Strasbourg, 10 December 2008

MONEYVAL (2008)36 REV1

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

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

Written progress report submitted to MONEYVAL by ANDORRA[1]

[1] As adopted by MONEYVAL at its 28th Plenary Meeting (Strasbourg, 8-12 December 2008). For further information on the examination and adoption of this report, please refer to the Meeting report (ref. MONEYVAL (2008) 40 at http://www.coe.int/moneyval

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1. *General overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field*

ANDORRAN NATIONAL STRATEGY ON AML/CFT

Since the adoption of the assessment report at the MONEYVAL 24th plenary meeting, on 14 September 2007[2], major developments have taken place in Andorra in connection with the prevention of money laundering and the fight against terrorist financing (AML/CFT).

The implementation of MONEYVAL recommendations on AML/CFT matters has become a national priority, entailing new legislative initiatives (most of which are already in force at the time of issuing this progress report) and the review of the overall AML/CFT system in Andorra with the aim of achieving the most effective framework for the fight against money laundering and the financing of terrorism.

In 2007 the Government of Andorra comissioned the Andorran Financial Intelligence Unit (FIU or UPB) to draft a national strategy on AML/CFT. The document was formally adopted by the Andorran Government in December 2007, thus evidencing the commitment of the Andorran authorities in this field, and defining a global and integrated three-level system:

(i) the implementation of the MONEYVAL Recommendations by means of the modification of the existing legal framework, including the amendment of the Criminal Code (e.g. criminalization of terrorist financing) and AML/CFT regulations (e.g. strengthening of CDD obligations, review of the supervision system, implementation of EU standards and FATF recommendations);

(ii) the granting of reinforced functions and competencies to the Andorran FIU (as regards supervision, regulation, investigation and national and international cooperation), which strengthen its central role within the AML/CFT system in Andorra; and

(iii) the involvement of the public and private sectors in Andorra's AML/CFT efforts, through the implementation of a number of training and awareness raising measures, such as meetings with business associations, the setting up of a working group with the Andorran Banking Association and the creation of a Permanent Commission integrated by the FIU and other competent authorities to co-operate and coordinate AML/CFT policies and activities, thus allowing welcome feedback and direct communication between the parties under obligation and the supervisor.

THE ROLE OF THE ANDORRAN FIU (UPB) AS SUPERVISOR AND COORDINATOR OF AML/CFT ACTIVITIES

In accordance with the MONEYVAL recommendations included in the third round detailed assessment report on Andorra, the Andorran FIU (UPB) has reinforced its central role in the AML/CFT system, in the exercise of the following competencies:

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[2] Adopted by MONEYVAL in its 24th plenary meeting (10-14 September 2007). Strasbourg, 23 July 2008. MONEYVAL (2007) 14.

(i) Supervision of AML/CFT related matters

UPB is empowered as the supervisor of AML/CFT matters covering all subjects (financial and non-financial) under obligation. Therefore, UPB has exclusive jurisdiction and a complete range of competencies relating to supervision of AML/CFT including on-site inspections, monitoring of internal and external auditing, and, as per the new legislative initiatives, sanctioning procedures for non-compliance.

In its capacity as AML/CFT supervisor, UPB also covers the insurance sector and has established a good working relationship with the current supervisor of insurance companies, the Ministry of Finance. Some of the Andorran insurance companies are controlled by banks, and therefore are in fact subject to the financial prudential supervision of INAF besides the supervision of the UPB. For issues connected to AML/CFT, in a risk-based evaluation, UPB is managing the supervision proactively.

Pursuant to the MONEYVAL Recommendations, cooperation and coordination with the prudential financial supervisor (INAF) have been strengthened in 2007 and 2008 to achieve a comprehensive monitoring of AML/CFT measures in the financial sector. Thus, INAF informs UPB of any circumstances that result from annual audits and both on-site and off-site inspections carried out for prudential supervision purposes. Likewise, the amendments to the AML/CFT legislation will widen the scope of the information that UPB will be required to send to the INAF in ML/FT cases when there is a financial institution involved. Based on the experience gained in these last few years, both supervisors have considered defining their common strategy and efforts in a Memorandum of Understanding that is already at an advanced stage of drafting. It will cover their regulatory competences, day-to-day supervisory work, all aspects of the exchange of information and contain clear procedures to ensure a strong sanctioning regime, among other matters.

In the exercise of its competencies, the UPB has conducted, among others, the following activities in the last 12 months:

- On-site inspection of 2 banks (out of 5); 2 non-banking financial entities (out of 5); 2 life insurance companies (out of 14).
- Off-site inspection of all audit reports and additional documentation of these entities (24 entities). UPB has requested AML/CFT external audit reports of insurance companies and non-banking financial entities to include a sample review of client accounts. In the case of banks, in 2008 the sample has been significantly increased to a level guaranteeing a margin of error of less than 1%.
- All off-site inspections have been followed-up with discussions with the entities concerned and have led to the entity providing UPB with a formal letter detailing its future AML/CFT work.
- On-site inspections, including follow-up discussions, of 13 DNFBPs (including notaries, lawyers, real estate agents, jewellers and accountants).
- UPB has checked the internal regulations of all financial entities and certificates have been issued on compliance with Andorran law relating to AML/CFT, requesting improvements where necessary.
- Two sanction procedures have been initiated by UPB.

(ii) Analysis and investigation of STR and other relevant information

The UPB is the Andorran FIU that acts as a central body for all money laundering and terrorist financing declarations from all subjects under obligation (both financial and non-financial) and is therefore responsible for receiving, analysing, and disseminating disclosures of suspicious transaction reports (STRs) and other relevant information concerning suspected ML or FT.

(iii) Regulation of AML/CFT related matters

UPB competence for the definition of national AML/CFT policies has been reinforced by clearly establishing that its communiqués are binding and enabling it to submit legislative and regulatory proposals to legislators.

(iv) International and national cooperation

- **International cooperation**

In the international field, UPB co-operates with counterpart organisations in accordance with the Egmont Group's Statement of Purpose and sections 55 and 56 of the LCPI. As the Andorran FIU, the UPB joined the Egmont Group in June 2002 and has signed several co-operation agreements with its counterparts in Spain, France, Belgium, Portugal, Luxembourg, Monaco, Poland, the Netherlands Antilles, the Bahamas, Thailand, Albania, Mexico, Panama and Peru. This international cooperation mainly relates to communications, requests for information, responses to requests for information and reports of suspicion. Fast and fluent communication in response to international requests has been given priority in order to achieve a high degree of effectiveness in the coordinated AML/CFT efforts.

In this context, we would also point out that fluent relations have been encouraged by the meetings with counterpart FIUs or the Egmont Group:

- SEPBLAC (Spanish FIU), Madrid, December 2007
- Dirección General del Tesoro (Spanish Treasury), Madrid, January 2008
- Egmont Group: Santiago de Chile (working group), March 2008
- TRACFIN (French FIU), Paris, April 2008.
- Egmont Group: Plenary meeting in Seoul, May 2008

As a result of the meetings held with SEPBLAC and TRACFIN, it was agreed that UPB will receive training in supervision matters, and technical assistance in the assessment of country risks.

The Andorran FIU participates in FATF and Egmont surveys regarding AML/CFT issues (international cooperation, etc), which include technical questionnaires and other initiatives regarding the risk of laundering. For example, the UPB recently participated in various type definition exercises (*FATF Typology Project on Proliferation Financing)*, by explaining the most common systems of laundering used in the Principality.

The UPB has also contributed to the Egmont "*Questionnaire Regarding Limitations on the Sharing of Information Regarding Money Laundering and Terrorist Financing Suspicion within Financial Institutions Operating in Multiple Jurisdictions*".

Also in the international context, the Principality of Andorra had the honour of being appointed, together with two other countries, as a representative of the MONEYVAL delegation to FATF. For this reason, the UPB attended FATF plenary meetings in October 2007 and July 2008. In 2007 the UPB attended five plenary meetings of MONEYVAL and one preliminary evaluation meeting. This activity has continued in 2008 with attendance at plenary meetings and other sessions, in order to take an active part in MONEYVAL evaluation processes (for instance, training of the UPB's general manager as a financial evaluator, Poland progress report and Montenegro assessment report).

- **National cooperation**

- ***Permanent Commission on AML/CFT***

A Permanent Commission on money laundering and financing of terrorism was created in February 2008. This Commission has permanent members who represent the Ministry of External Affairs, the Ministry of Justice and Interior, the Ministry of Finance and the Presidency, the Ministry of Economy, INAF and UPB. Each institution is represented by designated members and an alternate member in order to avoid absences making the day-to-day tasks of the Commission difficult to achieve.

The main functions of this Commission are to:

- Provide legal advice on legislative proposals.
- Assist the UPB in its international activities (working groups, members of Andorran delegations in international meetings).
- Participate in the design and application of AML/CT policies and measures.

The Commission holds its meetings on a quarterly basis, although the head of the UPB may convene extraordinary meetings. To date, the Commission has met three times and discussed the following matters:

- Review and discussion of MONEYVAL's third evaluation report;
- Legislative initiatives to implement MONEYVAL Recommendations contained in the assessment report
- Follow-up of the actions taken by the UPB and its participation in international meetings; and
- Advising on the ratification of the 1999 New York Convention.
- Advising on the progress report;

Other institutions may also participate in the meetings of the Commission upon previous agreement of the permanent members in order to either contribute to the work in progress, where appropriate, or increase their awareness on AML/CFT.

- ***Commission for clearance of foreign investments in Andorra***

Pursuant to Law 2/2008 of 8 April, foreign investments in Andorra are subject to prior clearance by the AML/CFT authorities. In order to comply with this requirement, work is in progress to set up a Commission composed of the UPB, the Ministry of the Presidency (Corporate entities registry department) and the Ministry of Justice and Interior (Police Department). The purpose of this Commission is to verify that intended foreign investments do not entail ML/FT risks.

- ***Working Group with the Andorran banking sector***

In 2007 it was promoted the setting up of a working group on AML/CFT matters, integrated by the UPB and the Andorran Banking Association. The group meets on a monthly basis and encourages fluent cooperation between the banking industry and its supervisor coordinating efforts as regards the analysis and application of the ongoing developments on AML/CFT best practices.

(v) Training and awareness-raising

From a training and awareness-raising perspective, during the first quarter of 2007 the Andorran FIU organized a training course on the prevention and detection of operations susceptible to money laundering, which was attended by the majority of the persons working in the Andorran financial system.

In May 2008, the Andorran FIU offered training programs to financial entities and DNFBPs (including notaries, lawyers, external accountants, tax advisers, auditors, economists and business agents, real estate agents and dealers in valuable goods). Also on the 4th of December 2008, an additional training program for real state agents will be held at the University of Andorra.

In these training programs, after a general overview of money laundering and financing of terrorism, the attendants were advised of their duties (KYC rules, obligation to report suspicious activities, internal control, etc) to prevent money laundering and financing of terrorism, and the sanctions imposed by the LCPI and the Criminal Code. A broad review of the implications of the new legislative framework on AML/CFT for each sector was also discussed.

The Andorran FIU also has regular meetings and contacts with almost all the DNFBP associations (including: AGIA – real estate agents' association; Gremi de Joiers – jewellers' association; Col·legi d'Advocats d'Andorra – Andorran bar association; Col·legi de Notaris d'Andorra – Association of Andorran Notaries). They are involved in all the training programs to promote AML/CFT efforts, and the Andorran FIU also arranges meetings with these associations periodically.

EFFECTIVENESS OF THE AML/CFT MEASURES IN ANDORRA

The application of the Andorran National Plan on AML/CFT and the increase in the UPB's activities deriving therefrom has produced the following results in 2008, which must be interpreted in the light of the country and its economic activity:

(i) Since the last on-site visit, (years 2005 to 2008), 32.388.607'68 euros have been frozen in AML/CFT related cases

(ii) 2 foreign judgments have been enforced in Andorra in 2008:

- First judgment found 4 people guilty and confiscated € 80,549 deposited in Andorran banks;
- Second judgment found 4 people guilty, confiscated € 1,100,494 and GBP 61,369.43 (€ 75,539) deposited in Andorran banks, and ordered the confiscation of a flat in Andorra.

(iii) In October 2008, 3 new criminal proceedings were pending to be heard before the Andorran Courts. The details are as follows:

- Case 1: Ref. TC-051-4/02 5 people accused. Freezing of bank accounts holding € 113,831.15 and GBP 5,000 deposited with INAF. Additional freezing of bank accounts holding € 239,466.84. Two properties and a vehicle have been seized.
- Case 2:Ref. TC-075-5/06 3 people accused. € 12,000 frozen. Assets and rights of 3 companies have already been seized.
- Case 3:Ref. TC-122-3/06 2 people accused. A flat has been seized.

(iv) In 24 September 2008, a criminal judgment regarding a money laundering case in Andorra ended up with the following conviction:

- Ref. TC-003-2/96 The judgment found 2 people guilty of money laundering. They were imprisoned for 5 years, a fine of € 300,000 was imposed and € 1,256,582 were confiscated.

Note the above is the second criminal judgment regarding a money laundering case in Andorra since 2005. In 21 September 2005, -Ref TC-070-2/97, 3 people were found guilty of money laundering, being imprisoned also for 5 years, a fine of € 300,000 being imposed and 446.427 euros were confiscated.

THE NEW LEGAL FRAMEWORK

As stated, the evaluation to which this progress report refers was based on the laws, regulations and other materials in force at the time of the on-site visit in October 2005. Therefore, this section outlines the developments from that date in order to provide a comprehensive overview of the efforts made by the Andorran authorities and the parties subject to the application of measures to prevent money laundering and terrorist financing.

Following the recommended actions contained in the third round detailed assessment report on Andorra, the Andorran authorities have promoted the following legislative initiatives (in chronological order):

- INAF's binding communiqué no. 163/2005 of 23 February 2006, on rules of ethics and behaviour of financial entities operating in Andorra, including international AML/CFT standards to be met by financial entities.

- INAF's binding communiqué no. 186/08 of 12 November 2008, stating that omnibus accounts can only be held by financial entities, requiring due diligence in the arrangements for the holding and safekeeping of the funds or securities held on behalf of third parties.

- Adherence, on 22 March 2007, to the International Convention for the Suppression of Counterfeiting Currency and to the Protocol to the International Convention for the Suppression of Counterfeiting Currency, adopted in Geneva on 20 April 1929.

- Ratification, on 18 October 2007, of the Criminal Law Convention on Corruption, adopted in Strasbourg on 27 January 1999.

- Ratification, on 6 May 2008, of the Council of Europe Convention on the Prevention of Terrorism, adopted in Warsaw on 16 May 2005.

- Ratification, on 12 June 2008, of the International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999.

- Act 15/2008 of 3 October 2008 on the amendment to the Criminal Code of 21 February 2005, which modifies and introduces provisions relating to money laundering and financing of terrorism offences in order to adopt most MONEYVAL Recommendations. Act 15/2008 was passed by the Andorran Parliament in its ordinary session of 3 October 2008, and published in the Andorran Official Gazette on 27 October 2008 (hereinafter referred to as "**the amended Criminal Code**").

- Act 16/2008 of 3 October 2008 on the amendment of the Criminal Procedure Code of 10 December 1998, which (as with Act 15/2008) modifies and introduces provisions relating to money laundering and financing of terrorism offences in order to adopt most MONEYVAL Recommendations. Act 16/2008 was passed by the Andorran Parliament in its ordinary session of 3 October 2008, and published in the Andorran Official Gazette on 27 October 2008.

- Amendment to the Law on international criminal cooperation and the fight against the laundering of money and securities deriving from international delinquency of 29 December 2000, ("*Llei de cooperació penal internacional i de lluita contra el blanqueig de diners o valors producte de la delinqüència internacional*") (hereinafter "**LCPI**"), by means of a legislative proposal submitted to the Andorran Parliament ("*Consell General*") on 9 May 2008 that is expected to be passed before the end of 2008 (hereinafter, "**the LCPI bill**").[3]

[3] The LCPI bill was adopted on 11 December 2008.

> It must be stressed that many of the comments made in this report regarding the measures taken to implement the Recommendations of the MONEYVAL report refer to the LCPI bill and therefore, to legal provisions which have not been fully enacted on the date of this progress report. This notwithstanding, in practice, the Andorran financial sector is already applying most of the criteria contained therein.
>
> The LCPI bill is at the end of the parliamentary procedure (i.e. the ordinary period for tabling amendments has already expired) and thus, no modifications are expected. There is a political consensus that AML/CFT strategies are of the utmost importance.

The amendments to both the LCPI and the Criminal Code have paid close attention to the criteria laid down by the Methodology for assessing compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations. In addition, the wording of the proposed amendments takes into account European Union legislation, where applicable, in order to achieve a higher degree of compliance with the international standards. In particular,

- Directive 2005/60/EC of the European Parliament and of the Council, of 26 October, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

- Commission Directive, 2006/70/EC, of 1 August, laying down implementing measures as regards the definition of "politically exposed persons" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

- Regulation (EC) No. 1781/2006 of the European Parliament and of the Council, of 15 November 2006, on information on the payer accompanying transfer of funds.

In addition, the Andorran authorities are working on the amendment of the LCPI Regulations currently in force (Decree of 31 July 2002) in order to bring them into line with the LCPI bill. It is expected that the new regulations will be approved once the LCPI bill is definitively adopted by the Andorran Parliament.

Together with the development of the AML/CFT legislation, corporate, accounting and financial legislation has also been updated in order to observe international standards in these areas. The following are the most relevant recently enacted legal provisions:

- Law 20/2007, of 18 October, on public limited companies and limited liability companies, which implements measures to make public the identity of shareholders and members of the management body of companies.

- Law 30/2007, of 20 September, on business accounting.

- Decree of 26 March 2008, amending the Commercial Registry regulations, which requires that changes in the shareholding of companies and their management bodies be reported.

- Law 2/2008, of 8 April, on foreign investments, pursuant to which foreign investments in Andorra are subject to prior clearance by the AML/CFT authorities.

- Law 10/2008, of 12 June, on the regulation of Collective Investments Undertakings under Andorran law.

- Law 11/2008, of 12 June, on the regulation of foundations.

- Decree of 23 July 2008, on the approval of the General Accounting Plan.

In addition to these legislative measures that have already been enacted are the following bills on the regulatory framework of the Andorran financial system that bring Andorran legislation into line with recent European developments and, of particular note, with the MiFID provisions on issues related to investment service providers, such as their organizational structure, corporate governance, risk management and customer classification, among others:

- Bill for a Law regulating specialized credit institutions (not banks).

- Bill for a Law regulating banking entities and the basic administrative aspects of entities operating in the financial system.

- Bill for a Law regulating investment institutions and the management companies of collective investment undertakings.

SUMMARY OF HIGHLIGHTS OF THE IMPLEMENTATION OF MONEYVAL RECOMMENDATIONS

The main measures taken to implement the Recommendations of the report may be summarised as follows:

(i) Extension of Customer Due Diligence (CDD) and reporting obligations to the financing of terrorism, which has been criminalised (R.1).

(ii) Wide-ranging review of the application of R.5, including, among other measures:

  - The implementation of a definition of beneficial owner considering the FATF glossary definition and article 3 of Directive 2005/60/EC.

  - The clarification of express limitations to the use of omnibus accounts by financial entities by means of binding communiqué 186/08 issued by the Andorran prudential supervisor (INAF) on the use of omnibus accounts in Andorra, which clearly states that omnibus accounts can only be held by financial entities and requires due diligence in the arrangements for the holding and safekeeping of the funds or securities held on behalf of third parties.

  - During on-site and off-site inspections the UPB has paid attention to the strict application of KYC rules in order to identify the client and the beneficial owner. The reinforced level of audit sampling in 2008 has led UPB to conclude that financial entities are paying proper attention to this matter.

  - CDD obligations have been clearly extended to insurance companies offering life assurance products. UPB has taken a proactive approach to achieve an effective coordination with the Ministry of Finance.

- Principle of risk has been introduced. Enhanced CDD measures are required in the case of PEPs and other risky situations. For these purposes, Directive 2005/60/EC has been considered.

- In general terms, CDD and reporting obligations have been widened and strengthened in accordance with FATF and EU standards (e.g. requiring relevant and updated information on the client and beneficial owners and their activities, full identification and verification of clients and beneficial owners) that are applicable to both financial parties under obligation and to DNFBPs.

(iii) Measures regarding the supervisory and oversight system (R.17, 23, 25, 29, 30 and 32).

- Supervision in Andorra has been substantially strengthened both on the prudential side and AML/CFT. The starting point in most cases will be the external auditor reports that are required by law and whose content is prescribed by INAF and UPB. The external auditor is an essential element of the supervisory system, allowing Andorra to profit from the breadth of experience of large international audit companies while ensuring, through strong supervisory control, their full compliance with the Andorran legal system and the specific instructions of the Andorran supervisor.

- In 2008, for the first time, UPB has required AML/CFT external audit reports of insurance companies and non-banking financial entities to include a sample review of client accounts. In the case of banks (whose consolidated audit reports also include a number of insurance companies and non-banking financial entities), the sample has been substantially increased to a level guaranteeing a margin of error of less than 1%.

- The next step is the analysis of the audit reports by both INAF and UPB in relation to areas for which they are competent, formal exchange of information between the authorities to ensure a complete picture for both supervisors and a consistency check with the work done by direct on-site inspection by both supervisors. Based on this, in 2008 both supervisors have widened the scope of their assessment of the compliance of their supervised entities. Further to the additional sampling described above (UPB), INAF and UPB held follow-up meetings with auditors and supervised entities, and requested further formal letters certifying certain actions taken in the supervised entities. Both institutions have in parallel to this effort conducted on-site inspections which led to a similar follow-up.

- The UPB has taken measures with regard to the French and Spanish postal services (in relation to their money remittance services) in order to bring both entities under full Andorran AML/CFT supervision, applying the same level of AML/CFT controls as Andorran financial entities (CDD, external audits, internal regulations revision, STR's, etc.).

(iv) Measures in connection with PEPs, correspondent banking and shell banks, and particularly DNFBPs (supervision, training), among others, have also been implemented in order to fulfil the Recommendations of the third evaluation report.

(v) As regards DNFBPs, the Andorran list goes beyond FATF's four remaining DNFBPs categories, providing for full compliance with criterion 20.1. In this sense, it is relevant to point out that FATF definition of high value dealers is limited to precious metals and

precious stones traders while the Andorran definition applies the wider concept laid down in paragraph article 2.1.(e) of Directive 2005/60/EC. Moreover, article 42 of the LCPI goes beyond the FATF recommendations by stipulating that all natural or legal persons may be subject to the provisions of the law, and accordingly, to the supervision of FIU, as long as its activities may facilitate the money laundering or the financing of terrorism.

2. *Key recommendations*

Please indicate improvements which have been made in respect of the FATF Key Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV) and the Recommended Action Plan (Appendix 1).

