



COMMITTEE OF EXPERTS ON
THE EVALUATION OF ANTI-MONEY
LAUNDERING MEASURES AND
THE FINANCING OF TERRORISM
(MONEYVAL)

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Bosnia and Herzegovina

10th Compliance report

14 April 2015

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SECRETARIAT ANALYSIS

TENTH COMPLIANCE REPORT

1. Introduction

Evaluation of Bosnia and Herzegovina under the third round (December 2009)

1. MONEYVAL adopted the mutual evaluation report (MER) of Bosnia and Herzegovina (BiH) under the third round of evaluations at its 31st plenary meeting (7 – 11 December 2009). As a result of the evaluation process, BiH was rated Non-compliant (NC) on 13 Recommendations and Partially compliant (PC) on 18 Recommendations¹, including on several core and key FATF Recommendations, as indicated in the table below:

Partially compliant (PC)	Non-compliant (NC)
Core Recommendations² R.1 - Money laundering offence SR.II - Criminalisation of terrorist financing	Core Recommendations R.5 - Customer due diligence
Key Recommendations³ R.3 - Confiscation and provisional measures R.23 - Regulation, supervision and monitoring R.26 - The FIU R.35 - Conventions SR.I - Implementation of United Nations instruments	Key Recommendations SR.III - Freezing and confiscating terrorist assets
Other Recommendations R.6 - Politically exposed persons R.7 - Correspondent banking R.15 - Internal controls, compliance & audit R.17 - Sanctions R.22 - Foreign branches & subsidiaries R. 25 - Guidelines & Feedback R.29 - Supervisors R.31 - National co-operation R.33 - Legal persons SR.VI - AML requirements for money/value transfer services	Other Recommendations R.8 - New technologies & non face-to-face business R.9 - Third parties and introducers R.11 - Unusual transactions R.12 - DNFBP (R.5, 6, 8-11) R.16 - DNFBP (R.13-15 & 21) R.21 - Special attention for higher risk countries R.24 - DNFBP (regulation, supervision and monitoring) R.30 - Resources, integrity and training R.32 - Statistics

¹ It should be pointed out that the FATF Recommendations were revised in 2012 and that there have been various changes, including their numbering. Therefore, all references to the FATF Recommendations in the present report concern the version of these standards before their revision in 2012.

² The core Recommendations as defined in the FATF procedures are R.1, SR.II, R.5, R.10, R.13 and SR.IV

³ The key Recommendations as defined in the FATF procedures are R.3, R.4, R.26, R.23, R.35, R.36, R.40, SR.I, SR.III and SR.V

SR.VII - Wire transfer rules	SR.VIII - Non-profit organisations SR.IX - Cross Border Declaration & Disclosure
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Background information on the Compliance Enhancing Procedures (CEPs)

2. The purpose of this paper is to introduce BiH's Tenth Compliance Report back to the Plenary concerning the progress that it has made since the adoption of the last compliance report at MONEYVAL's 45th Plenary in September 2014⁴.
3. At the 45th Plenary, it was decided that since an on-site visit to BiH was scheduled to take place from 19 to 29 November 2014 under MONEYVAL's 4th Round of Evaluations, the Plenary would defer taking a decision on moving BiH to step 4 of the Compliance Enhancing Procedures (referral to the FATF's International Co-operation Review Group (ICRG)) until after the initial results of the on-site visit had been considered. It was agreed that the initial results would be communicated to the 46th Plenary in December 2014. The Plenary also decided that the public statement, which had been issued on 1 June 2014, would be retained and revised to reflect the adoption and entry into force of the anti-money laundering/counter-financing of terrorism (AML/CFT) law on 25 June 2014⁵.
4. At the 46th Plenary, the Secretariat provided an overview of the outcomes of the on-site visit, referring to some areas, such as confiscation of criminal proceeds, where the FATF Recommendations appeared to have been implemented effectively by BiH. Nevertheless, it was pointed out that significant technical deficiencies on a number of core issues still needed to be addressed. A decision was taken to maintain BiH under step 3 of the CEPs process, revise the public statement and, in the absence of meaningful progress by the 47th Plenary in April 2015 on amendments to the Criminal Code, in particular with respect to financing of terrorism (FT), refer BiH to the ICRG under step 4 of the CEPs process.
5. On 23 February 2015, during the ICRG meeting at the FATF February Plenary, a number of FATF members jointly nominated BiH for immediate referral to the ICRG process for failing to address serious and long-standing deficiencies in its AML/CFT regime. Following representations made by MONEYVAL's Chairman and Executive Secretary, the ICRG agreed that no action would be taken by the FATF until further decisions were taken by the MONEYVAL Plenary in April 2015. The ICRG decided that in the absence of sufficient progress by BiH before the MONEYVAL April plenary, it would proceed to a targeted review by June 2015. The BiH authorities were informed of these developments and urged to adopt all the amendments to the Criminal Code, particularly those concerning FT.
6. On 30 March 2015, the BiH authorities submitted the Tenth Compliance Report to the MONEYVAL Secretariat, which is enclosed to this report in Annex I⁶. A brief analysis of the measures undertaken by the authorities is provided in Section 2 of this report. The conclusions of the analysis and the recommendations to the Plenary are set out in Section 3.

2. Overview of BiH's progress and review of the measures taken to address identified deficiencies

7. The most significant development since the submission of the Ninth Compliance Report (September 2014) was the adoption of amendments to Article 202 of the Criminal Code concerning the FT offence, which entered into force on 24 March 2015. The translated version of Article 202 may be found in Annex II of this report. The FT offence now appears to be largely in place, except for a number of issues referred to below.

⁴ An overview of BiH's CEPs process and the progress achieved until the 45th Plenary (September 2014) may be found in the Ninth Compliance Report at the following link:
[https://www.coe.int/t/dghl/monitoring/moneyval/restricted/members/docsccommittee/Plenary%2045/MONEYVAL\(2013\)32_BiH_CEP_ANALYSIS\(9th\).pdf](https://www.coe.int/t/dghl/monitoring/moneyval/restricted/members/docsccommittee/Plenary%2045/MONEYVAL(2013)32_BiH_CEP_ANALYSIS(9th).pdf)

⁵ A copy of the law may be found in the Ninth Compliance Report in the link provided above.

⁶ Progress achieved since the Ninth Compliance Report is marked in red.

8. The material and mental elements of the FT offence under the amended Article 202(1) remain largely unchanged since the previous version of the offence amended in 2010⁷, which is currently being analysed by the 4th Round Evaluation Team. A slight amendment was carried out to extend the material element, which now also includes giving, in addition to collection and provision of, funds. As before, the offence covers the financing of the acts referred to under Article 2(1)(a)⁸ and (b) of the TF Convention, but is now also applicable regardless of whether '*the terrorist activities were carried out and whether the funds were used to carry out terrorist activities*'. Assuming that 'terrorist activities' is intended to refer to the acts covered under Article 2(1)(a) and (b) of the TF Convention, it appears that this new addition implements the requirements under c.II.1(c).
9. A new provision (paragraph 2) was introduced under Article 202 to criminalise the financing of terrorist organisations and individual terrorists. However, the mental element underlying the offence varies according to whether the funds are to be used by terrorist organisations and individual terrorists for any purpose ('*with the intention that they are to be used*') or to carry out the offences referred to under Article 202(1) ('*in the knowledge that they are to be used*'). This distinction does not appear to be in line with the requirements under the FATF Standards.
10. The amendments also introduce a definition of funds under Article 202(4), which recalls the definition of funds in the TF Convention verbatim.
11. The authorities indicated that the Federation of BiH, the Republic Srpska and Brčko District are now expected to harmonise their criminal codes with the amendments carried out at state level.
12. Concurrently with the amendments to the FT offence in March 2015, the authorities set up a special team for Counter-Terrorism and Financing of Terrorists' Activities within the State Investigation and Protection Agency (SIPA), which is a policy agency established at the state level. Proposals are under consideration to grant independent status to the special team, which currently operates within the Criminal Investigations Department, and to significantly increase its intelligence and investigations capacities.
13. The special team, which is now fully operational, consists of representatives from all operational departments of SIPA and a management section. The main responsibilities of the special team are to act preventively and repressively to counter terrorism and financing of terrorists' activities. The authorities indicated that one of the priorities of the team is to cooperate internationally and at an interagency level. Representatives of the Financial Intelligence Department (FIU) are actively involved in the activities of the special team.
14. Some other measures were reported to have been implemented by the authorities since the last Compliance Report was adopted. In October 2014, two senior advisors were employed within the Training and Supervision Department of the Financial Intelligence Department (FIU of BiH). Two training seminars on AML/CFT issues were held, one for representatives from the DNFBP sector and another one for representatives of the Tax Authority of the Brčko District, which is responsible for the supervision of DNFBPs. The authorities have also prepared a rulebook on the implementation of the new AML/CFT Law, which is still in draft form and awaiting adoption by the Council of Ministers⁹.

⁷ The version of the offence amended in 2010 is analysed in the First 3rd Round Written Progress Report dated 11 April 2011, which may be found at the following link:
[http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/progress%20reports/MONEYVAL\(2010\)28REV1_ProgRep_BiH_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/progress%20reports/MONEYVAL(2010)28REV1_ProgRep_BiH_en.pdf)

⁸ This review is of the view that not all the acts specified in the treaties listed in the annex to the TF Convention are covered. The acts (offences) referred to in the amended FT offence have not changed since the time of the 4th Round on-site visit and are currently being analysed in depth by the 4th Round Evaluation Team. Therefore, no further comments will be made by this review on this matter.

⁹ The Secretariat has not received a copy of this rulebook.

3. Overall conclusion and next steps

15. It is positively noted that BiH have taken steps to bring the FT offence in line with FATF Standards, albeit some deficiencies still appear to exist. Further conclusive analysis on the FT offence is expected to be provided in the 4th Round MER of BiH. The setting up of a special team to counter terrorism and financing of terrorism activities is commendable. It is also noted that measures have been taken to further strengthen the supervisory arm of the Financial Intelligence Department and to continue raising awareness on preventive measures among reporting entities. However, the other amendments to the Criminal Code, which are intended to address deficiencies concerning Recommendations 1 and 3, have still not been adopted. Moreover, the authorities have confirmed that on 30 March 2015, the House of Peoples of BiH has again failed to support the proposed additional amendments to the Criminal Code. Other deficiencies, which were deemed to be outstanding under the Ninth Compliance Report, still need to be addressed.
16. Despite the efforts of the BiH authorities, it appears that insufficient progress has been made since the 46th MONEYVAL Plenary on the remaining Criminal Code issues. Therefore, particularly in light of the recent decision of the House of the Peoples indicating that political agreement still has not been reached on the outstanding Criminal Code issues, the Plenary has decided to move BiH to step 4 of the Compliance Enhancing Procedures and refer BiH to the FATF's ICRG process.
17. The public statement, which was issued on 1 June 2014, will be revised to reflect the adoption of the amendments to the FT offence and will be presented to this plenary for adoption.

