

**IMMEDIATE
ATTENTION**

SM/08/347

December 11, 2008

To: Members of Executive Board

From: The Secretary

Subject: **Palau—Report on the Observance of Standards and Codes—FATF
Recommendations for Anti-Money Laundering and Combating the
Financing of Terrorism**

Attached for the **information** of Executive Board is the Report on the Observance of Standards and Code for Anti-Money Laundering and Combating the Financing of Terrorism for Palau.

The authorities of Palau have consented to the publication of the ROSC. This report will be posted on the Fund's external website after December 18, 2008.

Questions may be referred to Mr. Lalonde (ext. 38691) and Ms. Cotter (ext. 35841) in LEG.

This document will shortly be posted on the extranet, a secure website for Executive Directors and member country authorities.

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INTERNATIONAL MONETARY FUND

PALAU

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

Prepared by the Legal Department

Approved by Sean Hagan

October 2008

ACRONYMS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
APG	Asia/Pacific Group on Money Laundering
CCDA	Cash Courier Disclosure Act of 2007
CDD	Customer Due Diligence
CID	Division of Criminal Investigation & Drug Enforcement of the BPS
CTA	Counter-Terrorism Act of 2007
DNFBP	Designated Non-Financial Businesses and Professions
FATF	Financial Action Task Force
FIA	Financial Institutions Act of 2001
FIC	Financial Institutions Commission
FIU	Financial Intelligence Unit
FT	Financing of terrorism
MLPCA	Money Laundering and Proceeds of Crime Act of 2001
ML	Money laundering
MLWG	Money Laundering Working Group
MVTS	Money and Value Transfer Services
NPO	Non-profit organization
OAG	Office of the Attorney General
STR	Suspicious Transaction Report
UNSCR	United Nations Security Council Resolution

A. Introduction

1. This Report on the Observance of Standards and Codes for the FATF 40 Recommendations for Anti-Money Laundering (AML) and 9 Special Recommendations on Combating the Financing of Terrorism (CFT) was prepared by the IMF Legal Department.¹ The report provides a summary of the AML/CFT measures in place in the Republic of Palau and of the level of compliance with the FATF 40+9 Recommendations and contains recommendations on how the AML/CFT system could be strengthened. The assessment is based on the information available at the time of the mission from March 3–17, 2008 and was conducted using the 2004 Assessment Methodology. The detailed assessment report on which this document is based was adopted by the APG plenary on July 10, 2008. The views expressed here, as well as in the full assessment report, are those of the staff team and do not necessarily reflect the views of the Government of Palau or the Executive Board of the IMF.

B. Key Findings

2. **Palau has recently strengthened its AML/CFT legislative framework** with the amendments to the Money Laundering and Proceeds of Crime Act of 2001 (MLPCA) and the Financial Institutions Act of 2001 (FIA), and with the enactment of the Counter-Terrorism Act of 2007 (CTA) and the Cash Courier Disclosure Act of 2007 (CCDA). Even though AML/CFT legislation has been in place since 2001, implementation has been lacking.

3. **The offense of money laundering (ML) is criminalized in the MLPCA**; however, only twelve of the twenty FATF-designated categories of predicate offenses are covered. The financing of terrorism (FT) was criminalized in 2007, yet the freezing of terrorist assets under UN Security Council Resolutions (UNSCRs) 1267 and 1373 is not adequately addressed. Palauan legislation shows deficiencies regarding provisional measures of seizing of evidence and property and the freezing of capital and financial transactions related to FT.

4. **The amended MLPCA does not cover the AML/CFT preventive measures in a satisfactory manner.** Significant deficiencies remain in the areas of customer due diligence (CDD), record keeping, monitoring of transactions, and supervision. The Financial Institutions Commission (FIC) is the AML/CFT supervisor, but it does not have the resources to ensure AML/CFT compliance nor to issue any regulations. The designated non-financial businesses and professions (DNFBPs) operating in Palau are not covered by the MLPCA.

