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

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# Bosnia and Herzegovina

## 3<sup>rd</sup> Compliance report

13 December 2011

Bosnia and Herzegovina is a member of MONEYVAL. This compliance report was adopted at MONEYVAL's 37<sup>th</sup> Plenary Meeting (Strasbourg, 13-16 December 2011). For further information, please refer to MONEYVAL website: <http://www.coe.int/moneyval>.

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## THIRD COMPLIANCE REPORT

### I. INTRODUCTION

#### *Evaluation of Bosnia and Herzegovina under the 3<sup>rd</sup> round (December 2009)*

1. MONEYVAL adopted the mutual evaluation report (MER) of Bosnia and Herzegovina (BiH) under the third round of evaluations at its 31<sup>st</sup> 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 Recommendations, including on several core and key recommendations, as indicated in the table below:

Partially compliant (PC)	Non-compliant (NC)
<b>Core Recommendations<sup>1</sup></b> R.1 – Money laundering offence SR.II - Criminalisation of terrorist financing	<b>Core Recommendations</b> R.5 - Customer due diligence
<b>Key Recommendations<sup>2</sup></b> 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	<b>Key Recommendations</b> SR.III - Freezing and confiscating terrorist assets
<b>Other Recommendations</b> 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 SR.VII - Wire transfer rules	<b>Other Recommendations</b> 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 SR.VIII - Non-profit organisations SR.IX - Cross Border Declaration & Disclosure

#### *Background information of the Compliance Enhancing Procedures*

2. At its 34<sup>th</sup> plenary (7-10 December 2010), in view of the result of the discussions on the first 3rd round written progress report (PR) of Bosnia and Herzegovina, the Committee concluded that the report raised significant concerns about the extent of progress or speed of progress overall to rectify deficiencies identified in the 3rd round mutual evaluation report. It took note of the progress report and the analysis of the progress on the core Recommendations and pursuant to Rule 43 of the Rules of Procedure, invited Bosnia and Herzegovina to provide a fuller report to the 35<sup>th</sup> plenary. MONEYVAL, therefore, opened Compliance Enhancing Procedures (CEPs) in respect of the first 3rd

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

<sup>2</sup> 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

round progress report for Bosnia and Herzegovina at step (i), which requires a non-complying member to provide a report or regular reports on its progress in implementing the reference documents.

3. At the 35<sup>th</sup> plenary meeting (11-14 April 2011), MONEYVAL decided to adopt and publish the first compliance report prepared by the Secretariat. The Committee noted in the first CEPs report: *“Since the adoption of the third round report in December 2009 BiH authorities have taken a number of steps especially on the legislative front to comply with the FATF Recommendations assessed above. Although this progress report covers actions taken within last 16 months since the adoption of the report, it appears that BiH has made slow or very little progress to deal with the majority of the deficiencies related to those Recommendations.”*

4. It concluded that *“BiH has not taken sufficient action implementing any of the Recommendations assessed in this report at the level of or at a level essentially equivalent to a C or LC. In addition, with regard to the Compliance Enhancing Procedures opened at the 33rd plenary (September 2010) in respect of important deficiencies in Recommendations rated NC or PC in the mutual evaluation report and merged these Compliance Enhancing Procedures, BiH has hardly made any progress on any of the important deficiencies identified at the 33rd Plenary. There appear to be some initiatives commenced; however, all these initiatives should be expedited through a concrete action plan with clear milestones and time scales to achieve quick and tangible results.”*

5. As a result it decided to maintain step (i) in the procedures, which requires a member concerned to provide a report or regular reports on its progress in implementing the reference documents. It further reiterated its decision made at the 34<sup>th</sup> plenary that the report to be submitted before the 36<sup>th</sup> plenary of the MONEYVAL Committee (26-30 September 2011) should be a merged one that will contain replies to the important deficiencies, which were identified at the 33rd plenary, under some core and key recommendations (R.1, R.5, R.26, SR.II and SR.III), and also under other Recommendations (SR.VIII and SR.IX).

6. In addition, the Committee invited Bosnia and Herzegovina to develop a clear action plan in response to the MONEYVAL’s third round mutual evaluation report. To this end, the Committee gave a mandate to the Chairman to correspond with Bosnia and Herzegovina with a view to agreeing within two months a satisfactory and practicable action plan with realistic timescales for remedying the major deficiencies identified. MONEYVAL underlined that if the Bureau is not satisfied with the action plan produced between the plenaries, the Chairman is mandated to implement step (ii) between plenaries. The Committee emphasised that in order to show a firm political commitment the agreed action plan should be approved at Government level.

7. In the meantime, BiH authorities prepared an action plan and submitted it to the Bureau on time. The Bureau examined the Action Plan, and noting the comprehensive work that had been put into it, it was satisfied with the Action Plan in its revised form. The Chairman in its letter dated 13 September 2011 invited the authorities to obtain governmental endorsement of the draft Action Plan prior to the discussions of Step (i) of the CEPs at the 36<sup>th</sup> Plenary.

8. At the 36<sup>th</sup> plenary meeting (26-30 September 2011), Bosnia and Herzegovina presented its second compliance report. The Committee decided to adopt and publish the compliance report prepared by the Secretariat, and to maintain step (i) in the procedures. It further reiterated its decision made at the 34<sup>th</sup> plenary that the report to be submitted to the 37<sup>th</sup> plenary should be a merged one that will contain replies to the important deficiencies, which were identified at the 33rd Plenary, under some core and key Recommendations (R.1, R.5, R.26, SR II and SR III), and also under other Recommendations (SR.VIII and SR IX).

9. The Committee also reiterated its decision at the previous plenary (35<sup>th</sup>) that in order to show a firm political commitment, the agreed action plan should be approved at Government level. MONEYVAL invited the Bosnia and Herzegovina authorities to obtain governmental endorsement of the draft action plan, in its present form, before the end of October 2011. In a press release dated 10

October 2011, the Council of Ministers of Bosnia and Herzegovina announced that, at a meeting held that day, they had considered and adopted an action plan to remedy deficiencies which had been identified in MONEYVAL's 3<sup>rd</sup> round evaluation report on Bosnia and Herzegovina.

## **II. SHORT DESCRIPTION OF BiH LEGAL AND INSTITUTIONAL FRAMEWORK**

10. For a better understanding and evaluation of the progress achieved by BiH since the adoption of the 3<sup>rd</sup> round report, please see the short description of the BiH state system, legal and institutional system which was stipulated in the first CEPs report.

## **III. OVERVIEW OF BiH'S PROGRESS AND REVIEW OF THE MEASURES TAKEN TO ADDRESS IDENTIFIED DEFICIENCIES**

11. This desk review is carried out based on the current Rules of procedures of MONEYVAL for the third evaluation round. It summarises the measures taken by BiH since the adoption of the mutual evaluation report in respect of the core and key Recommendations rated PC or NC as well as of the other Recommendations rated PC or NC. Given that it focuses only on the measures taken to address deficiencies in respect of the Recommendations that were rated PC or NC, it is not intended to cover comprehensively the BiH's AML/CFT system. As decided by MONEYVAL at its 34th 35th and 36th plenaries, BiH was required to demonstrate that sufficient progress has been made to rectify the deficiencies in an effective manner.

12. In preparing this paper, the Secretariat has taken into consideration the compliance report questionnaire (hereinafter referred to as "CRQ") submitted to the 37th plenary by the BiH authorities.

13. The second Compliance Report, which was presented to the 36th plenary meeting sets out a summary of the main conclusions of the review of the measures taken to address deficiencies of all Recommendations rated PC and NC, outlining the main changes to the AML/CFT system since the adoption of the third round mutual evaluation report. This report provides a brief summary of the steps that have been undertaken since the second Compliance Report was presented.

14. These reports do not analyse R.4, 10, 13, 36 and 40, as well as SR IV and V as they were given Compliant (C) (only R.4) or Largely Compliant (LC) ratings in the third round MER. These are also among the listed Recommendations under paragraph 43 of the Rules of procedure that the plenary should normally seek sufficient action from a country at the level of or at least at a level essentially equivalent to C or LC. It should be noted that the paper does not include other Recommendations rated C or LC.

15. It is particularly important to note that the effectiveness can be taken into account only through consideration of data and statistics provided by the authorities and as such, not all effectiveness aspects can be covered. Thus, this paper does not attempt to re-rate compliance with the above-mentioned Recommendations nor form a definite opinion on the level of implementation of the standards, as this could only be objectively and thoroughly undertaken through a verification of the information received in the context of an on-site evaluation visit.

### **1. Overview of the measures taken in relation to the Core Recommendations since the adoption of the second Compliance Report**

#### **Recommendation 1 (rated PC in MER): Money Laundering Offence**

16. A review of the relevant Criminal Codes is being undertaken and has been incorporated in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011. The MONEYVAL Secretariat has not received details of the proposed changes and is, therefore, not in a position to comment on whether these would be sufficient to remedy the identified deficiencies.

