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THE FINANCING OF TERRORISM
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8th Compliance report

10 December 2013

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I. SECRETARIAT ANALYSIS

EIGHTH COMPLIANCE REPORT

1. Introduction

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

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

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

Background information of the Compliance Enhancing Procedures

2. At its 34th 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

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

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

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

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 35th plenary. MONEYVAL, therefore, opened Compliance Enhancing Procedures (CEPs) in respect of the first 3rd 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 35th 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 was 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 34th plenary that the report to be submitted before the 36th 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 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, was satisfied with the Action Plan in its revised form. The Chairman in his 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 36th Plenary.

8. At the 36th 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 34th plenary that the report to be submitted to the 37th 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 35th plenary that, in order to show a firm political commitment, the agreed action plan should be approved at Government level. MONEYVAL invited the Bosnian 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 3rd round evaluation report on Bosnia and Herzegovina.

10. At the 37th plenary meeting (13-16 December 2011) the Committee noted that the Council of Ministers of Bosnia and Herzegovina had considered and adopted the action plan on 10 October 2011. It was noted that the action plan contained short term, medium term and long term deadlines for taking corrective measures. It was determined at this meeting that the timetable for meeting the deadlines should commence on 10 October 2011, thus the relevant deadlines were:-

- Short term (up to six months): 10 April 2012
- Medium term (up to one year): 10 October 2012
- Long term (up to two years): 10 October 2013

11. The Committee decided to adopt and publish the compliance report prepared by the Secretariat. As the short term issues in the Action Plan, on which steps are required, were due to be completed by 10 April 2012, the Committee agreed to retain step (i) until the 38th plenary in July 2012 and to ask the authorities to present a full report to the Secretariat as soon as possible after 10 April. However, it was agreed that an interim report should be provided to the Secretariat in advance of the 38th plenary in March 2012 and a brief report, prepared by the Secretariat, would be submitted to the 38th plenary.

12. At the 38th plenary meeting (5-9 March 2012) the Committee examined under step (i) of the Compliance Enhancing Procedures (CEPs) the interim report of Bosnia and Herzegovina. It was noted that overall the Bosnian authorities appear to have made progress against most of the short term objectives. In particular, a number of awareness raising and training initiatives had been undertaken and were continuing throughout 2012 and revised guidance was being produced. Furthermore, amendments to legislation were under consideration. The Committee stated that the authorities should submit a full report to the Secretariat in advance of the 39th plenary in July 2012 that would be presented at the plenary.

13. At the 39th plenary meeting (2-6 July 2012) the Committee agreed that overall the BiH authorities appeared to have broadly addressed the short term objectives. In particular, a number of awareness raising and training initiatives had been undertaken and were continuing throughout 2012 and revised guidance was being produced. Furthermore, amendments to legislation were under active consideration. However, it was noted that, although the deadline for addressing the short-term action points was April 2012, not all of the action points had been fully dealt with.

14. At the 40th plenary meeting (3-7 December 2012) it was noted that the BiH authorities had requested technical assistance from the Council of Europe to review proposed amendments to the AML Law and the Criminal Code. At the time of the plenary meeting the Bosnian authorities were still awaiting the opinion from the Council of Europe. As a consequence of this a number of the medium term objectives had not been fully addressed. Nonetheless the Committee recognised that this represented a positive development and accepted that, in the circumstances a delay was inevitable. It was noted that a number of other steps had been taken, including measures to address the deficiencies related to Special Recommendation III. The Committee stated that the authorities should report back, under step (i) in advance of the 41st plenary in April 2013, on the medium term objectives that had not been fully addressed in the Action Plan.

15. The Committee, at its 41st Plenary meeting (9-12 April 2013), welcomed the progress that had been achieved by the BiH authorities in respect of the short and medium-term action points. It was however noted that, due to inevitable delays in enacting the revised laws and consequential amendments to laws, guidance, procedures and trainings, very few of the medium-term action points were fully met. It was anticipated that the authorities would now take action to expedite the enactment of the draft laws after receiving the expert opinion from the Council of Europe. Following the Committee's consideration of the report submitted, the Committee took note of the report in respect of short and medium-term objectives and asked Bosnia and Herzegovina to report back, under step (i) of

CEPS at the 42nd plenary in September 2013, on the short and medium-term objectives that had not yet been addressed.

16. At the 42nd Plenary meeting (16-20 September 2013), the Committee welcomed the progress that had been achieved by Bosnia and Herzegovina in respect of the short and medium-term action points. Of the 22 short term measures that were originally established only 7 remain unfulfilled and most of those related to training that has been delayed awaiting the adoption of the revised AML/CFT Law. However, of the 78 medium term measures, which were intended to be in place by 10 October 2012, only 13 had been fully dealt with. It was noted that, due to delays in enacting the revised laws and consequential amendments to laws, guidance, procedures and trainings, 65 of the medium term action points were still outstanding. Taking into account the information provided by the BiH authorities, the Committee has decided to apply step (ii) and (iii) in sequence in respect of Bosnia and Herzegovina. The country was also requested to report back, at the 43rd plenary in December 2013, on all the action points and recommendations that have not yet been addressed.

17. A summary of progress to date against the objectives is set out in Annex 1.

2. Short description of BiH legal and institutional framework

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

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

Progress since the 42nd plenary meeting

19. As was reported at the 42nd plenary, the BiH authorities have made some progress in preparing draft amendments to the AML/CFT Law and the Criminal Code. Nonetheless, the Secretariat has been informed that the BiH authorities are still working on remaining objectives of the Action plan. These action points will be addressed by Bosnia and Herzegovina as soon as the amendments to the AML/CFT Law are adopted and in force. On 23 October 2013, the draft amendments to the AML/CFT Law were adopted by the Council of Ministers. Currently the draft AML/CFT Law is in the Parliamentary Assembly of Bosnia and Herzegovina awaiting adoption.

20. With respect to the Law on Amendments to the Criminal Code of Bosnia and Herzegovina, the authorities reported that although this draft law had been submitted to the Parliamentary Assembly of Bosnia and Herzegovina, this Law did not receive support and has been rejected.

21. With regard to steps taken to remedy the deficiencies in Special recommendation VIII, the Ministry of Justice of Bosnia and Herzegovina prepared amendments to the Law on the Establishment of a Joint Registry of Non-Governmental Organisations in Bosnia and Herzegovina, which also did not receive support and has also been rejected by the Parliamentary Assembly. Considering this, the BiH authorities have decided that the Joint Registry of Non-Governmental Organisations in Bosnia and Herzegovina will be established through application of the Memorandum of Understanding for establishing of the Joint Registry of Non-Governmental Organisations in Bosnia and Herzegovina.

22. In general it can be concluded that in October 2011 the Government Bosnia and Herzegovina endorsed the Action plan, which established short, medium and long term objectives to remedy the deficiencies of the 3rd round report. In particular the deadline for short term objectives was 10 April 2012, for medium term objectives – 10 October 2012, and for long term objectives – 10 October 2013.

23. As stated above, the deadline for the long term objectives was 10 October 2013. Of the 10 long term objectives that were due to be met by 10 October 2013, only 2 have been met.

24. Following the endorsement of the Action plan, BiH has taken steps to address a number of these objectives. Specifically, of the 22 short term objectives only 15 have been dealt with and most of those

remaining related to training that has been delayed awaiting the adoption of the revised AML/CFT Law. However, of the 78 medium term objectives only 15 have been dealt with. Of the 10 long term objectives only 2 objectives were dealt with. In total it could be stated that only 29% of all objectives have been fulfilled by Bosnia and Herzegovina.

Brief overview of the approach used to prepare this analysis

25. The MONEYVAL Secretariat has already analysed all up-to-date measures taken by the BiH authorities in its previous CEPs reports. In particular in the previous CEPs reports (available on the MONEYVAL web-site) the Secretariat has analysed the draft amendments to the AML/CFT Law, as well as to the Criminal Code and other measures taken by Bosnia and Herzegovina in fulfilling objectives of the Action Plan. These amendments are not yet adopted and in force and with this regard not all of the objectives are met.

26. In this respect the Secretariat's analysis will only focus on the new steps taken by the BiH authorities. In order to understand and have a clear picture of the progress achieved by Bosnian and Herzegovina against the objectives set out in the Action plan the reader should also refer to the previous CEPs reports prepared by the Secretariat.

Recommendation 3

27. As the amendments to the Criminal Code have been rejected by the Parliamentary Assembly, the identified deficiencies in the 3rd round MER are not yet addressed.

28. One action point recommended that the authorities of the Republic of Srpska should consider introducing compulsory confiscation of such objects instead of the current, discretionary provision in the Criminal Code of the Republic of Srpska Article 62(1).

29. The Republic of Srpska has provided an additional explanation that Article 62 of the Criminal Code of Republic of Srpska prescribes that "*items used or destined for use in the perpetration of a criminal offence, or those items resulted from the perpetration of a criminal offence may be forfeited if those items are owned by the perpetrator*". The authorities of the Republic of Srpska are of the opinion that the legislator made the decision to leave the discretionary provision "*may be forfeited*" instead of obligatory confiscation, leaving the discretionary right to authorities to decide in which cases such items shall be forfeited.

30. In addition, Article 62 of the current Criminal Code allows for but does not oblige the forfeiture of such items in terms of rights of third parties. The authorities are of the opinion that the legislator made the decision to leave the discretionary provision "*when there is a danger that those objects will be used again for the perpetration of a criminal offence or when the purpose of protecting the public safety or moral reasons make the seizure seem absolutely necessary, if those objects are owned by the perpetrator*" instead of requiring an obligatory forfeiture of items. The legislator has regulated that the items shall not be forfeited if owned by third parties, unless "*consideration of public safety or moral reasons so require, but such seizure does not affect the rights of third parties to obtain damage compensation from the perpetrator*".

31. The Secretariat is of the opinion that the explanation provided by the Republic of Srpska authorities clearly shows the reasons behind the application of discretionary forfeiture.

Recommendation 25

32. An action point recommended that FID and all other competent authorities need to introduce measures aimed at ensuring that obligated DNFBPs have a proper understanding of their obligation under the AML/CFT framework. Following this recommendation FID jointly with ICITAP are preparing an educational programme for the DNFBP sector. Additional awareness raising programmes will be organised following the adoption of the new AML/CFT Law.

Recommendation 26

Staffing of the Investigation Department at FID is not in proportion to the commonly understood expectations of other law enforcement agencies regarding FID's role in initiating ML investigations in BiH. FID should make it a priority to attract suitably qualified staff to fill the current vacancies.

33. At the 3rd round report it was recommended that FID should make it a priority to attract suitable qualified staff to fill the current vacancies. The BiH authorities informed the Secretariat that since the adoption of the 3rd round report the number of staff has increased compared with at the time of the on-site visit. In particular at the time of the on-site mission there were only 8 police officials out of a budgeted complement of 20, however there are now 14.

34. According to the statistics provided by the BiH authorities, it can be concluded that the authorities have hired some people to fill in the vacant positions. Nonetheless, approximately 23% of positions are still vacant.

Category (please amend as appropriate)	Budgeted staff	Actual staff at
Police	20	14
Civil Servants	15	12
Employees	4	4
Other:		

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

35. According to the statistics on national cooperation between FID and other law enforcement bodies provided by the BiH authorities, it can be clearly seen that FID is not operating in isolation from other law enforcement agencies.

Cooperation – Exchange of Information of Financial Intelligence Department

	FID STATISTICS ON COOPERATION – EXCHANGE OF INFORMATION for 2012 and for January - September 2013																							
	COOPERATION IN B & H																INTERNATIONAL COOPERATION							
	Court and Prosecutor office of B & H		Courts and Prosecutor offices of entities		Police Agencies at level of B & H		ITA and CBB & H		FMO and MOI of RS		MOs of Cantons		Police of Brcko DC		Ministries of B & H		Other institutions in B & H		OTHERS		NCB INTERPOL		OTHERS (Egmont Group)	
↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	
SIP A																								
2012	47	31	11	5	25	28	28	35	53	52	28	16	3	2	7	18	89	67	173	173	53	47	109	91
2013 Jan - Sep	73	62	8	4	13	12	18	20	47	41	18	10	8	4	4	8	39	36	516	1240	9	19	91	89

Recommendation 33

36. As a long term action point under R.33 it was recommended that, since there is no express requirement for the registration courts, while registering a business entity, to identify and keep data on the beneficial ownership and control of legal persons, such provisions should be in place in order to ensure direct access to updated and accurate data which reflects the real situation, as ensured by Article 15 of the draft AML/CFT Law. The BiH authorities informed the Secretariat that Republic Srpska recently adopted a new Law on Registrations of Business Entities, which came into force on 1 December 2013. However, the authorities are not in a position to provide for the translated text of this Law.

37. Additionally, it was stated that Federation of Bosnia and Herzegovina has also drafted amendments to their Law on Registration of Business Entities.

Special Recommendation IX

38. A long term objective recommended ensuring that the ITA retains information required by SR.IX.4 and makes such information available to SIPA in accordance with the requirements of SR.IX. The BiH authorities are of the opinion that this objective could be covered by Article 59 of the AML/CFT Law and Article 30 of the Instruction on Customs Procedure within the Passenger Traffic.

39. According to Article 59 of the current AML/CFT Law the ITA is obliged to submit information to FID on each transaction of cash over the state border in an amount of 10,000 KM or more, not later than three days as of the date of transaction. Paragraph 7 of Article 3 of the AML/CFT Law provides for the definition of “cash”.

“Cash” means coins or banknotes which are in circulation as the legal means of payment in Bosnia and Herzegovina, as well as any other means of payment (travellers’ checks, personal checks, bank checks, money orders, or other forms of payment in such form that title thereto passes upon delivery).

40. This definition is broad enough to cover cash and bearer negotiable instruments as required by SR.IX.

41. As for the information that should be submitted to FID, according to paragraph 2 of Article 30 of the Instruction on customs procedure within the passenger traffic, it should include the following:

- a) the name, surname, the date of birth and the place of residence of the person transferring cash and securities via the state border,
- b) the name and the headquarters of the legal person or name, surname and residence of natural person on whose behalf the transfer of cash or securities is carried out via the state border,
- c) the information on whether this transfer has been declared to the customs authorities.

42. It can be concluded that the requirements stated in the relevant articles cover Criterion IX.4(a). However there is still no requirement to retain information for use by the appropriate competent authorities when there is a false declaration/disclosure and when there is a suspicion of ML or TF.

4. Overall conclusion and next steps

43. The BiH authorities have taken some further steps in addressing objectives of the Action plan. However, since the amendments to the AML/CFT Law have not yet been adopted and the amendments to the Criminal Code have been rejected and also considering the final deadline (October 2013) for the long term elements of the Action Plan, it can be concluded that the objectives set out in the Action Plan are not fully met.

44. Of the objectives considered in Section 3 of this report, as set out above, it is noted that there are still certain matters that appear not to have been addressed and these are noted in the foregoing analysis. Most notable of these are:

- ***Recommendation 25:*** FID and all other competent authorities still need to introduce measures aimed at ensuring that obligated DNFBPs have a proper understanding of their obligation under the AML/CFT framework;
- ***Recommendation 33:*** it is recommended that the requirement for the registration courts, while registering a business entity, to identify and keep data on the beneficial ownership and control of legal persons should be in place in order to ensure direct access to updated and accurate data which reflects the real situation, as ensured by Article 15 of the new AML/CFT Law. Since the text of the Law on Registrations of Business Entities hasn’t been provided to the Secretariat it is not possible to provide a definitive decision;
- ***Special Recommendation IX:*** ensure ITA retains information required by SR.IX.4 and makes such information available to SIPA in accordance with SR.IX.