MONEYVAL Secretariat

ANNEX I

Detailed Action Plan

BOSNIA AND HERZEGOVINA

PROGRESS AGAINST SHORT, MEDIUM AND LONG TERM OBJECTIVES IN THE ACTION PLAN

30 March 2015

Note:

Short term refers to a time period up to six months

Medium term refers to a time period up to one year

Long term refers to a time period up to two years

***refers important activities**

Column 1	Column 2	Column 3	Column 4	Column 5
Content of the Recommendation	Planned Corrective measures	Deadline for implementation of corrective measures: short/medium term	Owner of activity	Corrective measure(s) taken by the authorities to address the identified concern
R.1				
Ensure full compliance with Article 3 of the Vienna Convention and Article 6 of the Palermo Convention by clearly incriminating the “transfer of property” in all Criminal Codes;*	Annual agenda of the Ministry of Justice of BiH has provided drafting of the Law on amendments to the Criminal Code of BiH, where will be made also amendments to Article 209 hereof governing money laundering in compliance with Article 3 of the Vienna Convention and Article 6 of the Palermo Convention Abovementioned law shall contain a provision under which the competent authorities of the Federation of Bosnia and Herzegovina, Republic of	Adoption of Criminal Codes - medium term)	Ministry of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District	

	Srpska and the Brcko District of Bosnia and Herzegovina shall harmonize criminal laws with this law within a specified period from the date of enactment of this law.			
<p>Please provide details of when the Law on amendments to the Criminal Code of BiH was adopted and came into effect. Please provide an English translation of the amended text of Article 209 of the Criminal Code as adopted and in force.</p>				
The Bosnian authorities should address the lack of clear demarcation between the scopes of the money laundering offences in the different Criminal Codes. It is recommended that consideration should be given as to whether it would be more effective to restrict all money laundering cases to the State Court, and abolishes the Entity and Brcko District jurisdictions.*	The possibility of criminalization of money laundering only at the state level shall be discussed, and if the criminal offense of money laundering remains in Criminal Codes at all levels there will be made amendments to all Criminal Codes in order to clear delimitation of competencies between the State and Entities. Abovementioned law shall contain a provision under which the competent authorities of the Federation of Bosnia and Herzegovina, Republic of Srpska and the Brcko District of Bosnia and Herzegovina shall harmonize criminal laws with this law within a specified period from the date of enactment of this law.	Adoption of Criminal Codes - medium term)	Ministry of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District	
<p>Please set out the conclusions of the discussions on the possibility of criminalization of money laundering only at the state level. Please provide information on whether the lack of clear demarcation between the scopes of the money laundering offences in the different Criminal Codes has been addressed. Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</p>				

<p>If money laundering is not criminalized exclusively at state level, the conditions in CC-BiH Article 209(1) should be reviewed; especially those not related to value thresholds as, in the view of the evaluators, the existing conditions are overly ambiguous and thus very unlikely to be adequately proven in a criminal procedure. These should, therefore, either be replaced by more precise criteria (like the involvement of organized criminality in the predicates, the fact that the offence was committed on the territory of more than one non-state level jurisdiction etc.) or substituted merely by the application of value limitations.</p>	<p>Annual agenda of the Ministry of Justice of BiH has provided drafting of the Law on amendments to the Criminal Code of BiH, where will be made also amendments to Article 209 hereof governing money laundering. To make clear demarcation between state and entity level, and introduce specific value instead of larger value.</p>	<p>Adoption of Criminal Codes - medium term)</p>	<p>Ministry of Justice of Bosnia and Herzegovina</p>	
<p>Please provide information on whether Article 209 has been reviewed if money laundering is not criminalized exclusively at state level. Please provide an English translation of the amended text of Article 209 of the Criminal Code as adopted and in force.</p>				
<p>18.</p>				
<p>19.</p>				
<p>20.</p>				
<p>As a minimum requirement, definitions of value thresholds should be publicly known and should be provided for by the legislation (such as the Criminal Code). At the State level, steps need to be taken to fill the gap between positive criminal law and actual judicial practice by finding an adequate legislative solution instead of the current</p>	<p>Ministry of Justice of BiH has provided drafting of the Law on amendments to the Criminal Code of BiH, where will be made also amendments to Article 209 hereof governing money laundering. To make clear demarcation between state and entity level, and introduce specific value instead of larger value, and also to find adequate</p>	<p>Adoption of Criminal Codes - medium term)</p>	<p>Ministry of Justice of Bosnia and Herzegovina</p>	<p>1.</p>

<i>contra legem</i> interpretation of the law.	legislative solution instead of current <i>contra legem</i> interpretation of the law.			
<p>Please set out the steps BiH has taken to introduce the definitions of value thresholds that are publicly known. Please set out the steps, if any, that have been taken to fill the gap between positive criminal law and actual judicial practice. Please provide an English translation of the amended text of Article 209 of the Criminal Code as adopted and in force.</p>				
State-level incrimination as well as those in the Federation and Brcko District should expressly include “own proceeds” laundering or, at least, appropriate guidance should be given to practitioners in this respect in all the three jurisdictions where self-laundering is not explicitly covered by law (especially in the Federation and Brcko District where there is no relevant judicial practice either).	Amendments to the Criminal Codes of Federation and Brcko District will provide including “own proceeds” laundering	Medium term	Ministry of Justice of Federation of Bosnia and Herzegovina and Brcko District.	
<p>Please set out the steps taken to incriminate “self-laundering” or “own proceeds” laundering at state-level as well as in FBiH and Brcko District Please provide an English translation of any relevant legislation as adopted and in force at state-level and in FBiH and BD in this respect.</p>				
The language of money laundering incrimination and penalties should be harmonized across the State level, the Entities, and Brcko District.	The language of money laundering incrimination and penalties will be harmonized across the State level, the Entities, and Brcko District.	Medium term	Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District.	
<p>Please set out the steps taken to harmonise the language of money laundering incrimination and penalties in BiH, the Entities, and Brcko District. Please provide an English translation of any appropriate legislation as adopted and in force.</p>				

The uncertainty over whether the intentional element of ML may be inferred from objective factual circumstances should be addressed by appropriate guidance from the judiciary at the level of the Entities and Brcko District.	Proper guidance from the judiciary at the level of entities and Brcko District will remove the uncertainty whether the intent element of money laundering may be inferred from objective factual circumstances	Medium term	Competent courts at levels of entities and Brcko District level	
<p>Please provide details of when guidance from the judiciary at the level of the Entities and Brcko District was adopted.</p> <p>Please provide an English translation of any guidance provided.</p>				
Legislation should be introduced at all levels to allow the prosecuting and convicting of defendants in absentia	BiH Authorities shall consider the possibility of prosecuting and convicting of defendants in absentia	Medium term	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District.	
<p>Please provide details of any legislation introduced to allow the prosecuting and convicting of defendants in absentia</p> <p>Please provide details of any prosecutions and convictions of defendants in absentia.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
R.3				
The provisions on confiscation in the Criminal Code of Republic Srpska should be amended to enable the confiscation of income or other benefits. Equally, confiscation	Amend the provisions in the Criminal Code of the Republic of Srpska to enable confiscation of proceeds or other benefits. Also, confiscation of proceeds commingled with legitimate	Medium term	Ministry of Justice of RS	

of proceeds commingled with legitimate assets should also be provided for.	assets shall be prescribed.			
<p>Please provide details of amendments to the Criminal Code of Republic Srpska to enable the confiscation of income or other benefits. Please provide details of any steps taken to allow confiscation of proceeds commingled with legitimate assets. Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
Competent authorities at State level and also in the Federation of Bosnia and Herzegovina and Brcko District should review the articles in the respective Criminal Codes that provide for the confiscation of instrumentalities and other objects with the aim of removing or, at least, concretising the overly vague conditions under which this security measure can be applied (absolute necessity based on public safety or moral reasons etc.) so that the confiscation of such objects can actually be mandatory	Competent authorities at State level and also in the Federation of Bosnia and Herzegovina and Brcko District should review the articles in the respective Criminal Codes that provide for the confiscation of instrumentalities and other objects with the aim of removing or, at least, concretising the overly vague conditions under which this security measure can be applied (absolute necessity based on public safety or moral reasons etc.) so that the confiscation of such objects can actually be mandatory	Medium term	Ministry of Justice of BiH and Ministry of Justice at Entity level and District Brcko.	
<p>Please set out details of any changes adopted in the Criminal Codes of BiH, FBiH and BD that clarify the conditions for the confiscation of instrumentalities and other objects. Please provide an English translation of the amended text of relevant Articles of the Criminal Codes as adopted and in force.</p>				
Removal of overly insubstantial preconditions of <i>in rem</i> confiscation of instrumentalities	Remove overly insubstantial preconditions of <i>in rem</i> confiscation of instrumentalities and other objects (“interests of	Medium term	Ministry of Justice of BiH and Ministry of Justice at Entity level and District Brcko.	

and other objects (“interests of general security” etc.) should take place at all levels	general security” etc.) should take place at all levels			
<p>Please provide details of steps taken to remove overly insubstantial preconditions of <i>in rem</i> confiscation of instrumentalities and other objects at all levels. Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
Consideration should be given to provisions in the criminal procedure which would enable the confiscation of proceeds where the criminal procedure cannot be concluded because the death or absconding of the perpetrator or for any other reason, on condition that there is a proof that the assets derive from criminal offences.	Introduce provisions in the criminal procedure which would enable the confiscation of proceeds where the criminal procedure cannot be concluded because the death or absconding of the perpetrator or for any other reason, on condition that there is a proof that the assets derive from criminal offences.	Medium term	Ministry of Justice of BiH, and Ministry of Justice at Entity level and District Brcko	
<p>Please provide information on any provisions that have been introduced in the criminal procedure which would enable the confiscation of proceeds where the criminal procedure cannot be concluded because of the death or absconding of the perpetrator or for any other reason, on condition that there is a proof that the assets derive from criminal offences. Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
Domestic authorities should review the practical functioning of provisions on confiscation and provisional measures to assess their overall effectiveness to ensure that they are fully	Revise the practical functioning of provisions on confiscation and provisional measures to assess their overall effectiveness to ensure that they are fully operational and to satisfy themselves that the necessary	Medium term	Ministry of Justice of BiH, and Ministry of Justice at Entity level and District Brcko	

