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MONEYVAL(2009)5

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

First written progress report submitted to MONEYVAL by SAN MARINO[1]

[1] Adopted by MONEYVAL at its 29th Plenary Meeting (Strasbourg, 16-20 March 2009). For further information on the examination and adoption of this report, please refer to the Meeting Report (ref: MONEYVAL(2009)16 at www.coe.int/moneyval)

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I. PROGRESS REPORT

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

Since MONEYVAL adopted the Evaluation Report during its 26th Plenary Meeting (31 March – 4 April 2008), San Marino has achieved significant developments in combating money laundering and terrorist financing, leading firstly to the adoption of new Law no. 92 of 17 June 2008 on *Provisions on Preventing and Combating Money Laundering and Terrorist Financing*. Secondly, a comprehensive analysis was carried out on San Marino AML/CFT system, aimed at improving all resources and factors involved in countering money laundering and terrorist financing, as well as enhancing their effectiveness.

AML/CFT measures and provisions

1. Law no. 92 of 17 June 2008

The new law, approved by the Great and General Council on 17 June 2008, entered into force on 23 September 2008. The purpose of this law is to adjust San Marino legislation to the most recent international standards to prevent and counter money laundering and terrorist financing, as well as to provide appropriate responses to some remarks made by the Moneyval Committee of the Council of Europe.

The new legislative text has introduced new regulations and updated San Marino anti-money laundering legislation. Moreover, significant regulatory and sanction measures have been implemented, aimed at preventing and countering international terrorist financing in order to protect more effectively San Marino economic and financial system from terrorist organizations threatening stability and peace (though San Marino is not affected by these phenomena).

The main characteristics of the new law are described in detail below:

Title I contains the main terms and definitions in AML/CFT contest.

Title II provides for the establishment of the Financial Intelligence Agency, that is to say the national central Authority which shall receive, request, analyze and communicate to the competent authorities information related to the prevention and fight against money laundering and terrorist financing.
The Agency performs its functions in complete autonomy and independence.
The Director and Vice Director of the Agency have been appointed by the Congress of State, upon proposal of the Committee for Credit and Savings, by Decision no. 19 of 3 November 2008.
Every year the Agency shall draw up a report on the activities carried out to be submitted to the Great and General Council. Furthermore, it shall propose the adoption of measures aimed at enhancing the effectiveness of AML/CFT actions.

Title III identifies and regulates the preventive measures to combat money laundering and terrorist financing. It presents a list of parties – whether financial or non-financial -, which shall fulfill the obligations and requirements envisaged by the law. Furthermore, this Title regulates customer due diligence (CDD) obligations, including the obligation to identify and verify the identity of beneficial owners. The Law provides for the so-called risk-based approach, which varies according to the risk categories of customers. Enhanced or simplified customer due diligence obligations shall be fulfilled according to the situation.

Title IV introduces and regulates the measures to prevent, combat and repress terrorist financing and the activity of organizations and States threatening international peace and security. In this regard, it is envisaged that the Congress of States has already adopt a decision outlining restrictive measures (see point 3 below), such as freezing of funds which belong to persons, entities or groups indicated in the Resolutions of the United Nations Security Council.

Title V sets forth provisions aimed at ensuring a more effective involvement of Police Forces in the activities for preventing and countering money laundering. Title VI establishes and updates the framework of criminal, civil and administrative sanctions which shall be applied when the provisions set forth in the Law are violated.

Furthermore, Title VI introduces specific rules concerning the invalidity of acts evidencing title to assets susceptible to confiscation.

Title VII introduces amendments to the criminal legislation in force, in order to suppress and counter facts which may constitute predicate offences for money laundering, to extend value-based confiscation, to regulate the extradition of persons investigated or sentenced for offences for the purpose of terrorism, as well as to adjust the institutional framework of the Central Bank in the light of the establishment of the new Financial Intelligence Agency.

Finally, Title VIII includes transitory and final provisions aimed at ensuring a gradual introduction of the new obligations and implementing the instructions which shall be issued by the Agency within six months from the communication stating that the Agency has begun being operative.

(SEE ANNEX 01 OF THIS DOCUMENT)

2. Delegated Decrees

On 31 October 2008 four Delegated Decrees were issued in order to implement Articles 90 and 91 of Law no. 92/2008.

- **Delegated Decree no. 135/2008** (subsequently amended and ratified by **Delegated Decree no. 146** of 28 November 2008) regulates the Financial Intelligence Agency, with particular reference to its Direction and staff.
- **Delegated Decree no. 136/2008** sets forth transitory regulations relating to bearer passbooks.
- **Delegated Decree no. 137/2008** regulates the safekeeping, administration and management of economic resources subject to freezing measures.
- **Delegated Decree no. 138/2008** regulates the controls on the cross-border transportation of cash and similar instruments.

3. Congress of State's Decisions

3.1 Combating terrorist financing

On 6 October 2008 the **Congress of State adopted Decision no. 2** outlining provisions for implementing the measures adopted by the United Nations Security Council to combat terrorism, the financing thereof and the activity of Countries which threaten international peace and security.

On the same date, the **Congress of State adopted Decision no. 3** outlining provisions for implementing the measures adopted by the United Nations Security Council against the Islamic Republic of Iran.

By means of these provisions the San Marino Government reiterates its commitment to pursuing and strengthening international cooperation in order to combat terrorism, prevent and suppress the financing

thereof, protect national and international security as well as the integrity and solidity of San Marino economic and financial system.

3.2 Implementing AML measures

During the first months of 2009 the Congress of State adopted several Decisions:

- **Decision of the 26 January 2009 No.9** (according to article 95 para.5 of the Law 92/2008- the Financial Intelligence Agency suggested to the Congress of State a list of foreign jurisdictions whose system for preventing and combating money laundering and terrorist financing is equivalent to that set forth in international standards (in particular, the obligations provided for by the European Union's Directive 2005/60/EC and the 40+9 Recommendations of the FATF (Financial Action Task Force)).[2]

- **Decision of the 16 February 2009 No.34** (Draft Law on Associations and Foundations and NPOs);

(SEE ANNEX 04 OF THIS DOCUMENT)

- **Decision of the 16 February 2009 No.35** (Draft Law on Wire-tapping);

(SEE ANNEX 04BIS OF THIS DOCUMENT)

- **Decision of the 16 February 2009 No.36** (Draft Law on Rogatory Letters);

(SEE ANNEX 04TER OF THIS DOCUMENT)

- **Decision of the 2 February 2009 No.55** (Companies Shareholders register).

4. Instructions issued by the Financial Intelligence Agency

On 18 November 2008, under Article 92 of Law no. 92 of 17 June 2008, the Director of the Financial Intelligence Agency informed the Congress of State that the Agency would start its activity **on 24 November 2008**.

Therefore, since then the Financial Intelligence Agency has exercised all functions and powers assigned to it by the Law and the implementing Delegated Decrees.

The Agency issued immediately Instructions on AML/CFT matters.

On 24 November 2008: **FIA Instruction no. 2008-03** *"Identification, verification and analysis of critical transactions"* is intended – in accordance with the provisions issued by the Financial Action Task Force (FATF) to its member Countries and Associations – to provide the financial parties, referred to in Article18 subparagraphs a) and b) of Law no. 92 of 17 June 2008, with instructions on the appropriate measures to implement the provisions of FATF Recommendation no.11.

[2] With reference to that, on 26 January 2009 the Congress of State adopted Decision no. 9, identifying a list of Countries, Jurisdictions and Territories whose system for preventing and combating money laundering is considered to be equivalent to international standards. At present, according to the above-mentioned Decision of the Congress of State, the Countries included in the list are: Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, United Kingdom, Czech Republic, Romania, Slovakia, Slovenia, Spain, Sweden, Hungary, Iceland, Liechtenstein, Norway, Argentina, Australia, Brazil, Canada, Japan, Hong Kong, Mexico, New Zeeland, Russian Federation, Singapore, United States of America, Republic of South Africa, Switzerland, Netherlands Antilles (Dutch overseas territory), Aruba (Dutch overseas territory), Mayotte (French overseas collectivity), New Caledonia (French overseas collectivity having a special statute), French Polynesia (French overseas collectivity), Wallis and Futuna (French overseas collectivity), Jersey, Guernsey, Isle of Man.

Instruction no. 2008-03 aims, therefore, at raising financial parties' awareness of the need to make a thorough assessment of critical transactions, that is to say all complex, unusual large transactions or unusual patterns of transactions which have no apparent or visible lawful purpose.

On 24 November 2008: **FIA Instruction no. 2008-04** *"Specific measures for the electronic transfer of funds"* sets forth certain rules of conduct in relation to countering of money laundering and terrorist financing.

Specifically, this Instruction was issued to implement Article 33 of Law no. 92 of 17 June 2008. It regulates:

a) the data and information that the financial parties, authorised to carry out the reserved activity identified in subparagraph I) of Annex 1 of Law no. 165 of 17 November 2005 ("Payment services") are required to obtain about those parties ordering an electronic transfer of funds;

b) the procedures to record and keep these data and information.

This Instruction takes into account the guidelines issued at international level and, in particular, those included in FATF Special Recommendation VII and (EC) Regulation no. 1781/2006 of the European Parliament and the Council, dated 15 November 2006.

On 24 November 2008: By issuing **FIA Instruction no. 2008-05** *"Operating rules and procedural aspects of the fight against money laundering and terrorist financing – Extension of the requirements established in CBSM Instruction no. 2008-01 to all financial parties"*, the Financial Intelligence Agency extended to all financial parties referred to in Article 18 of Law no. 92/2008 the requirements envisaged in Instruction no. 2008-01, which were addressed to the obliged parties identified in abrogated Law no. 123 of 15 December 1998.

In particular, this measure includes some rules of conduct concerning the opening of a business relationship or the execution of occasional transactions. Moreover, it indicates the procedure to report suspicious transactions.

On 29 January 2009 the Financial Intelligence Agency issued **Instruction no. 2009-01** "*Enhanced due diligence procedures in respect of customers resident or located in Countries, jurisdictions or territories subject to strict monitoring by FATF and the Moneyval Committee*", in order to raise the awareness of San Marino obliged parties of the direct and indirect risks which may arise by establishing business relationships or carrying out transactions with counterparts resident or located in Countries, jurisdictions or territories subject to strict monitoring by FATF and Moneyval, since their rules and procedures to counter laundering of illegal proceeds and terrorist financing do not comply with international standards.

On 6 February 2009 the Financial Intelligence Agency issued **Instruction no. 2009-02** "*Disclosure obligations to foreign counterparts*". According to this provision, when any of the obliged parties referred to in Article 17 of Law no. 92/2008 – while carrying out their usual activity in order to establish a business relationship, conduct an occasional transaction or provide a professional service – establishes relationships with a foreign counterpart, subject under its legislations to obligations similar to those applied to San Marino obliged parties by Law no. 92/2008, the San Marino obliged party shall provide, upon request of its foreign counterpart, explicitly mentioning the need to fulfill CDD requirements imposed by its national AML/CFT legislation, any information requested, provided that it is equivalent or consistent with the information set forth by Article 22 of Law no. 92/2008, or it is instrumental and necessary to establish a business relationship, to conduct an occasional transaction or to perform a professional service. For the aforesaid purposes, foreign counterparts subject to obligations similar to those imposed to San Marino obliged parties by Law no. 92/2008 shall be considered those ones being established in foreign Countries, Jurisdictions and Territories which have been identified by the Congress of State by decision, under Article 95, paragraph 5 of Law no. 92/2008.

5. The Committee for Credit and Savings

As recommended by the Moneyval experts on the basis of international standards, the Credit and Savings Committee is assigned the function to promote national and international cooperation for effectively preventing and combating money laundering and terrorist financing.

Under Article 85, paragraph 8 of Law No. 92/2008, the Credit and Saving Committee, chaired by the Secretary of State for Finance, shall convene periodically.

Its meetings shall be attended by a Judge, the Director of the Financial Intelligence Agency or one of his delegates and a representative appointed by the Commanders of the Police Forces. According to items on the agenda, the President can invite to the meeting representatives of Professional Associations, Public administrations, and the obliged parties envisaged by Law No. 92/2008.

On February 18, 2009, the Judicial Council has appointed the Judge that will attend the meetings of the Credit and Saving Committee.

6. Other activities

National and International Cooperation between competent authorities

The Financial Intelligence Agency (San Marino FIU) cooperates with its counterparts in foreign Countries.

Since it started being operative on 24 November 2008, the Agency has exchanged information with others FIU five times and it has sent requests of its own initiative twice.

As far as national cooperation is concerned, the Agency, though in few months, cooperates with the Single Court, the Interpol, the Gendarmerie and the Guardia di Rocca, and Central Bank.

In particular, with reference to the latter one, on 26 November 2008 the Financial Intelligence Agency and the Central Bank (CBSM) signed a **Memorandum of Understanding** on Cooperation to Prevent and Combat Money Laundering and Terrorist Financing.

On 6 February 2009 the Financial Intelligence Agency and the Central Bank (CBSM) signed an **addendum** on the transfer of personnel in order to ensure the adequate operational stability of the Financial Intelligence Agency and in compliance with the principles of autonomy and independence assigned to the Agency by the legislation in force, the Central Bank of the Republic of San Marino and the Financial Intelligence Agency.

Training

Law no. 92/2008 attaches much importance to the training of the staff involved in the activities to counter money laundering and terrorist financing, by introducing a training obligation for the persons concerned.

Article 4 of Law no. 92/2008 envisages, among the functions assigned to the Agency, that one of promoting and participating in the professional training of Police officers on matters regarding the prevention of money laundering and terrorist financing.
Article 13 of Law no. 92/2008 provides for that Professional Associations promote the on-going training of their members, employees and collaborators so that the obligations set forth in the Law are correctly observed.

Article 44 of Law no. 92/2008 requires the obliged parties to promote the continuous training of their staff through participation in specific training programs on matters of preventing and combating money laundering and terrorist financing.

Furthermore, the Agency contributes to the training of police officers on matters of financial investigations (Article 52). For this purpose, it shall promote training through courses and internships of a duration no longer than six months, according to the specific agreement protocols undersigned with the Commanders of the Corps to which they belong.

The attention paid in San Marino legislation to professional training and development clearly demonstrates San Marino efforts to achieve full compliance with international standards.

The Agency's personnel will organize soon a Study Day involving all persons responsible for the financial obliged parties, which will be aimed at making a common assessment of the procedures to analyze and report suspicious transactions.

Moreover a training day will be organized by the Financial Intelligence Agency next months for all San Marino Police Forces.

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: Largely compliant	
Recommendation of the MONEYVAL Report	*It would be helpful to cover explicitly in legislation the acquisition and possession of property known to be proceeds, as envisaged in article 6.1.c of the Strasbourg Convention and in article 3.1.c of the Vienna Convention.*
Measures taken to implement the Recommendation of the Report	This recommendation is inserted in Art. 1, paragraph 2, letter c) and in Art. 77, paragraph 1 of Law no. 92/2008.
Recommendation of the MONEYVAL Report	*According to article 199 bis, the material conduct is done with the purpose of concealing the true origin of money. The evaluators recommend widening this aspect, to cover also the concealment of the true location and disposition, as provided for by the Vienna and the Palermo Conventions.*
Measures taken to implement the Recommendation of the Report	In this regard, it should be pointed out that this recommendation is contained in Article 1, paragraph 2, letter b of Law no. 92/2008.
Recommendation of the MONEYVAL Report	*The authorities should clarify in the legislation that the offence of ML extends to any type of property that directly or indirectly represents the proceeds of crime, in particular "money" indirectly obtained. Thus the language of the offence should be reviewed in order to explicitly provide for a definition of assets ("property") which includes indirect proceeds of crime.*
Measures taken to implement the Recommendation of the Report	In this regard, it should be pointed out that this recommendation is inserted in Art. 1, paragraph 2, letter a of Law no. 92/2008, as well as in Art. 1, paragraph 1, letter e) and Art. 2 of the technical Annex.
Recommendation of the MONEYVAL Report	*Legislative amendments are also required to ensure, that all designated categories of offences indicated in the Glossary to the FATF Recommendations are covered by San Marino Criminal Code.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by several articles of the Law No.92/2008. The Moneyval Expert has recommended San Marino Authorities to introduce the offences contained in the FATF Glossary but not included in the Criminal Code: "smuggling in persons" and "sea piracy" (see paragraph 160 of the Third Round Evaluation Report for San Marino). In this regard, it should pointed out that this recommendation is inserted in Art. 83 of Law no. 92/2008. The article 83 of the Law No.92/2008 introduces the offence of "Trafficking in migrants)" and other related offences institutional measures. **Article 83** **(Trafficking in migrants)** After article 3 of Law N° 22 of February 24, 2000, the following articles are added: "3 *bis*. *Trafficking in migrants* – Anyone who, for the purpose of making a

	profit, direct or indirect, carries out acts intended to obtain the illegal entry of one or more persons into the territory of the Republic of San Marino in violation of the laws in force on foreigners or on residencies and permits of stay, shall be punished by terms of third-degree imprisonment and a second-degree daily fine. The same penalty shall be applied to anyone who, for the purpose of making a profit, direct or indirect, carries out acts intended to obtain the illegal entry of one or more persons into a State of which the person is not a citizen or not a resident. The penalties referred to in the previous paragraphs shall be increased by one degree upon the following conditions: a) if, in order to obtain the illegal entry, the person has been exposed to a risk for his/her life or safety; b) if, in order to obtain illegal entry or stay, a person has been subjected to inhuman or degrading treatment; c) if the fact has been committed using counterfeit or altered documents, or at any rate illegally obtained. If the facts referred to in paragraphs 1 and 2 are carried out for the purpose of recruitment for prostitution, or at any rate for sexual exploitation, or when the facts concern the entry of minors to be used in illegal activity, the imprisonment shall be increased by two degrees and a third degree fine shall be applied. Apart from the cases envisaged in the previous paragraphs and except where the conduct amounts to a more serious crime, anyone who favours by illegal means the stay of a foreigner in the territory of the Republic of San Marino in order to obtain an undue profit, in violation of the laws in force on foreigners, on residences and permits of stay, shall be punished with imprisonment and a second-degree daily fine. 3 *ter*. *Falsification of travel and identity documents* – Except where the conduct amounts to a more serious crime, anyone who, for the purpose of committing the crime of trafficking in migrants or permitting the commission by third parties, counterfeits or alters a travel or identity document or purchases, receives, possesses, gives up or uses a travel or identity document counterfeited or altered shall be punished by terms of third-degree imprisonment. 3 *quater*. *Confiscation* - In the cases envisaged in articles 3 *bis* and 3 ter, the confiscation of the things that served or were destined to commit the offences shall be always mandatory as well as the things being the price, product or profits. Where confiscation is not possible, the judge shall order an obligation to pay a sum of money equal to the value of the things mentioned above. Confiscated things or the equivalent sums, shall be allocated to the inland revenue or, where appropriate, destroyed. 3 *quinquies*. *Jurisdiction of San Marino* - Any citizen who commits offences envisaged in articles 3 *bis* and 3 *ter* outside the national territory, is subjected to the laws of San Marino. The laws of San Marino shall also apply to any foreigner who commits the offences envisaged in articles 3 *bis* and 3 *ter* outside the territory of San Marino if he/she is present in the territory of the State and whenever extradition under the laws of San Marino, treaties and international conventions is not possible. No proceedings shall be taken towards a citizen or foreigner when one of the following conditions is met: 1) the person has been tried abroad and found innocent; 2) the person who, sentenced abroad, has served the entire sentence handed

	down, even if less severe than that set forth in this law; 3) the person who, sentenced abroad, has served part of the sentence handed down whenever the sentence that has been served is no less than the minimum penalty set forth in this law." The offence of sea-piracy has not been yet introduced.
Recommendation of the MONEYVAL Report	*The authorities of San Marino are invited to revisit the definition of the laundering offence in order to extend it to the laundering of proceeds from one's own criminal activity.*
Measures taken to implement the Recommendation of the Report	In this regard, it shall be pointed out that the current legislation does not provide for self-money laundering.
Recommendation of the MONEYVAL Report	*The evaluators recommend that consideration be given to criminally punishing the conduct laid down in article 199bis when committed negligently. In some jurisdictions a clearer subjective mental element of suspicion that property is proceeds (with appropriately lesser sentences than for an offence based on direct intention) has been useful and, if this would not be contrary to any fundamental legal principles in San Marino, it could be considered*
Measures taken to implement the Recommendation of the Report	The current legislation does not envisage the offence of money laundering when committed negligently. Under article 199 bis of the Criminal Code the offence shall be based on direct intention.
Recommendation of the MONEYVAL Report	*Given that the implementation aspect appears to be quite unsatisfactory, this issue should be addressed by the San Marino authorities through a firm prosecution policy and that a review of the effectiveness of the current legislation be carried out.*
Measures taken to implement the Recommendation of the Report	The national cooperation between the San Marino Authorities on investigative and analytical side (Investigative Judge, Police Forces, Interpol and FIA) has also been strengthened by several provisions contained in the articles 5, 11, 12 and 15 of the Law No.92/2008 .
(Other) changes since the last evaluation	

Recommendation 5 (Customer due diligence) I. Regarding financial institutions	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*The evaluators advise that obligations in the AML/CFT Methodology marked with an asterisk are put into the AML Law.*
Measures taken to implement the Recommendation of the Report	*With the adoption of the Law No.92/2008* Rec.5.1* has been adopted as Article 30 of the Law No.92/2008; Rec.5.2* has been adopted as Article 21 of the same Law; Rec. 5.2. (c) (wire transfers) as Article 33 of the same Law; Rec.5.3* has been adopted as Article 22.1 of the same Law; Rec.5.4.(a)* has been adopted as Articles 23.2 and 23.3of the same Law; Rec.5.5*, 5.5.1* and 5.5.2 (b)* have been adopted as Article 22.1. letters a) and b) of the same Law; Rec. 5.7* has been adopted as Article 22.1.d) of the same Law.

Recommendation of the MONEYVAL Report	*At the time of the evaluation visit, the provisions on customer identification, record maintenance and reporting requirements for post offices, credit recovery on behalf of third parties, financial promoters and insurance promoters and agencies of Italian insurance companies and insurance brokers had not been implemented, as no provisions were issued by the CBSM as required in the law. The authorities should ensure that these provisions are implemented, by issuing the relevant provisions required by law and by taking any additional necessary measures to facilitate the implementation process.*
Measures taken to implement the Recommendation of the Report	*Adopted as article 18 of the Law No. 92/2008* According to the Article 18 of the Law No.92/2008, post offices, credit recovery on behalf of third parties, financial and insurance promoters and agencies of Italian insurance companies operating in San Marino and insurance brokers are considered as "obliged parties" that shall implement the preventive AML/CFT measures: Customer Due Diligence (CDD) requirements, record keeping requirements and reporting requirements and other obligations such as internal controls. *Implemented by FIA Instruction no. 2008-05 of 24th November 2008* Under Instruction no. 2008-05, the Financial Intelligence Agency (FIA) has clearly stated that all the rules regarding customer identification, record maintenance and reporting requirements - already addressed to banks and financial institutions by Instruction No. 2008-01 of 12th June 2008 – must be fulfilled by any "obliged party" listed in Article 18 of the Law no. 92/2008.
Recommendation of the MONEYVAL Report	*The evaluators recommend that the authorities should take steps to terminate the issue of bearer passbooks. As regards existing bearer passbooks, the evaluators recommend that at a minimum clear requirements be introduced in law to ensure that full identification and recording of persons to whom a bearer passbook is transferred is carried out.*
Measures taken to implement the Recommendation of the Report	*Adopted as article 31 of the Law No. 92/2008* According to article 31 para 3 of the Law No.92/2008, since the entry into force of the Law (September 23, 2008) the balance of bearer passbooks is limited to 15,000 Euros. The bearer passbooks issued before 23 of September 2008 whose balance exceeds 15,000 Euros shall be closed or converted by 31 December 2010. (see para 4 of Article 31). As from January 1, 2012 banks shall not issue new bearer passbooks and should close or convert those bearer passbooks issued before that date (para 5 of Article 31) *Implemented by Delegate Decree No. 136 of 31 October 2008* Under article 90 of Law No. 92/2008, the Congress of State (Government) issued Delegate Decree No.136 of 31 October 2008 regulating the procedures of converting or closing bearer passbooks within the terms set forth in Law No. 92/2008. The same Decree also regulates the legal and economic effects caused by the failure to close or convert bearer passbooks. If bearer passbooks are not converted or closed, the administrative sanctions envisaged by article 63 of Law No. 92/2008 shall be applied. *Adopted and implemented as article 31 of the Law No. 92/2008* Under para 6 of article 31 of the Law No.92/2008, banks shall comply with customer due diligence requirements for any deposits and withdrawals from bearer passbooks as well as extinction or conversion of the same, regardless of the amount of the transactions.
Recommendation of the MONEYVAL Report	*The authorities should introduce a risk-based approach, performing enhanced and simplified CDD measures for different categories of customers, business relationships, transactions and products. They should consider undertaking a risk assessment of the financial sector to determine those areas where there may be*

	particular AML/CFT risks, to assist the financial sector in ensuring that enhanced measures are taken in those situations where there is a greater risk of AML/CFT.
Measures taken to implement the Recommendation of the Report	*Adopted by articles 25, 26 and 27 of the Law No.92/2008* The article 25 of the Law No. 92/2008 introduces a risk-based approach and indicates some aspects that shall be evaluated such as: A) with reference to the customer: the legal status, the main business activity, the behavior at the moment of establishing the business relationship, or carrying out the transaction or professional services, the residence or registered office of the customer or of the counterpart with particular attention to countries that do not require equivalent AML/CFT requirements to those set forth in Law No.92/2008; B) with reference to any business relationship or occasional transaction: the type and specific method of execution, the amount, the frequency, the coherency of the transaction in relation to the whole of information available for the obliged party, the geographic area of the execution of the transaction, with particular attention to countries that do not require equivalent AML/CFT requirements to those set forth in the Law No.92/2008. Under article 26 of the Law No.92/2008, obliged parties (i.e. reporting entities and persons) shall applied simplified CDD requirements when the customer is: a) a financial party referred to in article 18, letters a), b) and c); b) a foreign institution that mainly carries out an activity which refers to the reserved activities mentioned in letters A), B), C), D) and E) of Annex 1 of Law No. 165 November 17, 2005 (LISF, Law on companies and banking, financial and insurance services), located in a country which requires AML/CFT requirements equivalent to those set forth in the Law No.92/2008 and imposes supervision and control of compliance with the obligations for the prevention and combating of money-laundering and terrorist financing; c) a foreign institution that carries out an activity equivalent to that referred to in article 18, paragraph 1, letter c) located in a country which imposes AML/CFT requirements equivalent to those laid down in this law and provides supervision and control of compliance with the requirements for the prevention and combating of money-laundering and terrorist financing; d) a company listed on a regulated market in a country, as long as this market is subject to regulations consistent with or equivalent to European Union legislation; e) domestic public authorities. Under the same article, obliged parties shall conduct simplified measures in respect of: a) life insurance policies where the annual premium is no more than 1,000 euros or the single premium is no more than 2,500 euros; b) complementary pension schemes if there is no surrender clause and the policy cannot be used as collateral for a loan under the schemes set forth in current legislation; c) compulsory or complementary or similar pension schemes that provide retirement benefits, which contributions are made by way of deduction from wages and the scheme rules do not permit the transfer of beneficiaries' rights if not after the death of the

	holder. Implementation of Simplified CDD requirements *Implemented by Congress of State Decision no. 9 of the 26 January 2009* In application of the provisions prescribed in the article 95 para 5 of the Law No. 92/2008, on January 2009, the Congress of State (Government of San Marino) has issued Decision on list of the Countries which impose AML/CFT requirements equivalent to those set forth in the Law No.92/2008 and impose supervision and control of compliance with the obligations for the prevention and combating of money-laundering and terrorist financing. Amendments to this list are reported by the Financial Intelligence Agency to the Congress of State that will modify the mentioned list. **(SEE ANNEX 02 OF THIS DOCUMENT)** Implementation of Enhanced CDD requirements *Implemented by FIA Instruction no. 2009-01 of 29 January 2009* The FIA Instruction no.2009-01 repeals the FIA Instruction no.2008-02 of the 4 July 2008 integrating the list of the Countries, Jurisdictions and Territories as consequence of the decision taken by the Moneyval Committee on Azerbaijan. Under FIA Instruction no.2009-01, obliged parties shall apply enhanced CDD measures. **(SEE ANNEX 06 OF THIS DOCUMENT)**
Recommendation of the MONEYVAL Report	*They should require in legislation financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction.*
Measures taken to implement the Recommendation of the Report	*Adopted by article 25 and article 27 of the Law No. 92/2008* Under article 25 of the Law No.92/2008 "obliged parties" (i.e. reporting entities and persons) shall apply CDD measures to all customers by adopting a risk based approach. Enhanced Customer Due Diligence requirements are applied in the cases where the risk of money laundering or terrorism financing is considered higher (see article 27 para 1). Moreover, the Law No.92/2008 prescribes specific cases where Enhanced CDD measures are required: 1) when the customer is not physically present; 2) when the customer is a politically exposed person; 3) when the customer is a financial institution established in a country that does not impose requirements equivalent to those envisaged in the San Marino AML/CFT Legislation; 4) when the customer is a financial institution that permits the use of "payable-through accounts. Obliged parties shall also pay special attention to any money-laundering or terrorist financing threat that may arise from products or transactions that might favour anonymity, and take measures, if needed, to prevent their use for money-laundering or terrorist financing purposes See Article 27 para 2, 3, 4, 5, 6 and 7. *Implemented by FIA Instruction no. 2009-01 of 29 January 2009* The FIA Instruction no.2009-01 repeals the FIA Instruction no.2008-02 of the 4 July 2008 integrating the list of the Countries, Jurisdictions and Territories as consequence of the decision taken by the Moneyval Committee on Azerbaijan. Under FIA Instruction no.2009-01, obliged parties shall apply enhanced CDD measures. **(SEE ANNEX 06 OF THIS DOCUMENT)**

Recommendation of the MONEYVAL Report	*A comprehensive definition of beneficial owner, as provided for in the Glossary to the FATF Recommendations, incorporating the concept of identifying the natural persons who ultimately own or control the customer should be included in relevant legislation.*
Measures taken to implement the Recommendation of the Report	<u>*Adopted by article 1 para 1 letter r) of the Law No. 92/2008*</u> The Article 1, para 1 letter r) of the Law No.92/2008 contains the definition of "beneficial owner" as follows: I) the natural person who ultimately owns or controls the customer, when the latter is a legal person or entity without a legal personality; II) the natural person on whose behalf the customer acts. In any case, the following are considered beneficial owners: 1) the natural person or persons that, directly or indirectly, own more than 25% of the voting rights in a company or, at any rate, because of agreements or other reasons, are able to control voting rights equal to said percentage or have control over the management of the company, provided that it is not a company listed on a regulated market, and subject to disclosure requirements consistent with or equivalent to European Union legislation; 2) the natural person or persons who is beneficiary or are beneficiaries of more than 25% of the property of a foundation, trust or other entity with or without legal personality that administers funds; whenever the beneficiaries have not been determined, the natural person or persons in whose principal interest the entity is established or acts; 3) the natural person or persons who is or are able to control more than 25% of the property of an entity with or without a legal personality ; The definition of "beneficial owner" is in line with the same definition contained in the EU Directive 2005/60. <u>*Implemented by FIA Instruction no. 2009-01 of 29 January 2009*</u> The FIA Instruction no.2009-01 repeals the FIA Instruction no.2008-02 of the 4 July 2008 integrating the list of the Countries, Jurisdictions and Territories as consequence of the decision taken by the Moneyval Committee on Azerbaijan. Under FIA Instruction no.2009-01, obliged parties shall apply enhanced CDD measures. **(SEE ANNEX 06 OF THIS DOCUMENT)**
Recommendation of the MONEYVAL Report	*The following requirements to verify customers' identity are not in the current legislation and should be provided for:* *a) use reliable, independent source documents, data or information;* *b) verify that any person purporting to act on behalf of the customer (for customers that are legal persons or legal arrangements) is so authorised, and identify and verify the identity of that person;* *c) identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is;* *d) determine whether the customer is acting on behalf of another person, and then take reasonable steps to obtain sufficient identification data to verify the identity of that other person;* *e) conduct ongoing due diligence on the business relationship, which includes scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, and where necessary, the source of funds.*
Measures taken to implement the	<u>*Letter a):*</u> <u>*Adopted as article 22 para 1 letter a) of the Law No. 92/2008.*</u>

Recommendation of the Report	The Article 22 para 1 letter a) requires "obliged parties" "verifying the customer's identity on the basis of a valid identification document or, where this is not possible, on the basis of documents, data or information obtained from a reliable and independent source"; *Implemented by:* - *Instruction No. 2008-01 of 12 June 2008*; - *Instruction No. 2008-05 of 24 November 2008*. Under Instructions No.2008-01 and No.2008-05, any financial institution is required to use the following documents to verify the identity of the customers: - for physical persons: "identity documents": a document containing the photograph and all the general details of an individual, issued by a national or foreign public authority (such as Passport, ID Card, Certificate or Declaration issued by the Consulate or Embassy); - for legal entities: "deed of incorporation", up-to-date "articles of association" (statutes), relevant resolutions of the shareholders' meeting and boards of directors' meeting and approved financial statements as well as certificate of registration and good standing or an equivalent document of the public registers. *Letter b)* *Adopted as article 23 para 2 of the Law No. 92/2008* According to article 23 para 2, in case of customers that are not natural persons, financial institutions shall verify that the natural person acting on behalf of the customer is so authorized. Financial institutions are also required to identify and verify the identity of that natural person. *Implemented by:* - *Instruction No. 2008-01 of 12 June 2008;* - *Instruction No. 2008-05 of 24 November 2008*. Under article 3 of Instruction No.2008-01, financial institutions shall identify and verify the identity of the persons authorized to act on behalf of the customer and also obtain documents in order to verify that they have been granted the authorization to act. In particular, Financial institutions shall obtain copies of the decisions taken by the shareholders, the board of directors or other equivalent bodies concerning the appointment and any change of the person representing the customer or being delegated to act on behalf of the customer. *Letter c)* *Adopted by article 22 para 1 letter b) and article 23 para 3 of the Law No. 92/2008* According to article 22 para 1 letter b) of the Law No.92/2008, the financial institutions shall identify the beneficial owner and shall take adequate risk-based measures to verify the identity. The article 23 para 3 of the Law No.92/2008 prescribes that the identification and verification of the identity of the beneficial owner is carried out at the same time as the identification of the customer and requires, for customers that are not natural persons, taking risk-based and adequate measures in order to understand the ownership and control structure of the customer. In order to identify and verify the identity of the beneficial owner, the obliged parties may make: a) consult public registers, lists, deeds and documents accessible to anyone containing information on the beneficial owner; b) request pertinent data and information from their customers; c) obtain information in any other way The definition of "beneficial owner" is contained in the Article 1 para 1 letter r) of the Law No.92/2008.

	Letter d) *Adopted by article 22 and article 23 of the Law No. 92/2008* Articles 22 and 23 of the Law and the definition of "beneficial owner" clearly contain provisions under which the Financial Institutions are required to identify and verify the identity of the customer and the beneficial owner. *Implemented by:* - *Instruction No. 2008-01 of 12 June 2008* - *Instruction No. 2008-05 of 24 November 2008* Moreover, the CBSM Instruction No. 2008-01 clearly requires Financial Institutions to determine if the customer acts on behalf of other persons. In this case, Financial Institutions shall identity and verify the identity of these persons. The identification data and documents required to identity and verify the identity of these persons are prescribed in the same CBSM Instructions. *Letter e)* *Adopted by Article 22 para 1 letter d) of the Law No. 92/2008* According to article 22 para 1 letter d), financial institutions shall conduct ongoing monitoring on the customer's business relationship, verifying that the transactions undertaken by the customer are consistent with the data and information which the Financial Institutions has on the customer, their business and risk profile including, where necessary, the source of funds. The documents, data and information obtained during the CDD requirements should be kept up-dated as required by article 22 para 1 letter e). *Implemented by FIA Instruction No.2008-03 of 24 November 2008* Moreover, throughout the monitoring procedures, under FIA Instruction No.2008-03, Financial Institutions are required to identify, verify and evaluate transactions that could be considered complex, unusual large or part of unusual patterns of transactions, in respect of the information and data of the customers.
Recommendation of the MONEYVAL Report	*Provisions should be adopted which address circumstances where there is a failure to satisfactorily complete CDD.*
Measures taken to implement the Recommendation of the Report	*Adopted by article 24 and article 61 of the Law No. 92/2008* According to the article 24 of the Law No.92/2008, when the financial institutions are not able to fulfill the CDD requirements, they shall refrain from establishing ongoing business relationships or carrying out occasional transactions, interrupt them, if already initiated, at the earliest opportunity and evaluate if the situation should be reported to the Financial Intelligence Agency (San Marino FIU) Under article 61 of the Law, the failure to comply with the CDD requirements shall be punished by an administrative sanction of a minimum of € 2,000 to a maximum of € 40,000.
(Other) changes since the last evaluation	

Recommendation 5 (Customer due diligence) II. Regarding DNFBP[3]	
Recommendation of the MONEYVAL Report	*The San Marino authorities are urged to issue relevant implementing regulations as soon as possible and introduce the obligations required under Recommendation 12 to DNFBPs. The recommendations made above for CDD requirements for financial institutions should be applied also to DNFBP.*
Measures taken to implement the Recommendation of the Report	*Articles 19 and 20 of the Law No. 92/2008* The Financial Intelligence Agency is drafting a relevant Instruction to be addressed to professionals, a category of parties provided for by article 20 of Law No. 92/2008. *Draft FIA Instruction for legal professions and accountants* This FIA Draft Instruction includes specific indications concerning the modalities to be used by professionals in order to fulfill CDD, data and information registration, STR and ongoing monitoring obligations. As an integrating part of the Instruction to be issued, there will also be a standard form to submit reports to the Agency, the list of Countries, territories or jurisdictions subject to FATF strict monitoring and some indicators of unusual transactions. This Instruction will consider the recent international guidelines formalized by the FATF on 23 October 2008 (RBA Guidance for legal professional).
Recommendation of the MONEYVAL Report	*It should be considered if the explicit inclusion of Internet casinos and trust and company service providers in the list of entities that have to be monitored for AML/CFT purposes is needed.*
Measures taken to implement the Recommendation of the Report	*Article 19 the Law No. 92/2008* Article 19 of Law No. 92/2008 includes among the parties required to fulfill AML/CFT obligations anyone who runs gambling houses and games of chance as set forth in Law No. 67/2000, acts as a co-trustee under Law No.37/2005 and provides assistance and consultancy on matters of investment services, tax, financial and commercial matters.
(Other) changes since the last evaluation	The BAR of Lawyers and Notaries and of the Accountants of San Marino have promptly issued guidelines addressed to their members.

