its finances or assets. Home Affairs is the ministry for overseeing the NPO sector, however, they do not currently have any policy to regulate and monitor the NPO Sector.

Review of Adequacy of Laws & Regulations Governing NPOs (c. VIII.1)

637. The Ministry of Home Affairs is currently looking at reviewing the general legislation governing NPOs, however the Solomon Islands has not yet completed a full review of the adequacy of laws and regulations that relate to non-profit organizations that can be abused for FT.

Outreach to the NPO Sector to Protect it from Terrorist Financing Abuse (c. VIII.2):

638. No effective outreach to NPOs has been undertaken with a view of protecting the sector from FT abuse. Apart from open invitation, that the NPO community did not seem to well aware of , to

NPOs to take part in quarterly AML/CFT review meeting held by the FIU, that did not include any NPO-specific issues, no outreach has been practiced in terms of (i) raising awareness in the NPO sector about the risks of terrorist abuse and the available measures to protect against such abuse; or (ii) promoting transparency, accountability, integrity and public confidence in the administration and management of all NPOs.

Supervision or Monitoring of NPOs that Account for Significant Share of the Sector's Resources or International Activities (c. VIII.3):

639. Authorities do not in any formal way supervise the NPO sector and verify what information they maintain. The only rules applicable (though without a legal basis) concern the information to be submitted for licensing purposes (or extension thereof). No direct sanctioning of failure to register is possible, but organizations can be refused advantageous tax treatment, and their staff visa may not be granted or extended.

640. No study has, as yet, been made to establish which NPOs account for (i) a significant portion of the financial resources under control of the sector; and (ii) a substantial share of the sector's international activities.

641. There are a few NGOs that are branches of internationally recognized organizations which receive annual contributions respectively from their parent organizations based Switzerland and New Zealand - (Red Cross & Oxfam).

Information maintained by NPOs and availability to the public thereof (c. VIII.3.1):

642. The Registrar of Companies which is also the Registrar for charitable trusts and information on NPOs registered under the Charitable Trust Act 1964, includes the identities of the Board members, trustees, plus the Articles of Association. Nevertheless no follow up has been made by the Registrar to monitor their activities and determine whether they are operating within the scope of their Memorandum of Association submitted to the company registry. Furthermore it is the current practice that this information is confidential and only available to the appropriate authorities regarding AML/CFT by court order.

643. The Registrar only has minimal powers of supervision following registration, for example the Registrar may enquire about whether a board is still carrying on its operations and, if the charitable trust board is inactive or if there is anything unlawful about its incorporation or its activities, the Registrar may require the board of trustees to show cause within 30 days as to why the incorporation should not be cancelled.

644. NPOs registered under the Co-operative Societies Act are required to maintain a list of its members with information on the date at which the name of any person was entered in such register and the date at which any such person ceased to be a member, the registered address of the society, the rules of its by-laws. This information must be made available for inspection by the public.

645. The Development service Exchange (DSE), a voluntary membership based umbrella body for NGOs in the Solomon Islands, is collecting and sharing information regarding the purposes and activities of NGO/NPOs and is updated on a yearly basis. This collected information is publicly available and accordingly could function as a source of information on a number of NPOs, however

this does not include any information regarding funds or ownership and it is not possible to asses to what degree the active NPOs of the Solomon Islands is covered by DSE. There are currently 46 Members of DSE, but it is not possible to assess to what degree this covers the operational scale of NPO as there is a scarcity concerning updates of NPOs registration especially with regards removing NPOs as they cease to exist.

Measures in place to sanction violations of oversight rules by NPOs (c. VIII.3.2):

646. There are currently no effective oversight measures or rules regarding NPOs or persons acting on behalf of NPOs. However, the CTA provides for the de-registration of a charity linked to terrorism. Section 28 of the CTA provides:

- (1) The Minister and the Minister for Finance may sign a certificate stating they believe on reasonable grounds that an applicant registered, or applying for registration as a charity has made, or is likely to make, funds or resources available, directly or indirectly, to a terrorist organisation or to a person who has committed or is likely to commit a terrorist act.

- (2) Upon signing the certificate under subsection (1), the Minister or a person authorised by the Minister shall cause the applicant or registered charity to be served, personally or by registered post to the last known address, with a copy of the certificate and a notice stating that the applicant will not be eligible to be registered as a charity or any existing registration will be revoked.

Licensing or registration of NPOs and availability of this information (c. VIII.3.3):

647. For NPOs that are registered under the Charitable Trusts Act 1964, the information includes the identities of the Board members, trustees, plus the Articles of Association andis maintained by the Registrar of Companies. However this information is confidential and only available to the appropriate authorities by court order.

648. Co-operative societies may be registered under the Co-operative Societies Act Cap. 164. Co-operative societies are required to maintain a members with information of the date at which the name of any person was entered in such register and the date at which any such person ceased to be a member, the registered address of the society, the rules and of its by-laws which must be made available for inspection by the public

Maintenance of records by NPOs, and availability to appropriate authorities (c. VIII. 3.4):

649. NPOs are not required to maintain and make available to appropriate authorities; records of domestic and international transactions that verify the spending of the funds that have been spent in a manner consistent with the purpose and objectives of the organization.

Measures to ensure effective investigation and gathering of information (c. VIII.4):

650. SI is yet to identify who will be supervising the NPOs in the country. Though not responsible for supervising the NPO sector The FIU can exchange information with other FIUs or law enforcement agencies domestically and internationally and can be the point of contact when it comes to AML/CFT matters

Domestic cooperation, coordination and information sharing on NPOs (c. VIII.4.1-3):

651. Domestic cooperation for a multi-agency investigation or intelligence gathering can be initiated and coordinated by RSIPF under SICLAG and FIU under the AML TEG. However Section 28 of the Charitable Trusts Act imposes a limitation on inspection of records – person can only find out whether or not trustees have been registered, the names of the trustees and the address of the registered office of the board of trustees however under the current practise it is only possible to obtain this information by court order

652. The information provided by the registrars do not include any financial information, nevertheless an NPO's account/financial record with a financial institution can be inspected and subsequently investigated by the FIU in the same way as with other financial records.

Responding to international requests regarding NPOs - points of contacts and procedures (c. VIII.5):

653. The Solomon Islands is yet to identify who will be supervising the NPOs in the country. However, the FIU as one of the responsible body in the country can exchange information with other FIUs or law enforcement agencies domestically and internationally and can be the point of contact when it comes to AML/CFT matters.

5.3.2. Recommendations and Comments

654. The assessors recommend that, if Solomon Islands wishes to comply with the Recommendations in this part of the report, it should:

- Undertake a review of the adequacy of existing laws and regulations that relate to non-profit organizations that can be abused for FT;

- Take effective steps to insure proper registration of NPOs and insure they are easy accessible to the appropriate authorities

- Enact measures requiring NPOs which account for a significant portion of the financial resources under control of the sector and a substantial share of the sectors international activities to maintain and make available to appropriate authorities, records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the organization

- Carry out outreach with the NPO sector with a view to protecting the sector from TF abuse;

- Take effective steps to promote supervision and monitoring of those NPOs which account for a significant portion of the financial resources under the control of the sector;

5.3.3. Compliance with Special Recommendation VIII

	Rating	Summary of factors underlying rating
SR.VIII	**NC**	• No review of the adequacy of existing laws and regulations that relate to non-profit organizations that can be abused for FT. • No effective registration of NPOs • No appropriate effective monitoring mechanism for NPOs including the registration of NPOs and the ability to monitor sources of funds for NPOs. • The sanctions are not dissuasive and proportionate • No active monitoring or supervision. • No outreach or awareness raising.

6. NATIONAL AND INTERNATIONAL CO-OPERATION

6.1.1. Description and Analysis

655. Legal Framework: The MLPCA creates the AMLC which consists of the Attorney General, Commissioner of Police, Permanent Secretary of the Ministry of Finance, and the Governor of the Central Bank, and other technical experts as deemed necessary by the Minister of Finance. The AMLC may compile statistics and disseminate information within Solomon Islands or elsewhere, make recommendations arising out of any information received, issue guidelines to financial institutions and advise the Minister of Finance.

Mechanisms for Domestic Cooperation and Coordination in AML/CFT (c. 31.1):

656. The MLPCA creates the AMLC which consists of the Attorney General, Commissioner of Police, Permanent Secretary of the Ministry of Finance, and the Governor of the Central Bank. The AMLC has met six to seven times over the past year to discuss new legislation, implementation, and reports on programs, public awareness campaigns and other related matters. The AMLC has created a technical working group (AML/TEG) chaired by the FIU and attended by the RSIPF, Customs, CBSI, ODPP, and other technical experts. The role of the AML/TEG is to work on AML/CFT operational tasks within each respective agency; implement the relevant legislation on AML/CFT; and, ensure that the Solomon Islands is compliant with the FATF recommendations.

657. There are no apparent legal provisions that expressly prohibit law enforcement entities from sharing information among them as long as it is within the purview of their official duties (Section 5 (1) (a) Official Secrets Act). Moreover, the MLPCA allows the AMLC to disseminate information within the Solomon Islands. One exception appears to be the Income Tax Act which limits the information Inland Revenue can share with other authorities. Nevertheless, Inland Revenue authorities advised, during the onsite visit, that they are working on negotiating an MOU with the FIU. The FIU has an MOU with Customs. The authorities advised that the RSIPF has MOUs with Customs and Immigration.

