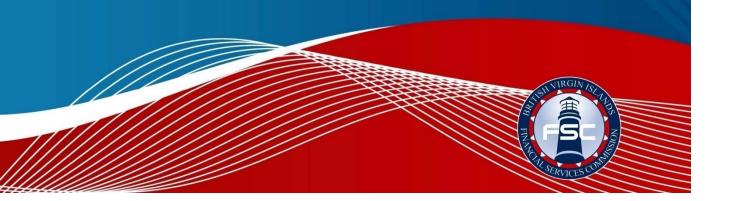
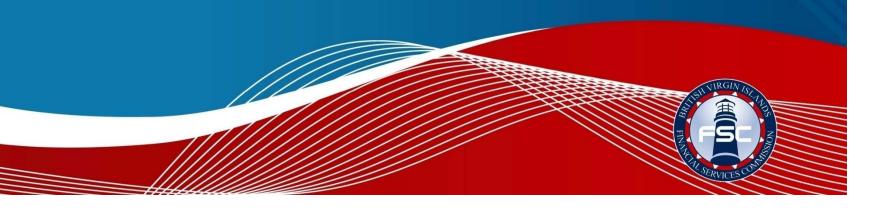
International Monetary Fund's Financial Sector Stability Assessment and Caribbean Financial Action Task Force Report

Cherno Jallow,QC
Director, Policy, Research and Statistics
Meet The Regulator
16 March 2011



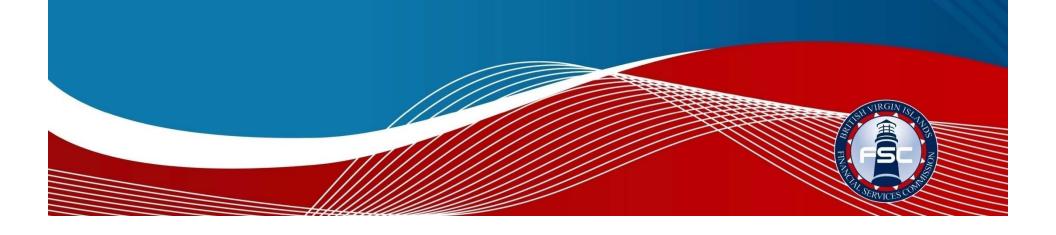
International Monetary Fund's Financial Sector Stability Assessment



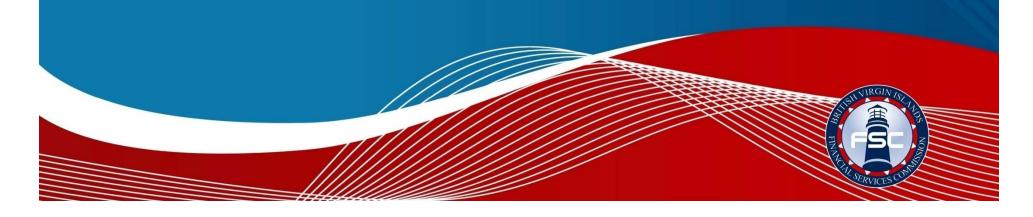
Issue	Recommendation	Remarks	Agency Responsible	Action
The Regulatory Code,	Prompt and full	The Regulatory	Financial Services	The Regulatory Code has been
while in force needs	implementation of the	(Amendment) Code	Commission	in effect since February, 2010
to be amended to	Regulatory Code, for all	has been drafted and		in relation to banks and
include the section	sectors should be	submitted to the		company service providers,
that covers	carried out.	industry for		and insurance business; and
investment business.		consultation. The		since March in relation to
Further action is		consultation period		financing and money services
required from the FSC		ended 31 st August		business. The Regulatory
to ensure effective		2010. It is now in the		(Amendment) Code has now
implementation of		final stages of review		been finalised and covers
the RC.		and should be issued		matters related to investment
		by the end of 2010.		business as well as other
		The Regulatory Code,		general aspects relating to all
		2010 is now being		sectors of the financial
		fully implemented		services industry. The
		and the amendments		Regulatory (Amendment)
		will be taken on board		Code is scheduled to take
		once enacted.		effect from 31st March, 2011.



