



Financial Action Task Force
Groupe d'action financière

**SUMMARY OF THE
THIRD MUTUAL EVALUATION REPORT
ANTI-MONEY LAUNDERING AND
COMBATING THE FINANCING OF TERRORISM**

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND**

29 June 2007

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EXECUTIVE SUMMARY

1. Background Information

1. This report provides a summary of the AML/CFT measures in place in the United Kingdom of Great Britain and Northern Ireland (UK) as at the date of the on-site visit or immediately thereafter. It describes and analyses those measures, and provides recommendations on how certain aspects of the system could be strengthened. It also sets out the UK's levels of compliance with the FATF 40+9 Recommendations (see the attached table on the Ratings of Compliance with the FATF Recommendations).

2. The UK has a comprehensive legal structure to combat money laundering and terrorist financing. The money laundering offence is broad, fully covering the elements of the Vienna and Palermo Conventions, and the number of prosecutions and convictions is increasing. The terrorist financing offence is also broad. The introduction of the Proceeds of Crime Act 2002 (POCA) has had a significant and positive impact on the UK's ability to restrain, confiscate and recover proceeds of crime. The UK has also established an effective terrorist asset freezing regime. Overall, the UK FIU appears to be a generally effective FIU. The UK has designated a number of competent authorities to investigate and prosecute money laundering offences. Measures for domestic and international co-operation are generally comprehensive as well.

3. The effectiveness of current preventative measures for financial institutions varies; the situation will be improved with the implementation of the 3rd EU Money Laundering Directive later in 2007. Currently, the main CDD deficiencies lie in the fact that certain requirements, such as beneficial ownership, are not laid out in law or regulation. Record-keeping and STR requirements are comprehensive and effective. The Financial Services Authority (FSA) has extensive powers to monitor and ensure compliance by the financial institutions it regulates. While the supervisory system is comprehensive for the larger firms, supervision of certain smaller firms (including some small banks, insurance companies, securities dealers, and investment managers) requires enhancement.

4. All designated non-financial businesses and professions (DNFBPs) as defined by the FATF are covered under the Money Laundering Regulations 2003. DNFBPs appear to be effectively complying with their STR obligations. There is generally comprehensive monitoring of casinos, and lawyers and certain accountants; the main deficiencies lie in the lack of monitoring for the real estate and company service provider sectors and certain unregulated accountants. These sectors will be supervised once the 3rd EU directive is implemented.

5. The UK is a political union made up of four constituent countries: England and Wales (which for legal purposes counts as a single jurisdiction) and Northern Ireland are common law jurisdictions, and Scotland, which operates a hybrid system based on both common law and civil law principles. The UK is a constitutional monarchy, with executive power exercised on behalf of Her Majesty Queen Elizabeth II by a democratically elected Prime Minister and other "Cabinet Ministers" who head the departments of state. Although the Parliament at Westminster remains the seat of Government for the UK, Scotland, Wales, and Northern Ireland have a degree of devolved government. Official estimates in 2004 indicated a population of 59 834 300. Based on market exchange rates, the UK is the fifth-largest economy in the world, the second largest in Europe, and the sixth-largest overall by purchasing power parity (PPP) exchange rates. The currency of the UK is pound sterling, represented by the symbol "£"¹.

6. The overall threat to the UK from serious organised crime, and contingent money laundering, is high. UK law enforcement estimates the economic and social costs of serious organised crime,

¹ At the time of the on-site visit, 1 £ = 1.48 EUR or 1.93 USD.

including the costs of combating it, at upwards of £20 billion a year. It is estimated that the total quantified *organised crime* market in the UK is worth about £15 billion per year as follows: drugs (50%); excise fraud (25%); fraud (12%); counterfeiting (7%); organised immigration crime (6%). Estimated total recoverable criminal assets per annum are £4.75 billion, of which it is estimated that GBP 2.75 billion is sent overseas. Cash remains the mainstay of most serious organised criminal activity in the UK. The following typologies are currently those of most concern to UK law enforcement: cash/value couriering; abuse of “gatekeepers”; abuse of money transmission agents (including Hawala and other alternative remittance systems); cash rich businesses & front companies; high value assets and property; abuse of bank accounts and other over-the-counter financial sector products.

7. The UK has substantial experience in responding to terrorist threats and the support networks that make terrorist acts possible; the principal current terrorist threat facing the UK is from extremists using a distorted and unrepresentative version of the Islamic faith to justify violence. This threat is genuinely international in nature. Attacks have been carried out in Britain by both British nationals and by outsiders. The domestic and international dimensions of the threat are therefore closely linked. The use of banks to move terrorist funds overseas is thought to have declined in response to the tightening of controls in that sector. Two areas of growing concern are: the abuse of charitable organisations to raise and distribute funds, and the abuse of the ‘money service business’ (MSB) sector (including alternative remittance services) to move funds.

8. All types of “financial institutions” as defined in the FATF methodology are active in the UK, and all are covered by the current Money Laundering Regulations 2003 (MLRs 2003). The UK is a major international centre for investment and private banking and has one of the largest commercial banking sectors in the world. The UK insurance industry is the largest in Europe and third largest in the world and is also one of the largest fund management markets in the world. It has a strong international orientation and attracts significant overseas funds (it is estimated that the UK fund management industry was managing over £2,960bn of funds at the end of 2004). This includes international private wealth management, hedge funds and private equity.