5. **The Financial Intelligence Unit (FIU) was moved from the Office of the Attorney General (OAG) to the FIC in February 2008, but the FIC, like the OAG, has not been provided with adequate resources to perform its FIU task.** Without Palau dedicating adequate resources, the overall AML/CFT system remains deficient in several areas.

¹ The assessment team consisted of Maud Böklerink (team leader), Marlene Manuel (both LEG), Gabriele Dunker, John McDowell (both consultants for LEG), and Lindsay Chan (active observer, APG Secretariat).

C. Legal Systems and Related Institutional Measures

6. **Palau's crime rate is relatively low**, with prostitution and consumer marijuana sales being the major sources of criminal proceeds. Illegal fishing by unlicensed vessels poses a further problem. Authorities are not aware of any organized crime or FT activity in Palau.

7. **ML is criminalized broadly in line with the international standard**, including appropriate sanctions for ML, and most technical aspects of the Vienna and Palermo Conventions are addressed. A serious shortcoming is that eight out of the twenty designated predicate offenses are not covered by the money laundering offense, some of which are important given Palau's economic dependence on tourism, agriculture, and fishing as well as its geographic location. The OAG has prosecuted six ML cases. The CTA criminalizes FT largely in line with the international standard. However, the CTA has only been enacted in April 2007 and at the time of the on-site visit, Palau had not conducted any criminal investigations or prosecutions relating to FT.

8. **The legislation allows for the criminal confiscation of proceeds of ML and property related to FT, as well as civil forfeiture.** However, neither property relating to or the proceeds of the predicate offense, instrumentalities used in or intended for use in the commission of the money laundering or a predicate offense, nor property of corresponding value to such proceeds or instrumentalities can be confiscated.

9. **Provisional measures include the seizing of evidence and property as well as the freezing of capital and financial transactions**, whereby any of those measures are subject to approval by the Supreme Court. While seizing is available both for ML and FT, freezing measures and measures to identify and trace property are available for ML but not for FT.

10. **The freezing of terrorist assets under UNSCRs 1267 and 1373 is not adequately addressed.** Hardly any of the required procedural aspects to ensure effective compliance with the Resolutions are covered. It is unclear which authority is responsible for receiving, issuing and disseminating designations pursuant to the Resolutions and no procedures are in place to ensure that terrorist funds are frozen immediately and without undue delay.

11. **The functions of the FIU include the receipt, analysis, and dissemination of suspicious transaction reports (STRs)**, and it has maintained the law enforcement powers that it had prior to its transfer from the OAG to the FIC. The FIU has been operating without dedicated full-time resources since its inception in 2001. Despite this, it has been able to analyze all 71 STRs received and disseminate 49 to the Division of Criminal Investigation & Drug Enforcement (CID) for investigation, of which one resulted in a prosecution.

12. **The lack of dedicated staff and documented standard operating procedures impedes the FIU's effectiveness**, as well as the need for a court order (in the absence of probable cause) to obtain additional information from reporting entities. The FIU has yet to provide STR forms, guidelines, and feedback to the reporting entities.

13. **The CID has been tasked with investigating ML and FT cases.** The CID has followed up on all STRs disseminated by the FIU, but never has initiated an investigation into ML or FT that was not related to an STR. The CID has not made use of any of the special powers provided to it by law for its investigations. The CCDA gives ample powers to Customs to check for cross-border cash transportations. Even though the law is new, Customs has been successfully implementing the law resulting in several seizures.

D. Preventive Measures—Financial Institutions

14. **Palau's small financial sector focuses on providing basic financial services.** There are seven banks licensed by the FIC of which four are branches of foreign banks. The nonbank financial sector consists of insurance agents, finance companies, money and value transfer services (MVTs), and credit unions, all of which are covered by the MLPCA.