Issue	Recommendation	Remarks	Agency Responsible	Action
The effectiveness of the implementation of SIBA could not be assessed as it was passed on the first day of the IMF mission.	Prompt and full implementation of the new Securities and Investment Business Act should be carried out.	Since the IMF's visit, SIBA has been brought into force and is currently being implemented.	Financial Services Commission	SIBA is now fully operational and is being fully utilised. Other relevant subsidiary legislation with respect to public funds will be issued before the end of December 2010 to become operational on 31st March 2011. Work on the development of a Public Issuers Code will begin and be completed by the first half of 2011.

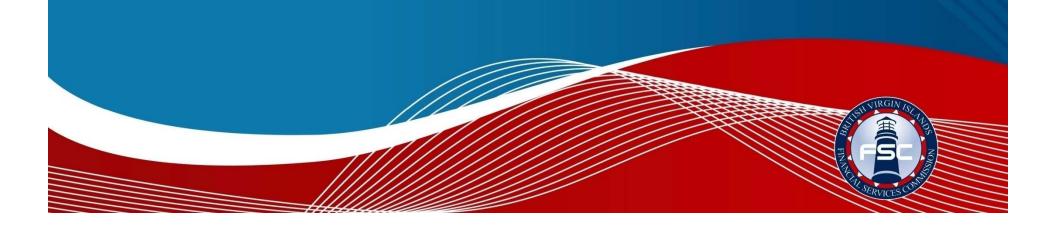


Issue	Recommendation	Remarks	Agency Responsible	Action
Given the size and importance of the trust and corporate services provider sector, the assessors felt that a greater number of inspections might be undertaken. The frequency of inspections appeared low (although the quality of examinations appeared high), given the size of the regulated population and the importance of the sector to Government's revenues.	Provide additional resources for on-site review of corporate and trust service providers.	A dedicated on-site inspection unit has been established within the Commission which will take lead responsibility for coordinating and conducting all on-site reviews. The unit is currently staffed with a senior regulator from each division and is led by the on-site inspection coordinator. Additional resources will be added as necessary.	Financial Services Commission	On the basis of the action already undertaken as identified in the third column, no further action is required. However, a full inspection programme for 2011 and subsequent years will continue to be developed and implemented by the Commission.