17. Progress has been made on the process for adopting a new Law on Securities Market in Brcko District; this law will introduce a criminal offence for market manipulation.

18. With regard to training and awareness raising the Bosnian authorities report that a number of training seminars have been organised by the Centres for Training of Judges and Prosecutors in both the Federation of Bosnia and Herzegovina (FBiH) and Republic Srpska (RS).

**Recommendation 5 (rated NC in the MER): Customer Due Diligence**

19. Amendments to the Law on Banks has been adopted by the Federal government and adoption by the Federal Parliament is expected soon. These amendments are intended to introduce revised provisions for the verification of identity including the timing of verification.

20. A review of the AML/CFT Law is being undertaken and has been incorporated in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011.

**Special Recommendation II (rated PC in MER): Criminalisation of terrorist financing**

21. A review of the relevant Criminal Codes is being undertaken and has been incorporated in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011. As above, the MONEYVAL Secretariat has not received details of the proposed changes and is, therefore, not in a position to comment on whether these would be sufficient to remedy the identified deficiencies.

**2. Review of measures taken in relation to the Key Recommendations**

**Recommendation 3 (rated PC in MER): Confiscation and provisional measures**

22. A review of the relevant Criminal Procedure Codes is being undertaken and has been incorporated in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011. As above, the MONEYVAL Secretariat has not received details of the proposed changes and is, therefore, not in a position to comment on whether these would be sufficient to remedy the identified deficiencies.

23. As noted under Recommendation 1 above, the Bosnian authorities report that a number of training seminars have been organised by the Centres for Training of Judges and Prosecutors in both the Federation of Bosnia and Herzegovina (FBiH) and Republic Srpska (RS). These training seminars have included modules on combating organised crime and corruption and the forfeiture of unlawfully obtained property and also the efficiency of prosecutors and the forfeiture of unlawfully obtained property gain.

**Recommendation 23 (rated PC in MER): Regulation, supervision and monitoring**

24. The BiH authorities have previously reported in the CRQ that the draft Law on the Securities Market will introduce a prohibition against criminals and their associates holding a significant or controlling share in securities market intermediaries in the FBiH and in BD, and a requirement for a clean criminal record in respect of the managers of market intermediaries in BD, as well as requirements for professional qualifications and expertise of directors and senior management of investment funds in the FBiH, in the RS and in BD. Furthermore, it is not clear if this draft law, when enacted, will be applicable at all levels. The authorities were not able to provide clarity on this issue. As at the time of submission of the CRQ, this Law has still not been enacted.

25. No other changes or initiatives were reported in the CRQ.

**Recommendation 26 (rated PC in MER): The FIU**

26. A review of the AML/CFT Act is being undertaken and has been incorporated in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011. As above, the MONEYVAL Secretariat has not received details of any proposed changes and is, therefore, not in a position to comment on whether these would be sufficient to remedy the identified deficiencies.

27. Although, as noted in the first CRQ report the draft Law still seems not to allow the FIA to disseminate information on its own initiative to domestic authorities for investigation or action when there are grounds to suspect ML or TF the BiH authorities report that, in the 9 months to 30 September, the FID reports on 14 crimes with the Prosecutor's Office which included 6 money laundering offences and 8 other predicate offences.

### **Recommendation 35 & Special Recommendation I (rated PC in MER): Conventions and Implementation of UN Instruments**

28. It has been noted in past reports that the amendments made to the Criminal Code of BiH appear to bring the definition of the terrorist financing offence at the state level broadly into line with the UN Terrorist Financing Convention in terms of incrimination of financing of terrorist acts. However, the term "funds" had still not been defined in the CC in line with the Convention and other shortcomings in relation to criminalisation of ML and pending deficiencies relating to effective implementation of the Conventions still need to be addressed. The BiH authorities report that further changes have been incorporated in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011. The MONEYVAL Secretariat has not received details of any proposed changes and is, therefore, not in a position to comment on whether these would be sufficient to remedy the identified deficiencies.

### **Special Recommendation III (rated NC in MER): Freeze and confiscate terrorist assets**

29. The Book of Rules has now been adopted by the Council of Ministers and therefore is in force.

## **3. Review of measures taken in other Recommendations rated NC or PC**

### **Recommendation 6 (rated PC in MER): Politically exposed persons**

30. In the CRQ, the BiH authorities report that amendments are being made to the AML/CFT Law in order to harmonise it with Recommendation 6. As previously stated, a review of the AML/CFT Law is being undertaken and has been incorporated in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011. The MONEYVAL Secretariat has not received details of any proposed changes and is, therefore, not in a position to comment on whether these would be sufficient to remedy the identified deficiencies.

31. Regarding the deficiency of the lack of awareness of the industry in identifying PEPs, the authorities have previously reported that a state-wide training and awareness raising program has been put in place under which several sessions have already been held, and that they plan to continue to organise such sessions to all sectors of obliged entities. In the current CRQ the BiH authorities report that this initiative is continuing. As no concrete information about the details of these activities has been provided, it is difficult to conclude whether the reported activities are at an appropriate level.

### **Recommendation 7 (rated PC in MER): Corresponding banking**

32. The BiH authorities reported (in the PR and in the CRQ) on the upcoming amendments to the AML Law. These amendments seem to remedy two main deficiencies that were identified in the 3rd round MER, particularly requirements for banks to document the AML/CFT responsibilities of respondent banks and specific obligations regarding "payable through accounts". As has previously been stated, the review of the AML/CFT Law is included in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011.

### **Recommendation 8 (rated NC in MER): New technologies and non-face-to-face business**

33. As noted in the previous CEPs reports, Article 2 of the new Book of Rules requires financial institutions to adopt a written internal program that determines the risk level of new technical developments in respect of their possible misuse for the purposes of money ML and TF. In addition, there are similar obligations prescribed in the Guidelines addressing the insurance sector (in the FBiH and the RS) and the securities sector (in the FBiH). As concluded in the first CEPs report, it seems that the new Book of Rules has partially addressed the deficiency identified in the 3rd round MER. The BiH authorities still need to clarify the application and effectiveness of Article 10 of the Decision on Minimum Standards (the FBiH, the RS) for the banking sector. Furthermore, the draft law amending

the AML/CFT Law, which requires financial institutions to have policies in place to prevent the misuse of technological developments, should be enacted in order to comply with R.8. As has previously been stated, the review of the AML/CFT Law is included in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011.

**Recommendation 9 (rated NC in MER): Third parties and introduced business**

34. The new Book of Rules requires financial institutions to ensure that the information and documentation on identification of the client can be obtained and that the third party will provide such information upon request. In addition, as noted in the first CEPs report, Articles 10, 11 and 12 of the draft law on amending the AML/CFT Law appear to address remaining deficiencies when enacted as they currently stand.

35. The authorities reported in the CRQ that these amendments to the AML/CFT Law have been adopted by the 155th Council of Ministers in July 2011 and their adoption by the Parliament was expected. For being regarded as rectified the deficiencies under R.9, the draft amendments should be enacted. At the moment, the deficiencies remain valid.

**Recommendation 11 (rated NC in MER): Unusual transactions**

36. The authorities reported that the Working Group of the Council of Ministers has prepared amendments for the law that will eliminate the deficiencies under R.11. However, texts of the reported draft amendments have not made available in the CRQ. Therefore, it is not possible to judge how these amendments will address those deficiencies.

37. With regard to the deficiency relating to the lack of awareness about the obligations, the BiH authorities have reported on-going training activities with obligors, although no specific details have been provided.

**Recommendation 12 (rated NC in MER): DNFBP (R.5, 6, 8-11)**

38. The level of compliance of BiH with Recommendations 5, 6, 8, 9, 10 and 11 has been analysed above and the same situation applies for the DNFBPs.

**Recommendation 15 (rated PC in MER): Internal controls, compliance & audit**

39. As previously stated, a review of the AML/CFT Law is being undertaken and has been incorporated in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011. The MONEYVAL Secretariat has not received details of any proposed changes and is, therefore, not in a position to comment on whether these would be sufficient to remedy the identified deficiencies.

40. With regard to the deficiency of the exemptions to small obliged entities from appointing a compliance officers and applying internal controls, even though the authorities reported in the PR that the draft amendment to be made to Article 32 of the AML/CFT Law would remove the full exemptions granted to small obliged entities from appointing a compliance officer and applying internal controls, however, there still seems to be no indication in the draft text that this amendment will indeed remedy this deficiency. It is reported that 155th Council of Ministers adopted these amendments in July 2011, but its adoption by the Parliament has still not taken place.

41. Regarding the deficiency of the lack of industry training, the CRQ does not report whether any further initiatives have taken place.