<p>operational and to satisfy themselves that the necessary tools are really in place for a complete and effective system. Such a review should primarily be supported by compiling and maintaining of comprehensive and precise statistics on the volume and effectiveness of confiscation and the provisional measures.</p>	<p>tools are really in place for a complete and effective system. Provide maintaining of comprehensive and precise statistics on the volume and effectiveness of confiscation and the provisional measures.</p>			
<p>Please set out the steps taken to review the practical functioning of provisions on confiscation and provisional measures to assess their overall effectiveness. Please provide supporting statistics as an annex to the report.</p>				
<p>Domestic authorities should review the specific confiscation rule in CC-BiH Article 209(4) and identical non-state rules either in themselves or in combination with Article 74 to consider whether these provisions allow for the mandatory confiscation of instrumentalities used in or intended for use in the commission of a money laundering offence as far as such objects are not owned by the perpetrator and introduce</p>	<p>Revise the specific confiscation rule in CC-BiH Article 209(4) and identical non-state rules either in themselves or in combination with Article 74</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH, and Ministry of Justice at Entity level and District Brcko</p>	

legislation to for remedy to this apparent weakness of the system.																								
<p>Please set out the steps taken to review and revise the specific confiscation rule in CC-BiH Article 209(4) and identical non-state rules either in themselves or in combination with Article 74.</p> <p>Please provide an English translation of the amended text of relevant articles of the Criminal Code of BiH as adopted and in force.</p>																								
A much greater emphasis needs to be given to the taking of provisional measures at early stages of investigations to support more confiscation requests upon conviction. A clear understanding is required of how early in criminal investigations the preliminary measures could be taken and the practitioners should be orientated, either by adequate guidance or training, to apply these measures as early as possible to prevent dissipation of proceeds.	There have been continuous trainings for judges and prosecutors dealing with these types of cases which include trainings – seminars organised by the Centre for Education of Judges and Prosecutors FB&H, RS and BD B&H,	Short term	Centre for Education of Judges and Prosecutors FB&H, RS and BD B&H.																					
<p>Please provide details of training and other initiatives undertaken.</p>																								
<p>Training on Current Legislation Date: XX</p> <table border="1"> <thead> <tr> <th></th> <th>BiH</th> <th>FBiH</th> <th>Republic Srpska</th> <th>Brcko District</th> </tr> </thead> <tbody> <tr> <td>Judges</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Prosecutors</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Other</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>						BiH	FBiH	Republic Srpska	Brcko District	Judges					Prosecutors					Other				
	BiH	FBiH	Republic Srpska	Brcko District																				
Judges																								
Prosecutors																								
Other																								
In most of the cases, the prosecution is still mainly	There have been continuous trainings for judges and	Short term	Centre for Education of Judges and Prosecutors of FB&H, RS																					

<p>targeted at proving the predicate crime and thus no further investigation takes place to follow the trail of the proceeds. As far as this is result of inadequate staffing and lack of necessary trainings these shortcomings must urgently be remedied by competent authorities at all levels. Equally, the authorities should seek for a solution to the problem underlying this trend, that is, the overly high standard of proof applied by the trial courts with regard to the confiscation of the proceeds of crime.</p>	<p>prosecutors dealing with these types of cases which include trainings – seminars organised by the Centre for Education of Judges and Prosecutors FB&H, RS and BD B&H.</p>		<p>and BD of B&H</p>	
<p>Please provide details of training and other initiatives undertaken.</p>				
<p>Training on Current Legislation Date: XX</p>				
	<p>BiH</p>	<p>FBiH</p>	<p>Republic Srpska</p>	<p>Brcko District</p>
<p>Judges</p>				
<p>Prosecutors</p>				
<p>Other</p>				
<p>R.5</p>				
<p>Include an obligation to apply the CDD measures when carrying out occasional transactions that are wire transfers;</p>	<p>The new amendments to AML/CFT Law will be amended to Article 26 which will include periodic electronic transfers.</p>	<p>Adoption of amendments on AML Law - medium term)</p>	<p>Council of Ministers of BiH</p>	<p>21. New Articles 31-34 of the AML/CFT Law address remaining deficiencies..</p>
<p>Please provide an English translation of those clauses of the revised Article 26 of the AML/CFT Law as adopted and in force.</p>				

Review the definition of “transactions” in the new AML/CFT Law	Working Group of the Council of Ministers prepared a draft of amendments to the AML/CFT Law that includes this remark, and eliminates the definition of cash transactions to avoid all doubt in the application of CDD measures.	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	22. New Articles 3 point a of the AML/CFT Law address remaining deficiency. <i>Transaction</i> means any type of receiving, giving, keeping, exchanging, transferring, using or other way of handling money or property by liable persons, including cash transactions
Please provide details of revision of the definition of “transactions” in the new AML/CFT Law. Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.				
Article 15 of the new AML Law should be considered*		Short term	Regulatory agencies at all levels in BiH and FIU	
Please provide an English translation of those clauses of the revised Article 15 of the AML/CFT Law as adopted and in force.				
Introduce a legal obligation to apply CDD measures to existing customers beyond what is currently provided for banks under the relevant Decisions on Minimum Standards;	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include recommendation of evaluators’ remark.	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	23. New Articles 23 paragraph 2 of the AML/CFT Law address remaining deficiency The liable person may apply intensified identification and supervision measures in some other cases when, due to the nature of a

				business relationship or the manner of transaction, the client's business profile or other circumstances related to the client, on the basis of the risk assessment referred to in Article 5 hereof, there is or there may be a great risk of money laundering or financing terrorist activities
<p>Please provide details of the legal obligations to apply CDD measures to existing customers. Please provide an English translation of the relevant articles of the AML/CFT Law as adopted and in force.</p>				
Introduce an obligation for all obliged entities and persons to identify the 'mind and management' of a legal person beyond the requirements for banks under the relevant Decisions on Minimum Standards of the respective Banking Agencies	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include recommendation of evaluators' remark.	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	New Article 16 of the AML CFT Law addresses this deficiency.
<p>Please provide details of the obligation for all obliged entities and persons to identify the 'mind and management' of a legal person beyond the requirements for banks. Please provide an English translation of relevant articles of the AML/CFT Law as adopted and in force.</p>				
Establish clear requirements for financial institutions to conduct	Working Group of the Council of Ministers will prepare a draft	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	24. New Articles 7 and 21 of the AML/CFT Law

on-going due diligence on the business relationship	of amendments to the AML/CFT Law that will include recommendation of evaluators' remark.			address remaining deficiencies..
<p>Please details of any clear requirements for financial institutions to conduct on-going due diligence on the business relationship. Please provide an English translation of relevant articles of the AML/CFT Law as adopted and in force.</p>				
Require obliged entities to consider filing a suspicious report where the identification process cannot be completed	The new amendments to AML/CFT Law will be amended. After Article 7, new 7a is added which will include this objection.	Adoption of amendments on AML Law - medium term)	Council of Ministers of BiH	<p>25. New Article 8 of the AML/CFT Law address remaining deficiencies..</p> <p style="text-align: center;">Article 8 (Declining a business relationship and a transaction)</p> <p>(1) A liable person unable to implement measures referred to in Article 7 paragraph (1) Items a), b) and c) hereof shall not establish a business relationship or make a transaction, or shall discontinue a business relationship already established.</p> <p>(2) In case of a situation referred to in paragraph (1) hereof, the liable person shall inform the FID on declining or</p>

				discontinuing a business relationship and on the refusal to make a transaction, and shall submit to the FID all the previously collected data on the client or transaction under Articles 38 and 39 hereof.
<p>Please provide information on requirements for obliged entities to consider filing a suspicious report where the identification process cannot be completed. Please provide an English translation of those clauses of the revised Article 7 of the AML/CFT Law as adopted and in force.</p>				
Require obliged entities to consider the termination of business where a business relationship is established but the identification process cannot be completed	The new amendments to AML/CFT Law will be amended. After Article 7, new 7a is added which will include this objection.	Adoption of amendments on AML Law - medium term)	Council of Ministers of BiH	<p>26. New Articles 8 of the AML/CFT Law address remaining deficiencies..</p> <p>Article 8 (Declining a business relationship and a transaction)</p> <p>(1) A liable person unable to implement measures referred to in Article 7 paragraph (1) Items a), b) and c) hereof shall not establish a business relationship or make a transaction, or shall discontinue a</p>

				<p>business relationship already established.</p> <p>(2) In case of a situation referred to in paragraph (1) hereof, the liable person shall inform the FID on declining or discontinuing a business relationship and on the refusal to make a transaction, and shall submit to the FID all the previously collected data on the client or transaction under Articles 38 and 39 hereof.</p>
<p>Please provide information on requirements for obliged entities to consider the termination of business where a business relationship is established but the identification process cannot be completed.</p> <p>Please provide an English translation of those clauses of the revised Article 7 of the AML/CFT Law as adopted and in force.</p>				
R.6				
At the time of the on-site visit PEPs were only partially and limitedly addressed and only for the banking sector. However even these provisions did not entirely cover the requirements	Make amendments to the AML/CFT Law and harmonize it with the essential criteria of Recommendation 6.	Adoption of amendments on AML Law - medium term.	Working Group and Council of Ministers of BiH	<p>27. New Article 27 and Article 3. Paragraph 1. Subparagraphs t), u) v), z) and aa) of the AML/CFT Law address remaining deficiencies..</p> <p>It is necessary in the coming period after the adoption of</p>

for Recommendation 6. There did not appear to be any similar provisions for the whole financial sector. Although the new law now provides for the treatment of PEPs, still there is a need to create awareness and provide guidance on the identification process, including where the beneficial owner is a PEP.*	Amend a guidebook in order to introduce a requirement for financial institutions to obtain senior management approval to continue the business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.	Short term	Regulatory agencies at state and entities levels	law to bring: Guidebook in order to introduce a requirement for financial institutions to obtain senior management approval to continue the business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.
	Create a training plan for all participants from the financial sector in order to raise awareness	Short term	Regulatory agencies at state and entities levels	Create a training plan for all participants from the financial sector in order to raise awareness As of October 2014, within Financial Intelligence Department there are budgeted two positions for training and supervision – two persons employed – description given below. Two trainings – as described below.

Please provide information on amendments to the AML/CFT Law in order to harmonize it with the essential criteria of Recommendation 6. Please provide an English translation of relevant articles of the AML/CFT Law as adopted and in force.