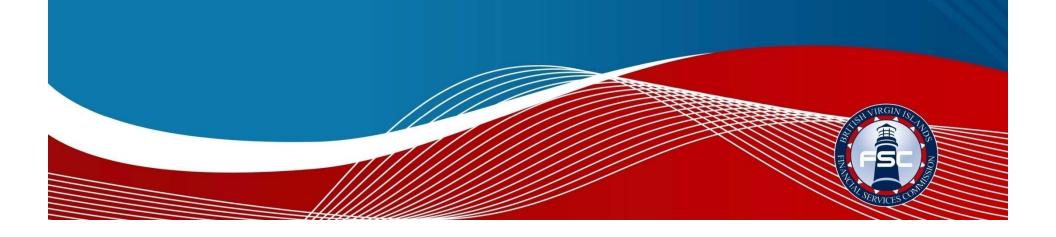


Issue	Recommendation	Remarks	Agency Responsible	Action
The prohibition on the conduct of	It is recommended that the	This recommendation continues to run	Government Ministry	AGC and MOF will liais
unauthorised banking and trust	fine amounts contained in	across all assessment reports of the	of Finance & Attorney	with key stakeholders
ousiness under the BTCA attracts fines	financial services legislation	Territory (CFATF & IMF). If the Territory	General's Chambers	to conduct a review of
of not more than \$50,000 or a prison	be increased.	is to be seen to be serious in effectively		the penalties regime
erm not exceeding two years, or both.	The second secon	combating financial crime and deter the		and recommend
This fine appeared to the examiners to		abuse and misuse of the financial		appropriate
pe very low, given the importance of		structures of the jurisdiction, the		enhancement;
ooth the banking and trust company		penalties prescribed in the following		appropriate legislation
business to the jurisdiction and the		legislation must be reviewed and		to follow thereafter.
considerable damage that could be		enhanced: Financial Services	17 May 17 May 1	
done to the economy from unlicensed		Commission Act, 2001, Banks and Trust	Sales Sales	Projected Date:
ousiness. The examiners also noted		Companies Act, 1990, Company		30 th November, 2011
hat other notable offences attracted		Management Act, 1990, Insurance Act,		
ines that appeared low.		2008, Insolvency Act, 2003, Proceeds of		
The examiners recognised that the fines		Criminal Conduct Act, 1997, Securities	The state of the s	
under SIBA are higher than those under		and Investment Business Act, 2010 and	The second secon	
the Financial Services Commission Act,		Financing and Money Services Act, 2009	The state of the s	
2001 (maximum of \$2,000 to \$20,000)		and all related subsidiary legislation.	The state of the s	
or the Mutual Funds Act, 1996		The Territory stands to be severely		
maximum \$5,000 to \$50,000), but still		criticised if by the next round of mutual		
only range from a maximum of \$15,000		evaluations/assessments if enhanced		
o \$75,000, which they did not consider		penalties are not prescribed and may		
o be large sums of money for entities		well (for AML/CFT purposes at least)		
engaged in the financial services		subject the Territory to an International		
ousiness.		Cooperation Review Group (ICRG)		
The report also noted that one of the		referral with negative consequences.		
deficiencies in AML/CFT came in the				
form of the dissuasiveness of penalties.				

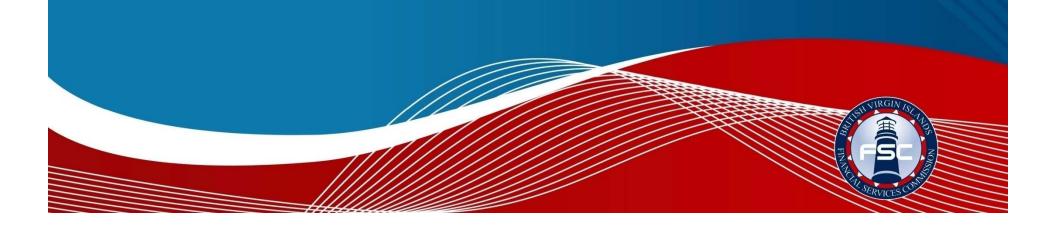
Issue	Recommendation	Remarks	Agency Responsible	Action
Currently audited financial statements must be filed with the FSC within six months of a licensee's year end, which is very slow by international standards.	The six-month time frame for both the submission and the publication of annual audited accounts should be shortened to three and, at most, four months.	This issue is being reviewed by the Commission in an effort to determine how best to comply with the requirement without making the conditions too onerous on its licensees. A reform would require effecting amendments to current relevant financial services legislation.	Government – on the advice of the Financial Services Commission	The matter is being reviewed and the Commission hopes to consult with the private sector on it and have the recommendation fully complied. Projected Date: second half of 2012



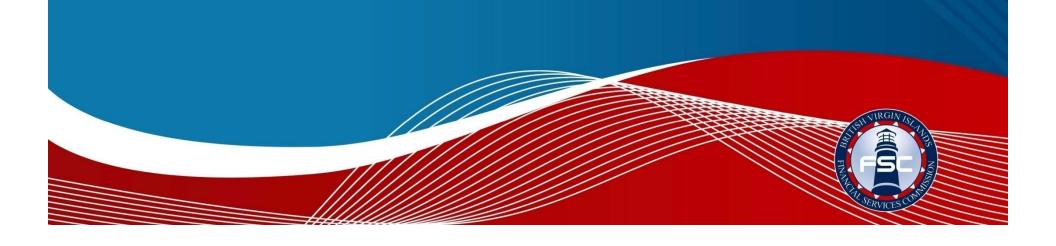
Issue	Recommendation	Remarks	Agency Responsible	Action
The decisions of the Enforcement Committee are not required to be made public. Additional transparency would engender a greater understanding of FSC policy through the community and apply an additional discipline to the market place.	Enhance transparency of enforcement actions by requiring publication of enforcement decisions.	The Financial Services Commission Act, 2001 (as amended) empowers the Financial Services Commission to publish enforcement actions taken against its licensees. The Commission is reviewing the process for properly engaging that power.	Financial Services Commission	The Commission has already taken a decision on the process of publishing enforcement decisions. To make the financial services industry aware of this a notice to this effect has been posted on the Commission's website. Projected Commencement: January, 2011