42. In relation to the deficiency of the absence of adequate procedures for screening at recruitment stage, it is reported in the 2<sup>nd</sup> Compliance Report that the Working Group has made necessary amendments, however, no text has been made available to the Secretariat.

**Recommendation 16 (rated NC in MER): DNFBPs (R.13-15 and 21)**

43. Apart from the reported legislative steps, which are still in process, and reported on-going training activities (without specifying them in the CRQ), no progress seems to have been achieved since April 2011 on R.16. In the absence of concrete information about these activities, it is not possible to examine if or to what extent those activities have changed the level of awareness of the DNFBPs



sector. The level of compliance of BiH with Recommendations 15 and 21 has been analysed in this report and the situation in respect of financial institutions is no different for the DNFBPs.

**Recommendation 17 (rated PC in MER): Sanctions**

44. Apart from the future considerations about all identified deficiencies by various institutions, which are reported in the CRQ, no progress has been achieved since the adoption of the first CEPs report in April 2011. Therefore, this report reiterates the findings of the first CEPs report. The deficiencies identified in the 3rd round MER appear to remain unchanged.

**Recommendation 21 (rated NC in MER): Special attention for higher risk countries**

45. The authorities reported in the CRQ that the Working Group of the Council of Ministers will prepare draft amendments to the AML/CFT Law in order to properly address these deficiencies. This proposed activity is set out in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011. The MONEYVAL Secretariat has not received details of any proposed changes and is, therefore, not in a position to comment on whether these would be sufficient to remedy the identified deficiencies.

**Recommendation 22 (rated PC in MER): Foreign branches and subsidiaries**

46. The BiH authorities have previously reported that future draft amendments to the AML/CFT Law are intended to address the deficiencies relating to R.22, which will be prepared by the Working Group of the Council of Ministers. This proposed activity is set out in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011. The MONEYVAL Secretariat has not received details of any proposed changes and is, therefore, not in a position to comment on whether these would be sufficient to remedy the identified deficiencies.

**Recommendation 24 (rated NC in MER): DNFBP - Regulation, supervision and monitoring**

47. In the 2<sup>nd</sup> Compliance Report the BiH authorities reported in the PR that the draft Law on Gambling in the BD has been prepared, and was expected to be adopted in 2011. To date the Secretariat has not been notified that this law has been adopted.

48. The BiH authorities report that steps to remedy the other deficiencies are included in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011. The MONEYVAL Secretariat has not received details of any proposed changes and is, therefore, not in a position to comment on whether these would be sufficient to remedy the identified deficiencies.

**Recommendation 25 (rated NC in MER): Guidelines and feedback**

49. No additional steps have been reported in the CRQ as having been taken since the 2<sup>nd</sup> Compliance Report.

**Recommendation 29 (rated PC in MER): Supervisors**

50. The BiH authorities report that under the terms of the new AML/CFT Law the FOO is authorised to supervise all obligors who are not directly supervised by a designated regulatory body. It is reported that the FID is planning to form a team by the end of 2011 that will be tasked with training and supervision of such obligors.

51. In the CRQ it is reported that the Insurance Supervision Agencies are in the process of preparing regulations that will provide powers to supervise compliance with the relevant AML/CFT requirements. Furthermore, these powers will provide powers for enforcement actions and sanctions against insurance businesses and their directors and senior management for non-compliance with the regulations. The MONEYVAL Secretariat has not received details of any proposed changes and is, therefore, not in a position to comment on whether these would be sufficient to remedy the identified deficiencies.

**Recommendation 30 (rated NC in MER): Resources**

52. Apart from the reference made to the establishment of the new FOA (FIU) no steps have been reported in the CRQ.

**Recommendation 31 (rated PC in MER): National cooperation**

53. The deficiencies identified in the third round report under this Recommendation are related to the questions on effectiveness, coordination and information sharing, as well as related to the operational efficiency of the Working Group. The BiH authorities report that plans to improve national cooperation are included in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011. Furthermore, the CRQ states that at a meeting, on 17 November 2011, the Working Group adopted a Strategy Action Plan to achieve better coordination at all levels and in all areas; the Working Group consider that this Action Plan will have a positive impact on the entire AMML/CFT regime in BiH. The Secretariat have not received a copy of this Action Plan and are, therefore, not in a position to comment on its scope.

**Recommendation 32 (rated NC in MER): Statistics**

54. The 2nd Compliance Report concluded that “it appears that the reported steps have improved the statistical system in relation to ML and TF investigations”. It was, however noted that a number of identified deficiencies remained.

55. Furthermore, the CRQ reports that MUP RS, MUP FBiH and Brcko District Police have all developed statistical data.

**Recommendation 33 (rated PC in MER): Legal persons – beneficial owners**

56. The CRQ reports that the relevant steps to remedy the identified deficiencies are included in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011.

**Special Recommendation VI (rated PC in the MER): AML requirements for money/value transfer services)**

57. No additional progress was reported in the CRQ.

**SR VII (rated PC in MER): Wire transfer rules**

58. No additional progress was reported in the CRQ.

**SR VIII (rated NC in MER): Non-profit organisations**

59. The Law on Amendments to the Law on Associations and Foundations has been adopted by the BiH Parliament and published in the Official Gazette. This law appears to strengthening the transparency of NPOs with requirements to maintain lists of members and books of account and to submit financial reports and annual accounts to its governing body. The Law also provides for the “*The supervision over the legality and purposeful use and disposal of the funds of the association or foundation shall be done by an authorized body of the association or foundation, established by statute and this law, as well as by competent authorities*”. With these proposed amendments the authorities appear to have established an efficient system to assess information on all NPOs and an efficient system of providing the authorities with the necessary information to conduct investigations. In addition, the BiH authorities are also planning to pass further bylaws that will help to prevent the activities of an NPO that may be associated with terrorism, money laundering or other forms of organized crime.

60. It is however not clear from the reported steps if a comprehensive review has been undertaken by the BiH authorities in order to identify the risks and prevent the misuse of NPOs for terrorist financing purposes or if these legislative proposals have been initiated as a result of such a review.

61. No steps have been reported in the CRQ for the deficiency of the lack of outreach to the NPO sector.

62. With regard to the deficiencies on the registration mechanism apart from above-mentioned drafts no steps since April 2011 have been reported. The authorities reported in the CRQ that the deficiencies on the supervisory activities and the lack of requirement for NPOs to maintain business records for a period of at least five years as well as the absence of a particular mechanism for responding to international requests regarding NPOs will be addressed by the authorities with the future amendments

to be made to the existing legal framework. But at this stage no concrete progress has been achieved on these deficiencies.

#### **SR IX (rated NC in MER): Cross Border Declaration**

63. The legal changes made at the FBiH and RS were analysed in the 1st Compliance Report, Its findings in this regard are still valid. The BiH authorities acknowledge the urgent need to adopt a Law on Foreign Exchange Transactions as soon as possible although no timetable for this has been submitted. In the view of the authorities, all the remaining deficiencies related to SR IX will be addressed in this Law. The MONEYVAL Secretariat has not received details of any proposed changes and is, therefore, not in a position to comment on whether these would be sufficient to remedy the identified deficiencies.

#### **IV. OVERALL CONCLUSION AND NEXT STEPS**

64. According to paragraph 43 of the Rules of Procedure, in order for a country to be removed from the process of reporting, the Plenary should satisfy itself that the country in Compliance Enhancing Procedures has taken sufficient action implementing the following Recommendations at the level of or at a level essentially equivalent to a C or LC:

- money laundering and terrorist financing offences (R.1 & SR.II);
- freezing and confiscation (R.3 and SR.III);
- financial institution secrecy (R.4) and customer due diligence (R.5);
- record-keeping (R.10);
- suspicious transaction reporting and the FIU (R.13, 26 & SR.IV);
- financial sector supervision (R.23); and
- international co-operation (R.35, 36 and 40; and SR.I & V).

65. The plenary should however retain some limited flexibility with regard to those Recommendations listed above that are not core Recommendations if substantial progress has also been made on the overall set of Recommendations that have been rated PC or NC.