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*The obligation that records of the identification data, account files and business correspondence should be kept for at least five years after the closure of the account or termination of the business relationship (or longer if requested by a competent authority in specific cases and upon proper authority) should be included in law or regulation.*
Measures taken to implement the Recommendation of the Report	*Adopted by article 34 of the Law No. 92/2008* Under article 34 para 1 of the Law No. 92/2008, "obliged parties" shall record data and information obtained to comply with Customer Due Diligence requirements and keep the records and copies of the documents obtained for at least five years after the termination of the business relationship or the execution of the occasional transaction. *Implemented by:* - *article 6 of the Instruction No.2008-01;* - *article 5 of the InstructionNo.2008-03;*

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

	- *article 10 of the Instruction No.2008-04;* Under article 34 para 2 of the Law No.92/2008, as regards business relationships and transactions, the "obliged parties" shall record and keep the records of the original documents or copies admissible in Court proceedings as supporting evidence for a period of at least five years after the closure of the business relationship or the execution of the transaction. According to para 3 of the same article, data and information shall be recorded within five (5) days following their acquisition. The Article 6 of the Instruction No.2008-01 reiterates and specifies that the information on the customers and documents used to verify their identity shall be recorded in IT archives (electronic IT files) and kept for at least five years after the closure of the account or termination of the business relationship. Copies of the same information and documents are filed in the the position of the customer In application of the FATF Recommendation 11, FIA has issued Instruction No.2008-03 that requires Financial Institutions to analyse "Critical Transactions", the related information, documents and written reports on this analysis shall be kept for at least five years. In application of FATF Special Recommendation VII on wire transfers, FIA has issued Instruction No. 2008-04. Under article 10 of the this Instruction No.2008-04, the information on the payer acquired by the payment service provider of the payer, by the payment service provider of the payee and by the intermediate payment service provider shall be kept for at least five years from the execution of the transaction.
Recommendation of the MONEYVAL Report	*Also, financial institutions should be required in law or regulation to ensure that all customer and transactions records and information are available on a timely basis to the competent authorities.*
Measures taken to implement the Recommendation of the Report	*Adopted by articles 34 and 35 of the Law No. 92/2008* The Article 34 para 4 of the Law No.92/2008 states that all the data, information and documents recorded and kept recorded by the "obliged parties" shall be made available to the Financial Intelligence Agency's (FIU's) disposal without any delay, for the carrying out of its functions of preventing and combating money laundering and terrorist financing. Under article 35 of the Law No.92/2008, financial institutions shall equip themselves with electronic systems that enable them to respond rapidly and completely to the Agency's requests that are intended to determine whether these financial parties have had business relationships with specific customers during the previous five years and the nature of these relationships.
(Other) changes since the last evaluation	The FIA Instructions No. 2008-03 and No.2008-04 issued on November 24, 2008 reiterate the requirements to keep data, information and documents for at least five years since the closure of the business relations or the execution of the transaction.
Recommendation 10 (Record keeping) II. Regarding DNFBP[4]	
Recommendation of the MONEYVAL Report	*The San Marino authorities are urged to issue relevant implementing regulations as soon as possible and introduce the obligations required under Recommendation 12 to DNFBPs. The recommendations made above for CDD requirements for financial institutions should be applied also to DNFBP.*
Measures taken to implement the Recommendation of the Report	*Articles 19 and 20 of the Law No. 92/2008* The Financial Intelligence Agency is drafting a relevant Instruction to be addressed to professionals, a category of parties provided for by article 20 of Law No. 92/2008. *Draft FIA Instruction for legal professions and accountants* This Instruction includes specific indications concerning the modalities to be used

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

	by professionals in order to fulfill CDD, data and information registration, STR and ongoing monitoring obligations. As an integrating part of the Instruction to be issued, there will also be a standard form to submit reports to the Agency, the list of Countries, territories or jurisdictions subject to FATF strict monitoring and some indicators of unusual transactions. This Instruction will consider the recent international guidelines formalized by the FATF on 23 October 2008 (RBA Guidance for legal professional).
Recommendation of the MONEYVAL Report	*The obligation that records of the identification data, account files and business correspondence should be kept for at least five years after the closure of the account or termination of the business relationship (or longer if requested by a competent authority in specific cases and upon proper authority) should be included in law or regulation.*
Measures taken to implement the Recommendation of the Report	*Adopted by article 34 of the Law No. 92/2008* Under article 34 para 1 of the Law No. 92/2008, "obliged parties" shall record data and information obtained to comply with Customer Due Diligence requirements and keep the records and copies of the documents obtained for at least five years after the termination of the business relationship or the execution of the occasional transaction. Under article 34 para 2 of the Law No.92/2008, as regards business relationships and transactions, the "obliged parties" shall record and keep the records of the original documents or copies admissible in Court proceedings as supporting evidence for a period of at least five years after the closure of the business relationship or the execution of the transaction. According to para 3 of the same article, data and information shall be recorded within five (5) days following their acquisition.
Recommendation of the MONEYVAL Report	*Also, financial institutions should be required in law or regulation to ensure that all customer and transactions records and information are available on a timely basis to the competent authorities.*
Measures taken to implement the Recommendation of the Report	Under article 34 para 4 of the Law No.92/2008, all the data, information and documents registered and maintained by the obliged parties shall be made available to the Agency without delay for the carrying out of its functions of preventing and combating money laundering and terrorist financing.
(Other) changes since the last evaluation	

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The evaluators consider that the system put in place for the reporting of suspicious transactions should be reviewed to ensure that it meets all the requirements set out in Recommendation 13. The AML law should require financial institutions to report promptly to the FIU.*
Measures taken to implement the Recommendation of the Report	*Adopted by article 36 of the Law No. 92/2008* The article 36 of the Law No.92/2008 requires "obliged parties" to report STRs without delay to the Financial Intelligence Agency (FIU).
Recommendation of the MONEYVAL Report	*The reporting requirement which should be in law or regulation should clearly cover all predicate offences and all aspects of FT.*

Measures taken to implement the Recommendation of the Report	*Reporting requirements adopted by article 36 of the Law No. 92/2008* The "obliged parties" shall report to the Agency (San Marino FIU) without delay: a) any transaction, even if not executed, which, because of its nature, characteristics, amount, or in relation to the economic capacity and activity or for any other known circumstance, leads to the conclusion that the economic resources, money or assets involved in the same transaction may be derived from crimes of money laundering or terrorist financing or may be used to commit such offences; b) anyone or any fact which, because of any known circumstance related to the activity carried out, may be connected to money laundering or terrorist financing. Instruction No. 2008-01 includes the reporting form that Financial Institutions shall use to for suspicious of TF as well as for ML. *Adopted by article 1, para 2 of the Law No. 92/2008* The Article 1, para 2 of the Law No.92/2008 prescribes that: "2. With the sole object of the laws regarding preventing and combating money laundering, having regard to articles 199 and 199 bis of the criminal code, the following conducts may constitute money laundering if committed intentionally: a) converting or transferring assets knowing that such assets come directly or indirectly from criminal activity or from participation in said activity, with the aim of concealing or disguising the criminal origin of the said assets, or assisting any persons involved in said activity to evade the legal consequences deriving from their actions; b) concealing or disguising the true nature, origin, location, disposition, movement, ownership of the assets or rights with respect of these assets, carried out knowing that such assets come directly or indirectly from criminal activity or participation in said activity; c) the purchase, possession or use of assets, knowing, at the time of receipt, that such assets are proceeds directly or indirectly of a criminal activity or participation in said activity. 3. Knowledge, intent or purpose as referred to in paragraph 2 may be inferred from objective factual circumstances." *Adopted by Article 78, para 1 and 2 and Article 83 para 1 of the Law No. 92/2008* The Law No. 92/2008 modifies and introduces three offences in the Criminal Code contained in the list of the predicate offence designated by FATF: 1. Associations for the purpose of terrorism or subversion of the constitutional order (Article 78 para 1 amends Article 337bis of the Criminal Code); 2. Financing of terrorism (Article 78 para 2 introduces Article 337ter of the Criminal Code); 3. Smuggling of migrants (Article 83 para 1 introduces Article 3bis of the Law No. 22 of 24 February 2000)
Recommendation of the MONEYVAL Report	*San Marino authorities are urged to set out in law or regulation a direct mandatory obligation for financial institutions to report to the FIU when it suspects or has reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism.*
Measures taken to implement the Recommendation of the Report	*Article 36 para. 1 letter b) of the Law No. 92/2008* According to article 36 of the Law, "obliged parties" shall report transactions which may be related to money laundering or terrorist financing (see article 36 para 1 letter b)). ***Article 36*** ***(Reporting obligations)*** 1. The obliged parties shall report the following to the Agency without delay: a) any transaction - even if not executed – which, because of its nature,

	characteristics, amount, or in relation to the economic capacity and activity carried out by the customer to which it is referred, or for any other known circumstance, rouses suspicion that the economic resources, money or funds involved in the transaction may derive from offences of money laundering or terrorist financing or may be used to commit such offences; b) anyone or any fact that, for any circumstance, known on the basis of the activity carried out, may be related to money laundering or terrorist financing.
Recommendation of the MONEYVAL Report	*San Marino authorities are urged to set out in law or regulation a direct mandatory obligation for financial institutions to report to the FIU when it suspects or has reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism.*
Measures taken to implement the Recommendation of the Report	*Article 36 para. 1 letter b) of the Law No. 92/2008* According to article 36 of the Law, "obliged parties" shall report transactions which may be related to money laundering or terrorist financing (see article 36 para 1 letter b)). ***Article 36*** ***(Reporting obligations)*** 1. The obliged parties shall report the following to the Agency without delay: a) any transaction - even if not executed – which, because of its nature, characteristics, amount, or in relation to the economic capacity and activity carried out by the customer to which it is referred, or for any other known circumstance, rouses suspicion that the economic resources, money or funds involved in the transaction may derive from offences of money laundering or terrorist financing or may be used to commit such offences; b) anyone or any fact that, for any circumstance, known on the basis of the activity carried out, may be related to money laundering or terrorist financing.
Recommendation of the MONEYVAL Report	*Furthermore, San Marino should ensure that there is a requirement in law or regulation that all suspicious transactions, including attempted transactions, are reported regardless of the amount of the transaction.*
Measures taken to implement the Recommendation of the Report	*Article 36 para. 1 letter a) of the Law No. 92/2008* According to article 36 of the Law, "obliged parties" shall report transactions which have not been executed yet, that is attempted transactions (see article 36 para 1 letter a)). ***Article 36*** ***(Reporting obligations)*** 1. The obliged parties shall report the following to the Agency without delay: a) any transaction - even if not executed – which, because of its nature, characteristics, amount, or in relation to the economic capacity and activity carried out by the customer to which it is referred, or for any other known circumstance, rouses suspicion that the economic resources, money or funds involved in the transaction may derive from offences of money laundering or terrorist financing or may be used to commit such offences; b) anyone or any fact that, for any circumstance, known on the basis of the activity carried out, may be related to money laundering or terrorist financing. 2. If the report is made in a verbal form, the obliged party shall forward a written report to the Agency without delay, providing all the data and information required to conduct the financial investigation.

Recommendation of the MONEYVAL Report	*Also, such a reporting requirement should apply regardless of whether they are thought, among other things, to involve tax matters.*
Measures taken to implement the Recommendation of the Report	The reporting requirements apply in all cases where the obliged parties have suspicions that the transaction or attempted transaction may derive from money laundering or terrorism financing or may be used to commit such offences, regardless of any reason that generates or might generate the transaction of the funds. Obliged parties do not have to carry out an analysis of the origin of funds, they are obliged to report STRs, without any consideration of tax matters.
Recommendation of the MONEYVAL Report	*The authorities should also take steps to address the concerns related to the effectiveness as a whole of the reporting system. The FIU should pursue outreach to those financial institutions which are either nor reporting or underreporting suspicious transactions, and possibly issue further guidance and recommendations on how to determine whether a transaction is suspicious.*
Measures taken to implement the Recommendation of the Report	Since the beginning of its activity on November 24, 2008, the Financial Intelligence Agency has started an activity of scrutiny of the reporting requirements among financial institutions. The results of this analysis have indicated that the financial companies underreported. For this reasons the FIA has adopted the following approach: 1) FIA has planned a training seminar for Compliance Officers of financial companies aimed to make aware on reporting obligation. During this seminar the programme will be mainly focused on: a) the reporting requirements and sanctions; b) the procedures and methods to analysis operations or attempted operations and c) the AML/CFT schemes connected with the activity of the financial companies FIA also is organizing a specific training seminar for Compliance Officer of banks. The programme of this course is similar but focused on the activities of the banks (for instance, wire transfer issued has been covered). 2) FIA carried out 3 on site inspections of which 2 general inspections and 1 sectorial inspections (focused on wire transfers). ***Inspections executed by FIA*** Source: Financial Intelligence Agency Period: November 24, 2008 - February 20, 2009 Year 2009 | 2008 **Financial parties** 3 - of which commercial banks 1 - of which financial and fiduciary companies 2 - **Non financial parties** - - **Professionals** - - The FIA has scheduled seminars on reporting requirements for the next forthcoming months.
(Other) changes since the last evaluation	

Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP[5]	
Recommendation of the MONEYVAL Report	*San Marino should take immediate steps to fully implement the provisions of the AML law in respect of DNFBPs and address the deficiencies which have been identified in the analysis of compliance with recommendation 13 […].*
Measures taken to implement the Recommendation of the Report	The Law No. 92 of 17 June 2008 established the list of the reporting entities and persons, called "Obliged parties" that shall comply, among others, with reporting requirements. In application of the FATF Recommendation 16, the Law No.92/2008 includes among the reporting obliged parties the following DNFBPs: a) "Casinos" are prescribed in the article 19 letter f) of the mentioned Law: "f) running of gambling houses and games of chance as set forth in Law N° 67 of July 25, 2000 and subsequent amendments"; b) "Dealers in precious metals or stores" are prescribed in the article 19, letters from g) to k) of the mentioned Law: "g) custody and transport of cash, securities or values; h) management of auction houses or art galleries; i) trade in antiques; j) purchase of unrefined gold; k) manufacturing, mediation of and trade in, including export and import of precious metals and stones." c) "Lawyers, notaries other independent legal professionals and accountants" are prescribed in the article 20 of the Law in the cases indicated in the FATF Recommendation 16; d) "Trust and Company service providers" are prescribed in the articles 18 and 19 of the Law No.92/2008. In San Marino, under Trust Law No.37 of 17 march 2005, trustee activities shall be carried out only by banks and financial companies. The mentioned reporting obliged parties as well as all the other obliged parties listed in the Law No.92/2008 are required to report suspicious transaction under article 36 of the Law. ***Article 36*** ***(Reporting obligations)*** 1. The obliged parties shall report the following to the Agency without delay: a) any transaction - even if not executed – which, because of its nature, characteristics, amount, or in relation to the economic capacity and activity carried out by the customer to which it is referred, or for any other known circumstance, rouses suspicion that the economic resources, money or funds involved in the transaction may derive from offences of money laundering or terrorist financing or may be used to commit such offences; b) anyone or any fact that, for any circumstance, known on the basis of the activity carried out, may be related to money laundering or terrorist financing. 2. If the report is made in a verbal form, the obliged party shall forward a written report to the Agency without delay, providing all the data and information required to conduct the financial investigation.

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

	In order to implement the FATF Recommendation 13.1*, 13.2* and 13.3*, according to the article 36 of the Law, the obliged parties shall report, without delay, to the Agency (San Marino FIU) transactions, included attempt transactions, which rise the suspicion that funds involved may derive from of may be used to commit money laundering and terrorist financing offences. Under the same article the obliged parties shall report persons and facts may be related to money laundering or terrorism financing. As regards FATF Rec. 13.4, the reporting requirements apply in all cases where the obliged parties rise suspicion that the transaction or attempted transaction may derive from money laundering or terrorism financing or may be used to commit such offences, regardless of any reason that generates or might generate the transaction of the funds
(Other) changes since the last evaluation	Since the beginning of the activity on November 24 2008, the Agency has met several representatives of DNFBPs . The Financial Intelligence Agency is working on a draft document that will become an Instruction for the implementation of the AML/CFT obligations, reporting requirements included.

Special Recommendation II (Criminalisation of terrorist financing)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The evaluators recommend that terrorist financing should be criminalised as an autonomous offence in the Criminal Code.*
Measures taken to implement the Recommendation of the Report	Adopted by article 78 of the Law No.92/2008 Article 337ter of the Criminal Code (introduced by article 78 (2) of Law No. 92/2008) criminalizes as an autonomous offence the terrorism financing and punishes - by terms of 6th degree imprisonment and fourth-degree disqualification (2-5 years) from public offices and political rights - "*anyone who by any means, even through another person, receives, collects, detains, gives up, transfers or conceals funds intended to be used, in full or in part, in order to carry out one or more terrorist acts or to economically support terrorist individuals or groups, or provides them with a financial service or other connected".*
Recommendation of the MONEYVAL Report	*The authorities should ensure that this offence is reconciled with all the aspects of the United Nations International Convention for the Suppression of the Financing of Terrorism and explicitly covers all the essential criteria in SR. II and the requirements of the Interpretative Note. In particular:* - *the definition should expressly include the financing of individual terrorists and all offences defined as terrorist offences in the Annex to the TF convention and not be limited to the financing of terrorist associations;* -
Measures taken to implement the Recommendation of the Report	Article 337 ter of the Criminal Code clearly establishes that the concept of "financing" of terrorism is not limited to the financing of terrorist association but it is also extended to the financing of individual terrorists.
Recommendation of the MONEYVAL Report	- *it is recommended to define the terms "terrorism", "terrorist act", "terrorist", in the legislation of San Marino;*

Measures taken to implement the Recommendation of the Report	Adopted by article 1 para 1 of the Law No.92/2008 The terms "terrorism" or "terrorist act", "terrorist" and "terrorism purposes" have been defined in Art. 1 (p) (q) (j) of Law 92/2008. In particular: «p) *"terrorism" or "terrorist act" means any conduct, contrary to the constitutional order, the rules of international law and statutes of International Organizations, aimed at seriously injuring people or things, so as to compel the institutions of the Republic of San Marino, of a foreign State or International Organization to carry out or refrain from carrying out any act, or to intimidate the population or part of it, or to destabilize or destroy the political, constitutional, economic or social institutions of the Republic of San Marino, of a foreign State or International Organization;* *q) "terrorist" means:* *(I) any individual perpetrating or attempting to perpetrate an act as defined under letter p) of this paragraph;* *(II)any group set up in the form of an association as defined under article 337 bis of the criminal code;* *(III) any entity acting on behalf of, or directed by, said individuals or groups that has been funded, even partly, with proceeds obtained from, or generated by, assets directly or indirectly held or controlled by said individuals or groups;* *j) "terrorism purposes" means the proposition to influence the institutions or intimidate the population or part of it, to destabilize or overthrow the political, constitutional, economic, or social institutions of the Republic of San Marino, of a foreign State or of an International Organization, in contrast with the constitutional order, the rules of international law and the statutes of International Organizations*.»
Recommendation of the MONEYVAL Report	- *there should also be a definition of the concept of financing, including with regard to the type of funds and assets which can serve the purpose of financing terrorism;*
Measures taken to implement the Recommendation of the Report	Adopted by article 1 para 1 letter (e) and letter (k) Article 1, letter k) of the Law No.92/2008 defines "terrorist financing" as "*except as provided in article 337 ter of the criminal code, any activity intended, by any means, to collect, provide, intermediate, deposit, keep or endow funds or economic resources, regardless of how they were obtained, destined to be used, in full or in part, in order to carry out or promote one or more offences for terrorist purposes, regardless of the actual use of the funds or economic resources to carry out said offences*". Article 1, letter e) of the Law No.92/2008 defines "assets" or "funds", including economic resources as "*any property, whether tangible or intangible, movable or immovable, including means of payment and credit, any document or instrument, even electronic or digital form, evidencing title to or interest in such property; economic resources of any nature, tangible or intangible, movable or immovable assets, thus including all accessories, fixtures and returns that may be used to obtain funds, assets or services as well as any other utility specified in the technical Annex to this Law*".
Recommendation of the MONEYVAL Report	- *criminal liability for FT should extend to legal persons and such persons should be subject to effective, proportionate and dissuasive criminal sanctions for FT.*
Measures taken to implement the Recommendation of the Report	The Article 337 ter of the CC has been inserted by Article 78 (2) of Law No.92/2008. San Marino authorities envisage to implement a legislative provision concerning the criminal liability of legal persons. The Law No.92/2008 provides for a joint

	liability of the entity for the administrative violations committed by its representatives or employees. This joint liability integrates the one established in civil law for the unlawful acts committed by the representative or employee of a legal person.
(Other) changes since the last evaluation	

Special Recommendation IV (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: .Non compliant	
Recommendation of the MONEYVAL Report	*San Marino authorities are urged to set out in law or regulation a direct mandatory obligation for financial institutions to report to the FIU when it suspects or has reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism.*
Measures taken to implement the Recommendation of the Report	Article 36 of the Law No. 92/2008 explicitly covers the requirements for reporting obliged parties to transmit to the Agency STRs related to FT.
Recommendation of the MONEYVAL Report	*Furthermore, San Marino should ensure that there is a requirement in law or regulation that all suspicious transactions, including attempted transactions, are reported regardless of the amount of the transaction.*
Measures taken to implement the Recommendation of the Report	Article 36 of the Law No. 92/2008 explicitly coves the case of "attempted transactions".
Recommendation of the MONEYVAL Report	*Also, such a reporting requirement should apply regardless of whether they are thought, among other things, to involve tax matters.*
Measures taken to implement the Recommendation of the Report	The reporting requirements apply in all cases where the obliged parties rise suspicion that the transaction or attempted transaction may derive from money laundering or terrorism financing or may be used to commit such offences, regardless of any reason that generates or might generate the transaction of the funds.
Recommendation of the MONEYVAL Report	*The authorities should also take steps to address the concerns related to the effectiveness as a whole of the reporting system. The FIU should pursue outreach to those financial institutions which are either nor reporting or underreporting suspicious transactions, and possibly issue further guidance and recommendations on how to determine whether a transaction is suspicious.*
Measures taken to implement the Recommendation of the Report	Since the beginning of its activity on November 24, 2008, the Financial Intelligence Agency has started an activity of scrutiny of the reporting requirements among financial institutions. The results of this analysis have indicated that the financial companies underreported. For this reasons the FIA has adopted the following approach: 1) FIA has planned a training seminar for Compliance Officers of financial companies aimed to make aware on reporting obligation. During this seminar the programme will be mainly focused on: a) the reporting requirements and sanctions; b) the procedures and methods to analysis operations or attempted operations

	and c) the AML/CFT schemes connected with the activity of the financial companies FIA also is organizing a specific training seminar for Compliance Officer of banks. The programme of this course is similar but focused on the activities of the banks (for instance, wire transfer issued has been covered). 2) FIA carried out 3 on site inspections of which 2 general inspections and 1 sectoral inspection (focused on wire transfers).
(Other) changes since the last evaluation	
Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
Recommendation of the MONEYVAL Report	*Gaps identified in the analysis for financial institutions are also applicable for DNFPB.*
Measures taken to implement the Recommendation of the Report	The article 36 of the Law No. 92/2008 explicitly covers the requirement for all the reporting obliged parties (including "Non-financial Parties" and "Professionals" described in articles 19 and 20 of the Law 92/2008): DNFBPs are required to transmit to the Agency STRs related to FT, included attempted transactions.
Recommendation of the MONEYVAL Report	*Outreach and guidance should be developed for all DNFPB to explain the reporting obligations.*
Measures taken to implement the Recommendation of the Report	As regards the guidance on reporting obligations, the Agency has planned to issue specific Instructions for DNFBPs. Meetings with the DNFBPs' representatives have been scheduled for the forthcoming months.
(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 2 - ML offence (mental element and corporate liability)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Criminal liability of legal persons should be clearly provided by law as there is no fundamental principle of law prohibiting it.*
Measures taken to implement the Recommendation	Law No.92 of 17 June 2008 "Provisions on preventing and combating money laundering and terrorist financing" (Law No.92/2008) San Marino authorities envisage to implement a legislative provision concerning

of the Report	the criminal liability of legal persons. The Law No.92/2008 provides for a joint liability of the entity (article 70 of the Law No.92/2008) for the administrative violations committed by its representatives or employees. This joint liability integrates the one established in civil law for the unlawful acts committed by the representative or employee of a legal person.
Recommendation of the MONEYVAL Report	*Given that the implementation aspect appears to be quite unsatisfactory, this issue should be addressed by the San Marino authorities through a firm prosecution policy and that a review of the effectiveness of the current legislation be carried out.*
Measures taken to implement the Recommendation of the Report	The San Marino Authorities reviewed the AML/CFT Legislation. The Parliament of the Republic of San Marino has adopted the Law No. 92 of 17 June 2008 that entered into force on September 23, 2008. The Law No. 92/2008 contains specific provisions on the preventive measures (such as CDD, record keeping requirements and reporting obligations) and on the repressive measures (replacement or introduction of offences in line with the FATF and Moneyval Recommendations and introduction of specific criminal and administrative sanctions). The national cooperation between the San Marino Authorities on investigative and analytical side (Investigative Judge, Police Forces, Interpol and FIA) has also been strengthened by several provisions contained in the articles 5, 11, 12 and 15 of the Law No.92/2008 . **(SEE ANNEXES 14 AND 15 OF THIS DOCUMENT)**
Recommendation of the MONEYVAL Report	*In particular, the authorities should review their legislation to ensure that natural and legal persons should be subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions for ML and consider increasing the level of sanctions*
Measures taken to implement the Recommendation of the Report	The Law No.92/2008 introduces criminal offences in line with the designated categories of offences based on the FATF Methodology as well as the strengthen of the criminal sanction for money laundering offence and several administrative and criminal sanctions for the violation of the preventive measures. <u>Criminal sanction for ML offence</u> has been strengthened by article 77 para 2 of the Law No. 92/2008. Article 77 para 2 of the Law No.92/2008 inserts the following para 4 within article 199bis (Money Laundering Offence) of the Criminal Code: *"Anyone who committing the offences provided for in this article shall be punished by terms of fourth degree imprisonment, a second-degree daily fine and a third-degree disqualification from public offices and political rights.* *The penalties may be decreased by one degree based on the amount of money or goods equivalent to them and by nature of the transactions carried out. They may be increased by one degree when the facts were committed in the exercise of an economic or professional activity subject to the authorization or licensing by the competent Public Authorities.* *The judge shall apply the penalty corresponding to the penalty imposed for the predicate offence, if this one is lower."* <u>Criminal sanctions</u> for violations of the preventive measures adopted by articles 53, 54, 55, 56, 57, 58, 59 and 60 of the Law No. 92/2008. <u>Administrative sanctions</u> for violations of the preventive measures adopted by articles 61, 62, 63, 64, 65, 66 and 67 of the Law No. 92/2008. Articles 66 and 67 contain provisions to punish violations which are not specifically envisaged. Both articles are of residual nature and the authorities are considering to improve their deterrent effectiveness.

	San Marino authorities have reviewed sanctions regime for money-laundering offence (article 199bis of the Criminal Code) by strengthening the imprisonment penalty. The imprisonment from 4 to 10 years is applied. The sanctions regime for the preventive measures have also been strengthened according the new provisions of the Law No.92/2008. The Annex 29 of the Second Compliance Report of San Marino contains the list of the criminal and administrative sanctions for the violations of the provisions of the Law No.92/2008.
(Other) changes since the last evaluation	

Recommendation 3 (Confiscation and provisional measures)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Equivalent value confiscation should be considered also for offences other than ML or FT;*
Measures taken to implement the Recommendation of the Report	Adopted by Article 76 para 3-4 of the Law No. 92/2008 and Article 83 para 1 of the Law No.92/2008 Confiscation regime has been changed in order to extend value-based confiscation to the most serious offences constituting predicate offences, even when confiscation cannot be ordered since the property does not belong to the defendant: receiving of stolen goods, money laundering, usury, insider trading, terrorist association, terrorist financing, bribery, corruption. Value-based confiscation is also applicable to smuggling of migrants, trafficking in person and commercial offences. The Investigating Judge, on request of "Procuratore del Fisco", can order the preventive seizure of the sums which may be subject to value-based confiscation under articles 145 and 140 no. 6 of the Criminal Code. Under article 147 of the Criminal Code, in case of conviction the judge may order the confiscation of the defendant's property or assets that served or were destined to commit the offence, and of the things being the price, product or profit thereof (para 1). Regardless of a previous conviction, confiscation is mandatory whereby the offence consists in the illicit manufacture, use, carriage, possession, transfer or trade in property (para 2). Where confiscation is not possible, the judge imposes an obligation to pay an amount of money equal to the value of the instrumentalities and things referred to above (para 4 introduced by Article 5 para 1 of the Law No. 28/2004). Confiscated assets or equivalent sums are allocated to the inland revenue or, where appropriate, destroyed (para 5). Para 4 of article 76 of the Law No. 92/2008 modifies para 3 of article 147 of the Criminal Code: "*In case of conviction, the confiscation of the instrumentalities that served or were destined to commit the crimes referred to in articles 199 paragraph 1, 199 bis, 207, 305 bis, 337 bis, 337 ter, 371, 372, 373, 374 paragraph 1, 374 ter paragraph 1 and crimes for the purposes of terrorism or subversion of the constitutional order as well as of the things being the price, product or profit thereof, shall always be mandatory. Where confiscation is not possible, the judge shall impose an obligation to pay a sum of money equal to the value of the*

	instrumentalities and things referred to above". This new provision extends the list of the criminal offences for which confiscation is always mandatory, including the following offences: Article / Offence 199 para 1 — Sale of stolen property 207 — Usury 305 bis — Insider trading 337 bis — Associations for the purpose of terrorism or subversion of the constitutional order 337 ter — Financing of terrorism 371 — Embezzlement by public official 372 — Bribery 373 — Corruption 374 para 1 — Accepting an undue advantage for an act already performed. 374 ter para 1 — Embezzlement, extortion, corruption and instigation to corruption of officials from foreign countries and international public organizations
Recommendation of the MONEYVAL Report	*The legal powers of competent authorities to identify and trace proceeds should be reviewed, in particular those of the FIU so as to enable it to block or freeze assets other than those held or maintained within banks or financial intermediaries; also the FIU should have direct access to public available information held within public administrations.*
Measures taken to implement the Recommendation of the Report	The Law No.92/2008 enables the Financial Intelligence Agency (San Marino FIU) to identify and trace funds. The Agency has the power to access to documents, information and data held by the obliged parties (these are listed in the articles 18, 19 and 20 of the mentioned Law) as well as within the public administration, as prescribed by article 5, para 1, letter a) and b) and article 8 of the Law No.92/2008. The Agency has also the power to block funds and assets or economic resources related to money laundering and terrorism financing as set forth in the article 5, para 1 letter d) of the Law No.92/2008. This measure applies to the entity or person who holding the assets, funds or economic resources and is not limited to banks and financial companies. Procedures and effects of blocking measures are prescribed in the article 6 of the same Law. Under Congress of State Decision No.55 of February, 2 2009 it will be easier for the authorities involved in the prevention and fight against money laundering and terrorist financing to have access to the information necessary to identify anyone who is responsible for the management, direction and control of companies as well as anybody being a member in these companies. In particular, it will be possible to carry out research activities in relation to companies in order to identify managers, directors, auditors and members, as well as in relation to natural persons to establish whether they hold management, direction or control positions in companies or they are members thereof. (**SEE THE ANNEX 3 OF THIS DOCUMENT)** It should be specified that the existence of electronic data does not exclude the possibility to have access to paper-based documents related to single companies.

Recommendation of the MONEYVAL Report	*There should be legal provisions to void actions, both contractual and non-contractual, whose effects consist in prejudice to the possibility to confiscate property or assets.*
Measures taken to implement the Recommendation of the Report	<u>Adopted by article 75 of the Law No. 92/2008</u> Article 75 of the Law No. 92/2008 introduces a specific provision to prevent and counter money-laundering and terrorist financing concerning the voiding of any action to have access to instrumentalities which may be subject to confiscation. According to this provision, the voiding of actions such as contracts for assets or funds related to money laundering or terrorism financing enables San Marino Authorities to recover the property subject to confiscation. The article 75 (Voidness of the acts of disposition of assets susceptible to confiscation) states that: *1. Any act of disposition, fulfilled in any capacity, having as object assets, funds or resources that constitute directly or indirectly the price, product or profits from a felony, whenever the person who has received such assets, funds or resources knew or shall have known that they derived from a felony is null.* *2. "I Sindaci di Governo" (authorities dealing with acts and deeds involving the State) shall cite in judgment the assignor, assignee and any subsequent assignees that are found jointly guilty to the devolution of assets, funds or economic resources to the Ecc.ma Camera [State], or, whenever this is not possible, to the payment of an equivalent amount in money.* *3. The assignee and any subsequent assignees have the onus of proving their good faith in accordance with the first paragraph of this article.* *4. Every other reciprocal action between the assignor, assignee and any subsequent assignees is guaranteed.* *5. All actions are guaranteed to the person damaged by the felony from which the assets, funds, or resources are derived.* *6. This article shall apply in derogation to the general regulations in force regarding matters of contractual invalidity, with the aim of rendering the prevention and combating money-laundering and terrorist financing more effective.* Under Article 5, paragraph 1, letter e) the Agency has the power to suspend, also upon request by the criminal judicial Authority, suspected transactions of money-laundering or terrorist financing for a maximum of five working days, whenever this does not prejudice investigations.
(Other) changes since the last evaluation	

Recommendation 4 (Secrecy laws consistent with the Recommendations)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*San Marino authorities should review their legal provisions on banking and official secrecy to ensure that they do not inhibit implementation of FATF Recommendations. The AML Law should clearly lift bank secrecy, not only for STRs in respect of money laundering, but also in particular in the context of the ability of competent authorities to access information required in the performance of their AML/CFT functions and of the sharing of information between competent authorities, either domestically or internationally.*
Measures taken to implement the Recommendation of	<u>Legal provisions on banking and professional secrecy</u> The Law 17 June 2008 No. 92 contains provisions that enable the San Marino

the Report	authorities to perform their AML/CFT functions and to cooperate domestically and internationally in particular for the access and sharing of information between competent authorities without any limitation or restriction for banking and official secrecy. Bank secrecy As stated in article 86 of the Law modifying article 36 of the No. 165 of 17 November 2005. (LISF, Law on companies and banking, financial and insurance services), bank secrecy shall be lifted to report suspicious transactions and shall not be opposed to the Agency "*in the exercise of its functions of preventing and combating money laundering and terrorist financing*". Professional secrecy Article 38 paragraphs 3 and 4 of the Law No.92/2008 state that professional secrecy shall not be invoked against the Judicial Authority, the Financial Intelligence Agency and the Police Authorities in the exercise of their functions to prevent and counter money laundering and terrorist financing, except in the case described in para 1 of the same article referring to legal professionals who are subject to professional secrecy during a judicial proceeding. Access and sharing information The Financial Intelligence Agency (San Marino FIU) accesses to the information held within Public Administrations, Police Authorities, Central Bank and Professional Associations. General Principle for domestic cooperation and collaboration The Law No. 92/2008 contains specific provisions regulating the cooperation between the Agency and Public Administrations, Police Authorities, Central Bank and Professional Associations. A general provision is set forth in article 11 para 1 of the Law No.92/2008 under which, the authorities and associations mentioned above shall provide**,** upon motivated request by the Agency, the data and information in their possession, which are deemed to be useful for the purposes of preventing and combating money-laundering and terrorist financing. Cooperation between the Agency and the Police Authorities Article 12 of the Law No. 92/2008 provides for the cooperation between the Agency and the Police Authorities and the National Central Office of Interpol. Cooperation between the Agency and the Central Bank As regards the financial sector, the Central Bank, while performing its functions of supervision over financial institutions, shall inform the Agency without delay about violations of the provisions of the law or any facts or circumstances that might be related to money laundering and financing of terrorism as prescribed in the article 14, para 1 of the Law No.92/2008. Moreover, according to the article 14 para 2 of same Law, the Central Bank shall provide the Agency with data on financial institutions as well as any information considered to be useful to carry out financial investigations following reports of suspicious transactions and to analyse financial movements. On November 2008, the Agency and the Supervisory Department of the Central Bank has signed a Memorandum of Understanding, regulating the respective competences in order to strengthen the contrast to money laundering and terrorism financing

	Co-operation between the Agency and the Judicial Authority According to article 5 para 4 of the Law No.92/2008, the Agency can be delegated by the Judicial Authority to carry out investigations related to proceedings involving money-laundering and terrorist financing as well as offences and administrative violations prescribed by the law. In this case, the Agency shall operate as judicial police. The investigations carried out upon delegation from the Judicial Authority shall be documented in reports. The assistance of the Agency to the Judicial Authority is illustrated in the provisions contained in the article 15 of the Delegate Decree No.135/2008, ratified by Delegate Decree No. 146/2008 on November 28, 2008. Moreover, article 15 of the Law No. 92/2008 states that when the Judicial Authority has reasonable grounds to suspect that money laundering or terrorist financing have been committed through transactions carried out in the premises of the obliged parties (i.e. reporting entities and persons), it shall inform the Agency. Sharing of information between obliged parties domestically and internationally As regard the sharing of information between financial institutions, the Financial Intelligence Agency has issued Instruction No.2009-02 on February, 6 2009, according to which "obliged parties" shall communicate with foreign counterparts the requested information when the latter performs the CDD obligations. **(SEE ANNEX 07 OF THIS DOCUMENT)** On January 30, 2009, the Central Bank has issued the Recommendation No 2009/01 Interpreting the notion of "bank secrecy" as regards the of Article 36, paragraph 6 of Law no. 165/2005. **(SEE ANNEX 08 OF THIS DOCUMENT)**
Recommendation of the MONEYVAL Report	*Following the introduction of the obligation to report suspicious transactions on FT, it should be clearly provided in legislation that banking secrecy does not apply with regard to STRs on FT. As a consequence, STRs relating to FT sent to the FIU should not constitute a violation of secrecy obligation or imply liability of any kind.*
Measures taken to implement the Recommendation of the Report	Adopted and implemented by Article 36 and Article 39 of the Law No. 92/2008 Under article 39 of the Law No.92/2008 reporting suspicious transactions related to ML or for FT, as described in Article 36 of the same Law, does not constitute any violation of confidentiality or secrecy rules and the legislation does not entail any kind of liability. According to article 39 of the Law No.92/2008: (Exemption from responsibility) "*1. The reports and notifications carried out under this law do not constitute violation of any restriction to the communication of data or information resulting from contracts or legislative, statutory, regulatory or administrative provisions, nor of obligations of confidentiality and of professional, official or bank secrecy referred to in article 36 of Law no. 165 November 17, 2005. Reports and notifications involve no responsibility whatsoever if made in good faith."*
Recommendation of the MONEYVAL Report	*The current framework should be reviewed to ensure that banking and official secrecy should not prevent the sharing of relevant information, either domestically or internationally among AML/CFT competent authorities, nor impose too strict conditions for exchanges which inhibit such cooperation.*
Measures taken to implement the Recommendation of the Report	Provisions on domestic cooperation has been adopted by articles 11,12,14 and 15 of the Law No. 92/2008, while the international cooperation between FIU is prescribed by article 16 of the same Law.

	Domestic cooperation The Law No. 92/2008 contains specific provisions regulating the cooperation between Public Administrations, the Police Authority, the Central Bank, professional associations and the Agency. A general provision is set forth in article 11 para 1 of the Law No.92/2008. According to it, the entities mentioned above shall provide, upon motivated request by the Agency, the data and information in their possession, which are deemed to be useful for the purposes of preventing and combating money-laundering and terrorist financing under para 2 of the same article. Specific provision on cooperation between the Financial Intelligence Agency and other authorities are prescribes as follows: - Article 12 provides for the cooperation with Police Authorities and the National Central Office of Interpol; - Article 14 provides for the cooperation with Central Bank, while performing its functions of supervision over financial institutions; - Article 15 provides for the cooperation with the Judicial Authorities. Moreover on November 26, 2008 the Supervision Department of the Central Bank and the Financial Intelligence Agency signed a Memorandum of Understanding that regulates the respective competences in order to strengthen the contrast to money laundering and terrorism financing. The MOU is attached to this document. International cooperation According to the article 16 the Financial Intelligence Agency cooperates with foreign FIUs on the basis of reciprocity including the exchange of information. The foreign financial intelligence units shall guarantee the same conditions of confidentiality of the information, as assured by the Agency.

International cooperation of the Financial Intelligence Unit of San Marino (FIA)

Source: Financial Intelligence Agency

	Year				
	2009	**2008**	**2007**	**2006**	**2005**
Requests of cooperation received by FIA	**5**	**9**	**8**	**9**	**2**
of which granted	4	9	7	8	2
of which refused	0	0	1	0	1
Requests of cooperation asked by FIA	**2**	**1**	**4**	**2**	**0**

Requests of cooperation asked by FIA

Source: Financial Intelligence Agency
Period: November 24, 2008 - February 20, 2009

Financial Intelligence Unit	**Year**			
	2009		**2008**	
	asked	granted	asked	granted
Italy	2	-	-	-
Total	**2**	**0**	**0**	**0**

Requests of cooperation received by FIA

Source: Financial Intelligence Agency
Period: November 24, 2008 - February 20, 2009

Financial Intelligence Unit	Year			
	2009		2008	
	received	granted	received	granted
Italy	4	3	-	-
Costa Rica	1	1	-	-
Total	**5**	**4**	**0**	**0**

For information only forwarded by FIA

Source: Financial Intelligence Agency
Period: November 24, 2008 - February 20, 2009

Financial Intelligence Unit	Year	
	2009	2008
Italy	1	2
Total	**1**	**2**

(Other) changes since the last evaluation	The article 15 of the Delegate Decree No.146 of 28 November 2008, that ratifies the Delegate Decree No.135/2008, regulates the assistance of the Financial Intelligence Agency to the Judicial Authority. ***Article 15*** ***(Assistance to the Judicial Authority)*** *1. On the delegation of the Judicial Authority, pursuant to article 5, paragraph 4 of Law no. 9o2 of 17 June 2008, the Agency may perform inquiries and evidence taking, availing of Police personnel transferred to the Agency, or other Police personnel specified by the Judicial Authority. The reports of the actions carried out shall be immediately sent to the Judicial Authority.* *2. The Judicial Authority may request the assistance of the Agency in proceedings relating to crimes of money laundering and financing of terrorism and to the offences and administrative violations provided for by Law no. 92 of 17 June 2008. 92.* *3. If the Judicial Authority receives a report pursuant to article 15 of Law no. 92 of 17 June 2008, or a report forwarded by a Police Authority, the Agency, in exception to the provisions of article 7 paragraph 1 of Law no. 92 of 17 June 2008, it shall inform the Judicial Authority of the outcome of the financial investigation carried out, even if no acts of criminal significance emerge*. On November 26, 2008 the Supervision Department of the Central Bank and the Financial Intelligence Agency signed a Memorandum of Understanding that regulates the respective competences in order to strengthen the contrast to money laundering and terrorism financing. The MOU is attached to this document.