9. All types of “designated non-financial businesses & professions” (DNFBPs) as defined in the FATF methodology are active in the UK and all are within the scope of the MLRs 2003. The UK has a wide range of legal persons and arrangements. Legal forms include: Companies Act companies and other forms of companies (both public and private), partnerships, and societies. Trusts are a long-standing, popular, and integral part of the legal and economic landscape of the UK.

2. Legal Systems and Related Institutional Measures

10. The money laundering offences in the UK are comprehensive in their scope and appear to be used frequently. The introduction of POCA brought about a major improvement over the precursor legislation since it is no longer necessary for the authorities to distinguish between drug trafficking and other predicate offences upon the evidence at their disposal in order to prosecute money laundering offences. In England and Wales, the number of investigations, prosecution and convictions under POCA have each been increasing substantially each year since POCA first came into force in 2003.

11. The provisions criminalising terrorist financing have a generally broad coverage. The provisions specifically cover collecting or providing funds to be used for a terrorist act and providing funds to be used by a terrorist organisation or an individual terrorist; the provisions also appear sufficient to cover collection of funds for use by terrorist organisations and individual terrorists.

12. The UK has a comprehensive regime to confiscate criminal proceeds. The introduction of POCA has had a significant and positive impact on the UK’s ability to restrain, confiscate and recover proceeds of crime. The provisions of the Act, particularly on the criminal confiscation side, appear to

be working reasonably well in practice. The UK also has sufficient provisional measures to freeze and seize property and instrumentalities.

13. The UK has established an effective terrorist asset freezing regime. As a member of the European Union, the UK is bound by the EU freezing mechanism. Domestic measures, the Al-Qaida and the Taliban (United Nations Measures) Order 2006 (previously 2002) and the Terrorism (United Nations Measures) Order 2006 (previously 2001), expand upon the coverage of the EU regulations. These measures include a domestic designation process that appears rapid and efficient; a total of 84 individuals and 58 entities had been designated under the 2006 UN Order at the time of the on-site visit. Failure to abide by an asset freeze under the Order is punishable by seven years imprisonment and an unlimited fine. The Bank of England, as Her Majesty's Treasury's (HMT's) agent on asset freezing, is responsible for issuing notices with respect to persons designated and maintains a consolidated sanctions list on its website. The UK has used the powers available under the orders on a number of occasions to take rapid asset freezing action against suspected terrorists.

14. Since March 2006, the UK FIU has been housed within the Serious Organised Crime Agency (SOCA) but operates with a high degree of independence. Overall, the UK FIU substantially meets the criteria of Recommendation 26 and appears to be a generally effective FIU; the private sector reported improved relations and co-operation since the transfer of the FIU responsibilities to SOCA in March 2006. However, the UK FIU has not released public reports on statistics, typologies and trends, as well as information regarding its activities, in a manner required by the FATF standards. The UK FIU could also conduct more proactive STRs analysis. The FIU now has 97 staff; however, the UK FIU should continue to increase its staff, especially its analytical staff, in line with the objective set out in the SARs ("Lander") review. UK officials should also continue to work to improve the current "consent" process (explained below), which appears to create an undue burden for the private sector and the FIU.

15. The UK has taken a pro-active approach to pursuing not only predicate offences but also the proceeds of crime and the financial aspects of terrorist cases. The UK has designated a number of competent authorities to investigate and prosecute money laundering offences. Investigation and prosecution agencies include, for the UK: SOCA and Her Majesty's Revenue and Customs (HMRC); for England and Wales: the Crown Prosecution Service (CPS) and the Revenue and Customs Prosecution Office (RCPO); for Northern Ireland the Public Prosecution Service of Northern Ireland (PPSNI); for Scotland, the Crown Office and Procurator Fiscal Services (COPFS) and the Scottish Crime and Drug Enforcement Agency (SCDEA). There are also 43 regional police forces in England and Wales, 8 in Scotland, and 1 in Northern Ireland. The National Terrorist Finance Investigation Unit (NTFIU) actively pursues terrorist financing issues in conjunction with all terrorism investigations. The various agencies appear adequately structured, funded, and resourced to effectively carry out their functions. Integrity standards, including standards of confidentiality, are high for investigators and prosecutors.

16. The system for disclosing cross-border movements of currency and bearer negotiable instruments appears generally effective; however, UK authorities do not have the authority to detain cash purely for a false disclosure, and there is no requirement to retain, at a minimum, the amount and identification the bearer in amount of disclosures where there is a false disclosure, although cash seizure provisions allow individual officers significant discretion to take action on the basis of a "reasonable grounds to suspect" test. Nor is there is a specific requirement to maintain this data in the event of a suspicion of ML/FT. The EU Council Regulation No 1889/2005 ("the Cash Controls Regulation") will also apply in the UK as of 15 June 2007. The regulation will apply a declaration system that will complement the existing disclosure system, although the declaration provisions will apply only to cross-border movements of currency and bearer negotiable instruments into and out of the EU.