658. Also, the authorities have created the Solomon Islands Combined Law Agencies Group (SICLAG), also referred to as CLAG, to promote the timely exchange of information, facilitate opportunities for sharing resources, facilitate communication, develop joint targeting strategies, training opportunities, capacity building and foster cooperation. The authorities advised during the onsite visit that the CLAG does not meet as regularly as envisioned, but, since it is a relatively new governmental initiative, it will, in time.

659. It should be noted that the Solomon Islands is a very small pacific island chain with the seat of government and all relevant institutions operating primarily from the capital of Honiara. The population of Honiara is quite small and the numbers of people involved in AML/CFT matters is even smaller and all these practitioners know each other quite well. Moreover, RAMSI frequently engages with these practitioners. Therefore, it is quite easy to coordinate matters in the Solomon Islands.

660. The Regional Assistance Mission to Solomon Islands (RAMSI) is a partnership between the people and Government of Solomon Islands and fifteen contributing countries of the Pacific region.

RAMSI is helping the Solomon Islands to lay the foundations for long-term stability, security and prosperity – through support for improved law, justice and security; for more effective, accountable and democratic government; for stronger, broad-based economic growth; and for enhanced service delivery. The overarching goal of RAMSI's work is for a peaceful, well-governed and prosperous Solomon Islands. This goal will be pursued over the long term through a mutual commitment with the Solomon Islands Government, which supports RAMSI's mandate to: ensure the safety and security of Solomon Islands; repair and reform the machinery of government, improve government accountability and improve the delivery of services in urban and provincial areas; improve economic governance and strengthen the government's financial systems; help rebuild the economy and encourage sustainable broad-based growth; and, build strong and peaceful communities. RAMSI is helping Solomon Islanders to get their nation working and growing again. That will take years of hard work. Nothing will change unless Solomon Islanders want change and are prepared to work hard in support of a common cause.[37]

661. As a result of the presence of RAMSI and the lack of institutional acrimony between agencies and regulatory bodies of the Solomon Islands, the level and effectiveness of inter-agency coordination is quite high. Moreover, RAMSI and institutions of the Solomon Island's government are active in strengthening ties between institutions, civil bodies and the private sector. RAMSI is very active in promoting cooperation and communication between many levels of society and the government of the Solomon Islands has been an active participant and supporter of this RAMSI initiative.

Additional Element - Mechanisms for Consultation Between Competent Authorities and Regulated Institutions (c. 31.2):

662. The FIU hosts quarterly training sessions attended by financial institutions and some cash dealers. These training sessions are a forum for the financial institutions and cash dealers to consult with the FIU about AML/CFT laws, reporting obligations and guidelines.

663. In addition to the consultation carried out between supervisors in the respective policy bodies, CBSI and SIFIU carry out joint inspections of the commercial banks in which they leverage off each other's manpower and expertise.

Statistics (applying R.32):

664. The Solomon Islands does not maintain any specific statistical data related to national cooperation and coordination.

6.1.2. Recommendations and Comments

665. Domestic cooperation in the Solomon Islands is quite good. The AMLC and AML/TEG are excellent forums to strengthen the AML/CFT regime in the Solomon Islands. Moreover, the SICLAG, once fully utilized, will also be a forum that promotes better information sharing between many of the law enforcement and other relevant stakeholders.

[37] Regional assistance Mission to Solomon Islands, www.ramsi.org

666. The assessors recommend that the authorities strengthen the participation and frequency of the SICLAG meetings. Also, the assessors recommend that the FIU create a forum that meets on a periodic basis to promote the interaction of the competent authorities and reporting entities and to discuss ideas and means to strengthen the Solomon Islands AML/CFT regime.

6.1.3. Compliance with Recommendation 31 & 32 (criterion 32.1 only)

	Rating	Summary of factors underlying rating
R.31	**C**	
R. 32	**PC**	• There is no systematic overall operational review of the AML/CFT system as a whole or of its individual components • Lack statistics on instances, of confiscation and the amounts seized or confiscated. • SIFIU does not have the resources in order to collect and collate STRs for meaningful analysis No record keeping regarding mutual legal assistance requests or extradition statistics.

6.2. The Conventions and UN Special Resolutions (R.35 & SR.I)

6.2.1. Description and Analysis

667. Legal Framework: MLPCA (2002), CTA (2009), Transnational Crime Bill (2009), MACMA (2002)

Ratification of AML Related UN Conventions (c. 35.1):

668. The Solomon Islands have not yet ratified the Vienna, Palermo conventions. Discussions with the Ministry of Foreign Affairs indicated that there are two reasons for this delay: (1) The Ministry has not had a legal officer since the mid-nineties. This position was only filled in June 2009. This human resource constraint affected the capacity of the Ministry to provide the necessary resources for treaty ratification. (2) Because of the resource implications of treaty participation, the Ministry prefers to implement treaties in domestic law first before they proceed to ratification. The number of laws in the Solomon Islands that are currently undergoing reforms have delayed this process.

Ratification of CFT Related UN Conventions (c. I.1):

669. The Solomon Islands has acceded to the CTF convention in September 2009.

Implementation of Vienna Convention (Articles 3-11, 15, 17 & 19, c. 35.1):

670. Many of the provisions of the Vienna Convention have been implemented through the Dangerous Drugs Act, the MLPCA and the MACMA as described under R.1, R. 2, R. 3 and R. 36-39 of this report.

Implementation of CFTSFT Convention (Articles 2-18, c. 35.1 & c. I.1):

671. Many of the provisions of the CFT Convention have been implemented through the CTA 2009 Act and the MAMCA as described in detail under SRII, SR. III and SR.V of this repo rt.

Implementation of Palermo Convention (Articles 5-7, 10-16, 18-20, 24-27, 29-31 & 34, c. 35.1):

672. Many of the provisions of the Palermo Convention have been implemented through the MLPCA and the MACMA as described in detail under R.1,2,3, 36-39. Issues of criminalization are however still pending. There is a pending Transnational Crime Bill that is meant to address many of the requirements of the Palermo Convention.

Implementation of UN SCRs relating to Prevention and Suppression of FT (c. I.2):

673. The Solomon Islands do not currently implement the requirements of the Security Council Resolutions.

Additional Element—Ratification or Implementation of Other relevant international conventions (c. 35.2):

674. The Solomon Islands have not yet ratified the UNCAC convention. The Anti-Corruption Taskforce is a driving force in the effort of the Solomon Islands to sign the UNCAC. Currently the Solomon Islands is working towards ratifying UNCAC in 2010

6.2.2. Recommendations and Comments

675. For the Solomon Islands to meet the requirements of the international standards under R. 35 and SR. I, the authorities should consider:

- Ratifying the Vienna and Palermo Conventions and fully implementing their provisions through domestic laws.

- Setting a legal and procedural framework for the implementation of the Security Council Resolutions 1267 and 1373.

6.2.3. Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying rating
R.35	**PC**	• **The Solomon Islands is not currently a member of the Vienna and Palermo Conventions.** **The Solomon Islands does not currently implement the Security Council Resolutions 1267 and 1373.**
SR.I	**PC**	**The Solomon Islands does not currently implement the freezing mechanism required by Security Council Resolutions 1267 and 1373.**

6.3. Mutual Legal Assistance (R.36-38, SR.V)

6.3.1. Description and Analysis

676. Legal Framework: The Mutual Assistance in Criminal Matters Act 2002 (MACMA 2002); ss.54, 73 and 76 of the MLPCA; Part 7 of the CTA 2009.

Widest Possible Range of Mutual Assistance (c. 36.1):

677. The MACMA 2002 is a very broad act that allows the Solomon Islands to offer a full range of mutual legal assistance including;

- search of persons and premises (s. 8)
- obtaining records or copied of records (s.8)
- compelling appearance in court to give evidence on oath or otherwise (s. 8)
- compelling the production of anything including documents or copy thereof (s.8)
- facilitating the consensual transfer of offenders (s.9)
- Issuing restraining orders on behalf of a foreign state against property located in the Solomon Islands and enforcing foreign restraining orders (ss. 12 &13)
- Issuing production orders, search warrants and monitoring orders under sections 70, 75 and 77 of the MLPCA for the purposes of identifying and locating property subject to confiscation. (s. 14).
- Enforcing foreign confiscation orders (s.13)

Provision of Assistance in Timely, Constructive and Effective Manner (c. 36.1.1):

678. The provisions of the MACMA 2002 designates the MACMA as the central authority for the receipt and execution of foreign requests for assistance in criminal matters and the process defined by the Act is highly simplified. Apart from possible capacity constraints within the law enforcement authorities that may hinder the execution of the some of the requests, especially those requiring financial investigation skills or large manpower, there is no reason why the process defined in the Act should not render timely and effective assistance. The assessors are satisfied that the Solomon Islands authorities approach international cooperation in a constructive manner.

No Unreasonable or Unduly Restrictive Conditions on Mutual Assistance (c. 36.2):

679. Apart from granting the Attorney General authority to deny or restrict the assistance in cases where this may be detrimental to the sovereignty, security and other essential public interest of the Solomon Islands, as well as granting him the discretion to impose such terms and conditions as he sees fit on cases-by-case basis, the Act does not impose ant generic conditions on the granting of assistance to foreign states. The procedures set in the Act are simplified and suggest a spirit of facilitation and responsiveness.

680. It is also worth noting in this context that The Act is a valid basis for rendering assistance to any country regardless of reciprocity or the existence of a mutual legal assistance agreement between the Solomon Islands and that foreign country.