Recommendation 6 (Politically exposed persons)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*There are no specific requirements in San Marino AML laws or regulations with regard to PEPs. The San Marino authorities should put in place measures that require financial institutions to:* *- determine if the client or the potential client is a PEP as defined in the FATF Recommendations;*
Measures taken to implement the Recommendation	With regard to PEPs, the Law No.92/2008 contains specific provisions: the notion of PEP is prescribed in the Technical Annex of the Law No.92/2008, while the Enhanced Customer Due Diligence requirements are described in the article 27 of

of the Report	the Law No.92/2008. The definition of politically exposed persons (PEP) is included both in article 1 letter n) of the Law N° 92/2008 and in article 1 of the Technical Annex to the Law N° 92/2008. The Law No. 92/2008 requires "obliged parties" to apply enhanced customer due diligence requirements to the customers who are considered to be politically exposed persons according to the definition contained in the Article 1 of the Technical Annex of the Law No. 92/2008. Article 27 of the Law, paragraph 2, requires obliged persons to *"take adequate procedures in relation to the activity carried out in order to determine if the customer is a politically exposed person"*.
Recommendation of the MONEYVAL Report	- *obtain senior management approval for establishing a business relationship with a PEP;*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 27 para 4 letter a) of Law No. 92/2008. According to the article 27, para 4 letter a) of the Law No. 92/2008, when the customer is a politically exposed person, the "obliged parties" shall: "*a) obtain the authorisation of the General Director ,an equivalent persons or a person delegated by him to establish business relationships or to undertake the transactions*"
Recommendation of the MONEYVAL Report	– *take reasonable measures to establish the wealth and on the source of the funds of customers identified as PEPs;*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 27 para 4 letter b) of the Law No. 92/2008. According to the article 27, para 4 letter b) of the Law No. 92/2008, when the customer is a politically exposed person, the "obliged parties" shall: *"b) take adequate measures to establish the source of funds which are involved in the business relationship or in the transaction"*
Recommendation of the MONEYVAL Report	- *conduct enhanced monitoring on PEP business relationships*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 27 para 4 letter c) of the Law No. 92/2008. According to the article 27, para 4 letter c) of the Law No. 92/2008, when the customer is a politically exposed person, the "obliged parties" shall: *"c) conduct ongoing enhanced control of the business relationship"*
(Other) changes since the last evaluation	

Recommendation 7 (Correspondent banking)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*In relation to cross-border correspondent banking and services, financial institutions should not only be required to perform normal due diligence measures but should also be required to obtain information on:* *- the reputation of the respondent counterparts and the quality of supervision from publicly available information;*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 27 para 5 of the Law No. 92/2008. According to the article 27, para 5 letter a) of the Law No. 92/2008, the financial institutions shall: *"a) collect sufficient information about a respondent foreign institution to fully understand the nature of the respondent's business and to determine, from publicly available information, the reputation of the institution and the quality of supervision"*
Recommendation of the MONEYVAL Report	• *assess their AML/CFT controls and ascertain their adequacy;*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 27 para 5 letter b) of the Law No. 92/2008. According to the article 27, para 5 letter b) of the Law No. 92/2008, financial institution shall: *"b) assess the adequacy and effectiveness of controls applied by the respondent institution regarding matters of preventing and combating money laundering and terrorist financing"*
Recommendation of the MONEYVAL Report	• obtain approval from senior management before establishing new correspondent relationships;
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 27 para 5 letter c) of the Law No. 92/2008. According to the Article 27, para 5 letter c) of the Law No. 92/2008, financial institution shall: *"c) obtain authorization by the General Director or equivalent figure, or by a person authorized by the General Director, before establishing a business relationship or carrying out an occasional transaction"*
Recommendation of the MONEYVAL Report	• *document the respective AML/CFT responsibilities of each institution;*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 27 para 5 letter d) of the Law No. 92/2008. According to the Article 27, para 5 letter d) of the Law No. 92/2008, financial institution shall:

	"d) specify in written form the respective obligations and responsibilities regarding matters of preventing and combating money laundering and terrorist financing."
Recommendation of the MONEYVAL Report	• *where 'payable through accounts' are involved obtain guarantees that counterpart organisations apply the normal CDD measures to all customers that have client access to the accounts of the correspondent institutions and that it is able to provide relevant customer identification data on request*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 1 para 1 letter i) of the Law that contain the notion of "payable-through accounts" and by 27 para 6 of the Law No. 92/2008. The article 1, para 1 letter i) of the Law No.92/2008 defines "payable-through accounts" as "*transnational bank accounts used directly by the customers to carry out transactions on their own behalf*". According to the Article 27, para 6 of the Law No. 92/2008, the financial institutions of San Marino operating with respondent institution that permit the use of "payable-through accounts" shall assure that the counterpart "*(I) has verified the identity of customers having direct access to payable-through accounts, (II) has performed ongoing customer due diligence, and (III) is able to provide relevant customer due diligence data to financial party, upon request."*
(Other) changes since the last evaluation	

Recommendation 8 (New technologies & non face-to-face business)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*San Marino AML legislation and regulations should include enforceable requirements on non-face to face business relationships or transactions.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 27 para 2 and 3 of the Law No.92/2008. According to the article 27 of the Law No. 92/2008, when the customer is not present, the law requires "obliged parties" to apply Enhanced Customer Due Diligence requirements. In this case, the "obliged parties" shall apply one or more of the following measures: a) ensuring that the first transfer of funds related to the establishment of a business relationship or the execution of a transaction, is carried out through an account opened in the customer's name established at San Marino financial institution or foreign financial institution locate in a Country that imposes equivalent requirements to those provided by the Law No.92/2008 on AML/CFT. b) verifying the identity of the customer through supplementary information or documents in addition to those requested for a customer that is physically present; c) taking supplementary measures to verify the documents supplied; d) obtaining certification in relation to the information or documents supplied;

	e) obtaining a confirmatory certification from a financial institution established in San Marino or in a Country imposing requirements equivalent to those laid down in the Law and monitoring the compliance with the requirements to prevent and counter money laundering and financing of terrorism. that has already applied customer due diligence for the customer in question. With regard to the list of the Countries, Jurisdictions and Territories imposing requirements equivalent to those set forth in the San Marino AML/CFT Legislation, the Congress of State (Government) of San Marino has adopted the Decision No.9 on January 26, 2009. **(SEE ANNEX 02 OF THIS DOCUMENT)**
Recommendation of the MONEYVAL Report	*Financial institutions need to be made aware of the possible misuse of new technologies for ML/FT purposes but also be required to have policies in place to prevent the misuse of technological developments for ML/FT purposes, and to have policies and procedures in place to address specific risks associated with non face to face relationships and transactions.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 27 para 7 of the Law No.92/2008. Under Article 27 para 7 of the Law No. 92/2008, the obliged parties shall pay special attention to any money-laundering or terrorist financing threat that may arise from products or transactions that might favour anonymity (included the new technologies), and take measures, if needed, to prevent their use for money-laundering or terrorist financing purposes.
(Other) changes since the last evaluation	On January 26, 2009 the Congress of State of the Republic of San Marino (Government) adopted the decision under article 95.5 of the Law No.92/2008 on "Equivalent Countries" **(SEE ANNEX 02 OF THIS DOCUMENT)**

Recommendation 11 (Unusual transactions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*More explicit and comprehensive provisions should be introduced with regard to unusual transaction monitoring that should be adopted by financial institutions.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been implemented by FIA Instruction No.2008-03 . According to the provisions of the FIA Instruction No.2008-03, financial institutions shall pay special attention to all critical transactions, both occasional and those carried out within an ongoing relationship. To this aim, under article 2 of the FIA Instruction No.2008-03, financial institutions shall establish suitable internal criteria with reference to their operations for the identification and assessment of critical transactions. The document containing these criteria shall be approved by the managing body of the financial institution and made known to all of its employees and contract workers pursuant to article 44 of the Law No.92/2008. The notion of "critical operation" is prescribed in the article 1 of the FIA Instruction No.2008-03 as follows: "*a transaction that due to its complexity or unusually large amount or due to its unusual pattern of execution with respect to the economic, financial and asset profile, and the professional profile of the customer, requires an assessment of its compatibility with respect to the customer's*

	profile" According to the article 3 of the FIA Instruction No.2008-3, in order to carry out its analysis, the financial institution shall take the following items into consideration: • the information and documentation requested at the time of opening the ongoing relationship or the execution of the occasional transaction; • the items specified in article 25, paragraph 3 of the Law No.92/2008 (risk-based approach); • indicators of unusual transactions; • any other relevant information.
Recommendation of the MONEYVAL Report	*Financial institutions should be required that the background and purpose of such transactions be adequately examined and documented and that their findings in this respect should be set forth in writing and retained for a period of five years.*
Measures taken to implement the Recommendation of the Report	Under article 4 of the FIA Instruction No.2008-03, the compliance officer undertakes the identification, verification and assessment of critical transactions either on his own initiative or following an internal communication received from the personnel of the financial institution's branches, operational departments, and central and peripheral offices. At the end of the verification and assessment process the compliance officer must compile a written report on the analysis conducted. Under the article 5 of the FIA Instruction No.2008-03, the written report shall contain the following minimum structure: o Information on the written report; o Information and data on the customers; o Information and data on the critical transactions; o Assessment of critical transactions; o Documentation to be annexed. The report, signed by the compliance officer, must be kept for at least 5 years after the date of its compilation. The financial institutions shall adopt suitable measures to ensure the utmost confidentiality of the internal communication received and of the content of the report. If the report has been made as a result of an internal communication, a copy of the report must be sent to the unit that reported the critical transaction. Under to the Article 6 of the FIA Instruction, if the compliance officer decides to make a report pursuant to Article 36 of the Law No.92/2008 (STR reporting requirement) concerning the critical transactions analyzed, a copy of this report must be annexed to the Reporting Form. According to the article 7 of the FIA Instruction No.2008-03, the written report shall be made available immediately on request to the Financial Intelligence Agency and to the Central Bank in its role as Supervisory Authority, and to the Board of Statutory Auditors and Internal Auditing Department of the financial institution.
(Other) changes since the last evaluation	On 24th November 2008, the Financial Intelligence Agency has issued the Instructions No.2008-03, whose provisions have been illustrated above.

Recommendation 12 (DNFBP (R. 6, 8-11)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*The recommendations made above in respect of R 6,8 to 11 for financial institutions should be applied also to DNFBP.*
Measures taken to implement the Recommendation of the Report	The Recommendations 6, 8 to 10 for DNFBPs have been adopted by the provisions prescribed in the following articles of the Law No.92/2008 for all the obliged parties (DNFBPs included): o Article 27 para 2 and 4 sets forth detailed provisions for Politically Exposed Persons (FATF R.6); o Article 27 para 2 and 3 sets forth detailed provisions in case of non face-to-face business relationship (FATF R.8); o Article 29 covers the recommendation for FATF R.9; o Article 34 contains provision for record keeping requirements (FATF R10); As regards FATF R.11, the Draft FIA Instruction for legal professions and accountants, contain provision on "critical operation" as defined in the FIA Instruction No.2008-03 for financial institutions. This Instruction will consider the recent international guidelines formalized by the FATF on 23 October 2008 (RBA Guidance for legal professional).
Recommendation of the MONEYVAL Report	*It should be considered if the explicit inclusion of Internet casinos and trust and company service providers in the list of entities that have to be monitored for AML/CFT purposes is needed.*
Measures taken to implement the Recommendation of the Report	Article 19 of Law No. 92/2008 includes among the parties required to fulfil AML/CFT obligations anyone who runs gambling houses and games of chance as set forth in Law No. 67/2000, acts as a co-trustee under Law No.37/2005 and provides assistance and consultancy on matters of investment services, tax, financial and commercial matters.
(Other) changes since the last evaluation	The BAR of Lawyers and Notaries and of the Accountants of San Marino have promptly issued guidelines addressed to their members. For the remaining DNFBPs, the Agency has scheduled meetings with these obliged parties in order to issue specific Instructions.

Recommendation 14 (Protection & no tipping-off)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Legal protection of reporting entities for disclosures in good faith should be extended to cover reporting of suspicions of financing of terrorism. There should be a clear legal provision excluding any kind of liability for breach of any restriction on disclosure of information imposed by contractual, legislative, regulatory or administrative provisions for persons reporting suspicions of financing of terrorism.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by article 39 and 40 of the Law No. 92/2008. The legal protection of "obliged parties" for disclosures in good faith has been extended to reports of suspicious transactions (STRs) of financing of terrorism and

	any other disclosures sent to the Agency. Article 39 of the Law No.92/2008 protects "obliged parties" from responsibility for violating restrictions. *Article 39* *(Exemption from responsibility)* *1. The suspicious transactions reports and disclosures forwarded under this law do not constitute violation of any restriction to the communication of data or information resulting from contracts or legislative, statutory, regulatory or administrative provisions, nor of obligations of confidentiality and of professional, official or bank secrecy referred to in article 36 of Law no. 165 November 17, 2005. The suspicious transactions reports and disclosures in good shall not entail liability of any kind.*
Recommendation of the MONEYVAL Report	*The San Marino authorities should ensure that legislation provides for an explicit legal prohibition of tipping-off. Such provision should cover financial institutions and their directors, officers and employees (permanent and temporary) and should prohibit from disclosing the fact that a STR is being reported or provided to the FIU.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by article 40, para 6 and the "tipping off" has been criminalized under article 53 of the Law No. 92/2008. Article 40 para 6 of the Law No. 92/2008 states that: *"6.The obliged parties shall not disclose to the customer reported and to third parties involved, beyond cases provided for under this law, the fact that a suspicious transaction report has been forwarded or that a money laundering or terrorist financing investigation is being or may be carried out."* Criminal sanctions shall be applied in case of violations of the secret concerning disclosures. *Article 53* *(Violation of confidentiality of reports)* *1. Except where the conduct amounts to a more serious crime, anyone subject to reporting obligations reveals - except for cases set forth in the law - that a report has been forwarded or is ongoing or an investigation may be initiated for money laundering or terrorist financing, shall be punished by terms of first-degree imprisonment and second-degree daily fine.* *2. The same penalty applies to anyone who, knowing that a suspicious transaction report has been filed under article 7, informs the party concerned or a third party of the filing."*
(Other) changes since the last evaluation	

Recommendation 15 (Internal controls, compliance & audit)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The San Marino authorities should ensure that detailed requirements for financial institutions to establish internal procedures to prevent AML/CFT are contained in a law, regulation or other enforceable obligation.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by article 44 of the Law No.92/2008. Under article 44 of the Law No.92/2008, financial institutions shall adopt policies and procedures conforming to the obligations of the Law No.92/2008 and to the Instructions issued by the Financial Intelligence Agency (FIU) in order to prevent and combat ML and FT. In particular, financial institutions shall adopt policies and procedures to ensure that technological advancements, connected to the activity, are not used for the purpose of money laundering and terrorist financing. According to article 44 para 2 of the Law, financial institutions shall also inform their staff of: a) obligations set forth in the Law No. 92/2008; b) instructions issued by the Financial Intelligence Agency; c) measures and procedures adopted for the purpose of preventing and combating money laundering and terrorist financing. Under article 44 para 3 of the Law No.92/2008, the staff of the financial institutions shall promote the continuous staff training through participation in specific training programmes on matters of preventing and combating ML and FT.
Recommendation of the MONEYVAL Report	*In particular there should be requirements to ensure that compliance officers and other appropriate staff have timely access to customer identification data and other CDD information, that financial institutions maintain an adequately resourced and independent audit function to test compliance and that there are screening procedures to ensure high standards when hiring employees.*
Measures taken to implement the Recommendation of the Report	The powers of the Compliance Officer to access to the customer identification data, as well as to any other information held by the financial institutions in order to perform his/her functions are prescribed in the article 42 of the Law No.92/2008. Articles 41 and 44 of the Law No.92/2008 set forth specific functions on audit and internal controls. Moreover, Regulations, issued by the Central Bank of the Republic of San Marino, provides for specific articles on audit and internal controls: • Article 49 of the CBSM Regulation No.2006-03 for "Collective investment services"; • Article VII.IX.6 of the CBSM Regulation No.2007-07 for "Banks"; • Article 48 of CBSM Regulation No.2008-01,for "Insurance companies" <u>Compliance Officer</u> According to article 42 of the Law, financial institutions shall appoint, among the members of its staff, an Official (i.e. Compliance Officer) in charge of receiving, analyzing internal reports on STRs and reporting them to the Financial Intelligence Agency (San Marino FIU). Even in absence of internal reports on STRs, the Compliance Officer shall analyse the transactions carried out, seek and obtain information and, in the cases laid down in article 36 of the Law No.92/2008, report them to the Agency.

	The Compliance Officer shall have adequate professional skills and be vested with adequate powers to carry out, autonomously and independently, the functions mentioned above, including the power to have access to any information or document without needing prior authorization. The Compliance Officer seeks and obtains information also through employees and assistants who, in any capacity, come into contact with customers or, however, know about the relationships with customers or the execution of transactions on their behalf. <u>Audit functions and internal controls</u> According to the article 41 of the Law No.92/2008, the financial institutions, as well as legal representatives and those persons that perform management, administration and control functions of the financial institutions shall, according to their respective tasks and responsibilities, do the following: a) fulfilling obligations set forth in this law; b) making arrangements for and verifying the fulfilment of said obligations on the part of employees and collaborators. Under article 44 para 4 of the Law No.92/2008, the financial institution shall develop and organize adequate internal controls for preventing and combating the involvement in business relationships or transactions relating to money laundering or terrorist financing. Under article 44, para 5 of the Law No.92/2008, financial institutions shall equip themselves with electronic systems suitable for ensuring the prompt, confidential reception of information sent by the Agency. The communication sent by the Financial Intelligence Agency shall be accessible only to the financial institutions. Moreover specific provisions on independent and adequate resourced audit functions are prescribed in the following CBSM Regulations: • Regulation No. 2007-07, Article VII.IX.6 for BANKS; • Regulation No. 2008-01, Article 48, for INSURANCE COMPANIES; • Regulation No.2006-03, Article 49, for COLLECTIVE INVESTMENT SERVICES.
(Other) changes since the last evaluation	

Recommendation 16 (DNFBP (R.15 & 21)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*San Marino should take immediate and keys to fully implement the provisions of the AML law in respect of DNFBP and address the differences which have been identified in the analysis of compliance with recommendation 15.*
Measures taken to implement the Recommendation of the Report	The Recommendation on FATF R 15 for DNFBPs has been adopted and implemented by articles 41 – 45 of the Law No.92/2008. According to article 44 para 4 of the Law No.92/2008, obliged parties shall foster the continuous staff training through participation in specific training programmes on matters of preventing and combating money laundering and terrorist financing.

Recommendation of the MONEYVAL Report	*The San Marino authorities should put in place requirements for all categories of DNFBPs to establish internal procedures, policies and controls to prevent money laundering and financing of terrorism.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 41 and article 44 para 1 and para 3 of the Law No.92/2008. Under the article 41 of Law No.92/2008, "Obliged parties" (DNFBPs included) shall, according to their respective tasks and responsibilities, do the following: a) fulfilling obligations set forth in this law; b) making arrangements for and verifying the fulfilment of said obligations on the part of employees and collaborators. Under article 44 para 1 of the Law No.92/2008 "Obliged parties" (DNFBPs included) shall adopt policies and procedures conforming to the obligations of this law and to the instructions issued by the Agency in order to prevent and combat money laundering and terrorist financing. In particular, they shall adopt policies and procedures to ensure that technological advancements, connected to the activity, are not used for the purpose of money laundering and terrorist financing. Under article 44 para 3 of the same Law No.92/2008, all "Obliged parties"(DNFBPs included) shall develop and organize adequate internal controls for preventing and combating the involvement in business relationships or transactions relating to money laundering or terrorist financing. According to the article 44 para 4 and 5 of the Law No.92/2008, "Obliged parties" (DNFBPs included) shall develop and organize adequate internal controls for preventing and combating the involvement in business relationships or transactions relating to money laundering or terrorist financing. They shall equip themselves with electronic systems suitable for ensuring the prompt, confidential reception of information sent by the Agency.
Recommendation of the MONEYVAL Report	*DNFBPs should be required to give special attention to business relations and transactions with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF recommendations.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 25 and 27 of the Law No.92/2008. According to the articles 25 and 27 of the Law No.92/2008, "Obliged parties" (DNFBPs included) shall assess the ML/TF risk in the cases when the customer, the product, the transaction are related to countries that do not require equivalent obligations to those set forth in Law No.92/2008. The FIA Instruction No. 2009-01 of January 29, 2009 lists the Country, Jurisdictions and Territories with which the "Obliged parties" shall apply Enhanced CDD requirement. **(SEE ANNEX 06 OF THIS DOCUMENT)** The draft FIA Instruction for legal professions and accountants envisages to exercise particular cautions when the customer is resident or established in countries, territories or jurisdictions subject to FATF strict monitoring or when the circumstances set forth in article 27 of Law no. 92/2008 occur. In the meantime, the BAR of Lawyers and Notaries and of the Accountants of San

	Marino have promptly issued guidelines addressed to their members.
(Other) changes since the last evaluation	On 29 January 2009, the FIA has issued Instruction No. 2009-01 on Enhanced CDD requirements for "Obliged parties" to be applied in respect of the listed Countries, Jurisdictions and Territories. **(SEE ANNEX 06 OF THIS DOCUMENT)**

Recommendation 17 (Sanctions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*San Marino should ensure that there are effective, proportionate and dissuasive criminal, civil or administrative sanctions to deal with legal persons that fail to comply with the AML/CFt requirements*
Measures taken to implement the Recommendation of the Report	The Law No.92/2008 contains specific and detailed sanctions prescribed by article 53 to article 67. The Annex 29 of the Second Compliance Report contains the list of criminal and administrative sanctions of infringement of the provisions contained in the Law No.92/2008. <u>Criminal Sanctions</u> Article 53 (Violation of secrecy of reports) punishes anyone disclosing that a report has been made or that an investigation in underway or might be initiated. Article 54 (Omissions or false statements regarding customers) punishes anyone omitting or providing false information on customers. Article 55 (Failure to comply with the reporting obligations) punishes anyone failing to comply with the reporting obligations. Article 56 (Actions aimed at preventing reporting) punishes anyone aiming at preventing STRs to the Agency or to the Judicial Authority, using violence, threatening or giving, offering or promising any benefits. Article 57 (Violation of the orders and provisions issued by the Agency and the Congress of State) punishes anyone who, without any justified reason, fails to comply with, delays or hinders the execution of an order, request or provision issued by the Agency in compliance with article 5 of the Law or disregards the restrictive measures adopted through a decision of the Congress of State, under article 46 of the Law. Article 58 (False or omitted declarations to the Agency) punishes anyone making false declarations or withholding entirely or in part what he knows about facts for which he has been summoned by the Agency to testify in order to provide data or information useful for the investigation. Article 59 (False information in documents to be transmitted to the Agency) punishes anyone indicating or providing false data in acts or documents to be sent to the Agency by terms of second-degree imprisonment. Article 60 (Evading measures for freezing funds) punishes anyone carrying out actions aimed at circumventing the freezing measures referred to in article 46, paragraph 1, letter a) of the Law.

	Administrative Sanctions Article 61 (Violation of customer due diligence and registration) punishes the violation of the CDD measure. Article 62 (Violation of the registration and conservation obligations) punishes the violation of the obligation of registration and conservation of data, information and documents. Article 63 (Violation of the prohibition to keep anonymous accounts and violation of the limits on the use of cash and bearer bonds) punishes the violation of the prohibition to keep anonymous accounts or accounts in fictitious names. Article 64 (Violation of the provisions on freezing funds) and Article 65 (Violation of the obligation of disclosure on frozen funds and resources) punishes the violations of the provisions referred to in article 47, paragraph 1 and article 48 concerning the restrictive measures for the implementation of UN resolutions. Article 66 (Other violations) and Article 67 (Violation of instructions) punishes the violations of the other provisions contained in the law and in the instructions of the Agency. Articles 66 and 67 contain provisions to punish violations which are not specifically envisaged. Both articles are of residual nature and the authorities are considering to improve their deterrent effectiveness.
Recommendation of the MONEYVAL Report	*The effectiveness of the sanctions in place has not been fully tested in practice and should be enhanced.*
Measures taken to implement the Recommendation of the Report	In 2008 the On-site Inspection Service of the Central Bank has carried out 13 inspections The main types of AML/CFT infringement are: o no adoption of internal organizational measures to identify suspicious transactions; o shortcomings in the assumption of information concerning the customer and relating documents; o insufficient staff training. Concerning the violations of the AML/CFT dispositions, CBSM has adopted administrative sanctions (i.e. suspension measures in case of two financial companies). Since the establishment of the Agency, the FIA has carried out 3 on-site inspections.
(Other) changes since the last evaluation	

Recommendation 18 (Shell banks)	
Rating: Partially compliant	
Recommendation of the MONEYVAL	*The prohibition of establishment or operation of shell banks and the issue of correspondent banking relationships with shell banks should be referred to explicitly in future law, regulation or other enforceable means.*

Report	
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by article 28 of the Law No.92/2008. Prohibition to the establishment of shell bank in San Marino Article 13 of the Law No. 165 of 17 November 2005 (Banking, financial and insurance Law - LISF) sets out the minimum requirements for authorization of financial institutions. The CBSM Regulation No.2007-07 prescribes specific and detailed provisions for the establishment of banks in San Marino. Ban to operate with shell bank for San Marino financial institutions According to article 28 of the Law No.92/2008, financial institutions are prohibited from establishing business relationships or carrying out occasional transactions with a shell bank or with a foreign institution that is known to permit its accounts to be used by a shell bank. The relationships that already exist on the date that the Law No.92/2008 enter into force should be closed at the earliest opportunity.
Recommendation of the MONEYVAL Report	*San Marino should require financial institutions 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	Please see reply above.
(Other) changes since the last evaluation	

Recommendation 19 (Other forms of reporting)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*San Marino should consider the feasibility and utility of implementing a currency reporting system across all regulated sectors.*
Measures taken to implement the Recommendation of the Report	San Marino Authorities have considered to introduce a reporting system whereby a central national authority is informed about all currency transactions exceeding a fixed amount by banks, financial institutions and other intermediaries. The Supervision Committee on July 30, 2008 (Decision n. 370), with regard to the FATF Recommendation No. 19 and the related Moneyval Recommendations, established a working group (composed by AML Service, Information Supervision Service and Inspection Supervision Service of the Central Bank). The working group was co-ordinated by the head of the AML Service. This group studied the feasibility and utility of this kind of a system reported back to the Supervision Committee. The final document written by the working group, focused on the positive and the negative aspects of implementing a system whereby a central national authority is informed about all currency transactions exceeding a fixed amount by banks, financial institutions and intermediaries. With regard to this document, the Supervision Committee on November 20,2008 (Decision n. 393) declared not to adopt or establish a reporting system like the one

	described in FATF Recommendation No.19. It should be taken into consideration that the San Marino regulatory system is based on the risk that the transaction may be related the offence of money laundering or terrorist financing . Also by issuing instructions, authorities clarified that the amount of the transaction is one of the elements which shall be considered in order to establish whether the transaction is suspicious or not, whereas there is not a direct link between currency transactions exceeding a fixed amount and the reporting obligation fulfilled by the obliged parties or the obligation to start control procedures on behalf of the competent authorities. The scope of the system introduced by Law No. 92/2008 and based on risk, seems sufficiently broad to promote the prevention and countering of money laundering and terrorist financing, and it is also preferred to any other system based only on the amount of the transaction. Moreover, the establishment of a centralised control system based on the monitoring of transactions exceeding a certain amount would have high organisational and management costs, which would be charged to the obliged parties and the central authority or to any other authority involved in a national cooperation system. At present, the Credit and Saving Committee have decided not to establish this system. However, this issue may be examined when elements are found which show that a system based on the amount of the transaction, despite its higher costs, offers significant advantages for preventing and countering money laundering and terrorist financing.
(Other) changes since the last evaluation	

Recommendation 21 (Special attention for higher risk countries)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*The San Marino authorities should introduce mechanisms which would facilitate financial institutions being made aware of the different degree of compliance by other jurisdictions with respect to the FATF standards.*
Measures taken to implement the Recommendation of the Report	Risk-based approach The Law No.92/2008 requires financial institutions to adopt the risk based approach when they perform the Customer Due Diligence requirements. The Article 25 of the Law No. 92/2008 introduces a risk-based approach and indicates some aspects that shall be evaluated such as: A) with reference to the customer: 1) the legal status, 2) the main business activity, 3) the behavior at the moment of establishing the business relationship, or carrying out the transaction or professional services, 4) the residence or registered office of the customer or of the counterpart with particular attention to countries that do not require equivalent AML/CFT obligations to those set forth in the Law No.92/2008; B) with reference to any business relationship or occasional transaction:

	1) the type and specific method of execution, 2) the amount, 3) the frequency, 4) the coherency of the transaction in relation to the whole of information available for the obliged party, 5) the geographic area of the execution of the transaction, with particular attention to countries that do not require equivalent AML/CFT obligations to those set forth in the Law No.92/2008. Under para 5 of article 27 of the Law No.92/2008, when establishing business relationships and transactions with foreign counterparts located in countries which neither apply obligations equivalent to those envisaged by the Law No.92/2008 and nor require the supervision and monitoring of said obligations, San Marino financial institutions shall adopt Enhanced Customer Due Diligence measures. The countries having a system to prevent and counter money laundering and terrorist financing equivalent to that one established by international standards are listed by the Congress of State (the Government of San Marino) upon proposal of the Agency, according to the procedure set forth in article 95 para 5 of the Law No.92/2008. On January 26, 2009, pursuant to the above mentioned article, the Congress of State adopted the Decision No.9 on Countries, Jurisdictions and territories that are consider equivalent to the San Marino AML/CFT framework **(SEE ANNEX 02 OF THIS DOCUMENT)** Transactions and any other operation made to the country which are not considered to be equivalent in terms of compliance with international standard shall be monitored by the financial institutions and handled with special attention. The purpose and nature of the business relationship as well as of occasional transactions are information which shall be kept according to article 22 para 1 letter c) of the Law No.92/2008. All the information, data and documents obtained in order to identify and verify the identity of customers shall be used to scrutiny transactions under article 22 para 1 letter d) of the Law No.92/2008. <u>Failure to apply CDD requirements</u> Under Article 24 para 1 of the Law No.92/2008, if the financial institutions are not able to fulfil the obligations of Customer Due Diligence measures indicated in Article 22, paragraph 1, letters a), b) and c), they shall refrain from establishing business relationships or carrying out occasional transactions, and interrupt them, if already initiated, at the earliest opportunity and evaluate if the situation should be reported to the Agency. <u>Requirements for wire transfers</u> According to the article 33 of the Law No.92/2008, when a San Marino financial institution receives or executes wire transfers from/to financial counterparts, special attention shall be paid to the information accompanying the order of transfer. In case of lack of information, the San Marino financial institution shall refuse the transfer and request appropriate information and data. If the request is not satisfied, it shall adopt the Enhanced Customer Due Diligence measures envisaged in article 27 para 5 of and evaluate whether to suspend relations with the counterpart receiving the transfer order. The San Marino financial institution shall immediately

	send a copy of the request for information to the Agency. Pursuant to the article 33, the Financial Intelligence Agency has issued on November 24, 2008 Instruction No.2008-04 on "wire transfers".
Recommendation of the MONEYVAL Report	*It is recommended that the San Marino Central Bank or any other authority, besides those guidelines already in use, augment these with a system or systems that could render better assistance and guidance to credit and financial institutions in vigilance concerning risk countries.*
Measures taken to implement the Recommendation of the Report	The Recommendations has been implemented by: - Instruction No.2009-01 on "Enhanced CDD for listed countries, territories and jurisdictions" **(SEE ANNEX 06 OF THIS DOCUMENT)** - Instruction No.2008-03 on "critical operations" - Instruction No.2008-04 on "wire transfers" <u>Enhanced Customer Due Diligence</u> The FIA Instruction No.2009-01 sets forth procedures that financial institutions shall implement when the customer is located in countries, territories or jurisdictions subjected to strict monitoring procedure by FATF and Moneyval. The same procedures shall be applied in case of transactions that involve those countries, territories or jurisdictions whose list is attached to the mentioned Instruction. Today, February 2009, the updated List includes: Azerbaijan, Uzbekistan, Iran, Pakistan, Turkmenistan, Sao Tome and Principe and northern part of Cyprus. <u>Critical Operations</u> Under FIA Instruction No.2008-03, financial institutions shall pay attentions to all complex, large unusual and unusual schemes of transactions, which have been defined as "critical operations". For the analysis, the AML/CFT framework of the countries involved in such transactions shall be taken into consideration. . <u>Wire transfers</u> According to the FIA Instructions No.2008-04, financial institutions that are authorized by the Central Bank to transfer funds in or outside the territory of the Republic of San Marino are required to collect detailed information on the ordering customer (name, surname, address, number of the account involved) and to transfer this information to the beneficiary's financial institutions that shall apply Enhanced Due Diligence measure in the cases where the transfers do not contain the information on the customers.
(Other) changes since the last evaluation	On January 26, 2009, pursuant to the above mentioned article, the Congress of State adopted the Decision No.9 on Countries, Jurisdictions and territories that are consider equivalent to the San Marino AML/CFT framework. **(SEE ANNEX 02 OF THIS DOCUMENT)** On November 24, 2008, the Financial Intelligence Agency has issued Instructions No.2008-03 on "critical operations". On November 24, 2008 the Financial Intelligence Agency has issued Instruction No.2008-04 on "wire transfers" pursuant to the article 33 of the Law No.92/2008.

Recommendation 22 (Foreign branches & subsidiaries)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*While there are currently no financial institutions that have established operations abroad, provisions on AML/CFT requirements in respect of subsidiaries, branches or representative offices abroad should be included in future legislation or other enforceable means.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 44 para 6 of the Law No.92/2008. Under this article financial institutions shall extend the obligations concerning internal procedures and controls to their foreign subsidiaries, branches and representative offices.
Recommendation of the MONEYVAL Report	*These provisions should include the need to ensure that foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and FATF Recommendations, the need to pay particular attention that this principle is observed with respect to their branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations, provisions that where minimum AML/CFT requirements of the home and host countries differ branches and subsidiaries in host countries should be required to apply the higher standard and the need to inform the home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted and implemented by article 45 of the Law No.92/2008: Financial institutions shall ensure that their foreign subsidiaries or their foreign controlled companies comply with obligations equivalent to those provided for by the San Marino AML/CFT legislation. Under Article 45 para 2 of the Law No.92/2008, in cases where the legislation of the foreign country does not apply requirements equivalent to those envisaged in the San Marino AML/CFT legislation, financial institutions shall inform the Agency and the Central Bank and adopt supplementary measures to effectively address the risk of money laundering or terrorist financing.

Recommendation 24 (DNFBP - regulation, supervision and monitoring))	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*The authorities are urged to issue relevant implementing regulations and designate AML/CFT supervisors for all DNFBPs and ensure that these supervisors have adequate powers to inspect for compliance with AML/CFT requirements, including internal procedures.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by article 4 and article 5 and article 44 of the Law No.92/2008. <u>Supervisory authority</u> Under article 4 of the Law No.92/2008, the Financial Intelligence Agency is the authority in charge of supervising the DNFBPs. These obliged parties are listed in the article 19 and 20 of the Law No.92/2008. <u>Powers of the supervisory authority</u> According to the article 5 of the Law No.92/2008, in order perform the supervisory function, the Agency has the following powers: a) to order the DNFBPs to exhibit or hand over documents, also in original copy, or to communicate data and information, according to the ways and terms established by the Agency; b) to carry out on-site inspections of the DNFBPs. If the DNFBP, for the fulfillment

	of the obligations set forth in this law, makes use of external subjects, the inspections may also be conducted in the offices of said subjects; Internal Procedures The DNFBPs shall adopt policies and procedures conforming to the obligations of Law No.92/2008 and to the instructions issued by the Financial Intelligence Agency in order to prevent and combat money laundering and terrorist financing. In particular, they shall adopt policies and procedures to ensure that technological advancements, connected to the activity, are not used for the purpose of money laundering and terrorist financing. The DNFBPs shall develop and organize adequate internal controls for preventing and combating the involvement in business relationships or transactions relating to money laundering or terrorist financing. As already indicated in the previous Recommendations no. 12 and 16, the draft Instruction of the Financial Intelligence Agency to be issued to the parties referred to in article 20 of Law No. 92/2008 contains specific and clear provisions on the procedures regarding internal control and ongoing monitoring of the activities carried out by customers.
Recommendation of the MONEYVAL Report	*San Marino should be aware of issues relating to the illicit operation of internet casinos in San Marino, and should be prepared to address these problems.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by article 19 of the Law No.92/2008. According to the article 19 of the Law No.92/2008, the parties that carry out gambling houses and games of chance as set forth in Law No. 67 of July 25, 2000 and subsequent amendments, including internet casino shall to comply with the AML/CFT requirements: CDD measures, record –keeping and reporting obligation.
(Other) changes since the last evaluation	

Recommendation 25 (Guidelines & Feedback)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*The competent authorities should establish feedback mechanisms to provide adequate and appropriate feedback to reporting entities. They should update and complete as necessary existing guidance so as to improve the effectiveness of suspicious transaction reporting, in particular in relation to types of suspicious activities, use of standard forms, procedures and time for submission of an STR, and consider developing targeted guidance as appropriate.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by article 7 para 2 Law 92/2008 and implemented by Instruction No.2008-01 of 12 June 2008 Feed back mechanism The article 7 of the Law No.92/2008 requires the Agency to communicate to the reporting parties whether the case has been sent to the Court or the case has been closed. According to the "FATF Best Practice Guideline on Providing Feedback to Reporting Financial Institutions and other Persons" and under Instruction No. 2008-01 on 12 June 2008, the result of the analysis shall be reported back to the reporting party.

	Standard Form The Instruction No.2008-01 contains a standard form to report suspicious transactions. The reporting parties are required to fulfill the form and to attach documents on the customers and operations reported. The reporting form contains the following parts: a) Information and data on the customer identity and on other parties involved; b) Information and data on the operations executed /attempted by the customers; c) Reason of suspiciousness; d) List of the documents attached. The Agency is working on an electronic reporting system. In the forthcoming months the related FIA Instruction will be issued. The same Instruction will contain guidelines on indicators of suspiciousness ("*indicators of anomalies*" as mentioned in the article 4 para 2 of the Law No.92/2008) based on AML/CFT risk assessment for San Marino carried out by San Marino competent Authorities.
Recommendation of the MONEYVAL Report	*The competent authority should issue comprehensive and updated guidance to assist financial institutions to implement and comply with AML/CFT requirements.*
Measures taken to implement the Recommendation of the Report	The Recommendation will be implemented by a FIA Instruction on reporting requirements indicating the list of indicators of suspiciousness
Recommendation of the MONEYVAL Report	*Sector specific guidance on suspicious transaction reporting needs to be developed and provided to DNFBP required to make suspicious transaction reports in line with the FATF Best Practice Guideline on Providing Feedback to Reporting Financial Institutions and other Persons.*
Measures taken to implement the Recommendation of the Report	The Recommendation will be implemented by a FIA Instruction on reporting requirements indicating the list of indicators of suspiciousness and taking into account the FATF Best Practice Guideline on Providing Feedback to Reporting Financial Institutions and other Persons.
(Other) changes since the last evaluation	The Agency is working on an electronic reporting system. In the forthcoming months the related FIA Instruction will be issued. The same Instruction will contain guidelines on indicators of suspiciousness ("*indicators of anomalies*" as mentioned in the article 4 para 2 of the Law No.92/2008)based on AML/CFT risk assessment for San Marino carried out by San Marino competent Authorities.

Recommendation 26 (The FIU)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*The current institutional set up of the FIU should be revisited and specific legislation be adopted which clearly states and defines the functions, responsibilities, powers of the FIU, irrespective of whether it is established as an independent governmental agency or within another entity. There must be transparent legislation that denotes the independence of the FIU*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by articles from 2 to 15 and 91 of the Law No.92/2008. The Delegate Decree No. 146 of November 28, 2008 has ratified the Delegate Decree No.135 of 31 October 2008 on the activity of the Financial Intelligence Agency. **(SEE ANNEX 05 OF THIS DOCUMENT)** The institutional set up of the San Marino FIU has been fully revised through the adoption of a new piece of legislation which has both redefined functions,

	responsibilities and powers, and clearly stated the independence of the new Financial Intelligence Agency. The provisions set forth in the Title II of the Law No.92/2008 established the Financial Intelligence Agency. The Law defines the functions, responsibilities and powers of the Agency, as San Marino FIU. The Agency is established within the Central Bank of the Republic of San Marino. The Financial Intelligence Agency performs its functions assigned by the law in full autonomy and independence as provided for by article 2 para 2 and art. 4 of the Law No.92/2008. <u>Functions of the Agency</u> According to Article 4 of the Law No.92/2008, the following functions are attributed to the Agency: a) receiving suspicious transaction reports from obliged parties; b) carrying out financial investigations on received reports or, on its own initiative, on the data and information available; c) reporting to the criminal judicial Authority any fact that might constitute money-laundering or terrorist financing; d) issuing instructions regarding the prevention and combating of money-laundering and terrorist financing; e) supervising compliance with the obligations under this law and the instructions issued by the Agency; f) taking part in national and international bodies involved in the prevention of money-laundering and terrorist financing; g) promoting and taking part in the professional training of police officers on matters regarding the prevention of money-laundering and terrorist financing. The Agency analyzes and studies financial flows in order to identify and prevent money-laundering and terrorist financing. The Agency also examines the indicators of anomalies with reference to determined activities or sectors of the economy and evaluate the effects within the scope set forth in this law. Moreover, according to Article 5 para 4 of the Law No.92/2008, the Judicial Authority can delegate the Agency to carry out investigations related to proceedings regarding money-laundering and terrorist financing as well as crimes and administrative violations set forth in this law. In this case, the Agency shall operate as judicial police. The acts carried out upon delegation from the Judicial Authority shall be documented by reports. <u>Powers of the Agency</u> Article 5, para 1 and 2 of the Law No. 92/2008 states that: *"1. In order to perform the functions attributed by this law and for the purpose of preventing and combating money-laundering and terrorist financing, the Agency, through its reasoned request in writing, has the following powers:* a) to order the obliged parties to exhibit or hand over documents, also in original copy, or to communicate data and information, according to the ways and terms established by the Agency; b) to ask the Central Bank or Public Administration to communicate data or information, or to exhibit or hand over any formal papers or documents according to the ways and terms established by the Agency; c) to carry out on-site inspections of the obliged parties. If the obliged party, for the fulfillment of the obligations set forth in this law, makes use of external subjects, the inspections may also be conducted in the offices of said subjects; d) to order the block of assets, funds or other economic resources whenever there are reasonable grounds to believe that these assets, funds or economic

	resources are derived from money-laundering or terrorist financing or may be used to commit such offences; e) to suspend, also upon request by the criminal judicial Authority, suspected transactions of money-laundering or terrorist financing for a maximum of five working days, whenever this does not prejudice investigations; f) to make inquiries about persons who refer to circumstances useful to investigations regarding offences of money-laundering and terrorist financing as well as crimes and administrative violations set forth in this law. 2. In the exercise of the powers set forth in the previous paragraph, the Agency may make use of police officers." <u>Operational independence and autonomy of the FIU</u> According to article 2, para 2 of Law No.92/2008, the Agency shall perform the functions assigned to it by this law in complete autonomy and independence. According to article 14 of the Delegate Decree No.146/2008, in performing the duties set forth by the law in the field of prevention of and fight against money laundering and terrorist financing, the Agency will enjoy full autonomy and independence.
Recommendation of the MONEYVAL Report	*The evaluators recommend that the identity and independence of the FIU be established clearly in the legislation, in particular in the AML law (which refers only to the former Supervision Division) to bring it into convergence with the criteria for and characteristics of FIUs generally.*
Measures taken to implement the Recommendation of the Report	According to article 2, para 2 of Law No.92/2008, the Agency shall perform the functions assigned to it by this law in complete autonomy and independence. According to article 14 of the Delegate Decree No.146/2008, in performing the duties set forth by the law in the field of prevention of and fight against money laundering and terrorist financing, the Agency will enjoy full autonomy and independence. <u>Logistic and operating independence (business premises, equipment, services, ICT resources)</u> The Financial Information Agency, established at the Central Bank of the Republic of San Marino, shall be located in separate premises provided by the Central Bank for the exclusive use of the Agency. The Delegate Decree No.146/2008 states that, the Agency avails itself of equipment, support services, computer and communication systems provided by the Central Bank for the exclusive use of the Agency in order to guarantee a correct, autonomous and efficient fulfilment of the functions established by the law. <u>Operational independence</u> In performing the duties set forth by the law in the field of prevention of and fight against money laundering and terrorist financing, the Agency will enjoy full autonomy and independence. The Agency is vested with investigating functions as referred to in Article 4, paragraph 1, letter b) of Law no. 92 of 17 June 2008, by carrying out an in-depth financial analysis of the reports received and the data and information available. In order to carry out its financial investigations, the Agency shall exercise the powers referred to in Article 5, paragraph 1, letters a), b), c), f) of Law no. 92 of 17 June 2008. The Agency shall also avail itself of the powers referred to in Articles 8, 11, 12, 14 and 16 of Law no. 92 of 17 June 2008. <u>Financial autonomy</u>

	The Agency prepares, every year, a document where it states the resources it needs. The document is sent to Committee for Credit and Saving (CCS). The CCS evaluates if resources are coherent with cost effectiveness and efficiency criteria. Then, the CCS transmits the document to the Central Bank to fulfil its obligation (i.e. the Central Bank provides the Agency with the required resources). The text states: The budget document referred to in Article 2 paragraph 4 of Law no. 92 of 17 June 2008 defines a list and the relevant amounts of financial and instrumental resources necessary for the following year and drafted according to the criteria of economy, proportionality, efficiency and effectiveness. The Director of the Agency shall present his document to the Credit and Savings Committee. Having heard the opinion of the Central Bank Governing Council and having carried out the evaluations referred to in Article 2 paragraph 4 of Law no. 92 of 17 June 2008, the Credit and Savings Committee, shall transmit its decision to the Central Bank. The Central Bank Governing Council having received the budget document, shall allocate a specific expenditure item in its own budget. If further financial resources are needed to ensure the operation of the Agency, the Director of the Agency may request a change be introduced in the budget document following the same procedure defined in this article. On January 15, 2009 the Director proposed to the Committee for Credit and Savings budget document for 2009. The Budget document is around 1.670.000 euros With Letter dated 17 February 2009 the Minister of Finance informed the FIA that the Committee for Credit and Savings, in its sitting of 12 February 2009, in consultation with the Central Bank, approved the staff composition and the budget document outlining expenses for the year 2009 submitted by the Financial Intelligence Agency and forwarded to the Secretariat of Finance with Notes of 30 December 2008 and 15 January 2009 respectively. <u>Autonomy of the Director and the Vice Director</u> Director and Vice Director were appointed by Congress of State Decision November 3, 2008. Director and Vice Director can be removed from their office only in limited number of cases, indicated by the legislation. Article 3 of the Delegate Decree 146/2008, states that: The Director and Vice Director shall be removed by the Congress of State in the cases provided for by article 3, paragraph 2 of Law no. 92 of 17 June 2008, in the cases provided for by article 4, or in the case where they have committed or omitted acts in a situation of conflict of interest, pursuant to article 5, or where they have damaged the reputation of the office or the prestige of the Agency. <u>Independence with regard to staff recruiting</u> The Director of the Agency proposes to the CCS the human resources he needs for the activity. The Committee only evaluates if the staff required is consistent with requirements of proportionality, efficiency and effectiveness and, after approval of the proposal, sends it to the Central Bank to fulfil its obligation. The Agency staff shall be employed according to the procedures and applying the work contracts in force at the Central Bank. Conditions and remunerations shall be established according to professional experience, level of responsibility and autonomy, functions and tasks. Staff shall be recruited in such a way as to guarantee full autonomy of the Agency.