15. **The FIC has been designated as the AML/CFT supervisor for banks, finance companies, credit unions, and MVTs, but not for the insurance agents** who are not licensed nor supervised. It has not yet commenced AML/CFT supervision, nor has it issued AML/CFT regulations or guidelines. It has indicated that it will start licensing MVTs, but has yet to identify all providers and issue implementing regulations. With only one Executive Commissioner, one bank examiner in training, and one support person, it is not adequately staffed to execute its tasks. High priority should be placed on the proper staffing, funding, and training of the FIC to ensure appropriate AML/CFT implementation and supervision.

16. **The AML/CFT framework has improved with the recent amendments to the MLPCA and the FIA, although significant deficiencies remain.** Particular strengthening is needed in the areas of supervisory and oversight systems, CDD, record keeping, monitoring of transactions and relationships, and internal controls. CDD deficiencies include the need to address politically-exposed persons, cross-border correspondent banking, payable-through accounts, enhanced due diligence for high-risk customers, and wire transfers. Record-keeping deficiencies include the lack of requirements to maintain all necessary records on transactions, account files and business correspondence.

17. **The requirements for monitoring transactions and relationships are new and have not been implemented,** and financial institutions have not been provided information regarding weaknesses in the AML/CFT systems of other countries. Financial institutions are required to report suspicions for ML to the FIU, yet over the past years, only two of the seven banks and none of the other institutions have reported STRs. The reporting of suspicious transactions related to FT is not sufficiently covered in the MLPCA.

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

18. **The only DNFBPs that operate in Palau are attorneys, who also provide company formation services, but they are not covered under the MLPCA.** The only DNFBPs covered under the MLPCA are casinos, but there are no licensed casinos in Palau.

Other businesses or professionals such as notaries, auditors, real estate agents, and dealers in precious metals or precious stones are present in Palau but their activities do not normally meet the thresholds or conditions that constitute a DNFBP under the international standard.

F. Legal Persons and Arrangements and Nonprofit Organizations

19. **There are no adequate measures to ensure that the information on legal persons and arrangements and their ownership and control structure is accurate and current.**

Corporations, including trusts, have to register with the Registrar of Corporations, but the Registrar does not conduct any examinations to determine if the data provided is accurate, nor is there satisfactory information available on the beneficial owner, which causes problems for the FIU and CID.

20. **Palau has a rudimentary oversight of its nonprofit organizations (NPO) sector.**

There is a basic registration requirement with the Registrar and a requirement for annual reports. However, no review of the NPO sector nor any monitoring of activities has been undertaken.

G. National and International Cooperation

21. **Palau has created a Money Laundering Working Group (MLWG) in 2003 to provide input on AML/CFT policies;** this group has been meeting too irregularly to have played a significant role in AML/CFT policy development. Although there are no specific legal mechanisms in place for operational cooperation, due to the fact that Palau is a small community, ad hoc operational cooperation has been taking place.

22. **The legal framework of the Mutual Legal Assistance in Criminal Matters Act and the Extradition and Transfer Act is basically sound,** and international cooperation has taken place in a few cases. Subject to the dual criminality requirement, authorities may take any measure on behalf of another country that could be taken with respect to a domestic case. However, the application of dual criminality entails that all shortcomings of the ML offense may directly limit Palau's ability to provide mutual legal assistance with respect to ML. Equally, the limitations on the availability of provisional measures also apply in cases where the authorities execute a request of another country.

H. Other Issues

23. **It is strongly suggested to draft a new law on AML/CFT** in order to provide for a common set of requirements applicable to the financial and nonfinancial sectors, ensure a clearer legal environment and eliminate the inconsistencies and duplications that resulted from previous amendments.