45. At the 42nd plenary, the Secretariat had already informed the plenary concerning the particular short and medium term objectives that had been addressed by Bosnia and Herzegovina (paragraph 49

of the CEPs report). The remaining 10 long term objectives were due to be met by 10 October 2012; of these only two have been met.

46. Therefore, considering that the majority of the objectives of the Action plan have still not been fully addressed, there are concerns as to whether Bosnia and Herzegovina will be in a position to take all of the necessary steps to address all of these objectives and whether the relevant laws will be in force in time for the 4th round evaluation of Bosnia and Herzegovina which is scheduled for November 2014.

47. The Committee decided to apply step (iv) in respect of Bosnia and Herzegovina, which foresees a high-level mission to the country. Bosnia and Herzegovina is also requested to report back at the 44th plenary in March 2013 on all the action points and recommendations that have not yet been addressed.

MONEYVAL Secretariat

II. BOSNIA AND HERZEGOVINA PROGRESS AGAINST SHORT, MEDIUM AND LONG TERM OBJECTIVES IN THE ACTION PLAN

08 October 2013

Note:

Short term refers to a time period up to six months

Medium term refers to a time period up to one year

Long term refers to a time period up to two years

***refers important activities**

Column 1	Column 2	Column 3	Column 4	Column 5
Content of the Recommendation	Planned Corrective measures	Deadline for implementation of corrective measures: short/medium term	Owner of activity	Corrective measure(s) taken by the authorities to address the identified concern
R.1				
Ensure full compliance with Article 3 of the Vienna Convention and Article 6 of the Palermo Convention by clearly incriminating the “transfer of property” in all Criminal Codes;*	Annual agenda of the Ministry of Justice of BiH has provided drafting of the Law on amendments to the Criminal Code of BiH, where will be made also amendments to Article 209 hereof governing money laundering in compliance with Article 3 of the Vienna Convention and Article 6 of the Palermo Convention Abovementioned law shall contain a provision under which the competent authorities of the Federation of Bosnia and Herzegovina, Republic of Srpska and the Brcko District of Bosnia and Herzegovina shall harmonize criminal laws with this law within a specified period from the date of enactment of this law.	Adoption of Criminal Codes - medium term)	Ministry of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District	Please see the cover letter. The same applies for R.3, 35 and SR II.

<p>Please provide details of when the Law on amendments to the Criminal Code of BiH was adopted and came into effect. Please provide an English translation of the amended text of Article 209 of the Criminal Code as adopted and in force.</p>				
<p>The Bosnian authorities should address the lack of clear demarcation between the scopes of the money laundering offences in the different Criminal Codes. It is recommended that consideration should be given as to whether it would be more effective to restrict all money laundering cases to the State Court, and abolishes the Entity and Brcko District jurisdictions.*</p>				
<p>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.</p> <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>Adoption of Criminal Codes - medium term)</p>	<p>Ministry of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District</p>	
<p>Please set out the conclusions of the discussions on the possibility of criminalization of money laundering only at the state level. Please provide information on whether the lack of clear demarcation between the scopes of the money laundering offences in the different Criminal Codes has been addressed. Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</p>				
<p>If money laundering is not criminalized exclusively at state level, the conditions in CC-BiH Article 209(1) should be reviewed; especially those not related</p>				
<p>Annual agenda of the Ministry of Justice of BiH has provided drafting of the Law on amendments to the Criminal Code of BiH, where will be made also amendments to Article 209 hereof governing money laundering. To make</p>		<p>Adoption of Criminal Codes - medium term)</p>	<p>Ministry of Justice of Bosnia and Herzegovina</p>	

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

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

The language of money laundering incrimination and penalties should be harmonized across the State level, the Entities, and Brcko District.	The language of money laundering incrimination and penalties will be harmonized across the State level, the Entities, and Brcko District.	Medium term	Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District.	
Please set out the steps taken to harmonise the language of money laundering incrimination and penalties in BiH, the Entities, and Brcko District. Please provide an English translation of any appropriate legislation as adopted and in force.				
The uncertainty over whether the intentional element of ML may be inferred from objective factual circumstances should be addressed by appropriate guidance from the judiciary at the level of the Entities and Brcko District.	Proper guidance from the judiciary at the level of entities and Brcko District will remove the uncertainty whether the intent element of money laundering may be inferred from objective factual circumstances	Medium term	Competent courts at levels of entities and Brcko District level	
Please provide details of when guidance from the judiciary at the level of the Entities and Brcko District was adopted. Please provide an English translation of any guidance provided.				
Legislation should be introduced at all levels to allow the prosecuting and convicting of defendants in absentia	BiH Authorities shall consider the possibility of prosecuting and convicting of defendants in absentia	Medium term	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko	

			District.	
<p>Please provide details of any legislation introduced to allow the prosecuting and convicting of defendants in absentia Please provide details of any prosecutions and convictions of defendants in absentia. Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
R.3				
<p>The provisions on confiscation in the Criminal Code of Republic Srpska should be amended to enable the confiscation of income or other benefits. Equally, confiscation of proceeds commingled with legitimate assets should also be provided for.</p>	<p>Amend the provisions in the Criminal Code of the Republic of Srpska to enable confiscation of proceeds or other benefits. Also, confiscation of proceeds commingled with legitimate assets shall be prescribed.</p>	<p>Medium term</p>	<p>Ministry of Justice of RS</p>	<p>Please see paragraphs 27-29 of the 7th CEPs Report, and Annexes 1 and 2, with additional explanation and translation of relevant legislation.</p>
<p>Please provide details of amendments to the Criminal Code of Republic Srpska to enable the confiscation of income or other benefits. Please provide details of any steps taken to allow confiscation of proceeds commingled with legitimate assets. Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p>Competent authorities at State level and also in the Federation of Bosnia and Herzegovina and Brcko District should review the articles in the respective</p>	<p>Competent authorities at State level and also in the Federation of Bosnia and Herzegovina and Brcko District should review the articles in the respective Criminal Codes that provide for the confiscation of instrumentalities and other</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH and Ministry of Justice at Entity level and District Brcko.</p>	

<p>Criminal Codes that provide for the confiscation of instrumentalities and other objects with the aim of removing or, at least, concretising the overly vague conditions under which this security measure can be applied (absolute necessity based on public safety or moral reasons etc.) so that the confiscation of such objects can actually be mandatory</p>	<p>objects with the aim of removing or, at least, concretising the overly vague conditions under which this security measure can be applied (absolute necessity based on public safety or moral reasons etc.) so that the confiscation of such objects can actually be mandatory</p>			
<p>Please set out details of any changes adopted in the Criminal Codes of BiH, FBiH and BD that clarify the conditions for the confiscation of instrumentalities and other objects. Please provide an English translation of the amended text of relevant Articles of the Criminal Codes as adopted and in force.</p>				
<p>The authorities of Republic of Srpska should consider introducing compulsory confiscation of such objects instead of the current, discretionary provision in the Criminal Code of Republic Srpska Article 62(1).</p>	<p>Republic of Srpska has to introducing compulsory confiscation of such objects instead of the current, discretionary provision in the Criminal Code of Republic of Srpska Article 62(1).</p>	<p>Medium term</p>	<p>Ministry of Justice of RS</p>	<p>Please see Annexes 1 and 2, with explanation and translation of relevant legislation.</p>
<p>Please provide details of measures taken to introduce compulsory confiscation the Criminal Code of Republic Srpska Article 62(1). Please provide an English translation of the amended text of the relevant Article of the Criminal Code as adopted and in force.</p>				

<p>Removal of overly insubstantial preconditions of <i>in rem</i> confiscation of instrumentalities and other objects (“interests of general security” etc.) should take place at all levels</p>	<p>Remove overly insubstantial preconditions of <i>in rem</i> confiscation of instrumentalities and other objects (“interests of general security” etc.) should take place at all levels</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH and Ministry of Justice at Entity level and District Brcko.</p>	
<p>Please provide details of steps taken to remove overly insubstantial preconditions of <i>in rem</i> confiscation of instrumentalities and other objects at all levels. Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p>Consideration should be given to provisions in the criminal procedure which would enable the confiscation of proceeds where the criminal procedure cannot be concluded because the death or absconding of the perpetrator or for any other reason, on condition that there is a proof that the assets derive from criminal</p>	<p>Introduce provisions in the criminal procedure which would enable the confiscation of proceeds where the criminal procedure cannot be concluded because the death or absconding of the perpetrator or for any other reason, on condition that there is a proof that the assets derive from criminal offences.</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH, and Ministry of Justice at Entity level and District Brcko</p>	

offences.				
<p>Please provide information on any provisions that have been introduced in the criminal procedure which would enable the confiscation of proceeds where the criminal procedure cannot be concluded because of the death or absconding of the perpetrator or for any other reason, on condition that there is a proof that the assets derive from criminal offences.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p>Domestic authorities should review the specific confiscation rule in CC-BiH Article 209(4) and identical non-state rules either in themselves or in combination with Article 74 to consider whether these provisions allow for the mandatory confiscation of instrumentalities used in or intended for use in the commission of a money laundering offence as far as such objects are not owned by the perpetrator and introduce legislation to for remedy to this apparent weakness of the system.</p>	<p>Revise the specific confiscation rule in CC-BiH Article 209(4) and identical non-state rules either in themselves or in combination with Article 74</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH, and Ministry of Justice at Entity level and District Brcko</p>	
<p>Please set out the steps taken to review and revise the specific confiscation rule in CC-BiH Article 209(4) and identical non-state rules either in</p>				

themselves or in combination with Article 74. Please provide an English translation of the amended text of relevant articles of the Criminal Code of BiH as adopted and in force.				
R.5				
include an obligation to apply the CDD measures when carrying out occasional transactions that are wire transfers;	The new amendments to AML/CFT Law will be amended to Article 26 which will include periodic electronic transfers.	Adoption of amendments on AML Law - medium term)	Council of Ministers of BiH	Please see the cover letter. The same applies for R.6, 7, 8, 9, 11, 12, 15, 16, 17, 21, 22, 23, 24, 26, 29, 30, 33, SR.VI, VII
Please provide an English translation of those clauses of the revised Article 26 of the AML/CFT Law as adopted and in force.				
Review the definition of “transactions” in the new AML/CFT Law	Working Group of the Council of Ministers prepared a draft of amendments to the AML/CFT Law that includes this remark, and eliminates the definition of cash transactions to avoid all doubt in the application of CDD measures.	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	
Please provide details of revision of the definition of “transactions” in the new AML/CFT Law. Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.				
Article 15 of the new AML Law should be considered*		Short term	Regulatory agencies at all levels in BiH and FIU	
Please provide an English translation of those clauses of the revised Article 15 of the AML/CFT Law as adopted and in force.				

introduce a legal obligation to apply CDD measures to existing customers beyond what is currently provided for banks under the relevant Decisions on Minimum Standards;	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include recommendation of evaluators' remark.	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	
<p>Please provide details of the legal obligations to apply CDD measures to existing customers. Please provide an English translation of the relevant articles of the AML/CFT Law as adopted and in force.</p>				
introduce an obligation for all obliged entities and persons to identify the 'mind and management' of a legal person beyond the requirements for banks under the relevant Decisions on Minimum Standards of the respective Banking Agencies	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include recommendation of evaluators' remark.	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	
<p>Please provide details of the obligation for all obliged entities and persons to identify the 'mind and management' of a legal person beyond the requirements for banks. Please provide an English translation of relevant articles of the AML/CFT Law as adopted and in force.</p>				
establish clear requirements for financial institutions to conduct on-going due diligence on the business relationship	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include recommendation of evaluators' remark.	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	

<p>Please details of any clear requirements for financial institutions to conduct on-going due diligence on the business relationship. Please provide an English translation of relevant articles of the AML/CFT Law as adopted and in force.</p>				
require obliged entities to consider filing a suspicious report where the identification process cannot be completed	The new amendments to AML/CFT Law will be amended. After Article 7, new 7a is added which will include this objection.	Adoption of amendments on AML Law - medium term)	Council of Ministers of BiH	
<p>Please provide information on requirements for obliged entities to consider filing a suspicious report where the identification process cannot be completed. Please provide an English translation of those clauses of the revised Article 7 of the AML/CFT Law as adopted and in force.</p>				
require obliged entities to consider the termination of business where a business relationship is established but the identification process cannot be completed	The new amendments to AML/CFT Law will be amended. After Article 7, new 7a is added which will include this objection.	Adoption of amendments on AML Law - medium term)	Council of Ministers of BiH	
<p>Please provide information on requirements for obliged entities to consider the termination of business where a business relationship is established but the identification process cannot be completed. Please provide an English translation of those clauses of the revised Article 7 of the AML/CFT Law as adopted and in force.</p>				
R.6				
At the time of the on-site	Make amendments to the AML/CFT Law	Adoption of amendments	Working Group and	

visit PEPs were only partially and limitedly addressed and only for the banking sector. However even these provisions did not entirely cover the requirements for Recommendation 6. There did not appear to be any similar provisions for the whole financial sector. Although the new law now provides for the treatment of PEPs, still there is a need to create awareness and provide guidance on the identification process, including where the beneficial owner is a PEP.*	and harmonize it with the essential criteria of Recommendation 6.	on AML Law - medium term.	Council of Ministers of BiH	
	Amend a guidebook in order to introduce a requirement for financial institutions to obtain senior management approval to continue the business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.	Short term	Regulatory agencies at state and entities levels	
	Create a training plan for all participants from the financial sector in order to raise awareness	Short term	Regulatory agencies at state and entities levels	
Please provide information on amendments to the AML/CFT Law in order to harmonize it with the essential criteria of Recommendation 6. Please provide an English translation of relevant articles of the AML/CFT Law as adopted and in force.				
Please provide details of amendments to a guidebook in order to introduce a requirement for financial institutions to obtain senior management approval to continue the business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.				
Please provide details of awareness raising seminars and trainings conducted since June 2012.				