Efficiency of Processes (c. 36.3):

681. The Act designates the Attorney General as the Central Authority for the receipt and execution of mutual assistance requests and relies on the powers of the High Court to issue orders to give effect to the foreign requests. There are various efficiency features to the process defined by the MACMA 2002 that could be summarized below:

- The Act gives the High Court the power to issue a broad evidence-gathering order regarding the manner in which evidence is to be obtained in order to give effect to the foreign request. This broad tool is a simplification of the process that reduces the formality that would otherwise be required should the competent authority be required to identify the specific order necessary under the law to obtain the particular type of evidence requested and follow the formality specific to that order under the relevant procedural provision.

- The Act defines very clearly in s. 7 the content of requests for assistance that foreign states should provide and then goes on to add that compliance with this content is not a requirement for granting the request. The request may still be granted despite failure to provide all the information defined in s. 7.

- The MACMA 2002 gives the statements of the requesting country affirming facts that are preconditions for the request for assistance, such as that a serious offence has been committed or that a forfeiture order is in force, the force of a prima facie evidence of these facts for the purposes of granting the foreign request. (e.g. s. 8(3) and s. 13(4)).

- The Act accepts for a period of 14 days a facsimile copy of a duly authenticated foreign restraining order or foreign confiscation order as the same as a duly authenticated original of the order. (s. 13(8))

Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 36.4):

682. The MACMA includes in the definition of serious offences for which mutual legal assistance may be provided offences of purely fiscal nature. In other words, mutual legal assistance is allowed in fiscal matters.

Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 36.5):

683. The MACMA 2002 and the MLPCA allow the authorities to use the full extent of their power in order to execute foreign assistance requests exactly as if those measures are being taken for the purposes of enforcing Solomon Islands laws. There are no secrecy or confidentiality laws that constrain the execution of law enforcement and evidence gathering measures. The same applies to powers exercised in the execution of foreign requests for assistance.

Availability of Powers of Competent Authorities (applying R.28, c. 36.6):

684. Competent authorities enjoy a wide range of enforcement and evidence gathering powers all of which are available by virtue of the MACMA and the MLPCA for the purposes of the execution of foreign requests for assistance in criminal matters.

Avoiding Conflicts of Jurisdiction (c. 36.7):

685. There are currently no agreements between the Solomon Islands and other countries to determine the best venue for prosecutions of defendant in cases of conflict. Some arrangement may be useful for the purposes of effectively prosecuting cases pertaining to illegal fishing activities where the assessors heard of instances of passive conflict of interest, where none of the countries concerned was keen on handling the prosecution in its own jurisdiction.

Additional Element—Availability of Powers of Competent Authorities Required under R28 (c. 36.8):

686. The process for submitting a foreign request for assistance to the AG of the Solomon Islands does not specify which authority in the foreign country must submit the request. This means that any judicial or law enforcement authority may submit the request and the AG has the power to grant it and make all the powers of the competent authorities of the Solomon Islands available for the execution of this request.

International Cooperation under SR V (applying c. 36.1-36.6 in R. 36, c. V.1):

687. The mechanisms and powers for providing legal assistance in criminal matters under the MACMA 2002 are available in relation to terrorism financing offences as defined under the CTA 2009. All the above description under R. 36 applies to SR. V.

Additional Element under SR V (applying c. 36.7 & 36.8 in R.36, c. V.6):

688. See description above in relation to R. 36. The same framework applies.

Dual Criminality and Mutual Assistance (c. 37.1, 37.2 & SR. V.2):

689. Under MACMA 2002 all request for mutual legal assistance must pertain to a serious offence. S.3 of the Act defines a serious offence as including "an offence against a provision of a law of a foreign state, in relation to acts or omissions, which had they occurred in Solomon Islands, would have constituted an offence for which the maximum penalty is imprisonment or other deprivation of liberty for a period not less than twelve months." This means that dual criminality is required for all forms of mutual legal assistance whether intrusive or not.

690. The dual criminality principle, as interpreted in the Solomon Islands, only requires that the act or omission would constitute an offence in the Solomon Islands. Differences in designation or categorization of the act or omission have no bearing on the determination of dual criminality. Considering that the Solomon Islands criminal laws are somewhat dated and that many of the new forms of criminality such as human trafficking and insider trading are not yet criminalized, there maybe some impediments to the mutual legal assistance stemming from the absence of dual criminality. This is however mitigated by the very low number of mutual legal assistance requests typically received by the Solomon Islands.

691. The same analysis applies to mutual legal assistance in terrorism financing offences. It is however worth noting here that considering that the CTA 2009 is a new act that criminalizes terrorism financing very broadly, dual criminality would not pose a problem to the rendering of assistance in this area.

692. Timely response for mutual legal assistance requests pertaining to identification, freezing, seizing and confiscation (c. 38.1): The MAMCA 2002 and the MLPCA as described in the discussion of R. 36 above make the extensive identification and tracing powers provided for by the MLPCA for the purposes of confiscation available to the Attorney General and the competent authorities for the purposes of executing a foreign technical assistance request. Considering the range and quality of these powers as described in the discussion of R. 3, the assessors safely conclude that there are appropriate laws and procedures to allow the Solomon Islands authorities to respond to foreign requests for identification in an effective and timely manner. This is however only constrained by the limitations of capacity described in various parts of this report including in relation to R. 27 & 28 and R. 3.

693. Also the MLPCA and the MACMA 2002 combined make available for the purposes of executing foreign requests for assistance the powers available under the Solomon Islands' laws to freeze, seize and restrain property for the purposes of confiscation. S. 13 of the MACMA goes further by allowing the enforcement in the Solomon Islands of foreign restraining orders as long as such orders are in force in the foreign country. This also allows the assessors to conclude that the Solomon

Islands has adequate laws and procedures in place to allow it to respond effectively and in a timely manner to foreign requests for the freezing and seizure of property subject to confiscation by a foreign country.

694. S. 13 of the MACMA allows the enforcement of foreign confiscation orders upon the request of a foreign country as long as those orders are in force in the foreign country.

Property of Corresponding Value (c. 38.2):

695. S. 13 gives blanket enforcement to foreign confiscation orders regardless of the nature of the confiscation order. This includes confiscation of property of equivalent value to that property that actually constitutes proceeds or benefit derived from proceeds.

Coordination of Seizure and Confiscation Actions (c. 38.3):

696. There are currently no formal mechanisms in place to coordinate seizure and confiscation actions. The Solomon Islands does however have strong channels of informal cooperation as described in R. 40, which allows it to coordinate its seizure and confiscation actions with other countries where necessary.

International Cooperation under SR V (applying c. 38.1-38.3 in R. 38, c. V.3):

697. The same mechanisms of mutual legal assistance in relation to confiscation matters that are available for all serious offences apply to terrorism financing because terrorism financing is a serious offence for the purposes of MLPCA and for the purposes of MACMA 2002.

Asset Forfeiture Fund (c. 38.4):

698. The authorities are not currently considering creating an asset forfeiture fund. Forfeited fund go to the general budget.

Sharing of Confiscated Assets (c. 38.5):

699. S. 15 of the MACMA 2002 authorizes the AG to enter into an arrangement with the competent authorities of a foreign state for reciprocal sharing with that state of such part of any property realized as a result for a request for assistance in enforcing a confiscation order issued by one party for property located in the territory of the other. There are currently no asset sharing agreements in place. This may be explained by the lack of cases involving either receiving or sending requests for mutual legal assistance in the enforcement of confiscation orders. Absent a volume of such cases, entering an agreement for asset sharing would not seem to the assessors to be merited.

Additional Element (R 38):

700. Recognition of foreign civil confiscation orders; The Solomon Islands recognizes all foreign confiscation orders as long as they are in force in the foreign country. The Act makes no distinction between confiscation orders based on prior conviction or confiscation orders obtained in foreign proceedings that do not require prior conviction for an offence.

Additional Element under SR V (applying c. 38.4-38.6 in R. 38, c V.7):

701. The same analysis relating to asset sharing and asset forfeiture funds apply in relation to forfeiture measures arising out of a terrorism financing offence.

Statistics (applying R.32):

702. The team was not provided any statistics pertaining to of mutual legal assistance requests. Discussions with the authorities however indicated that they have not received any mutual legal assistance requests and most issues of cooperation are done through the informal channels and the various cooperation forums that they are members of.

6.3.2. Recommendations and Comments

703. The Solomon Islands possesses a comprehensive legal framework for international cooperation. The key weaknesses of this system stem from the weaknesses that affect the definition of money laundering as described under R. 1 in this report as well as the limited gaps in the confiscation regime identified under R. 3.

704. In order to achieve full implementation the authorities should implement the recommendations provided in relation to R. 1 and R. 3 in this report because of their spell-over effect to international cooperation between Solomon Islands and the World.

6.3.3. Compliance with Recommendations 36 to 38 and Special Recommendation V

	Rating	Summary of factors relevant to s.6.3 underlying overall rating
R.36	**LC**	**Weaknesses identified in the scope of the money laundering offence may affect the ability of Solomon Islands to render mutual legal assistance in some instances.**
R.37	**LC**	• **Dual criminality is required to render mutual legal assistance in all instances even the least intrusive such as the consensual transfer of persons.** • **The Solomon Islands still does not criminalize a number of the categories of predicate offences designated by the international standard, such as human trafficking. This may have implications for the rendering of assistance or the execution of extradition requests.**
R.38	**LC**	**Weaknesses identified in the scope of the money laundering offence may affect the ability of Solomon Islands to render mutual legal assistance in some instances.**
SR.V	**LC**	• **The legal framework relating to extradition is highly ambiguous.** • **The assessment team did not have sufficient information to assess the extent to which money laundering and terrorism financing are extraditable offences.**

		The process for receiving extradition requests is ambiguous.