	On February 6, 2009 the Director General of the Central Bank and the Director of the Agency signed a Addendum of the MOU dated 26 November 2008 on the transfer of personnel from the Central Bank of the Republic of San Marino to the Financial Intelligence Agency **(SEE ANNEX 12 OF THIS DOCUMENT)** Independence of staff from the Central Bank or other institutions The Agency staff shall be directly accountable and responsible only to the Director and the Vice-Director. Functional independence The Director is responsible for the activity of the Agency. He plans, directs and controls the activity of the Agency in full autonomy. The Director shall adopt measures regarding the functions conferred upon the Agency. He may delegate the Vice Director. The Director shall coordinate and control the activity of the Agency staff. He shall promote training and refresher courses in the field of prevention of and fight against money laundering and terrorist financing. Independence, autonomy and conflicts of interest of Director and Vice Director[6] The Decree introduces a set of rules in order to avoid any undue influence, or conflict of interest, with regard to Director and Vice Director. Independence requirements of Director and Vice Director The office of Director and the office of Vice Director are incompatible with: a. the participation as a shareholder, administrator, director, internal auditor, official, employee or auditor of any of the designated parties referred to in Article 17 of Law no. 92 of 17 June 2008 or of designated parties in other Countries; b. the exercise of any of the activities listed in Article 18 letters d), e), f), Article 19 and Article 20 of Law no. 92 of 17 June 2008; c. political offices; d. any other office, employment, professional or consultancy activity. In accepting the appointment they shall resign any position they may hold. If an employee of the Central Bank is appointed Director or Vice-Director, by way of derogation from the preceding subparagraph, as from acceptance of the appointment the functions performed at the Central Bank shall end. In accepting the appointment the Director and Vice Director shall disclose any interests they may hold in companies carrying out any of the activities referred to in Article 17 of Law no. 92 of 17 June 2008. Such interests shall be transferred within 30 days following appointment." Conflict of interest of the Director and the Vice-Director In exercising their functions, the Director and the Vice-Director shall abstain from performing acts and taking decisions in case of a conflict of interest. According to the preceding subparagraph there is a conflict of interest when the Director and the Vice Director, in exercising the functions conferred upon them,

[6] As regards the issues of independence and conflict of interest, the authorities clarified that the current Central Bank rules would preclude any person employed by the Central Bank to be a shareholder of an obliged entity. If for instance a person who has not been previously under contractual relationship with the Central Bank is appointed Director/Vice-Director of the FIU, the rules of appointment would also preclude that this person continues to be a shareholder of an obliged entity.

	are called to perform acts specifically affecting their property or the property belonging to their spouse, their relative or kindred up to the second degree, or a business, a company or a similar entity in which they directly or indirectly have an interest. The Director who is in a conflict of interest shall immediately inform the Vice-Director who shall take over, with exclusive rights and regardless of hierarchical order, the responsibility to exercise the functions conferred upon the Agency with respect to those acts or decisions regarding which the Director is in a conflict of interest. If a conflict of interest affects the Vice-Director, regardless of any delegation of powers that may have been granted, he shall immediately inform the Director. If the conflict of interest affects both the Director and the Vice-Director, their functions shall be exercised by the official of higher level and seniority. The provisions envisaged by this article shall not preclude the application of civil, criminal or administrative regulations in force, if that is the case. <u>Independence and institutional secret</u> The staff that has been detached according to Article 9 of the Law No.92/2008 shall observe institutional secrecy in all cases including with respect to their Administrations and Commands of origin. The Director, Vice-Director and Agency staff shall observe official secrecy in all cases including with respect to the Central Bank. The obligation to maintain secrecy with respect to all details acquired during the fulfilment of functions or tasks at the Agency shall continue to apply even after office or job termination. <u>Data and information protection</u> The Financial Intelligence Agency relies on a Client-Server architecture based on Microsoft technology. The Financial Intelligence Agency also has Terminal Server MS 2003. At present, the local network is integrated into that of the Central Bank and uses Virtual Private Network (VPN). When the Agency moves to the new premises, this facility will be completely independent from the Central Bank and will be controlled by the internal units of the Agency. All accesses to personal computers are protected by passwords and another password shall be entered to have access to the system "Terminal Server". Servers are managed by outsourcing company called ISIS and ensure material and logical security of the whole infrastructure. <u>Annual Report and collection of statistic data</u> According to article 10 of the Law No.92/2008, the Agency report annually to the Great and General Council (Parliament of San Marino) on its activities; to this aim, the Agency collects information and data, and release reports which include statistics, typologies, trends and other information. <u>Procedures to disclose financial analysis to the Judicial Authority</u> Article 7 of the Law No.92/2008 regulates the procedure to disclose the results of the analysis executed by the Agency to the Judicial Authority in case of suspicion of money-laundering or terrorist financing as well as its filing. The archiving of the case does not prevent the carrying out of further investigations should new information be obtained Para 2 of the same article provides for feedbacks to the reporting entities or persons. <u>Consultation with the government</u> In order to ensure the effectiveness of the AML/CFT framework of San Marino, the

	Agency proposes to the Congress of State (Government of San Marino) to adopt specific measures (see article 10 para 3 of the Law No.92/2008) and designate countries or jurisdictions in line with international standards as far as the correct implementation of the preventive measures is concerned. (see article 95 para 5 of the Law No.92/2008) National and International co-operation The national cooperation between the Agency and other authorities (i.e. the Central Bank, the Judiciary and the Police Authorities) as well as professional orders is prescribed in articles 11, 12, 13, 14 and 15 of the Law No.92/2008. The international cooperation between the Agency and foreign FIUs is prescribed in article 16 of the Law No.92/2008. Implementing the restrictive measures of the UN Resolutions The Agency is also involved in the implementation of the restrictive measures contained in the UN Resolutions under article 46 and the subsequent ones of the Law No.92/2008
Recommendation of the MONEYVAL Report	*Also, the authorities could give consideration as to whether an additional committee is necessary to be maintained at a higher level with an oversight/ policy role and if so, it is recommended that they review carefully both its composition and functions. In particular the authorities should ensure that its composition is balanced and transparent, and that it does not call into question the ability of the FIU to exercise full operational independence.*
Measures taken to implement the Recommendation of the Report	Adopted by article 85, para 8 of the Law No.92/2008 As recommended by the Moneyval experts according to international standards, the San Marino authorities have assigned to the Credit and Savings Committee the function to promote national and international cooperation for effectively preventing and combating money laundering and terrorist financing. According to the Article 85 para 8 of the Law No.92/2008, the Credit and Saving Committee, chaired by the Secretary of State for the Finance, shall convene periodically. The meetings will be attended by a Judge, the director of the Financial Intelligence Agency or one of his delegates and a representative appointed by the Commanders of the Police Forces. According to items on the agenda, the Chairman can invite to the meeting representatives of Professional Associations, Public administrations, and the obliged parties envisaged by the Law No.92/2008
Recommendation of the MONEYVAL Report	*There is no mandatory reporting obligation of suspicious transactions related to FT (with the exception of lists of designated or suspected terrorists) and this should be urgently established.*
Measures taken to implement the Recommendation of the Report	*Article 36 of the Law No.92/2008 requires "obliged parties" to report transactions and facts related to ML and FT.* *Article 36* *(Reporting obligations)* *1. The obliged parties shall report the following to the Agency without delay:* *a) any transaction - even if not executed – which, because of its nature, characteristics, amount, or in relation to the economic capacity and activity carried out by the customer to which it is referred, or for any other known circumstance, rouses suspicion that the economic resources, money or funds involved in the transaction may derive from offences of money*

	laundering or terrorist financing or may be used to commit such offences; *b) anyone or any fact that, for any circumstance, known on the basis of the activity carried out, may be related to money laundering or terrorist financing.* *2. If the report is made in a verbal form, the obliged party shall forward a written report to the Agency without delay, providing all the data and information required to conduct the financial investigation.*
Recommendation of the MONEYVAL Report	*The Central Bank should ensure that all financial institutions and other reporting entities are provided with comprehensive and up to date guidance regarding the manner of reporting and the procedures.*
Measures taken to implement the Recommendation of the Report	Adopted by FIA Instruction 2008-05 of 24 November 2008 The FIA Instruction No.2008-05 extends to all the "financial parties" (as defined in article 18 of the Law 92/2008) the directions already disseminated in the previous CBSM Instruction No.2008-01. The FIA Instruction No.2008-05 includes several rules of conduct (with regard to opening of continuous relationship or concluding occasional operations) and indicates the procedure for notifying a suspicious transaction.
Recommendation of the MONEYVAL Report	*A standardised STR reporting format should also be developed for all reporting entities.*
Measures taken to implement the Recommendation of the Report	Implemented by Instruction No.2008-01 of 12 June 2008 and by Instruction 2008-05 of 24 November 2008 CBSM Instruction contains a reporting form and specific provisions for the reporting procedure. FIA Instruction No.2008-05 extends the use of the form to all the "financial parties" referred to in article 18 of the Law 92/2008. The reporting form contains the following elements: • details of the reporting entities and details of the compliance officer; • information and data on the customer; • information and data on the transactions; • reasons of suspiciousness; • documents attached.
Recommendation of the MONEYVAL Report	*The legal framework and basis should be reviewed to provide the FIU access in a timely manner, be it directly or indirectly, to the relevant financial, administrative and law enforcement information which it needs to properly undertake its functions.*
Measures taken to implement the Recommendation of the Report	According to article 8 para 1 and 2, the Agency shall have access to the data and information available in public registries, archives, professional rolls kept by the Central Bank, Public administrations and Professional Associations. Data and information are immediately made available to the Agency, upon simple motivated request. The Agency, upon simple request, shall have access to registries, archives, data or information kept by police Authorities or by the Single Court, including data regarding criminal record According to article 11, para 2, The Public Administration, Police Authority, Central Bank and Professional Associations shall provide, upon motivated request by the Agency, the data and information in their possession, useful for the

	prevention and combating of money-laundering and terrorist financing. Confidentiality of the information Under Article 9 of the Law No.92/2008, the information obtained or acquired by the Agency is covered by official secrecy with the exception of the cases of disclosure or exchange of information provided for by this law. Official secrecy cannot be opposed to the criminal judicial authority.
Recommendation of the MONEYVAL Report	*Also, the authorities should take the necessary implementing measures to ensure that the access to information held by all reporting entities can be obtained by the FIU.*
Measures taken to implement the Recommendation of the Report	On the basis of the powers indicated in article 5, para 1, letter a) and b) of the Law No.92/2008, the Financial Intelligence Agency obtains the information necessary to perform its functions from all reporting entities and persons. In order to perform the functions attributed by this law and for the purpose of preventing and combating money-laundering and terrorist financing, the Agency, through its reasoned request in writing, has the following powers: a) to order the obliged parties to exhibit or hand over documents, also in original copy, or to communicate data and information, according to the ways and terms established by the Agency; b)to ask the Central Bank or Public Administration to communicate data or information, or to exhibit or hand over any formal papers or documents according to the ways and terms established by the Agency.
Recommendation of the MONEYVAL Report	*The San Marino authorities should take all necessary measures to ensure that the FIU information held is securely protected and to address the concerns expressed in relation to access to such information by other Central Bank personnel other than the staff of the AML Service and the members of the Supervision Committee. In particular, the evaluators believe that the current procedures for handling the correspondence of the AML Service should be reviewed to ensure that information received and communicated to the FIU is securely protected and disseminated.*
Measures taken to implement the Recommendation of the Report	Adopted by article 9, and 3 para 3 of the Law No.92/2008 Adopted by Delegate Decree N° 146/2008, article 1, para 3 According to Article 9 of the Law No.92/2008, all data and information acquired by the Agency are covered by official secrecy even in relation to the Public Administration. The Agency shall implement security measure, including ICT instruments and procedures, to ensure that the data and information obtained by the Agency are not accessible by third parties. The Agency shall adopt measures aimed at effectively guaranteeing that documents, data and information acquired as well as computer systems will be accessible only to the staff authorized by the Agency. Under Article 3 para 3 of the Law No.92/2008, the Agency's staff, in the exercise of the functions set forth by this law, are public officials and are bound by official secrecy. At present the Agency is located within the building of the Central Bank, in office exclusively used by the Agency. In the near future the Agency will move into a new premises. The Agency has its own administrative staff that handles the correspondence and any other documents which refers to the activity of the Agency. Correspondence and documents are directly received by Agency's staff, without any contact form Central Bank staff. All correspondence and documents are kept in Agency's offices.

	The Agency has its own switchboard, telephone and fax lines. ICT database, servers and programs have been separated by the Central Bank ICT network: only Agency's staff can access them.
Recommendation of the MONEYVAL Report	*The evaluators recommend the FIU to publish periodic reports containing information regarding its activities, information on typologies and trends in ML and FT. In the context of San Marino and the staff shortage, the evaluators recommend either that the FIU issues its own report or otherwise includes it in a specific section of the annual Central Bank report.*
Measures taken to implement the Recommendation of the Report	Public Reports According to article 10 of the Law No.92/2008, the Financial Intelligence Agency shall: 1) collect annually the data concerning the activity carried out to prevent and combat money laundering and terrorist financing; 2) submit a report, through the Secretariat of State for Finance and Budget, to the Great and General Council every year (San Marino Parliament). The report shall be focused on the activity carried out to prevent and counter money laundering and terrorist financing.
(Other) changes since the last evaluation	On October 15, the AML Service of the Central Bank has published a report for the activities carried out in the 2007 and first semester of 2008. Beginning of effectiveness of the Agency On October 2008, the Congress of State (Government of San Marino) appointed the Director and the Vice Director of the Financial Intelligence Agency (San Marino FIU) On November 19, 2008, the Director of the Agency has informed the Congress of State, through the Secretary of State for Finance, of the beginning of effectiveness of the Agency (24 November 2008). Staff of the Agency As of 24 November 2008, the staff of the Agency comprises 7 people; they are former employees and officials of the Central Bank, included the Director and the Vice Director of the Agency. Four persons have experience in AML activities and financial supervision (one is an IT expert and 1 an administrative employee and 2 are analysts). On January 2009, the Central Bank has transferred 2 additional persons, as requested by the Financial Intelligence Agency. On December 30 2008, the Director of the Agency started the procedures of recruitment. In that date, the FIA proposes to the Credit and Saving Committee the number of human resources needed for performing the FIA functions. The proposed number is 12 (twelve) persons. On February 12 2009, the Credit and Saving Committee has approved the number of the persons. During the last week of February, the Financial Intelligence Agency is sending to the press announces for the recruitment the three (3) persons. At the moment, February 23, 2009, the staff of the Agency is of 9 persons, Director and Vice Director included.

Recommendation 27 (Law enforcement authorities)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*It is strongly advised that the San Marino law enforcement authorities start playing a more active role in AML/CFT efforts. Indeed a more pro-active approach should be adopted in investigating and prosecuting money laundering, putting focus more on the financial aspects of major proceeds generating crimes as a routine part of the investigation.*
Measures taken to implement the Recommendation of the Report	According to para 2 of Article 12 of the Law 92/2008, the Police Authority, in the exercise of its competences, shall conduct, also of its own initiative, the activity of preventing and combating money laundering and terrorist financing. Moreover, under para 2 of article 5, the Agency may rely on police personnel. The Law extends the traditional cooperation between the Police Authorities and the Judicial Authority to the Agency: the Agency itself shall contribute to the training of the police personnel on matters of financial investigations. (see article 52) <u>Implementation of the legal provisions</u> The Law Enforcement Agencies have received specific provisions so that in the investigations concerning offences which may generate unlawful proceeds, attention is also paid to the origin and destination of such proceeds. The Financial Intelligence Agency has scheduled training courses with the Police Force. Some of these events are planned for the next March/April 2009. The meetings will be focused in different sections on the basis of the knowledge of the officials on money laundering and terrorism financing cases. In any case the whole personnel of the Police Forces will be trained on money laundering and terrorism financing. Detailed and more focused courses will be attended by personnel involved in investigations related to money laundering or terrorism financing cases. For this purpose a special team is under selection.
(Other) changes since the last evaluation	

Recommendation 30 (Resources, integrity and training)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The evaluators recommend that the authorities should conduct an assessment of the staff needs of the FIU, separately from those of the Central Bank, and that they take the necessary measures to ensure that the FIU is given sufficient staff to fulfil its tasks at the desired level.*
Measures taken to implement the Recommendation of the Report	The Law No.92/2008 and the Delegate Decree No.146/2008, that ratifies the Delegate Decree No.135/2008, have introduced a set of rules in order to give the Financial Intelligence Agency adequate independence and autonomy with regard to number of staff to be hired, quality of staff to be hired, exclusive control by Director of the Agency on Agency staff. The provision - contained in the article 93 para 8 of the Law No.92/2008 - regulates the transitorily period, until the recruitment of Agency staff.

	Under the provisions mentioned above Since 24 November 2008, date of beginning of the activity of the Agency, the Central Bank assigned 5 persons, in addition to Director and Vice Director of the Agency, to the Agency. The persons have been chosen in order to provide the Agency with people skilled in inspections and regulations, in organization and ICT, and in secretarial tasks. On January 2009, the Central Bank has transferred 2 additional persons, as requested by the Financial Intelligence Agency. On December 30 2008, the Director of the Agency started the procedures of recruitment. In that date, the FIA proposes to the Credit and Saving Committee the number of human resources needed for performing the FIA functions. The proposed number is 12 (twelve) persons. On February 12 2009, the Credit and Saving Committee has approved the number of the persons. During the last week of February, the Financial Intelligence Agency is sending to the press announces for the recruitment the three (3) persons. At the moment, February 23, 2009, the staff of the Agency is of 9 persons, Director and Vice Director included. The Director of the Financial Intelligence Agency and the Director General of the Central Bank signed a Memorandum (Addendum to the Memorandum signed on November, 26 2008) on the personnel transferred from the Central Bank to the Financial Intelligence Agency. **(SEE ANNEX 12 OF THIS DOCUMENT)** The Addendum indicates that the transfer of the personnel to the Agency from the Central Bank is indefinite.
Recommendation of the MONEYVAL Report	*Furthermore, the practice of using Central Bank personnel to undertake FIU duties should be abandoned.*
Measures taken to implement the Recommendation of the Report	The provisions contained in the Law No.92/2008 and in the Delegate Decree No.146/2008 indicates that the Financial Intelligence Agency is independent and autonomy. The Agency performs the functions prescribed by Law No.92/2008 with its own staff. The staff's skills of the Agency cover the institutional functions of the Agency and the administrative and organization support (organizational, ICT, secretarial). The personnel of the Agency refers only and directly to the Director or the Agency.
Recommendation of the MONEYVAL Report	*Law enforcement officials should be provided with adequate and relevant AML/CFT training in order to enhance their skills regarding ML and FT issues;*
Measures taken to implement the Recommendation of the Report	Legal provisions The Recommendation has been Adopted by articles 5, 12, 51 and 52 of the Law No. 92/2008.

	According to para 2 of Article 12 of the Law No.92/2008, the Police Authority, in the exercise of its competences, shall conduct, also of its own initiative, the activity of preventing and combating money laundering and terrorist financing. Under para 2 of article 5 of the Law No.92/2008, the Agency may rely on police personnel. In order to increase the experience of Police Authorities in the field of financial investigation, the Law envisages the possibility for the Agency to rely on police officials for limited periods of time, not less than one year (see article 51 of the Law No.92/2008). The training provided to law enforcement agents is also indicated in article 52 of the Law No.92/2008. For this purpose, the Financial Intelligence Agency shall promote training through courses and internships lasting no longer than six months, according to specific agreement protocols signed with the Commanders of the Corps to which they belong. <u>Implementation of the legal provisions</u> The Financial Intelligence Agency has scheduled training courses with the Police Force. Some of these events are planned for the next March/April 2009. The meetings will be focused in different sections on the basis of the knowledge of the officials on money laundering and terrorism financing cases. In any case the whole personnel of the Police Forces will be trained on money laundering and terrorism financing. Detailed and more focused courses will be attended by personnel involved in investigations related to money laundering or terrorism financing cases. For this purpose a special team is under selection.
Recommendation of the MONEYVAL Report	*To ensure effectiveness of the new supervisory framework, and in particular compliance with the AML/CFT international standards, the level of available resources should be reviewed in order to ensure that adequate resources are assigned to facilitate the carrying out of sufficiently detailed onsite and offsite supervision*
Measures taken to implement the Recommendation of the Report	As mentioned above, on December 30 2008, the Director of the Agency started the procedures of recruitment. In that date, the FIA proposes to the Credit and Saving Committee the number of human resources needed for performing the FIA functions. The proposed number is 12 (twelve) persons, and the Credit and Saving Committee has approved the number of the persons proposed on 12 February 2009. During the last week of February, the Financial Intelligence Agency is sending to the press announces for the recruitment the three (3) persons. At the moment, February 23, 2009, the staff of the Agency is of 9 persons, Director and Vice Director included.
(Other) changes since the last evaluation	Since 24 November 2008, date of beginning of the activity of the Agency, the Central Bank assigned 5 persons, in addition to Director and Vice Director of the Agency, to the Agency. The persons have been chosen in order to provide the Agency with people skilled in inspections and regulations, in organization and ICT, and in secretarial tasks. On January 2009, the Central Bank has transferred 2 additional persons, as requested by the Financial Intelligence Agency.

	On December 30 2008, the Director of the Agency started the procedures of recruitment. In that date, the FIA proposes to the Credit and Saving Committee the number of human resources needed for performing the FIA functions. The proposed number is 12 (twelve) persons. On February 12 2009, the Credit and Saving Committee has approved the number of the persons. During the last week of February, the Financial Intelligence Agency is sending to the press announces for the recruitment the three (3) persons. At the moment, February 23, 2009, the staff of the Agency is of 9 persons, Director and Vice Director included

Recommendation 31 (National co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Operational co-operation between the Judiciary and the AML Service should be further fostered.*
Measures taken to implement the Recommendation of the Report	The Law No.92 of 17 June 2008 - entered into force on September 23, 2008 - strengthens the cooperation between the Judicial Authorities and Financial Intelligence Agency. Under article 5, para 4, of the Law No.92/2008, the judicial Authority can delegate the Agency to carry out investigations related to proceedings regarding money-laundering and terrorist financing as well as crimes and administrative violations set forth in mentioned law. Moreover, the Judicial Authority, when it has reasonable grounds to believe that offences of money-laundering or terrorist financing have been committed through transactions executed by the obliged parties, shall inform the Agency. (article 15 of the Law No.92/2008). These provisions have been also strengthened by article 15 of the Delegate Decree 146/2008 **Article 15** **(Assistance to the Judicial Authority)** *1. On the delegation of the Judicial Authority, pursuant to article 5, paragraph 4 of Law no. 9o2 of 17 June 2008, the Agency may perform inquiries and evidence taking, availing of Police personnel transferred to the Agency, or other Police personnel specified by the Legal Authority. The reports of the actions carried out shall be immediately sent to the Judicial Authority.* *2. The Judicial Authority may request the assistance of the Agency in proceedings relating to crimes of money laundering and financing of terrorism and to the offences and administrative violations provided for by Law no. 92 of 17 June 2008.* *3. If the Judicial Authority receives a report pursuant to article 15 of Law no. 92 of 17 June 2008, or a report forwarded by a Police Authority, the Agency, in exception to the provisions of article 7 paragraph 1 of Law no. 92 of 17 June 2008, it shall inform the Judicial Authority of the outcome of the financial investigation carried out, even if no acts of criminal significance emerge.* Under article 51 of the Law No.92/2008 upon request by the Director and approval

	by the Congress of State, police officials, who have a specific attitude and preparation in relation to the functions envisaged by this law, may be assigned to the Financial Intelligence Agency, also for limited periods of no less than one year. While article 52 of the Law states that the Agency shall contribute to the training of the police officials on matters of financial investigations. For this purpose, it shall promote training through courses and internships of a duration no longer than six months, according to the specific agreement protocols undersigned with the Commanders of the Corps to which they belong. It should be stressed that besides assistance for single proceedings, the Judicial Authority and the Agency meet regularly in order to develop efficient cooperation and investigation procedures and strategies, taking account of the experience gained from single cases.
Recommendation of the MONEYVAL Report	*It is recommended that the relevant authorities develop a mechanism at national level facilitating co-operation, co-ordination and consultation concerning the development and implementation of AML/CFT policies and legislation leading to a clear national strategy.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by Articles 10, 85 and 95 of the Law No.92/2008. The Law No. 92/2008 assigns to the Credit and Saving Committee the function of national co-ordination of the measures that competent authorities shall implement in order to prevent and contrast ML and TF. The meetings of Credit and Saving Committee, chaired by the Secretary of State for Finance are attended by a Magistrate the director of the Financial Intelligence Agency or one of his delegates and a representative appointed by the Commanders of the Police Forces. As regards the mechanism of the Agency to assist policy makers, article 10 para 3 of the Law requires the Agency to propose to the Congress of State (Government of San Marino) the adoption of measures aimed at improving the effectiveness of the prevention and combating of money laundering and terrorist financing. The Agency also presents to the Congress of State a list of countries whose AML/CTF systems are in line with AML/CFT international standards in order to correctly implement the CDD requirements (see article 95, para 5 of the Law No.92/2008). In 2008 and in the first months of 2009, meetings were organized between the competent national authorities (the Judicial Authority, Police Forces and the AML Service, which was replaced by the Financial Intelligence Agency in November 2008) and the Secretariats of State belonging to the Committee for Credit and Savings. During these meetings national priorities on AML/CFT matters were discussed and new regulations were drafted. Moreover, the attention was focused on other issues, such as concrete measures to be taken, human and organizational resources necessary to enable national authorities to effectively combat money laundering and terrorist financing.
Recommendation of the MONEYVAL Report	*The authorities should also consider establishing mechanisms for consultation between competent authorities, the financial sector and other sectors, including DNFPB, that are subject to AML/CFT requirements.*
Measures taken to implement the	The recommendation has been adopted under article 85 of the Law No.92/2008, the

Recommendation of the Report	Chairman of the Credit and Saving Committee, according to items on the agenda, can invite to the meeting representatives of Professional Associations, Public administrations, and the obliged parties envisaged by the law on preventing and combating money laundering and terrorist financing.
Recommendation of the MONEYVAL Report	*San Marino should ensure that the competent authorities review the effectiveness of the AML/CFT system on a regular basis.*
Measures taken to implement the Recommendation of the Report	The provision of the Article 85 para 8 of the Law No.92/2008 requires the Credit and Saving Committee to meet periodically is a clear mandate to establish regular meetings for the competent national authorities.
(Other) changes since the last evaluation	

Recommendation 32 (Statistics)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*San Marino should ensure that the competent authorities review the effectiveness of the AML/CFT system on a regular basis.*
Measures taken to implement the Recommendation of the Report	The Law No.92/2008 contains specific provisions aimed to increase the effectiveness of the AML/CFT system. The mentioned Law assigns to the Credit and Saving Committee the functions of directing and guiding in order to ensure the effective prevention and countering of money laundering and terrorist financing. This Committee shall meet periodically as stated in the Law and is lead by the Secretary of State for Finance. A Magistrate appointed by the Judicial Council in an ordinary session, the director of the Financial Intelligence Agency or one of his delegates and a representative appointed by the Commanders of the Police Forces shall attend the meetings of the Credit and Saving Committee. On February 18, 2009, the Judicial Council has appointed the Judge that will attend the meetings of the Credit and Saving Committee. The President of the Committee, according to items on the agenda, can invite to the meeting representatives of Professional Associations, Public administrations, and the obliged parties envisaged by the law on preventing and combating money laundering and terrorist financing. Moreover the article 10, paragraph 3 of Law No. 92/2008 sets forth that the Financial Intelligence Agency proposes to the Congress of State (Government of San Marino) to adopt measures aimed at heightening the effectiveness of the prevention and combating of money laundering and terrorist financing.
Recommendation of the MONEYVAL Report	*More comprehensive statistics in relation to money laundering cases should be kept, which include for instance information on whether confiscation was ordered, information on the underlying predicate offences and information as to whether the ML offence was prosecuted autonomously or together with the predicate offence, so as to assist future analysis of the effectiveness of the money laundering criminalisation.*

Measures taken to implement the Recommendation of the Report	On November, 20 2008, the Executive Magistrate has ordered the Criminal Registrar to keep detailed information and data on proceedings related to money laundering and terrorist financing offences (statistics should also indicate the predicate offences, seizure and confiscation measures, amounts, etc.), as well as on letters rogatory received regarding the above-mentioned offences (also related to predicate offences and their execution times) as of 31 December 2008. Beginning from 1 January 2009, a registry of letters rogatory submitted to foreign countries shall also be established, highlighting the data concerning the letters rogatory for money laundering or terrorist financing offences (also reporting the predicate offences and the execution times). As regard to the investigating activities/prosecutions on ML/TF cases, please see point 6.a of this document.
Recommendation of the MONEYVAL Report	*A more comprehensive system of statistics eliminating the shortcomings indicated in the report should be organised. This would also assist in determining trends and effectiveness.*
Measures taken to implement the Recommendation of the Report	The San Marino Authorities are elaborating a system of statistics allowing to collect and process data owned by the competent authorities, in order to evaluate the risk of money laundering and terrorist financing in relation to types of transactions, customers, products and relevant procedures. This analysis is aimed at establishing a system which is more effective in countering phenomena which present higher risks of money laundering and terrorist financing in the Republic of San Marino. The analysis of statistics will be useful to assess and identify the difficulties encountered by the competent authorities in preventing and combating money laundering and terrorist financing.
Recommendation of the MONEYVAL Report	*Statistics on STRs and other disclosures concerning physical cross-border transportation or currency of bearer negotiable instruments should be kept.*
Measures taken to implement the Recommendation of the Report	<u>Statistics on STR</u> The statistics on STRs are collected, maintained and updated by the Financial Intelligence Agency. please see point 6.b of this document. <u>Disclosures concerning physical cross-border transportation</u> During the ordinary controls at the borders of the Republic of San Marino, the competent law enforcement agencies identified and controlled 2301 people in the period July-November 2008. Since the regulations referred to in Delegated Decree no. 138 of 31 October 2008 (“Cross-border transportation of cash and similar instruments”) entered into force on 1 November 2008, 94 controls have been carried out (of which 64 in 2008 and 30 in 2009), aimed at verifying the cross-border transportation of cash.

Year 2009 - as figures at February, 20 2009

Source: Police Forces

Controls carried out by police officers according to Delegated Decree No. 138 of October, 31 2008	*(number)*	30		
Violations ascerned of the dispositions contained in the Delegated Decree No. 138 of October, 31 2008	*(number)*	2		
Administrative sanctions under Delegated Decree No. 138 of October, 31 2008	*(number)*	2	*(total)*	€ 9.000,00

Year 2008

Source: Police Forces

Controls carried out by police officers according to Delegated Decree No. 138 of October, 31 2008	*(number)*	64		
Violations ascerned of the dispositions contained in the Delegated Decree No. 138 of October, 31 2008	*(number)*	0		
Administrative sanctions under Delegated Decree No. 138 of October, 31 2008	*(number)*	0	*(total)*	€ -

Recommendation of the MONEYVAL Report	*Annual comprehensive statistics should be kept in relation to ML cases*
Measures taken to implement the Recommendation of the Report	As mentioned above the San Marino Authorities are elaborating a system of statistics allowing to collect and process data owned by the competent authorities, in order to evaluate the risk of money laundering and terrorist financing in relation to types of transactions, customers, products and relevant procedures. This analysis is aimed at establishing a system which is more effective in countering phenomena which present higher risks of money laundering and terrorist financing in the Republic of San Marino. The analysis of statistics will be useful to assess and identify the difficulties encountered by the competent authorities in preventing and combating money laundering and terrorist financing.
Recommendation of the MONEYVAL Report	*Statistics should be maintained on the number of cases, amounts and property frozen, seized, confiscated related to ML, FT, criminal proceeds or underlying predicate offences*
Measures taken to implement the Recommendation of the Report	On November 20, 2008 the Executive Magistrate has ordered the Criminal Registrar (Officials responsible for the criminal section) to collect, maintain and update information and data on the activities of the Court as regards ML and TF matters, included data on investigations, prosecutions and MLA.
Recommendation of the MONEYVAL Report	*In the context of MLA* *Comprehensive statistics should be kept on an annual basis (outgoing and incoming MLA requests); statistics concerning mutual legal assistance should include also information about the predicate offence(s) and the average time of response*
Measures taken to implement the Recommendation of the Report	The Letter of 20 November 2008 issued by the Executive Magistrate orders the the Criminal Registrar (Officials responsible for the criminal section) to collect, maintain and update information and data on the activities of the Court as regards MLA.

Recommendation of the MONEYVAL Report	*In the context of extradition* *Comprehensive statistics should be kept related to incoming and outgoing requests for ML, the predicate offences and FT, including the nature of the request, whether it was granted or refused and the time required to respond.*
Measures taken to implement the Recommendation of the Report	Requests for extradition have been neither received nor submitted
Recommendation of the MONEYVAL Report	*In the context of other forms of co-operation* *The FIU should keep detailed statistical data showing in particular their response times and whether the requests were fulfilled in whole or in part or were incapable of being fulfilled. It is also advised that statistical information is kept in relation to the numbers and types of spontaneous disclosures made by the FIU.*
Measures taken to implement the Recommendation of the Report	Financial Intelligence Agency According to the article 10 of the Law No.92/2008, the Financial Intelligence Agency collects annually the data regarding the activity carried out for the prevention and combating money-laundering and terrorist financing. The statistics on STRs are below:

STR received by the Financial Intelligence Unit of San Marino

Source: Financial Intelligence Agency
As figures at February 20, 2009

	Year				
	2009	**2008**	**2007**	**2006**	**2005**
STR received by FIA	**14**	**110**	**44**	**17**	**20**
of which suspects transactions	13	70	21	9	14
of which send to the Court	*2*	*5*	*3*	*1*	*1*
of which filed	*1*	*23*	*5*	*4*	*10*
of which under examination	*10*	*39*	*13*	*4*	*3*

International cooperation of the Financial Intelligence Unit of San Marino (FIA)

Source: Financial Intelligence Agency

	Year				
	2009	**2008**	**2007**	**2006**	**2005**
Requests of cooperation received by FIA	**5**	**9**	**8**	**9**	**2**
of which granted	4	9	7	8	2
of which refused	0	0	1	0	1
Requests of cooperation asked by FIA	**2**	**1**	**4**	**2**	**0**

Requests of cooperation asked by FIA

Source: Financial Intelligence Agency
Period: November 24, 2008 - February 20, 2009

Financial Intelligence Unit	Year			
	2009		**2008**	
	asked	granted	asked	granted
Italy	2	-	-	-
Total	**2**	**0**	**0**	**0**

Requests of cooperation received by FIA

Source: Financial Intelligence Agency
Period: November 24, 2008 - February 20, 2009

Financial Intelligence Unit	Year			
	2009		2008	
	received	granted	received	granted
Italy	4	3	-	-
Costa Rica	1	1	-	-
Total	**5**	**4**	**0**	**0**

For information only forwarded by FIA

Source: Financial Intelligence Agency
Period: November 24, 2008 - February 20, 2009

Financial Intelligence Unit	Year	
	2009	2008
Italy	1	2
Total	**1**	**2**

Recommendation of the MONEYVAL Report	*Statistics on international police co-operation and on formal requests for assistance made or received by supervisors relating to or including AML/CFT including whether it was granted or refused.*
Measures taken to implement the Recommendation of the Report	As regard international police co-operation the San Marino National Central Office of Interpol collect data and information on its activities. The statistics of the exchange of information between Interpol Offices are below:

Offences as figures at February, 20 2009

Source: San Marino National Interpol Office

2009		2008		2007		2006 and 2005	
Co-operation between Police Forces Interpol		**Co-operation between Police Forces Interpol**		**Co-operation between Police Forces Interpol**		**Co-operation between Police Forces Interpol**	
received	requested	received	requested	received	requested	received	requested
4	3	9	7	12	4	n.d.	n.d.
4	**3**	**9**	**7**	**12**	**4**	**-**	**-**

(Other) changes since the last evaluation	On November 20, 2008 the Executive Magistrate has ordered the Criminal Registrar (Officials responsible for the criminal section) to collect, maintain and update information and data on the activities of the Court as regards ML and TF matters, included data on investigations, prosecutions and MLA. On February 18, 2009, the Judicial Council has appointed the Judge that will attend the meetings of the Credit and Saving Committee under article 85 of the Law No.92/2008

Recommendation 33 (Legal persons – beneficial owners)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*It is recommended that San Marino reviews its legislation with a view to taking measures to ensure wider transparency as to legal persons. In particular:*

Measures taken to implement the Recommendation of the Report	On 2 February 2009, the Congress of State has adopted the Decision No.55, that: o authorises the Registrar's Office of the Single Court to indicate the data related to the members of limited liability companies and joint-stock companies in a special section of the Register of Companies, to which only the following Authorities shall be granted access: Judicial Authority, the Central Bank performing its supervisory function, the Supervising Authority over economic activities, the Financial Intelligence Agency, as well as the Police Forces performing the functions of judicial police and o orders that the following paragraph is added to Article 4 of the "Regulation governing the keeping of the electronic Register of Legal Persons": "No restriction shall be applied to the investigation activities and inquiries carried out or ordered by the Secretariats of State and the Public Offices involved, the Judicial Authority, the Central Bank performing its supervisory function, the Supervising Authority over economic activities, the Financial Intelligence Agency and the Police Forces performing the functions of judicial police (see Annex 3 of this document) Thanks to this Decision, it will be easier for the authorities involved in the prevention and fight against money laundering and terrorist financing to have access to the information necessary to identify anyone who is responsible for the management, direction and control of companies as well as anybody being a member in these companies. In particular, it will be possible to carry out research activities in relation to companies in order to identify managers, directors, auditors and members, as well as in relation to natural persons to establish whether they hold management, direction or control positions in companies or they are members thereof. It should be specified that the existence of electronic data does not exclude the possibility to have access to paper-based documents related to single companies.
Recommendation of the MONEYVAL Report	*San Marino should consider abolishing anonymous companies.*
Measures taken to implement the Recommendation of the Report	Under article 19, para 1, number. 7 of Law No. 47 of 23 February 2006, the memorandum of association shall indicate the name and surname, date and place of birth, domicile and nationality of all individuals having taken part as members or on whose behalf the memorandum of association has been drafted. This rule is applied to all companies, including anonymous companies. Article 21, para 3 of Law No. 92/2008 states that: "The professionals referred to in article 20 and non-financial parties referred to in article 19 shall also fulfil the customer due diligence obligations when the transaction is of an undetermined or non-definable amount. The establishment, management or administration of a company, trust or other arrangements with or without legal personality constitutes in any case a transaction of a non-definable value." Consequently, the obliged parties are required to identify the customer and the beneficial owner under article 22, as well as to record the relevant data under article 34. With specific reference to anonymous companies (article 44 bis of the Law no.47/2006 as amended by article 87 (1) of the said Law No.92/2008), the notary in the occasion of meeting of the share holders shall: a) identify the bearer of the shares and verify his/her identity; b) acquire a copy of the identity document for each bearer; c) draw up a separate act which indicates the date of the assembly, the identity of the participants and the capital represented by each participant;

	d) keep copies of the acts and identity documents required for at least five years from the closure of the professional relationship with the company. The information and data acquired by the notary shall be disclosed to the Judicial Authority the Financial Intelligence Agency in the exercise of its functions of preventing and combating money laundering and terrorist financing (Article 87 (2) of said Law. Under Article 44 bis of Law No. 47/2006, as amended by Article 87 of Law No. 92/"*The notary shall make use of the documents and information [.....] to fulfil customer due diligence obligation set forth in the law on preventing and combating money laundering and terrorist financing*. *6. The notary may release the information and documents[.....] also to permit the fulfilment of the customer due diligence obligations by the obliged parties set forth in the law on preventing and combating money laundering and terrorist financing"* Under article 88 of the Law No.98/2008 (Fulfillment of the customer due diligence obligations regarding anonymous joint stock companies) "Failing to release the documents and information by the notary, under article 44 bis, paragraph 6 of Law N°. 47 of February 23, 2006 as amended by article 87 of this law, shall not exonerate the obliged parties from fulfilling customer due diligence obligations."
Recommendation of the MONEYVAL Report	*The Register of Companies should include identification data of natural persons being shareholders of a company or owning/controlling the legal person-shareholder of the company.*
Measures taken to implement the Recommendation of the Report	Under article 26 of Law No. 47/2006 as amended by Delegated Decree No. 49 of 19 March 2008, any share assignment shall be stipulated by a public deed or authenticated private agreement being deposited with the Court's Register and noted in the share register. It should be pointed out that the Congress of State's Decision No.55 of 2 February 2009 envisages the possibility to have access to the electronic data related to limited liability companies and joint stock companies. Therefore, it is possible to carry out research by name to establish whether the person concerned is a member.
Recommendation of the MONEYVAL Report	*The requirement to identify shareholders when establishing a company should refer also to beneficial owners (natural persons owning or controlling the legal person buying shares in a company).*
Measures taken to implement the Recommendation of the Report	Under San Marino law, the establishment of companies must take place only by public deed signed by a notary who is subject to the obligations envisaged in the AML Law, including CDD obligation when he/she assists his/her client in the setting-up of a company, under Article 20, paragraph 3, letter c, number 4. CDD obligations require, inter alia, to identify the beneficial owner. The Judicial Authority and the Financial Intelligence Agency shall have access to the relevant information held by the notary. Under Article 1, letter r) number 2) "Beneficial owner" shall refer, whenever the beneficiaries have not been determined, to the natural person(s) in whose principal interest the entity is established or acts".
Recommendation of the MONEYVAL Report	*San Marino should consider introducing a clear procedure to access the information kept in the Register of Companies, notably as to time limits set to be granted access to the relevant documents.*

Measures taken to implement the Recommendation of the Report	The Article 6 para 1 of the Law No.47/2006 indicates the information contained in the Register of Companies: *"1. The data which is entered in the Register for each company is as follows :* - *the details of the memorandum of association* - *the Congress of State's authorisation, where required by special legislation, and any subsequent license granted or withdrawn;* - *the registered office and any subsequent changes thereof;* - *the issued and paid-up capital stock and any changes therein;* - *the corporate purpose and any subsequent changes therein;* - *the name of the legal representative or representatives, directors, auditors, external auditors or auditing firms where appointed, liquidators, specifying their relevant powers;* - *the date of balance sheet approval;* - *any formal business transformation, merger or splitting;* - *any order issued by the judicial authority concerning winding-up, granting of a moratorium, starting of bankruptcy proceedings and any other order the judicial authority deems useful to have reported;* - *the presence of a single shareholder where the company has not issued bearer shares;* - *the existence of pledged shares;* - *the seizure or foreclosure of shares or stakes."* The Executive Magistrate of the Single Court, through a letter dated 20 November 2008 Ref. 401 formalised the provisions, already in force, to authorise the consultation in real time of the Register of Companies, which shall be immediately made available to any person requesting it. Letters 400 and 401 of the Law Commissioner are equivalent to service instructions or orders which may be subject to disciplinary and criminal sanctions in case of intentional delay.
(Other) changes since the last evaluation	Adoption of Law No. 95 of 18 June 2008 "Re-organisation of the supervisory services over economic activities" The above-mentioned Law regulates the re-organisation of the supervisory services over economic activities. It provides for an ongoing monitoring of the economic activities carried out by companies set up in any form; this function is performed by a competent office established by the aforementioned law. The law allows to have access to any document on the commercial exchange of goods and services. The ongoing monitoring and access to documents allow to constantly check that all regulations (including AML/CFT legislation) are observed and complied with. The activity regulated by the above-said law was already conducted, though not on an ongoing basis, under administrative provisions and it resulted in the control and check of 42 companies in 2007 and 24 companies in 2008. This activity was performed by the Company Control and Supervision Commission. According to its functions, the Commission reported 2 companies to the Single Court for alleged aggravated fraud. Another body called "Working Group at the First Level of Administrative Cooperation", the functions of which were absorbed by Law No. 95 of 18 June 2008, controlled 31 companies in 2008 and reported 3 of them, on 22 September 2008, to the AML Service, (now FIA) for alleged violation of AML legislation.