3. Preventive Measures – Financial Institutions

17. The Money Laundering Regulations 2003 (MLRs), Proceeds of Crime Act 2002 and the Terrorism Act apply to all financial institutions carrying out financial activities as defined by the FATF. For FSA-regulated firms, additional obligations are laid out in the FSA Handbook, and include additional regulatory requirements as well as guidance. The Joint Money Laundering Steering Group (JMLSG) Guidance Notes provide further detail to the MLRs. These guidance notes as a whole cannot be considered as “other enforceable means” as defined by the FATF. However, parts of the guidance are linked to specific Rules, and when those Rules are read inclusively with the guidance, the content of the guidance on those particular points could be regarded as part of the enforceable means. Other parts of the guidance are not linked to specific Rules and are therefore only guidance.

18. The UK uses a risk-based approach to financial sector regulation. In general, the risk-based approach applies to two main areas: (1) the JMLSG Guidance Notes generally indicate that firms should apply the particular guidance to the extent that that is required, taking into account the firm’s risk-based view on the need to do so in order to meet its more high level obligations under the MLRs and the FSA Handbook; and (2) the level of supervision that a financial institution receives by the FSA is also determined on a risk-based approach. To determine the level of supervision, the financial institutions are divided by the level of “impact” to the financial sector, based initially on the firm’s total assets but can then be raised or lowered according to a number of factors, and ratings are determined for the level of risk.

19. MLRs contain basic customer identification requirements pursuant to the 2nd EU Money Laundering Directive. These include when establishing business relations, when conducting transactions over EUR 15 000, and when there is a suspicion of money laundering and terrorist financing. Overall, however, the CDD requirements contain a number of gaps. For example: there is no requirement in law or regulation to identify the beneficial owner or take reasonable measures to verify the identity of the beneficial owner, to determine who are the natural persons that ultimately own or control the customer, including those persons who exercise ultimate effective control over a legal person or arrangement or for on-going monitoring. Further, certain elements are not addressed in either law, regulation, or other enforceable means, such as an obligation to apply CDD to existing customers on the basis of materiality and risk, and measures for enhanced due diligence are not sufficient. Many of these issues will be addressed in the implementation of the 3rd ML Directive, scheduled for December 2007. Until that time, the JMLSG Guidance Notes provide comprehensive guidance to the private sector.

20. Other issues are currently encouraged on a risk-based approach in the guidance and are not directly mandatory, although there is evidence that the majority of firms address AML/CFT risk in line with the available guidance. UK authorities should make more direct obligations: to obtain information on the intended purpose and nature of the business relationship; to specify the procedures for on-going due diligence in compliance with the FATF Recommendations; to require that financial institutions maintain documents and other CDD data up-to-date and relevant by undertaking regular reviews. Regarding politically exposed persons (PEPs), the UK authorities should create enforceable obligations in this regard as soon as possible. While current language in the JMLSG Guidance on correspondent banking is generally comprehensive and appears to cover the main areas of Recommendation 7, it does not currently constitute an enforceable requirement.

21. Regarding introduced business, there is no current enforceable requirement that the financial institutions be satisfied that the introducer will make ID and other relevant documentation available upon request. Financial institutions are not required to satisfy themselves that the third party is regulated and supervised (in accordance with Recommendation 23, 24 and 29), and has measures in place to comply with, the CDD requirements.

22. There are no financial institution secrecy laws in the UK that inhibit the implementation of the FATF Recommendations, and record-keeping requirements are comprehensive. The new EU

Regulation No. 1781/2006, in force as of 1 January 2007, generally meets the technical requirements as set out in SR.VII. However, wire transfers within the EU are classified as domestic; the cross-border element in a non-domestic wire transfer is as an obstacle for timely access to the full originator information. In addition, sanctions for non-compliance will only be in place as of 15 December 2007.

23. There is no specific obligation to monitor all complex, unusual large transactions, to examine as far as possible the background and purpose of such transactions and to set forth findings in writing. However, there is generally comprehensive guidance in the JMLSG Guidance Notes, and the FSA-regulated institutions seem to follow the guidance effectively. The UK authorities should adopt more specific requirements to monitor transactions involving certain countries and to make out findings in writing.

24. The obligations on the regulated sector to submit suspicious activity reports (SARs) are comprehensive. There is no *de minimis* limit; and attempted transactions are also covered. However, there are some concerns regarding its current set up and implementation: the fact that, after a SAR has been filed, many banks now interpret the current legislation as requiring them to seek consent on every subsequent transaction over 250 pounds for that same customer. The legislation provides immunity from prosecution for those persons who report suspicions to the UK FIU in good faith. "Tipping off" is an offence, as is "prejudicing an investigation."

25. UK FIU has posted guidance on how to complete a SAR and when filing a SAR should be considered. General feedback and typologies provided to the reporting sectors appears generally comprehensive; private sector representatives across the board noted a welcomed increase of outreach and feedback from the UK FIU since it was transferred to SOCA in April 2006.

26. Overall, the system of internal controls is generally strong and complete. The FSA's supervisory approach, in its strong core area related to AML/CFT, focuses on the internal controls and compliance arrangements financial institutions have in place to prevent money laundering and terrorist financing as part of wider systems and controls issues. However, there should be a more direct requirement for firms to maintain an independent audit function. The UK should also adopt more specific rules relating to foreign branches and subsidiaries in relation to the requirements of Recommendation 22.