6.4. Extradition (R.37, 39, SR.V)

6.4.1. Description and Analysis

705. Legal Framework: Extradition Act 1988 as amended. There is currently a pending Extradition Bill. It is not clear what the timeframe for the passing of the Extradition Bill is. The Bill will not be taken into consideration for the purposes of this assessment and the assessment will be based on the framework provided for under the Act.

Dual Criminality and Extradition (Mutual Assistance (c. 37.1 & 37.2):

706. Dual criminality is required for extradition under s. 5(1)(c) of the Extradition Act. The Extradition Act is however explicit on excluding technical variations from the determination of dual criminality: s. 5(2) provides that any special intent or state of mind or special circumstances of aggravation which may be necessary to constitute that offence under the foreign law will be disregarded. According to the AG, there has never been an extradition request that failed due to lack of dual criminality.

Money Laundering as Extraditable Offense (c. 39.1):

707. The definition of extraditable offences under the Act is very restrictive. The Act adopts a list approach in defining what constitutes an extraditable offence. This approach requires for an offence to be extraditable that it should be described in the schedule attached to an existing extradition arrangement with a non-commonwealth country or described in the schedule to the Extradition Act. The team was not provided with a list of extradition treaties to which the Solomon Islands is a party or a copy of Ministerial orders that determine to which countries this Act applies in accordance with sections 3 and 4 of the Act. It is for this reason that it is not possible to determine whether money laundering offences are extraditable offences under the Solomon Islands Extradition Act.

708. It is however unlikely that money laundering offences constitute extraditable offences under Solomon Islands law because money laundering is not listed in the Schedule to the Act. The schedule to the Act includes a broad category of "extradition offences established under multilateral international conventions to which both the requesting and the requested parts of the commonwealth are parties". However, the Solomon Islands has not yet become party to any convention that establishes money laundering as an extraditable offence such as Vienna, Palermo or UNCAC conventions.

Extradition of Nationals (c. 39.2):

709. There is no legal restrictions in the Solomon Islands on the extradition of nationals. However, the team has not received any information on whether this has ever been done in practice.

Cooperation for Prosecution of Nationals (applying c. 39.2(b), c. 39.3):

710. The Solomon Islands has adequate laws for mutual legal assistance and highly effective channels of informal cooperation.

Efficiency of Extradition Process (c. 39.4):

711. The team could not determine the exact process for receiving and making extradition request. The Ministry of Law indicated that Extradition Regulations were issued in 2008 regulating the process of making and receiving extradition requests. The team has not however seen the regulations.

712. Discussions with the AG, the DPP and the Ministry of Law revealed that few extradition requests were contested and even regarding those that were contested, the completion of the process did not take more than a month and invariably resulted in the successful extradition of the requested person.

Additional Element (R.39)—Existence of Simplified Procedures relating to Extradition (c. 39.5):

713. The Extradition Act does not designate any particular authority in the requesting country from whom the request should be submitted. Also, extradition may be granted based only on an arrest warrant from the requesting state. There are no simplified procedures for the surrender of consenting persons. However in practice, the team was advised that when the person to be extradited consents the handover happens spontaneously and without delay. One recent well-publicized case involving the extradition of a person to Australia was explained to the team in evidence of this fact.

Extradition in Terrorism Financing Cases (c. V.4):

714. Based on the general description in the schedule to the Extradition Act, which renders as extraditable offences all offences established under multilateral international conventions to which both the requesting and the requested parts of the commonwealth are parties, with the ratification of the CTF Convention by the Solomon Islands in September 2009, terrorism financing has become an extraditable offence with other Commonwealth countries that are also parties to the CTF Convention.

715. In relation to non-commonwealth countries that have an extradition arrangement with the Solomon Islands, s. 42(1) of the CTA 2009 provides that the extradition arrangement shall be deemed to include offences falling within the scope of any counter-terrorism convention to which the Solomon Islands becomes a party. On this basis, with the ratification of the CTF convention, terrorism financing is now deemed an extraditable offence under any existing extradition arrangement between the Solomon Islands and a non-commonwealth country. The team however does not have a list of the countries with whom the Solomon Islands have existing extradition arrangements and it is therefore not possible to assess what that means in terms of the number of countries with which terrorism financing has become extraditable.

716. Section 42(2) gives the Minister responsible for national security the power to declare by an order published in the Gazette any counter terrorism convention to which the Solomon Islands have become a party as an extradition arrangement between the Solomon Islands and a foreign country that does not have an existing extradition arrangement with the Solomon Islands. By virtue of such an order the terrorism offences falling within the scope of the convention become extraditable between

the Solomon Islands and the designated country. The Minister has not yet exercised his power to make such a declaration and therefore the CTF convention does not currently constitute an extradition arrangement between the Solomon Islands and any other country.

Additional Element under SR V (applying c. 39.5 in R. 39, c V.8):

717. The same analysis pertaining to 39.5 above applies in relation to terrorism financing.

Statistics (R.32):

718. The team was not provided with extradition statistics. The Ministry of law indicated that the Solomon Islands receives approximately one extradition request every two years. The Solomon Islands has never filed any extradition requests to foreign countries.

6.4.2. Recommendations and Comments

719. The legal framework for extradition is highly fragmented. The team could not establish the number of countries with whom the Solomon Islands could exchange extradition assistance. The team also could not establish to what extent money laundering and terrorism financing are extraditable offences in the Solomon Islands.

720. In practice, however, the number of extradition requests is generally very low with no extradition requests at all emanating from the Solomon Islands and very few coming to the country from foreign countries. The assessors are satisfied that this not due to lack of cooperative arrangements but simply due to lack of instances where such procedures are needed.

721. Also, in the few instances where extradition requests were submitted it seems that the Government of the Solomon Islands has been able to render the assistance without a problem.

722. The pending Extradition Bill should remove many of the issues with the current framework because it does away with the list approach to extradition offence and replaces it with a general dual criminality requirement and a threshold approach that extends extradition to all serious offences.

723. For the authorities to achieve compliance with the international standards, they should consider:

- Taking legislative measures to introduce a definition of extraditable offences that does not restrict to a list of offences but rather extends to category of offences similar to that applied in the MACMA.

- Making sure that terrorism financing and money laundering are extraditable offences with the largest number of countries.

- Becoming party to the multilateral conventions relating to money laundering, i.e., Vienna, Palermo and UNCAC and establishing those conventions as providing sufficient treaty basis for extradition with other parties to the same conventions.

- Clarifying and simplifying the process of submitting and receiving extradition requests.

6.4.3. Compliance with Recommendations 37 & 39, and Special Recommendation V

	Rating	Summary of factors relevant to s.6.4 underlying overall rating
R.39	**PC**	• **The legal framework relating to extradition is highly ambiguous.** • **The assessment team did not have sufficient information to assess the extent to which money laundering and terrorism financing are extraditable offences.** • **The process for receiving extradition requests is ambiguous.**
R.37	**LC**	• **Dual criminality is required to render mutual legal assistance in all instances even the least intrusive such as the consensual transfer of persons.** • **The Solomon Islands still does not criminalize a number of the categories of predicate offences designated by the international standard, such as human trafficking. This may have implications for the rendering of assistance or the execution of extradition requests.**
SR.V	**LC**	• **The legal framework relating to extradition is highly ambiguous.** • **The assessment team did not have sufficient information to assess the extent to which money laundering and terrorism financing are extraditable offences.** • **The process for receiving extradition requests is ambiguous.**

6.5. Other Forms of International Co-Operation (R.40 & SR.V)

6.5.1. Description and Analysis

724. Legal Framework: There are no legal provisions that prevent the competent authorities of the Solomon Islands from providing the widest range of cooperation to their foreign counterparts. The MLPCA, Section 11 (2) (f), allows the AMLC to disseminate information outside the Solomon Islands. The Official Secrets Act, Section 5 (1) (a) also empowers competent authorities to cooperate and share information internationally.

725. The authorities recently had a money laundering case with a nexus to South Africa. Since the SI authorities had no established links to South Africa's competent authorities, they utilized their RAMSI contacts and successfully solicited the cooperation of Australia to act as an intermediary with South African officials. This innovative "third party" intervention resulted in a successful prosecution and provided evidence to the assessment team of successful international cooperation.

726. The Official Secrets Acts, Section 5 (1) (a), allows the competent authorities to share information with anyone they deem in the best interest of the government of the Solomon Islands. The FIU uses its contacts within RAMSI to assist when dealing in the international arena. Most

requests have been funneled through third parties to facilitate the exchange of information and have occurred in an expeditious manner.

727. The CBSI interact with other central banks in the region and upon request provide assistance in a rapid, constructive and effective manner. The CBSI as the financial regulator has hosted a secondee from Fiji in the past and is also poised to extend wide cooperation. In particular, nothing in the Financial Institutions Act or Central Bank of Solomon Islands Act prevents CBSI from passing on information. To the contrary, section 5 (1) a) of the Official Secrets Act applies to the financial authorities as well, and specifically allows communicating information to anyone "whom it is in the interest of the State his duty to communicate it".

Widest Range of International Cooperation (c. 40.1)

728. Currently, the Solomon Islands has a Regional Assistance Mission Solomon Islands (RAMSI), lead by the Australian government. RAMSI plays a significant role in enhancing capacity in many areas of law enforcement, rule of law and public order. Moreover, RAMSI assists the Solomon Islands in cooperating with their international counterparts and often acts as a conduit in sharing information.