Excerpt from Rulebook of internal organization and job classification of the State Investigation and Protection Agency – Financial Intelligence Department:

SENIOR ADVISOR FOR TRAINING AND SUPERVISION

Job description: Organises and actively takes part in professional training of authorised persons and employees with obligors, directly or indirectly responsible for work related to the implementation of regulation on prevention of money laundering and/or financing of terrorist activities, directly takes part in the adoption of supervision procedures and performs supervision of the work of obligors in terms of the implementation of regulation on the prevention of money laundering and financing of terrorist activities, takes action on elimination of detected irregularities in the work of obligors and their employees, as well as their supervisory bodies, keeps records on authorised persons and their deputies and records on performed trainings and supervision, performs other work in accordance with the law and as assigned by the Head of Section. For his/her work, he/she is directly responsible to the Head of Section.

Special requirements for the job: University Degree – Faculty of Law or Economics or other faculty of social studies, or equivalent of the Bologna education system with minimally 240 ECTS points, not less than three years of experience in the same or similar work, professional administrative exam passed, knowledge of regulation on the protection of secret data, computer literacy.

Status and category: Civil servant – Senior Advisor

Number of employees: 2

Please provide details of amendments to a guidebook in order to introduce a requirement for financial institutions to obtain senior management approval to continue the business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.

Please provide details of awareness raising seminars and trainings conducted since June 2012.

Since 46th Plenary, there were two major seminars:

1. On 24th February - half day long seminar for DNFbps from Brcko District BiH with more than 40 participants – accountants, auditors, real estate, games of chance and car dealers, which was general awareness rising of the provisions of the new AML/CFT Law and DNFbps responsibilities.

The same day there was half day long seminar for 17 representatives of the Tax authority of Brcko District who are now responsible for supervision of DNFbps.

2. VII. Seminar organized by the Consulting Company "Revicon LTD" – for 116 representatives of different obliged entities – mostly financial institutions, with different topics, including relevant provisions of the new AML/CFT Law.

Seminars conducted since June 2012

	BiH	FBiH	Republic Srpska	Brcko District
Financial institutions: Banks Securities Insurance Other				
R.7				
<p>The coverage of correspondent banking is not comprehensive and does not appear to specifically cover correspondent bank's relationships. Although correspondent banking is now included under the new AML Law, the issue of 'payable through' accounts is not addressed. It is advisable that correspondent banking relationships be reviewed accordingly.</p>	<p>Working Group of the Council of Ministers has prepared amendments to the law that eliminates this objection as follows:</p> <p>In Article 21 after paragraph (4) add new paragraph (5) that shall read:</p> <p>(Correspondent Relationship with Foreign Loan Institutions)</p> <p>(5) The obligor cannot establish a loan correspondent relationship with a foreign bank or any other similar institution based on which such foreign institution may use the account with the obligor to operate directly with its clients.</p> <p>Introduce a requirement that banks shall document the</p>	<p>Adoption of amendments on AML Law - medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>28. The revised Article 24 address this deficiencies regarding correspondent banking</p>

	AML/CFT responsibility of correspondent banks.			
<p>Please provide an English translation of those clauses of the revised Article 21 of the AML/CFT Law as adopted and in force. Please provide an English translation of any requirements that banks shall document the AML/CFT responsibility of correspondent banks.</p>				
R.8				
<p>Although it appears that electronic business in the financial sector is low, there are no obligations for financial institutions to have policies in place to prevent the misuse of technological developments. This should be provided for in the new AML Law which to date does not address this issue.</p>	<p>Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law and eliminate this objection.</p>	<p>Adoption of amendments on AML Law - medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>29. New Articles 25 of the AML/CFT Law address remaining deficiencies.. Article 25 (New technological advances)</p> <p>(1) A liable person shall pay particular attention to the risk of money laundering and financing terrorist activities resulting from the application of new technological advances enabling client anonymity (e.g. electronic banking, cash machines, phone banking, etc.). (2) A liable person shall introduce procedures and undertake additional measures for eliminating the risks of and</p>

				preventing abuse of new technological advances for the purpose of money laundering and financing terrorist activities.
<p>Please provide details of any obligations that have been introduced for financial institutions to have policies in place to prevent the misuse of technological developments. Please provide an English translation of relevant articles of the AML/CFT Law as adopted and in force.</p>				
Following the introduction of the new AML Law, a revised Book of Rules, providing guidance on its implementation and more awareness on the part of ‘persons’ under obligation’, albeit to different degrees, on the concepts and the philosophy of the law and their obligations, needs to be adopted.				New rulebook which will address tis in the process of the adoption-
<p>Will Please provide details of any guidance issued on implementation and more awareness of the Book of Rules on the part of ‘persons’ under obligation. Please provide an English translation of amendments to the Book of Rules.</p>				
R.9				
Although the old LPML does not specifically prohibit or allow third party reliance or introduced business, likewise it does not specifically allow it.	2. Articles 10, 11 and 12 of the draft of amendments to the AML/CFT Law address remaining	Adoption of amendments to the AML Law - medium term	Working Group and Council of Ministers of BiH	30. Articles 17, 18 and 19 of the AML/CFT Law address remaining deficiencies..

<p>However there are provisions that appear to indirectly allow such procedures. This is particularly so in relation to the use of companies specialised in customer due diligence. The absence of such companies, though recognised, impacts on procedures to licence and regulate them. This creates an uncertainty as to whether third party reliance is allowed or not. Notwithstanding the fact that the new AML Law has now clarified this doubt in that it specifically allows ‘persons’ under obligation’ to rely on third parties, as defined by the new AML Law, yet the new provisions do not fully cover the FATF criteria for Recommendation 9. In the circumstances it is recommended that the legislative and other relevant provisions be revised such that the obligations and requirements should be harmonised with Recommendation 9.</p>	<p>deficiencies when enacted as they currently stand.</p>			
<p>Please provide information on the revised legislative and other relevant provisions so that the obligations and requirements be harmonised with Recommendation 9. Please provide an English translation of Articles 10, 11 and 12 of amendments to the AML/CFT Law as adopted and in force.</p>				

R.11				
<p>It is recommended that Recommendation 11 be specifically addressed through a revision of the new AML legislation and an eventual consequent revision of the Banking Decisions for Minimum Standards.</p>	<p>Working Group of the Council of Ministers will prepare amendments to the AML/CFT Law and eliminate objection of 3rd round of evaluation relating to the supervision of large and unusual transactions and verify the background and purpose of these transactions and written statement on such knowledge.</p>	<p>Adoption of amendments on AML Law - medium term)</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>AML/CFT Law in the Article 26 eliminate objection of 3rd round of evaluation relating to the supervision of large and unusual transactions</p> <p style="text-align: center;">Article 26 (Unusual transactions)</p> <p>(1) A liable person shall pay particular attention to transactions characterised by complexity and unusually high amounts, unusual manner, value or connection among transactions that have no economic or legal grounds and purpose, or are not in compliance with or are disproportionate to the usual or expected operation of the client, as well as to other circumstances related to the status or other characteristics of the</p>

				<p>client.</p> <p>(2) A liable person shall identify the basis and purpose of transactions referred to in paragraph (1) hereof and, if establishing that the transaction is not suspicious, make an official written report to be kept in accordance with the law.</p>
	In accordance with the new legal solutions perform eventual consequent revision of the Banking Decisions for Minimum Standards		Regulatory Banking Agencies of FBiH and RS	
<p>Please provide information on whether the AML/CFT Law and the Banking Decisions for Minimum Standards were reviewed in order to meet requirements of Rec.11.</p> <p>Please provide an English translation of amendments to the AML/CFT Law and the Banking Decisions for Minimum Standards as adopted and in force.</p>				
R.12				
There is a need for increased awareness of threats from new or developing technologies among DNFBPs, although, as claimed, their activities are mostly related to a one-to-one customer relationship. Developments in technology on	Working Group of the Council of Ministers will prepare amendments to the AML/CFT Law and eliminate objection concerning new technology.	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	<p>31. New Articles 25 of the AML/CFT Law address remaining deficiencies..</p> <p>Article 25</p> <p>(New technological advances)</p> <p>As of October 2014, within Financial Intelligence</p>

<p>the way of carrying out certain activities could however pose certain threats</p>				<p>Department there are budgeted two positions for training and supervision – two persons employed – description given under R. 6.</p> <p>Two trainings – as described under R. 6.</p>
<p>Please provide details of when the Law on amendments to the AML/CFT was adopted and came into effect. Please provide an English translation of amendments to the AML/CFT Law as adopted and in force. Please provide details on awareness raising seminars and trainings conducted since June 2012.</p> <p>Seminars conducted for DNFBPs Please provide details of :</p> <ul style="list-style-type: none"> • Dates • Topics covered • Number of delegates from each DNFBP sector 				
<p>DNFBPs: Casinos Real estate agents Dealers in precious metals and stoned Lawyers, notaries, other independent legal professionals Accountants and auditors</p>	BiH	FBiH	Republic Srpska	Brcko District
<p>There is a need for the DNFBPs</p>	<p>Working Group of the Council of Ministers will prepare</p>	<p>Adoption of amendments on AML Law - medium term)</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>AML/CFT Law in the Article 26 eliminate objection of 3rd</p>

to be made more aware of the threats to money laundering and the financing of terrorism arising out of large complex transactions that may not have economic reasons. The need to analyse and understand such transactions cannot be over emphasised. It is recommended to statutory obligations to this effect are introduced for all obligors.	amendments to the AML/CFT Law and eliminate objection of 3rd round of evaluation relating to the supervision of large and unusual transactions and verify the background and purpose of these transactions and written statement on such knowledge			round of evaluation relating to the supervision of large and unusual transactions
<p>Please provide details of any statutory obligations introduced requiring DNFBP to supervise large and unusual transactions and verify the background and purpose of these transactions and written statement on such knowledge.</p> <p>Please provide an English translation of amendments to the AML/CFT Law in this respect as adopted and in force.</p>				
Record keeping procedures in the AML LAW need to be revisited and clarified in accordance with the requirements under Recommendation 10.	Working Group of the Council of Ministers prepared a draft of amendments to the AML/CFT Law that includes this remark	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	
<p>Please details of the amendment to the AML/CFT Law which brings record keeping procedures in the AML Law in line with the requirements of Rec. 10.</p> <p>Please provide an English translation of relevant text of amendments to the AML/CFT Law as adopted and in force.</p>				
R.15				
Article 32(2) of the new AML Law should be reviewed in	In Article 32 AML/CFT Law, paragraph (2) shall be amended.	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	Article 40 of the AML/CFT Law.