Recommendation 34 (Legal arrangements – beneficial owners)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*San Marino authorities should take additional steps to ensure that legislation on trusts require additional information on the beneficial ownership and control of trusts and other legal arrangements.* *More specifically:* *- A clear definition of beneficial ownership should be provided in the legislation, notably as to trusts' beneficiaries.*
Measures taken to implement the Recommendation of the Report	Law No.37/2005 contains specific provisions on: - Enacted with a written act (Article 6); - Registration of trusts (Article 9); - Supervision on trustee (Article 19); - Book of events (Article 29). The Decree No.86/2005 includes provision on: - Access to the public register of trusts (Article 1) Under the provisions of the Law on Trust (No.37/2005), the notary public is the person in charge of enacting the trust with a written act which shall contain several information, including the identity of the settlor and the beneficiary (article 6 of Law No.37/2005 on Trust). Moreover, as established in the San Marino Trust legislation, trustees shall be only banks and financial companies duly authorized by the Central Bank. According to the provisions of the Law on Trust, the trustee shall draw up an abstract of the trust act enacted by the notary public in order to deposit it for its publication on the Trust Register. Under the procedure mentioned above, the financial institutions authorized to operate as trustees as well as the notary public are the only persons/entities having information on trusts. They are subject to the AML/CFT legislation and therefore apply the definition of Beneficial Owner herein contained. This information can be obtained by the Agency in order to perform its functions, as indicated in article 5 of the Law. Article 1 para 1 letter r) of the Law No.92/2008 contains the definition of "beneficial owner".
Recommendation of the MONEYVAL Report	*- It should be clearly stated in the legislation that information accessible in the Trust Register should include details on settlors, administrators, and trustee; this information should include details also on individuals owning or controlling legal persons acting as beneficiaries, settlors or trustees.*
Measures taken to implement the Recommendation of the Report	The information to be contained in the Trust Register is set forth in article 8 of Law No.37/2005 on Trust. The information on beneficiaries and settlors is held by the notary who enacted the written act of the trust and by the trustee.
Recommendation of the MONEYVAL Report	*- The relation between the public nature of the Trust Register, accessible to anybody (under article 9.3 of the Trust law and article 4 of Decree No. 86/2005) and the confidentiality of registered information (article 3 of Decree No. 86/2005) should be clarified.*
Measures taken to implement the	On February 18, 2009 the Judge of Supervision on Trust has clarified the concept of "confidentially" in relation to the access of the Trust Register by issuing a

<table>
<tr><td>Recommendation of the Report</td><td>clarification letter to the Office for Industry, Handicraft and Commerce where the Trust Register is kept.

The order states that "confidentiality requirements shall apply when the information requested, if divulged, may cause a threat to national security, exercising of national sovereignty, continuity and correctness of international relations, protection of public order and crime suppression and prevention" (SEE ANNEX 11 OF THIS DOCUMENT)

The letter states that the consultation of the Trust Register shall be refused only in the cases indicated in the article 4, para 7 of the Decree No.86/2005</td></tr>
<tr><td>Recommendation of the MONEYVAL Report</td><td>The reference to reasons to request access to the Register made by article 4.3 of Decree No. 86/2005 should also be clarified.</td></tr>
<tr><td>Measures taken to implement the Recommendation of the Report</td><td>Under Article 8 of Law No.37/2005 on Trust and Decree No.86/2005 on Trust Register, the Trust Register is kept at the Office for Industry, Handicraft and Commerce under the supervision of a Judge appointed by the Executive Magistrate.

Information on Trusts:<table><tr><td>Year</td><td>Number of registered Trust</td></tr><tr><td>2005</td><td>0</td></tr><tr><td>2006</td><td>4</td></tr><tr><td>2007</td><td>2</td></tr><tr><td>2008</td><td>7</td></tr><tr><td>2009 Jan.</td><td>1</td></tr></table></td></tr>
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Recommendation 35 (Conventions) & Special Recommendation I (Implementation of United Nations instruments)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*San Marino should take immediate steps to ratify and implement fully the Palermo Convention.*
Measures taken to implement the Recommendation of the Report	The Republic of San Marino will ratify the Palermo Convention as soon as possible. Moreover, the San Marino Criminal Code and other relevant provisions already cover various aspects of the Palermo Convention, such as Association to commit offences (Art. 287 CC), Criminalization of Laundering proceeds of crime

	(Art. 199 and 199 bis CC), Criminalization of corruption, Detection and cross-border control of transportation of currency and bearer negotiable instruments, Smuggling in migrants and trafficking in persons, specially women and children – introduced by law n. 97 of 20 July 2008 "Prevention and punishment of violence against women and on gender basis".
Recommendation of the MONEYVAL Report	*The evaluators' earlier recommendations apply equally to the effective implementation of the Vienna Convention and the Terrorist Financing Convention, in terms of incrimination of the ML and FT offences, criminal liability of legal persons, cooperation arrangements, special investigation methods, the detection of physical cross-border transport and to the implementation of the UN Security Council resolutions.*
Measures taken to implement the Recommendation of the Report	Incrimination of ML The Law No. 92/2008 (article 1, para 2) clarifies the notion of money laundering for the purposes of the AML/CFT legislation. The Article 1 para 2 letter c) incorporates in the notion of money laundering the acquisition, possession or use of property as prescribed by the Vienna Convention. Incrimination of FT The Law No.92/2008 contains specific provision related to the financing of terrorism. - "terrorism" is defined in the article 1, letter p); - "purposes of terrorism" is defined in the article 1, letter j); - "terrorist financing" is contained in the article 1, letter k); - "terrorist" is set forth in the article 1, letter q). The following offences are now prescribed in the Criminal Code: - "terrorist association" : article 337 bis of the Criminal Code, introduced by article 1 of the Law No.28/2004; - "terrorist financing": article 337 ter of the Criminal Code, introduced by article 78 para 2 of the Law No.92/2008 ; - "extradition procedure": article 81 of Law No.92/2008; - "transfer of terrorists abroad": article 82 of Law No.92/2008; - "freezing of funds": articles 5 and 46 of the Law No. 92/2008. Special investigation methods Under Law No.28/2004, law enforcement authorities apply, under judicial authorization, special investigative techniques, such as controlled deliveries and undercover operations, Under Article 15 of the Law No.28/2004 as amended by Article 84 of the Law No.92/2008 the Law Commissioner (Judge) may authorize special agents of the Police Forces to conduct undercover operations, intervene in intermediation activities, simulate the purchasing of goods, materials and things aimed at suppressing the offences under articles 199bis (money-laundering), 207 (usury), 337bis (terrorist association) and 337ter (terrorist financing) of the Criminal Code. Since the entrance into force of the Law No.92/2008, special investigation methods have been effectively tested. Detection of physical cross-border transport The Decree Delegated 31 October 2008 No.138 introduces a disclosure system in order to detect the physical transportations of currencies and bearer negotiable instruments. Implementation of the UN Security Council Resolutions

	The article 46 and following ones of the Law No.92/2008 set forth specific provisions for the implementation of the restrictive measures contained in the UN Security Council Resolutions. In compliance with the international obligations assumed by the Republic of San Marino to combat terrorism, terrorist financing and the activity of States that threaten international peace and security, the Congress of State, upon proposal by the Secretary of State for Foreign Affairs and the Secretary of State for Finance and Budget, has adopted on 6 October 2008 the decision n. 2 outlining restrictive measures, conforming to the resolutions - n. 1267 (1999), 1333 (2000), 1373 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) -. The mentioned decision n.2 of Congress of State contains in its Annex the list of individuals, entities and other groups likely to be linked directly or indirectly with Osama Bin Laden, Al-Qaida or any other terrorist group.
(Other) changes since the last evaluation	On October, 31 2008 the Congress of State has adopted the Decree Delegated No.138 on cross-border transportation of cash and bearer negotiable instruments. On October 2008, the restrictive measures contained in the UN Security Council Resolutions have been implemented by the Congress of State Decisions (Decision No.2 and 3 of 6 October 2008) according to the rule of procedures set forth in the article 46 and following ones of the Law No.92/2008. Since the entrance into force of the Law No.92/2008, special investigation methods and domestic cooperation between Court, Police Forces and FIA have been effectively tested.

Recommendation 36 (Mutual legal assistance) & Special Recommendation V (International co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Given the absence of clear and specific national provisions on mutual legal assistance which detail the process of receiving and executing MLA requests, the evaluators recommend that consideration is given to introducing such provisions in legislation. This would also have the advantage of clarifying the process for both domestic and foreign practitioners.*
Measures taken to implement the Recommendation of the Report	On February, 16 2009, the Congress of State has adopted the Decision No.36 that mandates the drafting of a specific legislation on rogatory letters. **(SEE ANNEX 4 TER OF THIS DOCUMENT)** The rogatory letter are examinated in 7 days (average time) after being received by the San Marino Court. **(SEE ANNEX 14 OF THIS DOCUMENT)**
Recommendation of the MONEYVAL Report	*Also, it is recommended to clarify in legislation that there is no possibility to oppose secrecy or confidentiality rules to the competent authorities requesting any information in the context of foreign mutual legal assistance requests, with the exception of legal professional privilege or legal professional secrecy rules.*
Measures taken to implement the Recommendation of the Report	The following provisions shall be applied also when the international legal assistance is granted. The case-law has stressed many times that in legal assistance proceedings the limitations and powers shall be the same as in national proceedings. Under article 38 of the Law No. 92/2008 it is stipulate that: *"Professional secrecy may not be invoked in front of the Judicial Authority, the*

	Agency, and Police Authorities in pursuance of their functions on preventing and combating money laundering and terrorist financing, except for the case provided in the first paragraph. *Official secrecy may not be invoked in front of the Judicial Authority, the Agency, and the Police Authorities in pursuance of their functions on preventing and combating money laundering and terrorist financing.* *Professional secrecy and official secrecy may not be invoked even when the data and information are necessary for the investigation of offences and administrative violations set forth in this law."* Professional privilege or secrecy may be opposed only if the information sought was acquired while providing the client with legal assistance. Under article 36 para 5 of the Law No.165/2005 (LISF), bank secrecy can not be invoked against the Criminal Judicial Authority, the Supervisory Authority and the Financial Intelligence Agency in the performing of counter-terrorism and anti-money laundering functions.
Recommendation of the MONEYVAL Report	*The authorities should also consider devising and applying mechanism for determining the best venue for prosecution of defendants in the interest of justice in cases that are subject to prosecution in more than one country.*
Measures taken to implement the Recommendation of the Report	On the occasion of the ratification of the European Convention on Mutual Assistance in Criminal Matters and the relative legislation implementing it, the authorities will consider devising and applying the mechanism for determining the best venue for prosecution of defendants in cases that are subject to prosecution in more than one country. On February, 19 2009, the Foreign Committee has approved the ratification the European Convention on Mutual Assistance in Criminal Matters. The act of ratification of the Convention is in agenda for the next parliamentary session scheduled from the 25 February to the 4 March 2009.
Recommendation of the MONEYVAL Report	*The deficiencies identified in the ML and FT offence should be remedied to enable full compliance with the dual criminality ruled requests. San Marino officials may consider legislating to render mutual legal assistance in the absence of dual criminality, at least for less intrusive and non compulsory measures.*
Measures taken to implement the Recommendation of the Report	The dual criminality requirement is met even if the conduct for which legal assistance is sought is criminalized in a different category or with a different denomination under the law of the requesting State, e.g. technical differences do not prevent the rendering of assistance.
(Other) changes since the last evaluation	On February, 19 2009, the Foreign Committee has approved the ratification the European Convention on Mutual Assistance in Criminal Matters. The act of ratification of the Convention is in agenda for the next parliamentary session scheduled from the 25 February to the 4 March 2009.

Recommendation 39 (Extradition) & Special Recommendation V (International co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The application of dual criminality may create an obstacle to extradition in cases involving ML/FT activities that are not properly criminalised in San Marino. The authorities should review the current legislation to ensure that there are no legal impediments to render assistance where the conduct underlying the offence is criminalised. The evaluators reiterate in this context their previous recommendations related to the review of the criminalisation of ML and FT.*
Measures taken to implement the Recommendation of the Report	The Recommendation has bee adopted by article 81 and 82 of the Law No.92/2008 for the terrorism offences. The Law No. 92/2008 contains specific provisions regarding the extradition of persons held or subject to preventive detention for crimes of terrorism. Money laundering and terrorist financing are extraditable offences (under Art. 8 of the Criminal Code).
Recommendation of the MONEYVAL Report	*As regards extradition, it is recommended that:* - *San Marino ratifies the European Convention on Extradition as soon as possible;*
Measures taken to implement the Recommendation of the Report	On February, 19 2009, the Foreign Committee has approved the ratification the European Convention on Extradition. The act of ratification of the Convention is in agenda for the next parliamentary session scheduled from the 25 February to the 4 March 2009.
Recommendation of the MONEYVAL Report	- *Extradition proceedings may incur in undue delays since requests are first tackled at a political level. This will cause delays. It is suggested that a body or authority, not solely at political level, deals with such requests. It is suggested that this body could be composed of elements coming from the Judiciary and Ministry of Justice.*
Measures taken to implement the Recommendation of the Report	The recommendation has been adopted by Article 81 and 82 of the Law No.92/2008 for the terrorism offences. The Law No. 92/2008 contains specific provisions regarding the extradition of persons held or subject to preventive detention for crimes of terrorism. Money laundering and terrorist financing are extraditable offences (under Art. 8 of the Criminal Code).
Recommendation of the MONEYVAL Report	- *Clear and detailed procedures on procedural and evidentiary aspects are established.*
Measures taken to implement the Recommendation of the Report	The recommendation has been adopted by Article 81 and 82 of the Law No.92/2008 for the terrorism offences. The Law No. 92/2008 contains specific provisions regarding the extradition of persons held or subject to preventive detention for crimes of terrorism. Money laundering and terrorist financing are extraditable offences (under Art. 8 of

	the Criminal Code).
Recommendation of the MONEYVAL Report	- *studies be undertaken to establish whether:* □ *it is feasible to establish an office or central authority that deals solely with extradition and mutual legal assistance;* □ *simplified procedures of extradition should be in place to allow direct permission of extradition requests between appropriate ministries;* □ *it is appropriate to allow extraditions solely on the strength of a warrant of arrest or judgement;*
Measures taken to implement the Recommendation of the Report	On February 16, 2009, the Congress of State has adopted the Decision No.36 that mandates the drafting of a specific legislation on rogatory letters. In that occasion, the San Marino Authorities will cover the issues of the recommendation made by Moneyval Experts.
Recommendation of the MONEYVAL Report	- *simplified procedure for extradition for consenting persons who waived formal extradition proceedings be allow*
Measures taken to implement the Recommendation of the Report	As mentioned above, during the drafting of this legislation the San Marino Authorities will cover the issues of the recommendation made by Moneyval Experts.
Recommendation of the MONEYVAL Report	- *The authorities should ensure that the current framework enables to extradite individuals charged with the financing of terrorism, terrorist acts or terrorist organisations.*
Measures taken to implement the Recommendation of the Report	As mentioned above, during the drafting of this legislation the San Marino Authorities will cover the issues of the recommendation made by Moneyval Experts
(Other) changes since the last evaluation	On February, 19 2009, the Foreign Committee has approved the ratification the European Convention on Extradition. The act of ratification of the Convention is in agenda for the next parliamentary session scheduled from the 25 February to the 4 March 2009. On February 16, 2009, the Congress of State has adopted the Decision No.36 that mandates the drafting of a specific legislation on rogatory letters.

Recommendation 40 (Other forms of co-operation) & Special Recommendation V (International co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The evaluators recommend that the authorities review the AML/CFT legislation in order to eliminate any uncertainties related to the scope of co-operation of the FIU with foreign counterparts. They recall in this context the comments made regarding the necessity to establish the identity of the FIU in legislation and as part of the reinforcement of its organisational autonomy within the Central Bank, they recommend that specific provisions be adopted which detail the capacities of the FIU in this context in accordance with recommendation 40.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by article 16 of the Law No.92/2008. According to the article 16 of the Law No.92/2008, the Agency cooperates with foreign financial intelligence units on the basis of reciprocity including the exchange of information. The foreign FIUs shall guarantee the same conditions of

	confidentiality of the information, as assured by the Financial Intelligence Agency. The Agency, with the aim of regulating the cooperation activity referred to in paragraph 1, may stipulate appropriate protocols of agreement [MOUs] and inform the Committee for Credit and Savings about them. At the moment, the Financial Intelligence Agency is exchanging information on the basis of the reciprocity.
Recommendation of the MONEYVAL Report	*San Marino authorities should consider to adopt relevant provisions regarding disclosing of professional secrecy also for other entities (e.g. DNFBPs).*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by article 38 of the Law No.92/2008. According to the article 38 of the Law No.92/2008, no professional confidentiality may be invoked in regards to the Judicial Authority, Agency, and Police Authorities in the performance of their functions related to the prevention and combating of crimes of money laundering and terrorism financing, except for lawyers who are ascertaining the legal position of a client or representing a client in legal proceedings.
(Other) changes since the last evaluation	The Law No.92 of 17 June 2008 has entered into force on September 2008. The cooperation between FIUs is regulated by article 16 of the mentioned Law.

Special Recommendation III (Freezing and confiscating terrorist assets)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The authorities should clarify the framework for the conversion into San Marino law of designations under UNSCR 1267 and in the context of UNSCR 1377 and designate a national authority to consider requests for designations under UNSCR 1373.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by articles 46-50 and 85 para 8 of the Law No.92/2008 and implemented by Congress of State Decisions on October, 6 2008 No. 2 and No.3. The restrictive measures enshrined in the UNSC Resolutions are implemented in the Republic of San Marino according to the procedures set forth in articles from 46 to 50 of the Law No.92/2008. The designating authority for UNSCR is the Committee for Credit and Saving under article 49 and article 85 para 8 of the Law No.92/2008. The latter integrates article 48 and article 3 of Law No.96 of 29 June 2005 (Statutes of the Central Bank by which the Credit and Saving Committee is regulated). The article 49 of the Law No.92/2008 prescribes the functions of the Credit and Saving Committee for the implementation of the restrictive measures of the UNSC Resolutions. According to the new procedures for the implementation of the restrictive measures contained in the UNSC resolutions, the Congress of State has implemented the provisions of the article 46 and following ones of the Law No.92/2008 by issuing Decision No.2 on Resolutions 1267(1999) and following ones on Taliban and Decision No. 3 on Resolutions 1737 (2006) and following ones.
Recommendation of the MONEYVAL	*It should also be clarified that once the Supervision Department has communicated designations, immediate checks should be performed.*

Report	
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by article 46 and article 48 of the Law No.92/2008. The decisions of the Congress of Stare are sent to the Financial Intelligence Agency that provides for their transmission to the Judicial Authority, the State Administrations referred to in article 48 and the obliged parties referred to in article 17 of the Law No.92/2008. The State Administrations that keep public registries, which have data or information relating to frozen funds or economic resources, give immediately notice to the Agency. The Agency orders to annotate in the public registries the freezing of registered movable and immovable assets. The obliged parties referred to in article 17 of the Law No. 92/2008 shall: a) notify the Agency of the measures applied in accordance with this law, indicating the subjects involved, the amount and nature of the funds and economic resources, within 15 days from the adoption of the Congress of State decision, or from the date of the possession of the funds and economic resources; b) notify the Agency of the transactions, business relationships, as well as any other data or information available with reference to subjects included in the lists; c) notify the Agency, on the basis of the information provided by it, of transactions and business relationships as well as any other data or information with reference to subjects that may be included in the lists in accordance with article 49, paragraph 5 of the Law No.92/2008.
Recommendation of the MONEYVAL Report	*The authorities should also ensure that the mechanism applies to all targeted funds or other assets as described in the UN resolutions of individuals, groups and legal entities. Given the gaps in the incrimination of the offence of financing of terrorism, the court based system for freezing appears to be of limited assistance for the effectiveness of the system.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by several provisions of the Law No. 92/2008. The criminalization of financing of terrorism is prescribed in the Article 78 of the Law No. 92/2008 and covers the recommendations made by the Moneyval expert, extending the offence of TF to individuals. **Article 78** **(Terrorism crimes)** *1. The first paragraph in article 337 bis of the criminal code is replaced by the following:* *"Anyone promoting, establishing, organizing or directing associations that aim at perpetrating violent acts for purposes of terrorism or subversion of the constitutional order, against public or private institutions or bodies either of the Republic of San Marino, of a foreign State or an International Organisation, shall be punished by terms of sixth-degree imprisonment and fourth-degree disqualification from public offices and political rights."* *2. After article 337 bis of the criminal code, the following article is inserted:* *"Article 337 ter. Financing of terrorism – Anyone who by any means, even through*

	another person, receives, collects, detains, gives up, transfers or conceals funds intended to be used, in full or in part, in order to carry out one or more terrorist acts or to economically support terrorist individuals or groups, or provides them with a financial service or other connected services, shall be punished by terms of sixth-degree imprisonment and fourth-degree disqualification from public offices and political rights." The definition of assets, funds and economic resources against which freezing measures should be applied is set forth in the article 1 para 1, letter e) of the Law No.92/2008. That article also contains the definition of "freezing". The effects freezing measures are prescribed in the article 47 of the Law No.92/2008. The judicial protection against restrictive measures is set forth in the article 50 of the Law No.92/2008.
Recommendation of the MONEYVAL Report	*The authorities should establish a clear and publicly known procedure for de-listing and unfreezing requests; and appropriate procedures authorizing access to frozen funds for necessary basic expenses, payment of certain fees, service charges or extraordinary expenses.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been articles 49 and 50 of Law No.92/2008. The Article 49 para 6, states that: "The Committee for Credit and Savings shall formulate proposals to the competent International Organizations, according to the criteria and ways established in the United Nations resolutions, for de-listing, also on the basis of requests presented by the interested parties." <u>Authorization to frozen assets</u>. The authorization to access to frozen assets, funds and economic resources is described in the article 49 of the Law No.92/2008 <u>Unfreezing requests</u> The requests for unfreezing the assets, funds and economic resources are prescribed in the article 50 of the Law No.92/2008 for the same circumstances of the UNSC Resolutions.
Recommendation of the MONEYVAL Report	*The supervisory authority should be actively checking compliance with SR III and the legal framework for imposing administrative sanctions should be reviewed to adequately enable it to sanction failure to comply with the obligations.*
Measures taken to implement the Recommendation of the Report	In order to monitor and check the compliance with the provisions of the Law No.92/2008 and the related Congress of State Decisions, the Financial Intelligence Agency has adopted an on-site inspections plans for the forthcoming months where specific controls on designations will be carried out. Special attention will be focused on designations and on procedures that the obliged parties shall apply. Moreover the Financial Intelligence Agency has scheduled meeting with the State Administrations that keep public registries, in order to increase the effectiveness of the reporting system for the designated parties. The sanctions regime for compliance with the provisions of the Law on "restrictive measures" on UNSC resolutions is detailed here below:

	Criminal Sanctions shall apply for: 1) Disregard of the orders by the Congress of State, sets forth in the Article 57 of the Law No.92/2008: anyone who disregards the restrictive measures adopted by decision of the Congress of State under article 46 is punished by terms of second-degree imprisonment and second-degree disqualification. 2) Evading measures for freezing funds, sets forth in the Article 60 of the Law No.92/2008: Whoever carries out acts intended to evade measures for freezing funds (referred to in article 46, paragraph 1, letter a) is punished with imprisonment, penalty calculated in days and third-degree disqualification. Moreover, pecuniary administrative sanctions up to double the value of the funds or economic resources object of the freezing shall be applied." Administrative Sanctions 1) Violation of the provisions on matters of freezing funds sets forth in the Article 64 of the Law No.92/2008: Except when the fact constitutes a more serious offence, the violation of the provisions referred to in article 47, paragraph 1 is punished with a pecuniary administrative sanction up to double the value of the funds or economic resources object of the transfer, disposition or use. Except when the fact constitutes a more serious offence, the violation of the provisions referred to in article 47, paragraph 2 shall be punished with a pecuniary administrative sanction up to double the value of the funds or economic resources made available directly or indirectly to persons, entities or groups included in the list drawn up by the appropriate Committee of the United Nations or allocated in favour of such persons, entities or groups. 2) Violation of the obligation of communication regarding frozen funds and resources sets forth in the Article 65 of the Law No.92/2008: Except where the conduct amounts to a more serious crime, the violation of the provisions referred to in article 48 shall be punished with a pecuniary administrative sanction from 500 to 25,000 Euros.
(Other) changes since the last evaluation	Since the adoption of the Third Mutual Evaluation Report on April 2008, the San Marino Authorities has adopted a new Law No.92/2008 with specific and detailed provisions that implement the recommendations made by Moneyval experts. The FATF Paper on *"Guidance regarding the implementation of financial provisions of united nations security council resolutions to counter the proliferation of weapons of mass destruction"* has been taken into consideration for the adoption of the measures contained in the mentioned Law. The Law No.92/2008 entered into force on September, 23 2008. On October, 6 2008 the Congress of State (Government of San Marino) has adopted the Decisions No.2 and 3 on restrictive measures. On October, 31 2008, the Government of San Marino adopted the Delegate Decree that regulates the freezing mechanism and the custody of frozen asset.

Special Recommendation VI (AML requirements for money/value transfer services)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*Although San Marino authorities pointed out that in respect of AML requirements connected to the provision of MVT services, San Marino post offices comply with the rules applicable to the Italian postal service, domestic AML/CFT implementing provisions legislation should be adopted as soon as possible in order to meet the requirements of Special Recommendation VI, criteria 1 to 6.*

Measures taken to implement the Recommendation of the Report	According to the Law No.92/2008, Post offices shall apply CDD measures when they establish business relationships or carry out occasional transactions and when they act as an intermediary or are at any rate part of the transfer of currency or bearer negotiable instruments, in Euros or foreign currency, carried out in any capacity among different entities for a total amount that exceeds 15,000 Euros. - SR VI criteria 1 and 4, the unique MVT service operators are San Marino Post Office. Nowadays, there are no other entities, except banks, that carry out wire transfers. - SR VI criterion 2, San Marino Post Offices, entirely owned by the State, are required by Law No.92/2008: a) to fulfil the CDD requirement (R.5 adopted by articles 21 -24 of the Law); b) to apply Enhanced CDD requirement in case of PEP, cross-border wire transfers and non-face to face operations (R.6, 7 and 8 adopted by article 27 of the Law); c) to apply specific and detailed provisions for availing themselves of third parties (R.9 adopted by article 29 of the Law); d) to record and keep recorded information, data and documents on clients and transaction (R10 adopted by article 34 of the Law); In order to implement R.11, the FIA has issued Instruction No.2008-03 on "critical operation". In order to guarantee the sharing of information between obliged parties and foreign counterparts (R.4), the FIA has issued Instruction No.2009-02 - SR VI criterion 3, San Marino Post Offices are supervised by the Financial Intelligence Agency, under article 4 and 5 of the Law No.92/2008; - SR VI criterion 5, the Law No.92/2008 contains specific and detailed administrative and penal sanctions. The Annex 29 of the Second Compliance Report contains the list of sanctions for AML/CFT violations.
(Other) changes since the last evaluation	The Financial Intelligence Agency is drafting AML/CFT Instructions for San Marino Post Offices.

Special Recommendation VII (Wire transfer rules)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*The provisions of SR VII on wire-transfers are not directly addressed in law or regulation. While in practice some measures are taken that cover certain limited elements of SR.VII, the San Marino authorities should introduce requirements to ensure that complete originator information is included in outgoing wire transfers and that beneficiary financial institutions adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by account number and address information.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by Article 33 of the Law No.92/2008 and Implemented by FIA Instruction No.2008-04 As regards wire transfers, article 33 of the Law No.92/2008 prescribes that financial institutions, when they execute transfers of funds, shall obtain and transfer specific information on the ordering customer. This information on the ordering customer shall be kept registered in the records of the financial institution.

	Financial institutions shall deny the transfer of funds when they are not provided with the information referred to in the previous paragraph. When the financial institution that has received the transfer order omit to provide the information, the financial entity to which the transfer order is addressed shall request the information in writing. If the request is not satisfied, it shall activate the enhanced measures prescribed in article 27 of the Law No.92/2008 and evaluate whether to suspend relations with the financial institution that has received the transfer order. The financial institution shall forward to the Financial Intelligence Agency (San Marino FIU), without delay, a copy of the request for information sent to the counterpart. The FIA Instruction No.2008-04 indicates the information that financial institutions are required to obtain on the customer, specifies the measures to adopt in order to verify the identity of the ordering customers and the procedures to implement in case of missing or incomplete information on ordering customers. Exceptions are also indicated in the FIA Instruction. FIA Institution sets forth the record keeping requirements for the information on the ordering customers.
Recommendation of the MONEYVAL Report	*The CBSM should introduce measures to effectively monitor compliance with any requirements introduced in relation to wire transfers. There should be specific sanctions in relation to obligations under SR.VII.*
Measures taken to implement the Recommendation of the Report	The On Site Inspection Supervision Service of the Central Bank has scheduled special controls in order to monitor the compliance with the requirements set forth in the FIA Instruction No.2008-04 on wire transfers. The FIA will schedule controls for the compliance with the FIA Instruction No.2008-04. The Memorandum of Understanding between the FIA and Central Bank regulates the respective competence on supervision as also prescribed by article 14 of the Law No.92/2008. With regard to the entrance into force of the Instruction no. 2008-04 on wire transfers, in compliance with SR VII, the Central Bank of the Republic of San Marino, which is responsible for the proper working of the payment system at national level, has started a series of technical meetings with banks (the only entities authorized in San Marino to execute wire transfers of funds) to ensure immediate compliance with the new provisions and coordinate any necessary adjustment of the computer facilities used. As far as sanctions are concerned, the violation of the obligations set forth by Instruction no. 2008-04 of the Financial Intelligence Agency, like any Instruction of the Financial Intelligence Agency, shall be sanctioned under Law no. 92/2008. The San Marino Payment System (SISPAG) has already adopted the specifications included in Instruction no. 2008-04 of the Financial Intelligence Agency. Therefore, in the cases envisaged, it is obligatory to provide complete data and information on the originator within the Sammarinese Interbank Network (*Rete Interbancaria Sammarinese* – RIS). Authorities are examining further measures for the univocal use of the originator/beneficiary's account number in IBAN format. The analyses underway have shown that the Enlarged Public Administration is not using the IBAN to its fullest extent. The Central Bank of the Republic of San Marino is defining some measures with guidelines which should ensure that in the coming future the IBAN will be univocally used within the Sammarinese Interbank Network of the San

	Marino Payment System. Violation of CDD measures is punished under article 61 and the subsequent ones of the Law No.92/2008. Violation of the provisions of the Law and the Agency's Instructions referred to in article 33, is punished according to articles 66 of the Law.
(Other) changes since the last evaluation	On October, 24 2008, The Financial Intelligence Agency according to the article 21 and 95 of the Law No.92/2008, has issued Instruction No.2008-04. The FIA Instruction 2008-04 specifies the requirements that financial institutions shall comply with in case of executing wire transfers in application of the SR VII by FATF and EU Regulation No.1781/2006. The FIA Instruction contains specific provisions on: - Information on ordering customer (article 2) and verification of the information (articles 3 and 4); - Transfers of funds within the Republic of San Marino (article 5); - Batch file transfers and information on ordering customer (article 6); - Exceptions on wire transfers (article 7); - Missing or incomplete information on ordering customer (article 8); - Obligations on the intermediary payment service providers for the transmission of the information on ordering customer (article 9); - Record keeping requirements (article 10)

Special Recommendation VIII (Non-profit organisations)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*The San Marino authorities should review the adequacy of laws and regulations related to NPOs as well as the sector's potential vulnerabilities to abuses for the financing of terrorism and make any necessary changes to the laws and regulations.*
Measures taken to implement the Recommendation of the Report	A review of the non-profit sector is under way and a draft law regulating the activity related to non profit organizations in compliance with international standards will be submitted shortly to the Government. On February 16, 2009 the Congress of State has adopted the Decision No.34 that mandates the drafting of a Law on NPOs sector in the light of the FATF Special Recommendation VIII and the Moneyval Recommendations for San Marino. **(SEE ANNEX 04 OF THIS DOCUMENT)** In any case, the non-profit organizations and their activities are already subject to the supervision of the Court, notably through the Judge of Supervision over Non-Profit Organizations. Based on the deposit of both budgets and balance sheets, and any reported change decided by the meeting or occurred in the board of directors, the Judge of Supervision verifies every year whether the funds have been used as planned and in accordance with the by-laws. He also verifies the existence and validity of the association's purpose or object. These records are available to the competent authorities.
Recommendation of the MONEYVAL Report	*The authorities should also develop an effective outreach program with the NPO sector.*

Measures taken to implement the Recommendation of the Report	On February 16, 2009 the Congress of State has adopted the Decision No.34 that mandates the drafting of a Law on NPOs sector in the light of the FATF Special Recommendation VIII and the Moneyval Recommendations for San Marino. In that occasion, an overall outreach study of the NPOs sector will be carried out.
Recommendation of the MONEYVAL Report	*A number of measures have been taken, as a matter of practice and by analogy to the existing requirements for companies, which led to the collection of certain information on registered entities, though there is no legal requirement in legislation for this purpose. The authorities should promote effective supervision and monitoring and ensure that there is a clear legal basis which enables them to require NPOs to maintain information on the purpose and objectives of their activities, on the identity of persons who own, control or direct their activities (including senior officers, board members and trustees). Appropriate measures should also be in place to sanction violations of oversight measures.*
Measures taken to implement the Recommendation of the Report	The Congress of State has adopted the Decision No.55 on February, 2 2009. Under this Decision a separate databases on members shall be created for all registers related to legal persons (associations, foundations, cooperatives, consortiums, etc.), which are kept at the Registrar's Office of the Single Court. These databases shall be set up with the same characteristics and consultation modalities as the ones for companies. In particular no restriction shall be applied to the investigation activities and inquiries carried out or ordered by the Secretariats of State and the Public Offices involved, the Judicial Authority, the Central Bank and the Supervisory Authority over economic activities, the Financial Intelligence Agency and the Police Forces performing the functions of judicial police In 2008, by the decision of the Judge of Supervision, 4 association and 5 non-profit foundation were subject to formal winding-up through decree issued by the same Judge in order to prevent it from conducting its activity which didn't comply with the relative regulations and its by-laws.
Recommendation of the MONEYVAL Report	*The evaluators were not made aware of any legal requirement for NPOs to maintain for a period of at least 5 years records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objective of the organisation. Such a requirement should be introduced in law or regulation.*
Measures taken to implement the Recommendation of the Report	On February 16, 2009 the Congress of State has adopted the Decision No.34 that mandates the drafting of a Law on NPOs sector in the light of the FATF Special Recommendation VIII and the Moneyval Recommendations for San Marino. In that occasion, an overall outreach study of the NPOs sector will be carried out. The draft Law will contain specific rules on the obligation for registering financing transactions. **(SEE ANNEX 04 OF THIS DOCUMENT)**
Recommendation of the MONEYVAL Report	*San Marino authorities should also raise awareness of the SR VIII among existing supervisory authorities engaged with the NPO sector and to define a clear and effective coordination mechanism between NPO supervisory authorities, law enforcement agencies, FIU/Central Bank.*
Measures taken to implement the Recommendation of the Report	The draft Law will contain specific rules on coordination for the exchange of information between Supervisory Authorities. **(SEE ANNEX 04 OF THIS DOCUMENT)**
Recommendation of the MONEYVAL Report	*Furthermore appropriate contacts points and procedures should be established to respond to international requests for information regarding particular NPOs that are suspected of FT or other forms of terrorist support.*
Measures taken to implement the	The San Marino authorities which shall respond to international requests for

Recommendation of the Report	information are the Judicial Authority, INTERPOL and the Financial Intelligence Agency, according to the procedures established by national regulations.
(Other) changes since the last evaluation	On February 2, 2009, the Decision No.55 of the Congress of State on NPOs. Under this Decision a separate databases on members shall be created for all registers related to legal persons (associations, foundations, cooperatives, consortiums, etc.), which are kept at the Registrar's Office of the Single Court. These databases shall be set up with the same characteristics and consultation modalities as the ones for companies. In particular no restriction shall be applied to the investigation activities and inquiries carried out or ordered by the Secretariats of State and the Public Offices involved, the Judicial Authority, the Central Bank and the Supervisory Authority over economic activities, the Financial Intelligence Agency and the Police Forces performing the functions of judicial police On February 16, 2009 the Congress of State has adopted the Decision No. 34 that mandates the drafting of a Law on NPOs sector in the light of the FATF Special Recommendation VIII and the Moneyval Recommendations for San Marino.

Special Recommendation IX (Cross Border Declaration & Disclosure)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*It is strongly recommended that the San Marino authorities review the implementation of Special Recommendation IX as a whole and take the necessary steps as soon as possible to ensure that all criteria are adequately satisfied.*
Measures taken to implement the Recommendation of the Report	The Recommendation has been adopted by Delegate Decree n. 138 "*Transport of currency and similar instruments across transnational borders*" of 31 October 2008. The Parliament has delegated the Government to regulate, through a delegate decree, the controls on the cross-border transportation of currency and similar instruments. The above mentioned Decree introduced a formal obligation: any person entering or leaving San Marino carrying currency or securities exceeding €10.000, has to make a disclosure to the Police agents, upon request (Article 2 of the Decree). Where there is a false disclosure or a refusal, the person will be liable to a fine equivalent to 25% of the value represented by the cash exceeding € 10.000, with a minimum fine of € 200 (Article 4 of the Decree). Where any cash has not been declared, the Police agents shall seize the undeclared amount in excess of €10.000 and inform the Financial Investigation Agency (Article 6 of the Decree).
(Other) changes since the last evaluation	Since the adoption of the Third Evaluation Report for San Marino on April 2008, the Parliament of the Republic of San Marino issued the Law No.92 of 17 June 2008 that delegated the Government to issue a Delegate Decree on Special FATF Recommendation VIII, the Delegate Decree No.138/2008 of 31 October 2008. The San Marino Authorities are amending the text in the light of the observation made and clarification requested by the Moneyval Plenary on December 2008.

4. *Specific Questions*

1. Have there been any developments regarding the organisation and resources of the investigating authorities (Interforce Group, investigative judges, other police agencies as relevant)?

In order to strengthen the collaboration between the Financial Intelligence Agency and the Police Forces the Agency is drafting a Memorandum of Understanding that will regulate the activities of the agencies involved.

A special team of selected personnel will be trained on March/April and will be put at the FIA's disposal and will work closely with the Agency. Specific and qualified courses have been scheduled.

The Interforce Group continues to carry out its functions assisting the Investigative Judge and cooperating with the Financial Intelligence Agency.

2. Have there been any AML/CFT trainings organised for law enforcement officials in order to enhance their skills regarding ML and TF issues?

Pursuant to the functions prescribed in the article 4 para l letter g) of the Law No.92/2008, the Financial Intelligence Agency has scheduled training courses with the Police Force. Some of these events are planned for the next March/April 2009.

The meetings will be focused in different sections on the basis of the knowledge of the officials on money laundering and terrorism financing cases.

In any case the whole personnel of the Police Forces will be trained on money laundering and terrorism financing.

Detailed and more focused courses will be attended by personnel involved in investigations related to money laundering or terrorism financing cases.

3. Which concrete steps have been taken to raise awareness among DNFBPs and involve them in the AML/CFT efforts?

As regards Professionals as set forth in the article 20 of the Law No.92/2008, the Financial Intelligence Agency and the BAR Associations have organized the following training events:

Training events on Money Laundering

As figures at February 20, 2009

	Year	
	2009	**2008**
Number of training events on ML	**3**	**4**

Training events' partecipants

As figures at February 20, 2009

	Year						
	2009			2008			
	February	**February**	**February**	**December**	**October**	**September**	**June**
Professionals	**n.d.**	**n.d.**	**2**	**63**	**124**	**92**	**111**
of which notaries and lawyers	n.d.	n.d.	1	35	48	5	37
of which junior notaries and lawyers	*n.d.*	*n.d.*	*0*	*10*	*0*	*0*	*1*
of which accountants (degree)	n.d.	n.d.	1	14	29	45	34
of which junior accountants	*n.d.*	*n.d.*	*0*	*0*	*0*	*4*	*4*
of which accountants (not degree)	n.d.	n.d.	0	14	47	42	40

As regard the remaining DNFBPs the Financial Intelligence Agency has also met the representatives of management of auction houses or art galleries and trade in antiques. The meetings are focused on the analysis of the activities of the representing parties and of the AML/CFT requirements in order to increase the knowledge of the DNFBPs of the AML/CFT legislation. This meeting are also used by the Agency to understand precisely the activities of the DNFBPs in order to issue precise and effective Instructions for the AML/CFT legislation.

4. Have sanctions been imposed specifically for AML/CFT infringements, at the instigation of the supervisor, since the adoption of the last evaluation report?
If so, please indicate the main types of AML/CFT infringements detected by supervisors since the adoption of the previous evaluation report by distinguishing between financial institutions and DNFBPs' infringements (NB. It is not necessary for these purposes to provide full detailed statistics, but an overview).

In general the inspections carried out by the Central Bank in 2008, also in relation to AML/CFT matters, did not reveal any serious situation and, therefore, no administrative sanctions were imposed.

However, in two cases it was necessary to adopt stricter measures (revocation of the authorization and administrative compulsory winding-up) because of the deficits identified in all fields of the activities carried out.

In 2009, the Agency has started its own inspection program; as of the date on which this questionnaire is filled in, an inspection has been concluded, whereas another one is still underway; according to the evidence collected, however, in both cases the sanctions to be applied will be of an administrative nature for violations of the regulations concerning customer identification and data registration.

Moreover, in a case the violation of Article 36 of Law no. 92/2008 (reporting obligations) was detected. This infringement is punished by terms of the criminal sanction envisaged in Article 55 of Law no. 92/2008.

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

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	The Law of 17 June 2008, No.92 - entered into force on October, 23 2008 – adopts and implements the Moneyval Experts' recommendations for the Third Round Evaluation Report of San Marino and FATF Recommendations as required by FATF/Moneyval Methodology. In consideration of the fact that the San Marino intermediaries, entities and persons are used to operate with UE counterparts and clients, the San Marino Authorities have adopted legislative acts that implement the UE Directives and Regulations on money laundering and terrorism financing: - Law of 17 June 2008 No.92 "Provisions on preventing and combating money laundering and terrorist financing"; - Delegate Decree No.135 of 31 October 2008 on "Regulations of the financial intelligence agency", ratified by Delegate Decree No.146 of 28 November 2008; - Delegate Decree No.136 of 31 October 2008 on "Transitory regulations relating to bearer passbooks"; - Delegate Decree No.137 of 31 October 2008 on "Regulations for the safekeeping, administration and management of frozen economic resources"; - Delegate Decree No.138 of 31 October 2008 on "Cross-border transportation of cash and similar instruments" The following UE Directives and Regulations have been considered by San Marino Authorities: - Directive 2005/60/CE 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 2006, laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' 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; - EC Regulation No.1781/2006 of the European Parliament and of the Council of 15 November 2006, on information on the payer accompanying transfers of funds (implementation of the FATF SR VII) and - EC Regulation No.1889/2005 of the European Parliament and of the Council of 26 October 2005, on controls of cash entering or leaving the Community (implementation of the FATF SR.IX).