Provision of Assistance in Timely, Constructive and Effective Manner (c. 40.1.1):

729. The Solomon Islands is capable of responding to requests for assistance in a rather rapid, constructive and effective manner through the gateways instituted by RAMSI advisors as well as contacts developed by the FIU and RSIPF officers. Moreover, the size of the Solomon Islands assists in allowing the authorities to respond to international requests in a prompt manner. The FIU has yet to receive any foreign requests, but the RSIPF has received many requests and responds to these requests in a timely manner.

Clear and Effective Gateways for Exchange of Information (c. 40.2):

730. The FIU has an MOU with Taiwan and plans to sign one with Indonesia in 2010. The AMLC has approved the FIU to enter into MOU negotiations with Vanuatu, Papua New Guinea, and Malaysia. The RSIPF utilize SPLEXNET a regional, computer based network, which links regional police departments to intelligence, information and other law enforcement data. Moreover, the RSIPF has developed in the Transnational Crime Unit (TCU) to help facilitate the cooperation required to combat transnational crimes. The RSIPF attends the Pacific Islands Chiefs of Police annual conference which is a forum to enhance international cooperation.

Spontaneous Exchange of Information (c. 40.3):

731. There are no provisions that prohibit the competent authorities of the Solomon Islands from exchanging information spontaneously and upon request concerning ML/TF and underlying predicate offenses. The MLPCA and Official Secrets Act allow the sharing of information without delay and do not prevent the FIU, RSIPF or other competent authorities from providing information in the absence of a request.

Making Inquiries on Behalf of Foreign Counterparts (c. 40.4):

732. The CTA allows the RSIPF, specifically the Commissioner of Police, upon request of a foreign authority to disclose information on a wide range of matters related to terrorism and terrorism financing. The RSIPF can also share information on a wide range of offenses to include ML/TF and other related predicate offenses. FIU Authorized to Make Inquiries on Behalf of Foreign Counterparts (c. 40.4.1):

733. There are no provisions that prohibit the FIU from conducting inquiries on behalf of foreign counterparts to include searching its own database about STR information; and, searching the police's database, administrative, commercial and public databases through the authority of its seconded RSIPF officer.

Conducting of Investigations on Behalf of Foreign Counterparts (c. 40.5):

734. There is nothing that prohibits the RSIPF and DPP from conducting investigations on behalf of foreign counterparts.

No Unreasonable or Unduly Restrictive Conditions on Exchange of Information (c. 40.6):

735. There are no unreasonable or unduly restrictive conditions on exchange of information.

Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 40.7):

736. Requests are not refused on the sole ground that the request is also considered to involve fiscal matters.

Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 40.8):

737. The Official Secrets Acts, Section 5 (1) (a), allows the competent authorities to share information with anyone they deem in the best interest of the government of the Solomon Islands.

Safeguards in Use of Exchanged Information (c. 40.9):

738. The FIU has Standard Operating Procedures that address how information is used and exchanged to include a Confidentiality Agreement, staff vetting, physical security. The FIU has an MOU with Taiwan that prohibits third party disclosure without prior consent. The FIU treats all information it receives from all sources, internal and external, in a like manner.

Additional Element—Exchange of Information with Non-Counterparts (c. 40.10 & c. 40.10.1):

739. The Official Secrets Acts, Section 5 (1) (a), allows the competent authorities to share information with anyone they deem in the best interest of the government of the Solomon Islands. The FIU uses its contacts within RAMSI to assist when dealing in the international arena. Most requests have been funneled through third parties to facilitate the exchange of information and have occurred in an expeditious manner.

Additional Element—Provision of Information to FIU by Other Competent Authorities pursuant to request from Foreign FIU (c. 40.11)

740. Although the FIU has not requested information from other competent authorities or other persons relevant to information requested by a foreign counterpart FIU, because they have never received a request for cooperation, there are no legal impediments or policies that prevent such cooperation. Moreover, the Solomon Island authorities expressed a keen desire to cooperate internationally and displayed an intense enthusiasm to respond to an international request with zeal and conviction when one is received. The assessment team felt it inappropriate to penalize the Solomon Island authorities for not receiving a request for cooperation and had no information to suggest that request(s) were not submitted because countries believed their request(s) would go unheeded.

International Cooperation under SR V (applying c. 40.1-40.9 in R. 40, c. V.5):

741. The responses recorded in 40.1 – 40.9 also apply to SR V.

742. Additional Element under SR V (applying c. 40.10-40.11 in R. 40, c. V.9):

743. Additional elements 40.10 and 40.11 of Recommendation 40 also apply to SR V.

Statistics (R.32)

744. There are no statistics available concerning international cooperation.

745. The FIU in the Solomon Islands has not received a request from a foreign counterpart or non-counterpart. The RSIPF do not keep such statistical data concerning formal or informal requests received from counterparts or non-counterparts. Moreover, having RAMSI present is another gateway whereby statistics are also not maintained.

6.5.2. Recommendations and Comments

746. The Solomon Islands is a relatively isolated island chain in the Pacific. The FIU has yet to receive a request for foreign assistance from another FIU or other foreign counterparts and the majority of requests for foreign assistance received by the RSIPF are typically routine police matters. The MLPCA and the Official Secrets Act make it uncomplicated for the competent authorities of the Solomon Islands to provide assistance, share information, conduct inquiries, conduct investigations and do so with proper safeguards.

747. The authorities are very open to international cooperation and the FIU is keen to join Egmont. Moreover, the RSIPF is active in regional bodies and provides excellent assistance to foreign counterparts despite capacity and resource limitations.

6.5.3. Compliance with Recommendations r.40 and Special Recommendation V

	Rating	Summary of factors relevant to s.6.4 underlying overall rating
R.40	**C**	
SR.V	**LC**	• **The legal framework relating to extradition is highly ambiguous.** • **The assessment team did not have sufficient information to assess**

		the extent to which money laundering and terrorism financing are extraditable offences. • **The process for receiving extradition requests is ambiguous.**

7. OTHER ISSUES

7.1. Resources and Statistics

	Rating	Summary of factors underlying rating
R.30	**PC**	• The FIU is woefully understaffed and under its current configuration cannot meet its mandate. • The current office space arrangement for the FIU is inadequate. • The staff of the DPP was somewhat inexperienced in prosecuting ML/TF cases • Customs is understaffed and under resourced • Customs has not received adequate training concerning implementation and enforcement of the CDA. serious resource and corruption issues negatively impact Customs ability o achieve its mandate
R.32	**PC**	• There is no systematic overall operational review of the AML/CFT system as a whole or of its individual components • Lack statistics on instances, of confiscation and the amounts seized or confiscated. • SIFIU does not have the resources in order to collect and collate STRs for meaningful analysis • No record keeping regarding mutual legal assistance requests or extradition statistics.

Table 1. Ratings of Compliance with FATF Recommendations

Forty Recommendations	**Rating**	**Summary of factors underlying rating**[38]
Legal systems		
1. ML offense	**LC**	• The Solomon Islands does not criminalize acts within a number of the designated categories of predicate offences. • The definition of “conceal or disguise” and “convert or transfer” as acts of laundering suffers from some ambiguity. • The definition of proceeds does not extend to legal documents evidencing title. • The effectiveness issue as identified in relation to R.2 below,
2. ML offense—mental element and corporate liability	**LC**	• Enforcing against money laundering remains limited and is totally absent in relation to some important categories of predicate offences such as forestry, fishery and mining offences. This is mitigated by the low risk of money laundering and heavily determined by the severe lack of resources
3. Confiscation and provisional measures	**LC**	• The authorities do not yet make adequate use of their confiscation powers. This is mitigated by the low level of proceed generating crimes in the jurisdiction. • Instrumentalities intended for use are not covered by the confiscation regime.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	**C**	•
5. Customer due diligence	**NC**	• There is very weak implementation of CDD measures in the banking sector. There is no

[38] These factors are only required to be set out when the rating is less than Compliant.

		indication of implementation of CDD measures in the non-bank financial sector. • • Verification of occasional customers is weak in the banking sector and not done in the non-bank financial sector. • There are no requirements for financial institutions to verify the status of legal persons or arrangements and to verify any person acting on behalf of a legal person or arrangement. • The definition of the MLPC Act for "beneficial owner" does not fully meet the definition of the international standards. • There is no explicit requirement in the legislation for financial institutions to understand its ownership and control structure. • No requirements for financial institutions to obtain information on the purpose and intended nature of the business relationship. • No requirements for financial institutions to conduct ongoing due diligence on the business relationship with its customers. • Financial institutions are not required to conduct enhanced due diligence on higher risk customers. • Financial institutions are not required to perform CDD measures on existing customers on the basis of materiality and risk.
6. Politically exposed persons	**NC**	• There are no requirements for financial institutions to have in place risk management system and due diligence measures for politically exposed persons.
7. Correspondent banking	**NC**	• There are no requirements for financial institutions to adopt risk control measures for dealing with cross border correspondent banking and other similar relationships.