Summary Table of Observance and Key Recommendations

FATF 40+9 Recommendations ²	Key Assessor Recommendations
1. Legal System and Related Institutional Measures	
Criminalization of Money Laundering R.1 – PC R.2 – C	<ul style="list-style-type: none"> • Ensure that all FATF-designated predicate offenses to ML are covered. • Amend the ML offense to include “knowingly using criminal proceeds.” • Amend the definition of “proceeds of crime” to cover direct as well as converted criminal proceeds.
Criminalization of Terrorist Financing SR.II – LC	<ul style="list-style-type: none"> • For clarity’s sake, add a reference to the CTA to explicitly criminalize the financing of terrorist organizations. • Amend the definition of “property” to cover legitimate as well as illegitimate funds, corporeal as well as incorporeal property and all assets representing financial value, including claims and interests in such assets. • Consider revisiting the fact that the imprisonment period for FT offenses is shorter in cases where an act results in the death of a person.
Confiscation, freezing, and seizing of proceeds of crime R.3 – PC	<ul style="list-style-type: none"> • Amend the definition of “property subject to the offense” to include the laundered property. • Allow for the confiscation of all instrumentalities used or intended to be used in the commission of an ML offense. • Allow for confiscation of all direct and indirect proceeds of, instrumentalities used or intended for use in the commission of a predicate offense, as well as property of corresponding value to such proceeds or instrumentalities. • Provide for freezing and measures to identify and trace property related to FT.
Freezing of funds used for terrorist financing SR.III – NC	<ul style="list-style-type: none"> • Provide for procedures to enforce the freezing of funds and assets of persons designated pursuant to UNSCR 1267. • Designate an authority responsible for receiving and issuing designations pursuant to UNSCR 1373, and put in place laws and procedures to ensure the freezing of terrorist funds and assets of persons designated pursuant to UNSCR 1373 without the need for a specific court order. • Provide that “property” as defined in the CTA includes funds and assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons, terrorists, those who finance terrorism or terrorist organizations, as well as any funds or assets derived or generated from funds or other assets owned or controlled directly or indirectly by such persons or organizations. • Provide financial institutions and other relevant persons or entities with clear instructions and guidance regarding their obligations under the freezing mechanisms of UNSCRs 1267 and 1373. • Develop and publicize procedures for considering de-listing requests and procedures to challenge freezing measures. • Develop and publicize procedures for unfreezing the funds or other assets

² **Compliant (C)**: the Recommendation is fully observed with respect to all essential criteria.

Largely compliant (LC): there are only minor shortcomings, with a large majority of the essential criteria being fully met.

Partially compliant (PC): the country has taken some substantive action and complies with some of the essential criteria.

Non-compliant (NC): there are major shortcomings, with a large majority of the essential criteria not being met.

	<p>inadvertently affected by the freezing measures.</p> <ul style="list-style-type: none"> • Put in place procedures for access to funds regarding UNSCR 1452. • Ensure effective monitoring of compliance with the obligations under SR III and provide for sanctions for noncompliance.
<p>The Financial Intelligence Unit and its functions R.26 – PC</p>	<ul style="list-style-type: none"> • Recruit additional FIU staff with appropriate skills for STR analysis. • Allocate dedicated budget under the control of the FIU head to cover operational expenses. • Formally inform reporting entities of their reporting obligations and provide STR reporting forms and guidance on reporting procedures. • Consider measures to enable the FIU to obtain additional information from reporting entities during the preliminary STR analysis stage without the need for a court order. • Designate the primary recipient (FIU or OAG) of NPO threshold reports, and agree on information-sharing arrangements. • Develop written standard operating procedures for the STR analysis and dissemination process. • Consider disseminating STR reports to other relevant agencies, such tax and customs authorities. • Enhance the FIU Annual Report and make it publicly available.
<p>Law enforcement, prosecution and other competent authorities R.27 – LC R. 28 – LC</p>	<ul style="list-style-type: none"> • Focus investigations also on ML offenses. • Make use of the full range of law enforcement powers provided by law. • Establish an audit trail for STRs between the FIU, CID, and OAG.
<p>Cross-border declaration or disclosure SR IX– LC</p>	<ul style="list-style-type: none"> • Reconsider the exemption of the declaration duty for banks, common carriers of passengers or goods, and traveler checks issuers.
<p>2. Preventive Measures: Financial Institutions</p>	
<p>Customer due diligence, including enhanced or reduced measures R.5 – NC R.6 – NC R.7 – NC R.8 – NC</p>	<ul style="list-style-type: none"> • Require financial and other institutions and over-the-counter exchange dealers: <ul style="list-style-type: none"> • to undertake CDD for customers that carry out occasional transactions in several operations that appear to be linked, occasional transactions that are wire transfers of \$1,000 or more, and transactions where there is a suspicion of ML or FT; • to obtain information on the provisions regulating the power to bind a legal person or arrangement, to understand the ownership and control structure of a legal person or arrangement, and to determine who are the natural persons that ultimately own or control the customer; • to obtain information on the purpose and intended nature of the business relationship, and to perform ongoing due diligence for all business relationships and enhanced due diligence for high-risk customers; • to put into place appropriate risk-management systems to determine whether a customer is a politically-exposed person; • to take measures regarding cross-border respondent institutions; and • to have policies in place to prevent the misuse of technological development in ML or FT schemes.
<p>Third parties and introduced business R.9 – NC</p>	<ul style="list-style-type: none"> • Require financial and other institutions that rely on third parties for CDD to take adequate steps to ensure that copies of identification and other data will be made available upon request, and that the third party is regulated and supervised appropriately.
<p>Financial institution secrecy or confidentiality</p>	