66. This report does not assess R.4, 10, 13, 36, 40 and SR.IV as they were rated LC or C in the third round MER.

67. The 1<sup>st</sup> Compliance Report noted that *“Since the adoption of the third round report in December 2009 the BiH authorities have taken a number of steps especially on the legislative front to comply with the FATF Recommendations assessed above. Although this progress report covers actions taken within the 16 months since the adoption of the report, it appears that BiH has made slow or very little progress to deal with the majority of the deficiencies related to those Recommendations”* It therefore concluded that *“BiH has not taken sufficient action implementing any of the Recommendations assessed in this report at the level of or at a level essentially equivalent to a C or LC. In addition, with regard to the Compliance Enhancing Procedures opened at the 33rd plenary (September 2010) in respect of important deficiencies in Recommendations rated NC or PC in the mutual evaluation report and merged these Compliance Enhancing Procedures, BiH has hardly made any progress on any of the important deficiencies identified at the 33rd Plenary. There appear to be some initiatives commenced; however, all these initiatives should be expedited through a concrete action plan with clear milestones and time scales to achieve quick and tangible results.”*

68. The preparation of the national Action plan, which was regarded by the Bureau as satisfactory, which specifically aims at addressing the action plan of the third round MER is a commendable step. In accordance with the requirements of the Committee the Action Plan was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011. This indicates the BiH authorities’ commitment to remedy (under certain timeframes) all deficiencies identified in the third round MER.

69. In addition to the preparation and governmental adoption of the Action Plan, the Law on Amendments to the Law on Associations and Foundations of Bosnia and Herzegovina and the Book of Rules on Restrictive Measures have been adopted. There, however, remain a significant number of steps that need to be taken in order to improve the AML/CFT system and increased the level of compliance of BiH on the FATF Recommendations assessed in this report at the level of or at a level essentially equivalent to a C or LC. These steps are addressed in the adopted Action Plan and the BiH authorities are encouraged to proceed with implementing the steps outlined in the Action Plan.

70. The Committee at the 37th plenary examined the Action Plan produced by Bosnia and Herzegovina. The Committee noted that the Action Plan had now been endorsed at Ministerial level and that the short term issues on which action is required are due to be completed by 10 April 2012. The Committee agreed that Bosnia and Herzegovina should remain at step i until the 39th plenary in July 2012. The Committee invited the Bosnia and Herzegovina authorities to present a full report to the Secretariat as soon as possible after 10 April; however, an interim report on progress on the short term issues should be provided to the Secretariat in advance of the 38th plenary in March and a brief report will be submitted to the plenary.

MONEYVAL Secretariat

**ANNEX I**

**SUMMARY OF PROGRESS REPORTED BY BOSNIA AND HERZEGOVINA  
UNDER COMPLIANCE ENHANCING PROCEDURES**

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
<p><b>Reported as of April 2011 plenary)</b>  <b>R.1</b></p> <ul style="list-style-type: none"> <li>• 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;</li> <li>• ensure the clear demarcation between the scope of the ML offences in the different Criminal Codes, to prevent conflict of competences between state level and non-state level jurisdictions;</li> </ul>	<p>BiH authorities reported in December that The Ministry of Justice and the Chief State Prosecutor have initiated a legislative process to make necessary amendments and harmonisations in the State and entity level, as well as Brcko District Criminal Codes, which will also aim at addressing these deficiencies.</p> <p>Authorities now refer to relevant articles of the Criminal Codes at all levels, which criminalise ML offence, as well as relevant articles of the Law on Proprietary Rights at entities level</p>	<p>No additional measures have been reported</p>	<p>Not available</p>	<p>No steps are currently being taken to address both deficiencies.</p> <p>Authorities believe the existing legislation, which has not been amended since the adoption of the MER to directly address these deficiencies, is sufficiently covering “transfer of property”.</p> <p>They argue that the right to access presents a part of the ownership right/right to property, implying the possibility of transfer of ownership or seizure of objects.</p> <p>Taking into account the wording of Article 17 of the Law on Proprietary Rights of the RS, it seems unclear how the term “accessing” used in the CCs at all levels can be interpreted as “transferring”.</p> <p>Apart from referring to the Supreme Court’s legal opinions reported to be adopted on 30 June 2004, which indeed</p>

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				appear to have been noted in the 3rd round MER, and providing some explanations no concrete steps have been taken to address the lack of demarcation between the scopes of the ML offences in the different Criminal Codes.
<p><b>(Measures reported at the September 2011 plenary)</b>  <b>R.1</b></p> <ul style="list-style-type: none"> <li>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;</li> </ul>	<p>Article 209 of the Criminal Code of BiH, as well as Article 272 of the Criminal Code of FBiH, Article 280 of the Criminal Code of RS and Article 265 of the Criminal Code of Brcko District (which regulates the criminal offence of money laundering) have been harmonized with Article 3 of the Vienna Convention and Article 6 of the Palermo Convention in a way that they regulate the following activities: disposing, exchanging, accepting, using, concealing, trying to conceal and keeping.</p> <p>Entity laws regulate that the right to dispose represents a</p>	<p>On 7 June 2011 the B&amp;H Moneyval delegation sent an official letter no. 05-06-2981/11 to the Team for monitoring and evaluating the application of criminal law in B&amp;H, which requires the harmonization of criminal law in B&amp;H with the recommendations of Moneyval Secretariat of the criminal offense of money laundering. Team started with</p>	<p>Adoption of Criminal Codes - medium term</p>	

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
	part of the ownership right/ proprietary, which includes the possibility of transferring the ownership and/or alienation of property. (The Law Property Rights of RS, Official Gazette 124/08; the Law on Property-Legal Relations in FBiH, Official Gazette 6/98, 29/03; The Law on Ownership and Other Actual Rights of Brcko District, Official Gazette 11/01, 8/03, 40/04, 19/07).	the activities on design of the Amendments to the Criminal Code.		
<ul style="list-style-type: none"> <li>2.ensure the clear demarcation between the scope of the ML offences in the different Criminal Codes, to prevent conflict of competences between state level and non-state level jurisdictions;</li> </ul>	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.	On 7 June 2011 the B&H Moneyval delegation sent an official letter no. 05-06-2981/11 to the Team for monitoring and evaluating the application of criminal law in B&H, which requires the harmonization of	Adoption of Criminal Codes - medium term	



Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
	<p>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.</p>	<p>criminal law in B&amp;H with the recommendations of Moneyval Secretariat of the criminal offense of money laundering. Team started with the activities on design of the Amendments to the Criminal Code.</p>		
<p><b>(Measures taken since the September 2011 plenary)</b>  <b>R.1</b>  <ul style="list-style-type: none"> <li>ensure full compliance with Article 3 of the Vienna Convention and Article 6 of the Palermo Convention by clearly incriminating the “transfer of property”</li> </ul> </p>		<p>The adopted action plan envisaged amendments to the Criminal Codes in accordance with the recommendations of MONEYVAL</p>		<p>A review of the relevant Criminal Codes is being undertaken and has been incorporated in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011.</p> <p>Progress has been made on the process for adopting a new Law on Securities Market in Brcko District; this law will introduce a criminal offence for market manipulation.</p> <p>With regard to training and awareness raising the Bosnian authorities report that a number of training seminars have been organised by the Centres for Training of</p>

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<p>in all Criminal Codes;</p> <ul style="list-style-type: none"> <li>ensure the clear demarcation between the scope of the ML offences in the different Criminal Codes, to prevent conflict of competences between state level and non-state level jurisdictions;</li> </ul>				Judges and Prosecutors in both the Federation of Bosnia and Herzegovina (FBiH) and Republic Srpska (RS)

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
<p><b>Reported as of April 2011 plenary) R.5</b></p> <ul style="list-style-type: none"> <li>1.include an obligation to apply the CDD</li> </ul>	<p>-(1st bullet) Authorities report that Article 10 of the new Book of Rules address to this issue.</p>	<p>- No additional measures for the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup> bullets reported.</p>	<p>Not available.</p>	<p>- (1<sup>st</sup> bullet) Article 10 of the new Book of Rules arguably covers this obligation, as BiH authorities were not able to provide the presence of any legal basis of supervision for this article and indicate any sanction</p>

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
measures when carrying out occasional transactions that are wire transfers;				determined in case of violation, if this article can be regarded as other enforceable means is uncertain.
<ul style="list-style-type: none"> <li>• 2. review the definition of “transactions” in the new AML/CFT Law;</li> </ul>	<p>-(2<sup>nd</sup> bullet) Working Group of the Council of Ministers prepared a draft amendment to the AML/CFT Law that will include this remark, and eliminate the definition of cash transactions to avoid all doubt in the application of CDD measures.</p>	<p>-(2<sup>nd</sup>, 7<sup>th</sup> and 8<sup>th</sup> bullets) The draft law will be sent to the Parliament for adoption.</p>		<p>(2<sup>nd</sup> bullet) BiH authorities should make sure that this deficiency is addressed in the draft Law, as it seems that it is not currently including such clarification.</p>
<ul style="list-style-type: none"> <li>• 3. introduce a clear timing for the verification of identification information with a review the Decisions on Minimum Standards accordingly;</li> </ul>	<p>-(3<sup>rd</sup> bullet) The review of Decisions on Minimum Standards by the Banking Agency of FBiH is underway but have not yet been finalised.</p>	<p>(3<sup>rd</sup> bullet) The review of Decisions on Minimum Standards will be completed upon adoption of the proposed amendments to the Law on Banks by the Parliamentary</p>		<p>(3<sup>rd</sup> bullet) The review of Decisions on Minimum Standards is undertaken on by FBiH authorities and needs to be completed. In addition, such a review needs to be conducted by all respective banking agencies.</p>

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
		Assembly.		
<ul style="list-style-type: none"> <li>4. 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;</li> </ul>	- (4 <sup>th</sup> bullet) No steps reported.			(4 <sup>th</sup> , 5 <sup>th</sup> and 6 <sup>th</sup> ) No progress appears to have been achieved in rectifying these deficiencies.
<ul style="list-style-type: none"> <li>5. 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</li> </ul>	- (5 <sup>th</sup> bullet) No steps reported			(4 <sup>th</sup> , 5 <sup>th</sup> and 6 <sup>th</sup> ) No progress appears to have been achieved in rectifying these deficiencies.