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

	In addition to the measures described in the following sections (i.e. beneficial owner, RBA, PEPs, "tipping off", corporate liability and DNFBPs) the San Marino legislation and regulation provide the following dispositions (given in accordance to the above mentioned EU dispositions): o Financial Intelligence Unit articles 2,4,5, and 8 of the Law 92/2008 establish a new FIU in San Marino (the Financial Intelligence Agency) as required in article 21 of the Directive 2005/60/EC, o Prohibition to keep anonymous accounts or passbooks articles 30 and 31 of the Law No. 92/2008 (implemented by Delegate Decree 136/2008) require the same as article 6 of the Directive 2005/60/EC, o Field of application and contents of CDD articles 21 and 22 of the Law No. 92/2008 required in the fulfilment of customer due diligence obligations to carry out the measures indicated by articles 7 and 8 (first paragraph) of the Directive 2005/60/EC, o Obligations of abstention Article 24 of the Law No. 92/2008 states that obliged parties shall refrain from carrying out transactions when there are reasonable grounds to believe that these transactions could be related to money-laundering or terrorist financing, in line with article 24 of the Directive 2005/60/EC. The same article also states that the obliged parties that are not able to fulfil the obligations of customer due diligence shall refrain from establishing business relationships or carrying out occasional transactions, and interrupt them, if already initiated, at the earliest opportunity and decide whether the situation should be reported to the Agency (in similar terms are the dispositions laid down in article 9.5 of the Directive 2005/60/EC) o Confidentiality of the identity of the reporting person and secrecy of the reports Article 40 of the Law 92/2008 is in line with articles 27 and 28 of the Directive 2005/60/EC; o Wire transfers Article 33 of the Law No.92/2008 and FIA Instruction No. 2008-04 are aimed to implement FATF SR VII and EC Regulation No.1781/2006; o Simplified CDD Article 26 of the Law No. 92/2008 sets forth simplified CDD requirements as prescribed in the article 11 of the Directive 2005/60/EC; o Enhanced CDD Article 27 of the Law 92/2008 disposes enhanced CDD requirement in similar terms to article 13 of the Directive 2005/60/EC; o Training The importance of training is considered in article 44 of the Law No. 92/2008 and the contents and objectives are similar to those laid down in article 35.1 of Directive 2005/60/EC, and in FATF Recommendation 15 o Shell banks Article 28 of the Law No. 92/2008 prohibits to operate with shell banks as prescribed in article 13.5 of the Directive 2005/60/EC, o Subsidiaries and foreign branches article 31 of the Directive 2005/60/EC (referring to the FATF Recommendation 22) has been implemented by article 45 of the Law No.92/2008 which requires financial parties to ensure that their foreign branches or subsidiaries fulfil obligations equivalent to those set forth in the Law No. 92/2008. o Cross border and cash couriers Delegate Decree 138/2008 is aimed to implement the FATF SR 9 taking into account the provisions contained into the EC Regulation No.1889/2005

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)	The notion of "beneficial owner" has been implemented by article 1, para 1 letter r) of the Law No.92/2008. The definition of beneficial owner in Law 92/2008 is the following: "*beneficial owner":* (I) the natural person who ultimately owns or controls the customer, when the latter is a legal person or entity without a legal personality; (II) the natural person on whose behalf the customer acts. In any case, the following are considered beneficial owners: 1) the natural person(s) that, directly or indirectly, owns more than 25% of the voting rights in a company or, at any rate, because of agreements or other reasons, is able to control voting rights equal to said percentage or has control over the management of the company, provided that it is not a company listed on a regulated market, and subject to disclosure requirements consistent with or equivalent to the European Union legislation; 2) the natural person(s) who is beneficiary of more than 25% of the property of a foundation, trust or other arrangements with or without legal personality that administers funds; whenever the beneficiaries have not been determined, the natural person(s) in whose principal interest the entity is established or acts; 3) the natural person(s) who is able to control more than 25% of the property of an entity with or without a legal personality ;

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.	The provisions set forth in the Law No.92/2008 introduce "risk-based approach" for all the obliged parties indicated in the article 17 and following ones of the mentioned Law. According to the article 25 of the Law No. 92/2008 (Risk-based approach), the obliged parties are required to fulfil the due diligence on all their customers. The customer due diligence obligations are fulfilled by risk-based verifications which depend on the type of customer, business relationship, occasional transaction, professional service, product or transaction. Under article 25 para 3 of the Law No.92/2008 *"For the evaluation of the risk, the obliged parties shall evaluate at least the following aspects:* *A) with reference to the customer:* 1) the legal status, 2) the main business activity, 3) the behaviour at the moment of establishing the business relationship, or carrying out the transaction or professional services, 4) the residence or registered office of the customer or of the counterpart with particular attention to that do not require equivalent obligations to those set forth in this law; B) with reference to any business relationship or occasional transaction: 1) the type and specific way of execution, 2) the amount,

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

	3) the frequency, 4) the coherency of the transaction in relation to the whole of information available for the obliged party, 5) the geographic area of the execution of the transaction, with particular attention to that do not require equivalent obligations to those set forth in this law".

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 legislation (please also provide the legal text with your reply).	The definition in article 1 of the Law 92/2008, letter n) set for "politically exposed person": "natural persons, foreign citizens, who are or have been entrusted with important public functions abroad during the year preceding the establishment of the business relationship, transaction or professional service, their immediate family members or persons known to be close associates of such persons, as foreseen in the Technical Annex to this Law"; Moreover in the TECHNICAL ANNEX Article 1 of the Law No.92/2008 defines as follows "Politically exposed persons referred to in article 1, paragraph 1, letter n)" *"1. It should be considered as "politically exposed persons":* *A) any natural person, foreign citizen, who is or has been entrusted with prominent public function abroad during the year preceding the establishment of the business relationship, transaction or professional service, including the following even if differently named:* *1) head of State, head of government, minister, vice minister, undersecretary of State, member of Parliament,* *2) member of judiciary bodies whose decisions are not generally subjected to further appeal,* *3) member of the board of directors of central banks or supervisory authorities,* *4) ambassador, chargé d'affaires, a high-ranking officer in the armed forces,* *5) member of the board of directors, management or supervisory bodies of companies owned by the State;* *B) any immediate family members of the persons foreseen in the previous letter or persons known to be close associates of such persons, including the following persons:* *1) spouse or partner considered equivalent to the spouse,* *2) children and their spouses,* *3) parents;* *C) any natural person who is known to have the beneficial ownership of companies or legal entity with a person referred to in letter A);* *D) any natural person who is the sole beneficial owner of companies or legal entities or legal arrangements which is known to have been set up for the benefit de facto of the person referred to in letter A).* *2. Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence obligations, where a person has ceased to be entrusted with a prominent public function for a period of the least one year, the obliged parties shall not be required to consider such a person as politically exposed."*

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

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	As regard the prohibition to disclose information is not limited to the transactions reported but also covers the money laundering or terrorism financing investigations According to the article 53 of the Law No.92/2008, penal sanction shall be applied in case of violation of confidentially of transactions reports and investigations. **Article 53** **(Violation of confidentiality of reports)** *1. Except where the conduct amounts to a more serious crime, anyone subject to reporting obligations reveals - except for cases set forth in the law - that a report has been forwarded or is ongoing or an investigation may be initiated for money laundering or terrorist financing, shall be punished by terms of first-degree imprisonment and second-degree daily fine.* *2. The same penalty applies to anyone who, knowing that a suspicious transaction report has been filed under article 7, informs the party concerned or a third party of the filing.*
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.	There are no circumstances where the prohibition to disclosure information on STRs or ML or TF investigations is lifted.

"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.	<u>Regulations for the control of business activities (as a sole trader and/or as a company) in the sectors of industry, handicraft and trade.</u> Legislative sources - Law no. 18 of 8 June 1965; - Law no. 53 of 28 April 1999; - Law no. 65 of 25 July 2000 In compliance with the legislation in force, the Office of Industry, Handicraft and Trade (Article 24 of Law no. 53/1999 and Article 74 of Law no. 65/2000) shall be responsible for monitoring the observance of provisions regulating business activities, as sole traders and/or as companies, in the sectors of industry, handicraft and trade. This Office takes measures of its own initiative or after being reported or requested by any other professional body and by relying on the Civil Police and the Gendarmerie. In particular, Police forces shall report to the Office of Industry and Handicraft any facts which may constitute criminal or administrative offences in relation to industry, handicraft and trade. They shall also provide the Office with evidence and carry out investigations and inquiries requested by the Office of Industry, Handicraft and Trade. Furthermore, this Office - is entitled to promote investigations, hold inquiries, formulate opinions,

issue instructions, issue provisions which are immediately executive. It may also request the ordinary judicial authority to adopt precautionary measures to interrupt or ensure the evidence of facts or offences, including the seizure of goods and documents (Article 24.4 of Law no. 53/1999 – Article 74, paragraph 3 of Law no. 65/2000);
- is vested with the power to issue orders in order to guarantee that industrial, handcraft and commercial activities are carried out in compliance with the State laws, international conventions and agreements, as well as to apply relevant pecuniary administrative sanctions for related administrative offences (Article 24.4 of Law no. 53/1999 and Article 74, paragraph 4, letter d of Law no. 65/2005);
- shall inform the ordinary judicial authority about criminal and administrative offences related to the criminal offences identified (Article 24.4 of Law no. 53/1999 and Article 74, paragraph 4 of Law no. 65/2005).

In case of illegal exercise of the activity or criminal offence, the Law Commissioner shall order the cessation of the activity concerned, by adopting precautionary measures, including seizure of goods and documents, also for the purposes of probation. This order has immediate effect regardless of encumbrance. To guarantee that pecuniary obligations are fulfilled and confiscation is executed due to law violation, the Law Commissioner may also order that movable assets of the business are seized.
The Congress of State is vested with the power to suspend or revoke the licence "if the owner carries out his/her activity in a way undermining the prestige and interests of the Republic" (Article 24.5 of Law no. 53/1999 – Article 78 of Law no. 65/2000).
If the industrial, handicraft or commercial business is carried out in the form of a company, license revocation causes, by law, the dissolution of the company (former Article 106 of Law no. 47/2006) and its winding-up.

<u>Regulations concerning the supervision over economic activities to prevent and counter tax fraud, frauds and distortions in trade exchange</u>

Legislative Sources
- Law no. 95 of 18 June 2008

With regard to the supervision and monitoring of economic activities, in order to counter "*tax fraud, the like, frauds and distortions in trade exchange*", the above-mentioned Law has expressively established:
- the Office for Control and Supervision of Economic Activities;
- the Central Liaison Office

The Office for Control and Supervision of Economic Activities is vested with the power to prevent, detect, investigate and combat tax fraud, "the like", frauds and distortions in trade exchange (Article 5).
In particular, this Office is assigned action, reporting and verification powers (Art. 5). This Office shall answer for its activity to the Congress of State and shall report the violations identified as a results of its controls. If the violations reported are serious, the Congress of State may order the licence to be revoked and is competent to start the procedure for the compulsory winding-up for all companies at the Single Court, under Law no. 47/2006.
The Central Liaison Office is responsible for contacting the competent offices of other Countries with a view to implementing the international agreements adopted (Article 11).

	Regulations concerning the supervision over the reserved activities listed in former Attachment 1 to Law no. 165/2005 As far as reserved activities are concerned, important functions are performed by the Supervisory Authority. Under Article 34 of Law no. 96 of 29 June 2005, the Supervisory Authority "shall regulate, control and supervise the activity of authorised intermediaries." Among the powers assigned by law to the Supervisory Authority (requesting information, investigating, applying sanctions, etc.) the most important are: - the power to suspend the authorisation in case of serious administrative irregularities and/or infringements of the provisions of law; - the power to suspend corporate bodies. In absolute urgency and when the circumstances referred to in Article 78 of LISF arise, the Supervisory Authority may order the suspension of the authorised party's administrative bodies and appoint a commissioner who will take over the management for a period of 60 days. In case of serious irregularities Law no. 165/2005 (LISF) provides for the following extraordinary procedures: - Extraordinary administration (Title I, Chapter I) - Administrative compulsory winding-up (Title II, Chapter II) Extraordinary administration is ordered by decision of the Congress of State, following consultation with the Committee for Credit and Savings, on the proposal of the Supervisory Authority. This measure shall be adopted when specific situations arise, as envisaged in Article 78 of LISF. Following the Decision of the Congress of State, corporate bodies are dissolved and procedure bodies are appointed (Article 79 of LISF). However, the Supervisory Authority is responsible for the direction of this procedure. The extraordinary administration will be for a term of one year, unless a shorter period is indicated in the decision of the Congress of State. Only in exceptional cases and on giving reasonable grounds the supervisory authority may extend the procedure for a period of six months. As for administrative compulsory winding-up, this is an extraordinary procedure (which may be carried out even when extraordinary administration is already taking place), which is ordered by decision of the Congress of State, following consultation with the Committee for Credit and Savings, upon proposal of the Supervisory Authority. Through this procedure the revocation of the authorisation to exercise reserved activities and the administrative winding-up of the authorised parties may be ordered. It is adopted if the facts envisaged for extraordinary administration are of exceptional gravity. Proper procedure bodies are envisaged for the administrative compulsory winding-up.
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	Please see the reply above

leading position within that legal person.	

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 order to prevent the misuse of cash for money laundering purpose, the Law No.92/2008 reiterates a specific provision, already in place in San Marino, that limits the use of cash in the territory of the Republic of San Marino. Article 31 of the Law No.92/2008 prescribes that the transfer between different parties of cash and bearer securities when the value of the transaction, also fractioned, is more that 15.000,00 Euros shall take place exclusively through a bank, a fiduciary company or a payment service provider (as referred to in letters A), C) or I) of Annex 1 of Law N° 165 of November 17, 2005). The violation of the provision of the article 31 of the Law No.92/2008 is sanctioned with a pecuniary administrative sanction up to half the amount of each transaction. The Law No.92/2008 lists, within the article 18, 19 and 20, the parties that shall fulfil the CDD, record keeping requirements as well as the reporting obligations.

6. *Statistics*

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

Explanatory Note by San Marino Authorities: According to the judicial and legal system of San Marino, the prosecutions are carried out by the Investigating Judge. The following table indicates the prosecutions based on *notizia criminis* received by the Court for which the investigative Judge starts a prosecution case. For this reason the column "Investigations" has been considered "n.a." ("not applicable")

2005												
	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.	n.a.	1	2	0	0	----------	--------	0	0	0	0
FT	n.a.	n.a.	0	0	0	0	0	0	0	0	0	0

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.	n.a.	4	10	0	0	0	0	1	222,02	0	0
FT	n.a.	n.a.	0	0	0	0	0	0	0	0	0	0

2007												
	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.	n.a.	4	21	0	0	0	0	1	1.919.757,90	0	0
FT	n.a.	n.a.	0	0	0	0	0	0	0	0	0	0

2008												
	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.	n.a.	13	22	0	0	0	0	2	685.441,20	0	0
FT	n.a.	n.a.	0	0	0	0	0	0	0	0	0	0

January, 31 2009												
	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.	n.a.	1	n.d. (1)	0	0	0	0	0	0	0	0
FT	n.a.	n.a.	0	0	0	0	0	0	0	0	0	0

(1) Nowadays it is not possible to specify the number of the persons involved.

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 (1)	reports about suspicious transactions		cases opened by FIU (8)		notifications to law enforcement/ prosecutors		indictments				convictions			
								ML		FT		ML		FT	
		ML	FT	ML	FT	ML	FT	cases	persons	cases	persons	cases	persons	cases	persons
commercial banks	n.a.	18	0	14	0	1	0	1	2	0	0	0	0	0	0
insurance companies (2)	n.a.	n.a.	n.a.												
notaries and lawyers (3)	n.a.	0	0												
currency exchange	n.a.	n.a.	n.a.												
broker companies (4)	n.a.	n.a.	n.a.												
securities' registrars (5)	n.a.	n.a.	n.a.												
financial and fiduciary companies	n.a.	2	0												
accountants/auditors	n.a.	0	0												
company service providers (6)	n.a.	n.a.	n.a.												
others (please specify and if necessary add further rows)	n.a.	0	0												
Total (7)	n.a.	**20**	**0**												

(1) The reporting system on transactions above threshold (CTRs) is not in place in San Marino, for this reason the column is "n.a." (not applicable)
(2) The Law No.165/2005 on Banking, financial and insurance service (LISF) entered into force on 2006. Before the adoption of CBSM Regulation no.2008/01 (entered into force May, 5 2008) entities were not authorised to execute "insurance activities". Nowadays, there are not insurance companies in San Marino.
(3) According to the San Marino legal system, lawyers are also notaries.
(4) The Law No.165/2005 on Banking, financial and insurance service (LISF) entered into force on 2006. Before the adoption of CBSM Regulation no.2006/03 (entered into force November, 15 2006) entities were not authorised to execute "collective investment services". Nowadays, there are 2 collective investment services companies in San Marino which started their activity in September 26, 2007 and in December 30, 2008.
(5) Securities' registrars do not exist in San Marino
(6) The Trust activities is regulated by Law No.37/2005. By Law, the trustee can only be banks and financial and fiduciary companies, whose data on STRs are incorporated in the respective ranks. For this reason this line is "n.a."
(7) "Total" indicates the sum of suspicious transactions reports (STRs) and "unusual transactions" (the notion of unusual transaction is prescribed in the Circular that is "*not executed transactions because they represent a fraud attempt"*
(8) "Cases opened by FIU" indicates the STR received by the FIU as of the end of the year.

2006															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold (1)**	**reports about suspicious transactions**		**cases opened by FIU (8)**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions(9)**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks	n.a.	16	0	9	0	1	0	1	1	0	0	0	0	0	0
insurance companies (2)	n.a.	n.a.	n.a.												
notaries and lawyers (3)	n.a.	0	0												
currency exchange	n.a.	n.a.	n.a.												
broker companies (4)	n.a.	n.a.	n.a.												
securities' registrars (5)	n.a.	n.a.	n.a.												
financial and fiduciary companies	n.a.	1	0												
accountants/auditors	n.a.	0	0												
company service providers (6)	n.a.	n.a.	n.a.												
others (please specify and if necessary add further rows)	n.a.	0	0												
Total (7)	n.a.	**17**	**0**												

(1) The reporting system on transactions above threshold (CTRs) is not in place in San Marino, for this reason the column is "n.a." (not applicable)
(2) The Law No.165/2005 on Banking, financial and insurance service (LISF) entered into force on 2006. Before the adoption of CBSM Regulation no.2008/01 (entered into force May, 5 2008) entities

were not authorised to execute "insurance activities". Nowadays, there are no insurance companies in San Marino.
(3) According to the San Marino legal system, lawyers are also notaries.
(4) The Law No.165/2005 on Banking, financial and insurance service (LISF) entered into force on 2006. Before the adoption of CBSM Regulation no.2006/03 (entered into force November, 15 2006) entities were not authorised to execute "collective investment services". Nowadays, there are 2 collective investment services companies in San Marino which started their activity in September 26, 2007 and in December 30, 2008.
(5) Securities' registrars do not exist in San Marino
(6) The Trust activities is regulated by Law No.37/2005. By Law, the trustee can only be banks and financial and fiduciary companies, whose data on STRs are incorporated in the respective ranks. For this reason this line is "n.a."
(7) "Total" indicates the sum of suspicious transactions reports (STRs) and "unusual transactions" (the notion of unusual transaction is prescribed in the Circular that is "*not executed transactions because they represent a fraud attempt"*
(8) "Cases opened by FIU" indicates the STR received by the FIU as of the end of the year.
(9) Lawsuits are pending as of January, 31 2009.

2007															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold (1)**	**reports about suspicious transactions**		**cases opened by FIU (8)**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions(9)**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks	n.a.	39	0												
insurance companies (2)	n.a.	n.a.	n.a.												
notaries and lawyers (3)	n.a.	0	0												
currency exchange	n.a.	n.a.	n.a.												
broker companies (4)	n.a.	0	0												
securities' registrars (5)	n.a.	n.a.	n.a.												
financial and fiduciary companies	n.a.	5	0	21	0	3	0	2	7	0	0	0	0	0	0
accountants/auditors	n.a.	0	0												
company service providers (6)	n.a.	0	0												
others (please specify and if necessary add further rows)	n.a.	0	0												
Total (7)	n.a.	**44**	**0**												

((1) The reporting system on transactions above threshold (CTRs) is not in place in San Marino, for this reason the column is "n.a." (not applicable)
(2) The Law No.165/2005 on Banking, financial and insurance service (LISF) entered into force on 2006. Before the adoption of CBSM Regulation no.2008/01 (entered into force May, 5 2008) entities were not authorised to execute "insurance activities". Nowadays, there are no insurance companies in San Marino.
(3) According to the San Marino legal system, lawyers are also notaries.
(4) The Law No.165/2005 on Banking, financial and insurance service (LISF) entered into force on 2006. Before the adoption of CBSM Regulation no.2006/03 (entered into force November, 15 2006)

entities were not authorised to execute "collective investment services". Nowadays, there are 2 collective investment services companies in San Marino which started their activity in September 26, 2007 and in December 30, 2008.
(5) Securities' registrars do not exist in San Marino
(6) The Trust activities is regulated by Law No.37/2005. By Law, the trustee can only be banks and financial and fiduciary companies, whose data on STRs are incorporated in the respective ranks. For this reason this line is "n.a."
(7) "Total" indicates the sum of suspicious transactions reports (STRs) and "unusual transactions" (the notion of unusual transaction is prescribed in the Circular that is "*not executed transactions because they represent a fraud attempt"*
(8) "Cases opened by FIU" indicates the STR received by the FIU as of the end of the year.
(9) Lawsuits are pending as of January, 31 2009.

2008															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold (1)**	**reports about suspicious transactions**		**cases opened by FIU (8)**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions(9)**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks	n.a.	79	0	70	0	5	0	6	14	0	0	0	0	0	0
insurance companies (2)	n.a.	n.a.	n.a.												
notaries and lawyers (3)	n.a.	1	0												
currency exchange	n.a.	n.a.	n.a.												
broker companies (4)	n.a.	0	0												
securities' registrars (5)	n.a.	n.a.	n.a.												
financial and fiduciary companies	n.a.	9	0												
accountants/auditors	n.a.	2	0												
company service providers (6)	n.a.	0	0												
others (Post Office)	n.a.	1	0												
others (CBSM Inspection Supervision Service)	n.a.	8	0												
Total (7)	**n.a.**	**110**	**0**												

(1) The reporting system on transactions above threshold (CTRs) is not in place in San Marino, for this reason the column is "n.a." (not applicable)
(2) The Law No.165/2005 on Banking, financial and insurance service (LISF) entered into force on 2006. Before the adoption of CBSM Regulation no.2008/01 (entered into force May, 5 2008) entities were not authorised to execute "insurance activities". Nowadays, there are no insurance companies in San Marino.
(3) According to the San Marino legal system, lawyers are also notaries.
(4) The Law No.165/2005 on Banking, financial and insurance service (LISF) entered into force on 2006. Before the adoption of CBSM Regulation no.2006/03 (entered into force November, 15 2006) entities were not authorised to execute "collective investment services". Nowadays, there are 2 collective investment services companies in San Marino which started their activity in September 26, 2007 and in December 30, 2008.
(5) Securities' registrars do not exist in San Marino

(6) The Trust activities is regulated by Law No.37/2005. By Law, the trustee can only be banks and financial and fiduciary companies, whose data on STRs are incorporated in the respective ranks. For this reason this line is "n.a."
(7) "Total" indicates the sum of suspicious transactions reports (STRs) and "unusual transactions" (the notion of unusual transaction is prescribed in the Circular that is "*not executed transactions because they represent a fraud attempt"*
(8) "Cases opened by FIU" indicates the STR received by the FIU as of the end of the year.
(9) Lawsuits are pending as of January, 31 2009.

January, 31 2009															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold (1)**	**reports about suspicious transactions**		**cases opened by FIU (8)**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions(9)**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks	n.a.	13	0	13	0	2	0	0	0	0	0	0	0	0	0
insurance companies (2)	n.a.	0	0												
notaries and lawyers (3)	n.a.	0	0												
currency exchange	n.a.	n.a.	n.a.												
broker companies (4)	n.a.	0	0												
securities' registrars (5)	n.a.	n.a.	n.a.												
financial and fiduciary companies	n.a.	1	0												
accountants/auditors	n.a.	0	0												
company service providers (6)	n.a.	0	0												
others (please specify and if necessary add further rows)	n.a.	0	0												
Total (7)	**n.a.**	**14**	**0**												

(1) The reporting system on transactions above threshold (CTRs) is not in place in San Marino, for this reason the column is "n.a." (not applicable)
(2) The Law No.165/2005 on Banking, financial and insurance service (LISF) entered into force on 2006. Before the adoption of CBSM Regulation no.2008/01 (entered into force May, 5 2008) entities were not authorised to execute "insurance activities". Nowadays, there are no insurance companies in San Marino.
(3) According to the San Marino legal system, lawyers are also notaries.
(4) The Law No.165/2005 on Banking, financial and insurance service (LISF) entered into force on 2006. Before the adoption of CBSM Regulation no.2006/03 (entered into force November, 15 2006) entities were not authorised to execute "collective investment services". Nowadays, there are 2 collective investment services companies in San Marino which started their activity in September 26, 2007 and in December 30, 2008.
(5) Securities' registrars do not exist in San Marino
(6) The Trust activities is regulated by Law No.37/2005. By Law, the trustee can only be banks and financial and fiduciary companies, whose data on STRs are incorporated in the respective ranks. For this reason this line is "n.a."

(7) “Total” indicates the sum of suspicious transactions reports (STRs) and “unusual transactions” (the notion of unusual transaction is prescribed in the Circular that is “*not executed transactions because they represent a fraud attempt”*
(8) “Cases opened by FIU” indicates the STR received by the FIU as of the end of the year.
(9) Lawsuits are pending as of January, 31 2009.

II. APPENDICES

1. *APPENDIX I - Recommended action plan to improve the AML / CFT system*

AML/CFT System	Recommended Action (listed in order of priority)
1. General	**No text required**
2. Legal System and Related Institutional Measures	
2.1 Criminalisation of Money Laundering (R.1 & 2)	• It would be helpful to cover explicitly in legislation the acquisition and possession of property known to be proceeds, as envisaged in article 6.1.c of the Strasbourg Convention and in article 3.1.c of the Vienna Convention. • According to article 199 bis, the material conduct is done with the purpose of concealing the true origin of money. The evaluators recommend widening this aspect, to cover also the concealment of the true location and disposition, as provided for by the Vienna and the Palermo Conventions. • The authorities should clarify in the legislation that the offence of ML extends to any type of property that directly or indirectly represents the proceeds of crime, in particular "money" indirectly obtained. Thus the language of the offence should be reviewed in order to explicitly provide for a definition of assets ("property") which includes indirect proceeds of crime. • Legislative amendments are also required to ensure, that all designated categories of offences indicated in the Glossary to the FATF Recommendations are covered by San Marino Criminal Code. • The authorities of San Marino are invited to revisit the definition of the laundering offence in order to extend it to the laundering of proceeds from one's own criminal activity. • The evaluators recommend that consideration be given to criminally punishing the conduct laid down in article 199bis when committed negligently. In some jurisdictions a clearer subjective mental element of suspicion that property is proceeds (with appropriately lesser sentences than for an offence based on direct intention) has been useful and, if this would not be contrary to any fundamental legal principles in San Marino, it could be considered.

	• Criminal liability of legal persons should be clearly provided by law as there is no fundamental principle of law prohibiting it. • Given that the implementation aspect appears to be quite unsatisfactory, this issue should be addressed by the San Marino authorities through a firm prosecution policy and that a review of the effectiveness of the current legislation be carried out. In particular, the authorities should review their legislation to ensure that natural and legal persons should be subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions for ML and consider increasing the level of sanctions. • More comprehensive statistics in relation to money laundering cases should be kept, which include for instance information on whether confiscation was ordered, information on the underlying predicate offences and information as to whether the ML offence was prosecuted autonomously or together with the predicate offence, so as to assist future analysis of the effectiveness of the money laundering criminalisation.
2.2 Criminalisation of Terrorist Financing (SR.II)	• The evaluators recommend that terrorist financing should be criminalised as an autonomous offence in the Criminal Code. • The authorities should ensure that this offence is reconciled with all the aspects of the United Nations International Convention for the Suppression of the Financing of Terrorism and explicitly covers all the essential criteria in SR. II and the requirements of the Interpretative Note. In particular: - the definition should expressly include the financing of individual terrorists and all offences defined as terrorist offences in the Annex to the TF convention and not be limited to the financing of terrorist associations; - it is recommended to define the terms "terrorism", "terrorist act", "terrorist", in the legislation of San Marino; - there should also be a definition of the concept of financing, including with regard to the type of funds and assets which can serve the purpose of financing terrorism; - criminal liability for FT should extend to legal persons and such persons should be subject to effective, proportionate and dissuasive criminal sanctions for FT.
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	The evaluators recommend the San Marino authorities to address the following shortcomings: • Equivalent value confiscation should be considered also for offences other than ML or FT; • The legal powers of competent authorities to identify and trace proceeds should be reviewed, in particular those of the FIU so as to enable it to block or freeze assets other than those held or maintained within banks or financial

	intermediaries; also the FIU should have direct access to public available information held within public administrations. • There should be legal provisions to void actions, both contractual and non-contractual, whose effects consist in prejudice to the possibility to confiscate property or assets.
2.4 Freezing of funds used for terrorist financing (SR.III)	• The authorities should clarify the framework for the conversion into San Marino law of designations under UNSCR 1267 and in the context of UNSCR 1377 and designate a national authority to consider requests for designations under UNSCR 1373. • It should also be clarified that once the Supervision Department has communicated designations, immediate checks should be performed. • The authorities should also ensure that the mechanism applies to all targeted funds or other assets as described in the UN resolutions of individuals, groups and legal entities. Given the gaps in the incrimination of the offence of financing of terrorism, the court based system for freezing appears to be of limited assistance for the effectiveness of the system. • The authorities should establish a clear and publicly known procedure for de-listing and unfreezing requests; and appropriate procedures authorizing access to frozen funds for necessary basic expenses, payment of certain fees, service charges or extraordinary expenses. • The supervisory authority should be actively checking compliance with SR III and the legal framework for imposing administrative sanctions should be reviewed to adequately enable it to sanction failure to comply with the obligations.
2.5 The Financial Intelligence Unit and its functions (R.26)	• The current institutional set up of the FIU should be revisited and specific legislation be adopted which clearly states and defines the functions, responsibilities, powers of the FIU, irrespective of whether it is established as an independent governmental agency or within another entity. There must be transparent legislation that denotes the independence of the FIU. • The evaluators recommend that the identity and independence of the FIU be established clearly in the legislation, in particular in the AML law (which refers only to the former Supervision Division) to bring it into convergence with the criteria for and characteristics of FIUs generally. • Also, the authorities could give consideration as to whether an additional committee is necessary to be maintained at a higher level with an oversight/ policy role and if so, it is recommended that they review carefully both its composition and functions. In particular the authorities should ensure that its composition is balanced and

	transparent, and that it does not call into question the ability of the FIU to exercise full operational independence. • There is no mandatory reporting obligation of suspicious transactions related to FT (with the exception of lists of designated or suspected terrorists) and this should be urgently established. • The Central Bank should ensure that all financial institutions and other reporting entities are provided with comprehensive and up to date guidance regarding the manner of reporting and the procedures. A standardised STR reporting format should also be developed for all reporting entities. • The legal framework and basis should be reviewed to provide the FIU access in a timely manner, be it directly or indirectly, to the relevant financial, administrative and law enforcement information which it needs to properly undertake its functions. Also, the authorities should take the necessary implementing measures to ensure that the access to information held by all reporting entities can be obtained by the FIU. • The San Marino authorities should take all necessary measures to ensure that the FIU information held is securely protected and to address the concerns expressed in relation to access to such information by other Central Bank personnel other than the staff of the AML Service and the members of the Supervision Committee. In particular, the evaluators believe that the current procedures for handling the correspondence of the AML Service should be reviewed to ensure that information received and communicated to the FIU is securely protected and disseminated. • The evaluators recommend the FIU to publish periodic reports containing information regarding its activities, information on typologies and trends in ML and FT. In the context of San Marino and the staff shortage, the evaluators recommend either that the FIU issues its own report or otherwise includes it in a specific section of the annual Central Bank report.
2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)	• It is strongly advised that the San Marino law enforcement authorities start playing a more active role in AML/CFT efforts. Indeed a more pro-active approach should be adopted in investigating and prosecuting money laundering, putting focus more on the financial aspects of major proceeds generating crimes as a routine part of the investigation. • The law enforcement and judicial authorities' competencies in AML/CFT should definitely be

	strengthened, in particular through training developed and/or continued, placing an emphasis on the systematic recourse to financial investigations, the use of existing tools and investigative techniques, analysis and use of computer techniques. • The evaluators also believe that there needs to be a more in-depth analysis of the phenomenon of and trends in money laundering and terrorism financing. • Even though it appears that there is a good degree of operational co-operation between the law enforcement units and the FIU concerning individual cases, there is no established regular co-operation between the parties concerned (the investigation judge, the law enforcement units, the FIU and the Central Bank and other competent authorities) with a view to analysing methods, techniques, and typologies of AML/CFT and sharing the results of such analyses amongst themselves. Such joint exercise should be conducted regularly among the relevant authorities and the resulting information should be disseminated to law enforcement and FIU staff. • The authorities could consider establishing a joint committee comprising all those concerned in AML/CFT matters together with certain policy makers (this joint committee should be one apart from what the one referred to under section 2.5.2, this should be an inner committee where besides the usual topics, sensitive issues are also discussed) be set up to discuss and evaluate AML/CFT effectiveness and reviewing the system to detect and eliminate shortcomings, develop and implement policies and legislation thus improving results.
2.7 Cross Border Declaration & Disclosure	• It is strongly recommended that the San Marino authorities review the implementation of Special Recommendation IX as a whole and take the necessary steps as soon as possible to ensure that all criteria are adequately satisfied.
3. Preventive Measures – Financial Institutions	
3.1 Risk of money laundering or terrorist financing	
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	***Recommendation 5*** • The evaluators advise that obligations in the AML/CFT Methodology marked with an asterisk are put into the AML Law. • At the time of the evaluation visit, the provisions on customer identification, record maintenance and reporting requirements for post offices, credit recovery on behalf of third parties, financial promoters and insurance promoters and agencies of Italian insurance companies and insurance brokers had not been implemented, as no provisions were issued by the CBSM as required in the law. The authorities should ensure that these provisions are implemented, by issuing the relevant provisions required by law and by

	taking any additional necessary measures to facilitate the implementation process. • The evaluators recommend that the authorities should take steps to terminate the issue of bearer passbooks. As regards existing bearer passbooks, the evaluators recommend that at a minimum clear requirements be introduced in law to ensure that full identification and recording of persons to whom a bearer passbook is transferred is carried out. • The authorities should introduce a risk-based approach, performing enhanced and simplified CDD measures for different categories of customers, business relationships, transactions and products. They should consider undertaking a risk assessment of the financial sector to determine those areas where there may be particular AML/CFT risks, to assist the financial sector in ensuring that enhanced measures are taken in those situations where there is a greater risk of AML/CFT. • They should require in legislation financial institutions to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction. • A comprehensive definition of beneficial owner, as provided for in the Glossary to the FATF Recommendations, incorporating the concept of identifying the natural persons who ultimately own or control the customer should be included in relevant legislation. • The following requirements to verify customers' identity are not in the current legislation and should be provided for: - use reliable, independent source documents, data or information; - verify that any person purporting to act on behalf of the customer (for customers that are legal persons or legal arrangements) is so authorised, and identify and verify the identity of that person; - identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is; - determine whether the customer is acting on behalf of another person, and then take reasonable steps to obtain sufficient identification data to verify the identity of that other person; - conduct ongoing due diligence on the business relationship, which includes scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, and where necessary, the source

	of funds. • Provisions should be adopted which address circumstances where there is a failure to satisfactorily complete CDD. ***Recommendation 6*** • There are no specific requirements in San Marino AML laws or regulations with regard to PEPs. The San Marino authorities should put in place measures that require financial institutions to: - determine if the client or the potential client is a PEP as defined in the FATF Recommendations; - obtain senior management approval for establishing a business relationship with a PEP; - take reasonable measures to establish the wealth and on the source of the funds of customers identified as PEPs; - conduct enhanced monitoring on PEP business relationships. ***Recommendation 7*** • In relation to cross-border correspondent banking and services, financial institutions should not only be required to perform normal due diligence measures but should also be required to obtain information on: • the reputation of the respondent counterparts and the quality of supervision from publicly available information; • assess their AML/CFT controls and ascertain their adequacy; • obtain approval from senior management before establishing new correspondent relationships; • document the respective AML/CFT responsibilities of each institution; • where 'payable through accounts' are involved obtain guarantees that counterpart organisations apply the normal CDD measures to all customers that have client access to the accounts of the correspondent institutions and that it is able to provide relevant customer identification data on request ***Recommendation 8*** • San Marino AML legislation and regulations should include enforceable requirements on non-face to face business relationships or transactions. Financial institutions need to be made aware of the possible misuse of new technologies for ML/FT purposes but also be required to have policies in place to prevent the misuse of technological developments for ML/FT purposes, and to have policies and procedures in place to address specific risks associated with non face to face relationships and transactions.
3.3 Third parties and introduced business (R.9)	• If financial institutions were in future to consider relying on intermediaries or other third parties to perform some of the elements of the CDD process or to introduce business, the San Marino authorities would need to take account of all the essential criteria under Recommendation 9 and

	ensure that they were covered by enforceable means that would contain specific provisions allowing financial institutions to rely on the CDD conducted by intermediaries or other third parties.
3.4 Financial institution secrecy or confidentiality (R.4)	• San Marino authorities should review their legal provisions on banking and official secrecy to ensure that they do not inhibit implementation of FATF Recommendations. The AML Law should clearly lift bank secrecy, not only for STRs in respect of money laundering, but also in particular in the context of the ability of competent authorities to access information required in the performance of their AML/CFT functions and of the sharing of information between competent authorities, either domestically or internationally. • Following the introduction of the obligation to report suspicious transactions on FT, it should be clearly provided in legislation that banking secrecy does not apply with regard to STRs on FT. As a consequence, STRs relating to FT sent to the FIU should not constitute a violation of secrecy obligation or imply liability of any kind. • The current framework should be reviewed to ensure that banking and official secrecy should not prevent the sharing of relevant information, either domestically or internationally among AML/CFT competent authorities, nor impose too strict conditions for exchanges which inhibit such cooperation.
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	***Recommendation 10*** • The obligation that records of the identification data, account files and business correspondence should be kept for at least five years after the closure of the account or termination of the business relationship (or longer if requested by a competent authority in specific cases and upon proper authority) should be included in law or regulation. • Also, financial institutions should be required in law or regulation to ensure that all customer and transactions records and information are available on a timely basis to the competent authorities. ***Special Recommendation VII*** • The provisions of SR VII on wire-transfers are not directly addressed in law or regulation. While in practice some measures are taken that cover certain limited elements of SR.VII, the San Marino authorities should introduce requirements to ensure that complete originator information is included in outgoing wire transfers and that beneficiary financial institutions adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by account number and address information. • The CBSM should introduce measures to effectively monitor compliance with any requirements introduced in

	relation to wire transfers. There should be specific sanctions in relation to obligations under SR.VII.
3.6 Monitoring of transactions and relationships (R.11 & 21)	***Recommendation 11*** • More explicit and comprehensive provisions should be introduced with regard to unusual transaction monitoring that should be adopted by financial institutions. • Financial institutions should be required that the background and purpose of such transactions be adequately examined and documented and that their findings in this respect should be set forth in writing and retained for a period of five years. ***Recommendation 21*** • The San Marino authorities should introduce mechanisms which would facilitate financial institutions being made aware of the different degree of compliance by other jurisdictions with respect to the FATF standards. • It is recommended that the San Marino Central Bank or any other authority, besides those guidelines already in use, augment these with a system or systems that could render better assistance and guidance to credit and financial institutions in vigilance concerning risk countries.
3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	***Recommendation 13 & Special Recommendation IV*** • The evaluators consider that the system put in place for the reporting of suspicious transactions should be reviewed to ensure that it meets all the requirements set out in Recommendation 13. The AML law should require financial institutions to report *promptly* to the FIU. The reporting requirement which should be in law or regulation should clearly cover all predicate offences and all aspects of FT. • San Marino authorities are urged to set out in law or regulation a direct mandatory obligation for financial institutions to report to the FIU when it suspects or has reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. • Furthermore, San Marino should ensure that there is a requirement in law or regulation that all suspicious transactions, including attempted transactions, are reported regardless of the amount of the transaction. Also, such a reporting requirement should apply regardless of whether they are thought, among other things, to involve tax matters. • The authorities should also take steps to address the concerns related to the effectiveness as a whole of the reporting system. The FIU should pursue outreach to those financial institutions which are either nor reporting or underreporting suspicious transactions, and possibly issue

	further guidance and recommendations on how to determine whether a transaction is suspicious. ***Recommendation 14*** • Legal protection of reporting entities for disclosures in good faith should be extended to cover reporting of suspicions of financing of terrorism. There should be a clear legal provision excluding any kind of liability for breach of any restriction on disclosure of information imposed by contractual, legislative, regulatory or administrative provisions for persons reporting suspicions of financing of terrorism. • The San Marino authorities should ensure that legislation provides for an explicit legal prohibition of tipping-off. Such provision should cover financial institutions and their directors, officers and employees (permanent and temporary) and should prohibit from disclosing the fact that a STR is being reported or provided to the FIU. ***Recommendation 19*** • San Marino should consider the feasibility and utility of implementing a currency reporting system across all regulated sectors. ***Recommendation 25*** • The competent authorities should establish feedback mechanisms to provide adequate and appropriate feedback to reporting entities. They should update and complete as necessary existing guidance so as to improve the effectiveness of suspicious transaction reporting, in particular in relation to types of suspicious activities, use of standard forms, procedures and time for submission of an STR, and consider developing targeted guidance as appropriate.
3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)	***Recommendation 15*** • The San Marino authorities should ensure that detailed requirements for financial institutions to establish internal procedures to prevent AML/CFT are contained in a law, regulation or other enforceable obligation. • In particular there should be requirements to ensure that compliance officers and other appropriate staff have timely access to customer identification data and other CDD information, that financial institutions maintain an adequately resourced and independent audit function to test compliance and that there are screening procedures to ensure high standards when hiring employees. ***Recommendation 22*** • While there are currently no financial institutions that have established operations abroad, provisions on AML/CFT requirements in respect of subsidiaries, branches or representative offices abroad should be included in future legislation or other enforceable means.