27. Shell banks are not permitted to be established or continue to operate in the UK. There is, however, no obligation for financial institutions not to enter into, or continue, correspondent banking relationships with shell banks or to require them to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. However, the JMLSG Guidance Notes provide guidance in this area.

28. All types of financial institutions as defined in the FATF methodology are subject to the Money Laundering Regulations 2003. The Financial Services Authority (FSA) is the prudential and designated AML/CFT regulator for financial institutions carrying out activities under the Financial Services and Markets Act (FSMA). The FSA has extensive powers to monitor and ensure compliance by the financial institutions it regulates. The FSA has the authority to conduct on-site inspections to ensure compliance; such inspections can include the review of policies, procedures, books and records, and extends to sample testing. As a whole, the FSA seems adequately funded, staffed and has sufficient technical and other resources to fully and effectively perform its functions. The FSA is accountable to Treasury Ministers, and through them to Parliament. To fund its work, the FSA charges fees to all authorised financial institutions that carry out activities that it regulates.

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

30. On-going supervision of financial institutions is determined by a risk-based approach. This internal process is called “Advanced Risk Responsive Operating frameWork” (ARROW). The FSA measures the risk (the impact and probability before deciding on the nature of its supervisory relationship or the action (if any) that needs to be taken and by whom, to mitigate the risk. The FSA undertakes an “impact” assessment of each financial institution to measure the size of the firm and number of customers. For financial institutions whose impact is scored as medium-low or above (*i.e.* banking institutions with total assets over GBP 450 million, life insurance and securities firms with assets over £900 million, and investment management firms managing funds over £2 billion, although for private equity firms it is £500 million and for Hedge Funds it is £800 million), the FSA undertakes a separate institutional risk/probability assessment to judge the overall risk it presents. Firms below these thresholds are first scored as “low impact” (unless their score has been overridden by specific factors) and supervised as “small firms”. Additionally, the impact of a risk is assessed using qualitative measures in the FSA’s overarching Risk Dashboard to further target FSA supervision resources towards key areas of risk. Following the ARROW firm risk assessment, the FSA will send the ARROW letter, along with the risk mitigation program (RMP), which imposes requirements on firms to mitigate any deficiencies or risks identified.

31. For the largest financial institutions (39 complex major retail groups, which account for about 80% of retail business in the UK, and 43 major wholesale groups), where the potential impact of failure on consumers and the wider economy is high (*i.e.* “high impact”), the FSA adopts “close and continuous” supervision, with more intense supervision and regular risk assessments (typically every 12-24 months). Small firms (as are all firms) are subject to baseline (off-site) monitoring and to “Thematic Work,” which aim to assess score and mitigate the risks of a particular issue. The normal output from this work tends to be in the form of a communication to the regulated sector or individual institutions, discussion papers, or guidance on the FSA website.

32. While the supervisory system is generally comprehensive for the larger (“high impact” firms), there is less adequate supervision for certain smaller firms (including some small banks, insurance companies, securities dealers, and investment managers) – the risk assessment and resulting level of supervision can rely too heavily on the size of the financial institutions and does not always adequately take AML/CFT risk into account. There also appears to be an over reliance on interview-based visits without sample testing. In addition, there are activities that come under the FATF definition which are neither supervised nor obliged to comply with FSA rules and industry guidance (consumer credit, financial leasing, guarantees and commitments, brokers, factoring, safe-keeping and administration). UK authorities plan to cover these areas when implementing the 3rd EU Money Laundering Directive.

33. Since 30 November 2001, the FSA’s Enforcement Division has dealt with one hundred and sixty seven cases relating to a form of financial crime (including market abuse matters); of these cases, eighteen have related specifically to anti-money laundering compliance. Of these, three have resulted in a private warning, eight resulted in a fine, two resulted in a variation of the firm’s permissions and one resulted in a prohibition (for a total of 14 enforcement actions). Having regard to the size of the UK’s financial sector, the number of FSA disciplinary sanctions (since 2001) seems relatively low.

34. The JMLSG Guidance is the key document that provides practical interpretation to financial institutions in complying with AML/CFT legislation, FSA AML rules and good generic industry practice guidance. These are extensive, comprehensive documents, and are extremely useful for the industry. The FSA has also established a number of mechanisms to help financial institutions to comply with their regulatory requirements.

35. Her Majesty’s Revenue and Customs (HMRC) supervises “money service businesses” (MSBs), including money exchangers and money/value transfer offices. HMRC also has adequate powers to obtain access to all records, document or information relevant to monitoring compliance. HMRC may issue a warning letter and impose financial penalties up to GBP 5,000. There are not adequate sanctions that can be used against directors and senior managers. The evaluation team also had some

minor concerns about the effectiveness of the sector's supervision due to the large size of this sector particularly exposed to ML and FT risks.