Recommendation 1 (Money Laundering offence)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- bring the definition of laundering into line with UN instruments and the criteria in FATF Recommendation 1*
Measures taken to implement the Recommendation of the Report	Article 409 of the amended Criminal Code brings Andorran legislation into line with the criteria in FATF Recommendation 1. Thus, Money laundering is criminalised on the basis of the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) and the 2000 UN Convention against Transnational Organized Crime (the Palermo Convention), covering the physical and material elements of the offence. "***Article 409 Money laundering*** *1. Any individual who acquires or transfers money, assets or securities or commits any act or omission in order to conceal them, their origin or their offset, shall be punished with penalties of imprisonment from one to five years and a fine of up to three times their value, when the said money, assets or securities derive from any serious offence punishable with a minimum term of imprisonment of at least six months, or from any criminal offence of prostitution, concussion, illegal exactions, corruption, influence peddling or drug trafficking, and the said individual is aware of their origin without having been convicted as perpetrator or abettor of these offences.* *An attempt to commit, the conspiracy and the incitement to commit such a crime shall be punishable.*"
Recommendation of the MONEYVAL Report	*- extend the list of underlying predicate offences, for example to all serious offences, or all offences liable to maximum terms of imprisonment of more than a year or minimum terms of at least six months*
Measures taken to implement the Recommendation of the Report	Article 409 of the amended Criminal Code extends the list of underlying predicate offences to any serious offence punishable with a minimum term of imprisonment of at least six months, among others. "*(...) any serious offence punishable with a minimum term of imprisonment of at least six months, or from any criminal offence of prostitution, concussion, illegal exactions, corruption, influence peddling or drug trafficking (...)*"
Recommendation of the MONEYVAL Report	*- reintroduce self-laundering and possibly also (explicitly) laundering by negligence*
Measures taken to implement the Recommendation of the Report	Self laundering is not foreseen as an offence under Andorra Criminal Code in accordance with two fundamental principles of domestic laws, and particularly, of Andorran criminal law system, (i) principle of proportionality with regard to seriousness of criminal penalties and (ii) principle of "ne bis in idem" with regard to criminal offences. Thus, in the light of such principles, punishment of self laundering would entail, on one hand, a

	prohibited (disproportionate) increase of seriousness of the final penalties imposed to the same individual both for money laundering and for its predicate offence. On the other hand, the fact that predicate offence's range of penalties has already been established taking into account the intention of its perpetrator to obtain the proceeds the crime impedes that such an individual may be punished again ("ne bis in idem") on the grounds of this same criminal intention, which would apply in money laundering offences. Furthermore, the principle of "ne bis in idem" is expressly set forth in article 9 of the amended Criminal Code as it establishes that "*the same fact can not be punished more than once"*. Likewise, this same provision states the principle of absorption (*principi d'absorció)* which means that the most complex and widest offence "absorbs" other possible simpler offences arising from the facts. In other words, the author shall only be punished with the penalty of the most complex or widest offence committed, as any other simpler offences that may concur shall be comprised within the said wider offence. This principle has been applied by Andorran case law in several decisions where the defendant is only punished for the widest offence within other criminal facts are implied. For example, in a case of introduction of drugs into the country and subsequent consumption of them (being both behaviors separate criminal offences under Andorran Law), the Court punished the author only for the crime of introduction of drugs since the subsequent consumption was deemed as either the purpose or the consequence of the previous introduction. Thus the offence consumption of drugs is comprised into the wider offence of introduction of drugs. As regards the punishment of laundering by negligence, article 409.2 of the amended Criminal Code, reads as follows: "***Article 409 Money laundering*** (...) *2. Any individual who, due to gross negligence, commits the conducts described in the previous paragraph shall be punished with a penalty of up to one year of imprisonment*." Thus, laundering by negligence is explicitly introduced in the Criminal Code as a specific criminal offence. It is punished with a less serious penalty of imprisonment in attention to the lack of criminal intent of its perpetrator. In this regard, only gross negligence is deemed to be punishable (i.e. a breach of general standards of care regarding the eventual illicit origin of the relevant money or assets). This configuration of the crime of laundering by negligence is coincident with those contained in criminal legal systems of most EU countries.
Recommendation of the MONEYVAL Report	*- reintroduce criminal liability for legal persons*
Measures taken to implement the Recommendation of the Report	Article 71 of the amended Criminal Code provides specific sanctions to be imposed to legal persons or companies together with the conviction imposed to their representatives or directors for the commission of a crime. In particular, this provision entitles the Judge to order • the company winding up; • its temporary or definitive closure; • the suspension of business; • the judicial management of the company; as well as, • a ban on the company to contract with any government administration.

<table>
<tr><td></td><td>Furthermore, this last amendment to the Criminal Code has also introduced a brand new sanction to be imposed to legal entities who have somehow taken a relevant part in the commission of a crime: an economic sanction which can arise (i) up to the amount of EUR 300,000 or (ii) up to four times the amount of the proceeds obtained <u>or attempted to be obtained</u> with the criminal offence. The inclusion of the intended proceeds of the crime as a ground to determine the amount of the fine is highly significant, as it introduces an element of attempt of the perpetrators (as opposed to the effectively obtained benefit) as the relevant element to quantify the amount of the sanction to be imposed to the legal person.

Likewise, the amended Criminal Code obliges the Judge who decides to impose these kinds of sanctions to legal persons to issue a reasoned and grounded decision in this regard. Therefore, it is possible that case law establishes as a ground o reason to impose these sanctions that the crime is committed for the benefit of that legal person by an individual who occupies a leading position within that company. In this case, a fine may be imposed under the abovementioned criteria up to four times the amount of the obtained proceeds or of the intended proceeds.</td></tr>
<tr><td>(Other) changes since the last evaluation</td><td></td></tr>
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<tr><th colspan="2">Recommendation 5 (Customer due diligence)
I. Regarding financial institutions</th></tr>
<tr><td colspan="2">Rating: Non compliant</td></tr>
<tr><td>Recommendation of the MONEYVAL Report</td><td>The application of recommendation 5 should be subject to wide-ranging review, given the various gaps. In particular the Andorran authorities should:
1) make sure a definition of beneficial owners(hip) is provided for, that would reflect the FATF glossary definition</td></tr>
<tr><td>Measures taken to implement the Recommendation of the Report</td><td>Article 41 of the LCPI bill, brings in line the definition of beneficial owner with the FATF glossary definition, further developed considering article 3 of Directive 2005/60/CE:

“Article 41

For the purposes of this Law, the following terms shall be understood as having the following meanings:

(...)

g) True right-holder or beneficial owner: natural person(s) who ultimately control the customer and/or individual on whose behalf a transaction or activity is being conducted. The right-holder includes, at least:

- In the case of legal persons in the form of a company, the individual or individuals who ultimately control the legal person through direct or indirect ownership or control of a sufficient percentage of its shares or voting rights. For these purposes a percentage of over 25% will be considered sufficient.

- In the case of other legal entities, contractual fiduciary arrangements and other fiduciary structures which administer and distribute funds, the individual or individuals who control over 25% of the funds.”

The ownership concept included in the FATF glossary and the 2005/60/CE Directive, has been introduced with regard to legal persons, legal entities and any other contractual fiduciary arrangements and other fiduciary structures, as ownership cannot refer to natural persons.

The provision refers to contractual fiduciary arrangements and other fiduciary structures in order to cover institutions of fiduciary nature such as foreign “trusts”, not recognized under Andorran legislation, as</td></tr>
</table>

	in many others Roman law countries which are not signatories of the Hague Convention, of 1 July 1985, on the law applicable to trusts and on their recognition.
Recommendation of the MONEYVAL Report	2*) review the application of recommendation 5 to omnibus accounts*
Measures taken to implement the Recommendation of the Report	Recommendation 5 is indeed applicable to omnibus accounts in Andorra. The beneficial owners of Omnibus accounts should be identified by the financial establishment operating the account, subject to the CDD obligations required to the financial sector. "Omnibus" accounts are a wide spread practice in OCDE financial markets considered, inter alia, by the ISDA document "*Collateral Arrangements in the European Financial Markets"* March 2000 (http://www.isda.org/.). It is also relevant to highlight that article 17 of Directive 2006/73/CE, of 10 August 2006, permits the valid existence of omnibus accounts by permitting investment firms to deposit financial instruments held by them on behalf of their clients into an account or accounts opened with a third party provided that the firms exercise all due skill, care and diligence in the selection, appointment and periodic review of the third party and of the arrangements for the holding and safekeeping of those financial instruments. In line with this European Union legislative framework, Omnibus accounts are only permitted to financial parties under obligation, as only financial entities are allowed by Andorran legislation to receive funds and securities from third parties. Under the provisions of the Financial System Act, of 27 November 1993, and section 10 of the Law governing the activities of financial entities operating in Andorra, of 19 December 1996, financial activities are restricted to duly licensed entities. The UPB has paid particular scrutiny to this matter during on-site inspections in order to ensure that banks do not allow use of Omnibus accounts except for other financial institutions under CDD and reporting obligations. In addition, this legal framework has been recently confirmed by means of the binding communiqué 186/08 issued by the Andorran prudential supervisor (INAF) on the use of omnibus accounts in Andorra, which clearly states that omnibus accounts can only be held by financial entities, requiring due diligence in the arrangements for the holding and safekeeping of the funds or securities held on behalf of third parties. Furthermore, the bill for a law regulating banking entities and the basic administrative aspects of entities operating in the financial system to be submitted to the Andorran parliament, lays down particular provisions on the protection of assets held on behalf of third parties, considering the provisions of Directive 2006/73/CE. For the sake of clarity, we emphasize that anonymous accounts or accounts in fictitious names were already not permitted by Andorran legislation at the time of the on-site visit (October 2005). As stated in paragraph 326 of the evaluation report, not to ascertain the client's identity was a serious offence which may be fined with major penalties. The customer identification records are always available to the AML/CFT officer and competent authorities. This notwithstanding, in order to strengthen further the legal prohibition on anonymous accounts, article 49 of the LCPI bill quotes, almost literally, criterion 5.1 of the Methodology for assessing compliance with FATF Recommendations: "***Article 49*** (...) *4. Anonymous accounts and anonymous passbooks are prohibited*."

	Last, pursuant to the LCPI not to ascertain the client's identity is a serious offence which may be fined with major penalties. Thus, article 58.2 of the LCPI bill read as follows: "(...) *The following constitute serious infringements:* *a) not verifying the identity of customers in the terms laid down in article 49, or not having requested the documents required under article 51.* *b) failure to verify sufficiently the true beneficiary of a transaction pursuant to paragraph d of article 49 bis.* *c) failure to keep documents for the period established in article 51* *d) not having adequate and sufficient internal control and internal communication procedures to prevent and impede money laundering and terrorism financing transactions, and not carrying out the specific audit established in article 52.* *e) the repetition of a minor infringement in the same year* (...)"
Recommendation of the MONEYVAL Report	*3) review the application of recommendation 5 to services offered – despite the existing legal prohibitions - by name-lenders*
Measures taken to implement the Recommendation of the Report	Andorran parties under obligation are required to perform a strict application of the KYC rules in order to identify the client and the beneficial owner. In particular, financial entities are required to identify the beneficial owner in its client questionnaires, and if no sufficient information is provided, the transaction should not be carried out and consideration should be given to report to the Andorran FIU. The UPB has paid particular scrutiny to this matter during on-site inspections in order to ensure that banks do not allow the use of "name lenders" to circumvent CDD and reporting obligations. Furthermore, the reinforced level of audit sampling in 2008 has led UPB to conclude that the banking system is paying proper attention to this matter. Therefore, the AML/CFT regulations prevent any potential use of Andorran "name-lenders" from creating ML/FT situations. The country's specific conditions do also contribute to know the identity of the beneficial owner in every single case: only 5 bank entities, reduced population with full residence rights -20,000 out of 83,000 approx.-, inexistent non face-to-face banking. The use of "name-lenders" has no relationship at all with an organized offering of nominee services in order to provide opacity and offshore financial services. This kind of organized industry is not promoted in Andorra. The use of "name-lenders" in Andorra to circumvent legal regulations is an occasional practice limited to minor investments in Andorran assets (basically real estate for vacation, little businesses and commerce) whose ownership is only permitted to Andorran natural persons and is already prohibited by Andorran legislation. Thus, recent judicial cases (referred to the purchase of real estate) are punishing the use of "name-lenders" to circumvent legal provisions in force (i.e. limitations to the acquisition of real estate property by non-residents) with the declaration of the purchase agreement as null and void from a civil standpoint. Furthermore, it is foreseen that the repeal of a number of limitations to foreign investments in Andorra by the recently enacted law 2/2008 will contribute to erase forbidden practice. In any event, the effective application of the AML/CFT CDD and reporting obligations, prevent this from generating a risk of ML/FT. Last, we would point out that paragraph 336 of the evaluation report outlined that Section 51 of the

	LCPI and section 13 of its Regulations, required identification of the beneficial owners/controllers of legal persons or individuals and that said provisions have been reinforced with the following provisions of the LCPI bill: "***Article 43*** *Any persons acting on behalf of third parties are obliged to find out the origin of the funds they receive, and the identity of their true right-holder, in order to avoid money laundering terrorism financing operations.* (...) ***Article 49 bis*** *1. The parties under obligation must diligently verify the identity of the customer and, if necessary, the beneficial owners, before establishing any business relationship or carrying out a transaction* (...). *6. In the event that the customer cannot be identified in accordance with article 49, the financial parties under obligation may not establish a business relationship or carry out transactions for the customer.* *In the case of relationships that have already started, the business relationship must be ended and consideration given to sending a communication to the FIU.*" ***Article 49 fourth*** (...) *(e) Appropriate measures must be taken to prevent products or transactions that might favour anonymity being used for money laundering or terrorism financing purposes.*"
Recommendation of the MONEYVAL Report	*4) extend all the provisions of the LCPI and its regulation to insurance companies and to any other institution covered by FATF's definition of "financial institution", rather than Andorra's definition of "financial system";*
Measures taken to implement the Recommendation of the Report	As stated in paragraph 328 of the evaluation report, criterion 5.2. of the Methodology was provided in section 51 of the LCPI and there was no objection to full compliance by the banking sector. In addition, the Andorran Banking Association had taken additional steps, such as the adoption of a code of conduct including the Basle Committee's standards and a ban on customer anonymity (paragraph 78 of the evaluation report). The LCPI bill widens the scope of application of CDD obligations to all parties under obligation eliminating former restrictions to Andorran financial entities. Thus, CDD requirements will be also applicable, among others, to insurance companies operating life assurance sector and money remittance institutions. Article 41 of the LCPI bill establishes the following scope of application: "(...) *c) Financial parties under obligation: Individuals and legal persons bound by the obligations set out in this Law and belonging to any of the following categories:* *1. Operative components of the financial system.* *2. Insurance companies authorised to operate in the life assurance sector.*

	3. Money remittance institutions. (...)" Likewise, article 49 of the LCPI bill, set out the due diligence measures to be executed, in general terms, by all parties under obligation.
Recommendation of the MONEYVAL Report	*5) extend the duty of due diligence, including such measures as identification, to suspected terrorist financing*
Measures taken to implement the Recommendation of the Report	In accordance with MONEYVAL recommendations the LCPI bill widens the scope of the prevention of money laundering to terrorist financing activities. The most significative evidence of this circumstance is the amendment of the name of the Law as follows: "*Law on International criminal cooperation and the fight against laundering of money and securities deriving from international delinquency <u>and against terrorist financing</u>*" As far as CDD is concerned, article 45 of the LCPI bill extends CDD obligations to suspected terrorist financing activities: "***Article 45*** *The obligations defined in this Law are incumbent upon financial parties under obligation and other natural and legal persons who, in the exercise of their professions or business activity, undertake, control or advise on transactions involving cash or securities movements which could be used for money laundering* ***or terrorism financing****, and in particular:* (...) ***Article 49*** *Due diligence measures* *1. The parties under obligation must also abide by the following obligations:* *a) The parties under obligation must be particularly vigilant in relation to transactions which, although not suspicious, take place under abnormal or complex conditions and do not seem to have a financial justification or lawful purpose, especially transactions typified as susceptible of involving money laundering* ***or terrorism financing*** *and classified as requiring special vigilance by the FIU in technical communiqués.*"
Recommendation of the MONEYVAL Report	*6) require diligence concerning identification and so on when there are suspicions about the veracity or relevance of client identification data*
Measures taken to implement the Recommendation of the Report	As already stated, Andorran parties under obligation are required to perform a strict application of the KYC rules in order to identify the client and the beneficial owner. In particular, financial entities are required to identify the clients and the beneficial owner in its client questionnaires. In case of suspicion of the veracity or relevance of the data provided, and also in other suspicious situations, verification of the details provided is required. If no sufficient information is provided, the transaction should not be carried out and consideration should be given to report to the Andorran FIU. The reinforced level of audit sampling in 2008 and the on-site inspections carried out in October 2008 have led UPB to conclude that the banking system is paying proper attention to this matter. In compliance with criterion 5.2 (e) of the Methodology, articles 12 and 13 of the LCPI regulations, in force at the time of the on-site visit, do require independent and reliable identification data. The express declaration signed by the client to which paragraph 333 of the evaluation report refers (article 12 of the

LCPI regulations) is just additional evidence that does not replace the official documents required for both individuals and legal entities.

In order to strengthen compliance with criterion 5.2. (e) and 5.3., Article 49 of the LCPI bill clearly requires due diligence concerning the veracity or relevance of client identification data, in terms similar to those laid down in articles 8 and 9 of Directive 2005/60/EC.

"Article 49

Due diligence measures

1. The parties under obligation must also abide by the following obligations:

(...)

c) The parties under obligation must ascertain the identity of their customers and beneficial owners by requiring them to present an official document when establishing any business relationship.

- If the customer is an individual, the party under obligation must verify the customer's identity, address and professional activity. To this end, the customer must be asked to show an official identity document with a photograph, a copy of which must be kept.

- If the customer is a legal person, the party under obligation must require:

** An authentic document accrediting its name, legal form, registered office and corporate purpose.*

** Justification, in the same way as provided in section c)i. of this article, of the identity of the individual who, according to the documentation presented, has powers to represent the entity, and of the powers granted.*

d) Obtain information on the purpose of the business relationship with the customer.

e) The data collected must be updated so that the customers can be correctly identified when establishing the business relationship or carrying out a transaction susceptible of involving money laundering or terrorism financing.

"Article 49 bis

1. The parties under obligation must diligently verify the identity of the customer and, if necessary, the beneficial owners, before establishing any business relationship or carrying out a transaction,

(...)

In addition, article 50 of the LCPI bill establishes record keeping requirements regarding this sort of information, in the following terms:

"***Article 51***

Without prejudice to compliance with the general rules on the obligation to keep accounting and contractual documents, the parties under obligation must preserve the documentation referred to in this article for a minimum period of five years, from:

a) The date their commercial relations end with habitual customers.
b) The date of a transaction carried out for occasional customers.
c) The date on which any declaration of suspicion was made to the FIU.

	These documents must include information on the customer's identity, the nature and date of the transaction, the currency, the amount of the transaction, and the purpose and intention of the commercial relationship with the customer. *The parties under obligation must ensure that this documentation and information is made available to the competent authorities as soon as it is requested.* ***The parties under obligation must also monitor the accuracy of the documents, information and any other details requested from their customers to comply with this Law."*** Prospective amendment of the LCPI regulations to bring them in line with the LCPI bill will modify article 12, 13 and 14 in order to avoid distortions on the test of independent source document as set out in criterion 5.3. of the Methodology.
Recommendation of the MONEYVAL Report	*7) cover explicitly criteria 5.5.2 and 5.7*
Measures taken to implement the Recommendation of the Report	Joint consideration of article 41 and article 49 of the LCPI bill cover criterion 5.5.2, requiring the parties under obligation to understand the ownership and control structure of customers that are legal persons or legal arrangements and to determine who are the natural persons that ultimately own or control the customer. ***"Article 41*** *For the purposes of this Law, the following terms shall be understood as having the following meanings:* *g) True right-holder or beneficial owner: natural person(s) who ultimately control the customer and/or individual on whose behalf a transaction or activity is being conducted. The right-holder includes, at least:* ▪ *In the case of legal persons in the form of a company, the individual or individuals who ultimately control the legal person through direct or indirect ownership or control of a sufficient percentage of its shares or voting rights. For these purposes a percentage of over 25% will be considered sufficient.* ▪ *In the case of other legal entities, contractual fiduciary arrangements and other fiduciary structures which administer and distribute funds, the individual or individuals who control over 25% of the funds.* ***"Article 49*** *(...)* *c) The parties under obligation must ascertain the identity of their customers and beneficial owners by requiring them to present an official document when establishing any business relationship.* *- If the customer is an individual, the party under obligation must verify the customer's identity, address and professional activity. To this end, the customer must be asked to show an official identity document with a photograph, a copy of which must be kept.* *- If the customer is a legal person, the party under obligation must require:* ** An authentic document accrediting its name, legal form, registered office and corporate purpose.* ** Justification, in the same way as provided in section c)i. of this article, of the identity of the individual who, according to the documentation presented, has powers to represent the entity, and of the powers granted. (...)"*

	Criterion 5.7.1.and 5.7.2 are covered by art. 15 of the LCPI regulations and section e) of article 49.1 and art. 49 bis.7 of the LCPI bill, in the following terms: - article 15 of the LCPI regulations "*If because of the amount or the condition of execution, an operation requested does not tally with the normal activity or operational track record of the customer, those liable require whatever document they consider necessary to justify the operation*". - article 49.1 (e) *"e) The data collected must be updated so that the customers can be correctly identified when establishing the business relationship or carrying out a transaction susceptible of involving money laundering or terrorism financing."* - article 49.bis 7 *7. The financial parties under obligation must also follow the due diligence procedures with respect to existing customers, at the appropriate moment in terms of their risk analysis"*
Recommendation of the MONEYVAL Report	*8) make it obligatory to obtain information on the nature and purpose of business relationships*
Measures taken to implement the Recommendation of the Report	Criterion 5.6 of the Methodology is literally covered by article 49.1 (d) of the LCPI bill, as follows: *"**Article 49*** *Due diligence measures* *1. The parties under obligation must also abide by the following obligations:* *d) Obtain information on the **purpose of the business relationship with the customer**.*" In addition, article 50 of the LCPI bill establishes record keeping requirements regarding this sort of information, in the following terms: "***Article 51*** *Without prejudice to compliance with the general rules on the obligation to keep accounting and contractual documents, the parties under obligation must preserve the documentation referred to in this article for a minimum period of five years, from:* *a) The date their commercial relations end with habitual customers.* *b) The date of a transaction carried out for occasional customers.* *c) The date on which any declaration of suspicion was made to the FIU.* *These documents must include information on the customer's identity, the nature and date of the transaction, the currency, the amount of the transaction, and the **purpose and intention of the commercial relationship with the customer**.* *The parties under obligation must ensure that this documentation and information is made available to the competent authorities as soon as it is requested.*

	The parties under obligation must also monitor the accuracy of the documents, information and any other details requested from their customers to comply with this Law."
Recommendation of the MONEYVAL Report	*9) make it a requirement that documents, data and information are kept up-to-date and relevant*
Measures taken to implement the Recommendation of the Report	The obligation that documents, data and information are kept up-to-date and relevant (criterion 5.7 of the Methodology) is also laid down in the article 49 of LPCI bill which reads as follows: "(...) *e) The data collected must be updated so that the customers can be correctly identified when establishing the business relationship or carrying out a transaction susceptible of involving money laundering or terrorism financing.* (...)"
Recommendation of the MONEYVAL Report	*10) introduce provisions on the principle of risk, in accordance with criteria 5.8 to 5.12*
Measures taken to implement the Recommendation of the Report	The LCPI bill requires a risk based approach for the application of anti-money laundering and combating terrorist financing measures. There are a number of provisions which cover criteria 5.8 to 5.12 of the Methodology. "***Article 49*** (...) *2. The parties under obligation will adopt the measures detailed in the previous section on customer due diligence, but* ***may determine the extent of such measures on a risk sensitive basis*** *depending on the type of customer, business relationship, product or transaction. The parties under obligation must be in a position to demonstrate to the FIU that the extent of the measures adopted is appropriate in view of the risks of money laundering and terrorism financing.* (...)" It should be noted that these criteria are being already applied by most parties under obligation, as shown by Andorran FIU's experience. For instance, a number of STRs filed by financial entities during 2007 and 2008 were based on the suspicions raised to the bank entities where the funds were deposited, by the fact that the notorious amounts perceived by certain clients and their declared activities where not consistent at all. Article 49.third provides for a number of situations in which due diligence measures may be simplified on the grounds of a risk-based assessment (criterion 5.9. of the Methodology), in similar terms to article 11 of Directive 2005/60/EC: "***Article 49 third*** *Simplified due diligence measures* *1. Notwithstanding what is established in the previous articles, the parties under obligation will not be bound by the obligations established in article 49 of this Law when the customer is a financial party bound by this Law, or a credit or financial entity established in an OECD country that imposes requirements equivalent to those of this Law and is supervised in order to guarantee compliance with these requirements.* *2. Notwithstanding what is established in the previous articles, the financial parties under obligation will not be bound by the obligations established in article 49 in the following cases:* *(a) Life assurance policies with annual premiums not exceeding EUR 1,000 or a single premium not exceeding EUR 2,500.*