	• These provisions should include the need to ensure that foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and FATF Recommendations, the need to pay particular attention that this principle is observed with respect to their branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations, provisions that where minimum AML/CFT requirements of the home and host countries differ branches and subsidiaries in host countries should be required to apply the higher standard and the need to inform the home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures.
3.9 Shell banks (R.18)	• The prohibition of establishment or operation of shell banks and the issue of correspondent banking relationships with shell banks should be referred to explicitly in future law, regulation or other enforceable means. • San Marino should require financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.
3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)	***Recommendation 17*** • San Marino should ensure that there are effective, proportionate and dissuasive criminal, civil or administrative sanctions to deal with legal persons that fail to comply with the AML/CFt requirements. • The effectiveness of the sanctions in place has not been fully tested in practice and should be enhanced. ***Recommendation 23*** • As noted above, the level of on-site inspections is considered low. The authorities are urged to remedy this situation in order to ensure effective supervision of financial institutions. • A detailed plan should be put in place to carry out regular inspections of banks and financial institutions which inspections should include the assessment of AML/CFT procedures. • More formalised training procedures should be put in place for supervision staff, in particular for those staff involved in on- and off site inspections. ***Recommendation 25*** • The competent authority should issue comprehensive and updated guidance to assist financial institutions to implement and comply with AML/CFT requirements. ***Recommendation 29*** • While the Central Bank has the adequate powers to monitor and inspect financial institutions, the effectiveness

	of these powers has not been fully tested to date due to the low level of inspections and should be enhanced.
3.11 Money value transfer services (SR.VI)	• Although San Marino authorities pointed out that in respect of AML requirements connected to the provision of MVT services, San Marino post offices comply with the rules applicable to the Italian postal service, domestic AML/CFT implementing provisions legislation should be adopted as soon as possible in order to meet the requirements of Special Recommendation VI, criteria 1 to 6.
4. Preventive Measures – Non-Financial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	• The San Marino authorities are urged to issue relevant implementing regulations as soon as possible and introduce the obligations required under Recommendation 12 to DNFBPs. The recommendations made above for CDD requirements for financial institutions should be applied also to DNFBP. • It should be considered if the explicit inclusion of Internet casinos and trust and company service providers in the list of entities that have to be monitored for AML/CFT purposes is needed.
4.2 Suspicious transaction reporting (R.16)	• San Marino should take immediate steps to fully implement the provisions of the AML law in respect of DNFBPs and address the deficiencies which have been identified in the analysis of compliance with recommendations 13-15. Outreach and guidance should be developed for all DNFPB to explain the reporting obligations. • The San Marino authorities should put in place requirements for all categories of DNFBPs to establish internal procedures, policies and controls to prevent money laundering and financing of terrorism. • DNFBPs should be required to give special attention to business relations and transactions with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF recommendations.
4.3 Regulation, supervision and monitoring (R.24-25)	• The authorities are therefore urged to issue relevant implement regulations and designate AML/CFT supervisors for all DNFBPs and ensure that these supervisors have adequate powers to inspect for compliance with AML/CFT requirements, including internal procedures. • San Marino should be aware of issues relating to the illicit operation of internet casinos in San Marino, and should be prepared to address these problems. • Sector specific guidance on suspicious transaction reporting needs to be developed and provided to DNFBP required to make suspicious transaction reports in line with

	the FATF Best Practice Guideline on Providing Feedback to Reporting Financial Institutions and other Persons.
4.4 Other non-financial businesses and professions (R.20)	• Regardless of the restrictions on the use of cash in amounts over € 15 500 it is recommended that the San Marino authorities extend the AML/CFT framework in accordance to Article 2a(6) of the second EU Directive to all dealers in high value goods not only to antiques shops, dealers in precious metals and precious stones.
5. Legal Persons and Arrangements & Non-Profit Organisations	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	• It is recommended that San Marino reviews its legislation with a view to taking measures to ensure wider transparency as to legal persons. In particular: - San Marino should consider abolishing anonymous companies. - The Register of Companies should include identification data of natural persons being shareholders of a company or owning/controlling the legal person-shareholder of the company. - The requirement to identify shareholders when establishing a company should refer also to beneficial owners (natural persons owning or controlling the legal person buying shares in a company). - San Marino should consider introducing a clear procedure to access the information kept in the Register of Companies, notably as to time limits set to be granted access to the relevant documents.
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	• San Marino authorities should take additional steps to ensure that legislation on trusts require additional information on the beneficial ownership and control of trusts and other legal arrangements. More specifically: - A clear definition of beneficial ownership should be provided in the legislation, notably as to trusts' beneficiaries. - It should be clearly stated in the legislation that information accessible in the Trust Register should include details on settlors, administrators, and trustee; this information should include details also on individuals owning or controlling legal persons acting as beneficiaries, settlors or trustees. - The relation between the public nature of the Trust Register, accessible to anybody (under article 9.3 of the Trust law and article 4 of Decree No. 86/2005) and the confidentiality of registered information (article 3 of Decree No. 86/2005) should be clarified. - The reference to reasons to request access to the Register made by article 4.3 of Decree No. 86/2005 should also be clarified.
5.3 Non-profit organisations (SR.VIII)	• The San Marino authorities should review the adequacy of laws and regulations related to NPOs as well as the sector's potential vulnerabilities to abuses for the financing of terrorism and make any necessarychanges to the laws

	and regulations. • The authorities should also develop an effective outreach program with the NPO sector. • A number of measures have been taken, as a matter of practice and by analogy to the existing requirements for companies, which led to the collection of certain information on registered entities, though there is no legal requirement in legislation for this purpose. The authorities should promote effective supervision and monitoring and ensure that there is a clear legal basis which enables them to require NPOs to maintain information on the purpose and objectives of their activities, on the identity of persons who own, control or direct their activities (including senior officers, board members and trustees). Appropriate measures should also be in place to sanction violations of oversight measures. • The evaluators were not made aware of any legal requirement for NPOs to maintain for a period of at least 5 years records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objective of the organisation. Such a requirement should be introduced in law or regulation. • San Marino authorities should also raise awareness of the SR VIII among existing supervisory authorities engaged with the NPO sector and to define a clear and effective coordination mechanism between NPO supervisory authorities, law enforcement agencies, FIU/Central Bank. • Furthermore appropriate contacts points and procedures should be established to respond to international requests for information regarding particular NPOs that are suspected of FT or other forms of terrorist support.
6. National and International Co-operation	
6.1 National co-operation and coordination (R.31)	• Operational co-operation between the Judiciary and the AML Service should be further fostered. • It is recommended that the relevant authorities develop a mechanism at national level facilitating co-operation, co-ordination and consultation concerning the development and implementation of AML/CFT policies and legislation leading to a clear national strategy. • The authorities should also consider establishing mechanisms for consultation between competent authorities, the financial sector and other sectors, including DNFPB, that are subject to AML/CFT requirements. • San Marino should ensure that the competent authorities review the effectiveness of the AML/CFT system on a regular basis.

6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	• San Marino should take immediate steps to ratify and implement fully the Palermo Convention. • The evaluators' earlier recommendations apply equally to the effective implementation of the Vienna Convention and the Terrorist Financing Convention, in terms of incrimination of the ML and FT offences, criminal liability of legal persons, cooperation arrangements, special investigation methods, the detection of physical cross-border transport and to the implementation of the UN Security Council resolutions. • The evaluators also encourage the San Marino authorities to reconsider the reservations made to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.
6.3 Mutual Legal Assistance (R.36-38 & SR.V)	• Given the absence of clear and specific national provisions on mutual legal assistance which detail the process of receiving and executing MLA requests, the evaluators recommend that consideration is given to introducing such provisions in legislation. This would also have the advantage of clarifying the process for both domestic and foreign practitioners. • Also, it is recommended to clarify in legislation that there is no possibility to oppose secrecy or confidentiality rules to the competent authorities requesting any information in the context of foreign mutual legal assistance requests, with the exception of legal professional privilege or legal professional secrecy rules. • The authorities should also consider devising and applying mechanism for determining the best venue for prosecution of defendants in the interest of justice in cases that are subject to prosecution in more than one country. • They should ensure that confiscation of laundered property and proceeds should be also possible (not only instrumentalities) in the context of international cooperation. • Consideration should be given to an asset forfeiture fund and sharing of confiscated assets with other countries in joint enquiries. • As regards recommendation 37, the deficiencies identified in the ML and FT offence should be remedied to enable full compliance with the dual criminality ruled requests. San Marino officials may consider legislating to render mutual legal assistance in the absence of dual criminality, at least for less intrusive and non compulsory measures.
6.4 Extradition (R.39, 37 & SR.V)	• The application of dual criminality may create an obstacle to extradition in cases involving ML/FT activities that are not properly criminalised in San Marino. The authorities should review the current legislation to ensure that there

	are no legal impediments to render assistance where the conduct underlying the offence is criminalised. The evaluators reiterate in this context their previous recommendations related to the review of the criminalisation of ML and FT. • As regards extradition, it is recommended that: - San Marino ratifies the European Convention on Extradition as soon as possible; - Extradition proceedings may incur in undue delays since requests are first tackled at a political level. This will cause delays. It is suggested that a body or authority, not solely at political level, deals with such requests. It is suggested that this body could be composed of elements coming from the Judiciary and Ministry of Justice. - Clear and detailed procedures on procedural and evidentiary aspects are established. - studies be undertaken to establish whether: □ it is feasible to establish an office or central authority that deals solely with extradition and mutual legal assistance; □ simplified procedures of extradition should be in place to allow direct permission of extradition requests between appropriate ministries; □ it is appropriate to allow extraditions solely on the strength of a warrant of arrest or judgement; □ simplified procedure for extradition for consenting persons who waived formal extradition proceedings be allowed; • The authorities should ensure that the current framework enables to extradite individuals charged with the financing of terrorism, terrorist acts or terrorist organisations.
6.5 Other Forms of Co-operation (R.40 & SR.V)	• The evaluators recommend that the authorities review the AML/CFT legislation in order to eliminate any uncertainties related to the scope of co-operation of the FIU with foreign counterparts. They recall in this context the comments made regarding the necessity to establish the identity of the FIU in legislation and as part of the reinforcement of its organisational autonomy within the Central Bank, they recommend that specific provisions be adopted which detail the capacities of the FIU in this context in accordance with recommendation 40. • San Marino authorities should consider to adopt relevant provisions regarding disclosing of professional secrecy also for other entities (e.g. DNFBPs).
7. Other Issues	
7.1 Resources and statistics (R. 30 & 32)	*R. 30* *In the context of the FIU* • The evaluators recommend that the authorities should conduct an assessment of the staff needs of the FIU, separately from those of the Central Bank, and that they take the necessary measures to ensure that the FIU is given sufficient staff to fulfil its tasks at the desired level.

	• Furthermore, the practice of using Central Bank personnel to undertake FIU duties should be abandoned. *In the context of law enforcement* • Law enforcement officials should be provided with adequate and relevant AML/CFT training in order to enhance their skills regarding ML and FT issues; *Supervisory authorities* • To ensure effectiveness of the new supervisory framework, and in particular compliance with the AML/CFT international standards, the level of available resources should be reviewed in order to ensure that adequate resources are assigned to facilitate the carrying out of sufficiently detailed onsite and offsite supervision *R. 32 - Statistics on matters relevant to the effectiveness and efficiency of systems for combating ML and FT* • A more comprehensive system of statistics eliminating the shortcomings indicated in the report should be organised. This would also assist in determining trends and effectiveness. • Statistics on STRs and other disclosures concerning physical cross-border transportation or currency of bearer negotiable instruments should be kept. • Annual comprehensive statistics should be kept in relation to ML cases • Statistics should be maintained on the number of cases, amounts and property frozen, seized, confiscated related to ML, FT, criminal proceeds or underlying predicate offences *In the context of MLA* • Comprehensive statistics should be kept on an annual basis (outgoing and incoming MLA requests); statistics concerning mutual legal assistance should include also information about the predicate offence(s) and the average time of response *In the context of extradition* • Comprehensive statistics should be kept related to incoming and outgoing requests for ML, the predicate offences and FT, including the nature of the request, whether it was granted or refused and the time required to respond. *In the context of other forms of co-operation* • The FIU should keep detailed statistical data showing in particular their response times and whether the requests were fulfilled in whole or in part or were incapable of being fulfilled. It is also advised that statistical information is kept in relation to the numbers and types of spontaneous disclosures made by the FIU. • Statistics on international police co-operation and on formal requests for assistance made or received by

	supervisors relating to or including AML/CFT including whether it was granted or refused.
7.2 Other relevant AML/CFT measures or issues	-
7.3 General framework – structural issues	-

2. *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.

3. APPENDIX III – Legislation and other relevant documents annexed to the report

LIST OF ANNEXES:

Annex	Document
01	Law 17 June 2008 No.92 (Law No.92/2008)
02	Congress of State Decision 26 January 2009 No.9 (Equivalent Countries)
03	Congress of State Decision 2 February 2009 No.55 (Companies Shareholders)
04	Congress of State Decision 16 February 2009 No.34 (Associations and Foundations)
04 *bis*	Congress of State Decision 16 February 2009 No.35 (Wire-tapping)
04 *ter*	Congress of State Decision 16 February 2009 No.36 (Rogatory Letters)
04 *quater*	Letter of the Department of Justice
05	Delegate Decree 28 November 2008 No.146 (Delegated Decree No.146/2008)
06	FIA Instructions 29 January 2009 No.2009-01 (Instructions No.2009-01)
07	FIA Instructions 6 February 2009 No.2009-02 (Instructions No.2009-02)
08	CBSM Recommendation 30 January 2009 No.2009-01(Recommendation 2009-01)
09	FIA Letter prot. n. 09/0258 (information regarding articles No.27 and 45 Law No.92/08)
10	Order of the Judge of Supervision of Trust 10 February 2009
11	Order of the Judge of Supervision of Trust 18 February 2009
12	MOU (Addendum) between FIA and CBSM on the personnel
13	Data of Civil and Criminal Court about Associations and Foundations
14	Data of Court
15	Data of Police Forces
16	Letter of the Department of Finance
17	Letter of Department of Finance

Annex: no. 01

Law 17 June 2008 No.92 Provisions on preventing and combating money laundering and terrorist financing

Republic of San Marino

We, the Captains Regent
of the Most Serene Republic of San Marino

Having regard to article 4 of Constitutional Law n. 185/2005 and article 6 of Qualified Law n. 186/2005;
Promulgate and order the publication of this Law approved by the Great and General Council during its sitting of June 10, 2008.

LAW N° 92, June 17, 2008 Provisions on preventing and combating money laundering and terrorist financing

TITLE I

General provisions

Article 1 (Definitions and scope)

1. For the purposes of this Law, the following definitions apply:

a) "Agency": the Financial Intelligence Unit referred to in article 2;

b) "Public administrations": Secretaries of State, Departments, public institutions, state corporations, public administration offices;

c) "Central Bank": the Central Bank of the Republic of San Marino as defined in Law N° 96 of June 29, 2005 and subsequent amendments;

d) "shell bank": any entity that carries out activity equivalent to that defined in Annex 1 Law N° 165 of November 17, 2005 incorporated in a jurisdiction in which it has no physical presence and which is unaffiliated with a regulated financial group;

e) "assets" or "funds": any property, whether tangible or intangible, movable or immovable, including means of payment and credit, any document or instrument, including electronic or digital form, evidencing title to, or interest in such property; economic resources of any nature, tangible or intangible, movable or immovable assets, thus including all accessories, fixtures and returns that may be used to obtain funds, assets or services as well as any other utility specified in the technical Annex to this Law;

f) "client" or "customers": the natural person, legal person, or entity without legal personality with which the obliged parties, in the field of their activities, execute an occasional transaction or establish a business relationship, or the natural person, legal person, or entity without legal personality to which the obliged parties render a professional service, regardless whether or not payment is made;

g) "freezing of funds": the prohibition to move, transfer, modify, dispose, use or manage funds or economic resources, to have access to them in such a way as to modify the entity, amount, location, entitlement of rights, ownership, nature, destination or cause any other change that would permit the use of funds or economic resources, including, for mere illustration purposes, portfolio management, sales, leasing, renting or establishment of real rights of guarantee;

h) "anonymous accounts or accounts in fictitious names": the relationships for which the customer due diligence obligations, in order to guarantee that the financial entity knows the identity of the client in every phase of the relationship with the client itself, are not fulfilled;

i) "payable-through accounts": transnational bank accounts used directly by the customers to carry out transactions on their own behalf;

j) "terrorism purposes": the proposition to influence the institutions or intimidate the population or part of it, to destabilize or overthrow the political, constitutional, economic, or social institutions of

the Republic of San Marino, of a foreign State or of an International Organization, in contrast with the constitutional order, the rules of international law and the statutes of International Organizations;
k) "terrorist financing": except as provided in article 337 *ter* of the criminal code, any activity intended, by any means, to collect, provide, intermediate, deposit, keep or endow funds or economic resources, regardless of how they were obtained, destined to be used, in full or in part, in order to carry out or promote one or more offences for terrorist purposes, regardless of the actual use of the funds or economic resources to carry out said offences;
l) "instructions": the provisions enacted by the Financial Intelligence Agency in the exercising of its functions of prevention and combating money laundering and terrorist financing;
m) "occasional transaction": any transaction, professional service or action carried out for the customers, outside a business relationship, that involves the transfer or moving also by electronic means of cash or other means of payment;
n) "politically exposed person": natural persons, foreign citizens, who are or have been entrusted with important public functions abroad during the year preceding the establishment of the business relationship, transaction or professional service, their immediate family members or persons known to be close associates of such persons, as foreseen in the technical Annex to this Law;
o) "business relationship": any relationship or professional service between an obliged party, regardless of whether payment is required or not, which involves carrying out more than one transaction;
p) "terrorism" or "terrorist act": any conduct, contrary to the constitutional order, the rules of international law and statutes of International Organizations, aimed at seriously injuring people or things, so as to compel the institutions of the Republic of San Marino, of a foreign State or International Organization to carry out or refrain from carrying out any act, or to intimidate the population or part of it, or to destabilize or destroy the political, constitutional, economic or social institutions of the Republic of San Marino, of a foreign State or International Organization;
q) "terrorist":
(I) any individual perpetrating or attempting to perpetrate an act as defined under letter p) of this paragraph;
(II) any group set up in the form of an association as defined under article 337 *bis* of the criminal code;
(III) any entity acting on behalf of, or directed by, said individuals or groups that has been funded, even partly, with proceeds obtained from, or generated by, assets directly or indirectly held or controlled by said individuals or groups;
r) "beneficial owner":
(I) the natural person who ultimately owns or controls the customer, when the latter is a legal person or entity without a legal personality;
(II) the natural person on whose behalf the customer acts. In any case, the following are considered beneficial owners:
1) the natural person(s) that, directly or indirectly, owns more than 25% of the voting rights in a company or, at any rate, because of agreements or other reasons, is able to control voting rights equal to said percentage or has control over the management of the company, provided that it is not a company listed on a regulated market, and subject to disclosure requirements consistent with or equivalent to the European Union legislation;
2) the natural person(s) who is beneficiary of more than 25% of the property of a foundation, trust or other arrangements with or without legal personality that administers funds; whenever the beneficiaries have not been determined, the natural person(s) in whose principal interest the entity is established or acts;
3) the natural person(s) who is able to control more than 25% of the property of an entity with or without a legal personality **;**
s) "financial intelligence unit": the central national authority in charge of receiving, requesting, analysing and disseminating to the competent authorities all information relative to preventing and combating money laundering and terrorist financing.

2. With the sole object of the laws regarding preventing and combating money laundering, except as provided in articles 199 and 199 *bis* of the criminal code, the following conducts may constitute money laundering if committed intentionally:

a) converting or transferring assets knowing that such assets come directly or indirectly from criminal activity or from participation in said activity, with the aim of concealing or disguising the criminal origin of the said assets, or assisting any person involved in said activity to evade the legal consequences deriving from his or her actions;

b) concealing or disguising the true nature, origin, location, disposition, movement of property, ownership of the assets or interest in such assets, carried out knowing that such assets come directly or indirectly from criminal activity or participation in said activity;

c) the purchase, possession or use of assets, knowing, at the time of receipt, that such assets are proceeds directly or indirectly of a criminal activity or participation in said activity.

3. Knowledge, intent or purpose as referred to in paragraph 2 may be inferred from objective factual circumstances.

TITLE II
Competent authorities
Chapter I
Financial intelligence Agency

Article 2 (Establishment and purpose)

1. The Financial Intelligence Agency for preventing and combating money laundering and terrorist financing shall be established at the Central Bank.
2. The Agency shall perform the functions assigned to it by this law in complete autonomy and independence.
3. The costs for the staff, structure, organization and functioning of the Agency shall be paid for by the Central Bank. The Agency shall use the resources according to criteria of cost effectiveness and efficiency.
4. The Agency shall prepare annual accounts by the month of May regarding the management of the resources received from the Central Bank during the previous year and a budget document outlining expenses for the following year by the month of September. The annual accounts and budget document shall be sent to the Committee for Credit and Savings. The Committee for Credit and Savings shall evaluate if the resources have been programmed and managed according to the criteria of cost effectiveness and efficiency and then transmit the pertinent documentation to the Central Bank for the fulfilment of its obligations.

Article 3 (Director and Vice Director)

1. The Congress of State, upon proposal by the Committee for Credit and Savings and having heard the opinion of the Central Bank, shall appoint the Director and Vice Director of the Agency choosing among people who have the necessary requisites of professionalism, independence and respectability. The mandate of the Director and Vice Director shall last five years and is renewable only once.
2. The Director and Vice Director can be removed from their offices with the same procedure required for their appointment only if they no longer satisfy the conditions required for the fulfilment of their functions or are guilty of serious deficiencies.
3. The staff of the Agency, while performing the functions set forth in this law, are public officials and are bound by official secrecy.

Article 4 (Functions of the Financial Intelligence Agency)

1. The following functions are attributed to the Agency:

a) receiving suspicious transaction reports from obliged parties;

b) carrying out financial investigations on received reports or, on its own initiative, on the data and information available;

c) reporting to the criminal judicial Authority any fact that might constitute money-laundering or terrorist financing;
d) issuing instructions regarding the prevention and combating of money-laundering and terrorist financing;
e) supervising compliance with the obligations under this law and the instructions issued by the Agency;
f) taking part in national and international bodies involved in the prevention of money-laundering and terrorist financing;
g) promoting and taking part in the professional training of police officers on matters regarding the prevention of money-laundering and terrorist financing.

2. The Agency shall analyze and study financial flows in order to identify and prevent money-laundering and terrorist financing. It shall examine the indicators of anomalies with reference to determined activities or sectors of the economy and evaluate the effects within the scope set forth in this law.

Article 5 (Powers of the Financial Intelligence Agency)

1. In order to perform the functions attributed by this law and for the purpose of preventing and combating money-laundering and terrorist financing, the Agency, through its reasoned request in writing, has the following powers:
a) to order the obliged parties to exhibit or hand over documents, also in original copy, or to communicate data and information, according to the ways and terms established by the Agency;
b) to ask the Central Bank or Public Administration to communicate data or information, or to exhibit or hand over any formal papers or documents according to the ways and terms established by the Agency;
c) to carry out on-site inspections of the obliged parties. If the obliged party, for the fulfilment of the obligations set forth in this law, makes use of external subjects, the inspections may also be conducted in the offices of said subjects;
d) to order the block of assets, funds or other economic resources whenever there are reasonable grounds to believe that these assets, funds or economic resources are derived from money-laundering or terrorist financing or may be used to commit such offences;
e) to suspend, also upon request by the criminal judicial Authority, suspected transactions of money-laundering or terrorist financing for a maximum of five working days, whenever this does not prejudice investigations;
f) to make inquiries about persons who refer to circumstances useful to investigations regarding offences of money-laundering and terrorist financing as well as crimes and administrative violations set forth in this law.

2. In the exercise of the powers set forth in the previous paragraph, the Agency may make use of police officers.
3. The Agency shall take note of all activities conducted, also in a concise manner, according to the way deemed most suitable. Except as specifically provided in this law, the Agency shall draw up a report on the information acquired in accordance with paragraph 1, letter f).
4. The judicial Authority can delegate the Agency to carry out investigations related to proceedings regarding money-laundering and terrorist financing as well as crimes and administrative violations set forth in this law. In this case, the Agency shall operate as judicial police. The acts carried out on behalf of the judicial Authority shall be recorded.

Article 6 (Ways and effects of blocking)

1. The measure with which the Agency orders the blocking in accordance with letter d) of article 5 shall be adopted in written form and shall be justified. Except for the terms set forth in subsequent paragraph 5, in case of urgency the written justification may be submitted subsequent to the blocking.
2. The Agency shall communicate the measure to the entity or person who holding the assets, funds or economic resources in the ways deemed most appropriate. The Agency shall also communicate the measure to the interested party except where the communication may prejudice the outcome of the

investigation. If the assets are registered as movable or immovable ones, the Agency shall order the blocking to be registered at the State Office in charge of keeping public registries.
3. The assets freezing cannot constitute the object of any act evidencing transfer, title to or use of such assets.
4. Without prejudice to confirmation in accordance with the subsequent paragraph, the blocking measure shall be immediately effective.
5. Within 48 hours from the execution of the block, the measure shall be notified to the judicial Authority, who shall confirm – if requirements are met – the blocking measure within the following 96 hours. Failing such requirements, the judicial Authority shall also lift the block if the reasons for the precautionary measure foreseen in the provision issued by the Agency no longer exist.
6. The provision of the judicial Authority shall be notified to the Agency and to the entity to which the freezing was executed.
7. Such freezing may not exceed 15 days starting from the date of the provision issued by the Agency. This term is established by the judicial Authority in the confirmation provision and is extendable up to 45 days, upon reasoned request of the Agency, where investigations are particularly complex or where cooperation of foreign financial intelligence units is needed. The request for the extension shall be deposited in the offices of the judicial Authority prior to the expiration of the term. The judicial Authority shall grant or deny the extension within 96 hours from the receipt of the request and shall communicate its decision to the Agency and to the entity having the assets, funds or economic resources at its disposal.
8. Prior to the expiration of the terms established in the previous paragraph, the Agency, with a specific report based on the financial investigations conducted, shall indicate to the judicial Authority any data useful to proceed to the seizure or revocation of the freezing. The judicial Authority shall issue its judgment indicating its reasons within the following 96 hours.
9. In case of termination or revocation of the freezing, the judicial Authority shall take the necessary measures in order to return the frozen assets to the party entitled or, in case of registered movable or immovable assets, to cancel the registration of the freezing in the public registries.
10. The provisions of this article shall not prevent the judicial Authority from ordering seizures under judicial rules in force. In this case, the blocking ordered by the Agency shall become null and void.

Article 7 (Communication to the judicial Authority)

1. In case the Agency detects facts that might constitute an offence of money-laundering or terrorist financing, it shall transmit the documents and acts, including the report on the financial investigation conducted, to the judicial Authority without delay. If, upon completion of the financial investigation, no criminal conduct has been ascertained, the Agency shall close the case. The closure of the case does not prevent the carrying out of further investigations should new information be obtained.
2. The Agency may communicate the transmission of the documents or acts to the judicial Authority, or the closure ordered in compliance with the previous paragraph, directly to the obliged reporting party, except when the communication might prejudice the outcome of the investigation or the secrecy of the identity of the reporting person.

Article 8 (Access to information)

1. The Agency shall have access, also through electronic means, to the data and information available in public registries, archives, professional rolls kept by the Central Bank, Public administrations and Professional Associations.
2. Except as provided in the previous paragraph, the data and information held by the Central Bank, Public administrations and Professional Associations are immediately made available to the Agency, upon simple motivated request in relation to the purposes of preventing and combating money-laundering and terrorist financing.
3. For these same purposes foreseen in the previous paragraph, the Agency, upon simple request, shall have access to registries, archives, data or information kept by police Authorities or by the Single Court, including data regarding criminal record. The data and information regarding jurisdictional activity shall

be provided to the Agency, upon authorization by the judge only for the purpose of preventing and combating money-laundering and terrorist financing.
4**.** The data and information acquired by the Agency may be used exclusively for the exercise of the functions set forth in this law.

Article 9 (Official secrecy)

1. All data and information acquired by the Agency are covered by official secrecy even in relations with the Public administrations, without prejudice to cases of communication or exchange of information set forth in this law. Official secrecy cannot be claimed for requests made by the criminal judicial Authority.
2. The Agency shall take steps, also including the use of computerized means, to ensure that the data and information acquired are not accessible by third parties.

Article 10 (Statistical data collection and presentation of annual reports)

1. The Agency shall collect annually the data regarding the activity carried out for the prevention and combating money-laundering and terrorist financing.
2. The Agency shall present an annual report through the Secretary of State for Finance and Budget to the Great and General Council [*Parliamen*t] every year on the activity carried out for the prevention and combating of money-laundering and terrorist financing.
3. The Agency shall propose to the Congress of State the adoption of measures intended to heighten the effectiveness of the prevention and combating of money-laundering and terrorist financing.

CHAPTER II
NATIONAL COOPERATION

Article 11 (Cooperation with other Authorities and Professional Associations)

1. The Public administrations, Police Authority, Central Bank and Professional Associations shall cooperate with the Agency in the prevention and combating of money-laundering and terrorist financing.
2. The Public Administration, Police Authority, Central Bank and Professional Associations shall provide**,** upon motivated request by the Agency, the data and information in their possession, useful for the prevention and combating of money-laundering and terrorist financing.
3. The Public Administration, Police Authority, Central Bank and Professional Associations shall provide the Agency with updated data on the obliged parties.

Article 12 (Cooperation with Police Authority)

1. The Agency shall cooperate with the Police Authority and the National Central Office of Interpol, also by exchanging information.
2. The Police Authority, in the fulfilment of its statutory role, may also conduct activities of preventing and combating money laundering and terrorist financing on its own initiative.
3. The information exchanged may be used exclusively for the purpose of preventing and combating money laundering and terrorist financing. The information cannot be communicated to third parties without prior written consent of the Agency and it is covered by official secrecy also regarding those who receive the information.

Article 13 (Competences of Professional Associations)

1. Professional Associations, in the fulfilment of their functions assigned by the respective statutes, shall promote and oversee the compliance with obligations under this law by their members.
2. Professional Associations shall promote the training of their members, employees and collaborators in order that the obligations set forth in this law are correctly observed.

Article 14 (Competences of the Central Bank)

1. The Central Bank, if during the course of its function of supervision over financial entities as referred to in article 18, letters a), d) and e) detects violations of this law or facts or circumstances that might be related to money-laundering and terrorist financing, shall inform the Agency in written form without delay.
2. The Central Bank shall provide the Agency with data regarding financial parties as well as information useful for carrying out financial investigations upon reports of suspicious transactions and for the study of financial movements.
3. The powers for verifying the adequacy of the organizational and procedural structures of the authorized parties remain within the competence of the Central Bank. The Central Bank may enact secondary legislation regarding these parties in accordance with Law N° 165 of November 17, 2005.

Article 15 (Cooperation with the judicial Authority)

1. Except as provided in article 5, paragraph 4, the judicial Authority, when it has reasonable grounds to believe that offences of money-laundering or terrorist financing have been committed through transactions executed by the obliged parties, shall inform the Agency.

CHAPTER III
INTERNATIONAL COOPERATION

Article 16 (Cooperation with foreign financial intelligence units)

1. The Agency shall cooperate with foreign financial intelligence units on the basis of reciprocity including the exchange of information. The foreign financial intelligence units shall guarantee the same conditions of confidentiality of the information, as assured by the Agency.
2. The Agency, with the aim of regulating the cooperation activity referred to in paragraph 1, may stipulate appropriate protocols of agreement [*Memorandum of Understanding*] and inform the Committee for Credit and Savings about them.
3. The information exchanged may be used by the foreign financial intelligence units for investigations aimed exclusively at combating money-laundering and terrorist financing. Furthermore, the information may not be sent to third parties without prior written consent by the Agency and is covered by official or professional secrecy.
4. The information exchanged cannot be used to initiate or continue administrative, police or judicial investigations without prior written consent by the Agency.
5. The protocols of agreement or conditions of reciprocity shall provide that the foreign financial intelligence unit informs the Agency whether international judicial assistance procedures have been initiated in relation to a fact being the subject of a request for information. In this case, the Agency shall not exchange the information, unless otherwise ordered by the judicial Authority of San Marino.

TITLE III
PREVENTIVE MEASURES

CHAPTER I
PERSONS AND ENTITIES SUBJECT TO OBLIGATIONS

Article 17 (Obliged parties)

1. For the purposes of this law, the following are defined as obliged parties:
a) financial parties;
b) non-financial parties;
c) professionals.

2. Those belonging to the categories referred to in the previous paragraph are specified in the subsequent articles in this chapter.

Article 18 (Financial parties)

1. Financial parties are defined as follows:
   a) the authorized parties on the basis of Law N° 165 of November 17, 2005 and subsequent amendments;
   b) the Central Bank, whenever in the field of its institutional functions, establishes business relationships or carries out occasional transactions that require the fulfilment of obligations set forth in this law;
   c) the post offices whenever they establish business relationships or carry out occasional transactions that require the fulfilment of obligations set forth in this law;
   d) the financial promoters as defined in article 24 and 25 of Law N° 165 of November 17, 2005;
   e) the insurance and reinsurance agencies as defined in article 26 and 27 of the Law N° 165 of November 17, 2005;
   f) the parties that provide professional credit recovery on behalf of third parties.

Article 19 (Non-financial parties)

1. Non-financial parties are defined as parties that provide professional services regarding the following activities:
   a) office of the co-trustee as defined by Law N° 37 of March 17, 2005;
   b) assistance and consultancy on matters of investment services;
   c) assistance and consultancy on tax, financial and commercial matters;
   d) credit brokerage;
   e) real estate brokerage;
   f) running of gambling houses and games of chance as set forth in Law N° 67 of July 25, 2000 and subsequent amendments;
   g) custody and transport of cash, securities or values;
   h) management of auction houses or art galleries;
   i) trade in antiques;
   j) purchase of unrefined gold;
   k) manufacturing, mediation of and trade in, including export and import of precious metals and stones.

Article 20 (Professionals)

1. Professionals are defined as follows:
   a) members of the Registry of Accountants (*holding a university degree or holding an high school certificate*) of the Republic of San Marino;
   b) members of the Registry of External Auditors and Auditing companies and of the Registry of Actuaries of the Republic of San Marino;
   c) members of the Bar Association of Lawyers and Notaries of the Republic of San Marino, when they carry out in name of or on behalf of their clients any financial or real estate transaction, or when they assist a customer in the planning or execution of related transactions, such as:
      1) the transfer of any title of real rights on properties or companies;
      2) the management of currency, financial instruments or other assets of customers;
      3) the opening or management of bank accounts, savings and securities accounts;
      4) the establishment, management or administration of companies, trusts or similar arrangements with or without legal personality;
      5) the organisation of all the steps required to establish, operate or manage companies.

CHAPTER II
OBLIGATION OF CUSTOMER DUE DILIGENCE

Article 21 (Field of application of customer due diligence)

1. The obliged parties shall fulfill the customer due diligence obligations in the following cases:
   a) when establishing a business relationship;
   b) when carrying out occasional transactions or professional services for an amount exceeding 15,000 euros, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
   c) when there is a suspicion of money-laundering or terrorist financing;
   d) when there are doubts about the veracity or adequacy of the information and data previously obtained for the identification of the customer.
2. The financial parties referred to in article 18 shall also fulfil the customer due diligence obligations when they act as intermediaries or are at any rate part of the transfer of money or bearer negotiable instruments, in euros or foreign currency, carried out in any capacity among different entities for a total amount exceeding 15,000 euros.
3. The professionals referred to in article 20 and non-financial parties referred to in article 19 shall also fulfil the customer due diligence obligations when the transaction is of an undetermined or non-definable amount. The establishment, management or administration of a company, trust or other arrangements with or without legal personality constitutes in any case a transaction of a non-definable value.
4. Members enrolled in the Registry of Accountants (*holding a university degree or an high school certificate*) are not required to fulfil the customer due diligence obligations and registration in relation to the execution of the mere activity of drafting or filing income tax returns.

Article 22 (Customer due diligence measures)

1. The fulfillment of customer due diligence obligations shall comprise the carrying out, if needed through employees or collaborators, of the following measures:
   a) identifying the customer and verifying the customer's identity on the basis of a valid identification document or, where this is not possible, on the basis of documents, data or information obtained from a reliable and independent source;
   b) if necessary, identification of the beneficial owner and taking risk-based and adequate measures to verify the identity;
   c) obtaining information on the purpose and intended nature of the business relationship or occasional transaction;
   d) conducting ongoing monitoring of the relationship with the customer, including scrutiny of transactions undertaken throughout the course of that relationship to ensure that they are compatible with the data and information that the obliged parties have regarding the customer, its economic activities and risk profile, taking into consideration the source of the funds where necessary;
   e) updating documents, data and information acquired during the fulfilment of customer due diligence obligations.
2. Customers are obliged to provide, under their own responsibility, in written form, all data and information required and updated to permit the obliged parties to fulfil their obligations as set forth in this law.

Article 23 (Identifying and verifying the identity of the customer and beneficial owner)

1. The obliged parties shall identify and verify face-to-face, through their employees or collaborators, the identity of the customer and beneficial owner before establishing a business relationship or carrying out a transaction.
2. If the customer is not a natural person, the obliged parties shall verify the actual existence of the power of representation and acquire the data and information necessary to identify and verify the identity of the representatives who are authorized to sign for the transaction to be carried out.

3. The identification and verification of the identity of the beneficial owner is carried out at the same time as the identification of the customer and requires, for customers that are not natural persons, taking risk-based and adequate measures in order to understand the ownership and control structure of the customer. In order to identify and verify the identity of the beneficial owner, the obliged parties may make use of public registries, lists, acts or documents in the public domain, containing information on the beneficial owners, and request from its customers the pertinent data and information, or obtain information in other ways.
4. Verifying the identity of the customer and beneficial owner may be completed in the shortest time possible after the establishment of a business relationship if it is necessary not to interrupt the normal conduct of the business and when the risk of money-laundering or terrorist financing is low.
5. The non-financial entities that carry out activities set forth in article 19, paragraph 1, letter f) shall identify and verify the identity of the customer immediately on entry [*into gambling houses*], regardless of the amount of gambling chips purchased, sold or exchanged. They shall also register, according to the provisions of article 34, the transactions of purchase or exchange of gambling chips or other means of gambling with a value of 2,000 euros or more.

Article 24 (Obligations of abstention)

1. If the obliged parties are not able to fulfil the obligations of customer due diligence foreseen in article 22, paragraph 1, letters a), b) and c), they shall refrain from establishing business relationships or carrying out occasional transactions, and interrupt them, if already initiated, at the earliest opportunity and decide whether the situation should be reported to the Agency.
2. The members enrolled in the Registry of Lawyers and Notaries and Registry of Accountants (*holding a university degree or an high school certificate*) shall not be obliged to apply the provisions of the previous paragraph in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in administrative or judicial proceedings, or concerning such proceedings, including advice on instituting or avoiding proceedings.
3. The obliged parties shall refrain from carrying out transactions when there are reasonable grounds to believe that these transactions could be related to money-laundering or terrorist financing. In these cases, a suspicious transaction report shall be promptly sent to the Agency. Where abstention is not possible because there is a legal obligation to receive the act, or the carrying out of the transaction by its nature cannot be postponed, or where the abstention might hinder ongoing investigations, the obliged parties shall inform the Agency immediately after the carrying out, taking every precaution to identify the destination of the funds transferred during the transaction.

Article 25 (Risk-based approach)

1. The obliged parties are required to fulfil the due diligence on all their customers.
2. The customer due diligence obligations are fulfilled by risk-based verifications which depend on the type of customer, business relationship, occasional transaction, professional service, product or transaction.
3. For the evaluation of the risk, the obliged parties shall evaluate at least the following aspects:
A) with reference to the customer:
    1) the legal status,
    2) the main business activity,
    3) the behaviour at the moment of establishing the business relationship, or carrying out the transaction or professional services,
    4) the residence or registered office of the customer or of the counterpart with particular attention to that do not require equivalent obligations to those set forth in this law;
B) with reference to any business relationship or occasional transaction:
    1) the type and specific way of execution,
    2) the amount,
    3) the frequency,
    4) the coherency of the transaction in relation to the whole of information available for the obliged party,

5) the geographic area of the execution of the transaction, with particular attention to that do not require equivalent obligations to those set forth in this law.

Article 26 (Simplified customer due diligence)

1. The obliged parties shall not be subject to the customer due diligence obligations, where the customer is one of the following:

a) a financial party referred to in article 18, letters a), b) and c);

b) a foreign institution that mainly carries out an activity which refers to the reserved activities mentioned in letters A), B), C), D) and E) of Annex 1 of Law N° 165 November 17, 2005, located in a State which requires obligations equivalent to those set forth in this law and imposes supervision and control over compliance with the requirements for the prevention and combating of money-laundering and terrorist financing;

c) a foreign institution that carries out an activity equivalent to that referred to in article 18, paragraph 1, letter c) located in a State which imposes requirements equivalent to those laid down in this law and provides supervision and control over compliance with the requirements for the prevention and combating of money-laundering and terrorist financing;

d) a company listed on a regulated market in a State, as long as this market is subject to regulations consistent with or equivalent to the European Union legislation;

e) domestic public authorities.

2. The obliged parties shall not be subject to the requirements of customer due diligence in respect of:

a) life insurance policies where the annual premium is no more than 1,000 euros or the single premium is no more than 2,500 euros;

b) complementary pension schemes if there is no surrender clause and the policy cannot be used as collateral for a loan under the schemes set forth in current legislation;

c) compulsory, complementary or similar pension schemes that provide retirement benefits, for which contributions are made by way of deduction from wages and the scheme rules do not permit the transfer of beneficiaries' rights unless after the death of the holder.

3. The Agency may indicate with instructions the categories of entities or products characterized by a low risk of money-laundering or terrorist financing for which customer due diligence does not apply.

4. In the cases described in the previous paragraphs, the obliged parties shall in any case collect data and information sufficient to establish if the customer falls into an exempted category.

Article 27 (Enhanced customer due diligence)

1. The obliged parties, on the basis of a risk assessment, shall take enhanced customer due diligence measures in situations which by their nature can present a higher risk of money-laundering or terrorist financing.

2. The obliged parties shall take enhanced customer due diligence measures when:

a) the customer is not physically present;

b) the customer is a politically exposed person. The obliged parties shall take adequate procedures in relation to the activity carried out in order to determine if the customer is a politically exposed person.

3. In the case foreseen in letter a) of paragraph 2, the obliged parties shall compensate for the higher risk by applying at least one of the following measures:

a) ensuring that the first transfer of funds in relation to the establishment of the business relationship or to the execution of the occasional transaction is carried out through an account opened in the customer's name with a financial entity referred to in article 26, paragraph 1, letters a) and b);

b) verifying the identity of the customer through supplementary documents or information in addition to those requested for a customer that is physically present;

c) taking supplementary measures to verify the documents supplied;

d) requiring certification in relation to the information or documents supplied;

e) requiring a statement of confirmation by a financial party referred to in article 26, paragraph 1, letters a) and b) that has already fulfilled customer due diligence obligations on the customer in question.

4. In the case foreseen in letter b) in paragraph 2, the obliged parties shall do the following:

a) when the obliged parties are organized in a company structure, they shall obtain the approval of the general director or an equivalent figure, or a person authorized by the general director, before establishing a business relationship or carrying out an occasional transaction;

b) they shall take any appropriate measure to establish the source of the funds used in the business relationship or in carrying out the occasional transaction;

c) they shall ensure an ongoing and enhanced control over the relationship with the customer.