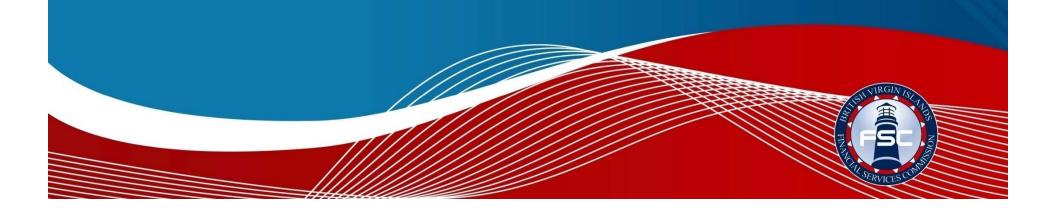
Issue	Recommendation	Remarks	Agency Responsible	Action
The absence in legislation of stated reasons for the removal of the Managing Director from office lacks transparency and could give rise to his dismissal for reasons that might not be in the best interests of banking supervision.	Public disclosure of reasons for removal of FSC Board members, including the managing director should be instituted.	Currently the Financial Services Commission Act, 2001 (as amended) provides for the giving of reasons for the termination of appointment of a Board member and the Managing Director; this does not extend to publishing the reasons for public information. This will require an amendment to the FSCA.	Government	This recommendation is being reviewed along with other corporate governance issues related to the Financial Services Commission Act. Projected Date: 30th June, 2012



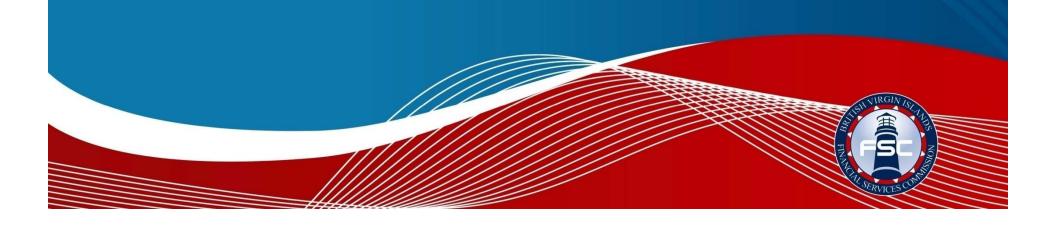
Issue	Recommendation	Remarks	Agency Responsible	Action
Crisis management planning for the local banking system should be addressed for consumer protection. It should also include provisions for emergency lending, and contingent credit lines.	Develop a crisis management plan for the jurisdiction focused on the local banking system.	As this is a matter that needs to be addressed at a national level it will require policy decision at the highest level, taking into account public interest matters. The establishment of a national crisis management committee/group comprising all relevant stakeholders to develop a national crisis management plan, piloted by the Ministry of Finance, may be a practical place to start.	Government	Government, through the Ministry of Finance, to establish a National Crisis Management Group to monitor issues of relevance, including international matters that may affect the stability of the jurisdiction. Projected Date: 31st March, 2011