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
Agencies;				
<ul style="list-style-type: none"> <li>6. establish clear requirements for financial institutions to conduct ongoing due diligence on the business relationship;</li> </ul>	<ul style="list-style-type: none"> <li>- (6<sup>th</sup> bullet) No steps reported.</li> </ul>			<ul style="list-style-type: none"> <li>(4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup>) No progress appears to have been achieved in rectifying these deficiencies.</li> </ul>
<ul style="list-style-type: none"> <li>7. require obliged entities to consider filing a suspicious report where the identification process cannot be completed;</li> <li>8. require obliged entities to consider the termination of business where a business relationship is established but the identification process cannot be completed.</li> </ul>	<ul style="list-style-type: none"> <li>- (7<sup>th</sup> and 8<sup>th</sup> bullets) The Management Board of Insurance Agency of BiH issued Guidelines for the implementation of AML/CFT Law for customers under the jurisdiction of Insurance Supervision Agencies of FBiH and the Republic of Srpska on 31 May 2010 and the Application Guidelines of the Law on Prevention of Money Laundering and Financing of Terrorist Activity for customers under the jurisdiction of Securities Commission of FBiH</li> </ul>	<ul style="list-style-type: none"> <li>-(2<sup>nd</sup>, 7<sup>th</sup> and 8<sup>th</sup> bullets) The draft law will be sent to the Parliament for adoption.</li> </ul>		<ul style="list-style-type: none"> <li>- (7<sup>th</sup> and 8<sup>th</sup> bullets) Article 7a of the draft law amending AML/CFT Law which was prepared in June 2010 by the working group of experts and submitted to the Council of Ministers appears to cover a requirement for obliged entities to terminate the business relationship and to file a suspicious report where it is established but the identification process cannot be completed.</li> </ul> <p>When the draft law is enacted as it is, BiH could be regarded as being addressed to the 7<sup>th</sup> and 8<sup>th</sup> deficiencies. The Guidelines issues include such obligations but they are not regarded as other enforceable means.</p>

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
	<p>dated of 8 April 2010 were issued.</p> <p>A draft law amending the Law on Prevention of Money Laundering and Financing of Terrorist Activities (AML/CFT Law) was prepared and submitted to the Council of Ministers in June 2010 by the working group of experts established in the Ministry of Security in May 2010.</p>			
				<i>Notwithstanding some ongoing steps, none of the deficiencies under R.5 appear to have been addressed yet.</i>
<b>(Measures Reported at the September 2011 plenary)</b>				
<b>R.5</b> <ul style="list-style-type: none"> <li>1.include an obligation to apply the CDD measures when carrying out occasional</li> </ul>	The new amendments to AML/CFT Law will be amended to Article 26 which will include periodic electronic transfers.	The working group shall submit amendments to the existing AML/CFT Law in	Adoption of amendments on AML Law - medium term)	The Secretariat's comments stated above regarding R.5 remain valid. Authorities seem to be determined to address these deficiencies with the further amendments in the medium term, up to one year, and they

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
transactions that are wire transfers;		parliamentary procedure		believe that the adoption of the Action Plan will accelerate this process. At this stage no concrete progress appears to have been achieved.
<ul style="list-style-type: none"> <li>2. review the definition of “transactions” in the new AML/CFT Law;</li> </ul>	Working Group of the Council of Ministers prepared a draft amendment to the AML/CFT Law that will include this remark, and eliminate the definition of cash transactions to avoid all doubt in the application of CDD measures	The working group shall submit amendments to the existing AML/CFT Law in parliamentary procedure	Adoption of amendments on AML Law - medium term)	
<ul style="list-style-type: none"> <li>3. introduce a clear timing for the verification of identification information with a review the Decisions on Minimum Standards accordingly;</li> </ul>	B&H authorities started with a broader review of the Decision on Minimum Standards to address many issues, including this deficiency. However, this review could not be completed and this is planned to be made in the aftermath of enactment of necessary amendments to the Law on Banks by the Parliamentary Assembly.	The working group shall submit amendments to the existing AML/CFT Law in parliamentary procedure		
<ul style="list-style-type: none"> <li>4. introduce a legal</li> </ul>	There is an obligation under	amendments to	Adoption of	

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
obligation to apply CDD measures to existing customers beyond what is currently provided for banks under the relevant Decisions on Minimum Standards;	<p>Article 18 of the AML Law to apply CDD measures to existing clients not complied with FATF Recommendation.</p> <p>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.</p>	<p>the AML Law which will resolve this deficiency and harmonise the AML Law (Article 18)) with the FATF requirements.</p> <p>Accelerate the procedure of adoption of relevant laws and regulations by adopting of the Action Plan</p>	amendments on AML Law - medium term)	
<ul style="list-style-type: none"> <li>5. 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</li> </ul>	<p>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.</p> <p>Article 7a of the draft law amending AML/CFT Law which was prepared in June</p>	Accelerate the procedure of adoption of relevant laws and regulations by adopting of the Action Plan.	Adoption of amendments on AML Law - medium term)	



Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
<p>Decisions on Minimum Standards of the respective Banking Agencies;</p> <ul style="list-style-type: none"> <li>• 6. establish clear requirements for financial institutions to conduct ongoing due diligence on the business relationship;</li> <li>• 7. require obliged entities to consider filing a suspicious report where the identification process cannot be completed;</li> </ul>	<p>2010 by the working group of experts and submitted to the Council of Ministers appears to cover a requirement for obliged entities to terminate the business relationship and to file a suspicious report where it is established but the identification process cannot be completed.</p>			
<b>(Measures taken since the September 2011 plenary)</b>				
<p><b>R.5</b></p> <ul style="list-style-type: none"> <li>• 1.include an obligation to apply the CDD measures when</li> </ul>		<p>The working group shall submit amendments to the existing</p>		<p>Amendments to the Law on Banks has been adopted by the Federal government and adoption by the Federal Parliament is expected soon. These</p>

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
carrying out occasional transactions that are wire transfers;		AML/CFT Law in parliamentary procedure		amendments are intended to introduce revised provisions for the verification of identity including the timing of verification  A review of the AML/CFT Law is being undertaken and has been incorporated in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011.
<ul style="list-style-type: none"> <li>• 2. review the definition of “transactions” in the new AML/CFT Law;</li> </ul>		The working group shall submit amendments to the existing AML/CFT Law in parliamentary procedure		
<ul style="list-style-type: none"> <li>• 3. introduce a clear timing for the verification of identification information with a review the Decisions on Minimum Standards accordingly;</li> </ul>		Accelerate the procedure of adoption of relevant laws and regulations by adopting of the Action Plan		
<ul style="list-style-type: none"> <li>• 4. introduce a legal obligation to apply CDD measures to existing customers beyond what is currently provided for</li> </ul>		The Authorities of Bosnia and Herzegovina is preparing the supplement amendments to		

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
banks under the relevant Decisions on Minimum Standards;		the AML Law which will resolve this deficiency and harmonise the AML Law (Article 18)) with the FATF requirements		
<ul style="list-style-type: none"> <li>5. 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;</li> </ul>		Accelerate the procedure of adoption of relevant laws and regulations by adopting of the Action Plan		
<ul style="list-style-type: none"> <li>6. establish clear requirements for financial institutions to</li> </ul>		Accelerate the procedure of adoption of		

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
conduct ongoing due diligence on the business relationship;		relevant laws and regulations by adopting of the Action Plan		
<ul style="list-style-type: none"> <li>• 7. require obliged entities to consider filing a suspicious report where the identification process cannot be completed;</li> </ul>		Accelerate the procedure of adoption of AML/CFT by adoption of the Action Plan in order to eliminate the alleged lack of.		