relation to full exemptions from appointing an authorised person and from maintaining internal control by obliged entities (persons under obligation) with four or less employees – and interpretatively, obliged natural persons.				
Please provide an English translation of those clauses of the revised Article 32 of the AML/CFT Law as adopted and in force.				
Adequate screening procedures need to be in place and effectively applied when hiring people, if need be through mandatory obligations.	By bylaw provide adequate procedures for new employment	Medium term	Relevant ministries of entities, regulatory agencies of financial sector, FIU	Article 41 of the AML/CFT Law.
Please provide details of steps taken to introduce requirements for adequate screening procedures when hiring people. Please provide an English translation of any appropriate legislation, including bylaws, adopted in respect of screening procedures.				
R.16				
It is highly recommended that DNFBPs are made more aware of their important role in the AML/CFT regime through guidelines and training thus ensuring that, in understanding their role better, DNFBPs acknowledge and implement their	The authorities will take the opportunity from the introduction of the new guidance as issued to continue to develop and implement the sector wide awareness and understanding campaign through training programmes	Medium term	FIU	Article 80 of the new AML/CFT Law prescribes supervisory body for any obliged entity - what is important step of wide approach to this activitie. As of October 2014, within Financial Intelligence Department there are

AML obligation further				<p>budgeted two positions for training and supervision – two persons employed – description given under R. 6.</p> <p>Two trainings – as described under R. 6.</p>
<p>Please provide details on awareness raising seminars and trainings conducted since June 2012.</p> <p>Please provide details of :</p> <ul style="list-style-type: none"> • Dates • Topics covered • Number of delegates from each DNFBP sector 				
DNFBPs: Casinos Real estate agents Dealers in precious metals and stoned Lawyers, notaries, other independent legal professionals Accountants and auditors	BiH	FBiH	Republic Srpska	Brcko District
The evaluators express serious concerns on the position taken since certain professions, in particular the legal, notary and accountancy professions, are	Working Group of the Council of Ministers prepared a draft amendment Law AML/CFT that includes this remark i.e. will introduce a specific obligation to terminate or reject a business	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	

likely to encounter and handle transactions emerging from foreign countries that may not be applying the relevant AML standards to an acceptable degree.	relationship or the execution of transactions with companies and individuals from countries that insufficiently apply AML/CFT measures.			
<p>Please provide information on whether a specific obligation for DNFBP to terminate or reject a business relationship or the execution of transactions with companies and individuals from countries that insufficiently apply AML/CFT measures has been introduced.</p> <p>Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</p>				
Competent authorities, and in particular the FID, need to be more receptive to request for training by the industry.	Strengthen trainings in the industry.	Medium term	FIU	<p>As of October 2014, within Financial Intelligence Department there are budgeted two positions for training and supervision – two persons employed – description given under R. 6.</p> <p>Two trainings – as described under R. 6.</p>
<p>Please provide details on awareness raising seminars and trainings conducted since June 2012.</p> <p>Please provide details of :</p> <ul style="list-style-type: none"> • Dates • Topics covered • Number of delegates from each sector 				
	BiH	FBiH	Republic Srpska	Brcko District

Financial institutions: Banks Securities Insurance Other financial institutions				
DNFBPs: Casinos Real estate agents Dealers in precious metals and stoned Lawyers, notaries, other independent legal professionals Accountants and auditors				
Adequate screening procedures need to be in place and effectively applied when hiring people, if need be through mandatory obligations.	The Guidelines for the non-financial sector issued by the FID in October 2010 do not address this issue. The FID will be reviewing the Guidelines accordingly to create this obligation for the non-financial sector.	Medium term	FIU	Article 44 of the new AML/CFT Law. New Book of Rules for implementation of the new AML/CFT Law prepared as Draft and waiting for adoption by the Council of Ministers.
Please provide details of any steps taken to introduce adequate screening procedures when hiring people in the DNFBPs sector. Please provide an English translation of any appropriate legislation or guidance adopted in respect of screening procedures.				
R.17				
Legislation to provide for the sanctioning powers of the respective supervisory bodies in the insurance market should be	Insurance Agency of Bosnia and Herzegovina and Ministry of finance FBiH and RS will prepare a draft of amendments	Medium term	Ministry of Finance of FBiH and RS, and Insurance Agency of Bosnia and Herzegovina	Articles 80 - 82 of the new AML/CFT Law.

introduced	to the Law on intermediaries in insurance in order to ensure harmonization of the regimes of the applicable sanctions that are now different according to the laws on insurance intermediaries in Federation Bosnia and Herzegovina and in Republic of Srpska.			
<p>Please provide details of amendments to the Law on intermediaries in insurance in order to provide sanctioning powers for the respective supervisory bodies in the insurance market.</p> <p>Please provide an English translation of amendments to this Law as adopted and in force.</p>				
Proportionate and comparable sanctions for non-compliance with AML/CFT requirements need to be introduced throughout the applicable legislation (harmonise the sanctions stipulated by different entity level laws) and all ambiguities on the applicability of sanctions under the new AML Law should be removed.	Harmonise sanctions imposed by various laws at the entity level and adapt them to the AML/CFL Law	Long term	Relevant Ministries of Justice B&H, FB&H, RS, BD and regulatory agencies of financial sector B&H, FB&H, RS, BD and FIU	Articles 83 and 84 of the new AML/CFT Law.
<p>Please provide details of amendments to various laws at the entity level to harmonise sanctions.</p> <p>Please provide details of amendments to the AML/CFT Law on the applicability of sanctions under this Law.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
Steps need to be taken to ensure that all requirements of the new AML Law are enforceable (that	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	Articles 83 and 84 of the new AML/CFT Law.

is; sanctions are stipulated for non-compliance).	this remark i.e. establish sanctions for non-compliance			
<p>Please provide details of amendments to the AML/CFT Law to establish sanctions for non-compliance. Please set out the scope of sanctions for non-compliance with the AML Law. Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</p>				
Administrative sanctions to be applied to the participants of the insurance market for non-compliance with AML/CFT requirements need to be introduced.	Insurance Agency of Bosnia and Herzegovina and Ministry of finance FBiH and RS will prepare a draft of amendments to the Law on intermediaries in insurance in order to ensure harmonization of the regimes of the applicable sanctions	Medium term	Ministry of Finance of FBiH and RS, and Insurance Agency of Bosnia and Herzegovina.	Articles 83 and 84 of the new AML/CFT Law.
<p>Please provide details of administrative sanctions that could be applied to the participants of the insurance market for non-compliance with AML/CFT. Please provide an English translation of the relevant amendments to the Law on Intermediaries as adopted and in force.</p>				
R.21				
It is recommended that a specific obligation be included for financial institutions to give special attention to business relationships and transactions with financial institutions and other legal/natural persons from countries that have inadequate AML/CFT measures in place. Such an obligation should go beyond the on-going monitoring	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include this remark i.e. will introduce a specific obligation to terminate or reject a business relationship or the execution of transactions with companies and individuals from countries that insufficiently apply AML/CFT measures and preservation of written statements on such	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	Article 23 and 85 of the new AML/CFT Law. New Book of Rules for implementation of the new AML/CFT Law prepared as Draft and waiting for adoption by the Council of Ministers.

of accounts.	findings and enabling access of authorities to those statements for all sectors.			
<p>Please provide details of the obligations that have been introduced for financial institutions to give special attention to business relationships and transactions with financial institutions and other legal/natural persons from countries that have inadequate AML/CFT measures in place. Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</p>				
<p>R.22</p>				
Requirements for Recommendation 22 are only partially addressed through the Banking Decisions on Minimum Standards – more specifically only to a minor extent through Article 2 – and through the new Article 8 of the new AML Law. However there are no provisions covering the main requisites of the Recommendation. It is recommended that this matter be addressed through the new legislation and through guidance issued by the relevant competent authorities.	The necessary changes for the banking and the securities sectors to fully meet the obligations under Recommendation 22 are under consideration and should be implemented in the near future.	Medium term	Ministry of Finance of FBiH and RS, and Regulatory bodies of banking and security sector.	
<p>Please provide details of measures taken to meet the requirements of Rec.22. Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</p>				
<p>R.23</p>				
Legislation should be amended	Amend the Law on Securities	Short term	Authorities of FBiH, RS,	

<p>to introduce:</p> <p>a. a prohibition for criminals and their associates from holding a significant or controlling share in securities market intermediaries in FB&H and in BD;</p> <p>b. a requirement for a clean criminal record of the managers of market intermediaries in BD;</p> <p>c. requirements for professional qualifications and expertise of directors and senior management of investment funds in FBiH, in RS, and in BD.</p>	Market		District Brcko	
<p>Please advise whether any additional measures have been taken by the authorities to address these deficiencies. Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</p>				
<p>Steps need to be taken to harmonise the efficiency of monitoring activities in respect of persons involved in money transfer and exchange activities.</p>	<p>Agency for Supervision of the Post Office Operation (which includes payment transfers), has now been established. The new agency will eventually be recognized under the AML Law as the supervisory authority for AML purposes for the Post Office. Arrangements will be considered for the cooperation</p>	Short term	Banking Agencies and Agency for Supervision of the Post Office Operation	Articles 4 and 80 of the new AML/CFT Law.

	of the new Agency and the Agencies for Banks to ensure harmonisation and level playing field in the supervision of the payments sector.			
<p>Please advise when to provide an English translation of the Memorandum on cooperation between the Agency for Supervision of the Post Office at state level and the Banking Agencies of RS and FBiH.</p> <p>Please provide details of steps taken to recognise the Agency for Supervision of the Post Office Operation under the AML Law.</p>				
Efficient, sufficiently frequent, risk-based supervision of financial institutions needs to be developed and implemented.	Establish guidelines for securities sector and insurance sector for effective, often and risk based supervision on financial institution	Medium term	Ministry of Finance of FBiH and RS, and Regulatory bodies of insurance and security sector	Articles 80 - 82 of the new AML/CFT Law.
<p>Please provide details of the steps taken to develop and implement efficient, sufficiently frequent, risk-based supervision of financial institutions.</p> <p>Please provide details of Guidelines for the securities and insurance sectors.</p>				
R.24				
Prohibit individuals with criminal background from acquiring or becoming the beneficial owner of a significant or controlling interest, holding management functions in or being/becoming an operator of a casino	Execute amendments to The Law draft on Gambling in the FBiH and RS, in the way as it has been done in Brcko District.	Medium term	Ministry of Finance of FBiH and RS	
<p>Please provide details of steps taken to prohibit individuals with criminal background from acquiring or becoming the beneficial owner of a significant or controlling interest, holding management functions in or being/becoming an operator of a casino.</p> <p>Please provide an English Translation of the amendments to the Law on Gambling in the FBiH and the RS as adopted and in force.</p>				