	(b) Insurance policies for pension plans, provided that they do not include a surrender clause and they cannot be used as collateral for a loan. *(c) Pension and similar plans which include the payment of retirement benefits to employees, where the contributions are made by way of deductions from the salary and the rules of the plan do not permit the assignment of the participation in the plan.* *(d) Electronic money when the maximum amount stored is not more than EUR 150, if not rechargeable, or the total amount available in any calendar year is limited to EUR 2,500, except when the bearer demands the redemption of a sum of EUR 1,000 or more in the same year.* *(e) Other products or transactions representing a low risk of money laundering or terrorism financing in accordance with the technical communiqués of the FIU.*" Prospective amendment of the LCPI regulations to bring them in line with the LCPI bill will develop this provision considering, among other references, the Directive 2006/70/CE provisions on simplified customer due diligence procedures. As far as enhanced customer due diligence is concerned (criterion 5.8 of the Methodology), article 49.fourth of the LCPI bill has also considered article 13 of Directive 2005/60/CE in the following terms: **"*Article 49 fourth*** *Enhanced due diligence measures* *1. Besides the measures established in article 49, the parties under obligation must apply*, *in accordance with a risk analysis, enhanced due diligence measures in those situations which by their nature can represent a higher risk of money laundering or terrorism financing and at least in the following situations:* *(a) When the customer was not physically present for identification, specific and adequate measures must be adopted to compensate for the increased risk, for example through one or several of the following measures:* *- ensuring that the customer's identity is established by additional documents, data or information.* *- adopting supplementary measures to verify or certify the documents supplied, or requiring a certificate of confirmation issued by a credit or financial entity subject to this Law or an entity from any OECD country that imposes equivalent measures to those of this Law and monitors fulfilment of the same.* *(b) In cross-border correspondent banking relationships with respondent foreign entities, the Andorran credit entities must:* *- gather sufficient information about the respondent entity to understand the nature of its activity and determine, from publicly available information, its reputation and the quality of its supervision.* *- assess the respondent entity's anti-money laundering and anti-terrorism financing controls.* *- obtain approval from management before establishing new correspondent banking relationships.* *- document the respective responsibilities of each entity.* *- with respect to payable-through accounts, there must be guarantees that the respondent credit entity has verified the identity of and performed ongoing due diligence on the customers who have direct access to the*

	accounts of the correspondent Andorran entity. *(c) In relation to transactions or business relationships with politically exposed persons who reside abroad, the financial parties under obligation must:* *- have appropriate risk-based procedures to determine whether the customer is a politically exposed person.* *- obtain approval from management to establish business relationships with these customers.* *- adopt adequate measures to determine the source of wealth and funds that are involved in the business relationship or transaction.* *- conduct enhanced ongoing monitoring of the business relationship.* *(d) Establishing or continuing correspondent banking relationships with shell banks is prohibited. Appropriate measures must be taken to ensure that no correspondent banking relationships are established or maintained with banks that are known to permit their accounts to be used by shell banks.* *(e) Appropriate measures must be taken to prevent products or transactions that might favour anonymity being used for money laundering or terrorism financing purposes."*
Recommendation of the MONEYVAL Report	*11) introduce a ban on conducting operations or establishing relationships if the body concerned cannot satisfy its duty of diligence*
Measures taken to implement the Recommendation of the Report	Article 49.bis of the LCPI bill covers criteria 5.15 and 5.16 of the Methodology, in equivalent terms to those established by article 9.5 of Directive 2005/60/CE: "(...) *6. In the event that the customer cannot be identified in accordance with article 49, the financial parties under obligation may not establish a business relationship or carry out transactions for the customer.* *In the case of relationships that have already started, the business relationship must be ended and consideration given to sending a communication to the FIU.*"
Recommendation of the MONEYVAL Report	*12) introduce provisions to apply the duty of diligence to existing customers*
Measures taken to implement the Recommendation of the Report	Section 7 of Article 49.bis of the LCPI bill covers criteria 5.17 of the Methodology, in equivalent terms to those established by article 9.6 of Directive 2005/60/CE: "(...) *7. The financial parties under obligation must also follow the due diligence procedures with respect to existing customers, at the appropriate moment in terms of their risk analysis.*"
Recommendation of the MONEYVAL Report	*13) introduce a requirement that institutions consider filing and STR in instances in which they are unable to complete the CDD process*
Measures taken to implement the Recommendation of the Report	As stated before, article 49.bis of the LCPI bill covers criteria 5.15 and 5.16 of the Methodology, in equivalent terms to those established by article 9.5 of Directive 2005/60/CE: "(...) *6. In the event that the customer cannot be identified in accordance with article 49, the financial parties under obligation may not establish a business relationship or carry out transactions for the customer.*

	In the case of relationships that have already started, the business relationship must be ended and consideration given to sending a communication to the FIU."
(Other) changes since the last evaluation	
Recommendation 5 (Customer due diligence) **II. Regarding DNFBP[4]**	
Recommendation of the MONEYVAL Report	*- apply the due diligence rules in recommendation 5 to DNFBPs beyond cases of suspected laundering and ensure that the provisions on dealers in high value items are consistent and understood by those concerned*
Measures taken to implement the Recommendation of the Report	As already stated, the LCPI bill widens the scope of application of CDD obligations to all parties under obligation eliminating former restrictions to entities belonging to the Andorran financial system. Thus, general CDD requirements will be also applicable, among others, by DNFBPs. In this regard, article 45 of the LCPI bill covers criterion 12 of the Methodology confirming the application of due diligence rules by DNFBP and clarifying the rules applicable to dealers in high value items, as follows: "***Article 45*** *The obligations defined in this Law are incumbent upon financial parties under obligation and other natural and legal persons who, in the exercise of their professions or business activity, undertake, control or advise on transactions involving cash or securities movements which could be used for money laundering or terrorism financing, and in particular:* *a) professional external accountants, tax advisers, auditors, economists and business agents (gestories).* *b) notaries, lawyers and members of other independent legal professions when they take part in assisting the planning or execution of transactions for their customers in the framework of the following activities:* *- buying and selling real property or business entities;* *- managing of customer money, securities or other assets;* *- opening or management of bank, savings or securities accounts;* *- organisation of contributions necessary for the creation, operation or management of companies;* *- creation, operation or management of companies, contractual fiduciary arrangements (fideicomisos) or similar structures; or when acting for their customers in financial or real estate transactions.* *c) sellers of high value goods, such as precious stones or precious metals, when payment is made in cash in an amount of EUR 30,000 or more, or the equivalent in any other currency.* *d) suppliers of services to companies, contractual fiduciary arrangements (fideicomisos) or any other legal structure not referred to in any other section of this article.* *e) gambling establishments* *f) real estate agents carrying out activities related to buying and selling property;* *Notwithstanding the foregoing, the parties under obligation referred to in sections A) and B) of this article are not bound by the obligations established in this Law with regard to information they receive from or obtain on one of their clients, in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in, or concerning judicial proceedings, including advice on instituting or*

[4] i.e. part of Recommendation 12.

	avoiding proceedings, whether such information is received or obtained before, during or after such proceedings." Notwithstanding the general application of CDD requirements to DFNBP, the following specific provisions are only applicable to financial parties under obligation: ▪ *"Article 49.3.The financial parties under obligation must adopt constant monitoring measures with regard to new technology in order to prevent any action that could lead to the false identification of the customer in transactions carried out at a distance."* ▪ *"Article 49 bis.6. In the event that the customer cannot be identified in accordance with article 49, the financial parties under obligation may not establish a business relationship or carry out transactions for the customer.* *In the case of relationships that have already started, the business relationship must be ended and consideration given to sending a communication to the FIU".* ▪ *"Article 49 third.2. Notwithstanding what is established in the previous articles, the financial parties under obligation will not be bound by the obligations established in article 49 in the following cases*: (...) As regards awareness-raising activities in order to lead DNFBP to understand CDD requirements, article 49 fifth of the LCPI bill reads as follows: ***"Article 49 fifth*** *1. The parties under obligation must adopt the necessary measures so that their personnel have sufficient knowledge of the legal provisions on the prevention of and the fight against money laundering and terrorism financing.* *2. The parties under obligation must have specific ongoing training programmes for their personnel to help them to detect transactions that could be related to money laundering and terrorism financing.* *3. The FIU, either through training programmes or through technical communiqués, informs the parties under obligation about the current practices of the perpetrators of money laundering and terrorism financing and about the indicators that lead to the detection of suspicious practices.* *4. The FIU informs the parties under obligation, whenever possible, about the effectiveness and follow-up of their declarations of suspicions."*
Recommendation of the MONEYVAL Report	*- ensure that the LCPI reflects more closely criterion 12.1 d in the case of lawyers, notaries and so on by including the purchase and sale of business entities*
Measures taken to implement the Recommendation of the Report	Article 45 of the LCPI bill covers criterion 12.1 of the Methodology as regards lawyers, notaries and members of other independent legal professions, including the purchase and sale of business entities, in terms similar to those laid down by article 2 of Directive 2005/60/CE. "***Article 45*** *The obligations defined in this Law are incumbent upon financial parties under obligation and other natural and legal persons who, in the exercise of their professions or business activity, undertake, control or advise on transactions involving cash or securities movements which could be used for money laundering or terrorism financing, and in particular:* *(...)*

	b) notaries, ***lawyers*** *and members of other independent legal professions when they take part in assisting the planning or execution of transactions for their customers in the framework of the following activities:* *-* ***buying and selling real property or business entities****;* *- managing of customer money, securities or other assets;* *- opening or management of bank, savings or securities accounts;* *- organisation of contributions necessary for the creation, operation or management of companies;* *- creation, operation or management of companies, contractual fiduciary arrangements ("fideicomisos") or similar structures; or when acting for their customers in financial or real estate transactions.* (...) *Notwithstanding the foregoing, the parties under obligation referred to in sections a) and b) of this article are not bound by the obligations established in this Law with regard to information they receive from or obtain on one of their clients, in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings.*"
Recommendation of the MONEYVAL Report	*- ensure that the LCPI takes account of all the bodies and circumstances covered by criterion 12.1 e, on trust and company service providers*
Measures taken to implement the Recommendation of the Report	In general terms, article 45 of the LCPI bill takes account of all the bodies and circumstances covered by criterion 12.1 covers of the Methodology in terms similar to those laid down by article 2 of Directive 2005/60/CE. This notwithstanding, paragraph (d) of art. 45 refers to *contractual fiduciary arrangements and other fiduciary structures* in order to cover institutions of fiduciary nature such as foreign "trusts", not recognized under Andorran legislation, as in many others Roman law countries which are not signatories of the Hague Convention, of 1 July 1985, on the law applicable to trusts and on their recognition. "*Article 45* *The obligations defined in this Law are incumbent upon financial parties under obligation and other natural and legal persons who, in the exercise of their professions or business activity, undertake, control or advise on transactions involving cash or securities movements which could be used for money laundering or terrorism financing, and in particular:* (...) *d) suppliers of services to companies, contractual fiduciary arrangements ("fideicomisos") or any other legal structure not referred to in any other section of this article*."
(Other) changes since the last evaluation	

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*- to specify more clearly in the LCPI or its regulation the records and documentation to be kept in accordance with FATF Recommendation 10 and to provide for training and awareness-raising actions in this area*
Measures taken to implement the Recommendation of the Report	Article 51 of the LCPI bill covers criteria 10.1, 10.2 and 10.3 by requiring that records and documentation must be kept in accordance with the following standards: ***"Article 51*** *Without prejudice to compliance with the general rules on the obligation to keep accounting and contractual documents, the parties under obligation must preserve the documentation referred to in this article for a minimum period of five years, from:* *a) The date their commercial relations end with habitual customers.* *b) The date of a transaction carried out for occasional customers.* *c) The date on which any declaration of suspicion was made to the FIU.* *These documents must include information on the customer's identity, the nature and date of the transaction, the currency, the amount of the transaction, and the purpose and intention of the commercial relationship with the customer.* *The parties under obligation must ensure that this documentation and information is made available to the competent authorities as soon as it is requested.* *The parties under obligation must also monitor the accuracy of the documents, information and any other details requested from their customers to comply with this Law.*" As regards training and awareness-raising actions in this area, article 49.fifth of the LCPI bill reads as follows: ***"Article 49 fifth*** *1. The parties under obligation must adopt the necessary measures so that their personnel have sufficient knowledge of the legal provisions on the prevention of and the fight against money laundering and terrorism financing.* *2. The parties under obligation must have specific ongoing training programs for their personnel to help them to detect transactions that could be related to money laundering and terrorism financing.* *3. The FIU, either through training programs or through technical communiqués, informs the parties under obligation about the current practices of the perpetrators of money laundering and terrorism financing and about the indicators that lead to the detection of suspicious practices.* *4. The FIU informs the parties under obligation, whenever possible, about the effectiveness and follow-up of their declarations of suspicions.*"
Recommendation of the MONEYVAL Report	*- to require that records should be maintained for longer periods as may be required by competent authorities*
Measures taken to implement the	As stated before, article 51 of the LCPI bill covers criteria 10.2 by requiring to maintain records and identification data for a minimum period of 5 years, in terms equivalent to article 30 of Directive

Recommendation of the Report	2005/60/CE. This minimum period does not prevent the Andorran FIU or any other competent authority to request documents in specific cases upon proper authority as required by criterion 10.2. Paragraph 375 of the evaluation report points out that the main relevant legal framework for record keeping purposes is in fact provided by Decree on commercial activities, insolvency and bankruptcy of 1969, whose art. 54 requires to keep information for a period of 10 years after the last transaction. The following are also relevant provisions regarding record keeping obligations in Andorra: ▪ INAF's binding communiqué nº 163/2005, of 23 February 2006, on rules of ethics and behavior of financial entities operating in Andorra, requires to keep an archive of the documentary proofs of orders relating to financial brokerage operations and the management of assets during a period of at least 5 years and in any case during the period of time laid down in law. ▪ Law 20/2007, of 18 October, on public limited companies and limited liability companies. Article 70.2 lays down a record keeping obligation for a period of 6 years. ▪ Law 30/2007, of 20 September, on the accounting of businesses. Article 7 lays down a record keeping obligation for a period of 6 years.
Recommendation of the MONEYVAL Report	*- make it a specific requirement that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority*
Measures taken to implement the Recommendation of the Report	The third paragraph of article 51 of the LCPI bill covers criterion 10.3 of the Methodology in terms equivalent to article 32 of Directive 2005/60/CE: "(...) *The parties under obligation must ensure that this documentation and information is made available to the competent authorities* ***as soon as it is requested***."
(Other) changes since the last evaluation	
Recommendation 10 (Record keeping) II. Regarding DNFBP[5]	
Recommendation of the MONEYVAL Report	*- ensure that national legislation on recommendation 10 is applicable to all the sectors covered by the LCPI, including DNFBPs*
Measures taken to implement the Recommendation of the Report	Record keeping obligations laid down by Article 51 of the LCPI bill are applicable to all parties under obligation, both financial and DNFBP.
(Other) changes since the last evaluation	

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*- include in the wording of the LCPI, as is already planned, the requirement to make declarations of suspicion where it is suspected or there are reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism or terrorist acts, or by terrorist organisations or those who*

[5] i.e. part of Recommendation 12.

	finance terrorism
Measures taken to implement the Recommendation of the Report	In accordance with MONEYVAL recommendations, the LCPI bill widens the scope of the prevention of money laundering to terrorist financing activities. The most significative evidence of this circumstance is the amendment of the name of the Law as follows: "*Law on International criminal cooperation and the fight against laundering of money and securities deriving from international delinquency and against terrorist financing*" As far as STR is concerned, article 46 of the LCPI bill extends CDD obligations to suspected terrorist financing activities, as follows: **"*Article 46*** *The parties under obligation must declare to the FIU, for the relevant purposes, any transaction or planned transaction relating to cash or securities that they suspect may involve an act of money laundering* ***or terrorism financing****. The declaration must be accompanied by all the necessary documentation.* *Having made such declaration, the party under obligation must send the FIU any new information of which it becomes aware relating to the declaration.*"
(Other) changes since the last evaluation	
Recommendation 13 (Suspicious transaction reporting) **II. Regarding DNFBP[6]**	
Recommendation of the MONEYVAL Report	*- analyse the reasons for the small number of declarations of suspicion and reports of cash transactions in excess of € 15 000, and draw any necessary consequences*
Measures taken to implement the Recommendation of the Report	Awareness raising activities have been intensified in years 2007 and 2008 which is expected to lead to an increase of reports executed by DNFBPs. Training programs have been held with all DNFBPs in order to discuss AML/CFT policies and measures and to carry out a broad review of the implications of the new legislative framework for each sector. In May 2008 the Andorran FIU organized training programs to notaries, lawyers, external accountants, tax advisers, auditors, economists and business agents, real state agents and dealers of high value items. In this training programs, the DNFBPs were presented a general overview about money laundering and financing of terrorism, and emphasis was made on the duties of the different entities (KYC rules, obligation to report suspicious activities, internal control, etc) in order to prevent money laundering and financing of terrorism and also the sanctions imposed by the LCPI and the Penal Code. As a direct consequence of these training programs the UPB received the visit of some DNFBPs and STR's were filed. An additional separate training program for real state agents was considered necessary and will take place in the University of Andorra on the 4th of December, 2008. Besides, the Andorran FIU is having regular meetings and contacts with almost all the DNFBP's associations. They are involved in all the training programs to promote AML/CFT efforts. The Andorran FIU also arranges meetings with these associations to discuss the particular topics related to their members. The collaboration with these associations has been qualified as satisfactory and helpful. Some of the DNFBP's associations with a major collaboration are: - AGIA – Real state agents' association.

[6] i.e. part of Recommendation 16.

	- Gremi de Joiers – Jewellers' association - Col·legi d'Advocats d'Andorra – Andorran bar association - Col·legi de Notaris d'Andorra – Notaries of Andorra's Association All of them are registered associations with the Government of Andorra. In addition, new regulations such as article 49.fifth of the new LCPI provide for the implementation of training measures both by the Andorran FIU and the subjects under obligation. "*Article 49 fifth* *1. The parties under obligation must adopt the necessary measures so that their* ***personnel*** *have* ***sufficient knowledge*** *of the legal provisions on the prevention of and the fight against money laundering and terrorism financing.* *2. The parties under obligation must have specific* ***ongoing training programmes*** *for their personnel to help them to detect transactions that could be related to money laundering and terrorism financing.* *3. The FIU, either through* ***training programmes*** *or through technical communiqués, informs the parties under obligation about the current practices of the perpetrators of money laundering and terrorism financing and about the indicators that lead to the detection of suspicious practices.* *4. The FIU informs the parties under obligation, whenever possible, about the effectiveness and follow-up of their declarations of suspicions.*" Finally, in accordance with the regulations of the LCPI bill, AML/CFT regulations are specifically applicable to those trading with high value goods where payments are made in cash in an amount of € 30,000 or more. It has been considered that the risk of money laundering or financing of terrorism activities in payments below this threshold is very limited. This notwithstanding, it should be observed that the Andorran list of DNFBPs goes beyond FATF's four remaining DNFBPs categories, providing for full compliance with criterion 20.1. In this sense, it is relevant to point out that FATF definition of high value dealers is limited to precious metals and precious stones traders while the Andorran definition applies the wider concept laid down in paragraph article 2.1.(e) of Directive 2005/60/EC.
Recommendation of the MONEYVAL Report	*- further clarify the obligation to report suspicions direct to the UPB, rather than through self-regulatory and professional bodies, with any DNFBPs, such as lawyers, where doubts remain*
Measures taken to implement the Recommendation of the Report	As pointed out in paragraph 512 of the evaluation report, DNFBPs are subject to the same reporting requirements as financial institutions. At the time of the on-site visit of the MONEYVAL delegation, there were no specific legal provisions on the designation of appropriate self-regulatory bodies of the professions concerned as the authority to be informed in the first instance in place of the FIU. This notwithstanding, article 52.3. of the LCPI bill allows appropriate self-regulatory bodies as the authority to be informed in the first instance in place of the FIU. The designated self-regulatory body shall in such cases forward the information to the FIU promptly and unfiltered. This provision is similar to article 23.1 of Directive 2005/60/CE. "***Article 52*** (...) *3. Notwithstanding the previous section, the FIU, through a technical communiqué, may appoint the self-regulatory body or professional association of the profession concerned as the body to be reported to in first instance, instead of the FIU. In this case, the self-regulatory bodies must make the corresponding communications to the FIU.*"

	This provision does not explicitly cover the sharing of STR subjects among all members of a banking association or any other self-regulatory body. This notwithstanding, prospective amendments to bring in line LCPI Regulations with the legislative proposal for the amendment of the LCPI, could explicitly regulate this topic in order to allow sharing information of general interests for the prevention of money laundering and terrorist financing, provided of course that no confidentiality legal obligations are breached.
Recommendation of the MONEYVAL Report	*- extend protection against the consequences of declarations of suspicion unambiguously to DNFBPs*
Measures taken to implement the Recommendation of the Report	Pursuant to Paragraph 518 of the evaluation report, while section 49 of the LCPI (non-disclosure of declarations of suspicion to customers and others) applies to DNFBPs, this is not necessarily the case with section 50 (protection against the consequences of such declarations). Article 47 of the LCPI bill clearly states that FIU will take all appropriate measures in order to protect all reporting parties under obligation against the consequences of declaration, in similar terms to those laid down in article 27 of Directive 2005/60/CE. In addition, article 48 of the LCPI bill states that the statutory reporting activity may not be deemed to constitute a breach of the the duty of professional secrecy or other confidentiality duties assumed or imposed either to financial or non-financial entities, its members or employees. "***Article 47*** *(...)* *The issuance of a declaration of suspicion and of any other supplementary information will not entail any liability for the issuer, even when it is made without exact knowledge of the type of crime or illegal activity that has been committed.* *The FIU will take all appropriate measures to protect the parties under obligation against any threat or hostile action arising from their compliance with the obligations imposed by this Law. In particular, the identity of the issuer of the declarations of suspicion will be kept confidential in all administrative and legal proceedings originating from or related to the declarations made."* *(...)* ***"Article 48*** *(...)* *The declaration of transactions that are suspected of involving money laundering or terrorism financing made to the FIU by the financial parties under obligation are not in any way incompatible with the obligation of preserving the duty of professional secrecy that protects the confidentiality of the financial affairs of their clientele. Consequently, the communication of information to the FIU exempts the parties under obligation and their personnel from any liability of any kind, both general and contractual, even when the notification of an illegal activity based on suspicions is not in fact confirmed. (...)*"
Recommendation of the MONEYVAL Report	*- make it an obligation for DNFBPs to appoint at least one anti-laundering official*
Measures taken to implement the Recommendation of the Report	Article 52.2. of the LCPI bill requires DNFBPs to appoint a compliance officer in charge of internal control and reporting duties. "***Article 52*** (...) *2. Non-financial parties under obligation that are legal entities must appoint an internal control and*

	communication body in charge of organising and monitoring compliance with the rules on the fight against money laundering and terrorism financing and notify this appointment to the FIU. *Non-financial parties under obligation who are individuals that conduct activities which mean they must abide by this Law will be considered to be their own internal control and communication body.*"
Recommendation of the MONEYVAL Report	*- once FATF recommendation 21 on special attention to at-risk countries and territories has been transposed, make it applicable to DNFBPs*
Measures taken to implement the Recommendation of the Report	FATF Recommendation 21 is broadly covered by Article 49.fourth of the LCPI bill applicable to all parties under obligation, that provides for enhanced due diligence measures in those situations which by their nature can represent a higher risk of money laundering or terrorist financing. Likewise, the Andorran FIU issues technical communiqués which cover FATF Recommendation 21. As a matter of example, in July of 2008, the Andorran FIU issued a technical communiqué addressed to the financial sector, including the list of countries mentioned by the FATF statement in February of 2008 as countries with weakness in their AML/CFT systems. Prospective amendment of the LCPI regulations will introduce a specific mention to criterions 21.1, 21.2 and 21.3 of the Methodology.
Changes since the last evaluation	

Special Recommendation II (Criminalisation of terrorist financing)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- establish a separate offence of terrorist financing, in a broader form than collaboration with a terrorist group*
Measures taken to implement the Recommendation of the Report	On June 12th, 2008 the Principality of Andorra ratified the International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999. The implementation of this Convention within the Andorran legal system led to the introduction of a brand new separate offence of terrorism financing into the Criminal Code by means of the Amendment Act no. 15/2008 approved by the Andorran parliament last October 3rd, 2008. This new criminal offence of terrorism financing is now set forth in articles 366 bis and third of the Andorran Criminal Code. The final wording of new articles 366 bis and third of the amended Criminal Code literally transposes the provisions contained in the Convention of New York. This implementation fulfils the requirements of this Convention and other international instruments in the key areas for criminalization of terrorism financing: • <u>Description of criminal behaviours</u>: new article 366 bis of the amended Criminal Code entirely implements the open and wide description of criminal behaviours of terrorism financing proposed by the Convention of New York. Thus, this new separate criminal offence of terrorism financing enjoys of a wide scope of application to the multiple forms that activities of terrorism financing may adopt. • <u>Definition of funds</u>: likewise, new article 366 bis of the Andorran Criminal Code includes an extensive definition of what must be understood as funds for the purposes of terrorism financing. This definition literally corresponds with the one proposed by the Convention of New York and allows a wide range of assets, goods and their derivatives to be included within this criminal offence.