Seminars conducted since June 2012				
	BiH	FBiH	Republic Srpska	Brcko District
Financial institutions: Banks Securities Insurance Other				
R.7				
<p>The coverage of correspondent banking is not comprehensive and does not appear to specifically cover correspondent bank's relationships. Although correspondent banking is now included under the new AML Law, the issue of 'payable through' accounts is not addressed. It is advisable that correspondent banking relationships be reviewed accordingly.</p>	<p>Working Group of the Council of Ministers has prepared amendments to the law that eliminates this objection as follows:</p> <p>In Article 21 after paragraph (4) add new paragraph (5) that shall read:</p> <p>(Correspondent Relationship with Foreign Loan Institutions)</p> <p>(5) The obligor cannot establish a loan correspondent relationship with a foreign bank or any other similar institution based on which such foreign institution may use the account with the obligor to operate directly with its clients.</p> <p>Introduce a requirement that banks shall document the AML/CFT responsibility of correspondent banks.</p>	<p>Adoption of amendments on AML Law - medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	

<p>Please provide an English translation of those clauses of the revised Article 21 of the AML/CFT Law as adopted and in force. Please provide an English translation of any requirements that banks shall document the AML/CFT responsibility of correspondent banks.</p>				
<p>R.8</p>				
<p>Although it appears that electronic business in the financial sector is low, there are no obligations for financial institutions to have policies in place to prevent the misuse of technological developments. This should be provided for in the new AML Law which to date does not address this issue.</p>	<p>Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law and eliminate this objection.</p>	<p>Adoption of amendments on AML Law - medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	
<p>Please provide details of any obligations that have been introduced for financial institutions to have policies in place to prevent the misuse of technological developments. Please provide an English translation of relevant articles of the AML/CFT Law as adopted and in force.</p>				
<p>Following the introduction of the new AML Law, a revised Book of Rules, providing guidance on its implementation and more awareness on the part of 'persons' under</p>				

<p>obligation', albeit to different degrees, on the concepts and the philosophy of the law and their obligations, needs to be adopted.</p>				
<p>Please provide details of any guidance issued on implementation and more awareness of the Book of Rules on the part of 'persons' under obligation. Please provide an English translation of amendments to the Book of Rules.</p>				
<p>R.9</p>	<p>Articles 10, 11 and 12 of the draft of amendments to the AML/CFT Law address remaining deficiencies when enacted as they currently stand.</p>	<p>Adoption of amendments to the AML Law - medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	

<p>regulate them. This creates an uncertainty as to whether third party reliance is allowed or not. Notwithstanding the fact that the new AML Law has now clarified this doubt in that it specifically allows ‘persons’ under obligation’ to rely on third parties, as defined by the new AML Law, yet the new provisions do not fully cover the FATF criteria for Recommendation 9. In the circumstances it is recommended that the legislative and other relevant provisions be revised such that the obligations and requirements should be harmonised with Recommendation 9.</p>				
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Please provide information on the revised legislative and other relevant provisions so that the obligations and requirements be harmonised with Recommendation 9.

Please provide an English translation of Articles 10, 11 and 12 of amendments to the AML/CFT Law as adopted and in force.

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R.11				
<p>It is recommended that Recommendation 11 be specifically addressed through a revision of the new AML legislation and an eventual consequent revision of the Banking Decisions for Minimum Standards.</p>	<p>Working Group of the Council of Ministers will prepare amendments to the AML/CFT Law and eliminate objection of 3rd round of evaluation relating to the supervision of large and unusual transactions and verify the background and purpose of these transactions and written statement on such knowledge.</p>	<p>Adoption of amendments on AML Law - medium term)</p>	<p>Working Group and Council of Ministers of BiH</p>	
	<p>In accordance with the new legal solutions perform eventual consequent revision of the Banking Decisions for Minimum Standards</p>		<p>Regulatory Banking Agencies of FBiH and RS</p>	
<p>Please provide information on whether the AML/CFT Law and the Banking Decisions for Minimum Standards were reviewed in order to meet requirements of Rec.11. Please provide an English translation of amendments to the AML/CFT Law and the Banking Decisions for Minimum Standards as adopted and in force.</p>				
R.12				
<p>Although the concept of PEPs under intensified identification procedures is addressed through legal provisions and hence also for DNFBPs, in practice the issue of PEPs is not addressed by DNFBPs as there is a complete lack of</p>	<p>The authorities will take the opportunity from the introduction of the new guidance as issued to continue to develop and implement the sector wide awareness and understanding campaign through training programmes.</p>	<p>Short term</p>	<p>FIU</p>	

<p>awareness of the risks involved. It is therefore recommended to introduce the awareness and understanding training campaign accordingly throughout the whole sector of DNFBPs as is also required for some elements of the financial sector.*</p>				
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Please provide details on awareness raising seminars and trainings conducted for DNFBP since June 2012.

Seminars conducted for DNFBP

Please provide details of :

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

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

<p>There is a need for increased awareness of</p>	<p>Working Group of the Council of Ministers will prepare amendments to the</p>	<p>Adoption of amendments on AML Law - medium</p>	<p>Working Group and Council of Ministers of</p>	
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<p>threats from new or developing technologies among DNFBPs, although, as claimed, their activities are mostly related to a one-to-one customer relationship. Developments in technology on the way of carrying out certain activities could however pose certain threats</p>	<p>AML/CFT Law and eliminate objection concerning new technology.</p>	<p>term)</p>	<p>BiH</p>	
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**Please provide details of when the Law on amendments to the AML/CFT was adopted and came into effect.
Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.
Please provide details on awareness raising seminars and trainings conducted since June 2012.**

Seminars conducted for DNFBPs
Please provide details of :

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

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

<p>Although DNFBPs met by the evaluators claim that they do not undertake non-face-to-face business, the enhanced obligations under the new AML Law call for more awareness of the procedures to be applied in such circumstances throughout the whole sector. It is therefore recommended that the need to conduct proper due diligence of non-face-to-face customers is included in any awareness raising exercise.*</p>	<p>The authorities will take the opportunity from the introduction of the new guidance as issued to continue to develop and implement the sector wide awareness and understanding campaign through training programmes.</p>	<p>Short term</p>	<p>FIU</p>	
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Please provide details on awareness raising seminars and trainings conducted since June 2012.

Seminars conducted for DNFBP

Please provide details of :

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

	BiH	FBiH	Republic Srpska	Brcko District
<p>DNFBP: Casinos Real estate agents Dealers in precious metals and stoned Lawyers, notaries, other</p>				

independent legal professionals Accountants and auditors				
<p>There is a need for the DNFBPs to be made more aware of the threats to money laundering and the financing of terrorism arising out of large complex transactions that may not have economic reasons. The need to analyse and understand such transactions cannot be over emphasised. It is recommended to statutory obligations to this effect are introduced for all obligors.</p>	<p>Working Group of the Council of Ministers will prepare amendments to the AML/CFT Law and eliminate objection of 3rd round of evaluation relating to the supervision of large and unusual transactions and verify the background and purpose of these transactions and written statement on such knowledge</p>	<p>Adoption of amendments on AML Law - medium term)</p>	<p>Working Group and Council of Ministers of BiH</p>	
<p>Please provide details of any statutory obligations introduced requiring DNFBP to supervise large and unusual transactions and verify the background and purpose of these transactions and written statement on such knowledge. Please provide an English translation of amendments to the AML/CFT Law in this respect as adopted and in force.</p>				
<p>Record keeping procedures in the AML LAW need to</p>	<p>Working Group of the Council of Ministers prepared a draft of amendments</p>	<p>Adoption of amendments on AML Law - medium</p>	<p>Working Group and Council of Ministers of</p>	

be revisited and clarified in accordance with the requirements under Recommendation 10.	to the AML/CFT Law that includes this remark	term	BiH	
<p>Please details of the amendment to the AML/CFT Law which brings record keeping procedures in the AML Law in line with the requirements of Rec. 10.</p> <p>Please provide an English translation of relevant text of amendments to the AML/CFT Law as adopted and in force.</p>				
R.15				
Article 32(2) of the new AML Law should be reviewed in relation to full exemptions from appointing an authorised person and from maintaining internal control by obliged entities (persons under obligation) with four or less employees – and interpretatively, obliged natural persons.	In Article 32 AML/CFT Law, paragraph (2) shall be amended.	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	
<p>Please provide an English translation of those clauses of the revised Article 32 of the AML/CFT Law as adopted and in force.</p>				
Competent authorities, and in particular the FID, need	Strengthen trainings in the industry	Short term	Relevant ministries of entities, regulatory	

to be more receptive to requests for training by the industry.*			agencies of financial sector, FIU	
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Please provide details on awareness raising seminars and trainings conducted since June 2012.

Please provide details of :

- **Dates**
- **AML/CFT Topics covered**
- **Number of delegates from each sector**

	BiH	FBiH	Republic Srpska	Brcko District
Financial institutions: Banks Securities Insurance Other financial institutions				
DNFBPs: Casinos Real estate agents Dealers in precious metals and stoned Lawyers, notaries, other independent legal professionals Accountants and auditors				

R.16				
It is highly recommended that DNFBPs are made more aware of their	The authorities will take the opportunity from the introduction of the new guidance as issued to continue to develop and implement the sector wide awareness and	Medium term	FIU	

<p>important role in the AML/CFT regime through guidelines and training thus ensuring that, in understanding their role better, DNFBBs acknowledge and implement their AML obligation further</p>	<p>understanding campaign through training programmes</p>			
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Please provide details on awareness raising seminars and trainings conducted since June 2012.

Please provide details of :

- **Dates**
- **Topics covered**
- **Number of delegates from each DNFBB sector**

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

<p>The evaluators express serious concerns on the</p>	<p>Working Group of the Council of Ministers prepared a draft amendment Law AML/CFT that includes this remark</p>	<p>Adoption of amendments on AML Law - medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	
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<p>position taken since certain professions, in particular the legal, notary and accountancy professions, are likely to encounter and handle transactions emerging from foreign countries that may not be applying the relevant AML standards to an acceptable degree.</p>	<p>i.e. will introduce a specific obligation to terminate or reject a business relationship or the execution of transactions with companies and individuals from countries that insufficiently apply AML/CFT measures.</p>			
<p>Please provide information on whether a specific obligation for DNFBP to terminate or reject a business relationship or the execution of transactions with companies and individuals from countries that insufficiently apply AML/CFT measures has been introduced. Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</p>				
<p>Competent authorities, and in particular the FID, need to be more receptive to request for training by the industry.</p>	<p>Strengthen trainings in the industry.</p>	<p>Medium term</p>	<p>FIU</p>	
<p>Please provide details on awareness raising seminars and trainings conducted since June 2012. Please provide details of :</p> <ul style="list-style-type: none"> • Dates • Topics covered • Number of delegates from each sector 				
	<p>BiH</p>	<p>FBiH</p>	<p>Republic Srpska</p>	<p>Brcko District</p>

Financial institutions: Banks Securities Insurance Other financial institutions				
DNFBPs: Casinos Real estate agents Dealers in precious metals and stoned Lawyers, notaries, other independent legal professionals Accountants and auditors				
Adequate screening procedures need to be in place and effectively applied when hiring people, if need be through mandatory obligations.	The Guidelines for the non-financial sector issued by the FID in October 2010 do not address this issue. The FID will be reviewing the Guidelines accordingly to create this obligation for the non-financial sector.	Medium term	FIU	
Please provide details of any steps taken to introduce adequate screening procedures when hiring people in the DNFBPs sector. Please provide an English translation of any appropriate legislation or guidance adopted in respect of screening procedures.				
R.17				
Legislation to provide for	Insurance Agency of Bosnia and	Medium term	Ministry of Finance of	

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

Steps need to be taken to ensure that all requirements of the new AML Law are enforceable (that is; sanctions are stipulated for non-compliance).	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include this remark i.e. establish sanctions for non-compliance	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	
<p>Please provide details of amendments to the AML/CFT Law to establish sanctions for non-compliance.</p> <p>Please set out the scope of sanctions for non-compliance with the AML Law.</p> <p>Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</p>				
Administrative sanctions to be applied to the participants of the insurance market for non-compliance with AML/CFT requirements need to be introduced.	Insurance Agency of Bosnia and Herzegovina and Ministry of finance FBiH and RS will prepare a draft of amendments to the Law on intermediaries in insurance in order to ensure harmonization of the regimes of the applicable sanctions	Medium term	Ministry of Finance of FBiH and RS, and Insurance Agency of Bosnia and Herzegovina.	
<p>Please provide details of administrative sanctions that could be applied to the participants of the insurance market for non-compliance with AML/CFT.</p> <p>Please provide an English translation of the relevant amendments to the Law on Intermediaries as adopted and in force.</p>				
R.21				

<p>It is recommended that a specific obligation be included for financial institutions to give special attention to business relationships and transactions with financial institutions and other legal/natural persons from countries that have inadequate AML/CFT measures in place. Such an obligation should go beyond the on-going monitoring of accounts.</p>	<p>Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include this remark i.e. will introduce a specific obligation to terminate or reject a business relationship or the execution of transactions with companies and individuals from countries that insufficiently apply AML/CFT measures and preservation of written statements on such findings and enabling access of authorities to those statements for all sectors.</p>	<p>Adoption of amendments on AML Law - medium term)</p>	<p>Working Group and Council of Ministers of BiH</p>	
<p>Please provide details of the obligations that have been introduced for financial institutions to give special attention to business relationships and transactions with financial institutions and other legal/natural persons from countries that have inadequate AML/CFT measures in place. Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</p>				
<p>R.22</p>				
<p>Requirements for Recommendation 22 are only partially addressed through the Banking Decisions on Minimum Standards – more specifically only to a minor extent through Article 2 –</p>	<p>The necessary changes for the banking and the securities sectors to fully meet the obligations under Recommendation 22 are under consideration and should be implemented in the near future.</p>	<p>Medium term</p>	<p>Ministry of Finance of FBiH and RS, and Regulatory bodies of banking and security sector.</p>	

<p>and through the new Article 8 of the new AML Law. However there are no provisions covering the main requisites of the Recommendation. It is recommended that this matter be addressed through the new legislation and through guidance issued by the relevant competent authorities.</p>				
<p>Please provide details of measures taken to meet the requirements of Rec.22. Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</p>				
<p>R.23</p>				
<p>Steps need to be taken to harmonise the efficiency of monitoring activities in respect of persons involved in money transfer and exchange activities.</p>	<p>Agency for Supervision of the Post Office Operation (which includes payment transfers), has now been established. The new agency will eventually be recognized under the AML Law as the supervisory authority for AML purposes for the Post Office. Arrangements will be considered for the cooperation of the new Agency and the Agencies for Banks to ensure harmonisation and level playing field in the supervision of the payments sector.</p>	<p>Short term</p>	<p>Banking Agencies and Agency for Supervision of the Post Office Operation</p>	
<p>Please advise when to provide an English translation of the Memorandum on cooperation between the Agency for Supervision of the Post Office at</p>				

state level and the Banking Agencies of RS and FBiH. Please provide details of steps taken to recognise the Agency for Supervision of the Post Office Operation under the AML Law				
Efficient, sufficiently frequent, risk-based supervision of financial institutions needs to be developed and implemented.	Establish guidelines for securities sector and insurance sector for effective, often and risk based supervision on financial institution	Medium term	Ministry of Finance of FBiH and RS, and Regulatory bodies of insurance and security sector	Regulatory/supervisory bodies of insurance and security sector in RS and FBiH have been informed of the Moneyval analyses in 7th CEPs Report. Internal guidance on risk based supervision of financial institutions will be made after adoption of the new AML/CFT Law.
Please provide details of the steps taken to develop and implement efficient, sufficiently frequent, risk-based supervision of financial institutions. Please provide details of Guidelines for the securities and insurance sectors.				
R.24				
Prohibit individuals with criminal background from acquiring or becoming the beneficial owner of a significant or controlling interest, holding management functions in or being/becoming an operator of a casino	Execute amendments to The Law draft on Gambling in the FBiH and RS, in the way as it has been done in Brcko District.	Medium term	Ministry of Finance of FBiH and RS	Ministry of Finance of FBiH has been informed of the analyses in 7th CEPs report. They found given recommendations as appropriate and informed Delegation that they will use them for the final Draft of Law on Games of Chance in the FBiH. Please see Paragraphs 40 and 41 of the 7th CEPs report regarding