8. New technologies & non face-to-face business	**NC**	• There are no requirements for financial institutions to have policies or measures to prevent the misuse of technological developments in money laundering or terrorist financing schemes or for dealing with non-face-to-face business relationships or transactions. • Banks interviewed do not establish business relationship with non-face-to-face customers.
9. Third parties and introducers	**PC**	• The MLPC Act is silent on the issue of reliance on intermediaries or third parties for customer CDD. However, in practice Banks do not rely on third parties for customer CDD.
10. Record-keeping	**PC**	• The transaction record keeping requirements of the MLPC Act only apply to those transactions that exceed a certain monetary threshold set by the Minister of Finance. • Ambiguity in the MLPC Act on the requirements relating to the length of time customer CDD records should be maintained. • Financial institutions are not required to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities. • While there is some implementation of record keeping practices in the banks, this cannot be verified in the non-bank sectors.
11. Unusual transactions	**NC**	• Financial institutions are not required to pay special attention all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. • Financial institutions are also not required to examine as far as possible the background and purpose of any such transaction, to document their findings and to keep these findings available for competent authorities. • Other than the banks, there is no implementation of monitoring measures in the non-bank

		financial sector.
12. DNFBP–R.5, 6, 8–11	**NC**	• The MLPC Act's coverage of the DNFBP sector is limited and fails to capture all categories of DNFBPs which is required under the international standards. • The requirements under the current laws with regards to CDD and record keeping measures are not in line with the international standards. • The covered DNFPBs are not obligated to put in place measures addressing Recommendation 6,8,9 and 11
13. Suspicious transaction reporting	**LC**	• Lack of compliance by Cash Dealer Sector • Lack of specific legislation requiring the reporting of attempted transactions • The deficiencies identified in relation to the scope of the predicate offence under R. 1 also affect the scope of the reporting obligation.
14. Protection & no tipping-off	**C**	•
15. Internal controls, compliance & audit	**PC**	• There are no binding requirements for financial institutions to establish and maintain internal AML/CFT procedures, policies and controls relating to CDD, record retention, detection of suspicious transactions and other related measures. • There are no requirements for financial institutions to maintain adequately resourced and independent audit functions to test their compliance with AML/CFT requirements or to adopt employee screening procedures. • No implementation of these measures in the non-bank financial sector, and implementation in the banking sector is not sufficient.
16. DNFBP–R.13–15 & 21	**NC**	• Only partial coverage, no effective supervision. • DNFBPs are not required to adopt internal control measures relating to AML/CFT policies

		and procedures, internal audit function, staff training and screening procedures.
17. Sanctions	**PC**	• Significant sanctions require a court order. No middle ground on sanctions. Low effectiveness due to resource constraints.
18. Shell banks	**LC**	• Correspondent banking relationships with shell banks are not prohibited by enforceable means.
19. Other forms of reporting	**C**	•
20. Other NFBP & secure transaction techniques	**NC**	• There was no consideration of other vulnerable sectors, • There is currently no strategy to modernize financial transactions or to encourage a move away from cash dealing.
21. Special attention for higher risk countries	**PC**	• No requirement to inspect transactions without visible purpose, no means to inform or establish counter-measures.
22. Foreign branches & subsidiaries	**N/A**	• All banks in Solomon Islands are themselves subsidiaries of foreign banks. There are no local financial institutions with foreign subsidiaries, nor is this likely to change within the next couple of years.
23. Regulation, supervision and monitoring	**PC**	• Oversight of insurance companies limited to prudential matters.
24. DNFBP—regulation, supervision and monitoring	**NC**	• Majority of DNFBPs not covered, casinos not effectively supervised. • Inability to enforce inspection powers.
25. Guidelines & Feedback	**LC**	• Little applicable guidance to the non-banking sector.
Institutional and other measures		
26. The FIU	**PC**	• FIU not properly staffed or resourced; only constituted with seconded personnel, resulting in a substantial impact on effectiveness; • Cash dealers not provided guidance on reporting

		requirements; no STRs filed by Cash Dealers; • No legal provisions creating the position of Director of the FIU, defining relationship to the AMLC, or CBSI; concerns about operational independence; • No statistics, trends or typologies included in the publication of periodic reports
27. Law enforcement authorities	**LC**	• Resources, capacity and expertise to conduct and prosecute ML/TF investigations is minimal;
28. Powers of competent authorities	**C**	•
29. Supervisors	**PC**	• Supervisors' powers split up in a way that makes enforcement difficult. Effectiveness issues due to resource constraints.
30. Resources, integrity, and training	**PC**	• The FIU is woefully understaffed and under its current configuration cannot meet its mandate. • The current office space arrangement for the FIU is inadequate. • The staff of the DPP was somewhat inexperienced in prosecuting ML/TF cases • Customs is understaffed and under resourced • Customs has not received adequate training concerning implementation and enforcement of the CDA. • serious resource and corruption issues negatively impact Customs ability o achieve its mandate
31. National co-operation	**C**	•
32. Statistics	**PC**	• There is no systematic overall operational review of the AML/CFT system as a whole or of its individual components • Lack statistics on instances, of confiscation and the amounts seized or confiscated. • SIFIU does not have the resources in order to

		collect and collate STRs for meaningful analysis • No record keeping regarding mutual legal assistance requests or extradition statistics.
33. Legal persons–beneficial owners	**NC**	• There is currently no adequate system for maintaining information on the beneficial ownership of companies. • Bearer shares are allowed and there are no measures to mitigate the risks of anonymity associated with them.
34. Legal arrangements – beneficial owners	**PC**	• The reliance on law enforcement powers suffers from the capacity constraints that affect law enforcement authorities.
International Cooperation		
35. Conventions	**PC**	• The Solomon Islands is not currently a member of the Vienna and Palermo Conventions. • The Solomon Islands does not currently implement the Security Council Resolutions 1267 and 1373.
36. Mutual legal assistance (MLA)	**LC**	• Weaknesses identified in the scope of the money laundering offence may affect the ability of Solomon Islands to render mutual legal assistance in some instances.
37. Dual criminality	**LC**	• Dual criminality is required to render mutual legal assistance in all instances even the least intrusive such as the consensual transfer of persons. • The Solomon Islands still does not criminalize a number of the categories of predicate offences designated by the international standard, such as human trafficking. This may have implications for the rendering of assistance or the execution of extradition requests.
38. MLA on confiscation and freezing	**LC**	• Weaknesses identified in the scope of the money laundering offence may affect the ability of Solomon Islands to render mutual legal

		assistance in some instances.
39. Extradition	**PC**	• The legal framework relating to extradition is highly ambiguous. • The assessment team did not have sufficient information to assess the extent to which money laundering and terrorism financing are extraditable offences. • The process for receiving extradition requests is ambiguous.
40. Other forms of co-operation	**C**	•
Nine Special Recommendations		
SR.I Implement UN instruments	**PC**	• The Solomon Islands does not currently implement the freezing mechanism required by Security Council Resolutions 1267 and 1373.
SR.II Criminalize terrorist financing	**LC**	• The law is ambiguous on the liability of legal persons for terrorism financing. • `The SI's law requires a purposive element even for the offences created by one of the listed conventions when none is required under the listed conventions. • The CTA is new and it is implemented in a very low risk context. Effectiveness therefore has no bearing on the rating.
SR.III Freeze and confiscate terrorist assets	**PC**	• The Solomon Islands does not yet have in place a system for the implementation and enforcement of UN Security Counsel Resolutions 1267 and 1373.
SR.IV Suspicious transaction reporting	**LC**	• Lack of implementation outside banking sector
SR.V International cooperation	**LC**	• The legal framework relating to extradition is highly ambiguous. • The assessment team did not have sufficient information to assess the extent to which money laundering and terrorism financing are

		extraditable offences. • The process for receiving extradition requests is ambiguous.
SR.VI AML/CFT requirements for money/value transfer services	**PC**	• No supervision of non-bank MVT service providers. Same deficiencies in relation to the application of Recommendations 5, 6, 10, 11, 15 and SR VII.
SR.VII Wire transfer rules	**NC**	• No obligation in law, regulation or OEM to include full originator information with the wire transfer, to pass originator information along with a wire transfer or to conduct enhanced scrutiny regarding possibly suspicious transactions in regard to wire transfers without full originator information.
SR.VIII Nonprofit organizations	**NC**	• No review of the adequacy of existing laws and regulations that relate to non-profit organizations that can be abused for FT. • No effective registration of NPOs • No appropriate effective monitoring mechanism for NPOs including the registration of NPOs and the ability to monitor sources of funds for NPOs. • The sanctions are not dissuasive and proportionate • No active monitoring or supervision. • No outreach or awareness raising.
SR.IX Cross-Border Declaration & Disclosure	**PC**	• Currency declaration system is applied only for passengers by air.

Table 2. Recommended Action Plan to Improve the AML/CFT System

FATF 40+9 Recommendations	Recommended Action (in order of priority within each section)
1. General	
2. Legal System and Related Institutional Measures	
2.1 Criminalization of Money Laundering (R.1 & 2)	• Passing the pending MLPCAB • Passing the other pending bills including the Transnational Crimes Bill and the Illicit drug control bill to ensure that the Solomon Islands criminalizes sufficient range of acts in all the designated categories of offences. • Intensifying the training of the Police in the conduct of financial investigation. • Training the DPPs staff and the courts prosecuting and trying money laundering cases. • Raising awareness of the law enforcement authorities in the utility of using money laundering and asset tracing as a tool to fight forestry, mining and fisheries offences. • Providing the competent law enforcement authorities with specialized training in the use of money laundering to fight corruption.
2.2 Criminalization of Terrorist Financing (SR.II)	• Clarify the liability of legal persons for terrorism financing. • Conduct a risk assessment that identifies both the levels and typologies of home-grown terrorism as well as the risks of cross-border terrorism financing activities.
2.3 Confiscation, freezing, and seizing of proceeds of crime (R.3)	• Building the capacity of the police in conducting proceeds investigation in a timely manner. • Protecting law enforcement authorities against any political interference in the exercise of their powers.
2.4 Freezing of funds used for terrorist financing (SR.III)	• Setting up a system for the circulation and enforcement of the UN Security Council designation list. • Operationalize the designation system created under CTA 2009 and utilize to give effect to Resolutions 1267 and 1373.