- Aggravating circumstances: finally, article 366 bis establishes the two aggravating circumstances of terrorism financing as proposed by the Convention of New York: the commission of these crimes by means of an organized group and the reiteration of these type of crime by the same perpetrator.

- Confiscation and other additional consequences: article 366 third deals with another essential aspect of the fight against terrorism financing which is also set forth in the Convention of New York: the confiscation of assets deriving from terrorism financing and the additional consequences (sanctions) for legal persons involved in these types of crimes.

"***Article 366 bis***

1. An individual who, without carrying out the conduct referred to in article 365 and without being deemed liable as perpetrator or abettor of accomplished or attempted terrorist acts, commits an act of terrorism financing, shall be punished with a penalty of imprisonment of two to five years.

An attempt to commit or the conspiracy to commit such a crime shall also be punished.

2. As regards this article, financing is understood as:

Any act that, by any means, directly or indirectly, illicitly and deliberately, consists of providing or collecting funds with the intention that they be used or in the knowledge that they are to be used, in full or in part, in the Principality or abroad:

-by a terrorist organisation or by an individual terrorist
-to carry out one or more terrorist acts
-to carry out, in the event of an armed conflict, any of the conducts described in articles 466 and 467 against any protected person, with the intention to intimidate a population or to force a government or an international organisation to comply or to abstain from complying with any type of act.

3. As regards this article, funds are understood as:

Financial assets, any type of good, tangible or intangible, movable or immovable, acquired by any means, licit or illicit, and the legal documents, deeds or instruments of any type, including electronic or digital documents, evidencing property rights or interests in such assets or goods, including but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit."

4. A penalty of imprisonment of three to eight years shall be imposed should any of the following circumstances occur:

a) the terrorist financing is committed by means of an organised group
b) the individual is an habitual perpetrator of terrorist financing

An attempt to commit or the conspiracy to commit such a crime shall also be punished."

"***Article 366.third: additional consequences***

As regards the offences foreseen in this Chapter, the court shall impose, in addition to the penalties already described, one or more of the following measures:

a). Confiscation of the proceeds of the crime or of the funds provided to finance terrorism in the terms described in article 70.

b) The winding up or definitive closure of the organisation or its premises or establishments open to the public.

	c) Suspension of the organisation's activities or temporary closure of its premises or establishments open to public for a maximum period of five years. *d) Prohibition of performing those activities or business transactions that were used to commit or to conceal the crime, for a maximum period of five years.* *e) The other measures that may taken against individuals or legal persons pursuant to article 71*
Recommendation of the MONEYVAL Report	*- review the transposition of international requirements and SR II on the criminalisation of terrorist financing, particularly by extending the offence to any person who willfully provides or collects funds by any means, directly or indirectly, with the unlawful intention that they should be used or in the knowledge that they are to be used, in full or in part, to carry out a terrorist act or acts, by a terrorist organisation or by an individual terrorist*
Measures taken to implement the Recommendation of the Report	Article 366 bis of the amended Criminal Code of 2005 fully covers SR II by extending the offence in the terms required. In particular, section 2 of the article reads as follows: *"(...)* *2. As regards this article, financing is understood as:* *Any act that, by any means, directly or indirectly, illicitly and deliberately, consists of providing or collecting funds with the intention that they be used or in the knowledge that they are to be used, in full or in part, in the Principality or abroad:* *-by a terrorist organisation or by an individual terrorist* *-to carry out one or more terrorist acts* *-to carry out, in the event of an armed conflict, any of the conducts described in articles 466 and 467 against any protected person, with the intention to intimidate a population or to force a government or an international organisation to comply or to abstain from complying with any type of act."*
(Other) changes since the last evaluation	

Special Recommendation IV (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- include in the wording of the LCPI, as is already planned, the requirement to make declarations of suspicion where it is suspected or there are reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism or terrorist acts, or by terrorist organisations or those who finance terrorism*
Measures taken to implement the Recommendation of the Report	On 23 September 2005, the UPB issued a binding communiqué addressed to financial entities confirming that transactions suspicious of being related to FT must be declared and acknowledging that the practice of the banking sector has been to report any kind of suspicious activity in this regard. The communiqué also included a list of activities and typologies which may be used for FT purposes. In addition, in 2008, the UPB issued a communiqué to implement UN resolution 1803, including a list of terrorists and a statement on the non-cooperation of Iran for AML/CFT purposes.

	Furthermore, article 46 of the LCPI bill widens the scope of Suspicious Transaction reporting requirements to terrorism financing. "***Article 46*** *The parties under obligation must declare to the FIU, for the relevant purposes, any transaction or planned transaction relating to cash or securities that they suspect may involve an act of money laundering **or terrorism financing**. The declaration must be accompanied by all the necessary documentation.* *Having made such declaration, the party under obligation must send the FIU any new information of which it becomes aware relating to the declaration."*
(Other) changes since the last evaluation	
Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
Recommendation of the MONEYVAL Report	*- include in the wording of the LCPI, as is already planned, the requirement to make declarations of suspicion where it is suspected or there are reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism or terrorist acts, or by terrorist organisations or those who finance terrorism*
Measures taken to implement the Recommendation of the Report	Article 46 of the LCPI bill widens the scope of Suspicious Transaction reporting requirements to terrorism financing and is applicable to all parties under obligation (financial and DNFBPs).
(Other) changes since the last evaluation	

3. *Other Recommendations*

In the last report the following FATF recommendations were rated as "partially compliant" (PC) or "non compliant" (NC) (see also Appendix 1). Please, specify for each one what measures, if any, have been taken to improve the situation and implement the suggestions for improvements contained in the evaluation report.

Recommendation 6 (Politically exposed persons)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- to transpose into Andorran law recommendation 6 on politically exposed persons*
Measures taken to implement the Recommendation of the Report	On 2 August 2006, the UPB issued a technical communiqué regarding PEPs, addressed to Andorran banks and insurance companies. It introduced a definition of PEPs (natural persons carrying out or who have carried out public functions in Andorra or abroad, and its relatives or close associates, and legal entities to which PEPs were economically bound), a number of examples of positions which lead to the consideration of PEP, and a number of actions to be taken in order to enhance due diligence and follow up measures in connection with PEPs. Furthermore, paragraph (e) of Article 41 of the LCPI bill provides a definition of "politically exposed persons" equivalent to that provided by article 3 (8) of Directive 2005/60/EC, with the addition of a provision to the effect that further regulations will be passed to determine the scope of "prominent public functions", "immediate family members" and "persons known to be close associates". Prospective amendment of the LCPI regulations will determine these concepts considering the criteria

	established in Directive 2006/70/EC of 1 August, adapted to the particular Andorran context (population of approx. 83.000 inhabitants in year 2007). "***Article 41*** (...) *e) Politically exposed person: natural persons who are or have been entrusted with prominent public functions and immediate family members and persons known to be close associates.* *The scope of the terms "prominent public functions", "immediate family members" and "persons known to be close associates" will be determined by regulation.* (...) In addition to performing the general CDD measures required under article 49 of the LCPI bill paragraph (c) of Article 49 fourth lays down enhanced due diligence measures to be applied by financial parties under obligation, when dealing with politically exposed persons resident abroad. Said article covers criteria 6.1., 6.2., 6.3 and 6.4 in the following terms: ***"Article 49 fourth*** *Enhanced due diligence measures* *1. Besides the measures established in article 49, the parties under obligation must apply, in accordance with a risk analysis, enhanced due diligence measures in those situations which by their nature can represent a higher risk of money laundering or terrorism financing and at least in the following situations:* (...) *(c) In relation to transactions or business relationships with politically exposed persons who reside abroad, the financial parties under obligation must:* *- have appropriate risk-based procedures to determine whether the customer is a politically exposed person.* *- obtain approval from management to establish business relationships with these customers.* *- adopt adequate measures to determine the source of wealth and funds that are involved in the business relationship or transaction.* *- conduct enhanced ongoing monitoring of the business relationship.* (...)" The requirements of R.6 do not extend to PEPs that hold prominent functions domestically (additional elements 6.5 - *Are the requirements of R.6 extended to PEPS who hold prominent public functions domestically?*). This legislative orientation is consistent with the small size of the country where, again, the 83,000 inhabitants entail a close knowledge of persons that have held public functions, their relatives, and their associates. This option has also considered criteria laid down by Commission Directive 2006/70/EC, which states that in order to provide for a coherent application of the concept of politically exposed person, when determining the groups of persons covered, it is essential to take into consideration the social, political and economic differences between countries concerned. As far as criterion 6.6. is concerned, the Andorran Parliament ratified, on 18 October 2007, of the Criminal Law Convention on Corruption, adopted in Strasbourg on 27 January 1999.
(Other) changes since the last evaluation	

Recommendation 7 (Correspondent banking)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- to transpose into Andorran law recommendation 7 on relationships with correspondent banks*
Measures taken to implement the Recommendation of the Report	Section 1.b) of article 49.fourth of the LCPI bill requires enhanced due diligence measures in connection with cross-border correspondent banking relationships in similar terms to those laid down by article 13.3 of Directive 2005/60/EC, thus providing full compliance with Criteria 7.1 to 7.5. "***Article 49 fourth*** *Enhanced due diligence measures* *1. Besides the measures established in article 49, the parties under obligation must apply, in accordance with a risk analysis, enhanced due diligence measures in those situations which by their nature can represent a higher risk of money laundering or terrorism financing and at least in the following situations:* (...) *(b) In cross-border correspondent banking relationships with respondent foreign entities, the Andorran credit entities must:* *- gather sufficient information about the respondent entity to understand the nature of its activity and determine, from publicly available information, its reputation and the quality of its supervision.* *- assess the respondent entity's anti-money laundering and anti-terrorism financing controls.* *- obtain approval from management before establishing new correspondent banking relationships.* *- document the respective responsibilities of each entity.* *- with respect to payable-through accounts, there must be guarantees that the respondent credit entity has verified the identity of and performed ongoing due diligence on the customers who have direct access to the accounts of the correspondent Andorran entity.* (...)"
(Other) changes since the last evaluation	

Recommendation 8 (New technologies and non face-to-face business)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- to transpose into Andorran law recommendation 8 on risks associated with new technology*
Measures taken to implement the Recommendation of the Report	Article 49.3 of the LCPI bill covers criterion 8.1. by requiring financial institutions to take measures needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes. "***Article 49*** (...) *3. The financial parties under obligation must adopt constant monitoring measures with regard to new technology in order to prevent any action that could lead to the false identification of the customer in transactions carried out at a distance.*" Moreover, Andorran banks devote substantial efforts to training of employees in new technologies and security measures, equipment, follow up and monitoring. They also participate on a regular basis on initiatives and forums against online fraud, fishing and other related topics. Paragraph (b) of Article 49 fourth of the LCPI bill, implements the MONEYAL recommendation by requiring enhanced due diligence measures in connection with non-face to face business relationships or transactions in similar terms to those laid down by article 13.2 of Directive 2005/60/EC, thus providing compliance with Criterion 8.2. ***"Article 49 fourth*** *Enhanced due diligence measures* (...) *a) When the customer was not physically present for identification, specific and adequate measures must be adopted to compensate for the increased risk, for example through one or several of the following measures:* *- ensuring that the customer's identity is established by additional documents, data or information.* *- adopting supplementary measures to verify or certify the documents supplied, or requiring a certificate of confirmation issued by a credit or financial entity subject to this Law or an entity from any OECD country that imposes equivalent measures to those of this Law and monitors fulfilment of the same."*
(Other) changes since the last evaluation	

Recommendation 12 (DNFBP – concerning Rec. 6, 8 – 11; concerning Rec. 5 see above)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- ensure that national legislation on recommendations 6 and 8 (once approved) and 9 to 11 is applicable to all the sectors covered by the LCPI, including DNFBPs*
Measures taken to implement the Recommendation of the Report	As already stated, article 45 of the LCPI bill covers criterion 12 of the Methodology confirming the application of due diligence rules by DNFBP. This notwithstanding, some specific provisions, particularly those usual in the context of the financial services providing, are only applicable to financial parties under obligation. Article 49.3. of the LCPI bill provides for the implementation of Recommendation 8 but refers only to financial subjects under obligation. "***Article 49*** (...) *3.* ***The financial parties under obligation*** *must adopt constant monitoring measures with regard to* ***new technology*** *in order to prevent any action that could lead to the false identification of the customer in transactions carried out at a distance*. (...)" The application of this specific monitoring measure limited to financial parties lies with the nature of their business and the potential use of the new technology which does not appear to be the same in the case of DNFBs. Article 50 of the LCPI bill provides for the implementation of Recommendation 9 by means of a reference to all subjects under obligation (thus, including also DNFBPs), as follows: "***Article 50*** *For the purposes of complying with the obligations referred to in article 49 of this Law, the* ***financial and non-financial parties under obligation*** *may delegate their application to third parties under obligation. Nevertheless, the delegating party under obligation will continue to be responsible for compliance with these obligations*." Article 51 of the LCPI bill provides for the implementation of Recommendation 10 by means of reference to all subjects under obligation (thus, including also DNFBPs) as follows: "***Article 51*** *Without prejudice to compliance with the general rules on the obligation to keep accounting and contractual documents,* ***the parties under obligation*** *must preserve the documentation referred to in this article for a minimum period of five years, from:* *a) The date their commercial relations end with habitual customers.* *b) The date of a transaction carried out for occasional customers.* *c) The date on which any declaration of suspicion was made to the FIU.* *These documents must include information on the customer's identity, the nature and date of the transaction, the currency, the amount of the transaction, and the purpose and intention of the commercial relationship with the customer.* *The parties under obligation must ensure that this documentation and information is made available to the competent authorities as soon as it is requested.*

<table>
<tr><td></td><td>The parties under obligation must also monitor the accuracy of the documents, information and any other details requested from their customers to comply with this Law.”

Article 49 of the LCPI bill provides for the implementation of Recommendation 11 on non-usual transactions by means of reference to all subjects under obligation (thus, including also DNFBPs) as follows:

“Article 49
Due diligence measures

1. The parties under obligation must also abide by the following obligations:

a) The parties under obligation must be particularly vigilant in relation to transactions which, although not suspicious, take place under abnormal or complex conditions and do not seem to have a financial justification or lawful purpose, especially transactions typified as susceptible of involving money laundering or terrorism financing and classified as requiring special vigilance by the FIU in technical communiqués.”</td></tr>
<tr><td>Recommendation of the MONEYVAL Report</td><td>- review the value of section 16 of the LCPI regulation and repeal it if necessary, since it creates ambiguities</td></tr>
<tr><td>Measures taken to implement the Recommendation of the Report</td><td>Section 16 of the LCPI Regulations is under review in the context of bringing in line all LCPI Regulations with the LCPI bill Act. As already stated, pursuant to article 45 of the LCPI bill, dealers in high value items will be subject to CDD and reporting requirements when payment is made in cash in an amount of EUR 30,000 or more, or the equivalent in any other currency.</td></tr>
<tr><td>(Other) changes since the last evaluation</td><td></td></tr>
</table>

<table>
<tr><th colspan="2">Recommendation 15 (Internal controls and compliance)</th></tr>
<tr><td colspan="2">Rating: Partially compliant</td></tr>
<tr><td>Recommendation of the MONEYVAL Report</td><td>- describe in more detail the requirements of internal anti-laundering procedures, the duties and powers of anti-laundering compliance officers and the content and objectives of training</td></tr>
<tr><td>Measures taken to implement the Recommendation of the Report</td><td>Since the adoption of the assessment report by the MONEYVAL in September 2007, as far as the requirements of internal anti-laundering procedures is concerned, the Andorran FIU has issued the following technical communiqués:

<table><tr><th>Date</th><th>Content</th><th>Number</th></tr><tr><td>8.02.08</td><td>Contents of the external auditor memorandums</td><td>CT 1-2008</td></tr><tr><td>12.02.08</td><td>Request to provide AML/CFT internal policies</td><td>CT 2-2008</td></tr><tr><td>31.07.08</td><td>Request to provide a description of the AML/CFT measures taken to fulfil external audits recommendations</td><td>CT 6-2008</td></tr></table>
The technical communiqué dated 26 October 2006, contains the main aspects of the internal procedures required by the UPB as they have to be checked by the external auditors and set out in the audit reports, indicating the degree of implementation :</td></tr>
</table>

	"***1. Internal control unit.*** *a) Composition, names and positions of the members in the company.* *b) Regularity of meetings held during the last year.* *c) Evidence of minutes of the meetings.* *d) Description of the content of the same, corresponding to 2006.* ***2. Communication systems.*** *a) Communication channels between the internal control unit and the personnel of the entity.* *b) Dissemination of information/training material, communiqués, circulars, etc. to the personnel of the entity.* *c) Systems of reporting of suspicious transactions by the employees of the entity to the internal control chief.* *d) Number of transactions reported by the employees of the entity to the internal control chief. Number of transactions reported to the UPB.* *e) Availability and accessibility by the control chief to all the information collected by the manager.* ***3. Measures and procedures of control.*** *a) Prudent measures adopted in taking on new personnel. Information required and given to the new employee.* *b) Systems of checking the degree of assimilation/sensitisation of the employees relative to the training delivered.* *c) Customer acceptance policy. Selective criteria. Preventive measures.* *d) Existence of database of undesirable persons. Accessibility and source from which it is fed.* *e) Identification and knowledge of the customer. Information required. Verification and authorisation for opening accounts.* *f) Updating of data. Measures used for possible inactive accounts and/or lacking identification, basically long-standing customers or motivated by substantial changes in operations.* *g) Systems of control of transactions (criteria, follow-up, warnings, authorisations).* *h) Means of evidence of missing documents and/or information relative to the identification of the customer (profession, address, activity which generated the funds deposited).* ***4. Branches, subsidiaries or offices abroad.*** *a) Possession of branches, subsidiaries or offices abroad. Suppliers of services.* *b) Countries or jurisdictions where they are located.* *c) Description of type of products offered.* *d) Knowledge of current regulations in the mentioned countries or jurisdictions, in matters of the fight against money laundering, financing of terrorism and corruption.* *e) Knowledge of the entity audited, with branches, subsidiaries or offices located abroad, relative to the identity of their customers.* *f) Detail of control procedures and preventive measures used in these cases, noting possible differences which could exist with the systems used for accounts open in the Principality.* *g) Use by the audited entity of structures which, although presenting a complex and opaque appearance, allow identification of the true final beneficiary.* *h) Information delivered to the UPB, on own initiative or by formal requirement, on possible* *(...)"* FIU's communiqués provide the details on the content of the internal procedures providing for full compliance with Criteria 15.1 and 15.2. This practice permits a more flexible and dynamic adaptation of the procedures, in accordance with paragraph 24 of the AML/CFT Assessment Methodology which permits "other enforceable means", such as guidelines issued by a competent authority in order to comply with FATF Recommendation 15. In 2008 the UPB has checked AML/CFT internal procedures of all financial entities and therefore, the specific duties and powers of the AML officers, certifying compliance with Andorran law and requiring improvements where necessary All AML officers covered the requirements of the Andorran law as regards the duties and powers

	which basically consist on the following: (i) communication of STRs to the UPB; (ii) acting as representatives of the financial institution before the Andorran FIU; (iii) coordination of internal controls and procedures; (iv) review of audits and measures to be taken to improve AML/CFT policies; and (v) organization of training activities for employees. The review carried of by the UPB has also shown that internal monitoring and CDD work inside financial institutions is consistent with the high quality of STRs observed by UPB (after investigation by UPB, most of financial entities STR's have been accepted and sent to the judge by the Prosecutor's office). Furthermore, criteria 15.1 and 15.2 are generally covered by article 52 of the LCPI bill which require financial parties under obligation to carry out both external and internal audits, and the appointment of anti-money laundering compliance officers in charge of monitoring and organising internal compliance policies. "***Article 52*** *1. The financial parties under obligation must:* *a) Contract an independent* ***external audit each year*** *to verify compliance with this Law and send the FIU a copy of the report issued for this purpose.* *b)* ***Appoint an internal control*** *and communication body in charge of organising and monitoring compliance with the rules on the fight against money laundering and terrorism financing and notify this appointment to the FIU.* *c) Establish* ***internal audit and control procedures****.* *The FIU will establish through technical communiqués the criteria to be followed in audits*." The contents and objectives of training are dealt with in article 49 fifth of the LCPI bill in similar terms to those laid down in article 35.1 of Directive 2005/60/CE, thus covering criterion 15.3. ***"Article 49 fifth*** *1. The parties under obligation must adopt the necessary measures so that their personnel have sufficient knowledge of the legal provisions on the prevention of and the fight against money laundering and terrorism financing.* *2. The parties under obligation must have specific ongoing training programmes for their personnel to help them to detect transactions that could be related to money laundering and terrorism financing.* *3. The FIU, either through training programmes or through technical communiqués, informs the parties under obligation about the current practices of the perpetrators of money laundering and terrorism financing and about the indicators that lead to the detection of suspicious practices.* *4. The FIU informs the parties under obligation, whenever possible, about the effectiveness and follow-up of their declarations of suspicions."*
Recommendation of the MONEYVAL Report	*- introduce internal testing or auditing of procedures*
Measures taken to implement the Recommendation of the Report	As regards criterion 15.2, it is relevant to note that supervision in Andorra has been substantially strengthened both on the prudential side and AML/CFT. The starting point in most cases will be the legally required (and for their content prescribed by INAF and UPB) reports from an external auditor.