				Republic of Srpska.
<p>Please provide details of steps taken to prohibit individuals with criminal background from acquiring or becoming the beneficial owner of a significant or controlling interest, holding management functions in or being/becoming an operator of a casino.</p> <p>Please provide an English Translation of the amendments to the Law on Gambling in the FBiH and the RS as adopted and in force.</p>				
Define the powers of the Chambers of Lawyers, the Chambers of Notaries, and the Associations of Accountants and Auditors at entity level to supervise implementation of the obligations set forth in the new AML Law; establish systems and mechanisms for them to ensure compliance of the respective obligors with the national AML/CFT requirements.	As stated earlier, the formation of a special department to monitor DNFBPs will create the preconditions for effective supervision of persons under obligation in order to provide a mechanism for effective implementation of obligations under the AML/CFT Laws	Medium term	FIU, Council of Ministers of BiH	
<p>Please provide information on whether the powers of the Chambers of Lawyers, the Chambers of Notaries, and the Associations of Accountants and Auditors at entity level were defined to supervise implementation of the obligations set forth in the new AML Law.</p> <p>Please provide details of established systems and mechanisms for the Chambers of Lawyers, the Chambers of Notaries, and the Associations of Accountants and Auditors at entity level to ensure compliance of the respective obligors with the national AML/CFT requirements</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
An authority should be	As stated earlier, the formation of a	Medium term	FIU, Council of	

designated to monitor and ensure compliance of real estate agencies and traders in precious metals and stones with the national AML/CFT requirements.	special department to monitor DNFBP will create the preconditions for effective supervision of persons under obligation in order to provide a mechanism for effective implementation of obligations under the AML/CFT Laws		Ministers of BiH	
<p>Please provide details of the steps that have been taken to designate an authority to monitor and ensure compliance of real estate agencies and traders in precious metals and stones with the national AML/CFT requirements.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
R.25				
FID and all other competent authorities need to introduce measures aimed at ensuring that obligor DNFBPs have a proper understanding of their obligations under the AML/CFT framework	Strengthen trainings in the industry	Medium term	FIU	<p>In cooperation with ICITAP, FID is preparing educations for obliged entities from DNFBP Sector.</p> <p>Additional educations will be organized after adoption of new AML/CFT Law</p> <p>Also FID has practice to work directly with particular obliged entities on awareness rising. In recent time it works mostly with DNFBP.</p>
<p>Please provide details on awareness raising seminars and trainings conducted since June 2012.</p>				

Please provide details of : <ul style="list-style-type: none"> • Dates • Topics covered • Number of delegates from each DNFBP sector 				
	BiH	FBiH	Republic Srpska	Brcko District
DNFBPs: Casinos Real estate agents Dealers in precious metals and stoned Lawyers, notaries, other independent legal professionals Accountants and auditors				
FID should provide general and specific feedback to DNFBPs incorporating, <i>inter alia</i> , statistics on the number of STR-s, information on current ML techniques and trends, as well as information on the decisions and results of the analysis of STR-carried out by the FID.	Strengthen cooperation between FIU and DNFBPs to create feedback and statistics on the number of STR-s, information on current ML techniques and trends, as well as information on the decisions and results of the analysis of STR-carried out by the FID.	Medium term	FIU	
Please provide details of any general and specific feedback provided to DNFBP incorporating, <i>inter alia</i>, statistics on the number of STR-s,				

information on current ML techniques and trends, as well as information on the decisions and results of the analysis of STR-carried out by the FID.				
Whilst the provision of comprehensive and exhaustive lists of indicators for identifying suspicious transactions and persons is commendable, supervisory authorities should ensure that such indicators are not interpreted as being conclusive such that the examination of transactions is only guided accordingly without any flexibility.	Insist that the DNFBPs in recognition of suspicious transactions be managed by risk-based approach	Medium term	FIU	
Please provide details of measures taken to provide guidance DNFBP on the risk-based approach to identifying suspicious transactions. . Please details of any appropriate guidance provided.				
R.26				
Article 51.5 of the new AML Law needs to be amended to allow FID to disseminate information on its own initiative to domestic authorities for investigation or action	As instructed by the Minister of Security, in June 2010, the group of experts in money laundering and terrorism financing developed a draft new Law on prevention of money laundering and financing of terrorist activities, which has been forwarded to the BiH authorities for	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	

<p>when there are grounds to suspect money laundering and/or terrorist financing.</p>	<p>adoption. The new Law provides for establishment of a new Financial Intelligence Agency (FIA) within the Ministry of Security which will be able to forward independently information to national authorities and conduct investigations when there is a grounded suspicion about money laundering and/or terrorism financing</p>			
<p>Please provide an English translation of those clauses of the revised Article 51 of the AML/CFT Law as adopted and in force.</p>				
<p>Staffing of the Investigation Department at FID is not in proportion to the commonly understood expectations of other law enforcement agencies regarding FID's role in initiating ML investigations in BiH. FID should make it a priority to attract suitably qualified staff to fill the current vacancies.</p>				<p>Currently FID has 14 police officials of 20 budgeted – of whose Investigation Department of FID has 12 police officials of 15 budgeted. If we compare this number with situation at the time of on site evaluation visit – 8 police officials in whole of 20 budgeted – of those Investigation department had 5 of 15 budgeted, we can conclude that this deficiency is resolved. Please see Annex II</p>
<p>Please provide details of staffing levels of FID.</p>				
<p>Category (please amend as appropriate)</p>	<p>Budgeted staff</p>	<p>Actual staff at</p>		

Police	20	14
Civil Servants	15	13
Employees	4	4
Other:		

One contract company provides permanent IT support to FID.

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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	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include recommendation of evaluators' remark.	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	Please see Annex 4 with relevant statistics of cooperation of FID in Bosnia and Herzegovina and International cooperation. During last few years cooperation with domestic LEAs has significantly increased. It has forms of exchange of intelligence, participation in joint investigation teams, temporary suspending transactions as support to investigations of different agencies, etc.
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Please provide details of the FID operation with law enforcement. Please provide information on whether 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.

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Remove the limitations to and unacceptable constraints of the power of	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	Adoption of new AML/CFT Law will resolve this deficiency.
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<p>the FID to disseminate information to domestic authorities, and demonstrate the effectiveness of dissemination of information to domestic authorities</p>	<p>will include recommendation of evaluators' remark.</p>			<p>Please see Annex 4.</p>
<p>Please provide details of amendments to remove the limitations to and unacceptable constraints of the power of the FID to disseminate information to domestic authorities. Please provide statistics as an annex to the report in order to demonstrate the effectiveness of dissemination of information to domestic authorities Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p>R.29</p>				
<p>The supervisory processes of the FID and establish mechanisms for the enforcement of its decisions regarding removal of irregularities in the operations of persons under obligation should be clearly defined.</p>	<p>As stated earlier, the formation of a special department to monitor DNFBP will create the preconditions for effective supervision of persons under obligation in order to provide a mechanism for effective implementation of obligations under the AML/CFT Laws</p>	<p>Medium term</p>	<p>FIU</p>	
<p>Please provide details of the special department of the FID established to monitor DNFBPs. Please provide details of established mechanisms for the enforcement of the special department of the FID decisions regarding removal of irregularities in the operations of persons under obligation. Please provide an English translation of any appropriate legislation as adopted and in force.</p>				

<p>Adequate powers should be granted to supervisors in the insurance market to monitor and ensure compliance with AML/CFT requirements and to take enforcement measures and sanction both the institutions/businesses and their directors/senior management for non-compliance with AML/CFT requirements.</p>	<p>Provide adequate powers for the supervisors of the insurance market for the measures and ensure compliance with AML/CFT requirements and to take measures for the enforcement of sanctions for companies and their management, and directors for non-compliance with the AML/CFT requirements.</p>	<p>Medium term</p>	<p>Ministry of Finance of FBiH and RS, and Insurance Agency of Bosnia and Herzegovina and Insurance Agency for supervision at entity level</p>	
<p>Please provide details of the powers granted to supervisors in the insurance market to monitor and ensure compliance with AML/CFT requirements. Please provide details of enforcement measures and sanction both the institutions/businesses and their directors/senior management for non-compliance with AML/CFT requirements. If available provide statistics on use of supervisory powers in an annex to this report. Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p>R.30</p>				
<p>An adequate structure, funding, staffing, and technical resources should be made available for supervision of implementation of the</p>	<p>In the course of establishing the new FI Agency measures are being taken to set up a specialised internal unit which will be responsible for education and supervision of those entities (DNFBPs and other obligors) that do not fall under the remit of any other supervisory authority. In this</p>	<p>Medium term</p>	<p>FIU, and Council of Ministers of BiH</p>	<p>Since Draft Law on Amendments of the AML/CFT Law which was prepared during 2011 was not adopted by House of Representatives of the Parliamentary</p>

national AML/CFT requirements by DNFBPs.	regard the Agency will be seeking to employ specialised and experienced personnel for this job. It will also have to increase its budget and install technical and other resources such that the Agency is able to fulfil these new obligations effectively and efficiently.			Assembly of B&H, it was given up of establishing new FI Agency in the new Law on Amendments of the AML/CFT Law
<p>Please provide details of the new FI agency including</p> <ul style="list-style-type: none"> • Level of staff • Technical resources • Budget • Scope of responsibilities • Date of establishment • Legislation setting out powers and responsibilities <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
There is a need to define professional standards (including confidentiality and integrity requirements), and required expertise/skills of the staff of bodies implementing supervision of DNFBPs.	Establish the Team for training and supervision of DNFBPs	Medium term	FIU	
<p>Please provide details of professional standards (including confidentiality and integrity requirements), and required expertise/skills of the staff of bodies implementing supervision of DNFBPs.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				

<p>Authorities at all levels should establish unified systems for keeping statistics on the amounts of property seized and confiscated, and designate competent bodies for this purpose, in line what was recommended by the first round report. In this respect, the evaluation team considers it more practical to address this question on a Bosnia and Herzegovina wide basis and not separately for each Entity and Brcko District</p>	<p>At all government levels establish a unique system for keeping statistics on the amount of assets seized, and designate a competent authorities for that purpose</p>	<p>Long term</p>	<p>High Judicial and Prosecutorial Council of B&H and B&H Agency for the management of seized assets acquired through crime</p>	<p>Deficiencies already resolved. Please see Overall conclusion and next steps in the 4th CEPs Report after 39th Plenary - Recommendation 32: There are no doubts that the statistics is kept in a detailed way. Appropriate statistics provided in advance of 39th and 40th Plenary.</p>
<p>Please provide details of a newly established unique system for keeping statistics on the amount of assets seized at all governmental levels. Please provide information on whether a competent authority has been established for that purpose.</p>				
<p>R.33</p>				
<p>It is recommended that the obliged entities apply Articles 10 and 15 of the new AML Law better and verifies information through other public registers such as the Register of Securities</p>	<p>Ensure that the obliged entities apply Articles 10 and 15 of the new AML Law and verify information through other public registers such as the Register of Securities</p>	<p>Medium term</p>	<p>FIU</p>	

<p>Please provide information on the measures taken to oblige reporting entities to apply Articles 10 and 15 of the new AML Law through other public registers such as the Register of Securities.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p>It is only in the new AML Law that the BiH legal framework attempts to provide a definition of beneficial ownership. However there is no express requirement for the registration courts, while registering a business entity, to identify and keep data on the beneficial ownership and control of legal persons. Thus, it is recommended that such provisions should be in place in order to ensure direct access to updated and accurate data which reflects the real situation, as ensured by Article 15 of the new AML Law</p>	<p>Given that there is no explicit requirement that the registration courts, while registering a business entity, identify and preserve information about the real ownership and control of legal persons. Such provisions should be made to allow direct access to updated and accurate data that reflect the real situation, as defined in Article 15 of the new AML Law</p>	<p>Long term</p>	<p>Ministry of Justice of B&H and Ministry of Justice of Entity level and District Brcko</p>	<p>Republic of Srpska adopted new Law on Registration of Business Entities – to be in force at 01 December 2013 – still not translated into English. Relevant provisions will be presented in advance of the first Plenary in 2014. Federation of Bosnia and Herzegovina has draft of Amendments to Law on Registration of Business Entities in procedure.</p>
<p>Please provide details of amendments to relevant legislation to explicitly require the registration courts to identify and preserve information about the real ownership and control of legal persons.</p> <p>Please provide information on provisions that allow direct access to updated and accurate data of legal persons.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				

<p>It is recommended that the updating of the Main Book of Registration at the Courts is done in a timely manner for all legal persons including shareholding companies with effective, proportionate and dissuasive sanctions for late filing</p>	<p>Ensure that the updating of the Main Book of Registration at the courts is done in a timely manner for all legal persons including shareholding companies with effective and proportional sanctions for late filing</p>	<p>Long term</p>	<p>Ministry of Justice of B&H and Ministry of Justice of Entity level and District Brcko</p>	
<p>Please provide details of the measures taken to ensure that the updating of the Main Book of Registration at the courts is done in a timely manner for all legal persons including shareholding companies with effective and proportionate sanctions for late filing. Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p>There are concerns regarding the viability of the inter-linked electronic database of the Main Book of Register as the data started to be uploaded only in January 2008 and there are still legislative initiatives concerning the electronic signature, business, etc. Thus it is recommended that all necessary measures be undertaken in order for the inter-linked (single) electronic registry to become fully operational</p>	<p>Undertake all necessary measures in order that the inter-linked (single) electronic registry becomes fully operational</p>	<p>Long term</p>	<p>Ministry of Justice of B&H and Ministry of Justice of Entity level and District Brcko</p>	
<p>Please provide information on the measures taken in order that the inter-linked (single) electronic registry becomes fully operational.</p>				

R.35 and SR.I				
The same comments as are made on R. 31 in relation to implementation of the respective Conventions (especially the Terrorist Financing Convention) and the UN Security Council Resolutions apply here.*	Remove deficiencies for the efficient implementation of the Convention relating to the criminalization of crimes of money laundering and terrorism financing (especially the Convention on the Financing of terrorism) and UN Security Council Resolution	Medium term	Ministry of Justice of BiH and Ministry of Justice at Entity level and District Brcko	
<p>Please provide details of steps taken to apply UN Conventions. Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</p>				
SR.II				
The terrorist financing (“funding of terrorist activities”) offences need to be incriminated in all four Criminal Codes so as to clearly provide criminal sanctions concerning the collection and provision of funds with the unlawful intention that they are to be used, in full or in part, by a terrorist organisation or by an individual terrorist as	By annual agenda of the Ministry of Justice of BiH for 2011, it is envisaged the creation of the proposal of the Law on Amendments to the Criminal Code of BiH, where will be made the amendments of Article 202 of the same, which regulates the financing of terrorist activities. Abovementioned Law shall contain a provision under which the competent authorities of the Federation of Bosnia and Herzegovina, Republic of Srpska and Brcko District of Bosnia and Herzegovina	Adoption of Criminal Codes - medium term)	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District	

required by SR.II.*	shall harmonize their criminal laws with this law within a specified period from the date of enactment of this law.			
<p>Please provide details of amendments to the terrorist financing (“funding of terrorist activities”) offences of all four Criminal Codes so as to clearly provide criminal sanctions concerning the collection and provision of funds with the unlawful intention that they are to be used, in full or in part, by a terrorist organisation or by an individual terrorist as required by SR.II.</p> <p>Please provide an English translation of amendments to the Criminal Codes as adopted and in force.</p>				
<p>Criminal laws should be amended to incorporate the funding of terrorist organizations and individual terrorists, both at State level and that of the Entities and Brcko District.</p>				
By annual agenda of the Ministry of Justice of BiH for 2011, it is envisaged the creation of the proposal of the Law on Amendments to the Criminal Code of BiH, where will be made the amendments of Article 202 of the same, which regulates the financing of terrorist activities.	Abovementioned Law shall contain a provision under which the competent authorities of the Federation of Bosnia and Herzegovina, Republic of Srpska and Brcko District of Bosnia and Herzegovina shall harmonize their criminal laws with this law within a specified period from the date of enactment of this law.	Adoption of Criminal Codes - medium term)	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District.	
<p>Please details of amendments to the Criminal Codes to incorporate the funding of terrorist organisations and individual terrorists.</p> <p>Please provide an English translation of amendments to the Criminal Codes as adopted and in force.</p>				
Domestic authorities at all	Amendments to the Criminal Codes in	Medium term	Ministry of Justice of	