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
<b>Reported as of April</b>				

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
<p><b>2011 plenary)</b></p> <p><b>R.26</b>  1.ensure that the FID does not operate in isolation from other law enforcement agencies and financial intelligence at the FID is requested by or disseminated to other law enforcement agencies at the level of entities and Brcko District when investigating predicate offences of money laundering.</p>	<p>-A draft law amending the AML/CFT Law was prepared and submitted to the Council of Ministers in June 2010 by the working group of experts established in the Ministry of Security in May 2010.</p> <p>Articles 19-26 of the draft law appear to amend Article 45, 46, 52, 57 and to insert new articles (45a, 45b, 45c, 45e, 45f, 45g, 46a, 51a and 57a) into the existing AML/CFT Law.</p>	<p>No additional measures have been reported.</p>	<p>Not available.</p>	<p>As noted in the 3<sup>rd</sup> round MER in more detail, the Financial Intelligence Department (FID) of BiH is currently a division of the State Information and Protection Agency (SIPA) and the powers and duties of the FID is set out in the SIPA Law and in the new AML/CFT Law. It is considered as a law enforcement type FIU.</p> <p>Article 18 of the draft law (amending Article 45 of the AML/CFT Law) envisages establishing a new Financial Intelligence Agency (FIA) as an administrative organisation within the Ministry of Security of BiH with the operational independence, and to be managed by a Director and funded by the budget of BiH.</p> <p>Overall, the new articles to be inserted in the new AML/CFT Law, when enacted as they stand, will clearly strengthen the position of the BiH FIU in terms of identified deficiencies.</p> <p>Unlike the existing legislation with regard to the FID, the draft provisions appear to</p>

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
				<p>define the competences and tasks of the FIA more in detail. It defines the status of the FIA's employees, managing of the FIA and appointment of the director, duties and responsibility of the director and the deputy director, removal of director and FIA's access to information etc.</p> <p><i>-1<sup>st</sup> bullet:</i> The evaluators of the 3rd round MER noted that the FID is not tasked by or freely provided with information by other law enforcement agencies at the level of the entities and Breko District. The Draft Law does not bring a novelty to the existing Article 51 in relation to interagency cooperation. In the absence of further data or statistics that indicates if the situation has changed, the deficiency remains apt.</p>
2. remove the limitations to and unacceptable constraints of the power of the FID to disseminate information to domestic authorities, and demonstrate the effectiveness of				<p><i>- 2<sup>nd</sup> bullet:</i> Unlike the current Article 46 of the new AML/CFT Law, which requires the FID, for the purpose of prevention of ML and TF, to forward information only to the competent prosecutor's office, the draft Articles 45a and 46 empowers the FIA to forward information or data to the <u>competent bodies</u> in relation to money</p>

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dissemination of information to domestic authorities.				<p>laundering and funding of terrorist organisations. This can be interpreted as covering all domestic competent authorities dealing with AML/CFT.</p> <p>On the other hand, Draft Article 51 regulates the interagency cooperation of the FIA. It states “At reasoned request, the FIA shall send information about money laundering and financing of terrorist activities to the competent bodies and institutions referred to in paragraph 1 of this Article only if such information and data may be of significance to the said bodies when making decisions falling under their competency and for investigative purposes. The text of this paragraph appears to remain almost unchanged currently. The only change is removal of necessity of the approval of the SIPA Director for providing for information to other authorities. In addition, instead of “upon a detailed request”, the draft requires “the reasoned request”.</p> <p>The draft law still seems not to allow the FIA to disseminate information on its own</p>

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				<p>initiative to domestic authorities for investigation or action when there are grounds to suspect ML or TF.</p> <p>Therefore, BiH authorities need to consider deletion of this requirement in the draft provision to prevent possible misunderstandings that may occur in the future as noted in the 3<sup>rd</sup> round MER.</p> <p>Apart from these legislative steps, the effectiveness of the disseminations could not be demonstrated by the BiH authorities, as no statistics have been made available in this regard.</p> <p><i>Despite the draft AML/CFT Law that establishes a new FIU, none of the deficiencies under R.26 appears to have been addressed yet. Moreover, BiH authorities need to make sure that the draft law will address these identified important deficiencies.</i></p>
(Reported at the September 2011 plenary)		Working Group of the Council of Ministers will	Adoption of amendments on AML Law -	



Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
<p><b>R.26</b></p> <ul style="list-style-type: none"> <li>1.ensure that the FID does not operate in isolation from other law enforcement agencies and financial intelligence at the FID is requested by or disseminated to other law enforcement agencies at the level of entities and Brcko District when investigating predicate offences of money laundering.</li> </ul>		prepare a draft of amendments to the AML/CFT Law that will include recommendation of evaluators' remark	medium term	
<ul style="list-style-type: none"> <li>2.remove the limitations to and unacceptable constraints of the power of the FID to disseminate information to domestic authorities,</li> </ul>		Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include recommendation	Adoption of amendments on AML Law - medium term	

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and demonstrate the effectiveness of dissemination of information to domestic authorities.		of evaluators' remark.		
<p><b>(Measures taken since the September 2011 plenary)</b>  <b>R.26</b>  1.ensure that the FID does not operate in isolation from other law enforcement agencies and financial intelligence at the FID is requested by or disseminated to other law enforcement agencies at the level of entities and Brcko District when investigating predicate offences of money laundering.</p>		<p>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.</p> <p>This activity has adopted the Action Plan envisaged for implementation in the medium term</p>		<p>A review of the AML/CFT Act is being undertaken and has been incorporated in the Action Plan that was adopted by the Council of Ministers of Bosnia and Herzegovina on 10 October 2011.</p> <p>Although, as noted in the 1<sup>st</sup> Compliance Report the draft Law still does not appear to allow the FIA to disseminate information on its own initiative to domestic authorities for investigation or action when there are grounds to suspect ML or TF the BiH authorities report that, in the 9 months to 30 September, the FID reports on 14 crimes with the Prosecutor's Office which included 6 money laundering offences and 8 other predicate offences</p>

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<ul style="list-style-type: none"> <li>• 2.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.</li> </ul>		<p>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.</p> <p>This activity has adopted the Action Plan envisaged for implementation in the medium term</p>		

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
<b>Reported as of April 2011 plenary)</b>				
<p><b>SR.II</b></p> <ul style="list-style-type: none"> <li>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.</li> </ul>	<p>Amendments were made to the Criminal Code of BiH (state level Criminal Code), published in the Official Gazette of BiH, no.8/10, on 2 February 2010. Article 201 (terrorism) and 202 (funding of terrorist activities) of the CC were refined and a new Article 202d (organising a terrorist group and being a member of a terrorist group) was inserted in the Code.</p>	<p>No additional measures have been reported.</p>	<p>Not available.</p>	<p>-Provision of funds or any other assistance to terrorist organisations, including for their activities other than specific terrorist acts is now covered under Article 202d of the BiH Criminal Code (State level).          -Collection of funds for terrorist organisations’ activities other than terrorist acts is still not covered (State level).          -Collection or provision of funds for individual terrorists’ activities other than terrorist acts is still not covered (State level).          -No amendments have yet been made to the Criminal Codes of Entities and Brcko District.</p> <p><i>In spite of some refinements made to the BiH State level Criminal Code after the adoption of the 3<sup>rd</sup> round MER, the important deficiency appear mostly unchanged.</i></p>

<b>(Reported at the September 2011 plenary) SR.II</b>				
<ul style="list-style-type: none"> <li>• 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</li> </ul>	<p>Amendments were made to the Criminal Code of BiH (state level Criminal Code), published in the Official Gazette of BiH, no.8/10, on 2 February 2010. Article 201 (terrorism) and 202 (funding of terrorist activities) of the CC were refined and a new Article 202d (organising a terrorist group and being a member of a terrorist group) was inserted in the Code</p>	<p>On 7 June 2011 the BiH Moneyval delegation sent an official letter no. 05-06-2981/11 to the Team for monitoring and evaluating the application of criminal law in BiH, which requires the harmonization of criminal law in BiH with the recommendations of MONEYVAL Secretariat of the criminal offense of terrorism financing. Team started with the activities on design of the Amendments to the Criminal Code.</p>	<p>Adoption of Criminal Codes - medium term)</p>	
<b>(Measures taken since the September 2011</b>		The adopted action plan		

<p><b>plenary)</b> <b>SR.II</b></p> <p>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</p>		<p>envisaged amendments to the Criminal Codes in accordance with the recommendations of MONEYVAL</p>		
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<b>Issue of concern identified in the context of the CEPS</b>	<b>Corrective measure(s) taken by the authorities to address the identified concern</b>	<b>Additional measures planned to be taken by the authorities to fully address the identified concern</b>	<b>Reported timeline for the implementation of the corrective measures</b>	<b>Comments regarding the adequacy of measures taken and/ or timeline envisaged</b>
<b>Reported as of April 2011 plenary)</b>				
<b>SR.III</b> <ul style="list-style-type: none"> <li>1.establish a comprehensive system</li> </ul>		<p>No additional measures have been reported.</p>	<p>Not available.</p>	<p>The draft Book of Rules appears to establish a new system to implement particularly UNSCR 1267. Although it does</p>