	The external auditor is an essential element of the supervisory system, allowing the AML/CFT system to profit from the breadth of experience of large international audit companies while ensuring, through strong supervisory control their full compliance with the Andorran legal system and the specific instructions of the Andorran supervisor. UPB has requested AML/CFT external audit reports of insurance companies and non-banking financial entities to include a sample review of client accounts. In the case of banks, in 2008 the sample has been significantly increased to a level guaranteeing a margin of error of less than 1%. The next step is the analysis of the audit reports by both INAF and UPB within their competences, formal exchange of information between the authorities to ensure a complete picture for both supervisors and a consistency check with the work done by direct on-site inspection by both supervisors. Based on this, both supervisors have in 2008 widened the scope of their assessment of the compliance of their supervised entities. Further to the additional sampling described above (UPB), INAF and UPB held follow up meetings with auditors and supervised entities, and requested further formal letters certifying certain actions taken in the supervised entities. Both institutions have in parallel to this effort conducted on-site inspections (see Recommendation 23 in this regard) which led to a follow up similar to the above.
Recommendation of the MONEYVAL Report	*- establish regulations on appropriate procedures for recruiting employees*
Measures taken to implement the Recommendation of the Report	As already stated, FIU's communiqués provide the detail on the content of these procedures providing for compliance with Criteria 15.4. This practice permits a more flexible and dynamic adaptation of the procedures, in accordance with paragraph 24 of the AML/CFT Assessment Methodology which permits other enforceable means, such as guidelines issued by a competent authority, in order to comply with FATF Recommendation 15.
(Other) changes since the last evaluation	

Recommendation 16 (DNFBP concerning R. 14-15 & 21; concerning R. 13 see above)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- extend protection against the consequences of declarations of suspicion unambiguously to DNFBPs*
Measures taken to implement the Recommendation of the Report	See comments concerning R.13 above.
Recommendation of the MONEYVAL Report	*- make it an obligation for DNFBPs to appoint at least one anti-laundering official*
Measures taken to implement the Recommendation of the Report	See comments concerning R.13 above.
Recommendation of the MONEYVAL Report	*- once FATF recommendation 21 on special attention to at-risk countries and territories has been transposed, make it applicable to DNFBPs*
(Other) changes since the last evaluation	See comments concerning R.13 above.

Recommendation 18 (Shell banks)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- to review the transposition of recommendation 18: financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks; financial institutions should be required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks*
Measures taken to implement the Recommendation of the Report	Due to international business practice, Andorran banks are required to exchange confirmations about their ownership regulations and other similar issues with all their correspondent banks (by means of the so-called "KYC questionnaires"). These questionnaires always contain a clause confirming that no business is done with shell banks by any of the banks concerned. Furthermore, section (d) of Article 49 fourth of the LCPI bill prohibits establishing or maintaining correspondent banking relationships with shell banks in similar terms to article 13.5 of Directive 2005/60/EC, thus providing for full compliance with the said criteria. "***Article 49 fourth*** (...) *(d) Establishing or continuing correspondent banking relationships with* ***shell banks*** *is prohibited. Appropriate measures must be taken to ensure that no correspondent banking relationships are established or maintained with banks that are known to permit their accounts to be used by shell banks.* *(e) Appropriate measures must be taken to prevent products or transactions that might favour anonymity being used for money laundering or terrorism financing purposes*."
(Other) changes since the last evaluation	

Recommendation 19 (Other forms of reporting)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- consider the feasibility and value of a system in which banks and other financial institutions and intermediaries reported all national and international transactions in cash above a certain level*
Measures taken to implement the Recommendation of the Report	As stated in paragraph 406 of the evaluation report, Andorra has no arrangements for financial institutions to report all transactions in currency above a fixed threshold. This notwithstanding, essential criteria 19.1 is fully covered as the Andorran authorities have considered the feasibility and utility of implementing such a system in the context of the preliminary work that ended up in the recently enacted Law 2/2008, of 8 April, on foreign investments. After due consideration, Andorra opted not to implement a system of reporting to the FIU of all cash transactions above a fixed threshold. This notwithstanding, as a result of the preliminary work to submit the legislative proposal to the Andorran parliament, article 3 and the First Additional provision (Disposició addicional primera) of the Law 2/2008, require that all payments connected to foreign investments in Andorra must be executed through duly licensed Andorran banks, unless said payments are executed abroad; upon request of the Ministry of finance duly justified, Andorran banks and other

	Andorran financial entities are required to provide information on transactions related to said foreign investments. In addition, Andorran banks and other Andorran financial entities must report to the Ministry of finance on a quarterly basis, aggregated information on the countries and nationalities involved in any cross-border transfer of funds. *"Law 2/2008 of 8 April, on foreign investments.* *Article 3* *Collections and payments* *1. The receipt and making of payments derived from foreign investments and their settlement must be made through banking entities authorised in the Principality of Andorra and in accordance with the law in force, with the exception of what is provided in paragraph 2.* *2. The receipt and making of payments abroad in relation to the transfer of direct investments in Andorran companies or in branches that conduct their activities outside Andorra, is not subject to the obligations established in paragraph 1."* *(...)* *Additional provisions First* *1. All collections and payments made in the Principality between residents and non-residents linked to foreign investments regulated by this Law, as well as transfers from or to abroad, regardless of the currency used, must be carried out through a banking entity authorised in the Principality of Andorra.* *2. Andorran banking entities and other entities operating in the financial system must provide the Ministry of Finance with the information that it requests exceptionally, on individual basis, about the origin, destination and description of transactions linked to foreign investments regulated in this Law in which they participate.* *3. Andorran banking entities and other entities operating in the financial system must provide the Ministry of Finance on a quarterly basis with aggregate information organised according to the countries of origin and destination and the nationality of the payers and payees in relation to any movement of capital from or to abroad.* *4. Andorran banking entities may not enter into any of the transactions referred to in paragraph 1 without having previously obtained the information referred to in paragraph 2, unless the transactions are carried out by other entities operating in the financial system and all the parties involved in the transactions are obligated to provide the information.* As regards criteria 19.2 and 19.3, Andorra opted not to introduce a threshold-based reporting system.
(Other) changes since the last evaluation	

Recommendation 20 (Other DNFBPS and secure transaction techniques)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- steps should be taken, by clarifying the legislation and introducing regulations for the professions concerned, to bring consels, gestorias, economistas, financiarias and others within the scope of the LCPI, in accordance with FATF recommendations 5, 6, 8-11, 13-15, 17 and 21*
Measures taken to	Section 45 of the LCPI is not exhaustive (as it referred to tax assessor, real estate agents, notaries and

implement the Recommendation of the Report	members of other independent legal professions) and, therefore, the activities of these presumed unrecognised professions (*consels, financiarias, economistas gestorias)* were already covered. The evaluators noted that some activities, such as legal advice, accounting, assistance with the purchase of residential or other property are or may also be conducted by other, more generally recognised, professions, such as lawyers and, to a lesser extent, accountants. In any case, article 45 of the LCPI bill provides for a more precise listing of DNFBPs in order to avoid misunderstandings. *(...)* *a)* ***professional external accountants, tax advisers, auditors, economists and business agents*** *(gestories)* *b)* ***notaries, lawyers and members of other independent legal professions*** *when they take part in assisting the planning or execution of transactions for their customers in the framework of the following activities:* *(...)* Andorra has considered applying Recommendations 5, 6, 8 – 11, 13 – 15, 17 and 21 to other non-financial businesses and as a result, as stated in paragraph 551 of the evaluation report, the Andorran list of DNFBPs goes beyond FATF's four remaining DNFBPs categories, providing for full compliance with criterion 20.1. In this sense, it is relevant to point out that FATF definition of high value dealers is limited to precious metals and precious stones traders while the Andorran definition applies the wider concept laid down in paragraph article 2.1.(e) of Directive 2005/60/EC. Moreover, article 42 stipulates that all natural or legal persons may be subject to the provisions of the law, and accordingly, to the supervision of FIU, as long as its activities may facilitate the money laundering or the financing of terrorism. ***"Article 42*** *Apart from the provisions specifically applicable to the parties under obligation pursuant to article 45, this law applies to all natural or legal persons whose economic activities may channel or facilitate a money laundering operation or terrorism financing*."
Recommendation of the MONEYVAL Report	- *consideration should be given to introducing regulations or limitations on cash payments*
Measures taken to implement the Recommendation of the Report	Andorra has indeed taken measures to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering. The Andorran banking system is based on a universal banking model, including specialised banking services. Andorran banks offer a complete range of banking services, including credit operations, equity management and financial advisory services, liability operations, financial analysis and other services such as credit cards and transfers. Andorran banking entities operate in the main urban areas of the country through an extensive network of branches. The branches providing banking services in the Principality and the number of cash dispensers at 31 December 2007, were 57 and 146 respectively. The country has a highly developed banking system and the government has identified as a key policy objective the creation of a structurally sound, reliable, and effective financial system to support economic growth. Accordingly, the following bills on the regulatory framework of the Andorran

	financial system bring in line Andorran legislation with recent European developments and, remarkably, with the MiFID provisions on issues related to investment services providers such as their organizational structure, corporate governance, risk management and customer classification, among others. ▪ Bill for a Law regulating specialized non-banking credit financial institutions. ▪ Bill for a Law regulating banking entities and the basic administrative aspects of entities operating in the financial system. ▪ Bill for a Law regulating investment financial institutions and the management companies of collective investment undertakings In addition, the Andorran Banking Association is currently working on the analysis of the Single European Payment Area project (SEPA) whose main regulatory aspects are ruled by Directive 2007/64/EC, of 13 November, on payment services in the internal market. SEPA will allow customers to make non-cash euro payments to any beneficiary located anywhere in the euro area using a single bank account and a single set of payment instruments. All retail payments in euro will thereby become “domestic”. There will no longer be any differentiation between national and cross border payments within the euro area. Micro States such as Monaco, San Marino and Andorra are waiting for the negotiations being held by Switzerland and Liechtenstein to be completed to be able to evaluate the situation. All these measures encourage public confidence in the banking sector and therefore the use of its systems to execute payments, reducing Andorra’s vulnerability to basic cash-based Money laundering and Terrorist Financing activities. As regards not issuing very large denomination notes (example quoted within the scope of criteria 20.2 of the Methodology), Andorra does not have its own currency and therefore adopted Euro, on 1 January 2002. Thus, the highest denomination bank note in Andorra is 500 Euros, like in the countries members of the European monetary union.
(Other) changes since the last evaluation	

Recommendation 21 (Special attention for higher risk countries)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	- *give the Andorran government or the FIU statutory authority to apply appropriate counter-measures.*
Measures taken to implement the Recommendation of the Report	The UPB has issued a technical Communiqué 5/2008 on 28 February 2008, related to FATF-GAFI High Risk Countries. Financial parties were asked to increase the due diligence measure while having business relationships with the countries included in the list. Furthermore, both on-site inspections and external audit reports permitted to confirm that banking entities give special attention to business transactions with persons from or in countries which do not apply FATF recommendations. List of countries issued by other international bodies such as OECD are also considered for these purposes. Likewise, the LCPI bill requires a risk based approach for the application of AML/CFT measures that

	contribute to cover Recommendation 21. "***Article 49*** (...) *2. The parties under obligation will adopt the measures detailed in the previous section on customer due diligence, but **may determine the extent of such measures on a risk sensitive basis** depending on the type of customer, business relationship, product or transaction. The parties under obligation must be in a position to demonstrate to the FIU that the extent of the measures adopted is appropriate in view of the risks of money laundering and terrorism financing.* (...)" As far as enhanced customer due diligence is concerned, article 49.fourth of the LCPI bill has also considered article 13 of Directive 2005/60/CE in the following terms: **"*Article 49 fourth*** *Enhanced due diligence measures* *1. Besides the measures established in article 49, the parties under obligation must apply**,** in accordance with a risk analysis, enhanced due diligence measures in those situations which by their nature can represent a higher risk of money laundering or terrorism financing and at least in the following situations:* (...)"
(Other) changes since the last evaluation	

Recommendation 22 (Foreign branches and subsidiaries)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- ensure that the various requirements of FATF recommendation 22 are specified more clearly in Andorran legislation*
Measures taken to implement the Recommendation of the Report	Article 44 of the LCPI bill keeps the basic mandate already observed in former provisions, specifying more clearly the various requirements of FATF recommendation 22 in similar terms to those laid down by article 31 of Directive 2005/60/EC. "***Article 44*** *Financial parties under obligation must ensure that their branches, subsidiaries in which they hold majority interests and delegations located abroad that conduct commercial or financial transactions, apply measures equivalent to those provided in this Law for the prevention of money laundering and terrorism financing.* *If there is a significant difference between Andorran regulations on money laundering and terrorism financing and those of another country, the entities mentioned in the previous paragraph must apply the more stringent regulations, provided that local law so permits.* *In the event that the said entities cannot comply with the Andorran regulations on money laundering and terrorism financing due to incompatibilities with local rules, they must inform the FIU.*"
(Other) changes since the last evaluation	

<table>
<tr><th colspan="2">Recommendation 23 (Regulation, supervision and monitoring)</th></tr>
<tr><td colspan="2">Rating: Non compliant</td></tr>
<tr><td>Recommendation of the MONEYVAL Report</td><td>- complete the transfer of general responsibility for supervising the insurance sector from the government to INAF and strengthen AML/CFT supervision of the insurance and non-banking financial sectors</td></tr>
<tr><td>Measures taken to implement the Recommendation of the Report</td><td>UPB is empowered as the supervisor entity in AML/CFT matters covering all subjects (financial and non-financial) under obligation. Therefore, UPB has a complete range of competencies relating to supervision including on-site inspections, monitoring of internal and external auditing, and, as per the new legislative initiatives, sanctioning procedures for non-compliance.

In its capacity as AML/CFT supervisor, UPB also covers the insurance sector and has established a good working relationship with the current supervisor of insurance companies, the Ministry of Finance. Some of the Andorran insurance companies are controlled by banks, and therefore are in fact subject to the financial prudential supervision of INAF besides the supervision of the UPB. For issues connected to AML/CFT, in a risk-based evaluation, UPB is managing the supervision proactively.

Pursuant to the MONEYVAL Recommendations, cooperation and coordination with the prudential financial supervisor (INAF) have been strengthened in 2007 and 2008 to achieve a comprehensive monitoring of AML/CFT measures in the financial sector. Thus, INAF informs UPB of any circumstances that result from annual audits and both on-site and off-site inspections carried out for prudential supervision purposes. Likewise, the amendments to the AML/CFT legislation will widen the scope of the information that UPB will be required to send to the INAF in ML/FT cases when there is a financial institution involved. Based on the experience gained in these last few years, both supervisors have considered defining their common strategy and efforts in a Memorandum of Understanding that is already at an advanced stage of drafting. It will cover their regulatory competences, day-to-day supervisory work, all aspects of the exchange of information and contain clear procedures to ensure a strong sanctioning regime, among other matters.

In the exercise of its competencies, the UPB has conducted, among others, the following activities in the last 12 months:
- On-site inspection of 2 banks (out of 5); 2 non-banking financial entities (out of 5); 2 life insurance companies (out of 14).
- Off-site inspection of all audit reports and additional documentation of these entities (24 entities). UPB has requested AML/CFT external audit reports of insurance companies and non-banking financial entities to include a sample review of client accounts. In the case of banks, in 2008 the sample has been significantly increased to a level guaranteeing a margin of error of less than 1%.
- All off-site inspections have been followed-up with discussions with the entities concerned and have led to the entity providing UPB with a formal letter detailing its future AML/CFT work.
- On-site inspections, including follow-up discussions, of 13 DNFBPs (including notaries, lawyers, real estate agents, jewellers and accountants).
- UPB has checked the internal regulations of all financial entities and certificates have been issued on compliance with Andorran law relating to AML/CFT, requesting improvements where necessary.
- Two sanction procedures have been initiated by UPB.

The transfer of general responsibility for supervising the insurance sector from the Government to</td></tr>
</table>

	INAF has not been completed yet. Pursuant to the Second transitional provision of the Law 14/2003, of 23 October, on the Andorran National Institute of Finance, a draft of a new insurance law is expected to be tabled in the General Council in coming months. This legislative bill will deal with the integration of insurance companies into the financial system and the said transfer of responsibilities to INAF. Article 41 of the LCPI bill expressly provides that insurance companies authorised to operate in the life assurance sector and any operative components of the Andorran financial system are deemed to be financial parties under obligation subject to the whole range of requirements and obligations laid down by the LCPI bill (CDD, reporting, internal procedures). "***Article 41*** (...) *c) Financial parties under obligation: Individuals and legal persons bound by the obligations set out in this Law and belonging to any of the following categories:* *1. Operative components of the financial system.* ***2. Insurance companies authorised to operate in the life assurance sector.*** *3. Money remittance institutions.* (...)
Recommendation of the MONEYVAL Report	*- review the application of recommendation 23 regarding the transfer of money and securities by post offices and the activities of bureaux de change*
Measures taken to implement the Recommendation of the Report	The fact that the French and Spanish postal services (two isolated cases) offered money transfer services has led the UPB, as the supervisor concerned, to take the following measures :. (i) In 2007, UPB formally notified the two entities that they were considered financial parties under obligation for AML/CFT purposes and therefore fully subject to all laws and regulations in Andorra and to full supervision by UPB. (ii) In a number of meetings held during 2008, the following obligations, among others , were reminded for the sake of compliance and awareness-raising: -Yearly remittance of an external audit to the UPB -Remittance of the internal regulations (already sent to the UPB) -Communications of the STR's to the UPB In Andorra, at this point in time, no bureaux de change exist. From a legislative perspective, article 41 of the LCPI bill expressly provides that money remittance institutions (definition laid down by article 4.13 of Directive 2007/64/CE) are deemed to be financial parties under obligation subject to the whole range of requirements and obligations laid down by the LCPI bill (CDD, reporting, internal procedures). "***Article 41*** (...) *c) Financial parties under obligation: Individuals and legal persons bound by the obligations set out in this Law*

	and belonging to any of the following categories: *1. Operative components of the financial system.* *2. Insurance companies authorised to operate in the life assurance sector.* ***3. Money remittance institutions.*** (...)"
Recommendation of the MONEYVAL Report	*- take measures to implement criteria 23.3 (protection the financial sector from criminal infiltration/control) and 23.4 (applicability of prudential regulations to AML/CFT)*
Measures taken to implement the Recommendation of the Report	Andorran legislation do provide a regulatory framework and policies to prevent financial entities from being infiltrated and controlled financially by criminals. Thus, it covers criteria for the licensing of financial institutions and therefore requires background checks of its shareholders and sources of funds and for any change of ownership, as per the international standards of the Basel core principles. Thus, INAF has in every case checked the background of persons and funds that act or invest in the Andorran financial institutions. In compliance with R.23.3.1 Directors and senior management of financial institutions must be evaluated on the basis of the "fit and proper" criteria including those relating to expertise and integrity. This criteria are contained in the following laes: (i) article 13 of the Financial System Act, of 27 November 1993. (ii) article 4 and 5 of the Law on the basic administrative aspects of Andorran banking entities, of 30 June1998. (iii) article 13.(2) of the Law on the setting-up of Andorran banking entities, of 30 June 1998, requires that requests to the supervisor (INAF) must necessarily include the identity and profile of the prospective shareholders and the members of the board of directors. The bill for a Law regulating banking entities and the basic administrative aspects of entities operating in the financial system to be submitted to the Andorran Parliament does also cover the fit and proper criteria as regards directors and senior managers of financial entities operating in Andorra. As regards the applicability of prudential regulations to AML/CFT, financial institutions subject to the Basel Committee Core principles apply them both for prudential purposes and money laundering purposes. As stated in the assessment of the Financial Sector Supervision carried out by the International Monetary Fund (IMF) in February 2007 (paragraph 32): "*32. Detailed INAF directives require external auditors to make an evaluation of a wide range of areas, which are reported annually in the Complementary Audit report. These areas include: (i) compliance with accounting and prudential rules; (ii) report of significant events; (iii) consolidation of financial statements; (iv) organization and management; (v) internal control processes; (vi) validation of prudential reports filed with the INAF; (vii) management of credit, market, liquidity, country, operational, and legal risks; (viii) follow up of issues raised in previous reports; and (ix) general conclusion and recommendations*." Legally binding INAF communiqués including regulations on prevention of money laundering which implement the guidelines from the Basel Committee "Compliance and the compliance function in banks" dated 2005 are, amongst other, the following:

	<table><tr><th>Date</th><th>Content</th><th>Number</th></tr><tr><td>Since 2002 on annual basis</td><td>Corporate structure</td><td>142-02</td></tr><tr><td>Since 2002 on annual basis</td><td>Internal control and audit</td><td>143-02</td></tr><tr><td>Since 2003 on annual basis</td><td>Additional audit report</td><td>152-03</td></tr><tr><td>23-02-2006</td><td>Rules on ethics and conduct</td><td>20/EFI-GP</td></tr><tr><td>23-02-2006</td><td>Rules on ethics and conduct</td><td>18/EF-CE</td></tr><tr><td>23-02-2006</td><td>Rules on ethics and conduct</td><td>163/05</td></tr></table> As stated, the INAF has also monitored the AML/CFT activities of financial entities subject to prudential supervision requiring them to facilitate copies of the external audits sent to the UPB upon compliance of their statutory obligations; the INAF is also in contact with the UPB in order to contribute to any measures taken in order to implement FATF recommendations.
(Other) changes since the last evaluation	

Recommendation 24 (DNFBP – Regulation, supervision and monitoring)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- strengthen supervision of DNFBPs*
Measures taken to implement the Recommendation of the Report	As already stated, the LCPI bill widens the scope of application of CDD and reporting obligations to all parties under obligation eliminating former restrictions to entities belonging to the Andorran financial system. Thus, general supervision activities will be also applicable, among others, to DNFBPs.
(Other) changes since the last evaluation	

Recommendation 26 (The FIU)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- extend the scope of the LCPI to make the FIU responsible for terrorist financing matters, as is already planned*
Measures taken to implement the Recommendation of the Report	Pursuant to Article 53 of the LCPI bill, Andorran FIU is responsible to promote and coordinate measures against terrorism financing. "***Article 53*** *1. The FIU is an independent body whose aim is to promote and coordinate measures for the prevention of money laundering* ***and terrorism financing****; its budget is funded by the State.* (...)"
Recommendation of the	*- publish the FIU's annual report and include in it a survey of laundering risks in the country typology*

MONEYVAL Report	*of methods used, as already planned*
Measures taken to implement the Recommendation of the Report	Since 2006, the Andorran FIU has been taking care of publishing an annual report. As of today, the annual reports corresponding to 2006 and 2007 have been published and distributed. In addition, the new legal framework established by the LCPI bill requires the Andorran FIU's to prepare statistics and to publish the annual report. "***Article 49 fifth*** (...) *3. The FIU, either through training programmes or through technical communiqués, informs the parties under obligation about the current practices of the perpetrators of money laundering and terrorism financing and about the indicators that lead to the detection of suspicious practices.* *4. The FIU informs the parties under obligation, whenever possible, about the effectiveness and follow-up of their declarations of suspicions.* (...)" ***"Article 53*** (...) *2. The FIU has the following examination, decision-making and proposal functions:* (...) *n) Preparing sufficient statistics to be able to evaluate the effectiveness of the measures taken to prevent and fight against money laundering and terrorism financing.* (...)" The report of UPB activities 2007 (section 3) includes a typology of methods used for ML purposes throughout various cases detected in the Principality. The operational technique detected, in most of the cases, consists in currency transactions or reception of international transfers for later distribution to other national or international accounts, generally using wire transfers. The common methodology applied for the five cases outlines are as follows: background, brief description and most significant aspects.
Recommendation of the MONEYVAL Report	*- authorise more extensive direct access to databases, for example of the police and the register of property of non-residents*
Measures taken to implement the Recommendation of the Report	As stated in paragraph 272 of the evaluation report, the FIU can consult, directly or indirectly, all the data bases of government institutions such as the registers of companies, vehicle ownership and driving licenses, and indirectly other registers of enforcement and other bodies. It also makes frequent use of international on-line financial databases. The paragraph also pointed out that it appears from discussions on the spot that the FIU does not have access to the police database or the register of non-residents. However, the UPB has direct contact with the AML/CFT investigation department of the Andorran Police and also with the Interpol office in Andorra. Any request of information made by the UPB is answered immediately by the Police. Exchange of information between UPB and Police is usual and based in a extremely fluent cooperation (through formal and verbal communication) as shown by statistics attached to this report.