4 Preventive Measures – Designated Non-Financial Businesses and Professions

36. All designated non-financial businesses and professions (DNFBPs) as defined by the FATF are covered under the Money Laundering Regulations 2003. The JMLSG Guidance notes do not apply, although all the DNFBP sectors have issued guidance to supplement the MLRs. While the MLRs impose certain CDD measures, recordkeeping, and other preventative measures, the deficiencies are the same as indicated above for financial institutions.

37. DNFBPs have comprehensive obligations to report SARs, and appear to be adequately complying with these obligations. However, as with financial institutions, the UK authorities should adopt stronger obligations to monitor transactions (Recommendations 11 and 21). The UK should also require that the estate agents identify the buyer of real estate.

38. The supervisory framework for casinos is currently in transition. A regime was established under the Gaming Act 1968, which gave the "Gaming Board" authority to license, supervise, and sanction casinos for provisions of the Act and AML compliance. Under the new Gambling Act 2005, the previous authorities of the Board, with new strengthened supervisory capabilities, have passed to the "Gambling Commission." The Gambling Commission has already been established; other provisions of the Act are due to come into effect in September 2007. In general, legal or regulatory measures prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a casino. Current sanctions available to the Commission include those that go against the licensing requirements and collusion of staff in illegal activities. Possible sanctions for AML/CFT breaches generally include the authority to issue warnings and revoke a license; the range of sanctions should be expanded. (The range of sanctions will be expanded once the new Gambling Act 2005 comes into force later in 2007.)

39. Legal professionals are subject to a generally adequate system of AML/CFT monitoring conducted by the various self-regulatory organisations for England, Wales, Northern Ireland, and Scotland. Accountants that are members of professional bodies also receive adequate AML monitoring; however, there is a concern about the numerous accountants that are not members of professional bodies. In addition, real estate agents, and trust and company service providers that are not lawyers or accountants are not yet supervised for AML/CFT. The UK authorities plan to address these areas when implementing the 3rd EU Money Laundering Directive later in 2007. High value dealers (which include dealers in precious metals and stones) are subject to the same system of monitoring that HMRC applies to MSBs.

5. Legal Persons and Arrangements & Non-Profit Organisations

40. The UK has a wide range of legal persons and arrangements. Legal forms include: Companies Act companies and other forms of companies (11,500 public and over 2 million private companies), partnerships, and societies. The UK has a registration system for most of these legal persons; all companies formed under the Companies Act are required to have a registered office in the UK and are required to keep an up-to-date register of the names and addresses of its members. Trusts are a long-standing, popular, and integral part of the legal and economic landscape of the UK.

41. The UK's approach to preventing the unlawful use of legal persons and legal arrangements for ML and FT relies on the investigative and other powers of law enforcement, regulatory, supervisory, and other competent authorities to obtain or get access to information. While the investigative powers are generally sound, there are not adequate measures in place to ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities. Information on the companies registrar pertains only to legal ownership/control (as opposed to beneficial ownership), is not verified, and is

not necessarily reliable. Directors and shareholders can be nominees and other legal persons, which can slow down the investigative trail. It is recommended that the UK authorities review the current system to determine ways in which adequate and accurate information on beneficial ownership may be available on a timely basis to law enforcement authorities.

42. England, Wales, and Scotland have well-established systems for the regulation of charities with adequate provision for the registration, transparency, supervision and investigation of charities. The Charity Commission has extensive legal powers to allow it sanction wrongdoing or mismanagement in charities or anything purporting to be a charity in England and Wales. The Charity Commission conducts 400 targeted “Review Visits” each year to review compliance with the Charities Act 2003. These are normally based on information submitted in the annual returns. However, a supervisory regime does not yet apply to Northern Ireland (although legislation was being drafted at the time of the on-site visit). Authorities should therefore develop appropriate procedures for registration, transparency, supervision and investigation of charities in Northern Ireland as soon as possible.

6. National and International Co-operation

43. Internal co-operation and co-ordination between UK policy makers, the FIU, law enforcement and supervisors and other competent authorities appears effective both at the policy and operational levels. The system benefits from an effective network of interdepartmental and interagency contact and co-operation both for policy and for operational matters. These include: the Money Laundering Advisory Committee” (MLAC), which develops AML policy, and the Terrorist Finance Action Group (TFAG), which forms part of the wider Whitehall framework on counter-terrorism, and the Asset Freezing Working Group (AFWG), which is chaired by HMT and agrees the handling of individual asset freezing cases as well as the architecture of the UK’s asset freezing regime. In addition, the UK has regularly reviewed the effectiveness of its AML/CFT systems; results and recommendations of the reviews have been endorsed by ministers and are now being implemented. The UK authorities should continue to implement the recommendations of the various AML/CFT reviews.

44. The UK has ratified and implemented the provisions of the Vienna, Palermo and CFT Conventions and the provisions of S/RES/1267(1999) and S/RES/1373(2001). The UK has broad legal provisions to facilitate requests for mutual legal assistance. Standard evidence gathering mechanisms have recently been reviewed and updated in the Crime (International Co-operation) Act 2003, and new provisions have been introduced to allow for the restraint and confiscation of instrumentalities of crime at the request of foreign jurisdictions. New legislation has also been introduced under POCA to give effect to foreign restraint, confiscation and forfeiture orders in both the criminal and civil context.