<p>Define the powers of the Chambers of Lawyers, the Chambers of Notaries, and the Associations of Accountants and Auditors at entity level to supervise implementation of the obligations set forth in the new AML Law; establish systems and mechanisms for them to ensure compliance of the respective obligors with the national AML/CFT requirements.</p>	<p>As stated earlier, the formation of a special department to monitor DNFBPs will create the preconditions for effective supervision of persons under obligation in order to provide a mechanism for effective implementation of obligations under the AML/CFT Laws</p>	<p>Medium term</p>	<p>FIU, Council of Ministers of BiH</p>	
<p>Please provide information on whether the powers of the Chambers of Lawyers, the Chambers of Notaries, and the Associations of Accountants and Auditors at entity level were defined to supervise implementation of the obligations set forth in the new AML Law. Please provide details of established systems and mechanisms for the Chambers of Lawyers, the Chambers of Notaries, and the Associations of Accountants and Auditors at entity level to ensure compliance of the respective obligors with the national AML/CFT requirements Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p>An authority should be designated to monitor and ensure compliance of real estate agencies and traders in precious metals and stones with the national AML/CFT requirements.</p>	<p>As stated earlier, the formation of a special department to monitor DNFBP will create the preconditions for effective supervision of persons under obligation in order to provide a mechanism for effective implementation of obligations under the AML/CFT Laws</p>	<p>Medium term</p>	<p>FIU, Council of Ministers of BiH</p>	<p>Article 80 of the new AML/CFT Law.</p>
<p>Please provide details of the steps that have been taken to designate an authority to monitor and ensure compliance of real estate agencies and traders in precious metals and stones with the national AML/CFT requirements.</p>				

Please provide an English translation of any appropriate legislation as adopted and in force.

R.25				
<p>FID and all other competent authorities need to introduce measures aimed at ensuring that obligor DNFBPs have a proper understanding of their obligations under the AML/CFT framework</p>	<p>Strengthen trainings in the industry</p>	<p>Medium term</p>	<p>FIU</p>	<p>As of October 2014, within Financial Intelligence Department there are budgeted two positions for training and supervision – two persons employed</p> <p>Now, they work on identifying urgent training needs and finding best possible way of education of the obliged entities.</p> <p>Excerpt from Rulebook of internal organization and job classification of the State Investigation and Protection Agency – Financial Intelligence Department:</p> <p>SENIOR ADVISOR FOR TRAINING AND SUPERVISION</p> <p>Job description: Organises and actively</p>

				takes part in professional training of authorised persons and employees with obligors, directly or indirectly responsible for work related to the implementation of regulation on prevention of money laundering and/or financing of terrorist activities, directly takes part in the adoption of supervision procedures and performs supervision of the work of obligors in terms of the implementation of regulation on the prevention of money laundering and financing of terrorist activities, takes action on elimination of detected irregularities in the work of obligors and their employees, as well as their supervisory bodies, keeps records on authorised persons and their deputies and records on performed trainings and
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				<p>supervision, performs other work in accordance with the law and as assigned by the Head of Section. For his/her work, he/she is directly responsible to the Head of Section.</p> <p>Special requirements for the job: University Degree – Faculty of Law or Economics or other faculty of social studies, or equivalent of the Bologna education system with minimally 240 ECTS points, not less than three years of experience in the same or similar work, professional administrative exam passed, knowledge of regulation on the protection of secret data, computer literacy.</p> <p>Status and category: Civil servant – Senior Advisor</p>
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				Number of employees: 2
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Please provide details on awareness raising seminars and trainings conducted since June 2012.

Please provide details of :

- Dates
- Topics covered
- Number of delegates from each DNFBP sector

Since 46th Plenary, there were two major seminars:

1. On 24th February - half day long seminar for DNFBPs from Brcko District BiH with more than 40 participants – accountants, auditors, real estate, games of chance and car dealers, which was general awareness rising of the provisions of the new AML/CFT Law and DNFBPs responsibilities.

The same day there was haf day long seminar for 17 representatives of the Tax authority of Brcko District who are now responsible for supervision of DNFBPs.

2. VII. Seminar organized by the Consulting Company "Revicon LTD" – for 116 representatives of different obliged entities – mostly financial institutions, with different topics, including relevant provisions of the new AML/CFT Law.

Additionally, representatives of the FID are present on the number of occasions as presenter on different sectorial educations – trainings or meetings. For example for association of notaries.

	BiH	FBiH	Republic Srpska	Brcko District
DNFBPs: Casinos Real estate agents Dealers in precious metals and stoned Lawyers, notaries, other independent legal professionals Accountants and auditors				

<p>FID should provide general and specific feedback to DNFBPs incorporating, <i>inter alia</i>, statistics on the number of STR-s, information on current ML techniques and trends, as well as information on the decisions and results of the analysis of STR-carried out by the FID.</p>	<p>Strengthen cooperation between FIU and DNFBPs to create feedback and statistics on the number of STR-s, information on current ML techniques and trends, as well as information on the decisions and results of the analysis of STR-carried out by the FID.</p>	<p>Medium term</p>	<p>FIU</p>	<p>Article 63 of new AML/CFT Law.</p>
<p>Please provide details of any general and specific feedback provided to DNFBP incorporating, <i>inter alia</i>, statistics on the number of STR-s, information on current ML techniques and trends, as well as information on the decisions and results of the analysis of STR-carried out by the FID.</p>				
<p>Whilst the provision of comprehensive and exhaustive lists of indicators for identifying suspicious transactions and persons is commendable, supervisory authorities should ensure that such indicators are not interpreted as being conclusive such that the examination of transactions is only guided accordingly without any flexibility.</p>	<p>Insist that the DNFBPs in recognition of suspicious transactions be managed by risk-based approach</p>	<p>Medium term</p>	<p>FIU</p>	<p>Article 80 of new AML/CFT Law are one of steps for this.</p>
<p>Please provide details of measures taken to provide guidance DNFBP on the risk-based approach to identifying suspicious transactions. . Please details of any appropriate guidance provided.</p>				

R.26				
Article 51.5 of the new AML Law needs to be amended to allow FID to disseminate information on its own initiative to domestic authorities for investigation or action when there are grounds to suspect money laundering and/or terrorist financing.	As instructed by the Minister of Security, in June 2010, the group of experts in money laundering and terrorism financing developed a draft new Law on prevention of money laundering and financing of terrorist activities, which has been forwarded to the BiH authorities for adoption. The new Law provides for establishment of a new Financial Intelligence Agency (FIA) within the Ministry of Security which will be able to forward independently information to national authorities and conduct investigations when there is a grounded suspicion about money laundering and/or terrorism financing	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	Articles 57 and 62 of new AML/CFT Law. Especially important for addressing this deficiency is Par. (5) of Art. 62.
Please provide an English translation of those clauses of the revised Article 51 of the AML/CFT Law as adopted and in force.				
Remove the limitations to and unacceptable constraints of the power of the FID to disseminate information to domestic authorities, and demonstrate the effectiveness of dissemination of information to domestic authorities	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include recommendation of evaluators' remark.	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	Articles 57 and 62 of new AML/CFT Law. Especially important for addressing this deficiency is Par. (5) of Art. 62.
Please provide details of amendments to remove the limitations to and unacceptable constraints of the power of the FID to disseminate information to domestic authorities.				

<p>Please provide statistics as an annex to the report in order to demonstrate the effectiveness of dissemination of information to domestic authorities Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p>R.29</p>				
<p>The supervisory processes of the FID and establish mechanisms for the enforcement of its decisions regarding removal of irregularities in the operations of persons under obligation should be clearly defined.</p>	<p>As stated earlier, the formation of a special department to monitor DNFBP will create the preconditions for effective supervision of persons under obligation in order to provide a mechanism for effective implementation of obligations under the AML/CFT Laws</p>	<p>Medium term</p>	<p>FIU</p>	<p>Articles 80 - 82 of the new AML/CFT Law.</p>
<p>Please provide details of the special department of the FID established to monitor DNFBPs. Please provide details of established mechanisms for the enforcement of the special department of the FID decisions regarding removal of irregularities in the operations of persons under obligation. Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p>Adequate powers should be granted to supervisors in the insurance market to monitor and ensure compliance with AML/CFT requirements and to take enforcement measures and sanction both the institutions/businesses and their directors/senior management for non-compliance with AML/CFT requirements.</p>	<p>Provide adequate powers for the supervisors of the insurance market for the measures and ensure compliance with AML/CFT requirements and to take measures for the enforcement of sanctions for companies and their management, and directors for non-compliance with the AML/CFT requirements.</p>	<p>Medium term</p>	<p>Ministry of Finance of FBiH and RS, and Insurance Agency of Bosnia and Herzegovina and Insurance Agency for supervision at entity level</p>	<p>Articles 80 - 82 of the new AML/CFT Law.</p>

Please provide details of the powers granted to supervisors in the insurance market to monitor and ensure compliance with AML/CFT requirements. Please provide details of enforcement measures and sanction both the institutions/businesses and their directors/senior management for non-compliance with AML/CFT requirements. If available provide statistics on use of supervisory powers in an annex to this report. Please provide an English translation of any appropriate legislation as adopted and in force.