R.4 – C	
Record keeping and wire transfer rules R.10 – NC SR.VII – NC	<ul style="list-style-type: none"> • Require financial and other institutions and over-the-counter exchange dealers to maintain all necessary records on transactions, as well as account files and business correspondence for at least five years following the termination of an account or business relationship. Records should be required to be maintained in a sufficient manner to permit reconstruction of individual transactions, and all records and information should be available on a timely basis. • Require financial institutions to include full originator information with cross-border and domestic wire transfers of \$1,000 or more. • Require beneficiary financial institutions to adopt effective risk-based procedures for identifying and handling wire transfers that do not include complete originator information.
Monitoring of transactions and relationships R.11 – NC R.21 – NC	<ul style="list-style-type: none"> • Issue regulations or guidance to clarify the requirements regarding monitoring of transactions and accounts. • Develop procedures to identify and disseminate information about weaknesses in the AML/CFT systems of other countries. • Set up measures to apply counter-measures to countries that continue not to apply or insufficiently apply FATF Recommendations and conduct transactions with Palau. • Require over-the-counter exchange dealers to examine as far as possible the background and purpose of unusual or unjustified complexity and to document their findings in writing, and to monitor transactions and accounts.
Suspicious transaction reports and other reporting R.13 – PC R.14 – LC R.19 – C R.25 – NC SR.IV – PC	<ul style="list-style-type: none"> • Ensure that there is a clear reporting duty to report transactions that are suspected to be linked or related to, or to be used for terrorism, terrorist acts, by terrorist organizations, or those who finance terrorism. • Include the reporting of attempted transactions in the STR reporting duty. • Provide for a clear prohibition for tipping off in the law. • Issue guidelines and STR forms, and provide feedback to reporting entities.
Internal controls, compliance, audit and foreign branches R.15 – PC R. 22 – NC	<ul style="list-style-type: none"> • Include requirements in the law for timely access to customer identification data by the compliance officer or other appropriate staff. • Include requirements for training to contain information on current ML/FT techniques, new developments, methods and trends, and a clear explanation of all aspects of AML/CFT laws and obligations. • Require financial and other institutions to put in place screening procedures to ensure high standards when hiring employees. • Ensure that, if, in future, foreign branches and subsidiaries are approved, that they observe AML/CFT measures consistent with home-country requirements and FATF Recommendations to the extent that local laws and regulations permit.
Shell banks R.18 – PC	<ul style="list-style-type: none"> • Prohibit financial institutions from entering into correspondent banking relationships with shell banks, and require them to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. • Consider an explicit prohibition for the establishment of shell banks.
Supervisory and oversight system-competent authorities and SROs Role, functions, duties and powers (including sanctions) R. 17 – LC R.23 – NC	<ul style="list-style-type: none"> • Provide adequate funding to the FIC to undertake its AML/CFT supervisory function, including for ongoing AML/CFT training. • Develop and execute an effective AML/CFT supervisory program. • Issue guidelines and provide appropriate feedback to assist financial and other institutions in applying AML/CFT requirements.