45. There are no unduly restrictive measures placed on the provision of assistance, and dual criminality is only required for certain coercive measures such as search warrants. In these cases, the UK appears to have no legal or practical impediment to rendering assistance where both countries criminalise the conduct underlying the offence. The UK is able to share confiscated or forfeited assets with other jurisdictions, and internally is able to use funds confiscated to incentivise law enforcement and prosecution agencies in their work. However, there are concerns about the ability of the UK authorities (excluding Scotland) to handle routine or non-urgent mutual legal assistance requests in a timely and effective manner.

46. Money laundering and terrorist financing are extraditable offences; there are no restrictive conditions or impediments existing in law for extradition. The UK can extradite its own nationals. Extradition law and procedure in the UK was significantly altered by the introduction of the Extradition Act 2003. This was necessary to implement obligations in relation to the EU Framework Decision concerning the European Arrest Warrant (EAW) scheme (“Part 1” in the Extradition Act 2003). However, procedures for all other jurisdictions (“Part 2”) were also changed with a view to expediting the process of extradition. Overall, the UK has systems in place for adequate administrative co-operation, equally for the FIU, law enforcement, and financial supervisors.

7. Resources and Statistics

47. Competent authorities, including law enforcement and the FSA, appear adequately structured and resourced to effectively perform their functions. However, in order to more effectively perform its tasks, HMRC should deploy a broader allocation of resources at all levels of ML/FT risk for the MSB sector. The FIU, while its numbers have already increased, should also increase resources in order to meet commitments made under recent government reviews.

48. In general, the various UK authorities maintain a wide range of statistics on the full range of AML/CFT matters. However, with regard to MLA requests, there are no statistics on the breakdown of the offences concerned in each case (*i.e.* ML, predicate offences, or FT), nor on the number granted and refused, or the time required to respond. Information technology provisions for MLA requests are currently under review by the UK Central Authority. Nor are there comprehensive statistics for the number of SARs analysed and disseminated by the FIU.

Table 1: Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (na).

Compliant	The Recommendation is fully observed with respect to all essential criteria.
Largely compliant	There are only minor shortcomings, with a large majority of the essential criteria being fully met.
Partially compliant	The country has taken some substantive action and complies with some of the essential criteria.
Non-compliant	There are major shortcomings, with a large majority of the essential criteria not being met.
Not applicable	A requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country e.g. a particular type of financial institution does not exist in that country.

Recommendations	Rating	Summary of factors underlying rating
Legal systems		
1. ML offence	C	
2. ML offence – mental element and corporate liability	C	
3. Confiscation and provisional measures	C	
Preventive measures		
4. Secrecy laws consistent with the Recommendations	C	
5. Customer due diligence	PC	<ul style="list-style-type: none"> • JMLSG Guidance only partly deals with identification where there are doubts regarding previously obtained customer identification data. There is no requirement in law or regulation. • It is not specifically required by law or regulation to verify that any person purporting to act on behalf of the customer is so authorised. • There is no requirement in law or regulation to: identify the beneficial owner or take reasonable measures to verify the identity of the beneficial owner, or to determine who are the natural persons that ultimately own or control the customer, including those persons who exercise ultimate effective control over a legal person or arrangement. • The wording of the guidance does not create an obligation to <i>verify</i> beneficial ownership in any situation; there is no obligation to verify the beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers. • There is no explicit obligation to obtain information on the purpose and nature of the business relationship in the UK in all cases. • A requirement to conduct ongoing monitoring does not exist in law and regulation. Nor is there a general requirement that ongoing due diligence should include scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, and where necessary, the source of funds. The limited procedures for on-going due diligence in the guidance only apply for higher-risk scenarios. • There is no general obligation that documents, data or information collected under the CDD process be kept up-to-date and relevant by undertaking

Recommendations	Rating	Summary of factors underlying rating
		<p>reviews of existing records.</p> <ul style="list-style-type: none"> • There is no general requirement to take additional steps when there is a higher risk scenario, whatever that higher risk scenario may be, although the Guidance makes it clear that this is expected. • Provisions for reduced/simplified CDD are overly broad—providing a full exemption from CDD in respect of financial institutions from certain countries (not just reduced); this is not based on an actual risk assessment, either by the UK itself or by the financial institution, which would confirm the assumption of low risk. • The exemption from CDD within the context of a business relationship could still apply when money laundering is suspected. • Once the business relationship has commenced, it is not a specific requirement to terminate the business relationship if proper CDD cannot be conducted. • There is no enforceable obligation to apply CDD to existing customers on the basis of materiality and risk. • A number of measures are mentioned only in JMLSG guidance and have no significance in respect of MSBs or the non-supervised sector other than as guidance.
6. Politically exposed persons	NC	No currently enforceable obligations with regards to PEPs.
7. Correspondent banking	NC	No currently enforceable obligations pertaining to correspondent banking.
8. New technologies & non face-to-face business	C	
9. Third parties and introducers	PC	<ul style="list-style-type: none"> • The information provided concerning the CDD process makes only a limited reference to beneficial owners (i.e. for certain businesses and not all customers). • There is no enforceable requirement that the financial institutions be satisfied that the introducer will make ID and other relevant documentation available upon request. • Financial institutions are not required to satisfy themselves that the third party is regulated and supervised (in accordance with Recommendation 23, 24 and 29), and has measures in place to comply with, the CDD requirements. • In determining in which countries the third party that meets the conditions can be based, competent authorities only to some extent take into account information available on whether those countries adequately apply the FATF Recommendations.
10. Record keeping	C	
11. Unusual transactions	PC	<ul style="list-style-type: none"> • There is no specific obligation to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. The expectation in guidance only covers the JMLSG covered part of the financial sector. • There is no specific requirement to examine as far as possible the background and purpose of such transactions and to set forth findings in writing.
12. DNFBP – R.5, 6, 8-11	PC	<ul style="list-style-type: none"> • <u>Applying R.5</u>: Similar deficiencies as indicated under R.5 (no law or regulation to require CDD when there are doubts about the previously obtained data; no requirements to identify beneficial owner, etc.). Some CDD requirements are in guidance, which are not legally binding. • For casinos, CDD is not required above the 3,000 euro threshold, and it is not clear that casinos can adequately link the incoming customers to