	Article 53.2 of the LCPI bill does not modify the previous competencies of the Andorran FIU as regards access to databases as it already permits to obtain any information needed to properly undertake its functions. In particular, paragraph (f) of section 2 refers to information from the police as follows: *"2. The FIU has the following examination, decision-making and proposal functions:* *(...)* *f) Requesting and obtaining information from the police and any official body within the scope of its aim."* UPB and the police have held a number of meetings and work is in progress to coordinate fast and effective access to police information. As far as access to investments of non-residents is concerned, article 1.5 of Law 2/2008 has remarkably increased the authority of the Andorran FIU, as natural and legal persons about which the Andorran FIU had informed unfavourably are not allowed to invest in Andorra. "*Foreign investments by individuals or legal entities domiciled in non-cooperative countries and territories in money laundering and financing of terrorism matters as defined by FATF, as well as those intended by individuals or legal entities unfavourably listed by the competent anti-money laundering bodies, are not authorised.*" In order to comply with this requirement, work is in progress to set up a Commission composed of the UPB, the Ministry of the Presidency (Corporate entities registry department) and the Ministry of Justice and Interior (Police Department). The purpose of this Commission is to verify that intended foreign investments do not entail ML/FT risks.
Recommendation of the MONEYVAL Report	*- consider ways of strengthening the UPB's authority, for example concerning technical communiqués, which are not binding, and its lack of direct powers to impose penalties for non-compliance with the LCPI;*
Measures taken to implement the Recommendation of the Report	Based on the national AML/CFT strategy formally adopted in December 2007, the UPB has executed its competencies as supervisor, coordinator, regulator and analysis unit as mentioned in the Overview and throughout this Progress Report. As concerns the specific question of technical communiqués, article 53 of the LCPI bill stipulates that technical communiqués of the Andorran FIU will be mandatory for all the subjects under obligation and in connection with those matters concerned. "***Article 53*** *1. The FIU is an independent body whose aim is to promote and coordinate measures for the prevention of money laundering and terrorism financing; its budget is funded by the State.* *2. The FIU has the following examination, decision-making and proposal functions:* *a) Directing and promoting prevention activities and those aimed at preventing entities in the financial system or of any other nature in the country being used for money laundering or terrorism financing, through the necessary instrumental procedures and technical rules.* ***To that end, the FIU will issue technical communiqués that are of mandatory compliance***. (...)"

	As far as the direct powers to impose penalties for non-compliance with the LCPI is concerned, article 53 of the LCPI bill provides for the FIU's authority to sanction minor administrative infringements. "***Article 53*** (...) *2. The FIU has the following examination, decision-making and proposal functions:* (...) *h) Sanctioning minor administrative infringements pursuant to this Law.* *i) Sending the competent administrative authority the investigation dossiers in which facts have been uncovered that could constitute a serious or very serious administrative infringement, accompanied by a sanction proposal.* *j) Submitting to the public prosecutor's office, for the appropriate purposes, cases in which there are reasonable suspicions that a criminal offence has been committed.* (...) In addition, article 57 of the LCPI bill lays down FIU'S authority to propose to the Government, administrative infringement declarations and sanctions to be imposed on persons held liable. ***Article 57*** *The administrative infringements and the serious and very serious sanctions established in this section are declared and imposed by the Government acting pursuant to a proposal from the FIU.*"
Recommendation of the MONEYVAL Report	*- make the UPB and its director more independent of the government, with a renewable term of office of a number of years for the director and the latter's right to select his staff*
Measures taken to implement the Recommendation of the Report	Article 53 of the LCPI bill confirms that the Andorran FIU is an independent body, directly funded by the State. No major changes exist as regards to the situation considered at the time of the on-site visit. The FIU's director is jointly appointed by the Interior and Finance ministers. There is not a renewable term of office. No legal restrictions exists as regards the right of the FIU's director to select his administrative staff (other than the statutory members of the FIU). "***Article 53*** *1.* ***The FIU is an independent body*** *whose aim is to promote and coordinate measures for the prevention of money laundering and terrorism financing; its budget is* ***funded by the State****.* (...) ***Article 54*** *The composition of the FIU is as follows:* *- A maximum of three people of acknowledged standing in the financial sector who are appointed by the Minister of Finance.*

	- A judge appointed by the National Justice Committee (Consell Superior de la Justicia). *- A maximum of three members of the Police Service appointed by the Minister of the Interior following a proposal from the Director of Police.* *The Interior and Finance Ministers jointly appoint the person with maximum responsibility from among the members of the FIU appointed by them.* *The members appointed by the Minister of the Interior and the Minister of Finance must dedicate themselves full time to the functions entrusted to them, and they may not perform any other public or private activity. The judge, in addition to his or her own jurisdictional functions, has the following tasks in the FIU: oversees the legal integrity of the dossiers presented, facilitates contacts with the legal authorities and other judges, and sends the dossiers on suspicious transactions to the competent authorities.* *The Government regulates the organisation and operation of the FIU.* *The members of the FIU and its appointed administrative personnel are bound by the duty of professional secrecy and may be found guilty of the offences set out in article 226 of the Criminal Code, both during and after their relations with the FIU.*"
(Other) changes since the last evaluation	

Recommendation 29 (Supervisory authorities)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- introduce a more explicit requirement into the LCPI for supervisory authorities and other government departments to report suspicions of laundering (and terrorist financing) to the UPB*
Measures taken to implement the Recommendation of the Report	The sound commitment of the Andorran government with the fight against money laundering and terrorist financing is evidenced by the creation, in February 2008, of a Permanent Commission on AML/CFT. This Commission has permanent members who represent the Ministry of External Affairs, the Ministry of Justice and Interior, the Ministry of Finance and the Presidency, the Ministry of Economy, INAF and UPB. Each institution is represented by designated members and an alternate member in order to avoid absences making the day-to-day tasks of the Commission difficult to achieve (see comments on R.31). Furthermore, the Andorran authorities are subject to the general duties of respect and submission to Andorran laws, laid down by both article 72 of the Andorran Constitution dated 28 April 1993 and article 13 of the Administrative Code of 29 March 1989. Therefore, any supervisory authorities or government department must report to the Andorran FIU any suspicious of laundering and terrorist financing. Cooperation and coordination with the prudential financial supervisor (INAF) have been strengthened in 2007 and 2008 to achieve a comprehensive monitoring of AML/CFT measures in the financial sector. Thus, INAF informs UPB of any circumstances that result from annual audits and both on-site and off-site inspections carried out for prudential supervision purposes. Based on the experience gained in these last few years, both supervisors have considered to define their common strategy and efforts in a Memorandum of Understanding that is already at an advanced stage of drafting. It will cover their regulatory competences, day-to-day supervisory work, all aspects of the exchange of information and contain clear procedures to ensure a strong sanctioning regime, among other matters.

Recommendation of the MONEYVAL Report	*- for the purpose of combating terrorist financing, extend the checks carried out to the customer/client lists of bodies covered by the legislation*
Measures taken to implement the Recommendation of the Report	Under the provisions of article 53 and 48 of the LCPI bill, the Andorran FIU has the power to compel production of or to obtain access to all records, documents or information relevant to monitoring compliance, thus covering criterion 29.2 of the Methodology. This includes all documents or information related to accounts or other business relationships or transactions, including any analysis the financial institution has made to detect unusual or suspicious transactions. Professional secrecy can not be objected to FIU's investigations or the exercise of its prerogatives. ***"Article 53*** *(...)* *2. The FIU has the following examination, decision-making and proposal functions:* *(...)* *b) Requiring information and documents from the parties under obligation to verify that this Law is being applied.* *c) Carrying out in situ inspections to verify that this Law is being applied.* *(...)* *e) Collecting, gathering and analysing declarations from parties under obligation, as well as all written and verbal communications received, to evaluate the facts.* *f) Requesting and obtaining information from the police and any official body within the scope of its aim.* *(...)"* ***"Article 48*** *(...)* *The secrecy obligation mentioned in paragraph two of this article may not be argued as grounds to refuse information to the FIU. In the event a refusal or incident occurs in the performance of the FIU's investigations or the exercise of its prerogatives, the FIU submits the case to the duty magistrate, who will issue an immediately enforceable ruling thereon following a hearing to be held with the public prosecutor's office and the interested parties within 48 hours."*

Recommendation of the MONEYVAL Report	*- give the UPB more flexibility in conducting on-the-spot inspections, for example by allowing it to talk to persons other than ML compliance officers*
Measures taken to implement the Recommendation of the Report	Article 53 of the LCPI bill eliminates former limitations to just meet with ML compliance officers with previous announcement of 48 hours. Under the amended provision, the Andorran FIU has the authority to conduct on-site inspections and meet employees and managers, for example, to check on their level of knowledge of internal regulations. Such inspections could include the review of policies, procedures, books and records, and could extend to sample testing section, providing for compliance with criterion 29.2 of the Methodology. In this respect, the Andorran FIU has recently held meetings with all of the banking entities and with representatives of different economic sectors.

	In addition, based on its powers relating to supervision (including on-site inspections, receipt of audit reports, requiring improvements and opening of sanctioning procedures in case of non-compliance), the UPB has conducted 19 on-site inspection (including 13 DNFBPs) and 24 off-site inspections (with the correspondent follow up) in the last 12 months.
(Other) changes since the last evaluation	

Recommendation 30 (Resources, integrity and training)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- give close consideration to the various expectations and claims of the judiciary and the police and make any reforms necessary, bearing in mind the special demands created by serious crime, including laundering, such as the difficulties of investigation, the volume of work, the need for special expertise and motivation and the need for extra support*
Measures taken to implement the Recommendation of the Report	This issue has been discussed in recent meetings of the Permanent Commission created in February 2008 (see comments to R.31) and different formulas are under consideration for the time being.
Recommendation of the MONEYVAL Report	*- consider possible ways of reducing the UPB's staff turnover*
Measures taken to implement the Recommendation of the Report	As part of the general strategy to strengthen UPB, this question has been given consideration, including an increase of personal and improvement of facilities for UPB's staff.
Recommendation of the MONEYVAL Report	*- give the UPB […] more resources, in particular in terms of staff to enable it in particular to conduct its own inspections more frequently […]*
Measures taken to implement the Recommendation of the Report	Article 54 of the LCPI bill implements this Recommendation from the evaluation report by increasing the maximum members of the FIU, as follows: "***Article 54*** *The composition of the FIU is as follows:* *- A maximum of three people* (two people before the amendment) *of acknowledged standing in the financial sector who are appointed by the Minister of Finance.* *- A judge appointed by the National Justice Committee (Consell Superior de la Justicia).* *- A maximum of three members* (two members before the amendment) *of the Police Service appointed by the Minister of the Interior following a proposal from the Director of Police.* *The Interior and Finance Ministers jointly appoint the person with maximum responsibility from among the members of the FIU appointed by them.* *The members appointed by the Minister of the Interior and the Minister of Finance must dedicate themselves full time to the functions entrusted to them, and they may not perform any other public or private activity. The judge, in addition to his or her own jurisdictional functions, has the following tasks in the FIU: oversees the legal integrity of the dossiers presented, facilitates contacts with the legal authorities and other judges, and sends the dossiers on suspicious transactions to the competent authorities.*

	The Government regulates the organisation and operation of the FIU. *The members of the FIU and its appointed administrative personnel are bound by the duty of professional secrecy and may be found guilty of the offences set out in article 226 of the Criminal Code, both during and after their relations with the FIU.”*
(Other) changes since the last evaluation	

Recommendation 31 (Cooperation at national level)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- establish a multilateral group for more regular dialogue, which would involve both the various authorities and supervisory bodies and the bodies covered by the legislation, with varying participation according to topic. This would permit regular assessments of the effectiveness of the AML/CFT arrangements, based on the experience of those concerned*
Measures taken to implement the Recommendation of the Report	A Permanent Commission on money laundering and financing of terrorism was created in February 2008. This Commission has permanent members who represent the Ministry of External Affairs, the Ministry of Justice and Interior, the Ministry of Finance and the Presidency, the Ministry of Economy, INAF and UPB. Each institution is represented by designated members and an alternate member in order to avoid absences making the day-to-day tasks of the Commission difficult to achieve. Its members include: - the head of the UPB. - the head of the INAF - the heads of each of the Ministries above and a legal counsel from the Ministry of Justice and Interior. - the Chief Commissary of the Police department., member of the UPB - the magistrate member of the UPB. The main functions of this Commission are to: - Provide legal advice on legislative proposals. - Assist the UPB in its international activities (working groups, members of Andorran delegations in international meetings). - Participate in the design and application of AML/CT policies and measures. The Commission holds its meetings on a quarterly basis, although the head of the UPB may convene extraordinary meetings. To date, the Commission has met three times and discussed the following matters: - Review and discussion of MONEYVAL’s third evaluation report; - Legislative initiatives to implement MONEYVAL Recommendations contained in the assessment report - Follow-up of the actions taken by the UPB and its participation in international meetings; and - Advising on the ratification of the 1999 New York Convention. - Advising on the progress report; Other institutions may also participate in the meetings of the Commission upon previous agreement of the permanent members in order to either contribute to the work in progress, where appropriate, or increase their awareness on AML/CFT.

	In addition, a memorandum of understanding between INAF and UPB on the guidelines for coordination and best practices on AML/CFT matters is in advanced drafting stage and frequent meetings on AML/CFT have been held. Also, various meetings have taken place with prosecutors and judges on AML/CFT related issues.
(Other) changes since the last evaluation	

Recommendation 33 (Legal persons – beneficial owners)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*It is recommended that the system of registering legal persons be reviewed and strengthened, including:* *a) the proper enforcement of the ban on the use of name-lenders;*
Measures taken to implement the Recommendation of the Report	As regards the proper enforcement of the ban on the use of name lenders, see comments on R.5 (3) As regards the strengthening and review of the system of registering legal persons, the Law 20/2007, of 18 October, on public limited companies and limited liability companies, has established a new legal framework reinforcing the principles of transparency and publicity of the commercial registry. Thus, article 101 establishes that any person residing in Andorra may freely obtain from the Commercial Registry the following information: - Identity of the members or shareholders, and their number of shares; - Identity of the members of the management body of the company and their position; - Share capital, registered office and registered powers of attorney granted by the company.
Recommendation of the MONEYVAL Report	*b) an obligation for companies and those providing services to companies to declare significant changes, such as the capital structure, and names and addresses of the beneficial owners, for the purpose of identifying those beneficial owners;*
Measures taken to implement the Recommendation of the Report	In accordance with article 30 of the Decree of 26 March 2008 amending the Commercial Registry regulations, any change in the shareholding of an Andorran company must be declared to the Commercial Registry in a term of 15 days following the date at which the corresponding public deed is granted (declaration must include the new members identity and their number of shares). "***Article 30*** *Change of company members* *Changes in the members and the ownership of shares in a company must be registered in the Registry in a term of 15 days following the date the corresponding public deed is granted. Registration is carried out through a certificate issued by person authorized to do so and in which it is stated that there has been a change of member(s) and/or a change in the ownership of the shares, the identity of the member s and the shares that they own.*"

Recommendation of the MONEYVAL Report	*c) a similar obligation for notaries to report such changes to the register when they come to their notice.* *- launch an investigation into de facto companies – their number, use and foreign subsidiaries – and take any consequent steps to limit the risk of their use for AML/CFT purposes;* *- complete the conversion of negotiable instruments in bearer form to named securities and ensure that information on their holders is kept up to date;* *- clarify and facilitate access to information in the companies register;*
Measures taken to implement the Recommendation of the Report	As stated above, article 45 of the LCPI bill requires that notaries (as DNFBPs subjects under obligation) report any suspicious activity or transaction, and particularly in the framework of transactions referred to the buying and selling of business entities, as follows: "***Article 45*** *The obligations defined in this Law are incumbent upon financial parties under obligation and other natural and legal persons who, in the exercise of their professions or business activity, undertake, control or advise on transactions involving cash or securities movements which could be used for money laundering or terrorism financing, and in particular:* *(...)* *b)* ***notaries****, lawyers and members of other independent legal professions when they take part in assisting the planning or execution of transactions for their customers in the framework of the following activities:* *-* ***buying and selling*** *real property* ***or business entities****;* *- managing of customer money, securities or other assets;* *- opening or management of bank, savings or securities accounts;* *- organisation of contributions necessary for the creation, operation or management of companies;* *- creation, operation or management of companies, contractual fiduciary arrangements (fideicomisos) or similar structures; or when acting for their customers in financial or real estate transactions.*"
(Other) changes since the last evaluation	

Recommendation 35 (Conventions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- ratify the Palermo Convention and the Convention for the Suppression of the Financing of Terrorism*
Measures taken to implement the Recommendation of the Report	The Andorran parliament has approved the ratification of the following conventions for the Suppression of the Financing of Terrorism. ▪ Ratification, on 6 May 2008, of the Council of Europe Convention on the Prevention of Terrorism, adopted in Varsovia on 16 May 2005. ▪ Ratification, on 12 June 2008, of the International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999. With regard to the 2000 United Nations Convention on Transnational Organized Crime (the Palermo Convention) it was signed by Andorra on 11 November 2001.
(Other) changes since the last evaluation	

Recommendation 38 (Mutual legal assistance on confiscation and freezing)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- introduce the necessary legislation for the enforcement of foreign confiscation decisions*
Measures taken to implement the Recommendation of the Report	Articles 20, 38 and 39 of the LCPI are largely consistent with MONEYVAL requirements and FATF essential Criteria with regard to the enforcement of foreign confiscation decisions by Andorran courts. According to these provisions, Andorran Judges are entitled to order freezing or seizure of assets located in Andorra following a request from a foreign court which is holding criminal proceedings for money laundering offences. This decision is adopted as a precautionary measure, this means that the defendant is only entitled to challenge it once it has already been executed (i.e. the funds or assets have already been seized or frozen). The execution of foreign confiscation decisions in Andorra follow an internal abridged procedure, which is initiated, following the request of the foreign State, with a claim filed by the Public Prosecutor, then a subsequent hearing with the defendants is hold and finally a decision to execute the confiscation issued by the Court. The confiscation executed by means of this procedure may involve either the proceeds of a money laundering crime or of any other serious criminal offence. Likewise, this confiscation may also have effect on assets or values without a legitimate owner. Finally, it must be pointed out, that the abovementioned regime shall be extended to funds and assets deriving from terrorism financing crimes pursuant to the LPCI bill.
(Other) changes since the last evaluation	

Special Recommendation I (UN instruments)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- ratify the Convention for the Suppression of the Financing of Terrorism*
Measures taken to implement the Recommendation of the Report	The International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999, was ratified by Andorra on 12 June 2008. In addition, the amended Criminal Code fully implements the requirements stated by the 1999 UN Convention for the Suppression of the Financing of Terrorism with regard to criminalisation of terrorism financing, introducing an specific criminal offence of terrorism financing which also foresees additional consequences for legal persons (the wording to these provisions corresponds almost literally with the one proposed by the UN Convention). Likewise, this recent amendment of the Andorran Criminal Code introduces new sanctions to legal persons and a explicit provision allowing the confiscation of equivalent assets, which shall be applicable in cases of terrorism financing.
(Other) changes since the last evaluation	

Recommendation SR.III (Freezing and confiscation of terrorist assets)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- pursue actively the application of Security Council resolutions and FATF SR III and transpose them into appropriate national regulations*
Measures taken to implement the Recommendation of the Report	The UN Security Council Resolutions 1267 (1999) and 1373 (2001) together with the Special Recommendation III of FATF included into the Evaluation Report pursue the setting up of the relevant mechanisms into the States' legal systems in order to freeze and confiscate without delay any funds directly or indirectly deriving from or involved in terrorism financing. Since the issuance of the UN Resolution 1267 (1999) until the present days, the Principality of Andorra has implemented (and is currently implementing) a series of legal modifications that allow the relevant national authorities (Judges and Financial Intelligence Unit) to freeze without delay any funds deriving from or involved in terrorism financing. These freezing faculties are also enforceable upon the requirement of third States which are prosecuting the suspect individuals within their jurisdictions. These are the most significant legal modifications implemented until the present days by the Principality of Andorra in this matter: Confiscation of assets upon criminalisation of terrorism financing (articles 70 and 366 bis and third of the Andorran Criminal Code) Enforcement of international confiscation orders (articles 38 and 39 of LCPI) Freezing of assets within criminal proceedings (article 116 of Code of Criminal Procedure and article 20 of LCPI) Temporary freezing order issued by the Financial Intelligence Unit (article 47 of LCPI) The abovementioned regulations duly comply with the requirements of UN Security Council Resolutions and FATF SR III as regards the creation of the relevant mechanisms to freeze and confiscate without delay any funds deriving from or involved in terrorism financing.
(Other) changes since the last evaluation	

Recommendation SR.VI (AML/CFT requirements for money/value transfer services)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*SR VI should be taken into account when considering the unlawful money transfer activities that the postal service has recently introduced. If they are granted legal authorization, additional measures should be taken in accordance with criteria VI.1 to 6.*
Measures taken to implement the Recommendation of the Report	See comments to FATF Recommendation 23.
(Other) changes since the last evaluation	

Recommendation SR.VII (Wire transfers)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*- regulations should be established to ensure the application of all aspects of SR VII*
Measures taken to implement the Recommendation of the Report	As stated in paragraph 383 of the evaluation report, the aspects of criterion VII.1 are covered by a circular of the Andorran Banking Association of August 2004. Following the recommendation of the report, section 5 of article 49.bis of LCPI bill provides for the implementation of SRVII into Andorran legislation as regards complete information on the payer, in similar terms to those laid down by Regulation (EC) No 1781/2006 of the European Parliament and of the Council, of 15 November 2006, on information on the payer accompanying transfers of funds. Transfers of funds within Andorra have been granted an equivalent treatment to the one applicable to transfer of funds within the Community pursuant to article 6 of EC Regulation 1781/2006. *“**Article 49 bis*** *(...)* *5. Cross-border transfers for amounts of more than EUR 1,000 made by the financial parties under obligation must include full details of the ordering party. These details must include the following:* *(a) the ordering party’s name* *(b) number of the account from which the transfer is made. In the absence of the account number, the financial party under obligation must accompany the transfer with a transaction identification number that allows it to be traced back to the ordering party.* *(c) the ordering party’s address. The address can be replaced by the ordering party’s place and date of birth, customer number or national ID number.* *In national transfers, regardless of the amount, the details to be provided can be limited to the number of the account from which the transfer is made or a transaction identification number, provided that the financial party under obligation executing the transfer can provide full details of the ordering party to the entity receiving the transfer or to the FIU within three working days.* *The financial parties under obligation must duly inform the parties ordering the transfers about the data transfer rules before implementing the transfer orders.* *The financial parties under obligation must adopt the enhanced due diligence measures referred to in article 49 fourth on the basis of a risk analysis when they are the recipients of transfers that do not include the information on the ordering party required by this article.*”
(Other) changes since the last evaluation	