<p>competent level should satisfy themselves that the full definition of "funds" according to Criterion II.1b is properly covered by the current terrorist financing offences.</p>	<p>BiH will provide a complete definition of funds in accordance with the criterion II.1b.</p>		<p>BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District</p>	
<p>Please provide details of measures taken to properly cover the definition of "funds" as required by Criterion II.1b. Please provide an English translation of amendments to the Criminal Code as adopted and in force.</p>				
<p>Consideration should be given to whether the financing of terrorism should remain criminalized at all levels of legislation in Bosnia and Herzegovina or be qualified among those exclusively dealt with at state level.</p>	<p>The possibility of criminalization the financing of terrorism only at the state level shall be discussed.</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District</p>	
<p>Please provide details of the steps taken to consider whether the financing of terrorism should remain criminalised at all levels of legislation in Bosnia and Herzegovina or be dealt with exclusively at state level. Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</p>				
<p>Consideration should be given to abandoning the use of "double definitions" of legal terms pertaining to</p>	<p>Consideration will be given to abandoning the use of "double definitions" of legal terms pertaining to criminal substantive law in multiple legal sources</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of</p>	

criminal substantive law in multiple legal sources.			Justice of RS and Brcko District	
<p>Please provide details of the steps taken to consider whether to abandon the use of “double definitions” of legal terms pertaining to criminal substantive law in multiple legal sources.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</p>				
SR.III				
<p>An effective regime of monitoring of the private sector’s compliance with freezing assets of designated persons or whether any of the recommendations in the Best Practice Paper had been implemented should be introduced</p>	<p>Bosnian authorities will consider the Best Practices Paper for SR III in the context of drafting of the Law on Criminal Code</p>	<p>Long term</p>	<p>Ministry of Security of B&H, Ministry of Justice of FB&H and Ministry of Justice of RS and District Brcko and FIU</p>	<p>Please see paragraphs 58 and 59 of the 5th CEPs Report regarding Ordinance on Implementation of Restrictive Measures Established by Resolutions of the UN Security 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 (Ordinance). Private sector – especially financial</p>

				<p>institutions are under supervision regarding application of CFT measures, including application of restrictive measures - Ordinance. For now there were no need to apply Ordinance by private sector. We have to expres that Banking agncies which are responsible for banks, leasing companies and microcredit organisations have previous experience in the field of application of financial restrictive measures.</p>
<p>Please provide information on the measures taken in the context of drafting of the Law on Criminal Code in order to be in line with the requirements of SR.III.</p> <p>Please inform about the measures taken to implement the recommendations in the Best Practice Paper.</p> <p>Please provide information on the measures taken to establish an effective regime of monitoring of the private sector's compliance with freezing assets of designated persons.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</p>				
SR.VI				
<p>The Bosnia and Herzegovina authorities should examine the operations of Tenfore d.o.o within the context of the</p>	<p>Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include TENFORE as obligor.</p>	<p>Medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	

<p>obligations of the obliged entities under Article 3 of the old LPML– now Article 4 under the new AML Law. Indeed, through the ‘Agent Compliance Manual’, the company already seems to be imposing upon itself certain AML obligations, in particular in reporting and providing information to the FID. This is a positive initiative on the part of Tenfore d.o.o., however if there is a need for Tenfore d.o.o. to impose such obligations, this need should be officially formalised through the AML Law.</p>				
<p>Please provide details of relevant amendments to the AML/CFT to include Tenfore d.o.o as an obligor. Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</p>				
<p>R.VII</p>				
<p>Although wire transfers are covered by the Law on Payment Transactions of</p>	<p>Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that</p>	<p>Medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	

<p>both Entities and Brcko District yet most of the criteria for SR VII are not met as the Law only covers the technical operational aspects. The new AML Law now addresses some of the missing aspects identified at the on-site visit. The new law however does not differentiate between domestic and cross-border payments and hence it is difficult to identify compliance with the respective criteria. Notwithstanding, it is recommended that specific legal provisions be introduced:</p> <p>to ensure that full originator information accompanies cross-border transfers;</p> <p>to establish what information should accompany domestic transfers;</p> <p>to ensure that the Post Office is monitored on</p>	<p>will include the specific provisions:</p> <ul style="list-style-type: none"> • to ensure that full originator information accompanies cross-border transfers; • to establish what information should accompany domestic transfers; • to ensure that the Post Office is monitored on its compliance with such regulations as may be established; • to ensure that appropriate sanctions can be and are applied for non-compliance. 			
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<p>its compliance with such regulations as may be established;</p> <p>to ensure that appropriate sanctions can be and are applied for non-compliance.</p>				
<p>Please provide details of measures taken to ensure:</p> <ul style="list-style-type: none"> • that full originator information accompanies cross-border transfers; • what information should accompany domestic transfers; • that the Post Office is monitored on its compliance with such regulations as may be established; • that appropriate sanctions can be and are applied for non-compliance. <p>Please provide an English translation of relevant amendments to the AML/CFT Law as adopted and in force.</p>				
<p>SR.VIII</p>				
<p>The statistics on the number of the existing NPOs in BiH are not accurate enough, considering the lack of a clear mechanism on the reciprocal recognition of associations and foundation and the possibility that certain NPOs are registered, for example, at the entity and state level and counted</p>	<p>The Ministry of Justice of Bosnia and Herzegovina made a draft of Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina, and Amendments on Law on Associations and Foundations of BiH, the further procedure is in the course.</p>	<p>Adoption of Framework Law - medium term</p>	<p>Ministry of Justice of Bosnia and Herzegovina</p>	<p>Please see the cover letter.</p>

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

<p>registration, advantages of state registration, etc.</p>				
<p>Please provide details of steps taken to establish a centralised register for the Register of non-profit organisations. Please provide details of the Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina, indicating whether this law has been enacted and has come into effect. Please provide details of the Amendments on Law on Associations and Foundations of BiH as adopted and in force. Please provide an English translation of amendments to the Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations, if enacted, and the Amendments on Law on Associations and Foundations of BiH as adopted and in force.</p>				
<p>Concrete steps need to be taken to address the essential criteria under the AML/CFT Methodology to ensure that non-profit organisations cannot be abused for financing of terrorism.</p>	<p>BiH authorities shall pass bylaws that will regulate supervision over non-profit organization financial operations in order to prevent their abuse for financing of terrorism</p>	<p>Medium term</p>	<p>Ministry of Justice of Bosnia and Herzegovina and Ministry of Security of BiH</p>	<p>Adoption of the new AML/CFT Law.</p>
<p>Please provide details of steps taken to introduce bylaws that will regulate supervision over non-profit organization financial operations. Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</p>				
<p>There should be express legal provisions requiring that the business records of the NPOs are kept for at least five years.</p>				<p>Please see paragraph 65 of 5th Compliance Report of Bosnia and Herzegovina – NPO’s are defined as “liable persons” and they fall under the record keeping requirements set out in</p>

				the existing AML/CFT Law.
Please provide an English translation of any legislative provisions introduced requiring that the business records of the NPOs are kept for at least five years.				
No review of the adequacy of the relevant laws and no outreach has been undertaken by the authorities in order to identify the risks and prevent the misuse of NPOs for terrorism financing purposes. However, considering the existing risk, based on the concrete cases where NPOs have been involved in financing of terrorism activities and current on-going investigations of suspicious NPOs, the authorities should undertake a comprehensive review to assess the adequacy of the national legal framework related to NPOs, identifying the features and types of NPOs (activities, size) that are at risk of being misused for terrorist financing and implement measures to raise awareness of the	B&H authorities shall undertake a comprehensive review to assess the adequacy of the national legal framework related to NPOs, identifying the features and types of NPOs (activities, size) that are at risk of being misused for terrorist financing and implement measures to raise awareness of the NPOs about the risks and measures available to protect them against such abuse	Long term	Ministry of Justice of B&H and Ministry of Justice at Entity level and District Brcko	Please see the cover letter

NPOs about the risks and measures available to protect them against such abuse				
<p>Please provide information on the measures taken to comprehensively review the national legal framework in order to identify the risks and prevent the misuse of NPOs for terrorism financing purposes.</p> <p>Please provide information on the outreach to the NPO sector.</p> <p>Please provide information on the measures taken to raise awareness of the NPOs about the risks and measures available to protect them from being misused for terrorist financing.</p>				
SR.IX				
<p>The Indirect Tax Authority of Bosnia and Herzegovina does not appear to be fully involved in implementing the current partial regime existing on the entity level in the context of AML CFT according to SR IX efficiently and effectively. In particular it lacks the appropriate powers and tools to do so. A significant number of essential criteria do not appear to be met and there is therefore a need to review the whole framework of cross border declarations and</p>	<p>Review the whole framework of cross border declarations and disclosures against the essential criteria for SR IX.</p>	<p>Medium term</p>	<p>The Indirect Tax Authority of Bosnia and Herzegovina, Ministry of Finance of BiH</p>	<p>After adoption of the new AML/CFT Law.</p>

disclosures against the essential criteria for SR IX.				
<p>Please provide details of steps taken to review the whole framework of cross border declarations and disclosures against the essential criteria for SR IX and any action taken as a result of this review.</p> <p>Please provide an English translation of any appropriate legislation or regulations adopted and in force as a consequence of this review.</p>				
Adequate funding and training is required for Customs and the financial sectors to implement and respect the customs and tax legislation.	Provide adequate funding and training is required for Customs and the financial sectors to implement and respect the customs and tax legislation.	Medium term	The Indirect Tax Authority of Bosnia and Herzegovina and Ministry of Finance of BiH	Detailed data of funding and trainings provided as Annex to Questionnaire in advance of 42nd Plenary.
<p>Please provide details of steps taken to have adequate funding and training for Customs and the financial sectors to implement and respect the customs and tax legislation.</p> <p>Please provide details on awareness raising seminars and trainings conducted.</p> <p>Please provide details of :</p> <ul style="list-style-type: none"> • Dates • Topics covered • Number of delegates 				
	BiH	FBiH	Republic Srpska	Brcko District
Customs				
Adopt a legislative regime on the state level of B&H for full implementation of SR.IX to include domestic cash and negotiable	Working Group of the Council of Ministers will prepare a draft of The Law on Foreign Exchange Operations on the state level and that will include recommendation of evaluators remark	Adoption of the draft of the Law on Foreign Exchange Operations on the state level - long term)	Ministry of Finance and Treasury of B&H, Working Group and Council of Ministers of B&H	This will be resolved (clarified) with/after adoption of new AML/CFT Law and with necessary amendments

instruments				<p>to other legislation to make it compliant with this Law.</p> <p>Domestic cash and negotiable instruments are still covered with Laws on Foreign Exchange Operations of RS (article 16) and FBiH (Article 45) - transposed into Instruction on customs procedure within passenger traffic - please see Article 30 (Annex III) and Paragraph 88 and 89. Of 1st CEPs - 35th Plenary.</p>
<p>Pease provide details of amendments to the Law on Foreign Exchange Operations to include domestic cash and negotiable instruments. Please provide an English translation of the amendments to this Law.</p>				
<p>Ensure ITA retains the information required by SR.IX.4 and makes such information available to State Investigation and Protection Agency (SIPA) in accordance with SR.IX.</p>	<p>Working Group of the Council of Ministers will prepare a draft of The Law on Foreign Exchange Operations on the state level that will include recommendation of evaluators' remark.</p>	<p>Adoption of draft of the Law on Foreign Exchange Operations on the state level- long term)</p>	<p>Ministry of Finance and Treasury of B&H, Working Group and Council of Ministers of B&H.</p>	<p>ITA retains the information required by SR.IX.4 and in the same time forwarding such information to FID of the State Investigation and Protection Agency (SIPA) in accordance with Article 59 of AML/CFT Law. See also Article 30 of the Instruction on customs procedure within</p>

				passenger traffic (Annex III).
<p>Please provide information on the measures taken to ensure that ITA retains the information required by SR.IX.4 and makes such information available to State Investigation and Protection Agency (SIPA) in accordance with SR.IX.</p> <p>Please provide an English translation of the amendments to the Law on Foreign Exchange Operations.</p>				
Give power to ITA to apply sanctions or seize funds as required by SR.IX.8-11	Working Group of the Council of Ministers will prepare a draft of The Law on Foreign Exchange Operations on the state level that will include recommendation of evaluators remark	Adoption of draft The Law on Foreign Exchange Operations on the state level- long term)	Ministry of Finance and Treasury of B&H, Working Group and Council of Ministers of B&H	
<p>Please provide details of amendments to the Law on Foreign Exchange Operations that allow ITA to apply sanctions or seize funds as required by SR.IX.8-11.</p> <p>Please provide an English translation of the amendments to the Law on Foreign Exchange Operations.</p>				

III. APPENDICES

Annex 1: Letter from the Ministry of Justice of the Republic of Srpska



**REPUBLIC OF SRPSKA
GOVERNMENT
MINISTRY OF JUSTICE**

Trg Republike Srpske 1, Banja Luka, phone: 051/339-535, fax: 051/339-650, web: www.vladars.net

No.

Date:

**STATE INVESTIGATION AND
PROTECTION AGENCY**

SUBJECT: Answer to recommendations of the Moneyval secretariat

RECCOMENDATION 3 –

Article 62 of the Republic of Srpska Criminal Code

First of all, it is necessary to emphasize that the provisions of Article 62 of Republic of Srpska Criminal Code (hereinafter: RS Criminal Code) prescribe only seizure of items that were used or resulted from commission of a criminal offence, and that there are several other articles in the RS Criminal Code and Republic of Srpska Criminal Procedure Code (hereinafter: RS Criminal Procedure Code) where there are imperative provisions prescribing that no other individual is allowed to keep property gain obtained from a criminal offence, as it follows:

Article 94 of the RS Criminal Code prescribing that:

- 1) Nobody shall be allowed to retain property gain obtained by commission of criminal offense.
- 2) The property gain referred to in Paragraph 1 of this Article shall be seized by the court decision, which established the perpetration of a criminal offence, under the terms set forth under this Code.