Recommendations	Rating	Summary of factors underlying rating
		<p>individual transactions.</p> <ul style="list-style-type: none"> • Estate agents are not required to identify the buyer. • <i>Applying R.6:</i> No requirements with regard to PEPs that will apply to any of the DNFBNs. • <i>Applying R.8:</i> For DNFBNs, there is no obligation to have policies in place or take such measures as may be necessary to prevent the misuse of technological developments in ML/FT. • <i>Applying R. 9:</i> For DNFBNs, there are currently no enforceable obligations with regard to introduced business. • <i>Applying R.10:</i> Certain record-keeping requirements in the FSA rules and JMLSG Guidance do not apply to DNFBNs: no requirement that records must be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity; no explicit requirement in law or regulation to maintain records of account files. • <i>Applying R.11:</i> For DNFBNs, there is no specific obligation to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. • There is no requirement to examine as far as possible the background and purpose of such transactions and to set forth findings in writing. • No requirement to keep such findings available for competent authorities and auditors for at least five years.
13. Suspicious transaction reporting	C	
14. Protection & no tipping-off	C	
15. Internal controls, compliance & audit	LC	<ul style="list-style-type: none"> • There is not a direct requirement for firms to maintain an independent audit function. • Some minor legal issues (coverage of all MLRO duties under MLR 7, coverage of the full range of training requirements under MLR 3 (1)(c)) are of concern; particularly related to those financial sector entities who are only subject to the MLRs, without further rules or guidance. • No requirement for screening procedures for all employees.
16. DNFBN – R.13-15 & 21	LC	<ul style="list-style-type: none"> • There is no specific requirement to designate an AML/CFT compliance officer at the management level; nor are there any requirements for screening procedures. • There is no requirement for DNFBNs to give special attention to business with countries which do not sufficiently apply FATF Recommendations, nor is there a legal obligation to examine as far as possible the background and purpose of such transactions, and make written findings available for authorities.
17. Sanctions	LC	<ul style="list-style-type: none"> • The number of FSA disciplinary sanctions (since 2001) seems relatively low: 14 enforcement actions including warnings and the cancellation of one licence. • Administrative sanctions of HMRC do not extend to directors and senior managers.
18. Shell banks	PC	<ul style="list-style-type: none"> • There is no enforceable obligation for financial institutions not to enter into, or continue, correspondent banking relationships with shell banks. • No obligation to require financial institutions to satisfy themselves that correspondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.
19. Other forms of reporting	C	

Recommendations	Rating	Summary of factors underlying rating
20. Other NFBP & secure transaction techniques	C	
21. Special attention for higher risk countries	PC	<ul style="list-style-type: none"> • There is no requirement for financial institutions to give special attention to business with countries which do not sufficiently apply FATF Recommendations. MLR 28 only covers FATF countermeasures, and the guidance of JMLSG only covers part of the financial sector. • No specific requirement to examine as far as possible the background and purpose of such transactions, and make written findings available for authorities.
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> • There are currently no requirements relating to foreign branches and subsidiaries.
23. Regulation, supervision and monitoring	LC	<ul style="list-style-type: none"> • The impact assessment method (to determine the level of supervision) does not sufficiently take into account AML/CFT risk, and therefore there are some concerns about the adequacy of supervision for small firms. • Consumer credit, financial leasing, guarantees and commitments, brokers, factoring, safe-keeping and administration are not supervised. • For most on-site assessments (high and medium impact firms), there is an over reliance on interview-based visits without sample testing, and for the medium firms, the FSA does not receive any information related to the implementation of the AML/CFT between two on-site visits. • There are some minor concerns about the current on-going monitoring for MSBs.
24. DNFBP - regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> • Currently no AML/CFT supervision for real estate agents or TCSPs that are not legal or accountancy professionals, or accountants that are not members of professional bodies (approximately 40,000). • Current sanctions for Gambling Commission are not yet adequate, although this will change once the Gambling Act comes into force in September 2007. • Notaries in England and Wales are not supervised for AML/CFT (unless they are also lawyers, or accountants that are members of professional bodies).
25. Guidelines & Feedback	C	
Institutional and other measures		
26. The FIU	LC	<ul style="list-style-type: none"> • There are concerns with regard to the effectiveness and workability of the current consent process, especially with regard to what is often interpreted as consent for follow-up transactions from the same customer. • The FIU does not conduct sufficient pro-active analysis on SARs; overly relying on individual LEAs to conduct their own analysis could reduce the importance of the UK FIU as the national center for receiving, analysing, and disseminating SARs; and could ultimately impede the FIU's analytical functions and its own ability to give guidance and to develop its expertise about ML/FT methods, trends and typologies. • The FIU does not publish periodic reports including SARs statistics, typologies and trends as well as information regarding its activities.
27. Law enforcement authorities	C	
28. Powers of competent authorities	C	
29. Supervisors	LC	<ul style="list-style-type: none"> • With regard to entities that are not subject to the FSA regime (such as consumer credit and leasing) there is not an authority with adequate powers of inspection and sanction for AML/CFT.