Recommendation SR.VIII (Non-profit organisations)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- give consideration to which of the measures under SR VIII could reasonably help to strengthen the resistance of non-profit organisations to money laundering and terrorist financing*
Measures taken to implement the	First additional disposition (disposició addicional primera) of the bill amending the LCPI currently

Recommendation of the Report	under parliamentary procedure, observes the following measures as regards the prevention of money laundering and the financing of terrorism through non-profit organisations. "***Additional article*** *Associations and other non-profit-making entities* *The boards of associations that are subject to the Associations Law of 29 December 2000, and their personnel with management responsibilities, will make sure that they are not used to channel funds or resources to persons or entities related or linked to terrorist groups or organizations.* *To this end, all associations will keep records of the identity of all persons that receive funds from the association for five years, as well as the registers referred to in article 28 of the Associations Law. These books and registers must be made available for inspection by the relevant persons from the Association Registry, and also by the administrative and judicial bodies competent in matters relating to the prevention of money laundering and terrorism financing.* *The duties established in paragraph 1 above will also be applicable to foundations or other non-profit-making organizations, and in this case, it corresponds to the protectorate, patron or corresponding representative managing the interests of the entity to abide by these duties.* *The obligations contained in this article can be developed further by a Government decree.*"
(Other) changes since the last evaluation	

Recommendation SR.IX (Cross border declaration and disclosure)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*- review the application of FATF special recommendation IX in its entirety*
Measures taken to implement the Recommendation of the Report	There have been no changes.
Recommendation of the MONEYVAL Report	*- involve the customs service more clearly – in law and in practice – in AML/CFT machinery*
Measures taken to implement the Recommendation of the Report	Despite the Andorran customs service is not expressly competent in AML/CFT matters, they are bound to prosecution of crimes and to comply with legal regulations in force in Andorra. In 2008 there has been one meeting between the UPB and the Customs service in order to discuss the possible implementation in Andorra of regulations against dual-use items which are at preliminary drafting stage at the Ministry of Finance, and its potential effects on money laundering typology. On another hand, the Ministry of External Affairs has answered a report concerning the 1803 Security Council's Resolution along with the Police, the UPB and the Customs. The Customs of Andorra has a computerized detection system based on risk analysis criteria. This system allows the detection of items exported or imported to countries with a higher risk of terrorism.
(Other) changes since the last evaluation	

4. Specific Questions

1. Were there any modifications made to the confiscation, freezing and seizure regime, as recommended in the mutual evaluation report (section 2.3)?
The recently approved Acts 15/2008 and 16/2008, which amended both Andorran Criminal Code and Code of Criminal Procedure, have introduced several modifications in order to meet MONEYVAL and FATF requirements in connection with confiscation, freezing and seizure of proceeds of crime. In this regard, article 70 of the amended Criminal Code explicitly establishes the possibility of confiscation of equivalent values, as follows: *"In the event that the proceeds of the crime can not be located or can not be repatriated from a foreign country, the Judge* ***is authorised to order the confiscation of equivalent assets****."* Likewise, article 116 of the amended Code of Criminal Procedure provides the Judge with the faculty to order freezing or seizure of assets even at the early stages of a criminal investigation. These faculty is also extended to proceeds of crime that may be in possession of third parties. Finally, the wide definition of funds adopted with this article coincides with the definitions proposed by MONEYVAL and FATF, in the following terms: *"In addition to guarantee potential civil liabilities during the criminal proceedings, the Judge must order, by means of a reasoned decision****, the freezing and seizure of any of the funds when sufficient objective indications arise from the criminal investigation that they are direct or indirect proceeds of the crime****, in order to ensure the confiscation of the funds/assets or the confiscation of equivalent assets as foreseen in article 70 of the Criminal Code. Likewise,* ***the Judge is also entitled to freeze or seize assets or rights belonging to a third party not responsible for the crime****, with the exception of those third parties that have legally acquired the said assets or rights according to articles 119 and 120.* *For the purposes of this article,* ***funds are understood as any type of good, tangible or intangible, movable or immovable, acquired by any means, licit or illicit, and the legal documents, deeds or instruments of any type, including electronic or digital documents, evidencing property rights or interests in such assets or goods, including but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit."*** These modifications of the regime of confiscation and freezing of assets in criminal proceedings are explicitly applicable to proceeds or funds deriving from money laundering and terrorism financing crimes.
2. Have there been any steps taken by law enforcement to focus on police generated ML cases and asset recovery and if so, with what result?
Three new specialized Police Units have been created to work exclusively on AML/CFT matters and international cooperation. Thus, more human and material resources are being devoted to these matters. There is a significant amount of investigations deriving both from police generated cases and from foreign requests for information.
3. The evaluation report highlighted INAF's modest or non existent co-operation and information exchange with foreign supervisory authorities and recommended that this should be rectified. Has

there been any change and if so, please provide information on the legal changes and the status of such co-operation since the adoption of the report (legal basis, restrictions to information exchange, any available statistics on requests received and made, refusals and grounds etc).
Under article 9 of Law 14/2003 of 23 October, on the Andorran National Institute of Finance, INAF is entitled to enter into relations and co-operation agreements within the scope of its functions and powers with central banks and financial supervisory authorities in other countries and with national and international official bodies connected with financial matters. In addition, as stated in section 1 of this report, the legislative measures already enacted are completed with a range of bills on the regulatory framework of the Andorran financial system that bring in line Andorran legislation with recent European developments and, remarkably, with the MiFID provisions on issues related to investment services providers such as their organizational structure, corporate governance, risk management and customer classification, among others. Thus, the Andorran Government is currently working on the bill for a Law regulating banking entities and the basic administrative aspects of entities operating in the financial system which lays down a more developed framework for INAF's cooperation and information exchange with foreign supervisory authorities in similar terms to those laid down by article 45 of Directive 2006/48/CE of the European parliament and of the council, of 14 June 2006, relating to the taking up and pursuit of the business of credit institutions.
4. Which concrete steps have been taken to raise awareness among DNFBPs and involve them in the AML/CFT efforts?
In 2008, the UPB has carried out significant activity as regards on-site inspections among DNFBPs, including: 3 lawyers (out of 133); 2 notaries (out of 4); 2 economists and accountants (out of 246); 4 real estate agents (out of 273) and 2 jewelleries (out of 29). Inspections have been followed-up with discussions with the entities concerned and have led to the DNFBP providing UPB with a formal letter detailing its future AML/CFT work. Awareness raising among DNFBPs and their involvement in AML/CFT efforts have been qualified as a priority by the Andorran government strategy, adopted in December 2007. For these purposes, the UPB is holding meetings on a regular basis with different sectors and professionals, and there is an ongoing follow-up process. Training programs have been held with all DNFBPs. In may of 2008, the Andorran FIU offered training programs to notaries, lawyers, external accountants, tax advisers, auditors, economists and business agents, real state agents and dealers of high value items. In these training programs, after a general overview of money laundering and financing of terrorism, the attendants were advised of their duties (KYC rules, obligation to report suspicious activities, internal control, etc) to prevent money laundering and financing of terrorism, and the sanctions imposed by the LCPI and the Criminal Code. A broad review of the implications of the new legislative framework on AML/CFT for each sector was also discussed. The Andorran FIU also has regular meetings and contacts with almost all the DNFBP associations (including: AGIA – real estate agents' association; Gremi de Joiers – jewellers' association; Col·legi d'Advocats d'Andorra – Andorran bar association; Col·legi de Notaris d'Andorra – Association of Andorran Notaries). They are involved in all the training programs to promote AML/CFT efforts, and the Andorran FIU also arranges meetings with these associations periodically. From a legislative perspective, new regulations such as article 49.fifth of the LCPI do provide for the

implementation of training measures both by the Andorran FIU and the subjects under obligation.

"*Article 49 fifth*

1. The parties under obligation must adopt the necessary measures so that their personnel have sufficient knowledge of the legal provisions on the prevention of and the fight against money laundering and terrorism financing.

2. The parties under obligation must have specific ongoing ***training programmes*** *for their personnel to help them to detect transactions that could be related to money laundering and terrorism financing.*

3. The FIU, either through ***training programmes*** *or through technical communiqués, informs the parties under obligation about the current practices of the perpetrators of money laundering and terrorism financing and about the indicators that lead to the detection of suspicious practices.*

4. The FIU informs the parties under obligation, whenever possible, about the effectiveness and follow-up of their declarations of suspicions."

5. Have sanctions been imposed (whether administrative or criminal) specifically for AML/CFT infringements, at the instigation of financial sector supervisors, since the adoption of the 3rd report?
If so, please indicate the main types of AML/CFT infringement detected by financial sector supervisors since the adoption of the 3rd report.

As the competent supervisor on AML/CFT, UPB has initiated two sanctioning procedures.

The infringements concerned were non-compliance with UPB technical communiqué, involving a serious failure of CDD, and missing elements of internal systems and controls.

6. Have the authorities undertaken a study on the risks of money laundering and terrorist financing in Andorra?

The Andorran FIU participates in FATF and Egmont surveys regarding AML/CFT issues (international cooperation, etc), amongst which are included technical questionnaires and other sort of initiatives regarding the risk of laundering. As a matter of example, the UPB recently participated in various exercises of type definition (*FATF Typology Project On Proliferation Financing)*, by contributing the more usual systems of laundering used in the Principality.

The UPB has also contributed to the Egmont survey "*Questionnaire Regarding Limitations on the Sharing of Information Regarding Money Laundering and Terrorist Financing Suspicion within Financial Institutions Operating in Multiple Jurisdictions*".

Moreover, it is worth mentioning that in the context of a meeting with representatives of the French FIU it was agreed that the UPB will be granted technical assistance on the assessment of the country's risks.

The report of UPB activities 2007 (section 3) includes a typology of methods used for ML purposes throughout various cases detected in the Principality. The operational technique detected, in most of the cases, consists in currency transactions or reception of international transfers for later distribution to other national or international accounts, generally using wire transfers. The common methodology applied for the five cases outlines are as follows: background, brief description and most significant aspects.

7. The report identified a number of shortcomings which make the real estate sector particularly vulnerable. Have there been any steps taken to address these risks?

New legislation as article 49.fifth of the LCPI bill provide for the implementation of training measures both by the Andorran FIU and the subjects under obligation. As stated, training programs were executed in May 2008 with the attendance of employees and representatives of the real estate sector.

Article 45 of the LCPI bill defines real estate agents as subjects under obligations, and also includes statutory obligations for legal professions when participating in real estate transactions. As stated, all parties under obligation have CDD and reporting obligation duties, not required by former legislation.

"Article 45

The obligations defined in this Law are incumbent upon financial parties under obligation and other natural and legal persons who, in the exercise of their professions or business activity, undertake, control or advise on transactions involving cash or securities movements which could be used for money laundering or terrorism financing, and in particular:

(...)

b) notaries, lawyers and members of other independent legal professions when they take part in assisting the planning or execution of transactions for their customers in the framework of the following activities:

- buying and selling real property or business entities;

(...)

f) real estate agents carrying out activities related to buying and selling property (...)".

5. Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)[7]

<table>
<tr><th colspan="2">Implementation / Application of the provisions in the Third Directive and the Implementation Directive</th></tr>
<tr><td>Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.</td><td>The amendments to both the LCPI and the Criminal Code have paid close attention to the criteria laid down by the Methodology for assessing compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations. In addition, the wording of the proposed amendments have considered the provisions of the European Union legislation, where applicable, in order to achieve a higher degree of compliance with the international standards. In particular,

▪ Directive 2005/60/EC of the European Parliament and of the Council, of 26 October, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

▪ Commission Directive, 2006/70/EC, of August 1 2006, laying down implementing measures as regards the definition of “politically exposed persons” and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

▪ Regulation (EC) Nº 1781/2006 of the European Parliament and of the Council, of 15 November 2006, on information on the payer accompanying transfer of funds.

In addition to the measures described in the following sections (i.e. beneficial ownership, principle of risk and enhanced due diligence measures, PEPs, “tipping off”, corporate liability, and sellers of high value items) the LCPI bill includes the following provisions, drafted in accordance to the above mentioned EU Directives:

▪ <u>Suspicions about the veracity or relevance of client identification data</u>: Article 49 of the LCPI bill clearly requires due diligence concerning the veracity or relevance of client identification data, in terms equivalent to those laid down in articles 8 and 9 of Directive 2005/60/EC.

▪ <u>Ban on conducting operations or establishing relationships if the body concerned cannot satisfy its duty of diligence</u>: Article 49.bis of the LCPI bill covers criteria 5.15 and 5.16 of the Methodology, in equivalent terms to those established by article 9.5 of Directive 2005/60/CE.</td></tr>
</table>

[7] *For relevant legal texts from the EU standards see Appendix II*

	▪ Applying CDD to existing customers: Section 7 of Article 49.bis of the LCPI bill covers criteria 5.17 of the Methodology, in equivalent terms to those established by article 9.6 of Directive 2005/60/CE. ▪ Filing STR if unable to complete the CDD process: As stated before, article 49.bis of the LCPI bill covers criteria 5.15 and 5.16 of the Methodology, in equivalent terms to those established by article 9.5 of Directive 2005/60/CE. ▪ Legal professions: Article 45 of the LCPI bill covers criterion 12.1 of the Methodology as regards lawyers, notaries and members of other independent legal professions, including the purchase an sale of business entities, in terms similar to those laid down by article 2 of Directive 2005/60/CE. ▪ Trusts and company providers: In general terms, article 45 of the LCPI bill takes account of all the bodies and circumstances covered by criterion 12.1 covers of the Methodology in terms similar to those laid down by article 2 of Directive 2005/60/CE. This notwithstanding, the institution of Trust is unknown under Andorran legislation as in many others Roman law countries which are not signatories of the Hague Convention, of 1 July 1985, on the law applicable to trusts and on their recognition. Accordingly, paragraph (d) of article 45 refers to contractual fiduciary agreements (*fideicomisos*) and other legal structures not specifically listed, as the case may be. ▪ Keeping of documents: Article 51 of the LCPI bill covers criteria 10.2 by requiring to maintain records and identification data for a minimum period of 5 years, in terms equivalent to article 30 of Directive 2005/60/CE. ▪ Availability of documents in timely basis: the third paragraph of article 51 of the LCPI bill covers criterion 10.3 of the Methodology in terms equivalent to article 32 of Directive 2005/60/CE. ▪ Reporting to self-regulatory bodies: Article 52.3. of the LCPI bill allows appropriate self-regulatory bodies as the authority to be informed in the first instance in place of the FIU. The designated self-regulatory body shall in such cases forward the information to the FIU promptly and unfiltered. This provision is similar to article 23.1 of Directive 2005/60/CE. ▪ Protection against consequences of filing STRs: Article 47 of the LCPI bill clearly states that FIU will take all appropriate measures in order to protect all reporting parties under obligation against the consequences of declaration, in similar terms to those laid down in article 27 of Directive 2005/60/CE. ▪ Correspondent banks: Section 1.b) of article 49.fourth of the LCPI bill requires enhanced due diligence measures in connection with cross-

	border correspondent banking relationships in similar terms to those laid down by article 13.3 of Directive 2005/60/EC, thus providing full compliance with Criteria 7.1 to 7.5. ▪ New technologies and non-face to face businesses: Paragraph (b) of Article 49 fourth of the LCPI bill requires enhanced due diligence measures in connection with non-face to face business relationships or transactions in similar terms to those laid down by article 13.2 of Directive 2005/60/EC, thus providing compliance with Criterion 8.2. ▪ Training and awareness raising: The contents and objectives of training are dealt with in article 49 fifth of the LCPI bill in similar terms to those laid down in article 35.1 of Directive 2005/60/CE, thus covering criterion 15.3. ▪ Shell banks: Section (d) of Article 49 fourth of the LCPI bill prohibits establishing or maintaining correspondent banking relationships with shell banks in similar terms to article 13.5 of Directive 2005/60/EC. ▪ Subsidiaries and foreign branches: article 44 of the LCPI bill keeps the basic mandate already observed in former provisions, specifying more clearly the various requirements of FATF recommendation 22 in similar terms to those laid down by article 31 of Directive 2005/60/EC. ▪ Wire transfers: Section 5 of article 49.bis of LCPI bill provides for the implementation of SRVII into Andorran legislation as regards complete information on the payer, in similar terms to those laid down by article 6 of Regulation (EC) No 1781/2006 of the European Parliament and of the Council, of 15 November 2006, on information on the payer accompanying transfers of funds.

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[8] (please also provide the legal text with your reply)	Article 41 of the LCPI bill, brings in line the definition of beneficial owner with the FATF glossary definition, further developed considering article 3 of Directive 2005/60/CE: "***Article 41*** *For the purposes of this Law, the following terms shall be understood as having the following meanings:* (...) *g) True right-holder or beneficial owner: natural person(s) who ultimately control the customer and/or individual on whose behalf a transaction or activity is being conducted. The right-holder includes, at least:*

[8] Please see Article 3(6) of the 3rd Directive reproduced in Appendix II

	- In the case of legal persons in the form of a company, the individual or individuals who ultimately control the legal person through direct or indirect ownership or control of a sufficient percentage of its shares or voting rights. For these purposes a percentage of over 25% will be considered sufficient. *- In the case of other legal entities, contractual fiduciary arrangements and other fiduciary structures which administer and distribute funds, the individual or individuals who control over 25% of the funds*." The ownership concept included in the FATF glossary and the 2005/60/CE Directive, has been introduced with regard to legal persons, legal entities and any other contractual fiduciary arrangements and other fiduciary structures, as ownership cannot refer to natural persons. The provision refers to *contractual fiduciary arrangements and other fiduciary structures* in order to cover institutions of fiduciary nature such as foreign "trusts", not recognized under Andorran legislation, as in many others Roman law countries which are not signatories of the Hague Convention, of 1 July 1985, on the law applicable to trusts and on their recognition.

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.	A number of provisions in the new LCPI permit financial institutions to use a risk based approach in their internal policies and AML/CFT obligations. Article 49.third provides for a number of situations in which due diligence measures may be simplified on the grounds of a risk-based assessment (criterion 5.9. of the Methodology), in similar terms to article 11 of Directive 2005/60/EC. Prospective amendment of the LCPI regulations to bring them in line with the LCPI bill will develop this provision considering, among other references, the Directive 2006/70/CE provisions on simplified customer due diligence procedures. In addition, as far as enhanced customer due diligence is concerned (criterion 5.8 of the Methodology), article 49.fourth of the LCPI bill has also considered article 13 of Directive 2005/60/CE.

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive[9] are provided for in your domestic	Paragraph (e) of Article 41 of the LCPI bill provides a definition of "politically exposed persons" equivalent to that provided by article 3 (8) of Directive 2005/60/EC, with the addition of a provision to the effect that further regulations will be passed to determine the scope of "prominent public functions", "immediate family members" and "persons known to be close associates". Prospective amendment of the LCPI regulations will determine these concepts considering the criteria established in Directive 2006/70/EC of 1

[9] Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

legislation (please also provide the legal text with your reply).	August. "*e) Politically exposed person: Individuals who carry out or have carried out prominent public functions, as well as their immediate family members and persons known to be close associates.* *The scope of the terms "prominent public functions", "immediate family members" and "persons known to be close associates" will be determined by regulation.*"

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	Under first paragraph of article 48 of the LCPI bill, subjects under obligation and their employees are refrained from informing third parties regarding ongoing investigations, including the contents of the communications, in similar terms to those laid down in paragraph 1 of article 28 of Directive 2005/60/EC. ***"Article 48*** *Under no circumstances can the person or persons affected by the declaration, or any third party, be informed of its existence, nor may they be given information as to the proceedings underway. Nor may they be informed of the existence or content of any type of communication from the FIU, unless the FIU has given express written consent to the same.* *(...)"*
With respect to the prohibition of "tipping off" please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	Only prior written consent of the Andorran FIU will allow a subject under obligation to inform on the existence of a communication of a suspicious transaction to third parties.

"Corporate liability"	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	The recent amendment of article 71 of the Criminal Code provides specific sanctions to be imposed to legal persons or companies together with the conviction imposed to their representatives or directors for the commission of a crime. In particular, this provision entitles the Judge to order • the company winding up; • its temporary or definitive closure; • the suspension of business; • the judicial management of the company; as well as, • a ban on the company to contract with any government administration. Furthermore, this last amendment to the Criminal Code has also introduced a brand new sanction to be imposed to legal entities who have somehow taken

	a relevant part in the commission of a crime: an economic sanction which can arise (i) up to the amount of EUR 300,000 or (ii) up to four times the amount of the proceeds obtained **or attempted to be obtained** with the criminal offence. The inclusion of the intended proceeds of the crime as a ground to determine the amount of the fine is highly significant, as it introduces an element of attempt of the perpetrators (as opposed to the effectively obtained benefit) as the relevant element to quantify the amount of the sanction to be imposed to the legal person. Likewise, the amended Criminal Code obliges the Judge who decides to impose these kind of sanctions to legal persons to issue a reasoned and grounded decision in this regard. Therefore, it is possible that case law establishes as a ground o reason to impose these sanctions that the crime is committed for the benefit of that legal person by an individual who occupies a leading position within that company. In this case, a fine may be imposed under the abovementioned criteria up to four times the amount of the obtained proceeds or of the intended proceeds.
Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	As stated above, the Criminal Code obliges the Judge who decides to impose sanctions to legal persons to issue a reasoned and grounded decision in this regard. Therefore, it is also possible that case law establishes as a ground or reason to impose these sanctions that the crime is committed for the benefit of that legal person as a result of lack of supervision or control by individuals who occupy a leading position within that company.

DNFBPs	
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	In accordance with the regulations of the LCPI bill, anti-money laundering regulations (including for these purposes, combat of financing of terrorism) are specifically applicable to those trading with high value goods where payments are made in cash in an amount of € 30,000 or more. It has been considered that the risk of money laundering or financing of terrorism activities in payments below this threshold is very limited. In this connection, note that the Andorran list of DNFBPs goes beyond FATF's four remaining DNFBPs categories, providing for full compliance with criterion 20.1. In this sense, it is relevant to point out that FATF definition of high value dealers is limited to precious metals and precious stones traders while the Andorran definition applies the wider concept laid down in paragraph article 2.1.(e) of Directive 2005/60/EC. Moreover, article 42 of the LCPI goes beyond the FATF recommendations by stipulating that all natural or legal persons may be subject to the provisions of the law, and accordingly, to the supervision of FIU, as long as its activities may facilitate the money laundering or the financing of terrorism.