R.25 – NC R.29 – PC	<ul style="list-style-type: none"> • Clarify the classification of insurance agents as over-the-counter exchange dealers or cash dealers, and commence appropriate off-site and on-site supervision, including a program of awareness raising. • Promulgate regulations regarding the remedial provisions.
Money value transfer services SR.VI – NC	<ul style="list-style-type: none"> • Amend the law or issue regulations for MVTs to provide for requirements for CDD, record keeping, STR reporting of attempted transactions and FT transactions, and a prohibition of tipping-off.
3.Preventive Measures: Non-Financial Businesses and Professions	
Customer due diligence and record-keeping R.12 – NC	<ul style="list-style-type: none"> • Include the DNFBPs operating in Palau in the law, especially lawyers and company service providers, when they engage in the FATF-designated activities. • Include requirements for CDD and recordkeeping for lawyers, company service providers and other DNFBPs in the legislation, and provide training on these obligations. • Require over-the-counter exchange dealers (which includes casinos) to obtain and verify CDD identification without a threshold and be subject to the full requirements of FATF Rec. 5-6, 8-11.
Suspicious transaction reporting R.16 – NC	<ul style="list-style-type: none"> • Include requirements for monitoring and STR reporting measures for lawyers, company service providers, and other DNFBPs in the legislation and provide for training on these obligations.
Regulation, supervision, monitoring, and sanctions R.24 – NC R.25 – NC	<ul style="list-style-type: none"> • Designate an AML/CFT supervisory and oversight authority for each DNFBP sector, with adequate legal authority, resources and capacity to monitor and enforce compliance with the AML/CFT requirements. • Consider requiring the designated DNFBP regulators to issue AML/CFT regulations and guidance. • Conduct AML/CFT awareness-raising training for all operating DNFBPs.
Other designated non-financial businesses and professions R.20 – LC	<ul style="list-style-type: none"> • Continue to encourage the use of secure transfer systems when conducting financial transactions to reduce reliance on cash.
4. Legal Persons and Arrangements & Nonprofit Organizations	
Legal Persons and Arrangements – Access to beneficial ownership and control information R.33 – PC R.34 – PC	<ul style="list-style-type: none"> • Establish measures and mechanisms to prevent the unlawful use of legal persons and arrangements, and to ensure that information on the beneficial owners and control structure of corporations and trusts is adequate, accurate, and current.
Nonprofit organizations SR.VIII – PC	<ul style="list-style-type: none"> • Undertake a review of laws affecting NPOs to ensure relevancy and consistency. • Review the information available on NPOs to identify NPOs with international funding or which account for a significant size of the sector. • Commence an audit or spot checking program targeted at higher-risk NPOs identified from the review. • Amend the record-keeping requirement to at least five years after the completion of financial transactions. • Designate an agency as the responsible agency for oversight over NPOs.
5. National and International Cooperation	
National cooperation and coordination R.31 – LC	<ul style="list-style-type: none"> • Ensure that the MLWG meets regularly to ensure further policy cooperation, and set up mechanisms for operational cooperation.
The Conventions and UN Special Resolutions	<ul style="list-style-type: none"> • Sign and ratify the Palermo and Vienna Conventions, and ensure that all provisions of these Conventions are fully implemented.