R.30				
<p>An adequate structure, funding, staffing, and technical resources should be made available for supervision of implementation of the national AML/CFT requirements by DNFBPs.</p>	<p>In the course of establishing the new FI Agency measures are being taken to set up a specialised internal unit which will be responsible for education and supervision of those entities (DNFBPs and other obligors) that do not fall under the remit of any other supervisory authority. In this regard the Agency will be seeking to employ specialised and experienced personnel for this job. It will also have to increase its budget and install technical and other resources such that the Agency is able to fulfil these new obligations effectively and efficiently.</p>	<p>Medium term</p>	<p>FIU, and Council of Ministers of BiH</p>	<p>Articles 80 - 82 of the new AML/CFT Law.</p>

Please provide details of the new FI agency including

- **Level of staff**
- **Technical resources**
- **Budget**
- **Scope of responsibilities**

<ul style="list-style-type: none"> • Date of establishment • Legislation setting out powers and responsibilities <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p>There is a need to define professional standards (including confidentiality and integrity requirements), and required expertise/skills of the staff of bodies implementing supervision of DNFBPs.</p>				
Establish the Team for training and supervision of DNFBPs	Medium term	FIU	Articles 80 - 82 of the new AML/CFT Law.	
<p>Please provide details of professional standards (including confidentiality and integrity requirements), and required expertise/skills of the staff of bodies implementing supervision of DNFBPs.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
R.33				
It is recommended that the obliged entities apply Articles 10 and 15 of the new AML Law better and verifies information through other public registers such as the Register of Securities	Ensure that the obliged entities apply Articles 10 and 15 of the new AML Law and verify information through other public registers such as the Register of Securities	Medium term	FIU	Articles 11 and 16 of the New AML/CFT Law
<p>Please provide information on the measures taken to oblige reporting entities to apply Articles 10 and 15 of the new AML Law through other public registers such as the Register of Securities.</p>				

Please provide an English translation of any appropriate legislation as adopted and in force.				
<p>It is only in the new AML Law that the BiH legal framework attempts to provide a definition of beneficial ownership. However there is no express requirement for the registration courts, while registering a business entity, to identify and keep data on the beneficial ownership and control of legal persons. Thus, it is recommended that such provisions should be in place in order to ensure direct access to updated and accurate data which reflects the real situation, as ensured by Article 15 of the new AML Law</p>				
<p>Given that there is no explicit requirement that the registration courts, while registering a business entity, identify and preserve information about the real ownership and control of legal persons. Such provisions should be made to allow direct access to updated and accurate data that reflect the real situation, as defined in Article 15 of the new AML Law</p>	<p>Long term</p>	<p>Ministry of Justice of B&H and Ministry of Justice of Entity level and District Brcko</p>		
Please provide details of amendments to relevant legislation to explicitly require the registration courts to identify and preserve information about the real ownership and control of legal persons.				
Please provide information on provisions that allow direct access to updated and accurate data of legal persons.				
Please provide an English translation of any appropriate legislation as adopted and in force.				
<p>It is recommended that the updating of the Main Book of Registration at the Courts is done in a timely manner for all legal persons including shareholding companies with effective, proportionate and dissuasive sanctions for late filing</p>				
<p>Ensure that the updating of the Main Book of Registration at the courts is done in a timely manner for all legal persons including shareholding companies with effective and proportional sanctions for late filing</p>	<p>Long term</p>	<p>Ministry of Justice of B&H and Ministry of Justice of Entity level and District Brcko</p>		

<p>Please provide details of the measures taken to ensure that the updating of the Main Book of Registration at the courts is done in a timely manner for all legal persons including shareholding companies with effective and proportionate sanctions for late filing. Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p>There are concerns regarding the viability of the inter-linked electronic database of the Main Book of Register as the data started to be uploaded only in January 2008 and there are still legislative initiatives concerning the electronic signature, business, etc. Thus it is recommended that all necessary measures be undertaken in order for the inter-linked (single) electronic registry to become fully operational</p>	<p>Undertake all necessary measures in order that the inter-linked (single) electronic registry becomes fully operational</p>	<p>Long term</p>	<p>Ministry of Justice of B&H and Ministry of Justice of Entity level and District Brcko</p>	
<p>Please provide information on the measures taken in order that the inter-linked (single) electronic registry becomes fully operational.</p>				
<p>R.35 and SR.I</p>				
<p>The same comments as are made on R. 31 in relation to implementation of the respective Conventions (especially the Terrorist Financing Convention) and the UN Security Council Resolutions apply here.*</p>	<p>Remove deficiencies for the efficient implementation of the Convention relating to the criminalization of crimes of money laundering and terrorism financing (especially the Convention on the Financing of terrorism) and UN Security Council Resolution</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH and Ministry of Justice at Entity level and District Brcko</p>	
<p>Please provide details of steps taken to apply UN Conventions.</p>				

Please provide an English translation of any appropriate legislation as adopted and in force in this respect.

SR.II

The terrorist financing (“funding of terrorist activities”) offences need to be incriminated in all four Criminal Codes so as to clearly provide criminal sanctions concerning the collection and provision of funds with the unlawful intention that they are to be used, in full or in part, by a terrorist organisation or by an individual terrorist as required by SR.II.*

By annual agenda of the Ministry of Justice of BiH for 2011, it is envisaged the creation of the proposal of the Law on Amendments to the Criminal Code of BiH, where will be made the amendments of Article 202 of the same, which regulates the financing of terrorist activities.
Abovementioned Law shall contain a provision under which the competent authorities of the Federation of Bosnia and Herzegovina, Republic of Srpska and Brcko District of Bosnia and Herzegovina shall harmonize their criminal laws with this law within a specified period from the date of enactment of this law.

Adoption of Criminal Codes - medium term)

Ministry of Justice of BiH,
Ministry of Justice of Federation Bosnia and Herzegovina,
Ministry of Justice of RS and Brcko District

Please provide details of amendments to the terrorist financing (“funding of terrorist activities”) offences of all four Criminal Codes so as to clearly provide criminal sanctions concerning the collection and provision of funds with the unlawful intention that they are to be used, in full or in part, by a terrorist organisation or by an individual terrorist as required by SR.II.

We are providing you the English translation of amendments to the Criminal Code, art. 202 as adopted and in force: Published in the Official Gazette of BH, nr. 22/05 of 16.03.2015.

“Funding of Terrorist Activities”
Article 202

(1) Whoever by any means, directly or indirectly, gives, collects or in any other way provides funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the criminal offences referred to in Article 191 (Taking of Hostages), 192 (Endangering Internationally Protected Persons), 194 (Illicit Procurement and Disposal of Nuclear Material), 194a (Endangering Nuclear Facilities), 196 (Piracy), 197 (Hijacking an Aircraft or Ship or Seizing Fixed Platforms), 198 (Endangering the Safety of Air Traffic or Maritime Navigation or of Fixed Platforms), 199 (Destruction and Removal of Signal Devices

Utilized for Safety of the Air Traffic), 200 (Misuse of Telecommunication Signs), 201 (Terrorism), 202a (Public Incitement to Terrorist Activities), 202b (Recruiting for Terrorist Activities), 202c of this Law (Training for Carrying out Terrorist Activities) or any other criminal offense intended to cause death or serious bodily injuries to a civilian or to any other person not taking active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population or to compel the authorities of Bosnia and Herzegovina or any other authorities or international organisations to do or to abstain from doing any act, regardless whether the terrorist activities were carried out and whether the funds were used for carrying out terrorist activities, shall be punished by imprisonment for a term not less than three years.

(2) Whoever by any means, directly or indirectly, gives or collects or in any other way provides funds:

a) with the intention that they are to be used, in full or in part for any purpose by the terrorist organisations or individual terrorists or

b) in the knowledge that they are to be used, in full or in part, in order to carry out the criminal offences from paragraph 1, by terrorist organisations or individual terrorists. shall be punished by the sentence from paragraph (1) of this Article.

(3) The funds collected for the perpetration or obtained as a result of the perpetration of the criminal offence under paragraph (1) of this Article shall be confiscated.

(4) Funds referred to in paragraph (1) and (2) mean assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.

<p>Criminal laws should be amended to incorporate the funding of terrorist organizations and individual terrorists, both at State level and that of the Entities and Brcko District.</p>	<p>By annual agenda of the Ministry of Justice of BiH for 2011, it is envisaged the creation of the proposal of the Law on Amendments to the Criminal Code of BiH, where will be made the amendments of Article 202 of the same, which regulates the financing of terrorist activities. Abovementioned Law shall contain a provision under which the competent authorities of the Federation of Bosnia and Herzegovina, Republic of Srpska and Brcko District of Bosnia and Herzegovina shall harmonize their criminal laws with this law within a specified</p>	<p>Adoption of Criminal Codes - medium term)</p>	<p>Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District.</p>	
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	period from the date of enactment of this law.			
<p>Please details of amendments to the Criminal Codes to incorporate the funding of terrorist organisations and individual terrorists. Please provide an English translation of amendments to the Criminal Codes as adopted and in force. Please see the English translation of amendments to the Criminal Code, art. 202 as adopted and in force: Published in the Official Gazette of BH, nr. 22/05 of 16.03.2015. – ABOVE PROVIDED</p>				
<p>Domestic authorities at all competent level should satisfy themselves that the full definition of "funds" according to Criterion II.1b is properly covered by the current terrorist financing offences.</p>				
Amendments to the Criminal Codes in BiH will provide a complete definition of funds in accordance with the criterion II.1b.	Medium term	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District		
<p>Please provide details of measures taken to properly cover the definition of "funds" as required by Criterion II.1b. Please provide an English translation of amendments to the Criminal Code as adopted and in force. Please see the English translation of amendments to the Criminal Code, art. 202 as adopted and in force: Published in the Official Gazette of BH, nr. 22/05 of 16.03.2015. – ABOVE PROVIDED</p>				
<p>Consideration should be given to whether the financing of terrorism should remain criminalized at all levels of legislation in Bosnia and Herzegovina or be qualified among those exclusively dealt with at state level.</p>				
The possibility of criminalization the financing of terrorism only at the state level shall be discussed.	Medium term	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District		
<p>Please provide details of the steps taken to consider whether the financing of terrorism should remain criminalised at all levels of legislation in Bosnia and Herzegovina or be dealt with exclusively at state level.</p>				

<p>Please provide an English translation of any appropriate legislation as adopted and in force in this respect. After the adoption of the amendments at the state level (above mentioned), the Entities, and Brcko District are expected to harmonise their CC.</p>				
<p>Consideration should be given to abandoning the use of “double definitions” of legal terms pertaining to criminal substantive law in multiple legal sources.</p>				
<p>Consideration will be given to abandoning the use of “double definitions” of legal terms pertaining to criminal substantive law in multiple legal sources</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District</p>		
<p>Please provide details of the steps taken to consider whether to abandon the use of “double definitions” of legal terms pertaining to criminal substantive law in multiple legal sources. Please provide an English translation of any appropriate legislation as adopted and in force in this respect. After the adoption of the amendments at the state level (above mentioned), the Entities, and Brcko District are expected to harmonise their CC.</p>				
<p>SR.VI</p>				
<p>The Bosnia and Herzegovina authorities should examine the operations of Tenfore d.o.o within the context of the obligations of the obliged entities under Article 3 of the old LPML– now Article 4 under the new AML Law. Indeed, through the ‘Agent Compliance Manual’, the company already seems to be imposing upon itself certain AML obligations, in particular in reporting and providing information to the FID. This is a positive initiative on the part of Tenfore d.o.o.,</p>	<p>Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include TENFORE as obligor.</p>	<p>Medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>Articles 4 and 80 of new AML/CFT Law.</p>