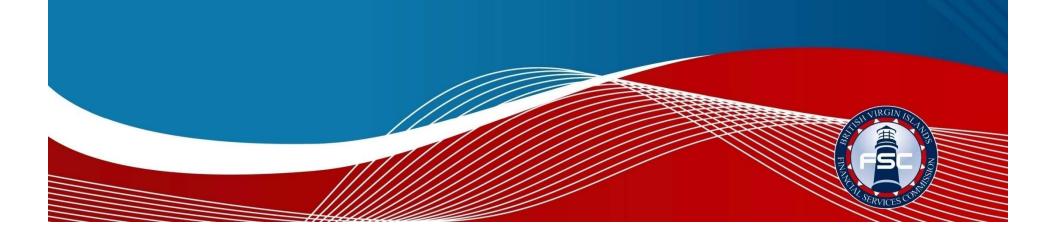
Issue	Recommendation	Remarks	Agency Responsible	Action
There are no formal institutional arrangements in place for the regular coordination or oversight of the financial sector to be discussed with the Ministry (of Finance) or Government, for example, the Cabinet. A longer-term potentially strategic view underpinned by more formalised regular coordination with Government may broaden awareness of the strengths and risks of the financial sector beyond the FSC and MoF.	FSC should include a discussion of financial stability issues as part of regular reporting to government.	This subject is to be considered by the Financial Services Commission to develop appropriate strategies for effectively communicating financial stability issues and discuss with the Ministry of Finance an appropriate reporting mechanism (namely periodic reporting). It is considered that such communication should extend to the Cabinet during its annual joint meeting with the Commission's Board.	Financial Services Commission in cooperation with the Ministry of Finance	Quarterly meetings to be established between the FSC and the MoF to discuss the impact of the financial services sector in relation to financial stability issues. Projected Commencement: 31st March, 2011 This subject will now also be a feature of the annual meetings held between Cabinet and the Commission's Board.



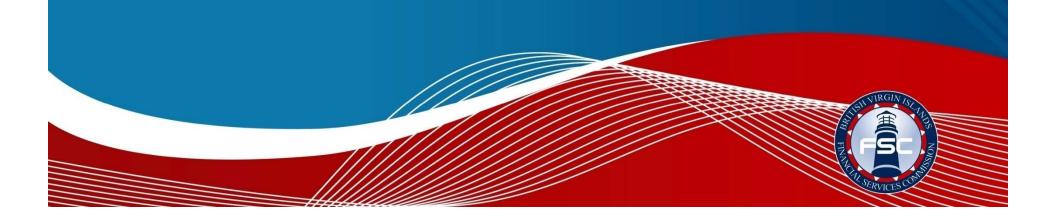
Issue	Recommendation	Remarks	Agency Responsible	Action
The Report indicated that there may be interest from market participants for licensing under one or more of the listed market intermediary categories fairly soon. As such, the need to draft and implement necessary instruments may become pressing in the near term and may require further resources - both more staff and additional training for current staff - to address these new areas.	The FSC should develop a plan to put human resources in place to respond to new market intermediary business models under SIBA, should the demand arise.	The Financial Services Commission is cognisant of the challenges that the new SIBA legislation may present and has already increased the staff complement of its Investment Business Division. Whenever the need for additional resources arises, the Commission has the power to engage relevant services, including recruiting relevant human resource talent.	Financial Services Commission	The Commission has committed resources to ensure the full and effective implementation of business models under SIBA. As the need arises, additional staff will be sourced and appointed.



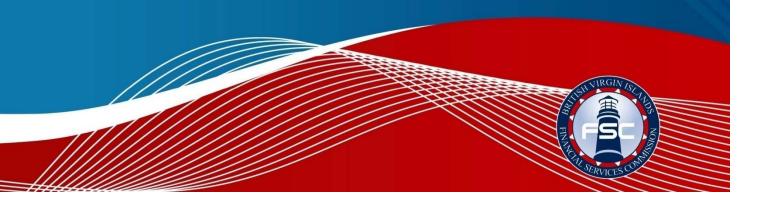
Issue	Recommendation	Remarks	Agency Responsible	Action
The implementation of a system to	A centralized, automated	The Financial Services Commission	Financial Services	With the
follow up on inspection report recommendations to ensure that licensees fulfil their obligations in a timely fashion would assist the effectiveness of the inspection programme.	tracking system to follow up on recommendations made during inspections should be developed.	accepts that this recommendation will greatly facilitate follow-up actions following the conclusion of on-site inspections and the tendering of reports for remedial action. The Commission will undertake the implementation of	Commission	establishment of the Inspection Unit, an automated tracking system will be developed and implemented.
		this recommendation; the on-site Inspection Unit is already centralised for purposes of inspections only and a centralised automated tracking system would logically fit within that Unit.		Projected Date: first half of 2011