	• Give guidance to financial institutions and DNFBPs on how to implement the requirements of resolutions 1267 and 1373.
2.5 The Financial Intelligence Unit and its functions (R.26)	• The FIU should develop a "core workforce" of FIU staff members and not rely solely on seconded personnel to conduct analysis functions. The FIU should be properly staffed with a core workforce. Current staffing levels make it extremely difficult for the FIU to fulfill its core functions • The FIU is under-resourced, and should receive additional funding to achieve its existing mandate, and to better equip itself to undertake more comprehensive analysis in order to enhance its effectiveness. • The operational independence of the FIU should be further strengthened giving the FIU sole authority to determine its internal processes and staff recruitment. • The SIFIU's Annual Report should include statistics and information about money laundering and terrorism financing trends and typologies. • The FIU should provide more guidance to Cash Dealers and other reporting entities on the manner of reporting, to include specification of reporting forms procedures to be adhered. • The authorities should support the FIU's attempts to join Egmont. • Comments: The FIU should be provided with proper and adequate office space that ensures suitable security of its premises and financial data. • The authorities should consider legislation to ensure that the FIU has express legal authority to access administrative and law enforcement information related to its mandate in a timely manner. • Consideration should be given to enhanced screening of FIU staff and management, given the sensitivity of the information assets of the organization. . • Consideration should be given to having the FIUs intelligence data stored on a separate hard drive,

	downloaded on a periodical basis and stored in a secure offsite location. The authorities should consider relieving the FIU of its AML/CFT inspection functions and consider allocating these functions to the CBSI. The current low STR reporting levels could be attributed to the fact that the FIU does not have enough resources to properly engage with all the reporting entities. • The authorities should also encourage the FIU to focus on strategic analysis and provide the requisite resources. The FIU needs to acquire more analytic and information management tools and receive tactical as well as strategic analysis training. • The FIU should consider streamlining the STR reporting form and making it more user-friendly. • The FIU should offer more frequent training to a wide segment of the RSIPF, Customs, Inland Revenue, Auditor General's Office and other relevant stakeholders on the role and functions of the FIU. This training should clarify to the competent authorities that the FIU is not to be utilized to circumvent the warrant requirements to obtain financial records. • After developing their core, the FIU should consider expanding the secondment concept and invite seconded personnel from other relevant agencies to enhance, not replace, this core workforce.
2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)	• Provide an infusion of resources to support and advance the work of the AML community, focusing primarily on the RSIPF, Customs and FIU. • Provide the required technical training to Customs, and also initiate an infusion of human and other resources. • Putting in place measures, whether legislative or otherwise, that provide law enforcement or prosecution authorities with an adequate legal basis for the use of a wide range of special investigative techniques when conducting ML and FT investigations.
2.7 Cross-Border Declaration & Disclosure (SR IX)	• Apply the same currency declaration to passengers by sea and crew and implement a declaration system with a prescribed form to currency carried or to be carried into

	and out of Solomon Islands by sea, air, or postal cargo.
3. Preventive Measures–Financial Institutions	
3.1 Risk of money laundering or terrorist financing	•
3.2 Customer due diligence, including enhanced or reduced measures (R.5–8)	• Explicitly require under the legislation that financial institutions conduct CDD of customers in (1) situations where there is a suspicion of money laundering or terrorist financing (2) circumstances where the financial institution has doubts about the adequacy of previously obtained customer identification data.39 • Impose an obligation on financial institutions to (1) verify any persons acting on behalf of legal persons or arrangements and (2) verify the legal status of customers that are legal persons or arrangements.40 • The definition of "beneficial owner" under the MLPC Act to be made consistent with the definition in the international standards. In particular it should be defined as including: (1) the natural person on whose behalf or for whose ultimate benefit the applicant may be acting in the proposed transaction; (2) those persons who exercise ultimate effective control over a legal person or arrangement. • Require financial institutions to understand the ownership and control structure of legal persons and arrangements. Require financial institutions to obtain information on the purpose and intended nature of the business relationship with customers. 41 • Require financial institutions under the legislation to conduct ongoing due diligence on the business

[39] Section 4(12A), Money Laundering and Proceeds of Crime (Amendment) Act 2010 introduces provisions requiring CDD in these circumstances..

[40] Section 4(12C), Money Laundering and Proceeds of Crime (Amendment) Act, 2010 addresses these CDD requirements for legal persons.

[41] Section 4(12C)(c), Money Laundering and Proceeds of Crime (Amendment) Act, 2010 introduces this requirement to obtain information on the purpose and intended nature of the business relationship.

	relationship with its customers including ensuring that CDD information and documents is kept up-to-date.42 • Require financial institutions to perform CDD on existing customers on the basis of materiality and risk. • Require financial institutions to put in place risk management systems and due diligence measures for dealing with PEPs.43 • Enforce the implementation of CDD measures in the financial sector (especially in the non-bank financial sectors, namely insurance, non-bank foreign exchange and money transfer sectors) through targeted awareness programs and CDD guidelines. • Require financial institutions to adopt risk control measures for dealing with cross border correspondent banking and other similar relationships.44 • Require financial institutions to have in place policies or measures to prevent the misuse of technological developments in money laundering or terrorist financing schemes or for dealing with non-face-to-face business relationships or transactions.
3.3 Third parties and introduced business (R.9)	• Provide clear instructions in the AML laws on whether financial institutions may or may not rely on intermediaries or third parties to conduct CDD.
3.4 Financial institution secrecy or confidentiality (R.4)	•
3.5 Record keeping and wire transfer rules (R.10 &	• Require by law that financial institutions establish and maintain records of all transactions, whether domestic or

[42] Section 4(12I), Money Laundering and Proceeds of Crime (Amendment) Act, 2010 introduces provisions which partly addresses the requirements for financial institutions to conduct ongoing due diligence on its business relationships.

[43] Section 4(12C)(d), Money Laundering and Proceeds of Crime (Amendment) Act, 2010 introduces measures for dealing with PEPs.

[44] Section 4(12D), Money Laundering and Proceeds of Crime (Amendment) Act 2010 contains measures for cross border correspondent banking.

SR.VII)	international transactions and regardless of the value of the transaction. • Clarify the current requirements in the MLPC Act to require financial institutions to maintain customer identification data and records for at least five years following the termination of an account or business relationship. • Require by law that financial institutions must ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority. • Authorities should take measures to ensure that all covered financial institutions are effectively implementing the record keeping requirements. • Entities dealing with wire transfers should be obliged to make sure that full originator information accompanies each wire transfer, to pass along such originator information with a wire transfer, and to conduct enhanced scrutiny regarding possibly suspicious transactions in regard to wire transfers without full originator information.
3.6 Monitoring of transactions and relationships (R.11 & 21)	• Require that financial institutions pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose.45 • Require that financial institutions to examine as far as possible the background and purpose of any such unusual transactions; to document their findings and to keep these findings available for competent authorities. • Establish means to inform financial institutions of concerns about weaknesses in the AML/CFT systems of other countries and to enact countermeasures against such countries.
3.7 Suspicious transaction	• The FIU should initiate a strategy to address this issue.

[45] Section 4(12I)(2), Money Laundering and Proceeds of Crime (Amendment) Act, 2010 introduces provisions for monitoring of transactions and business relationships.

reports and other reporting (R.13, 14, 19, 25, & SR.IV)	The frequency and substance of feedback provided to the reporting entities is inadequate. • The authorities should consider streamlining the current reporting form and consult with obligors during the reformation process. • The authorities should adjust the trigger for reporting and not require financial institutions and cash dealers whether a transaction is relevant to an investigation.
3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)	• Explicitly require under the law for financial institutions to establish and maintain internal AML/CFT procedures, policies and controls relating to the prevent money laundering and terrorist financing. These should, amongst other things, cover issues on CDD, record retention and detection of suspicious transactions. • Require financial institutions to maintain adequately resourced and independent audit functions to test their compliance with AML/CFT requirements and to adopt employee screening procedures.
3.9 Shell banks (R.18)	• The Solomon Islands should explicitly outlaw the operation of correspondent banking relationships with shell banks and require that those Financial Institutions which may at some point in the future enter into correspondent banking relationships satisfy themselves that their correspondent banks do not allow shell banks to make use of their accounts.
3.10 The supervisory and oversight system–competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)	• The supervisor in charge of AML/CFT compliance should have direct sanctioning powers without necessitating recourse to a court order. It should have the ability to enforce compliance by way of financial sanctions. • SIFIU needs to provide specific guidance to other financial sectors. • SIFIU needs to raise awareness of the AML/CFT obligations in the non-banking sector, as well as of its inspection powers, and assert the latter more forcefully. • In order to further enhance the effectiveness of the system in the long term, the Solomon Islands may consider having the general supervisory authority on AML/CFT matters to be distinct from the FIU with its functions