R.35 – PC SR.I – PC	<ul style="list-style-type: none"> • Amend the CTA to allow for the identification, tracing, and freezing of property relating to FT.
Mutual Legal Assistance R.36 – PC R.37 – LC R.38 – PC SR.V – PC	<ul style="list-style-type: none"> • Criminalize all FATF-designated predicate offenses to be able to provide the widest possible range of mutual legal assistance for ML/FT. • Allow for the confiscation of property of corresponding value to property laundered, instrumentalities intended for use in the commission of a money laundering offense, as well as proceeds of and instrumentalities used in or intended for use in the commission of a predicate offense and based on a request by a foreign country. • Put in place a process for the execution of mutual legal assistance requests in a timely manner and without undue delay. • Allow for the provision of mutual legal assistance even absent dual criminality if the request relates to noncoercive measures. • Consider establishing mechanisms for determining the best venue for prosecutions of defendants in cases that are subject to prosecutions in more than one country. • Consider whether it would be beneficial to enter into formal agreements with other countries to coordinate seizing and confiscation actions.
Extradition R.39 – LC R.37 – LC SR.V – PC	<ul style="list-style-type: none"> • Criminalize all FATF-designated predicate offenses to allow for the extradition of individuals involved in ML.
Other Forms of Cooperation R. 40 – C SR.V – PC	
6. Other Issues	
Resources & Statistics R.30 – PC R.32 – NC	<ul style="list-style-type: none"> • Address the significant human and financial resource deficiencies of the FIU and the FIC. • Make more technical resources available to Customs and the CID. • Develop systems to keep better statistics on STRs, ML/FT investigations, prosecutions and convictions, number of cases and amounts of property frozen, seized and confiscated, mutual legal assistance, and extradition requests.
General framework – structural Issues	<ul style="list-style-type: none"> • It is strongly suggested to draft a new law on AML/CFT, taking into account the mission's recommendations, instead of amending and revising the current MLPCA.

I. Authorities' Response

The Republic of Palau Authorities have reviewed the IMF-APG Mutual Evaluation Assessment in detail. We agree with a majority of the findings and are committed to working on the majority of the items contained in the "Recommended Action Plan to Improve the AML/CFT System".

We thank the evaluators for their taking the time to gain a detailed understanding of the strengths and weaknesses of the Palau AML/CFT system. We are glad that the evaluators appreciate the limited financial system in the Republic of Palau and the recent updates to national legislation which took prolonged periods and concentrated efforts by the authorities to enable passage through our congress. The updates address a majority of the shortcomings in the AML/CFT system, which were identified during the previous assessment in 2003. Other new aspects of the system, such as bulk cash couriers have also been addressed in new legislation which is being vigorously implemented and enforced by the appropriate authorities. For a small jurisdiction with such limited financial and personnel resources, we believe the Republic is maximizing on these limitations in order to implement the FATF 40+9 Recommendations; and to that end, have experienced success within this context.

While we agree with the majority of the recommendations, we are not as agreeable with the importance given by the evaluators to some technical deficiencies in the laws, such as a lack of criminalization of organized criminal group and racketeering, illicit arms trafficking, piracy, and insider trading and market manipulation for the reason that such crimes are nonexistent in the in Palau at this time and do not pose an immediate or eminent threat. As the assessment team determined, there are no major organized criminal groups, all possession of arms is highly illegal, therefore trafficking is included, there have been no instances of piracy, and finally as there are no markets (stock or capital) to be manipulated, the Republic believes these are mere technical deficiencies that should be rectified in the future and the authorities will continue to work within the current political environment to effectuate needed changes.

Many of the deficiencies contained in the Action Plan are currently being addressed by FIC and FIU regulations that will come into effect during 2008. These include in particular the basic and enhanced CDD requirements and record keeping requirements.

In summary, the Republic of Palau accepts the assessment report and agrees with a majority of the findings. The Republic further agrees to the publication of the assessment report. Lastly, the Republic believes that a majority of the noted deficiencies will be addressed during the remainder of 2008 and into the first quarter of 2009.