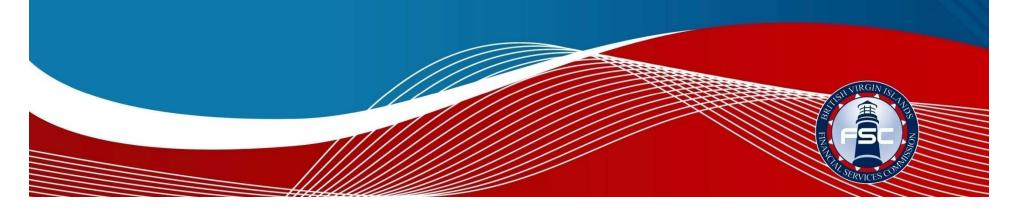
Issue	Recommendation	Remarks	Agency Responsible	Action
The FSC needs to be ready and able to use its powers to prevent the upstreaming of deposits by the subsidiaries and branches in the BVI to their parent entities and to require branches to maintain net "due to head office" positions as soon as signs of pressure on parents or groups emerge. Particular attention should be given to reviewing liquidity policies and ensuring that contingency liquidity arrangements are in place.	FSC should require banks to formulate contingency planning arrangements.	The Financial Services Commission will formulate appropriate policy in this regard in consultation with its licensed banks. Such a policy would place emphasis on liquidity and financial stability as well as contingency planning in the event of a financial crisis.	Financial Services Commission	A consultation process with the Bankers' Association will be instituted, following the development of a draft policy by the Commission. Projected Date: Third quarter of 2011



Caribbean Financial Action Task Force Report



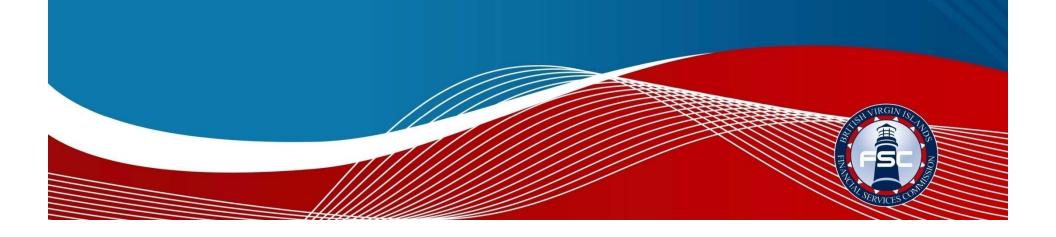
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There is no requirement for a financial institution to immediately obtain from all third parties necessary information concerning certain elements of Customer Due Diligence (CDD) process.	Financial institutions relying upon a third party should be required to immediately obtain from the third party the necessary information concerning certain elements of the CDD process.	While section 31 of the Anti-money Laundering and Terrorist Financial Code of Practice, 2008 had been amended to strengthen the third party introducer element, it is recognised that the interpretation of Recommendation 9 (3) is not uniform with regard to its scope. None of the competitors of the Virgin Islands (onshore and offshore) appears to agree with the literal interpretation of this Recommendation which is currently the subject of review by a working group of the FATF. It is therefore considered prudent to await the outcome of the review before the Virgin Islands seeks to fully implement the scope of the Recommendation.	Financial Services Commission	Recommendation 9 is currently under review by the FATF. Once this review process is complete and the conclusions published, the Commission will review the current position with respect to the jurisdiction's full compliance with the recommendation as amended (the Recommendation is only partially complied with). Projected Date: Ongoing