	regarding STRs. This should allow one supervisory entity to have all the requisite inspection and sanctioning powers regarding institutions carrying out Financial Activities. Such AML/CFT supervision should extend to all institutions carrying out Financial Activities, including insurance businesses, and include the ability to impose financial sanctions for non-compliance.
3.11 Money value transfer services (SR.VI)	• The supervisor for non-bank money transfer services needs to be adequately resourced to carry out on-site inspections of MVT service providers and establish effective supervision of compliance with the sector's AML/CFT obligations.
4. Preventive Measures– Nonfinancial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	• Extend the coverage of the AML/CFT framework and measures to all DNFBPs that are required in the international standards such as the real estate agents, dealers in precious metals; lawyers, notaries, accountants and trust and company service providers. • Adopt the threshold approach allowed for under Recommendation 12 when imposing the CDD obligations of the legislation on the DNFBPs. • Strengthen the CDD, record keeping and monitoring provisions in the legislations or by regulations as outlined in recommendations under section 3 of this Report. • Take measures to enforce the implementation of the AML/CFT requirements on the DNFBPs.
4.2 Suspicious transaction reporting (R.16)	• The Solomon Islands should extend the coverage of AML/CFT obligations to the full range of the DNFBP sector. • The Solomon Islands should raise the awareness of the DNFBP sector of its legal obligations and take steps to supervise and, where necessary, enforce those obligations.
4.3 Regulation, supervision, monitoring, and sanctions (R.17, 24, & 25)	• The Solomon Islands should extend their supervisory coverage to all DNFBPs. • The Solomon Islands should publish sector-specific

	guidance for DNFBPs on how to comply with their legal obligations. • The supervisory body in charge of supervising AML/CFT compliance by DNFBPs, now and in future, needs significant strengthening in order to carry out its function.
4.4 Other designated non-financial businesses and professions (R.20)	• The Solomon Islands should consider applying Recommendations 5, 6, 8-11, 13-15, 17 and 21 to non-financial businesses and professions (other than DNFBP) that are at risk of being misused for money laundering or terrorist financing.
5. Legal Persons and Arrangements & Nonprofit Organizations	
5.1 Legal Persons–Access to beneficial ownership and control information (R.33)	• Amending the Companies Act to strengthen the information maintained on the beneficial ownership of companies. • Strengthen the capacity of the registrar of companies through increased staffing and automation of the registry. The automation system should allow for cross-checks. • Introduce obligations upon company service providers to conduct CDD and maintain relevant records.
5.2 Legal Arrangements–Access to beneficial ownership and control information (R.34)	• Assessing the risk of these vehicles and the capacity of law enforcement powers to obtain information on the beneficial owners behind them. • Take remedial measures to address any weaknesses identified in this assessment.
5.3 Nonprofit organizations (SR.VIII)	• Undertake a review of the adequacy of existing laws and regulations that relate to non-profit organizations that can be abused for FT; • Take effective steps to insure proper registration of NPOs and insure they are easy accessible to the appropriate authorities • Enact measures requiring NPOs which account for a significant portion of the financial resources under control of the sector and a substantial share of the sectors international activities to maintain and make available to appropriate

	authorities, records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the organization • Carry out outreach with the NPO sector with a view to protecting the sector from TF abuse; • Take effective steps to promote supervision and monitoring of those NPOs which account for a significant portion of the financial resources under the control of the sector;
6. National and International Cooperation	
6.1 National cooperation and coordination (R.31)	• The assessors recommend that the authorities strengthen the participation and frequency of the SICLAG meetings. Also, the assessors recommend that the FIU create a forum that meets on a periodic basis to promote the interaction of the competent authorities and reporting entities and to discuss ideas and means to strengthen the Solomon Islands AML/CFT regime.
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	• Ratifying the Vienna and Palermo Conventions and fully implementing their provisions through domestic laws. • Setting a legal and procedural framework for the implementation of the Security Council Resolutions 1267 and 1373.
6.3 Mutual Legal Assistance (R.36, 37, 38 & SR.V)	• In order to achieve full implementation the authorities should implement the recommendations provided in relation to R. 1 and R. 3 in this report because of their spell-over effect to international cooperation between Solomon Islands and the World.
6.4 Extradition (R. 39, 37 & SR.V)	• Taking legislative measures to introduce a definition of extraditable offences that does not restrict to a list of offences but rather extends to category of offences similar to that applied in the MACMA. • Making sure that terrorism financing and money laundering are extraditable offences with the largest number of countries. • Becoming party to the multilateral conventions relating to money laundering, i.e., Vienna, Palermo and UNCAC and establishing those conventions as providing sufficient treaty basis for extradition with other parties to the same conventions.

	• Clarifying and simplifying the process of submitting and receiving extradition requests.
6.5 Other Forms of Cooperation (R. 40 & SR.V)	•
7. Other Issues	
7.1 Resources and statistics (R. 30 & 32)	• The Solomon Islands should maintain statistics on instances, of confiscation and the amounts seized or confiscated. • SIFIU should collect and collate STRs for meaningful analysis • The Solomon Islands should keep record keeping regarding mutual legal assistance requests or extradition statistics.
7.2 Other relevant AML/CFT measures or issues	
7.3 General framework – structural issues	

Annex 1. Authorities' Response to the Assessment

Annex 2. Details of All Bodies Met During the On-Site Visit

- Prime Minister Dr. Derek Sikua
- Anti-Money Laundering Commission
- Anti-Money Laundering Technical Expert Group (AML/TEG)
- Attorney General
- Auditor-General
- Australia and New Zealand Banking Group
- Bank of South Pacific
- Bar Association
- BJS Real Estate
- Central Bank- Office of the Controller of Insurance
- Central Bank- The International Department within the Central Bank
- Central Bank-the Financial Market Supervision Department
- Customs and Excise Division (Border and Enforcement)
- Development of Exchange Services (Regulator of NPOs)
- Director of Public Prosecution
- Foreign Investment Registry
- Honiara Casino
- Immigration Department
- Inland Revenue Division
- Institute of Accountants
- International Center for Not-for-Profit Law (ICNL)
- Ministry of Commerce, Industry and Employment (Registrar of Cooperative Societies)
- Ministry of Finance
- Ministry of Foreign Affairs
- Ministry of Home Affairs (Supervisor of Gaming Institutions)
- Ministry of Justice and Legal Affairs
- Ministry of Mines and Energy (supervisor of Gold Dealers)
- Red cross
- Regional Assistance Mission to the Solomon Islands (RAMSI)
- Registrar General
- Registrar of Companies
- Royal Solomon Islands Police Force
- Royal Solomon Islands Police Force:
  -Criminal Investigation Department
  -Corruption Targeting Team
  -Transnational Crime Unit
- SIFIU
- Solomon Post (Western Union)
- Tower Insurance
- Transparency International
- Westpac Bank

Annex 3. List of All Laws, Regulations, and Other Material Received

- Agreement for information sharing between bank of Papua new Guinea and the central bank of Solomon Islands
- Agreement between Solomon Islands and Taiwan concerning cooperation in exchange of intelligence to combat money laundering and financing terrorism
- An Auditor-General's Insights into Corruption in Solomon Islands Government
- Categories of Investment Activities
- Central Bank of Solomon Island, Customer Due Diligence
- Central Bank of Solomon Islands (CBSI), Supervisory and Examination Manual for Financial Institutions
- Central Bank of Solomon Islands Act
- Charitable Trusts Act
- Companies Act
- Compliance Examination Manual
- Cooperative Societies Act Cap 164
- Copyright Act Cap 138
- Counter-terrorism Act 2009
- Court of appeal of Solomon Islands, Dausabea V Regina
- Credit Union Act
- Criminal Procedure Code Cap 7
- Currency Declaration Act 2009
- Dangerous Drugs Act Cap. 98
- Development Database is provided by Development Services Exchange
- Evidence Act 2009
- Exchange Control Act
- Extradition Act
- Extradition Bill 2009
- Financial Crime & Money Laundering Risk Assessment
- Financial Institutions Act 1998
- Firearms and Ammunition _Amendment_ Act 2000
- Fisheries Act 1998
- Foreign Investment Regulations 2005, FORM 1
- Foreign Investment Regulations, form 1 & 2
- Forest Resources and Timber Utilization Act Cap 40
- Gaming and Lotteries Act
- Gaming and Lotteries Amendment 2004
- Gaming and Lotteries Amendment 2006
- Guidelines for financial Institutions & Cash Dealers
- High court of Solomon Islands, Sir Allan Kmakeza V Regina
- Interpretation and General Provisions Act
- Investment Act
- Money Laundering and Proceeds of Crime _Amendment_ Act 2004

- Money Laundering and Proceeds of Crime Act 2002
- MOU between the AMLC and SIFIU
- MOU between the SIFIU and the Central Bank of Solomon Island
- MOU between the SIFIU and the Solomon Islands customs and Excise Division
- MOU between the SIFIU and the Solomon Islands police Force
- Mutual Assistance in Criminal Matters Act 2002
- office of director of public prosecutions, annual report 2008
- Penal Code Cap 26
- Police Act Cap 110
- Report to the Auditor-General into the export, import (Exim) bank loan, other ethnic related disbursement
- SI Official Secrets Act Cap. 25
- SIFIU-STR-Form
- Solomon Islands Financial intelligence unit, Standard operating procedures, November 2009
- Special audit report into the financial affairs of immigration division
- Special audit report into the financial affairs of the department of fisheries and marine resources
- Status of Audits as at 30 June 2008, Office of the Auditor General
- The constitution of Solomon Islands
- The Foreign Investment Act 2005
- The Foreign Investment Regulations 2006

Copies of Key Laws, Regulations, and Other Measures