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
for freezing of terrorist assets in accordance with the requirements of SR.III together with the provision of clear and publicly known guidance to financial institutions concerning their responsibilities;				<p>mention UNSCR 1373 in its title and Article 1, the system to be established does not seem to include any provisions relevant to implementation of this Resolution.</p> <p>The draft includes provisions on publication procedure for the UN consolidated list, implementation of financial restrictive measures, exemption for living expenses and the exemption for certain obligations, listing and de-listing procedure, unfreezing upon de-listing, and determines sanctions in case of violation of this Book of Rules, as well as assigns the relevant Ministry as the competent authority for monitoring of implementation of the Book of Rules.</p>
<ul style="list-style-type: none"> <li>• 2.create and/or publicise a procedure for considering de-listing requests and unfreezing assets of delisted persons;</li> <li>• 3.create and/or publicise a procedure for unfreezing in a timely manner the funds and assets of persons inadvertently affected by the freezing mechanism upon</li> </ul>	<p>-(2<sup>nd</sup> and 3<sup>rd</sup> bullets) Authorities reported in December 2010 the establishment of a working group tasked with the development of a procedure for considering requests of de-listing and unfreezing assets of de-listed persons and persons inadvertently affected by that mechanism.</p> <p>Now they presented the draft “Book of rules on implementation of restrictive measures established by resolutions of the un security</p>	No additional measures have been reported.	Not available.	<p>Though it is obvious that the Book of Rules will establish more robust, unified and comprehensive system than the existing one, BiH authorities should make sure that the new system to be established in the Book of Rules comprises all the requirements of SR III properly.</p>

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verification that the person is not a designated person.	council 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) and 1904 (2009) against members of Al-Qaida, Usama bin Laden, the Taliban and other individuals, groups, undertakings and entities associated with them“			<p>Article 5 of the Book of Rules obliges the authorities of BiH to freeze all funds or economic resources of listed persons. However, as the Book of Rules does not seem to impose any obligation on financial institutions, other persons or entities that may be holding targeted funds and assets BiH authorities should make sure that the procedure will be effective as required under SR III.</p> <p>BiH authorities refer to the relevant provisions of the draft Book of Rules on implementation of restrictive measures established by UNSCRs including Resolutions 1267 and 1373 for the remaining recommendations made under SR III of the 3rd round MER.</p> <p>However, if further refinements are not made on or further consideration is not given to the current draft, the system might not comply with the requirements under Essential Criteria III.1, III.2, III.3, III.5, III.6, III.8, III.10, and III.13.</p>



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				<i>Apart from preparation of a draft Book of Rules, that appears to need further enhancements, no concrete progress has been achieved yet to remedy these deficiencies.</i>
<b>(Reported at the September 2011 plenary)</b>				
<b>SR.III</b> <ul style="list-style-type: none"> <li>• 1.establish a comprehensive system for freezing of terrorist assets in accordance with the requirements of SR.III together with the provision of clear and publicly known guidance to financial institutions concerning their responsibilities;</li> <li>• create and/or publicise a procedure for considering de-listing</li> </ul>	Ministry of Security prepared the Book of Rules on the Implementation of Restrictive Measures established by the United Nations Resolution 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1452 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) and 1904 (2009) regarding members of AL-Qaeda, Osama bin Laden, the Taliban and other individuals, groups, legal entities and	Ministry of Security shall prepare an Amendment of existing Book of rules related to assets freezing which will cover all requirements under SR III	Revise the existing draft of the Book of rules on assets freezing - medium term	<p>It seems that the Book of Rules has been adopted by the Council of Ministers and came into force As the Secretariat has not been provided with the adopted version of the Book of Rules its content could not be analysed and verified. However, if it was adopted as it had been presented to the April 2011 plenary, further amendments are still needed as discussed above.</p> <p>Authorities report that Ministry of Security will revise this Book of Rules in the medium term in order to make it fully in compliance with the SR III requirements, which have not been properly addressed.</p>

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<p>requests and unfreezing assets of delisted persons;</p> <ul style="list-style-type: none"> <li>• create and/or publicise a procedure for unfreezing in a timely manner the funds and assets of persons inadvertently affected by the freezing mechanism upon verification that the person is not a designated person.</li> </ul>	<p>organizations associated with them, is adopted by the Council of Ministers of Bosnia and Herzegovina.</p>			
<b>(Measures taken since the September 2011 plenary)</b>				
<p><b>SR.III</b></p> <ul style="list-style-type: none"> <li>• 1.establish a comprehensive system for freezing of terrorist assets in accordance with the requirements of SR.III together with</li> </ul>		<p>- According to the Action plan Ministry of</p>		<p>The Book of Rules has now been adopted by the Council of Ministers and therefore is in force</p>

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/ or timeline envisaged
<p>the provision of clear and publicly known guidance to financial institutions concerning their responsibilities;</p> <ul style="list-style-type: none"> <li>● create and/or publicise a procedure for considering de-listing requests and unfreezing assets of delisted persons;</li> <li>● create and/or publicise a procedure for unfreezing in a timely manner the funds and assets of persons inadvertently affected by the freezing mechanism upon verification that the person is not a designated person.</li> </ul>		<p>Security shall prepare an Amendment of existing Book of rules related to assets freezing which will cover all requirements under SR III</p> <p>- Revise the existing draft of the Book of rules on assets freezing - medium term)</p>		

Issue of concern identified in the context of the CEPS	Corrective measure(s) taken by the authorities to address the identified concern	Additional measures planned to be taken by the authorities to fully address the identified concern	Reported timeline for the implementation of the corrective measures	Comments regarding the adequacy of measures taken and/or timeline envisaged
<b>Reported as of April 2011 plenary)</b>				
<p><b>SR VIII</b></p> <ul style="list-style-type: none"> <li>Concrete steps need to be taken to address the essential criteria under the AML/CFT Methodology to ensure that nonprofit organisations cannot be abused for financing of terrorism.</li> </ul>	<p>Authorities reported in December 2010 that an amendment, which will subject the humanitarian organisations to record keeping obligation, is to be made to Article 65 of the new AML/CFT Law by the draft law.</p> <p>No further steps have been reported apart from referring the relevant articles of with the Law on Associations and Foundations of Bosnia and Herzegovina (Official Gazette of BiH “, Nos. 32/01, 42/03, 63 / 08)</p>	<p>No additional relevant measures have been reported.</p>	<p>Not available.</p>	<p>With regard to the draft Article 65, the AML/CFT Law under Article 4, as reported by the authorities, lists the legal and natural persons performing the activities of receiving and distributing money or property for humanitarian, charitable, religious, educational or social purposes as obliged entities, and thus subject them to record keeping obligations as other obliged entities. (Article 65 of the AML/CFT Law)</p> <p>Whilst it might be interpreted that those records under Article 65 include the records of donations or other commercial activities of NPOs with the clients, it is difficult to conclude that this obligation under Article 65 also apply to the records of domestic and international expenditures of NPOs themselves. Therefore, it seems questionable if this requirement cover keeping of all data and records that will verify that funds have been spent by an NPO in a manner consistent with the purpose and objectives of the organization.</p>

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				<i>Overall, no concrete progress appears to have been achieved yet regarding this deficiency. A more comprehensive approach is needed to address this deficiency.</i>
<b>(Reported at the September 2011 plenary)</b>				
<b>SR VIII</b> <ul style="list-style-type: none"> <li>Concrete steps need to be taken to address the essential criteria under the AML/CFT Methodology to ensure that nonprofit organisations cannot be abused for financing of terrorism.</li> </ul>	<p>The draft of the Framework Law on establishment of joint registry of non-governmental organizations in Bosnia and Herzegovina is in the procedure. A Proposal on amending the Law on Associations and Foundations of BiH is also in parliamentary procedure.</p>	<p>B&amp;H authorities shall pass bylaws that will regulate supervision over nonprofit organization financial operations in order to prevent their abuse for financing of terrorism</p>	<p>Medium term</p>	<p>Authorities report that the Framework Law on the establishment of joint registry of non-governmental organisations in BiH and a new proposal on amending the Law on Associations and Foundations of BiH are in the parliamentary procedure, as noted above (see second draft CEPs report), it is however not clear from the reported steps if a comprehensive review since April 2011 has been undertaken by the BiH authorities in order to identify the risks and prevent the misuse of NPOs for terrorist financing purposes or if these legislative proposals have been initiated as a result of such a</p>