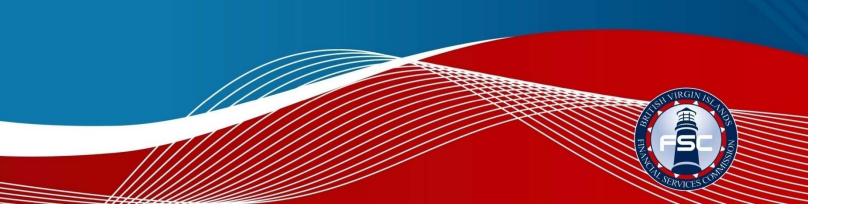
Issue	Recommendation	Remarks	Agency Responsible	Action
The effective	The DNFBPs should be	The DNFBPs concerned in this regard are the	JALTFAC, the	The Government will
implementation of	fully monitored for	Lawyers, Accountants, Real Estate Agents and	Financial Services	lend maximum support
the AMLTFCOP and	AML/CFT compliance.	Dealers in Precious Metals and Stones. The	Commission and the	to the development of
AMLR in relation to		Joint Anti-money Laundering and Terrorist	Government (with	appropriate legislation
designated non-		Financing Advisory Committee (JALTFAC) is	the latter supporting	for accountants, lawyers
financial businesses		currently pursuing this matter and advising the	the creation of the	and real estate agents as
and Professions		Commission accordingly. Meetings have so far	relevant legislative	advanced by the
(DNFBPs) cannot be		been held with all of these stakeholders with a	regimes).	associations of those
assessed.		view to establishing the need for self-	and the state of the	professions. In addition,
		regulation (for Lawyers, Accountants and Real		the Government will
		Estate Agents) to ease the pressure on the FIA		support the enactment in
		(which has multiple other AML/CFT and		the HOA of the relevant
		proliferation financing duties). Each of these	The state of the s	legislative framework.
		professions requires an appropriate legislative	The state of the s	
		framework in order to properly and effectively	The state of the s	Projected Date:
		self-regulate (as is the case in other		October 2011
		jurisdictions) and would therefore require		
		support in that regard from the Government.		
		As the Fourth Round of Mutual Evaluations is		
		scheduled to commence in early 2012 this		
		process would need to be completed no later		
		than October 2011.		



Issue	Recommendation	Remarks	Agency Responsible	Action
The sanctions imposed in the PCCA, AMLTFCOP and AMLR are not dissuasive.	Amendments to the PCCA, AMLTFCOP and AMLR need to be effected to enhance the penalties.	While the PCCA had been amended to enhance the penalties regime to a maximum of \$40,000 fine, this is still considered too low by the CFATF, following a review of the second Virgin Islands Follow-up Report of 2009. This is consistent with the IMF observation which also concluded that the current penalties regimes need to be enhanced considerably.	The Government (through the Attorney General's Chambers).	AGC and MOF will liaise with key stakeholders to conduct a review of the penalties regime and recommend appropriate enhancement; appropriate legislation to follow thereafter. Projected Date: 30th November, 2011



Issue	Recommendation	Remarks	Agency Responsible	Action
The Convention on Organised Crime (Palermo Convention) and Convention on the Suppression of Terrorist Financing have not been extended to the Virgin Islands.	These conventions need to be extended to the Virgin Islands.	The Report acknowledges that all the provisions of these conventions have been incorporated into Virgin Islands law. All that is now required to attain full compliance is for the ratification of or accession to these conventions by the UK Government on behalf of the Virgin Islands.	The UK Government (acting on the advice of the local Government).	The Government will continue to liaise with His Excellency the Governor to push for UK Government ratification/accession as a matter of urgency. Projected Date: 30th June, 2011



Issue	Recommendation	Remarks	Agency Responsible	Action
There is no evidence of review of the adequacy of laws and regulations that relate to Non-Profit Organisations (NPOs) or of periodic reassessments of the sector's potential vulnerabilities to terrorist activities.	The adequacy of laws relative to NPOs should be reviewed and the sector's potential vulnerabilities to terrorist activities reassessed. In addition, an outreach programme to the NPO sector should be undertaken and a supervisory programme be developed to identify noncompliance and violations.	The report highlights the fact that this area of the law in the Virgin Islands remains very weak. There is a need to establish an appropriate legislative framework for the registration and supervision of NPOs either by a separate body or subsumed in an existing body within the Government.	The Government.	The Government will develop appropriate legislation for the regulation and supervision of NPOs. Projected Date: 30th June, 2011