Article 95 prescribing the manner of the property gain seizure

- 1) The money, valuable items and every other type of property gain obtained by commission of criminal offense shall be seized from the perpetrator, and in case the seizure is not feasible – the perpetrator shall be obliged to pay an amount of money which corresponds to the obtained property gain.
- 2) Property gain obtained by commission of criminal offense may be seized from persons to whom that property gain has been transferred without compensation or with a compensation which does not correspond to the real value, if the persons in question knew or should have known that the property gain was obtained by commission of a criminal offense.

Article 280 of the RS Criminal Code (criminal offence of Money Laundering), paragraph 6

- 6) The money and property referred to in preceding paragraphs shall be seized.

Article 402 of the RS Criminal Procedure Code (seizure of items):

- 1) The items that need to be seized under the Criminal Code shall be seized also when the criminal procedure is not completed by a verdict which declares the accused guilty, if this is required in the interests of general security. A separate decision shall be issued on this.
- 2) The decision referred to in paragraph 1 of this Article shall be issued by the court at the moment when the proceedings are concluded or dismissed.
- 3) The decision on seizure of items referred to in paragraph 1 of this Article shall be issued by the court when the verdict, which declares the accused guilty, fails to contain such a decision.
- 4) A certified copy of the decision on seizure of items shall be delivered to the owner of the items concerned if the owner is known.
- 5) The owner of the items may appeal the decision from paragraphs 2 and 3 of this Article on the grounds of non-existence of a legal basis for seizure of items.

Article 403 of the RS Criminal Procedure Code (Seizure of Proceeds of Crime)

- 1) The existence of proceeds of a criminal offense shall be established in a criminal procedure ex officio.
- 2) The prosecutor shall be obliged to collect evidence during the procedure and examine the circumstances that are important for the assessment of the proceeds of a criminal offense.
- 3) If the injured party submitted a claim for repossession of items obtained through a criminal offense, or the amount that is equivalent to the value of such items, the existence of proceeds of crime shall be established only in the part that is not included in the property claim.

Article 62 of the RS Criminal Code prescribes that ‘Items used or destined for use in the perpetration of a criminal offence, or those items resulted from the perpetration of a criminal offence may be seized if those items are owned by the perpetrator.’ It is our opinion that the legislator made the right decision leaving the discretionary provision ‘may be seized’ instead of obligatory confiscation, leaving the discretionary right to authorities to decide in which cases such items shall be seized, and in terms of the abovementioned provisions.

Article 62 of the current RS Criminal Code prescribes the obligation of seizure of such items, but not obligatory, in terms of right of third parties. It is our opinion that the legislator made the right decision leaving the discretionary provision ‘when there is a danger that those objects will be used again for the perpetration of a criminal offence or when the purpose of protecting the public safety or moral reasons make the seizure seem absolutely necessary, if those objects are owned by the perpetrator’ instead of obligatory seizure of items. The legislator has regulated that the items shall not be seized if owned by third parties, unless ‘consideration of public safety or moral reasons so require, but such seizure does not affect the rights of third parties to obtain damage compensation from the perpetrator.’

First of all, items used or destined for use in the perpetration of a criminal offence, or those items resulted from the perpetration of a criminal offence represent evidence in a criminal procedure and are seized and used as such in the criminal procedure, and the majority of activities of police officers and prosecutors is aimed at gathering such evidence. However, introduction of obligatory confiscation of such items would certainly bring problems in the practical implementation of such provision, leading to breach of human right to peaceful enjoyment of property. For example, in case of obligatory seizure, the perpetrator of a criminal offence of Endangering Public Transportation referred to in Article 401 of the RS Criminal Code should be seized his/her motor vehicle etc., or in case of a conscientious owner, those items should be brought back to him. Referral to restore the offender would not be in accordance with the principles of fairness, because in most cases a conscientious owner cannot be compensated by the perpetrator. The explanation given in the Action Plan that ‘Competent authorities at State level and also in the Federation of Bosnia and Herzegovina and Brcko District should review the articles in the respective Criminal Codes that provide for the confiscation of instrumentalities and other objects with the aim of concretising the overly vague conditions under which this security measure can be applied so that the confiscation of such objects can actually be mandatory’, is the result of insufficient explanation of this regulation which was not correctly provided to the Moneyval evaluators.

Republic of Srpska Ministry of Justice has given an adequate and expert explanation in this reply letter.

In terms of other two activities referred to in Recommendation 3, Moneyval has accepted the explanation of the Republic of Srpska Ministry of Justice, as well as the additional explanation provided by the delegation of the Republic of Srpska during the 42nd Moneyval Plenary, which is visible in the Report of the 42nd Plenary (seizure of proceeds of crime according to RS Criminal Code and seizure of property based on Law on Seizure and Confiscation of Proceeds of Crime).

Regarding the second activity, which is also mentioned in the Report of the 42nd Moneyval Plenary, it was explained that the criminal legislation in Republic of Srpska, as well as other three criminal codes existing in BiH, enables confiscation of assets commingled with legitimate assets, including legitimate assets, as it follows:

When, during a criminal procedure (in compliance with the RS Criminal Procedure Code) is sentenced a measure of confiscation of proceeds of crime, and the property gain is not seized in due time, further enforcement of this measure is conducted in compliance with the Law on Enforcement procedure and Law on Public Attorney's Office of Republic of Srpska. In case the perpetrator has spent the property gain, the enforcement is conducted using his legitimate assets based on Decision on Enforcement based on Article 39 of the Law on Enforcement Procedure. To reiterate, according to Article 95 of the RS Criminal Code - 'money, valuable items and every other type of property gain obtained by commission of criminal offense shall be seized from the perpetrator, and in case the seizure is not feasible – the perpetrator shall be obliged to pay an amount of money which corresponds to the obtained property gain.' If the perpetrator fails to pay the amount which was determined, RS Public Attorney's Office shall initiate enforcement procedure based on the abovementioned. RS Public Attorney's Office is an independent body which, in accordance with the provisions referred to in Article 1 of the Law on Public Attorney's Office, undertakes remedies in order to protect property rights and interests of Republic of Srpska. Public Attorney's Office represents bodies and legal persons referred to in Article 1 of the Law on Public Attorney's Office in all court and enforcement procedures.

The explanation given in the Action Plan is also a result of insufficient explanation of this regulation which was not correctly provided to the Moneyval evaluators.

Attached to this letter, you will find translation of these two laws (Law on Enforcement procedure, 'Official Gazette of Republic of Srpska', No. 59/03, 85/03, 64/05, 118/07, 29/10, 57/12 and Law on Public Attorney's Office, 'Official Gazette of Republic of Srpska', No. 16/05, 77/06 and 119/08) as well as an excerpt from a verdict in which a decision of Enforcement was brought and the latter was conducted on legitimate assets, that is property gain commingled with legitimate assets.

Also, we would like to emphasize that we believe certain recommendations referred to in Action Plan (Recommendation 1) were not adequately presented due to provisions that were not correctly explained to the evaluators and refer to harmonization with international standards – international documents that were signed and ratified by BiH. We would particularly mention the recommendations and corrective measures regarding criminalization of money laundering in all four criminal legislation existing in BiH and practical activities of money laundering processing that were not correctly explained and analysed. For example, by the end of 2012, we have had 47 final verdicts regarding money laundering (13 of these were brought at entity level) which is a significant result. This proves that the existing criminalization of money laundering did not represent an obstacle for processing the criminal offence of money laundering.

The Republic of Srpska Working Group for Implementation of Obligations and Recommendations of Moneyval, will forward a detailed report and analysis of all these issues to the Moneyval Secretariat in the upcoming period.

MINISTER

/signed and sealed/

Gorana Zlatkovic

Annex 2: Law on enforcement procedure of the Republic of Srpska

(“Official Gazette of Republic of Srpska”, No. 59/03, 85/03, 64/05, 118/07, 29/10, 57/12)

(Excerpts)

Grounds for Granting Enforcement

Article 22

The court shall order enforcement only on the basis of enforcement document or authentic document, unless this Law provides otherwise.

Enforcement documents

Article 23

(1) Enforcement documents are:

- 1) An enforceable court decision or enforceable court settlement;
- 2) An enforceable decision issued in an administrative procedure and settlement in an administrative procedure, stating entitlement to payment of a monetary obligation, unless a specific law provides otherwise;
- 3) Enforceable notarial document;
- 4) Other documents designated as enforcement document by law.

(2) If it is necessary to enforce an enforcement document (valid court decision) of domestic courts both in Republic of Srpska and a foreign state at the same time, the court shall stop enforcement of such decision if the foreign state does not accept the decision of domestic courts.

(3) The term enforcement document referred to in paragraph 1 of this Article refers to each such document brought in Bosnia and Herzegovina.

Enforceability of a Decision

Article 32

(1) A court decision ordering the satisfaction of a claim shall be enforceable if it has become final and if the time period for voluntary compliance has expired. A voluntary compliance period begins on the date on which the decision is delivered to the enforcement debtor and expires on the last day of the period stated in the court decision, unless provided otherwise by law.

(2) A court decision ordering abstention from action is enforceable when it has become final, unless the enforcement document states a later deadline for compliance with such obligation.

(3) A decision issued in an administrative procedure is enforceable if it has become enforceable in accordance with the rules governing such procedure.

(4) In the case of a decision that has become enforceable only in part, enforcement may be granted only on that part of the decision.

(5) Enforcement shall be granted also of a court decision that has not become final or an administrative procedure decision that has not become final, if the law provides that appeal does not suspend enforcement.

Enforcement proposal

Article 36

(1) Enforcement proposal shall contain the request for enforcement which shows the original enforcement document or authentic document based on which the enforcement is requested, claimant of enforcement and debtor, credit claimed for settlement, means through the which the enforcement should be conducted, the enforcement object if known, and other data necessary for application of enforcement.

(2) If the request for conclusion on the debtor's wealth is submitted with the enforcement proposal, the enforcement body will introduce the enforcement creditor with results of such conclusion, providing him time limit to correct the presented proposal, respectively to provide amendments.

(3) Enforcement proposal based on authentic document shall contain:

1) Enforcement request referred to in paragraph 1 of this Article;

2) Request by which the enforcement body forces enforcement debtor that within eight (8) days, while in disputes from the relations where bill of exchange or cheque exists, within three (3) days from the day of delivery of the decision, to settle the obligation together with the assigned costs.

(4) Should the enforcement against movable items be proposed, it is not required for the enforcement proposal to indicate such items.

Declaration of debtor's assets

Article 37

(1) Creditor in his proposal based on enforcement document may request the court to order the debtor and any other relevant natural and legal persons, including bodies or administrative services, or other institutions, to provide the court with data about the wealth or income of debtor, if the creditor proves that these persons could possess such information.

(2) This request may be filed after the enforcement decision has been brought, if the enforcement on the proposed enforcement means was not successful.

(3) Upon receipt of the request referred to in paragraph 1 of this Law, the court shall, in a conclusion, order the creditor or other person, body or organization, to write down on a form prescribed by the Minister of Justice of Republic of Srpska complete data that he/she disposes of regarding movable and immovable assets of the debtor, and particularly on the type and amount of income and deposits of the debtor, as well as their location.

(4) Signed form shall be delivered to the court within the time frame prescribed by the court in the conclusion.

(5) Persons who do not act upon the court order shall be fined as referred to in Article 17 of this Law. These fines shall also be applied to responsible persons in legal entities, bodies or organizations.

(6) Natural person or responsible persons in legal entities, bodies or organizations shall be criminally responsible for false statements, non-complete or untrue data regarding the debtor's wealth. About these consequences, the enforcement authority should inform respective concerned subject with conclusion on requested data.

(7) Instead of filling the respective form by debtor, the court may request the enforcement natural person or other natural person a verbal statement in court session. If the summoned person does not appear to the session or refuses to give verbal statement, the court shall apply provisions of paragraph 5 of this Article.

Withdrawal and limitation of proposal

Article 38

(1) Enforcement proposal may, during the enforcement procedure, without the consent of the debtor, be completely or partially withdrawn by the creditor.

(2) In case of withdrawal referred to in paragraph 1 of this Article, the court shall conclude the enforcement completely or partially.

(3) Withdrawal of the proposal shall not stop the creditor to submit a new enforcement proposal.

Enforcement decision

Article 39

(1) The enforcement decision shall indicate the enforcement or authentic document, enforcement creditor and debtor, credit which should be settled, means and object of enforcement, and other data necessary for enforcement.

(2) If the enforcement decision assigns the payment of interest, the enforcement court shall calculate the expenses of the enforcement creditor, except if the collection of interest is to be done from the deposited money in bank account. In case of latter, the collection of interest shall be done by the bank on the expense of the debtor.

(3) In the enforcement decision based on authentic document, the court shall:

1) Force the enforcement debtor to settle the obligation within eight (8) days, while in disputes from the relations where bill of exchange or cheque exists, within three (3) days from the day of delivery of the decision, together with the assigned costs,

2) Prescribe enforcement for the purpose of settling obligations.

(4) Enforcement decision shall not necessarily have rationale provision. This decision may be issued by sealing the enforcement proposal.

(5) Enforcement decision shall contain instruction on legal remedy the parties are entitled to.

(6) Decision refusing or dismissing the proposal completely or partially shall contain the rationale.

Annex 3: Law on General Attorney's Office

("Official Gazette of Republic of Srpska", No. 16/05, 77/06 and 119/08)

(Excerpts)

Article 1

General Attorney's Office of Republic of Srpska is an independent body that undertakes legal instruments before courts and other competent bodies for the purpose of protection of property rights and interests of Republic of Srpska, cities, municipalities and their bodies and organizations, as well as other bodies and organizations that do not possess the characteristics of legal persons and are not written in the court register, and are financed from the budget of Republic of Srpska.

General Attorney's office shall also perform other assignments prescribed by the law.

Article 9

Courts and other bodies shall be obliged to inform the General Attorney's Office if, during a procedure, it is necessary to undertake the measures for protection of rights and interests of the Republic, town, municipalities and other entities whom the General Attorney's Office is obliged to represent.

Article 10

Bodies, organizations, companies and other legal persons shall be obliged to deliver notifications on endangering, violation or adjudication of objects and items owned by the entities referred to in Article 1 of this Law, in order to undertake further legal activities under the competence of the General Attorney's Office.

Upon request of the General Attorney's Office, bodies and legal persons shall be obliged to deliver data, notifications and documents, as well as expert opinion necessary to undertake measures under its competence.

EXAMPLE OF ENFORCEMENT DECISION

4. Banja Luka District Court verdict no. K-21/05 dated 26 May 2005 imposes the conviction of a two-and-a-half year imprisonment against the person ... for the criminal offence of "tax and income evasion", stated in the Article 287, paragraph 3 in relation with the paragraph 1 of the RS Criminal Code, and, at the same time, imposes the measure of a seizure of proceeds of crime based on the Article 95 of the RS Criminal Code and analogous Articles of the RS Criminal Procedure Code, which obliges the person to pay to the Republic of Srpska the material gain (771. 752,70 BAM) acquired by commission of a criminal offence within the 30 days from the day of the verdict validity.

The verdict becomes valid. The person refused to pay voluntarily the amount of property gain. The General Attorney Office (in accordance with the Article 1 and Article 9 of the Law on General Attorney's Office and the Article 39 and Article 23 of the Law on Enforcement Procedure) has submitted to the competent court the Proposal for enforcement by selling the real estate owned by the convicted (the real estate was legal) which is recorded in the Land Registry Office under the number and by settling the Republic of Srpska from the money gained through the selling and requiring to have this enforcement recorded in the Land Registry Office.