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				<p>review. As noted above a more comprehensive approach is needed to address this deficiency. It is questionable if these draft amendments will fully address the issue of non-profit organisations.</p> <p>SR VIII was rated NC in the third round report and the deficiencies identified in the report relate to almost all of the essential criteria of SR VIII including comprehensive review of the adequacy of relevant laws to identify the risks if abuse of NPO sector for TF, outreach activities, insufficient national cooperation, the lack of mechanism for international requests and the absence of record keeping obligation.</p> <p>BiH authorities report that by laws will be passed for ensuring the supervision of NPO sector in the medium term.</p> <p>Notwithstanding these positive legislative proposals that might increase the transparency of the NPO sector, a more comprehensive approach is expected from BiH authorities for a full compliance with the SR VIII requirements.</p>

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				Overall, the deficiency still remains unchanged.
<p><b>(Measures taken since the September 2011 plenary)</b></p> <p><b>SR VIII</b></p> <ul style="list-style-type: none"> <li>Concrete steps need to be taken to address the essential criteria under the AML/CFT Methodology to ensure that nonprofit organisations cannot be abused for financing of terrorism.</li> </ul>		<p>Law on amendments to Law on Associations and Foundations is adopted by Parliament en published in the Official Gazette of BiH, nr. 76/11. ( we are sending you the translation – annex)</p>		<p>The Law on Amendments to the Law on Associations and Foundations has been adopted by the BiH Parliament and published in the Official Gazette. This law appears to strengthening the transparency of NPOs with requirements to maintain lists of members and books of account and to submit financial reports and annual accounts to its governing body. The Law also provides for the <i>“The supervision over the legality and purposeful use and disposal of the funds of the association or foundation shall be done by an authorized body of the association or foundation, established by statute and this law, as well as by competent authorities”</i>. With these proposed amendments the authorities appear to have established an efficient system to assess information on all NPOs and an efficient system of providing the authorities with the necessary information to conduct investigations. In addition, the</p>

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				BiH authorities are also planning to pass further bylaws that will help to prevent the activities of an NPO that may be associated with terrorism, money laundering or other forms of organized crime.

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<b>Reported as of April 2011 plenary)</b>				
<b>SR IX</b>  • 1.adopt a legislative regime on the state level of BiH for full implementation of SR.IX to include domestic cash and negotiable instruments;	The Law on Foreign Currency transactions was adopted and published in the Official Gazette of the FBiH on 4 August 2010. This Law appears to have strengthened the declaration system in the FBiH by	No additional measures have been reported.	Not available.	(1st bullet) No such legislative steps have been taken yet at the state level. Though those reported legislative steps might have contributed to the enhancement of declaration system at the entity level (the FBiH and the Republic of Srpska), the absence of a legislative regime at the state



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	introducing a declaration obligation while entering or leaving the country with a foreign currency, Bosnian marks and checks which exceed the amounts to be prescribed by the Council of Ministers of the FBiH.			level of BiH for full implementation of SR IX to include domestic cash and negotiable instruments and lack of appropriate powers for the Indirect Taxation Authority of BiH were the major concerns raised in the 3rd round MER. These are the major issues that urgent steps are needed to be taken.
<ul style="list-style-type: none"> <li>• 2. ensure that the Indirect Taxation Authority of Bosnia and Herzegovina (ITA) has appropriate powers to obtain further information from the carrier upon discovery of a false declaration and to restrain currency where there is suspicion of ML/TF or where there is a false declaration;</li> </ul>	-It is reported that similar regulations have been made in the Law on Foreign Exchange Business with the amending law (Official Gazette of Republic of Srpska no: 123/06 and 92/09).	No additional measures have been reported	Not available	<p>(2nd bullet)</p> <p>Articles 52 and 53 of those Law prescribes that the customs authorities shall control the bringing out from the Federation to abroad and bringing in from abroad to the Federation foreign cash, KM and checks. It also gives power to Customs authorities (ITA) to seize temporarily the undeclared foreign cash above the threshold prescribed by the Government.</p> <p>Article 62 of the said Law sets out a fine from 10,000 KM to 15,000 KM for non-declaration.</p> <p>However, the Law still does not give power to the ITA to obtain further information</p>

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				<p>from the carrier upon discovery of a false declaration. (SR IX.2). Except discovery of non-declaration, the ITA does not have power to restrain currency in the cases of presence of suspicion of ML/TF or false declaration.</p> <p>It is reported that similar regulations have been made in the Law on Foreign Exchange Business with the amending law in the RS (Official Gazette of the RS no: 123/06 and 92/09). Though the previous Law on Foreign Currency of FBiH was implemented in BD through the Brcko District Supervisor's Order dated 4 August 2006, it is not clear if the new law of FBiH is applicable BD in the same manner.</p>
<ul style="list-style-type: none"> <li>• 3. ensure ITA retains the information required by SR.IX.4 and makes such information available to State Investigation and Protection Agency (SIPA) in accordance</li> </ul>		No additional measures have been reported	Not available	<p>-(3<sup>rd</sup> bullet) Apart from the legislative position at the time of the adoption of the third round MER, no new steps appear to have been taken to ensure the ITA retains the information required by SR.X.4 and makes such information available to State Investigation and Protection Agency (SIPA) in accordance with SR. IX.</p>

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<p>with SR.IX.</p> <ul style="list-style-type: none"> <li>• 4. give power to ITA to apply sanctions or seize funds as required by SR.IX.8-11.</li> </ul>				<p>- (4<sup>th</sup> bullet) No steps appear to have been taken to give power to ITA to apply sanctions or seizure funds as required by SR.IX.8-11. As reported by the authorities ITA does not have power to sanction. In addition, Article 58 of the the Law on Foreign Exchange Operations (Official Gazette of FBiH No. 47/10) in the contents of the provisions of Article 48 of the Law on Foreign Exchange Operations ("Official Gazette of the Republic of Srpska" No. 96/03) do not empower the ITA to seize money as required under IX.10. They only give such power in case of non-declaration.</p> <p>The need to review the whole framework of cross border declarations and disclosures against the essential criteria for SR IX was stressed in the report. Authorities report that abovementioned laws amended in 2010 give necessary powers to the ITA, however, these laws appear not to have provided all necessary powers to the ITA as required under SR IX. (See above) Therefore, almost all deficiencies identified in the third round</p>

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				<p>MER seem to remain valid at present.</p> <p>Overall, no concrete steps seem to have been taken yet to remedy the identified important deficiencies.</p>
<b>(Reported at the September 2011 plenary)</b>				
<p><b>SR IX</b></p> <ul style="list-style-type: none"> <li>• 1.adopt a legislative regime on the state level of BiH for full implementation of SR.IX to include domestic cash and negotiable instruments;</li> <li>• 2. ensure that the Indirect Taxation Authority of Bosnia and Herzegovina (ITA) has appropriate powers to obtain further information from the carrier upon discovery</li> </ul>		<p>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.</p>	<p>Adoption of the draft of the Law on Foreign Exchange Operations on the state level - long term)</p>	<p>The Secretariat reiterates its findings stated above.</p> <p>Authorities report that the Working Group of the Council of Ministers will prepare a Draft Law on Foreign Exchange Operations at the state level and the identified deficiencies will be addressed through this Law. They expect that it will be adopted in the long term, which refers to a time period up to 2 years.</p> <p>Apart from this future work, at this stage no concrete progress has been achieved in remedying these four important deficiencies.</p>

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<p>of a false declaration and to restrain currency where there is suspicion of ML/TF or where there is a false declaration;</p> <ul style="list-style-type: none"> <li>• 3. 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.</li> <li>• 4. give power to ITA to apply sanctions or seize funds as required by SR.IX.8-11.</li> </ul>				
<b>(Measures taken since the September 2011 plenary)</b>				

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<p><b>SR IX</b></p> <ul style="list-style-type: none"> <li>• 1.adopt a legislative regime on the state level of BiH for full implementation of SR.IX to include domestic cash and negotiable instruments;</li> <li>• 2. ensure that the Indirect Taxation Authority of Bosnia and Herzegovina (ITA) has appropriate powers to obtain further information from the carrier upon discovery of a false declaration and to restrain currency where there is suspicion of ML/TF or where there is a false declaration;</li> </ul>		<p>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.</p>		<p>The legal changes made at the FBiH and RS were analysed in the 1st Compliance Report, Its findings in this regard are still valid. The BiH authorities acknowledge the urgent need to adopt a Law on Foreign Exchange Transactions as soon as possible although no timetable for this has been submitted. In the view of the authorities, all the remaining deficiencies related to SR IX will be addressed in this Law. The MONEYVAL Secretariat has not received details of any proposed changes and is, therefore, not in a position to comment on whether these would be sufficient to remedy the identified deficiencies</p>

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<ul style="list-style-type: none"> <li>• 3. 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.</li> <li>• 4. give power to ITA to apply sanctions or seize funds as required by SR.IX.8-11.</li> </ul>				