6. Statistics

a. Please complete - to the extent possible - the following tables:

2005												
	Investigations		**Prosecutions**		**Convictions (final)** [1]		**Proceeds frozen**		**Proceeds seized**		**Proceeds confiscated**	
	cases	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)
ML	n/a	213	8	31	1	3	2	3,554,023	-	-	1	446.427
FT	2	3	-	-	-	-	-	-	-	-	-	-

(1) Judgment dated 21.09.2005 (Ref. TC-070-2/97)

2006												
	Investigations		**Prosecutions**		**Convictions (final)**		**Proceeds frozen**		**Proceeds seized**		**Proceeds confiscated**	
	cases	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)
ML	n/a	313	21	65	-	-	5	2,735,047.99	-	-	-	-
FT	3	8	-	-	-	-	-	-	-	-	-	-

2007												
	Investigations		**Prosecutions**		**Convictions (final)**		**Proceeds frozen**		**Proceeds seized** [1]		**Proceeds confiscated**	
	cases	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)
ML	85	214	13	39	-	-	7	7,184,971.63	-	-	-	-
FT	2	3	-	-	-	-	-	-	-	-	-	-

(1) Seizure of a semi-detached house in 2007

1.01. 2008– 2008 (up to 30th October)												
	Investigations		Prosecutions		Convictions (final) [1]		Proceeds frozen		Proceeds seized [2]		Proceeds confiscated [3]	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	64	260	15	76	1	2	7	18,914,565.06	-	-	3	1,257,035
FT	3	4	-	-	-	-	-	-	-	-	-	-

(1) Judgment dated 24.09.2008 (Ref. TC-003-2/96).

(2) Seizure of a flat and 3 parking places, and also the whole assets of 2 companies, in 2008

(3) 2 foreign judgments have been enforced in Andorra in 2008. As a result, EUR 1,256,582 were confiscated and a real estate property was seized. (Ref. TC-070-2/97 and TC-144/99).

As of 30 October 2008, 3 new criminal proceedings were pending to be heard before the Andorran Courts. The details are as follows:

- Case 1: 5 people accused. Freezing of bank accounts holding € 113,831.15 and GBP 5,000 deposited to INAF. Additional freezing of bank accounts holding € 239,466.84. Two properties and a vehicle have been seized. (Ref. TC-051-4/02)

- Case 2: 3 people accused. € 12,000 frozen. Assets and rights of 3 companies have already been seized. (Ref. TC-075-5/06)

- Case 3: 2 people accused. A flat has been seized. (Ref. TC-122-3/06)

b. STR/CTR

Explanatory note:
The statistics under this section should provide an overview of the work of the FIU.
The list of entities under the heading "*monitoring entities*" is not intended to be exhaustive. If your jurisdiction covers more types of monitoring entities than are listed (e.g. dealers in real estate, supervisory authorities etc.), please add further rows to these tables. If some listed entities are not covered as monitoring entities, please also indicate this in the table.
The information requested under the heading "*Judicial proceedings*" refers to those cases which were initiated due to information from the FIU. It is not supposed to cover judicial cases where the FIU only contributed to cases which have been generated by other bodies, e.g. the police.
"C*ases opened*" refers only to those cases where an FIU does more than simply register a report or undertakes only an IT-based analysis. As this classification is not common in all countries, please clarify how the term "cases open" is understood in your jurisdiction (if this system is not used in your jurisdiction, please adapt the table to your country specific system).

2005															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**preparatory judicial enquiries**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks		9	-	9	-	3	-	3	4	-	-	-	-	-	-
insurance companies		-	-	-	-	-	-	-	-	-	-	-	-	-	-
notaries		2	-	2	-	1	-	1	1	-	-	-	-	-	-
currency exchange		-	-	-	-	-	-	-	-	-	-	-	-	-	-
broker companies		-	-	-	-	-	-	-	-	-	-	-	-	-	-
securities' registrars		-	-	-	-	-	-	-	-	-	-	-	-	-	-
lawyers		-	-	-	-	-	-	-	-	-	-	-	-	-	-
accountants/auditors		1	-	1	-	-	-	-	-	-	-	-	-	-	-
company service providers		-	-	-	-	-	-	-	-	-	-	-	-	-	-
high value items dealers		-	-	-	-	-	-	-	-	-	-	-	-	-	-
real estate dealers		1	-	1	-	-	-	-	-	-	-	-	-	-	-
Subtotal		**13**	**-**	**13**	**-**	**4**	**-**	**4**	**5**	**-**	**-**	**-**	**-**	**-**	**-**
National cooperation				2	-	1	-	1	1	-	-	-	-	-	-
International cooperation				10	1	-	-	-	-	-	-	-	-	-	-
UPB's initiative				3	-	-	-	-	-	-	-	-	-	-	-
Total		**13**	**-**	**28**	**1**	**5**	**-**	**5**	**6**	**-**	**-**	**-**	**-**	**-**	**-**

2006															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**preparatory judicial enquiries**				**convictions**			
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**		**FT**		**ML**		**FT**	
								cases	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks		28	-	28	-	14	-	9	32	-	-	-	-	-	-
insurance companies		1	-	1	-	1	-	1**	1	-	-	-	-	-	-
notaries		-	-	-	-	-	-	-	-	-	-	-	-	-	-
currency exchange		-	-	-	-	-	-	-	-	-	-	-	-	-	-
broker companies		-	-	-	-	-	-	-	-	-	-	-	-	-	-
securities' registrars		-	-	-	-	-	-	-	-	-	-	-	-	-	-
lawyers		-	-	-	-	-	-	-	-	-	-	-	-	-	-
accountants/auditors		-	-	-	-	-	-	-	-	-	-	-	-	-	-
company service providers		1	-	1	-	-	-	-	-	-	-	-	-	-	-
high value items dealers		1	-	1	-	-	-	-	-	-	-	-	-	-	-
real estate dealers		1	-	1	-	1	-	1	2	-	-	-	-	-	-
Subtotal		**32**	**-**	**32**	**-**	**16**	**-**	**10**	**35**	**-**	**-**	**-**	**-**	**-**	**-**
National cooperation				2	-	1	-	-	-	-	-	-	-	-	-
International cooperation				12	-	2	-	1	1	-	-	-	-	-	-
UPB's initiative				2	-	-	-	1**	-	-	-	-	-	-	-
Total		**32**	**-**	**48**	**-**	**19**	**-**	**11**	**36**	**-**	**-**	**-**	**-**	**-**	**-**

****Cases accumulated in a single proceeding together with a case arising from a STR communicated by a bank entity.**

2007															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**preparatory judicial enquiries**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks		16	1	16	1	6	-	6	22	-	-	-	-	-	-
insurance companies		-	-	-	-	-	-	-	-	-	-	-	-	-	-
Notaries		1	-	1	-	-	-	-	-	-	-	-	-	-	-
currency exchange		-	-	-	-	-	-	-	-	-	-	-	-	-	-
broker companies		-	-	-	-	-	-	-	-	-	-	-	-	-	-
securities' registrars		-	-	-	-	-	-	-	-	-	-	-	-	-	-
lawyers		-	-	-	-	-	-	-	-	-	-	-	-	-	-
accountants/auditors		-	-	-	-	-	-	-	-	-	-	-	-	-	-
company service providers		-	-	-	-	-	-	-	-	-	-	-	-	-	-
high value items dealers		-	-	-	-	-	-	-	-	-	-	-	-	-	-
real estate dealers		1	-	1	-	-	-	-	-	-	-	-	-	-	-
Subtotal		**18**	**1**	**18**	**1**	**6**	-	**6**	**22**	**-**	**-**	**-**	**-**	**-**	**-**
National cooperation				2	-	-	-	-	-	-	-	-	-	-	-
International cooperation				6	-	1	-	1	8	-	-	-	-	-	-
UPB’s initiative				2	-	-	-	-	-	-	-	-	-	-	-
Total		**18**	**1**	**28**	**1**	**7**	**-**	**7**	**30**	**-**	**-**	**-**	**-**	**-**	**-**

2008 (up to 30th October 2008)															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**preparatory judicial enquiries**				**convictions**			
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**		**FT**		**ML**		**FT**	
								cases	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks		18	1	18	1	7	-	6	23	-	-	-	-	-	-
insurance companies		-	-	-	-	-	-	-	-	-	-	-	-	-	-
notaries		-	-	-	-	-	-	-	-	-	-	-	-	-	-
currency exchange		-	-	-	-	-	-	-	-	-	-	-	-	-	-
broker companies		1	-	1	-	-	-	-	-	-	-	-	-	-	-
securities' registrars		-	-	-	-	-	-	-	-	-	-	-	-	-	-
lawyers		1	-	1	-	-	-	-	-	-	-	-	-	-	-
accountants/auditors		-	-	-	-	-	-	-	-	-	-	-	-	-	-
company service providers		-	-	-	-	-	-	-	-	-	-	-	-	-	-
high value items dealers		-	-	-	-	-	-	-	-	-	-	-	-	-	-
real estate dealers		-	-	-	-	-	-	-	-	-	-	-	-	-	-
Postal money transfer		1	-	1	-	-	-	-	-	-	-	-	-	-	-
Subtotal		**21**	**1**	**21**	**1**	**7**	-	**6**	**23**	-	-	-	-	-	-
National cooperation				-	-	-	-	-	-	-	-	-	-	-	-
International cooperation				10	-	2	-	1	1	-	-	-	-	-	-
UPB's initiative				2	-	-	-			-	-	-	-	-	-
Total		**21**	**1**	**33**	**1**	**9**	**-**	**7**	**24**	-	-	-	-	-	-

APPENDIX I - Recommended Action Plan to Improve the AML / CFT System

The FATF 40+9 recommendations	Recommended action (in order of priority)
1. In general	* * *
2. Legal system and related institutional measures	
Criminalisation of Money Laundering (R.1 & 2)	- bring the definition of laundering into line with UN instruments and the criteria in FATF Recommendation 1, - extend the list of underlying predicate offences, for example to all serious offences, or all offences liable to maximum terms of imprisonment of more than a year or minimum terms of at least six months, - reintroduce self-laundering and possibly also (explicitly) laundering by negligence, - reintroduce criminal liability for legal persons.
Criminalisation of Terrorist Financing (SR.II)	- establish a separate offence of terrorist financing, in a broader form than collaboration with a terrorist group, and, - review the transposition of international requirements and SR II on the criminalisation of terrorist financing, particularly by extending the offence to any person who willfully provides or collects funds by any means, directly or indirectly, with the unlawful intention that they should be used or in the knowledge that they are to be used, in full or in part, to carry out a terrorist act or acts, by a terrorist organisation or by an individual terrorist; - ensure that attempt and conspiracy apply to terrorist financing; - reintroduce criminal liability for legal persons and extend it to terrorist financing; - introduce further provisions on aggravating circumstances and additional consequences, such as winding up the body concerned.
Confiscation, freezing and seizure of proceeds of crime (R.3)	- bring Article 411 of the Criminal Code into line with Article 70 by making confiscation obligatory, since this appears to be a clear error in the legislation;

	- authorise the confiscation of equivalent assets; - clarify the rules on the temporary freezing and seizure of the proceeds of crime by making it explicit that they are applicable to assets held by third parties and for the purposes of confiscation; - consider reversing the burden of proof for the purposes of confiscation after a conviction; - extend the application of provisional measures and confiscation beyond material assets and bank accounts to include all forms of assets, including shareholdings in companies, other financial arrangements and less tangible forms of assets; -maintain statistics on freezing, seizure and confiscation for criminal cases other than laundering ones.
Freezing of funds used to finance terrorism (SR.III)	- pursue actively the application of Security Council resolutions and FATF SR III and transpose them into appropriate national regulations.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	- extend the scope of the LCPI to make the FIU responsible for terrorist financing matters, as is already planned; - publish the FIU's annual report and include in it a survey of laundering risks in the country typology of methods used, as already planned; - authorise more extensive direct access to databases, for example of the police and the register of property of non-residents; - consider ways of strengthening the UPB's authority, for example concerning technical communiqués, which are not binding, and its lack of direct powers to impose penalties for non-compliance with the LCPI; - consider possible ways of reducing the UPB's staff turnover; - make the UPB and its director more independent of the government, with a renewable term of office of a number of years for the director and the latter's right to select his staff.
Criminal prosecution and investigation authorities or other competent authorities (R.27, 27, 30 & 32)	- to consider amend the legislation to explicitly allow authorities investigating money laundering cases to defer the arrest of suspects and/or the seizure of funds, or not to make such arrests and seizures, if this is necessary to identify persons involved in these activities or to collect evidence; - undertake an active and detailed study of the risks of

	laundering (and terrorist financing) in Andorra; - give close consideration to the various expectations and claims of the judiciary and the police and make any reforms necessary, bearing in mind the special demands created by serious crime, including laundering, such as the difficulties of investigation, the volume of work, the need for special expertise and motivation and the need for extra support.
3. Preventive Measures - Financial Institutions	
Secrecy or confidentiality of financial institutions (R.4)	The law on confidentiality and the protection of financial information should be reviewed to: make it more coherent; ensure that the judicial authorities and the UPB have access to this information in accordance with FATF Recommendation 4, in connection with terrorist financing; permit explicitly exchanges of information between financial institutions in accordance with FATF recommendations 7, 9 and SR VII.
Duty of vigilance, including stronger or reduced identification measures (R.5 to 8)	- to transpose into Andorran law recommendations 6 to 8 on politically exposed persons, relationships with correspondent banks and risks associated with new technology; - the application of recommendation 5 should be subject to wide-ranging review, given the various gaps. In particular the Andorran authorities should: 1) make sure a definition of beneficial owners(hip) is provided for, that would reflect the FATF glossary definition; 2) review the application of recommendation 5 to omnibus accounts; 3) review the application of recommendation 5 to services offered – despite the existing legal prohibitions - by name-lenders; 4) extend all the provisions of the LCPI and its regulation to insurance companies and to any other institution covered by FATF's definition of "financial institution", rather than Andorra's definition of "financial system"; 5) extend the duty of due diligence, including such measures as identification, to suspected terrorist financing; 6) require diligence concerning identification and so on when there are suspicions about the veracity or relevance of client identification data; 7) cover explicitly criteria 5.5.2 and 5.7; 8) make it obligatory to obtain information on the nature and purpose of business relationships;

	9) make it a requirement that documents, data and information are kept up-to-date and relevant; 10) introduce provisions on the principle of risk, in accordance with criteria 5.8 to 5.12; 11) introduce a ban on conducting operations or establishing relationships if the body concerned cannot satisfy its duty of diligence; 12) introduce provisions to apply the duty of diligence to existing customers; 13) introduce a requirement that institutions consider filing and STR in instances in which they are unable to complete the CDD process.
Record keeping and wire transfer rules (R.10 & SR.VII)	- to specify more clearly in the LCPI or its regulation the records and documentation to be kept in accordance with FATF Recommendation 10 and to provide for training and awareness-raising actions in this area; - to require that records should be maintained for longer periods as may be required by competent authorities; - make it a specific requirement that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority. - regulations should be established to ensure the application of all aspects of SR VII.
Monitoring of transactions and business relationships (R11 & 21)	- ensure that section 15 of the LCPI regulation is applied to all institutions covered by the legislation and not just those of the "financial system"; - make it a formal obligation to examine the background and purpose of transactions and keep a written record of the findings for at least five years; - incorporate into Andorran legislation a requirement for all the institutions concerned to give special attention to business relationships and transactions with persons, particularly legal persons and financial institutions, from or in countries with weaknesses in their AML/CFT systems, examine, as far as possible, the background and purpose of transactions that have no apparent economic or visible lawful purpose, and make the findings available to the competent authorities, such as supervisors, law enforcement agencies and the FIU, and to auditors; - give the Andorran government or the FIU statutory authority to apply appropriate counter-measures.
Suspicious transaction and other reporting (R.13, 14, 19, 25 & SR.IV & IX)	- include in the wording of the LCPI, as is already planned, the requirement to make declarations of suspicion where it is suspected or there are reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism or terrorist acts, or by terrorist organisations or those who finance terrorism; - extend the protective provisions of section 50 to take account of criterion 14.1, and make it clear that this protection applies

	to all the establishments concerned by making it a separate provision; - consider the feasibility and value of a system in which banks and other financial institutions and intermediaries reported all national and international transactions in cash above a certain level; - circulate more information, typologies and good practices concerning AML/CFT issues. - review the application of FATF special recommendation IX in its entirety; - involve the customs service more clearly – in law and in practice – in AML/CFT machinery.
Internal controls, compliance and foreign branches (R.15 & 22)	- describe in more detail the requirements of internal anti-laundering procedures, the duties and powers of anti-laundering compliance officers and the content and objectives of training; - introduce internal testing or auditing of procedures; - establish regulations on appropriate procedures for recruiting employees; - ensure that the various requirements of FATF recommendation 22 are specified more clearly in Andorran legislation.
The supervisory and oversight system - competent authorities and self-regulating organisations: role, functions, obligations and powers (including sanctions) (R.17, 23, 29 & 30)	- complete the transfer of general responsibility for supervising the insurance sector from the government to INAF and strengthen AML/CFT supervision of the insurance and non-banking financial sectors; - review the application of recommendation 23 regarding the transfer of money and securities by post offices and the activities of bureaux de change; - take measures to implement criteria 23.3 (protection the financial sector from criminal infiltration/control) and 23.4 (applicability of prudential regulations to AML/CFT) - introduce a more explicit requirement into the LCPI for supervisory authorities and other government departments to report suspicions of laundering (and terrorist financing) to the UPB; - for the purpose of combating terrorist financing, extend the checks carried out to the customer/client lists of bodies covered by the legislation; - give the UPB more flexibility in conducting on-the-spot inspections, for example by allowing it to talk to persons other than ML compliance officers; - review the sanctions system in practice and make sure that the sanctions policy is effectively applied by INAF and the UPB; - ensure consistency between the LCPI and its regulation with regard to sanctions, since they only appear to apply to the LCPI, despite the significant (and occasionally conflicting) provisions of the regulation; - give the UPB greater powers and more resources, in particular in terms of staff to enable it in particular to conduct

	its own inspections more frequently, to select auditors, rather than simply drawing up audit specifications, and to order various measures directly, if necessary after reviewing the nature of the sanctions/penalties specified in the LCPI, which according to the LCPI regulation are apparently of a criminal nature.
Fictitious banks (R. 18)	- to review the transposition of recommendation 18: financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks; financial institutions should be required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.
Money or securities transfer services (SR.VI)	SR VI should be taken into account when considering the unlawful money transfer activities that the postal service has recently introduced. If they are granted legal authorisation, additional measures should be taken in accordance with criteria VI.1 to 6.
4. Preventive Measures – Designated Non-Financial Businesses and Professions	
Duty of diligence and keeping of documents (R. 12)	- apply the due diligence rules in recommendation 5 to DNFBPs beyond cases of suspected laundering and ensure that the provisions on dealers in high value items are consistent and understood by those concerned; - ensure that national legislation on recommendations 6 and 8 (once approved) and 9 to 11 is applicable to all the sectors covered by the LCPI, including DNFBPs; - ensure that the LCPI reflects more closely criterion 12.1 d in the case of lawyers, notaries and so on by including the purchase and sale of business entities; - review the value of section 16 of the LCPI regulation and repeal it if necessary, since it creates ambiguities; - ensure that the LCPI takes account of all the bodies and circumstances covered by criterion 12.1 e, on trust and company service providers.
Monitoring of transactions and business relationships (R11 & 16)	- analyse the reasons for the small number of declarations of suspicion and reports of cash transactions in excess of € 15 000, and draw any necessary consequences; - further clarify the obligation to report suspicions direct to the UPB, rather than through self-regulatory and professional bodies, with any DNFBPs, such as lawyers, where doubts remain; - extend protection against the consequences of declarations of suspicion unambiguously to DNFBPs; - make it an obligation for DNFBPs to appoint at least one anti-laundering official; - once FATF recommendation 21 on special attention to at-risk countries and territories has been transposed, make it applicable to DNFBPs.

Regulation, supervision and monitoring (R.17, 24-25)	- strengthen supervision of DNFBPs; - do more to raise awareness among DNFBPs and supply them with information; - involve DNFBP professional associations in AML/CFT efforts, such as informing and educating their members; the system relies too much on the FIU, whose resources are limited.
Other non-financial businesses and professions (R.20)	- steps should be taken, by clarifying the legislation and introducing regulations for the professions concerned, to bring consels, gestorias, economistas, financiarias and others within the scope of the LCPI, in accordance with FATF recommendations 5, 6, 8-11, 13-15, 17 and 21. - consideration should be given to introducing regulations or limitations on cash payments.
5. **Legal persons and Arrangements & Non-Profit Organisations**	
Legal persons – Access to beneficial ownership and control information (R.33)	- it is recommended that the system of registering legal persons be reviewed and strengthened, including: a) the proper enforcement of the ban on the use of name-lenders; b) an obligation for companies and those providing services to companies to declare significant changes, such as the capital structure, and names and addresses of the beneficial owners, for the purpose of identifying those beneficial owners; c) a similar obligation for notaries to report such changes to the register when they come to their notice. - launch an investigation into de facto companies – their number, use and foreign subsidiaries – and take any consequent steps to limit the risk of their use for AML/CFT purposes; - complete the conversion of negotiable instruments in bearer form to named securities and ensure that information on their holders is kept up to date; - clarify and facilitate access to information in the companies register;
Non-profit organisations (SR.VIII)	- give consideration to which of the measures under SR VIII could reasonably help to strengthen the resistance of non-profit organisations to money laundering and terrorist financing.
6. National and international co-operation	
National co-operation and coordination (R.31)	- establish a multilateral group for more regular dialogue, which would involve both the various authorities and supervisory bodies and the bodies covered by the legislation, with varying participation according to topic. This would permit regular assessments of the effectiveness of the AML/CFT arrangements, based on the experience of those concerned.

Special UN conventions and resolutions (R. 35 & SR. I)	- ratify the Palermo Convention and the Convention for the Suppression of the Financing of Terrorism
Mutual legal assistance (R. 32, 36-38, SR. V)	- introduce the necessary legislation for the enforcement of foreign confiscation decisions; - review the staffing of the legal assistance sections of the courts and the Foreign ministry, with a view to establishing reasonable response times to requests for assistance; - ensure that the wording of section 35 of the LCPI creates no problems of interpretation, leading to unwanted restrictions of legal assistance; - continue to soften the dual criminality requirements attached to tax offences to allow more assistance to be provided in this field, which in many countries is a significant source of criminal income (particularly VAT fraud); - maintain statistics on action taken on requests for legal assistance (and any problems arising), on provisional measures and on confiscation.
Extradition (R.32, 37 and 39, and RS.V)	---
Other forms of co-operation (R.32)	- regular channels for exchanges of information be developed outside the inter-FIU context. In particular, INAF should finalise the draft agreement with its natural partners – and with their assistance – in Spain and France, as well as developing information exchanges for supervisory purposes with the relevant institutions – central banks and others – of other countries, particularly concerning at-risk situations, such as corresponding banks in countries at risk, relations with shell banks, countries at risk from the standpoint of terrorist financing and so on.

APPENDIX II

Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3rd Directive):

(6) "beneficial owner" means the natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards; a percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;
(ii) the natural person(s) who otherwise exercises control over the management of a legal entity:

(b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds:

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;
(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

Article 3 (8) of the EU AML/CFT Directive 2005/60EC (3rd Directive):

(8) "politically exposed persons" means natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons;

Article 2 of Commission Directive 2006/70/EC (Implementation Directive):

Article 2
Politically exposed persons

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:
(a) heads of State, heads of government, ministers and deputy or assistant ministers;
(b) members of parliaments;
(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
(d) members of courts of auditors or of the boards of central banks;
(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
(f) members of the administrative, management or supervisory bodies of State-owned enterprises.

None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.
The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:
(a) the spouse;
(b) any partner considered by national law as equivalent to the spouse;
(c) the children and their spouses or partners;
(d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:
(a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;
(b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

4. Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph 1 of this Article for a period of at least one year, institutions and persons referred to in Article 2(1) of Directive 2005/60/EC shall not be obliged to consider such a person as politically exposed.