The enforcer filed a complaint which has been rejected by the Decision. The Court has issued a Decision on Enforcement on the mentioned property and allowed the enforcement to be recorded.

Annex 4: Cooperation – Exchange of Information of Financial Intelligence Department

FID STATISTICS ON COOPERATION – EXCHANGE OF INFORMATION for 2012 and for January - September 2013																								
COOPERATION IN B&H																				INTERNATIONAL COOPERATION				
Court and Prosecutor office of B&H	Courts and Prosecutor offices of entities		Police Agencies at level of B&H		ITA and CBB&H		FMOI and MOI of RS		MOIs of Cantons		Police of Brcko DC		Ministries of B&H		Other institutions in B&H		OTHERS		NCB INTERPOL	OTHERS (Egmont Group)				
↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓	↑ ↓			
SIPA Σ																								
2012	47	31	11	5	25	28	28	35	53	52	28	16	3	2	7	18	89	67	173	1173	53	47	109	91
2013 Jan - Sep	73	62	8	4	13	12	18	20	47	41	18	10	8	4	4	8	39	36	516	1240	9	19	91	89

Annex 5: Instruction on customs procedure within passenger traffic

On the basis of Article 15 of the Law on Indirect Taxation Authority (Official Gazette BiH, no.89/05)) and Article 61, Paragraph 2 of the Administration Law (Official Gazette BiH, no.32/02), the Director of the BiH Indirect Taxation Authority delivers:

INSTRUCTION on customs procedure within passenger traffic

CHAPTER I- GENERAL PART

Article 1

(subject)

This Instruction prescribes more closely the manner of declaring and conduct of the customs supervision and the procedure over the goods which the passengers carry with them when entering or leaving the customs territory of Bosnia and Herzegovina (hereinafter: BiH) the control over the effective foreign currency, securities and bonds brought in /taken out and other issues related to the customs procedure in the passenger traffic with foreign countries.

Article 2

(legal base)

The customs procedure within the passenger traffic with foreign countries is regulated by:

- a) Provisions of Article 38 and 58 of the BiH Customs Policy Law hereinafter: the Law (Official Gazette BiH, no.57/04 and 51/06) and Article 1 and to 2 of the Annex to this Law,
- b) Provisions of Article 100 to 105,132 to 144 and 350 to 361 of the Decision on Implementing Regulations to the BiH Customs Policy Law, hereinafter: the Decision (Official Gazette BiH, no.63a/04 and 60/06)
- c) The decision on the cases for which 1% of customs value for customs recording is not collected (Official Gazette BiH, no.31/05),
- d) Provisions of Article 6 of the BiH Customs Tariff Law (BiH Official Gazette, no.1/98,5/98,7/98,22/98,31/02,32/04,48/05)
- e) Decision on the Determination of the Value for the Goods Subject to Single Customs Rate (Official Gazette BiH, no.6/98)
- f) Provisions of Article 1 of the BiH Foreign Trade Policy Law (Official Gazette BiH, no.7/98)
- g) Instruction on the Method and Procedure of Regulating Temporary Import/Export and Transit of Sporting and Hunting Weapons and Ammunition (Official Gazette BiH, no.56/05 and 35/04)
- h) Instruction on the Issuance of the Licence for Import and Export of Work of Arts and Antiques (Official Gazette BiH, no.41/02)
- i) Law on Foreign Exchange Operations (Official Gazette FBiH,no.35/98) and the Law on Foreign Exchange Operations (Official Gazette RS, no. 96/03)
- j) Rulebook on Conditions and Procedure for Taking out Effective Foreign Currency, Securities and Bonds in Foreign Currency (Official Gazette FBiH, no.35/00)
- k) Decree on Effective Foreign Currency, Convertible Marks, Checks, and Securities brought in/taken out (Official Gazette RS, No.16/05)
- l) The Law on Prevention of Money Laundering (Official Gazette BiH, no.29/04).

Article 3 (definitions)

1. In application of this Instruction the terms have the following meaning:

a) **“Passenger”** means:

1. On arrival/entry any person who temporarily enters the BiH customs territory where he/she normally does not reside and any person who after temporary stay in another country returns to the customs territory of BiH where she/he normally resides,

2. On departure/exit any person who temporary leaves the BiH customs territory where she/he normally resides and any person who after a temporary stay in Bosnia and Herzegovina leaves this territory where he/she does not normally resides.

b) **“Household effects”** mean personal items, household linen, furniture and equipment for personal use or for use by household provided that those items are of non-commercial nature,

c) **“Non-commercial goods”** mean temporary imports of the goods for personal use by passenger or his family only and the goods as gifts, character and quantity of which must not be such as to give indication that they are imported for commercial reasons.

d) **“Personal luggage”** means all the luggage of non-commercial nature which the passenger is able to present to the customs authorities when entering/leaving the country or which he/she handed over for transportation to a transporting company (so called “accompanied luggage”), provided that it can be proved beyond any doubt that she/he handed it out for transportation to/out of BiH.

2. Passenger’s travel ticket, transport document and etc. can serve as a proof that the luggage has been handed over for transportation to a carrier in order for the luggage to be transported to/outside the BiH customs territory.

Article 4 (general right)

According to the provisions of Article 1 of the Law on Foreign Trade Policy of Bosnia and Herzegovina flow of goods is free, without prejudice to the bans and prohibitions or restrictions regarding the turnover of the goods which endanger public policy, moral and safety, health of humans, animals and plants, as well as national treasures having artistic, historic or archaeological value and the industrial commercial property or which endanger elimination of drugs and waste.

CHAPTER II-METHOD OF DECLARING THE GOODS ON ARRIVAL OF THE PASSENGER

Article 5 (the method of declaring)

The arriving passenger can declare to customs goods which he brings in:

a) orally

b) in some other manner and

c) in writing, by submitting a customs declaration in writing or by using data processing technique, in accordance with Article 59 and 74 of the Decision (hereinafter: customs declaration)

Article 6 (oral declaration)

1. The following can be declared orally:

a) non-commercial goods contained in the passenger’s personal luggage or sent from abroad (Article 132 of the Decision)

- b) temporarily imported means of transport for private use (Article 136, Paragraph 1, Item b) of the Decision) and
 - c) temporarily imported passenger's personal items and the goods for sporting purposes of the passenger (Article 136, Paragraph 1, Item b) of the Decision)
2. When crossing the customs line (border) arriving passenger is obliged to make oral declaration and, at request of customs authorities, show all the goods he carries with him/her, regardless of the fact whether customs procedure should be conducted or not (that is, collection of customs duties and other indirect taxes at import). A customs violation has been committed in case that non-declared goods have been detected.
 3. The customs authorities, according to risk assessment, decide whether they will examine orally declared goods or accept the oral declaration made by passenger, without examining the goods.
 4. The items which a diplomatic messenger carries based on the diplomatic messenger letter are not subject to the customs examination.
 5. The customs authorities may not accept oral declaration for the goods which another person brings in on behalf of the passenger, acting in capacity of his representative (forwarding agent) (Article 134, Paragraph 1 of the Decision).
 6. The following can not be declared orally:
 - a) the goods for which the declared particulars can not be determined by customs as correct or complete (Article 134 , Paragraph 2 of the Decision) and
 - b) the goods subject to a ban, restriction or some other measure, for example a licence, certificate, authorisation and similar (Article 142 of the Decision).

Article 7
(declaration by some other act)

1. According to Article 140 of the Decision, arriving passenger makes declaration" by some other act" for:
 - a) non-commercial goods contained in passenger's personal luggage, subject to exemption from payment of import duties according to Article 2 of Annex to the Law (Article 137, Paragraph 1, under a) of the Decision)
 - b) means of transport temporarily imported for personal use (Article 139, Paragraph 1 Item b) of the Decision)
 - c) means of transport registered in Bosnia and Herzegovina intended for re-import into Bosnia and Herzegovina and
 - d) personal effects and goods imported for sporting purposes, in accordance with Article 360 of the Decision (Article 139, Paragraph 1, Item a) of the Decision).
2. The goods declared in some other manner are considered as presented to customs, the declaration as accepted and the release granted at the moment the act from Article 140 of the Decision is being carried out.
3. In case it has been detected that the act from Article 140 of the Decision has been carried out while the goods actually do not meet the conditions for declaring by some other act, the goods will be considered as having been illegally imported/brought in.

Article 8
(written declaration)

The passenger is obliged to submit to the customs authorities a customs declaration for the release to free circulation (hereinafter: the clearance) for non-commercial goods:

- a) whose value exceeds 3 000 KM
- b) in case of which the customs authorities can not establish the kind, value and origin, if the amount of import duties and other indirect taxes is dependant on the origin
- c) in case of which, for the purposes of the identification and the assessment of other data, the expert opinion is required and

d) declared orally and where the passenger has objections to the findings of the customs officer regarding the assessed kind, quantity, value and origin or regarding the determined amount of import duties and other indirect taxes.

CHAPTER III- CLEARANCE PROCEDURE

Article 9 (clearance procedure)

The goods which arriving passenger carries with her/him, can be cleared:

- a) with exemption from import duties, under the prescribed conditions
- b) with payment of import duties:
 1. within a shortened procedure
 2. within a normal procedure, by submitting a customs declaration

Article 10 (clearance procedure for the goods with exemption from import duties)

1. In accordance with Article 176, Paragraph 5 of the Law and in relation to Article 2 of Annex to the same Law, the goods from Paragraph 2 of this Article contained in personal luggage of the passenger coming from abroad (regardless of his citizenship) are exempt from import duties, provided that those goods are not subject to restrictions or bans or being of commercial nature.

2. Exemption from import duties from Paragraph 1 of this Article per day and per passenger is applied to:

- a) non-commercial goods, including gifts and souvenirs contained in personal luggage of the passenger whose customs value does not exceed 200 KM,
- b) 200 cigarettes or 100 cigarillos or 250 gram of tobacco,
- c) two litres of table wine,
- d) one litre of alcohol beverages or strong liqueurs over 22% volume or two litres of fortified wine, sparkling wine or other liqueurs
- e) 60cc/ml of perfume and
- f) 250cc/ml of eau de toilette

The passengers under the age of 17 can not import tobacco products or alcoholic beverages.

3. The customs officer exempts the goods under Paragraph 2 of this Article from import duties orally, without producing any customs documents. In accordance with Article 26 Item 2 of the Law on Value Added Tax those goods are also exempt from the payment of value added tax.

4. If when entering BiH the passenger's luggage contains the goods referred to in Paragraph 2, Item a) of this Article, whose individual value exceeds 200 KM, import duties and other indirect taxes must be collected on their full customs value since the splitting of the value for such goods can not be conducted (for example, if the passenger carries a colour TV set of 500 KM, the TV can not be cleared so that it is exempt from import duty on the value of 200 KM and the duty is only calculated and collected on 300 KM, instead the customs authorities will clear the TV set in question based on the value of 500 KM and also calculate and collect import duties and other indirect taxes for the same amount). Likewise, preferences of several persons can not be put together for import of one item, since the preference refers to each passenger individually (for example, when four passengers in a motor vehicle are importing one item of 800 KM value and are requesting the application of the preference, such preference can not be granted and import duties and other indirect taxes are calculated on the full amount of customs value for that item).

5. The goods from paragraph 2 of Item b) to f) of this Article as items of passenger's personal luggage are exempt from payment of import duties, regardless of their individual or total value.

6. When the goods from Paragraph 2 Item a) of this Article contained in passenger's luggage are transported via railway without escort of passenger and are declared to customs without passenger being present, then the customs declaration for registered luggage is to be submitted on the form from Annex 23 to the Decision, according to the conditions and restrictions stated within that form.

Article 11
(clearance within shortened procedure according to single customs rate)

1. The goods arriving passenger carries in quantities and values exceeding those for which he can be exempt from import duties, intended for his personal use or use by his household, with overall value not exceeding 3 000 KM are declared orally and cleared within a shortened procedure at the border crossing. Thus, the customs officer for the duty exemption separates the goods subject to payment of duty in a higher amount while the goods subject to a lower amount of duty treats as those for which the duty will be collected(for example in the passenger's luggage there are three items of different value, one is 190 KM, other 180 KM, the third is 160 KM, the item with value of 190 KM will be exempt from import duties).
2. The goods from Paragraph 1 of this Article, except the goods exempt from customs duty and those for which "0" rate of customs duty is foreseen according to Customs Tariff of BiH, are cleared according to the single customs rate of 10%.
3. The single customs rate is not applied when the passenger before the application of such rate requested that the goods were cleared according to the customs rates from BiH Customs Tariff. In such cases all the goods making up the consignment are subject to customs duty according to the rates from the Customs Tariff of BiH and are sent for regular customs procedure to the customs station. Thus, the passenger cannot request that one part of the goods is cleared according to the single customs rate and other according to the rates from Customs Tariff of BiH.
4. When the goods subject to collection of import duties and other indirect taxes are declared orally, the customs authorities will issue the passenger with a receipt confirming the payment of indirect taxes (Article 135 of the Decision), the form and contents of which is prescribed by a separate instruction.
5. The details of the goods from the receipt of Paragraph 4 of this Article must be precise and clear in respect of their kind, quantity and value in order to identify those goods and determine whether they are non-commercial goods, for personal use by passenger or his/her household, or commercial goods. When entering particulars to the corresponding box on the receipt, the summary titles such as: "various goods", "household effects", "technical goods", can not be used since they unable the correct application of the regulations and the calculation of import duties and other indirect taxes. In the case of the goods subject to restrictions and controls by the competent authorities (weapons, radio receivers and the like) all the data necessary for identification of the goods as well as the data for registration with the competent authority should be entered (commercial name of the goods, type, brand, manufacturer number, the production year and other details characterizing such goods), including the data about the documents accompanying the goods.
6. The method and procedure of maintaining the records on the collected import duties and other indirect taxes according to the receipt from Paragraph 4 of this Article is prescribed by a separate instruction.

Article 12
(Application of preferential rate when clearing goods within a shortened procedure)

1. The currently valid Free Trade Agreements which BiH concluded with other countries in order to simplify the procedure within passenger traffic prescribe certain exemptions from submitting the prove of origin for the products which the physical persons bring in as a part of their personal luggage, provided that those products are of non-commercial nature and declared as products with origin and that there is no doubt regarding the true nature of such statements and that overall value of those goods does not exceed 1 200 EUR.
2. For the goods from Paragraph 1 of this Article the clearance, that is, the calculation of import duties and other indirect taxes can be carried out at the border crossing with application of preferential rate, while at the same time a remark that preferential origin has been applied must be entered on the receipt for indirect tax collection (for example the application of preferential origin with Republic Macedonia).
3. For the application of preferential tariff rate on the goods whose value exceeds the value stated in Paragraph 1 of this Article, it is necessary to enclose the invoice declaration (if the value is up to 6 000

EUR), or movement certificate EUR 1(when value is higher), taking into account that the regular customs procedure must be conducted. Also, when physical person asks for the application of preferential rate and there is a doubt regarding the true nature of his/her statement on origin, the clearance should be carried out within the regular procedure, regardless of the value of the goods, submitting as compulsory a proof of origin for the goods so that preferential rate can be applied.