Recommendations	Rating	Summary of factors underlying rating
		<ul style="list-style-type: none"> For MSBs, sanctions cannot generally be applied to directors and senior managers.
30. Resources, integrity and training	LC	<ul style="list-style-type: none"> Overall, the allocation of HMRC's resources is a concern, as current resources are focused on the MSBs with the largest turnover which does not adequately address the smaller MSBs which might be of higher risk for ML/FT. The FIU should increase resources in order to meet commitments made under recent government reviews.
31. National co-operation	C	
32. Statistics	LC	<ul style="list-style-type: none"> MLA requests: There are no statistics on the breakdown of the offences concerned in each case (i.e., ML, predicate offences, or FT), nor on the number granted and refused, or the time required to respond. No comprehensive statistics for CFT convictions. The FIU does not have precise figures on the number of SARs analysed and disseminated. The UK does not maintain comprehensive statistics on cross-border disclosures concerning suspected ML/FT.
33. Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> While the investigative powers are generally sound, there are not adequate measures in place to ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities. Information on the companies registrar pertains only to legal ownership/control (as opposed to beneficial ownership) and is not verified and is not necessarily reliable. Although the use of share warrants to the bearer is reportedly rare in the UK, there are no specific measures taken to ensure that they are not misused for money laundering other than the inclusion of "cash" in the POCA description.
34. Legal arrangements – beneficial owners	PC	<ul style="list-style-type: none"> While the investigative powers are generally sound, there are not adequate measures in place to ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal arrangements that can be obtained or accessed in a timely fashion by competent authorities. There is no standardisation of beneficial ownership data held, and the nature of information collected will vary with the provision of any relevant guidance. Providers of trust services who are not lawyers, or accountants that are members of professional bodies, are not monitored for their AML/CFT obligations and so it is not clear how reliable the information they maintain would be.
International Co-operation		
35. Conventions	C	
36. Mutual legal assistance (MLA)	LC	<ul style="list-style-type: none"> There are concerns about the ability of the UK authorities (excluding Scotland) to handle mutual legal assistance requests in a timely and effective manner; the UK is presently unable to ensure timely and effective turnaround of all routine requests.
37. Dual criminality	C	
38. MLA on confiscation and freezing	C	
39. Extradition	C	

Recommendations	Rating	Summary of factors underlying rating
40. Other forms of co-operation	C	
Special Recommendations	Rating	Summary of factors underlying rating
SR.I Implement UN instruments	C	
SR.II Criminalise terrorist financing	C	
SR.III Freeze and confiscate terrorist assets	C	
SR.IV Suspicious transaction reporting	C	
SR.V International co-operation	C	
SR.VI AML requirements for money/value transfer services	LC	<ul style="list-style-type: none"> • Minor concerns about the effectiveness of the sector's supervision. • There are not adequate sanctions that can be used against directors and senior managers. • There are some concerns with regard to the extent that certain Recommendations apply: customer identification such as a lack of beneficial ownership requirements (R.5), PEPs (R. 6), and transaction monitoring (R.11, 21).
SR.VII Wire transfer rules	PC	<ul style="list-style-type: none"> • The derogation set out in the EU regulation for wire transfers within the EU (classified as domestic transfers) is not in compliance with the FATF requirements under SR.VII.² • The sanctions regime is not effective or dissuasive; since no sanctions can currently be applied it is doubtful as to whether any "enforceable obligations" are in place before 15 December 2007. • In terms of effectiveness, there are doubts about the current implementation of the very recent EU requirements, including the requirement to have in place effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information, and about the existence of an effective compliance monitoring of financial institutions.
SR.VIII Non-profit organisations	LC	<ul style="list-style-type: none"> • Northern Ireland not covered relating to registration, transparency and supervision of charities.
SR.IX Cross Border Declaration & Disclosure	LC	<ul style="list-style-type: none"> • UK authorities do not have the authority to detain cash or bearer negotiable instruments purely for a false disclosure. • Currently, there is no requirement to retain, at a minimum, the amount and identification of the bearer where there is a false disclosure or maintain this data in the event of a suspicion of ML/FT, although this is done in practice if the amount is £1,000 or more. • The system whereby detailed information on cross-border disclosures is available to the FIU is not fully comprehensive.

² The FATF decided at the June 2007 Plenary to further consider this subject.