<p>however if there is a need for Tenfore d.o.o. to impose such obligations, this need should be officially formalised through the AML Law.</p>				
<p>Please provide details of relevant amendments to the AML/CFT to include Tenfore d.o.o as an obligor. Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</p>				
<p>R.VII</p>				
<p>Although wire transfers are covered by the Law on Payment Transactions of both Entities and Breko District yet most of the criteria for SR VII are not met as the Law only covers the technical operational aspects. The new AML Law now addresses some of the missing aspects identified at the on-site visit. The new law however does not differentiate between domestic and cross-border payments and hence it is difficult to identify compliance with the respective criteria. Notwithstanding, it is recommended that specific legal provisions be introduced:</p> <p>to ensure that full originator information accompanies</p>	<p>Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include the specific provisions:</p> <ul style="list-style-type: none"> • to ensure that full originator information accompanies cross-border transfers; • to establish what information should accompany domestic transfers; • to ensure that the Post Office is monitored on its compliance with such regulations as may be established; • to ensure that appropriate sanctions 	<p>Medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>32. Articles 31,32,33 and 34 of the AML/CFT Law address remaining deficiencies..</p>

<p>cross-border transfers; to establish what information should accompany domestic transfers; to ensure that the Post Office is monitored on its compliance with such regulations as may be established; to ensure that appropriate sanctions can be and are applied for non-compliance.</p>	<p>can be and are applied for non-compliance.</p>			
<p>Please provide details of measures taken to ensure: that full originator information accompanies cross-border transfers; what information should accompany domestic transfers; that the Post Office is monitored on its compliance with such regulations as may be established; that appropriate sanctions can be and are applied for non-compliance.</p> <p>Please provide an English translation of relevant amendments to the AML/CFT Law as adopted and in force.</p>				
SR.VIII				
<p>The statistics on the number of the existing NPOs in BiH are not accurate enough, considering the lack of a clear mechanism on the reciprocal recognition of associations and foundation and</p>	<p>The Ministry of Justice of Bosnia and Herzegovina made a draft of Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina, and Amendments</p>	<p>Adoption of Framework Law - medium term</p>	<p>Ministry of Justice of Bosnia and Herzegovina</p>	

<p>the possibility that certain NPOs are registered, for example, at the entity and state level and counted twice. The authorities should undertake appropriate measures for avoiding double/triple registration and counting of NPOs and improving the mechanism of reciprocal recognition of associations and foundation.</p>	<p>on Law on Associations and Foundations of BiH, the further procedure is in the course.</p>			
<p>Please provide details of steps taken to ensure that all NPOs are clearly identified and registered. Please provide an English translation of amendments to the Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina and to the Law on Associations and Foundations of BiH as adopted and in force.</p>				
<p>There is no single Register of non-profit organisations, as is the case with churches and religious communities, and the authorities should consider introducing such a centralised register for the above mentioned purposes. Also, considering the very limited number of NPOs that decide to be registered at the state level, measures should be undertaken in order to clarify the specific of state and entity registration, advantages of state registration, etc.</p>	<p>The Ministry of Justice of Bosnia and Herzegovina made a draft of Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina, and Amendments on Law on Associations and Foundations of BiH, the further procedure is in the course.</p>	<p>Adoption of Framework Law - medium term</p>	<p>Ministry of Justice of Bosnia and Herzegovina</p>	

<p>Please provide details of steps taken to establish a centralised register for the Register of non-profit organisations. Please provide details of the Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina, indicating whether this law has been enacted and has come into effect. Please provide details of the Amendments on Law on Associations and Foundations of BiH as adopted and in force. Please provide an English translation of amendments to the Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations, if enacted, and the Amendments on Law on Associations and Foundations of BiH as adopted and in force.</p>				
Concrete steps need to be taken to address the essential criteria under the AML/CFT Methodology to ensure that non-profit organisations cannot be abused for financing of terrorism.	BiH authorities shall pass bylaws that will regulate supervision over non-profit organization financial operations in order to prevent their abuse for financing of terrorism	Medium term	Ministry of Justice of Bosnia and Herzegovina and Ministry of Security of BiH	
<p>Please provide details of steps taken to introduce bylaws that will regulate supervision over non-profit organization financial operations. Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</p>				
There should be express legal provisions requiring that the business records of the NPOs are kept for at least five years.				Article 77 of new AML/CFT Law
<p>Please provide an English translation of any legislative provisions introduced requiring that the business records of the NPOs are kept for at least five years.</p>				
No review of the adequacy of the relevant laws and no outreach has been undertaken by the authorities in order to identify the risks and prevent the misuse of NPOs for terrorism financing purposes. However, considering the existing risk,	B&H authorities shall undertake a comprehensive review to assess the adequacy of the national legal framework related to NPOs, identifying the features and types of NPOs (activities, size) that are at risk of being misused for terrorist	Long term	Ministry of Justice of B&H and Ministry of Justice at Entity level and District Brcko	

<p>based on the concrete cases where NPOs have been involved in financing of terrorism activities and current on-going investigations of suspicious NPOs, the authorities should undertake a comprehensive review to assess the adequacy of the national legal framework related to NPOs, identifying the features and types of NPOs (activities, size) that are at risk of being misused for terrorist financing and implement measures to raise awareness of the NPOs about the risks and measures available to protect them against such abuse</p>	<p>financing and implement measures to raise awareness of the NPOs about the risks and measures available to protect them against such abuse</p>			
<p>Please provide information on the measures taken to comprehensively review the national legal framework in order to identify the risks and prevent the misuse of NPOs for terrorism financing purposes. Please provide information on the outreach to the NPO sector. Please provide information on the measures taken to raise awareness of the NPOs about the risks and measures available to protect them from being misused for terrorist financing.</p>				
<p>SR.IX</p>				
<p>The Indirect Tax Authority of Bosnia and Herzegovina does not appear to be fully involved in implementing the current partial regime existing on the entity level in the context of AML CFT according to SR IX efficiently and effectively. In particular it lacks the appropriate powers and tools to do so. A significant number of</p>	<p>Review the whole framework of cross border declarations and disclosures against the essential criteria for SR IX.</p>	<p>Medium term</p>	<p>The Indirect Tax Authority of Bosnia and Herzegovina, Ministry of Finance of BiH</p>	<p>Currently there is process of establishment of the Domestic Working Group for assessment of compliance of Bosnia and Herzegovina with SR IX and for giving proposals for making whole system efficient. Additionally, Article 71 of</p>

essential criteria do not appear to be met and there is therefore a need to review the whole framework of cross border declarations and disclosures against the essential criteria for SR IX.				new AML/CFT Law extends obligations of the Indirect Taxation Authorities.
<p>Please provide details of steps taken to review the whole framework of cross border declarations and disclosures against the essential criteria for SR IX and any action taken as a result of this review.</p> <p>Please provide an English translation of any appropriate legislation or regulations adopted and in force as a consequence of this review.</p>				
Adopt a legislative regime on the state level of B&H for full implementation of SR.IX to include domestic cash and negotiable instruments	Working Group of the Council of Ministers will prepare a draft of The Law on Foreign Exchange Operations on the state level and that will include recommendation of evaluators remark	Adoption of the draft of the Law on Foreign Exchange Operations on the state level - long term)	Ministry of Finance and Treasury of B&H, Working Group and Council of Ministers of B&H	
<p>Pease provide details of amendments to the Law on Foreign Exchange Operations to include domestic cash and negotiable instruments.</p> <p>Please provide an English translation of the amendments to this Law.</p>				
Ensure ITA retains the information required by SR.IX.4 and makes such information available to State Investigation and Protection Agency (SIPA) in accordance with SR.IX.	Working Group of the Council of Ministers will prepare a draft of The Law on Foreign Exchange Operations on the state level that will include recommendation of evaluators' remark.	Adoption of draft of the Law on Foreign Exchange Operations on the state level - long term)	Ministry of Finance and Treasury of B&H, Working Group and Council of Ministers of B&H.	
<p>Please provide information on the measures taken to ensure that ITA retains the information required by SR.IX.4 and makes such information available to State Investigation and Protection Agency (SIPA) in accordance with SR.IX.</p> <p>Please provide an English translation of the amendments to the Law on Foreign Exchange Operations.</p>				

Give power to ITA to apply sanctions or seize funds as required by SR.IX.8-11	Working Group of the Council of Ministers will prepare a draft of The Law on Foreign Exchange Operations on the state level that will include recommendation of evaluators remark	Adoption of draft The Law on Foreign Exchange Operations on the state level - long term)	Ministry of Finance and Treasury of B&H, Working Group and Council of Ministers of B&H	
Please provide details of amendments to the Law on Foreign Exchange Operations that allow ITA to apply sanctions or seize funds as required by SR.IX.8-11. Please provide an English translation of the amendments to the Law on Foreign Exchange Operations.				

ANNEX II

“Funding of Terrorist Activities” Article 202

(1) Whoever by any means, directly or indirectly, gives, collects or in any other way provides funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the criminal offences referred to in Article 191 (Taking of Hostages), 192 (Endangering Internationally Protected Persons), 194 (Illicit Procurement and Disposal of Nuclear Material), 194a (Endangering Nuclear Facilities), 196 (Piracy), 197 (Hijacking an Aircraft or Ship or Seizing Fixed Platforms), 198 (Endangering the Safety of Air Traffic or Maritime Navigation or of Fixed Platforms), 199 (Destruction and Removal of Signal Devices Utilized for Safety of the Air Traffic), 200 (Misuse of Telecommunication Signs), 201 (Terrorism), 202a (Public Incitement to Terrorist Activities), 202b (Recruiting for Terrorist Activities), 202c of this Law (Training for Carrying out Terrorist Activities) or any other criminal offense intended to cause death or serious bodily injuries to a civilian or to any other person not taking active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population or to compel the authorities of Bosnia and Herzegovina or any other authorities or international organisations to do or to abstain from doing any act, regardless whether the terrorist activities were carried out and whether the funds were used for carrying out terrorist activities, shall be punished by imprisonment for a term not less than three years.

(2) Whoever by any means, directly or indirectly, gives or collects or in any other way provides funds:

a) with the intention that they are to be used, in full or in part for any purpose by terrorist organisations or individual terrorists or

b) in the knowledge that they are to be used, in full or in part, in order to carry out the criminal offences from paragraph 1, by terrorist organisations or individual terrorists.

shall be punished by the sentence from paragraph (1) of this Article.

(3) The funds collected for the perpetration or obtained as a result of the perpetration of the criminal offence under paragraph (1) of this Article shall be confiscated.

(4) Funds referred to in paragraph (1) and (2) mean assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.

I hereby certify that this translation fully corresponds to the original written in Bosnian.

Date: 23 March 2015

Certified Court Interpreter for English and German – Marina Čotić

Marina Čotić