Article 13
(clearance within regular procedure)

1. The regular procedure for the goods from Article 8 and 12 Paragraph 3 of this Instruction is carried out at customs station, with submission of customs declaration.
2. Customs declaration from paragraph 1 of this Article is filled out in accordance with regulation governing the issue of completing customs declarations.

Article 14
(procedure with goods for export/taking out)

The procedure of declaring goods to be exported/ taken out in the passenger traffic is regulated more closely in a separate instruction on export.

CHAPTER IV-TEMPORARY IMPORT

Article 15
(temporary import)

1. The foreign passenger and the citizen of BiH having place of residence in a foreign country temporarily coming to BiH for the sake of tourism, medical treatment, visiting relatives or coming for some other reasons, can temporarily import, with exemption from import duties and other indirect taxes:

- a) personal effects and the goods for sporting purposes, in accordance with Article 360 of the Decision and
- b) means of transport for private use in accordance with Article 355 to 358 of the Decision 2. If necessary, by examining travel document, or some other appropriate document, the customs officer will determine whether the passenger concerned falls under Paragraph 1 of this Article.

Article 16
(temporary import of personal effects and items for sporting purposes)

1. New or used items that the passenger needs during his journey are considered as passenger's personal effects (items), taking into account all the circumstances of the journey (gender and occupation of the passenger, season, duration and the purpose of his travelling, time spent in the country, etc.), excluding the goods imported for commercial purposes.
2. The following falls under the goods temporarily imported for sporting purposes: sporting equipment and other items that the passenger uses at the sporting events, demonstrations, or for the training during his stay in BiH. The illustrative list of passenger's personal effects and the goods temporarily imported for sporting purposes is given in Annex 1 of this Instruction.
3. The passenger declares the personal effects and the goods temporarily imported for sporting purposes to the customs at the border:
 - a) Orally, in accordance with Article 58, Paragraph 1, Item c) of the Law and Article 136, Paragraph 1, Item b) of the Decision
 - b) By one of the acts from Article 140 of the Decision(by some other act),

c) In writing, at request of the customs, by lodging the customs declaration when amount of import duties involved is high or when there is a serious risk of non-compliance with the obligations concerning the procedure (Article 376 of the Decision)

4. In the case from Paragraph 3 Item a) of this Article, together with an oral customs declaration for temporary import, the List of Items from Article 17 of this Instruction is to be submitted, showing the items which passenger temporarily brings in/takes out (hereinafter: the Item List).

Article 17 **(the form of the Item List)**

1. The specimen, that is, the form and the contents of the Item List, in accordance with Article 302 Paragraph 2 of the Decision is given in Annex 2 of this Instruction. The form of the Item List is printed in batches of 50 sheets (25 sets), in A-4 format, each block to exhibit two consecutive sheets labelled with the same serial number and making up one set.

2. All the forms are perforated at the top, alongside the whole width. The first copy of the Item List has a carbonated reverse side and is printed in green and the second in blue.

3. Printing and delivery of the forms to customs will be provided by Sector for Business Services.

Article 18 **(procedure of declaring according to Item List)**

1. The passenger is obliged to enter on the Item List personal effects and the goods for sporting purposes which he/she temporarily imports/brings in. The Item List is completed and signed in two copies.

2. The passenger enters to the Item List: the name and surname, address, identification document number and the place/country of issuance (passport, identity card and similar) and the details of items she/he temporary brings in. The particulars are entered separately for each item, stating all the characterizing data by which the items can be identified when being re-exported (returned) abroad (kind, quantity, name, brand, type, manufacturer or other number, production year, whether they are new or have been used, and other data characterizing such goods).

3. The customs officer is obliged to examine the declared items and then compare them with the details from the submitted Item List. If the declared condition according to the Item List corresponds to the actual, the customs officer will enter to the List the note: "examined, clear and valid", followed by the date and time of temporary admission, certifying both copies by his signature (stating the official code) and official stamp. The officer retains the first copy of the List for official records and hands the other copy to the passenger. The copy of the Item List retained by the customs office is put away according to the issuance date and is kept for three years from the date of issuance.

Article 19 **(procedure of discharge of temporary import of personal effects and goods for sporting purposes by re-export)**

1. Temporary imported personal effect and items intended for sporting purposes that on arrival passenger declared to customs office of entry orally or by an act from Article 140 of the Decision, when being re-exported abroad he/she declares to the customs office of exit at the border in the same manner as when they were temporary imported/brought in.

2. On their re-export abroad, the passenger is obliged to declare the personal effects and items for sporting purposes temporary imported with the lodging of the Item List to exit customs office at the border and to present both the goods and the Item List. The customs officer is obliged to compare the personal effects and items for sporting purposes which the passenger takes out with the Item List and if he has established that the actual state correspond to the details on the Item List, he will retain the Item List presented and allow the passenger to continue his journey. The customs officer is obliged to label the retained copy with "examined, clear and valid" and then certify this with his signature and official stamp, stating the date and time of the examination of the items. The customs officer is obliged

to enclose the retained Item List to the original from Article 18, Paragraph 3 of this Instruction and in this way the temporary import procedure has been discharged.

3. In the case that the border customs office of exit via which personal effects and items for sporting purposes were re-exported abroad is not the same office via which they were temporary imported, the border customs office of exit will send the retained Item List by official mail to the latter and will retain a copy of it. The received Item List will be enclosed to the original and in this way the temporary import procedure has been discharged.

4. Personal effects and items intended for sporting purposes, temporary imported with the lodging of a written customs declaration are discharged by lodging a customs declaration for re-export

Article 20

(procedure of discharge of temporary import of personal effects and goods for sporting purposes by clearance)

1. If the passenger wants to clear all or just part of the temporary imported personal effects and the goods for sporting purposes, he should address the closest customs station, in order to declare them for clearance. In that case the goods are declared for clearance, provided that the prescribed conditions are met, by making reference to the Item list or declaration number in box 40 of customs declaration, depending on the manner according to which the goods were declared at temporary import.

2. When the personal effects and items for sporting purposes temporary imported by lodging of the Item List are partially cleared, the customs officer will label the Item List with "goods under ordinal number _____ on the Item List cleared according to the customs declaration no. _____ (state the kind of declaration, for example IM4) from ___", to be certified with his signature and official stamp. The customs officer will return the certified Item List to the passenger so that temporary import can be discharged at the border office of exit and will retain a copy of it, together with the customs declaration.

Article 21

(temporary import of vehicle for private use)

The procedure of temporary import of vehicles for private use intended for re-export from BiH will be regulated by a separate instruction.

CHAPTER V-TEMPORARY IMPORT, TEMPORARY EXPORT AND TRANSIT OF SPORTING AND HUNTING WEAPONS AND AMMUNITION

Article 22

(temporary import, temporary export and transit of sporting and hunting weapons and ammunition)

1. The method and procedure of temporary import, temporary export and transit of sporting and hunting weapons and ammunition for taking part in organized sports training, competitions or hunting, as well as what is to be considered as hunting and sporting weapons, is regulated by the Instruction on the Method and Procedure for Temporary Import, Export and Transit of Sporting and Hunting Weapons and Ammunition. (Official Gazette BiH, no.56/05).

2. The application for temporary import, export and transit of sporting and hunting weapons and ammunition, is to be submitted by the passenger to the border customs office in two identical copies. The application should in particular contain:

- a) the name, father's name, and the name of the person handling the weapon
- b) the address to which the weapons are delivered or transported
- c) the identification document for sporting and hunting weapons as follows:
 1. for sporting weapons: the list of weapons, equipment for weapons and ammunition (serial number, manufacturer, ammunition calibre and accompanying equipment) certified by the national professional association

- 2. for hunting weapons: the weapon list,
 - d) the means of transport
 - e) departure date and estimated arrival date
 - f) the invitation letter by the organizer, in the name of the persons concerned
 - g) the border crossing via which they will enter and exit
- 3. Temporary import, export and transit can be approved for not more than three pieces of sporting/hunting weapons per person, together with the equipment thereof and certain quantity of ammunition as per one piece of weapons, depending on caliber as follows:
 - a) for sporting firearms:
 - 1. ball 12 mm up to 500 pcs
 - 2. cartridges with 12 mm buckshot mm up to 500 pcs
 - 3. ball 5,6 mm up to 3000 pcs.
 - 4. 4,5 mm diables up to 5 000 pcs
 - for hunting firearms:
 - 1. 4-36 mm cartridge up to 100 pcs
 - 2. 6,5-8mm bullet up to 20 pcs
- 4. Sporting, hunting weapons and ammunition must be carried in the personal luggage of the passenger in whose name the authorisation for temporary import, export and transit has been issued.
- 5. The organizer from Paragraph 2, Item f) should issue a receipt showing the number of bullets used by the participants for the event to which they were invited.
- 6. The form of the request from Paragraph (2) of this Article is given in Annex 3 of this Instruction to which the provisions of Article 17 to 20 of this Instruction are applied appropriately (mutatis mutandis).

Article 23
(procedure of temporary import and re-export of sporting and hunting weapons and ammunition)

The provisions of Article 18 and 20 of this Instruction appropriately apply to temporary import of sporting and hunting weapons and ammunition and their reexport from the customs territory of BiH.

Article 24
(procedure of temporary export and re-import of sporting and hunting weapons and ammunition)

The provisions of Article 18 and 19 of this Instruction appropriately apply to temporary export of sporting and hunting weapons and ammunition and their reimport into customs territory of BiH.

Article 25
(transit procedure for sporting and hunting weapons and ammunition)

The provision of Article 18 and 19 of this Instruction appropriately apply to transit of sporting and hunting weapons and ammunition, taking into account that the customs office of exit (destination) after it has certified the application for transit of sporting and hunting weapons and ammunition from Article 22 of this Instruction is obliged to submit it via mail to the customs office of entry so that the transit procedure can be discharged.

CHAPTER VI-EXPORT PROCEDURE WITHIN PASSENGER TRAFFIC

Article 26
(export right)

Departing passenger can export /take out:

- a) non-commercial goods

- b) personal effects and goods for sporting purposes temporarily
- c) means of transport for private use temporarily
- d) temporary imported personal effects and sporting equipment from Article 5, Item c) of this Instruction and
- e) temporary imported vehicles for private use from Article 5, Item d) of this Instruction

Article 27
(declaring goods)

1. When crossing the customs line, the departing (exiting) passengers are obliged to declare to the customs authorities and at their request also present all the items they carry with them. The customs authorities will decide whether they will examine the goods declared or accept oral declaration of the passenger, without checking the goods.
2. The passenger can declare non-commercial goods orally, in accordance with Article 133 of the Decision, or by an act from Article 140 ,Paragraph 1, Item b) of the Decision (Article 138, Paragraph 1, Item a) of the Decision).
3. The manner of declaring the goods for export procedure is regulated more closely by a separate instruction on export procedure.

Article 28
(temporary export of personal effects and items for sporting purposes)

1. The passengers with residence in BiH who are leaving abroad and are temporary taking out the personal effects and items for sporting purposes from Annex 1 of this Instruction are obliged to declare those goods to the customs authorities orally, with lodging of the Item List in two copies, on the form of Annex 2 of this Instruction. In that case Article 18 of this Instruction is appropriately applied to the procedure of temporary export. The passenger is committing a customs violation by entering on the Item List the particulars of the goods that he actually does not carry with him.
2. When on his return from abroad the passenger imports again (returns) the items which in accordance with Paragraph 1 of this Article he/she temporary took out, she/he is obliged to declare those items to customs office of entry by submitting the Item List certified and returned by the customs office of exit during temporary export. By means of this Item List passenger proves that those are the same items which he temporarily took out in order to exercise his/her right to exemption from payment of import duties on returned goods. Article 19 of this Instruction is applied appropriately to the procedure of re-import of items which were temporary exported/taken out.
3. If the Item List according to which the goods were temporary exported gets lost or on departure passenger did not declare to the customs the items he temporary took out, when importing those items back, the passenger can by means of a sales invoice, customs declaration of importing country (if any) the guarantee list or in some other way prove that he actually took the items abroad, provided that they enable the identification of the goods, that is, determination that those goods are the same goods which were temporary exported. The passenger commits a customs violation if when entering the customs territory of BiH he declares the goods he carries with himself as those he brings back while he/she cannot prove that those are the goods he/she temporary took out from that territory.

Article 29
(temporary export of vehicle)

The procedure of temporary export of vehicle for private use intended for re-import to BiH will be regulated by a separate Instruction.

CHAPTER VII-Foreign currency control and other provisions on passenger traffic

Article 30

(effective foreign money, securities and bonds brought in/taken out)

1. Control over the effective foreign money, securities, and bonds in foreign currency brought in/taken out within passenger traffic is carried out by the customs at the border crossings, in accordance with the Rulebook on the conditions and the procedure of taking out effective foreign money, securities and bonds in the foreign currency (Official Gazette FBiH , no.35/00) and the Decree on taking out / bringing in effective foreign currency, convertible marks, checks and securities (Official Gazette RS, no.16/05).

2. For each transfer of foreign money (coins or BiH currency or currency of any other country, traveller checks, postal remittance and other means of payment where the legal owner changes on delivery) and the bonds via the border frontier amounting to 10 000 KM or more, the customs authorities, in accordance with Article 25 of the Law on Prevention of Money Laundering (Official Gazette BiH, no.29/04), will forward the data to Financial-Intelligence Section (FOO), Agency for Investigation and Protection of BiH, via the Section for Business Services at the Regional Centre, in the manner prescribed by a separate act.

3. The details from Paragraph 2 of this Article should include:

- a) the name, surname, the date of birth and the place of residence of the person transferring cash and securities via the state border,
- b) the name and the headquarters of the legal person or name, surname and residence of natural person on whose behalf the transfer of cash or securities is carried out via the state border,
- c) the information on whether this transfer has been declared to the customs authorities.

Article 31

(customs procedure with luggage regarding air and sea traffic)

The provisions of Article 99 to 105 of the Decision and the provisions of this Instruction shall apply to control and the customs procedure in relation to the passenger's luggage in air and sea traffic.

Article 32

(import/export of works of art and antiques)

Import/bringing in and export/taking out of works of art and antiques determined by Annex III as integral part of the Decision on Classification of the Goods Subject to Export and Import Regime (Official Gazette BiH, no.22/98,40/02) are subject to licence by the Ministry of Foreign Trade and Economic Relations in BiH, in accordance with the Instruction on Issuance of Licenses for Import and Export of Works of Arts and Antiques (Official Gazette BiH, no.41/02).

CHAPTER X-TRANSITIONAL AND FINAL PROVISIONS

Article 33

(cessation of the validity of the previous regulations)

On the day this Instruction enters into force all the previous acts by which issues subject of this Instruction have been regulated shall no longer apply.

Article 34
(integral parts and entry into force)

1. Integral parts of this Instruction are Annex 1-illustrative list of personal effects and items for sporting purposes, Annex 2-list of items which passenger temporarily bring in/take out, Annex 3-application for temporary import/export/transit of sporting and hunting weapons and ammunition.
2. This Instruction enters into force on the eighth day from the day it has been published in Official Gazette of Bosnia and Herzegovina and will be published on web page of Indirect Taxation Authority of BiH.

DIRECTOR
KEMAL ČAUŠEVIĆ