5. The financial parties referred to in article 18, letters a), b) and c), that maintain business relationships or carry out occasional transactions with foreign financial institutions located in States which do not require obligations equivalent to those set forth in this law and do not impose supervision and control over compliance with such obligations, shall adopt the following enhanced customer due diligence measures:

a) collect sufficient information about a respondent foreign institution to fully understand the nature of the respondent's business and to determine, from publicly available information, the reputation of the institution and the quality of supervision;

b) assess the adequacy and effectiveness of controls applied by the respondent institution regarding matters of preventing and combating money laundering and terrorist financing;

c) obtain authorization by the general director or equivalent figure, or by a person authorized by the general director, before establishing a business relationship or carrying out an occasional transaction;

d) specify in written form the respective obligations and responsibilities regarding matters of preventing and combating money laundering and terrorist financing.

6. The financial parties referred to in article 18 letters a) and b) shall assure that the respondent institution located in a State which is not a member of the European Union (I) has verified the identity of customers having direct access to payable-through accounts, (II) has performed ongoing customer due diligence, and (III) is able to provide relevant customer due diligence data to financial party, upon request.

7. The obliged parties shall pay special attention to any money-laundering or terrorist financing threat that may arise from products or transactions that might favour anonymity, and take measures, if needed, to prevent their use for money-laundering or terrorist financing purposes.

Article 28 (Prohibition to operate with shell banks)

1. The financial parties are prohibited from establishing business relationships or carrying out occasional transactions with a shell bank or with a foreign institution that is known to permit its accounts to be used by a shell bank. Relationships that already exist on the date this law enters into force should be closed at the earliest opportunity.

Article 29 (Customer due diligence performed by third parties)

1. In order to fulfil the requirements laid down in article 22, paragraph 1, letters a), b) and c), the obliged parties may rely on third parties with which the customers have business relationships or which the customers have used to carry out an occasional transaction. For this purpose, the third-parties shall issue a suitable statement confirming that they have fulfilled customer due diligence obligations. However, the ultimate responsibility for the identification and verification of the identity of the customer shall remain with the obliged parties.

2. For the purposes of this article, the third-parties shall be financial parties referred to in article 18, paragraph 1, letters a), b) and c) and in article 26, paragraph 1, letters b) and c).

3. The third-parties shall immediately make available to the obliged parties all information required in fulfilling the customer due diligence obligations in accordance with the activities foreseen in article 22, paragraph 1, letters a), b) and c).

4. The information and documents regarding the identification of the customer or of the beneficial owner shall be forwarded, without delay, upon simple request by the obliged parties.

5. The Agency may identify, by means of instructions, other categories of third-parties upon which the obliged parties may rely on in order to avoid the repetition of obligations foreseen in article 22, paragraph 1, letters a), b) and c).

CHAPTER III
ADDITIONAL MEASURES

Article 30 (Prohibition to maintain anonymous accounts or accounts in fictitious names)

1. Except as provided in article 31, financial parties are prohibited to maintain anonymous accounts or accounts in fictitious names.

Article 31 (Limitations on the use of cash and bearer securities)

1. The transfer between different parties of cash and bearer securities referred to in the subsequent paragraphs, when the value of the transaction, also fractioned, is more than 15,000 euros, shall take place exclusively through a party authorized to conduct the reserved activity referred to in letters A), C) or I) of Annex 1 of Law N° 165 of November 17, 2005.
2. Cheques drawn on banks in San Marino or issued by these banks, for individual amounts exceeding that foreseen in the previous paragraph, shall bear the name and surname or the company name of the beneficiary and the clause "non-transferable".
3. The balance of bearer passbooks issued from the date on which this law enters into force shall not be more than 15,000 euros.
4. Bearer passbooks issued before the date on which this law enters into force, whose balance exceeds the 15,000 euro limit, shall be closed or converted into relationships consistent with the provisions of this law by December 31, 2010.
5. Starting on January 1, 2012, it will no longer be possible to issue bearer passbooks and those issued before that date shall be closed or converted.
6. Except as provided in the previous paragraphs, for each deposit or withdrawal, closure or conversion regarding bearer passbooks, banks shall carry out customer due diligence obligations as set forth in article 22, paragraph 1, letters a) and b).

Article 32 (Obligation of communication to the Agency)

1. The obliged parties that detect violations of the provisions referred to in article 31, in the course of their activities, shall inform the Agency without delay.

Article 33 (Special measures for the electronic transfer of funds)

1. The Agency regulates the following with its own instructions:
   a) the data and information that the financial parties, authorized to carry out reserved activity referred to in letter I) of Annex 1 of Law N° 165 November 17, 2005, are required to be obtained about those parties ordering the electronic transfer of funds;
   b) the ways for registering and maintaining these data and information.
2. The financial parties shall deny the transfer of funds when they are not provided with the information referred to in the previous paragraph. If the financial party having received the transfer order fails to provide the information, the financial party to which the transfer order is addressed shall request the information in written form. Where the request is not satisfied, the financial party shall implement the enhanced measures set forth in article 27 and evaluate whether to suspend relations with the financial party that has received the transfer order. The financial party shall forward to the Agency, without delay, a copy of the request for information sent to the counterpart.

CHAPTER IV
REGISTRATION AND REPORTING OBLIGATIONS

Article 34 (Obligations for registering and maintaining documents and information)

1. The obliged parties shall register the data and information required when fulfilling customer due diligence obligations and shall keep the records and copies of the documents obtained for at least five years from the closure of the business relationship or execution of the occasional transaction.
2. The obliged parties shall register and keep the records and registrations of the business relationships and occasional transactions or professional services provided. In particular, they shall register and maintain all original documents or copies admissible in court proceedings, for a period of at least five years from the closure of the business relationship or execution of the transaction or professional service.
3. The data and information referred to in the previous paragraphs shall be registered no later than five days after their acquisition.
4. All the data, information and documents registered and maintained by the obliged parties shall be made available to the Agency without delay for the carrying out of its functions of preventing and combating money laundering and terrorist financing.

Article 35 (Supplementary measures for financial parties)

1. The financial parties shall equip themselves with electronic systems that enable them to respond rapidly and completely to the Agency's requests that are intended to determine whether these financial parties have had business relationships with specific customers during the previous five years and the nature of these relationships.

Article 36 (Reporting obligations)

1. The obliged parties shall report the following to the Agency without delay:
   a) any transaction - even if not executed – which, because of its nature, characteristics, amount, or in relation to the economic capacity and activity carried out by the customer to which it is referred, or for any other known circumstance, rouses suspicion that the economic resources, money or funds involved in the transaction may derive from offences of money laundering or terrorist financing or may be used to commit such offences;
   b) anyone or any fact that, for any circumstance, known on the basis of the activity carried out, may be related to money laundering or terrorist financing.
2. If the report is made in a verbal form, the obliged party shall forward a written report to the Agency without delay, providing all the data and information required to conduct the financial investigation.

Article 37(Possibility to report)

1. Anyone can report to the Agency facts or circumstances relevant to the preventing and combating of money laundering and terrorist financing.

Article 38 (Safeguarding of professional secrecy)

1. Members of the Registry of Lawyers and Notaries and members of the Registry of Accountants (*holding a university degree or holding an high school certificate*) may invoke professional secrecy, in front of the Judicial Authority, the Financial Intelligence Agency and the Police Authorities, on the information they acquire while defending and representing their client during a judicial or administrative proceeding or in relation to that proceeding, including advice on the eventuality of prosecuting or avoiding a proceeding, where the information is received or obtained before, during or after such proceeding.
2. In the cases provided in the previous paragraph, lawyers and accountants have no reporting obligations.
3. Professional secrecy may not be invoked in front of the Judicial Authority, the Agency, and Police Authorities in pursuance of their functions on preventing and combating money laundering and terrorist financing, except for the case provided in the first paragraph.

4. Official secrecy may not be invoked in front of the Judicial Authority, the Agency, and the Police Authorities in pursuance of their functions on preventing and combating money laundering and terrorist financing.
5. Professional secrecy and official secrecy may not be invoked even when the data and information are necessary for the investigation of offences and administrative violations set forth in this law.

Article 39 (Exemption from responsibility)

1. The suspicious transactions reports and disclosures forwarded under this law do not constitute violation of any restriction to the communication of data or information resulting from contracts or legislative, statutory, regulatory or administrative provisions, nor of obligations of confidentiality and of professional, official or bank secrecy referred to in article 36 of Law N° 165 November 17, 2005. The suspicious transactions reports and disclosures made in good faith shall not entail liability of any kind.

Article 40 (Confidentiality of the identity of the reporting person and secrecy of the reports)

1. The obliged parties shall adopt suitable measures to ensure the maximum confidentiality of the person that has detected the suspicious transaction in accordance with article 36, paragraph 1, letters a) and b).
2. The acts and documents related to the suspicious transactions reports shall be kept under the responsibility of the obliged party, its legal representative or one of its delegates.
3. The Agency shall adopt appropriate measures to guarantee the confidentiality of the identity of the person that detected the suspicious transaction. Requests for information to the obliged party, and requests for further investigation, as well as exchange of information related to suspicious transactions reported, shall be made with appropriate ways that guarantee the confidentiality of the person that has detected the suspicious transaction.
4. In case of communication, complaint or report to the Judicial Authority, the identity of the person that has detected this suspicious transaction, even if known, shall not be mentioned.
5. The identity of the person that has detected the suspicious transaction can be revealed only when the Judicial Authority, with a justified decree, declares it essential to the investigation of the offences for which it is proceeding.
6. The obliged parties shall not disclose to the customer reported and to third parties involved, beyond cases provided for under this law, the fact that a suspicious transaction report has been forwarded or that a money laundering or terrorist financing investigation is being or may be carried out.
7.The communication of the forwarded suspicious transaction reports is permitted among the financial entities located in the Republic of San Marino, belonging to the same group or having business relationships with the same customer, or having executed the transactions reported.
8. Furthermore, the communication is permitted between the obliged parties referred to in article 20 that carry out their professional services in an associated form.
9. Where obliged parties seek to dissuade a customer from engaging in illegal activity, this shall not constitute a violation of the obligation of confidentiality.
10. Where obliged parties disclose information to the party concerned by the freezing provisions ordered by the Agency, if the communication is necessary in connection with the prohibition of transfer, holding or use as referred to in article 6, paragraph 3**,** this shall not constitute a violation of the obligation of confidentiality.

CHAPTER V
PROCEDURES, CONTROLS AND STAFF TRAINING

Article 41 (Control obligations)

1. The obliged parties referred to in article 17 that carry out the activity subject to the obligations set forth in this law, as individuals or associates, as well as legal representatives and those persons that perform management, administration and control functions of the obliged parties organized in a company structure shall, according to their respective tasks and responsibilities, do the following:

a) fulfilling obligations set forth in this law;
b) making arrangements for and verifying the fulfilment of said obligations on the part of employees and collaborators.

Article 42 (Functions and powers of the compliance officer)

1. Financial parties, having company status, shall appoint an internal compliance officer in charge of receiving internal suspicious transaction reports, further analysing and forwarding them to the Agency, should he feels reports are grounded on the basis of all the elements in his possession, also inferred from other sources. The suspicious transaction reports shall be forwarded to the Agency without the name of the person who has detected the suspicious transaction in accordance with article 36, paragraph 1, letters a) and b).
2. The compliance officer shall have adequate professional skills and shall be given appropriate powers to carry out the functions referred to in the previous paragraph in full autonomy, including the power to access all information or documents also without authorization.
3. The act of appointment of the compliance officer shall include the specification and evaluation of the requirements of professionalism, as well as the powers conferred. The act of appointment shall be transmitted to the Agency.
4. Until the appointment of the compliance officer, or in case of his absence also temporarily, all his duties and responsibilities related to said function shall be assigned to the legal representative.
5. The compliance officer seeks and obtains information, also through employees and collaborators that at any title, come into contact with the customers or who at any rate know about the business relationships with the customers or the execution of transactions for their benefit.
6. Even in absence of internal suspicious transaction reports, the compliance officer shall analyse the transactions carried out, seek and obtain information and, in the cases set forth in article 36, forward the suspicious transaction report to the Agency.

Article 43 (Compliance officer at non-financial parties)

1. The auditing companies and other non-financial parties may appoint a compliance officer. In case of appointment, the provisions referred to in article 42 shall apply.

Article 44 (Procedures and internal controls)

1. The obliged parties shall adopt policies and procedures conforming to the obligations of this law and to the instructions issued by the Agency in order to prevent and combat money laundering and terrorist financing. In particular, they shall adopt policies and procedures to ensure that technological advancements, connected to the activity, are not used for the purpose of money laundering and terrorist financing.
2. The obliged parties shall inform all employees and collaborators of the obligations set forth in this law and of instructions issued by the Agency. The obliged parties shall inform all employees and collaborators of the measures and procedures adopted for the purpose of preventing and combating money laundering and terrorist financing.
3. The obliged parties shall foster the continuous staff training through participation in specific training programmes on matters of preventing and combating money laundering and terrorist financing.
4. The obliged parties shall develop and organize adequate internal controls for preventing and combating the involvement in business relationships or transactions relating to money laundering or terrorist financing.
5. The obliged parties shall be equipped with electronic systems suitable for ensuring the prompt, confidential reception of information sent by the Agency. The information sent by the Agency shall be accessible only to the obliged parties.
6. The financial parties shall extend the obligations referred to in this article to foreign branches.

Article 45 (Obligations of foreign branches and subsidiaries controlled by financial parties)

1. The financial parties shall ensure that their foreign branches or subsidiaries fulfil obligations equivalent to those set forth in this law.

2. In case the legislation of the foreign State does not provide for requirements equivalent to those set forth in the previous paragraph, the financial parties shall give notice to the Agency and Central Bank and adopt supplementary measures to effectively deal with the risk of money laundering or terrorist financing.

TITLE IV
MEASURES FOR PREVENTING, COMBATING AND REPRESSING TERRORIST FINANCING AND THE ACTIVITY OF STATES THAT THREATEN INTERNATIONAL PEACE AND SECURITY

Article 46 (Restrictive measures adopted by the Congress of State)

1. In compliance with the international obligations assumed by the Republic of San Marino to combat terrorism, terrorist financing and the activity of States that threaten international peace and security, the Congress of State, upon proposal by the Secretary of State for Foreign Affairs and the Secretary of State for Finance and Budget, shall adopt without delay a decision outlining restrictive measures, conforming to the resolutions of the United Nations Security Council or one of its Committees. The restrictive measures include the following:

a) the freezing of funds and economic resources held or controlled, directly or indirectly, by persons, entities or groups included in the list drawn up by the appropriate United Nations Committee;

b) commercial restrictions, including commercial restrictions on imports or exports and arms embargoes;

c) restrictions of a financial nature, including financial restrictions or financial assistance and the prohibition of providing financial services;

d) restrictions of any other nature, including restrictions on technical assistance, flight prohibitions, prohibition of entry or transit, diplomatic sanctions, the suspension of cooperation and the boycotting of sporting events.

2. The decision of the Congress of State can introduce additional restrictive measures or specific provisions related to the resolutions adopted by the United Nations Security Council or one of its Committees.
3. The decision of the Congress of State that orders the enforcement of restrictive measures can provide for derogations of or limitations to the United Nations Security Council resolutions for reasons of public order or interest.
4. Where a resolution of the United Nations Security Council or one of its Committees provides for the adoption, amendment or abrogation of restrictive measures, the Congress of State shall provide by means of a decision for their enforcement in the territory of the Republic of San Marino.
5. The decisions referred to in the previous paragraphs shall be immediately published *ad valvas Palatii* and at the Court, and from that moment they are expected to be known by every one.
6. The decisions are sent to the Agency that shall provide for their transmission to the Judicial Authority, the State Administrations referred to in article 48 and the obliged parties referred to in article 17.

Article 47 (Effects of the freezing of funds and economic resources)

1. Except as provided in article 49, the funds and economic resources subject to freezing cannot constitute the object of any transfer, holding or use.
2. It is prohibited to make funds or economic resources available, directly or indirectly, to subjects included in the lists drawn up by the appropriate Committees of the United Nations or to allocate them for their benefit.
3. The freezing is effective from the date of the adoption of the Congress of State decision.
4. Acts carried out in violation of the prohibitions referred to in the previous paragraphs are null and void.
5. The freezing does not prejudice the effects of any seizure or confiscation proceedings, adopted in the field of proceedings having the same funds or economic resources as their object.

6. The freezing of funds and economic resources, the omission or refusal of financial services deemed in good faith conforming to this law shall not imply any kind of responsibility for the natural person, legal person or entity without legal personality who applies it, neither for its directors nor employees.

Article 48 (Communication obligations)

1. The State Administrations that keep public registries, which have data or information relating to frozen funds or economic resources, shall immediately give notice to the Agency.
2. The Agency shall order to annotate in the public registries the freezing of registered movable and immovable assets.
3. The obliged parties referred to in article 17 shall do the following:
   a) notify the Agency of the measures applied in accordance with this law, indicating the subjects involved, the amount and nature of the funds and economic resources, within 15 days from the adoption of the Congress of State decision, or from the date of the possession of the funds and economic resources;
   b) notify the Agency of the transactions, business relationships, as well as any other data or information available with reference to subjects included in the lists;
   c) notify the Agency, on the basis of the information provided by it, of transactions and business relationships as well as any other data or information with reference to subjects that may be included in the lists in accordance with article 49, paragraph 5.

Article 49 (Functions of the Committee for Credit and Savings)

1. The Committee for Credit and Savings, under Law N° 96 of June 29, 2005 and subsequent amendments, has the competence to evaluate requests for unfreezing of funds and economic resources presented by the interested parties. The decision shall be adopted within four months from the presentation of the request.
2. In case of abrogation of a freezing measure under article 46, paragraph 4, the Committee for Credit and Savings shall take the necessary actions to return the assets to the rightful owner or, in cases involving registered movable or immovable assets, to annotate the unfreezing order in the public registries.
3. The Committee for Credit and Savings may authorize - upon completion of the procedure referred to in the following paragraph 4 - that the frozen assets or property be used to meet the fundamental needs be accessible of the subjects included in the list referred to in article 46, or of family member, including to pay for foodstuffs, medicines, housing, medical care and legal assistance. The Committee for Credit and Savings may similarly authorize that the frozen assets or property be used to pay taxes and other tax liabilities, mandatory insurance obligations and, bank fees for bank account maintenance.
4. The authorization requested, referred to in the previous paragraph, shall be notified to the competent United Nations Security Council Committee. The authorization cannot be granted if the United Nations Security Council Committee takes a contrary decision.
5. The Committee for Credit and Savings shall formulate proposals to the competent International Organisations for listing persons, entities or groups, on the basis of information provided by the Agency and other national authorities according to the criteria and ways established in the United Nations resolutions.
6. The Committee for Credit and Savings shall formulate proposals to the competent International Organisations, according to the criteria and ways established in the United Nations resolutions, for de-listing, also on the basis of requests presented by the interested parties.
7. The Agency, Police Authorities, Interpol National Central Office, and Public administrations shall communicate to the President of the Committee for Credit and Savings, by way of derogation from every provision in force on matters of official secrecy, information referring to the functions foreseen in paragraphs 5 and 6. The Judicial Authority shall send to the Committee all information deemed useful for the same purposes, when this communication does not prejudice the ongoing investigations.
8. Whenever, on the basis of information acquired in compliance with the previous paragraphs, there are sufficient elements to formulate proposals of designations to the competent International Organisations and in the meantime there is the risk that the assets to be frozen might be lost, concealed, or used for

terrorist financing, the Committee for Credit and Savings shall inform the Agency of this fact, which, whenever there are the conditions foreseen in article 5, paragraph 1, letter d), shall order the freezing of said assets.
9. The Committee shall take action in the same manner also when foreign authorities communicate the adoption of measures of freezing in respect of subjects not included in the lists foreseen in article 46, paragraph 1, letter a). The information and documentation shall immediately be transmitted to the Agency.
10. The Agency shall take the actions set forth in article 5, paragraph 1, also on its own initiative, when it receives from national or foreign authorities evidence that assets derive from terrorist financing or may be used to finance terrorism or activities that threaten international peace or security.

Article 50 (Jurisdictional protection)

1. The interested subject can lodge personally or through a lawyer, an appeal against the restrictive measures ordered by the Congress of State decision and against the provisions adopted by the Committee for Credit and Savings. A jurisdictional appeal is also admitted against the same measures.
2. By way of derogation from article 3 of Law N° 5 of January 25, 1984, the interested subject, if he/she has not designated his/her own defence lawyer or has no defence lawyer, shall be assisted by the public defender also in proceedings before the administrative judge. No compensation shall be owed to the public defender for the professional services provided under this article.

TITLE V
STAFF OF POLICE FORCES
CHAPTER I
Detachment and training of police officials

Article 51 (Assignment of police officials)

1. For the fulfilment of the duties established by the law and international obligations, upon request by the Director and approval by the Congress of State, police officials, who have a specific attitude and preparation in relation to the functions envisaged by this law, may be assigned to the Financial Intelligence Agency, also for limited periods of no less than one year.
2. The police officials shall be selected by the Director of the Agency, in agreement with the investigating judges and the Commanders of the Police Forces, taking into consideration rank, educational degree and experience in the prevention and combating of financial offences.
3. The Commanders of the Police Forces shall guarantee the Agency an adequate number of qualified officials for the fulfilment of the duties assigned by this law.
4. Police officials assigned to the Agency shall be exonerated from duties and obligations deriving from regulations of the Corps to which they belong that are not inherent to judicial police functions, except for exceptional circumstances that shall be notified to the Agency.

Article 52 (Police officials training)

1. The Agency shall contribute to the training of the police officials on matters of financial investigations. For this purpose, it shall promote training through courses and internships of a duration no longer than six months, according to the specific agreement protocols undersigned with the Commanders of the Corps to which they belong.

TITLE VI
SANCTIONS
CHAPTER I
PENAL SANCTIONS

Article 53 (Violation of confidentiality of reports)

1. Except where the conduct amounts to a more serious crime, anyone subject to reporting obligations reveals - except for cases set forth in the law - that a report has been forwarded or is ongoing or an investigation may be initiated for money laundering or terrorist financing, shall be punished by terms of first-degree imprisonment and second-degree daily fine.
2. The same penalty applies to anyone who, knowing that a suspicious transaction report has been filed under article 7, informs the party concerned or a third party of the filing.

Article 54 (Omitted or false statements regarding customers)

1. Except where the conduct amounts to a more serious crime, anyone who bears false testimony when requested to provide information for applying customer due diligence obligations, shall be punished by terms of second-degree imprisonment and second-degree daily fine.

Article 55 (Disregard of the reporting obligation)

1. Except where the conduct amounts to a more serious crime, anyone who disregards the reporting obligations set forth in article 36, shall be punished by terms of first-degree imprisonment and second-degree daily fine.

Article 56 (Actions intended to prevent reporting)

1. Except where the conduct amounts to a more serious crime, anyone using violence, threatening or giving, offering or promising an advantage for the purpose of delaying or preventing that report of a suspicious transaction, even if not carried out, is transmitted to the Agency or Judicial Authority, shall be punished by terms of second-degree imprisonment and second-degree daily fine.
2. Anyone who uses violence, threatens, offers or promises an advantage, after that the report has been transmitted to the Agency or Judicial Authority, shall be punished by terms of imprisonment of second-degree.

Article 57 (Disregard of the orders and provisions issued by the Agency and Congress of State)

1. Except where the conduct amounts to a more serious crime, anyone who, without justified reason, disregards, delays or hinders the execution of an order, request or provision issued by the Agency under article 5, shall be punished by terms of second-degree imprisonment and second-degree disqualification.
2. The same penalty shall be applied to anyone who disregards the restrictive measures adopted by decision of the Congress of State under article 46.

Article 58 (False or omitted declarations to the Agency)

1. Anyone who, if required by the Agency to provide data or information useful for the investigation, bears false declarations or withholds, entirely or in part, what he/she knows about facts for which he/she has been summoned, shall be punished by terms of second-degree imprisonment.
2. The provisions referred to in the previous paragraph do not apply if the false or reticent declarations are borne by the person who is being investigated.

Article 59 (False information in acts intended for the Agency)

1. Except where the conduct amounts to a more serious crime, anyone who declares or states false information in acts or documents intended for the Agency, shall be punished by terms of second-degree imprisonment.

2. The same penalty shall apply to anyone who provides the Agency with documents containing false information.
3. If the action involves acts or documents to be provided to the Judicial Authority, the penalty shall be a third-degree imprisonment.

Article 60 (Evading measures for freezing funds)

1. Anyone who carries out actions intended to evade measures for freezing funds referred to in article 46, paragraph 1, letter a), shall be punished by terms of imprisonment, daily fine and disqualification of third-degree. Moreover, pecuniary administrative sanctions up to double of the value of the funds or economic resources object of the freezing shall be applied.

CHAPTER II
ADMINISTRATIVE VIOLATIONS

Article 61 (Violation of customer due diligence and registration)

1. The violation of the customer due diligence obligations established by this law shall be punished with pecuniary administrative sanctions from 2,000 to 40,000 euros.
2. If the violation of customer due diligence obligations is carried out using fraudulent means, the pecuniary administrative sanction shall be doubled.
3. The violation of the obligations of abstention set forth in article 24, shall be punished with a pecuniary administrative sanction from 5,000 to 50,000 euros.
4. Except as provided in article 54, the violation of the obligations to provide information for applying customer due diligence obligations, shall be punished with a pecuniary administrative sanction from 3,000 to 50,000 euros.

Article 62 (Violation of the obligation of registration and maintenance)
1. The violation of the obligations of registration and maintenance [of documents and information] set forth in article 34 shall be punished with a pecuniary administrative sanction from 2,000 to 40,000 euros.
2. If the violation of obligation of registration is carried out using fraudulent means, the pecuniary administrative sanction shall be doubled.

Article 63 (Violation of the prohibition to keep anonymous accounts and violation of the limits on the use of currency and bearer securities)

1. The violation of the prohibition to keep anonymous accounts or accounts in fictitious names, shall be punished with a pecuniary administrative sanction of 2,000 to 50,000 euros.
2. The violation of article 31, paragraphs 1 and 2 shall be punished with a pecuniary administrative sanction up to half the amount of each transaction.
3. The violation of the provisions set forth in article 31, paragraphs 3, 4 and 5 shall be punished with a pecuniary administrative sanction up to one half of the balance of the bearer passbook.

Article 64 (Violation of the provisions on matters of freezing funds)

1. Except where the conduct amounts to a more serious crime, the violation of the provisions referred to in article 47, paragraph 1, shall be punished with a pecuniary administrative sanction up to double of the value of the funds or economic resources object of the transfer, holding or use.
2. Except where the conduct amounts to a more serious crime, the violation of the provisions referred to in article 47, paragraph 2, shall be punished with a pecuniary administrative sanction up to double of the value of the funds or economic resources made available directly or indirectly to persons, entities or groups included in the list drawn up by the appropriate Committee of the United Nations or allocated in favour of such persons, entities or groups.

Article 65 (Violation of the obligation of communication regarding frozen funds and resources)

1. Except where the conduct amounts to a more serious crime, the violation of the provisions referred to in article 48 shall be punished with a pecuniary administrative sanction from 500 to 25,000 euros.

Article 66 (Other violations)

1. Except for the criminal and administrative violations referred to in the previous articles, the violation of other provisions envisaged in this law shall be punished with a pecuniary administrative sanction from 200 to 20,000 euros.

Article 67 (Violation of instructions)

1. Except for the administrative and criminal violations envisaged in this law, the violation of the instructions issued by the Agency shall be punished with a pecuniary administrative sanction from 200 to 20,000 euros.

CHAPTER III
RESPONSIBILITY FOR ADMINISTRATIVE VIOLATIONS
ARTICLE 68 (SUBJECTIVE ELEMENT FOR ADMINISTRATIVE VIOLATIONS)

1. In the administrative violations envisaged in this law, each person is responsible for his own actions or omissions, consciously and voluntarily, both fraudulent and negligent.

Article 69 (Complicity of persons)

1. Where one or more persons act in complicity in an administrative violation, each one of them shall be subject to the sanction prescribed for this action.

Article 70 (Joint liability)

1. If the violation is committed by a person subject to another authority, management or control, the person vested with the authority or having the responsibility for the management or control shall be held jointly liable for the payment of the amount owed by the perpetrator of the violation, unless the person proves that he could not have prevented the violation.
2. If the violation is committed by the representative or employee of a legal person or entity without legal personality, by an entrepreneur, or professional in the exercise of his own functions or commissions, the legal person, entity, entrepreneur or professional shall be held jointly liable for the payment of the amount owed by the perpetrator of the violation.
3. In the cases envisaged in the previous paragraphs, anyone who is held jointly liable has the obligation to claim against the perpetrator of the violation.
4. The joint liability referred to in paragraphs 1 and 2 exists even if the perpetrator of the violation has not been identified.

Article 71
(More violations of provisions subject to administrative sanctions)

1. Unless otherwise established by the law, anyone who, through actions or omissions, violates several provisions that set forth administrative sanctions or commits more than one violation of the same provision, shall be subject to the sanction envisaged for the most serious violation, increased up to three times the amount.

Article 72
(Criteria for the application of pecuniary administrative sanctions)

1. In determining the pecuniary administrative sanction established by the law between a minimum and a maximum limit, the seriousness of the violation, the behaviour subsequent to the violation aimed at

aggravating or attenuating the consequences of the violations, the behaviour and economic conditions of the perpetrator of the violation shall be taken into account.

Article 73
(Voluntary settlement)

1. For the administrative violations set forth in this law, by way of derogation from article 33, paragraph 1, letter a) of Law N° 68 of June 28, 1989, the offender may exercise the right to voluntary settlement, consisting in the immediate payment of half of the sanction applied in accordance with article 72.

Article 74 (Application of the sanctions)

1. The Agency shall provide for the ascertainment of the administrative violations and application of the sanctions set forth in this law.

CHAPTER IV
INVALIDITY OF ACTS EVIDENCING TITLE TO ASSETS SUSCEPTIBLE TO CONFISCATION

Article 75 (Nullity of the acts evidencing title to assets susceptible to confiscation)

1. Any act - fulfilled in any capacity - evidencing title to assets, funds or economic resources that constitute directly or indirectly the price, product or profits from an offence is null and void, if the person who has received such assets, funds or economic resources knew or should have known that they derived from an offence.
2. "*I Sindaci di Governo*" [*authorities dealing with acts and deeds involving the State*] shall convene the assignor, assignee and any subsequent assignees that are jointly sentenced to the transfer of assets, funds or economic resources to the *Ecc.ma Camera* [*State*], or, if this is not possible, to the payment of an equivalent sum.
3. The assignee and any subsequent assignees have the onus of proving their good faith in accordance with the first paragraph of this article.
4. Any other reciprocal action between the assignor, assignee and any subsequent assignees is guaranteed.
5. Any action is guaranteed to the person damaged by the offence from which the assets, funds, or economic resources are derived.
6. This article shall apply by way of derogation from the general provisions in force regarding matters of contractual invalidity, with the aim of more effectively preventing and combating money-laundering and terrorist financing.

TITLE VII
AMENDMENT TO LEGISLATION IN FORCE
CHAPTER I
SUPPLEMENTS AND AMENDMENTS CONSEQUENT ON INTERNATIONAL CONVENTIONS

Article 76 (Criminal jurisdiction, extradition and confiscation)

1. In article 6 paragraph 1 of the criminal code, after "337 *bis*", introduced in article 2 of Law N° 28 of February 26, 2004, the term "337 *ter*," is added and after "347," the term "374 *ter*" is added.
2. In article 8 paragraph 3 of the criminal code, after the terms "in no case shall be deemed political", introduced in article 3 of Law N° 28 of February 26, 2004, the terms "crimes set forth in articles 337 *bis*, 337 *ter* as well" are added.
3. In article 140 of the criminal code, the following number: "6. Payments of sum in money set forth in article 147 paragraph 3" is added.
4. Article 147, paragraph 3 of the criminal code is replaced by the following:

"In case of conviction, the confiscation of the instrumentalities that served or were destined to commit the offences referred to in articles 199 paragraph 1, 199 *bis*, 207, 305 *bis*, 337 *bis*, 337 *ter*, 371, 372, 373, 374 paragraph 1, 374 *ter* paragraph 1 and the for the purpose of terrorism or subversion of the constitutional order, and of the things being the price, product or profit is always obligatory. Where confiscation is not possible, the judge shall impose an obligation to pay a sum of money equal to the value of the instrumentalities and things referred above".

Article 77 (Property crimes)

1. Article 199 of the criminal code is replaced by the following:
"*Sale of stolen property* – Apart from cases of complicity to commit an offence, anyone who buys or receives properties knowing that these are proceeds of crime, shall be punished by terms of second-degree imprisonment and second-degree daily fine and third-degree disqualification from public offices and political rights.
Where a bankruptcy procedure is initiated, the same penalty shall apply to anyone who, for profit making purposes, intervenes to lead others to buy or receive properties which are proceeds of crime, or receives properties owned by individuals or companies knowing that such individuals or company suffer insolvency or buys such properties at a much lower price.
2. After the fourth paragraph in article 199 *bis* of the criminal code, the following paragraphs are inserted:
"Anyone who commits crimes set forth in this article shall be punished by terms of fourth-degree imprisonment, a second-degree daily fine and third-degree disqualification from public offices and political rights.
The penalties may be decreased by one degree based on the amount of money or assets equivalent to them and by the nature of the transactions carried out. The penalties may be increased by one degree when the facts have been committed during the exercise of a commercial-professional activity subject to authorization or certification by the competent Public Authorities.
The judge shall apply the corresponding penalty for the predicate crime, if this is less serious."
3. The first paragraph of article 207 of the criminal code is replaced by the following:
"Anyone who takes or promises, in return for a professional services, an exorbitant interest rate or other advantages or intervenes to lead [someone] to receive or promise to others the aforementioned interests or advantages, shall be punished with a third-degree imprisonment, a second-degree daily fine and third-degree disqualification from public office and political rights.
4. In article 207 paragraph 2 of the criminal code, the terms "by the Office of Banking Supervision" are replaced by the following: "by the Central Bank of the Republic of San Marino."
5. After the third paragraph in article 207 of the criminal code, the following paragraph is added:
"The penalties may be decreased by one degree considering the amount of money or the amount of the interests. The penalties may be increased by one degree when the facts have been committed during the exercise of a commercial-professional activity subject to authorization or certification by the competent Public Authorities or if the offender is a usurer."

Article 78 (Terrorism crimes)

1. The first paragraph in article 337 *bis* of the criminal code is replaced by the following:
"Anyone promoting, establishing, organizing or directing associations that aim at perpetrating violent acts for purposes of terrorism or subversion of the constitutional order, against public or private institutions or bodies either of the Republic of San Marino, of a foreign State or an International Organisation, shall be punished by terms of sixth-degree imprisonment and fourth-degree disqualification from public offices and political rights."
2. After article 337 *bis* of the criminal code, the following article is inserted:
"Article 337 *ter*. *Financing of terrorism* – Anyone who by any means, even through another person, receives, collects, detains, gives up, transfers or conceals funds intended to be used, in full or in part, in order to carry out one or more terrorist acts or to economically support terrorist individuals or groups, or provides them with a financial service or other connected services, shall

be punished by terms of sixth-degree imprisonment and fourth-degree disqualification from public offices and political rights."

Article 79 (Crimes against the public administration)

1. The first paragraph in article 373 of the criminal code is replaced by the following:
"A public official, who receives any undue advantage for himself or others, or accepts the promise of the advantages with the purpose of omitting or delaying or for having omitted or delayed an act of his office or of carrying out or having carried out an act contrary to his official duties, shall be punished by terms of fourth-degree imprisonment and fourth-degree disqualification from public offices and political rights as well as a third-degree daily fine."
2. After article 374 of the criminal code the following articles are inserted:
"374 *bis*. *Instigation of corruption* – Anyone who offers or promises any undue advantage to a public official or public employee, who does not have an official capacity, in order to lead him to omit or delay an act of his office, or to carry out an act contrary to his duties shall be punished, whether the offer or promise has been accepted or not, by terms of third-degree imprisonment and third-degree disqualification from public offices and political rights as well as a second-degree daily fine.
If the offer or promise has been made to lead a public official or public employee, who does not have an official capacity, to carry out an act of his office, whether the offer or promise has been accepted or not, the offender shall be subject to third-degree arrest and a second-degree daily fine.
The penalty referred to in the first paragraph shall be applied to the public official or public employee, who does not have an official capacity, that demands a promise or gift of any advantage from a private citizen for the purposes foreseen in article 373.
The penalty foreseen in the second paragraph shall be applied to the public official or public employee, who does not have an official capacity, that demands a promise or gift of any advantage from a private citizen for the purpose foreseen in article 374."
"374 *ter*. *Embezzlement, extortion, corruption and instigation to corruption of officials from foreign and international public organizations* – The provisions of articles 371, 372, 373 paragraphs 1, 2 and 3, 374 paragraph 1, and 374 *bis* paragraphs 3 and 4, shall be applied to those who exercise functions or activities equivalent to those of a public official or public employee, who does not have an official capacity in the field of foreign or international public organizations as well as officials and agents recruited by contract in foreign or international public organizations.
The provisions of articles 373 paragraph 4, 374 paragraph 2, 374 *bis* paragraphs 1 and 2, shall be applied even if the advantage has been given, offered or promised to persons foreseen in the first paragraph of this article."

Article 80 (Misuse of privileged information)
1. The fourth paragraph in article 305 *bis* of the criminal code is replaced by the following:
"Except as provided in article 147, in case of a conviction, the confiscation of the instrumentalities, including financial ones, that were used to commit the crime, shall always be mandatory, except where they belong to a person not involved in the crime."

CHAPTER II
PROVISIONS ON THE EXTRADITION AND TRANSFER OF PRISONERS OR PERSONS IN CUSTODY

Article 81 (Extradition for terrorist crimes)

1. For crimes of association for purpose of terrorism, terrorist financing as well as any crime committed for the purpose of terrorism, in the absence of specific international treaties, the extradition of a person who is in the territory of the Republic of San Marino is regulated by the International Convention for the repression of terrorism held in New York on December 9, 1999 and ratified with Decree N° 125 of

December 10, 2001. The provisions set forth in article 8 paragraph 2, nos. 1, 2 and 3 of the criminal code shall apply.

Article 82 (Transfer of a person abroad)

1. Failing a specific International treaty, where a foreign judicial Authority request - for the purpose of fulfilling procedural requirements related to crimes of association for the purpose of terrorism, terrorist financing, or any other crime perpetrated for terrorist purposes - the presence of a person in custody or serving imprisonment as ordered by the San Marino judicial Authority, the judge may authorize the transfer of said person provided that:
a) the person to be transferred consent thereto freely and consciously;
b) the requesting State adopts the measures deemed as most appropriate for the transfer by the San Marino judicial Authority;
c) the State of destination commits itself to keeping the transferee in custody or prison, unless otherwise requested or allowed by the San Marino judicial;
d) the State of destination commits itself to restitution without delay, in accordance with what previously agreed or decided by the requesting authority and the San Marino authority;
e) the State of destination commits itself not to making restitution subject to extradition of the transferee;
f) the State of destination neither prosecutes, nor imprisons or deprives of liberty the transferee for convictions suffered prior to the date of transfer, unless otherwise allowed by the San Marino judicial authority;
g) the State of destination does not provide for the death penalty.
2. The San Marino judicial authority shall take into due account the imprisonment already served in the State of destination in order to determine the punishment to serve in the Republic of San Marino.

CHAPTER III
AMENDMENT TO THE LAW ON FOREIGNERS

Article 83 (Trafficking in migrants)

1. After article 3 of Law N° 22 of February 24, 2000, the following articles are added:
"3 *bis*. *Trafficking in migrants* – Anyone who, for the purpose of making a profit, direct or indirect, carries out acts intended to obtain the illegal entry of one or more persons into the territory of the Republic of San Marino in violation of the laws in force on foreigners or on residencies and permits of stay, shall be punished by terms of third-degree imprisonment and a second-degree daily fine.
The same penalty shall be applied to anyone who, for the purpose of making a profit, direct or indirect, carries out acts intended to obtain the illegal entry of one or more persons into a State of which the person is not a citizen or not a resident.
The penalties referred to in the previous paragraphs shall be increased by one degree upon the following conditions:
a) if, in order to obtain the illegal entry, the person has been exposed to a risk for his/her life or safety;
b) if, in order to obtain illegal entry or stay, a person has been subjected to inhuman or degrading treatment;
c) if the fact has been committed using counterfeit or altered documents, or at any rate illegally obtained.
If the facts referred to in paragraphs 1 and 2 are carried out for the purpose of recruitment for prostitution, or at any rate for sexual exploitation, or when the facts concern the entry of minors to be used in illegal activity, the imprisonment shall be increased by two degrees and a third degree fine shall be applied.
Apart from the cases envisaged in the previous paragraphs and except where the conduct amounts to a more serious crime, anyone who favours by illegal means the stay of a foreigner in the territory of the Republic of San Marino in order to obtain an undue profit, in violation of the laws

in force on foreigners, on residences and permits of stay, shall be punished with imprisonment and a second-degree daily fine.

3 *ter*. *Falsification of travel and identity documents* – Except where the conduct amounts to a more serious crime, anyone who, for the purpose of committing the crime of trafficking in migrants or permitting the commission by third parties, counterfeits or alters a travel or identity document or purchases, receives, possesses, gives up or uses a travel or identity document counterfeited or altered shall be punished by terms of third-degree imprisonment.

3 *quater*. *Confiscation* - In the cases envisaged in articles 3 *bis* and 3 ter, the confiscation of the things that served or were destined to commit the offences shall be always mandatory as well as the things being the price, product or profits. Where confiscation is not possible, the judge shall order an obligation to pay a sum of money equal to the value of the things mentioned above.

Confiscated things or the equivalent sums, shall be allocated to the inland revenue or, where appropriate, destroyed.

3 *quinquies*. *Jurisdiction of San Marino* - Any citizen who commits offences envisaged in articles 3 *bis* and 3 *ter* outside the national territory, is subjected to the laws of San Marino.

The laws of San Marino shall also apply to any foreigner who commits the offences envisaged in articles 3 *bis* and 3 *ter* outside the territory of San Marino if he/she is present in the territory of the State and whenever extradition under the laws of San Marino, treaties and international conventions is not possible.

No proceedings shall be taken towards a citizen or foreigner when one of the following conditions is met:

1) the person has been tried abroad and found innocent;

2) the person who, sentenced abroad, has served the entire sentence handed down, even if less severe than that set forth in this law;

3) the person who, sentenced abroad, has served part of the sentence handed down whenever the sentence that has been served is no less than the minimum penalty set forth in this law."

CHAPTER IV
AMENDMENTS TO PROVISIONS REGARDING POWERS AND FUNCTIONS IN THE FIELD OF COMBATING MONEY LAUNDERING AND TERRORIST FINANCING

Article 84(Special investigative measures and combating of terrorist financing)

1. In article 15, paragraph 1 of Law N° 28 of February 26, 2004, after "337 *bis*", the term: "337 *ter*" is added.

2. Article 17 of Law N° 28 of February 26, 2004 is replaced by the following:

"The Central Bank of the Republic of San Marino shall conduct financial investigations also in cooperation with the Police Forces - subject to the prior authorization of the Commissioner of the Law - which shall report directly to the Central Bank. Where the reported facts might constitute an offence, the Central Bank shall report them to the Single Court."

Article 85 (Amendments to the statute of the Central Bank)

1. In article 12, paragraph 3 of Law N° 96 of June 29, 2005 and subsequent amendments, the terms "and combating money laundering" are repealed.

2. In article 15, paragraph 2 of Law N° 96 of June 29, 2005 and subsequent amendments, the terms "and as an anti-money laundering unit" are repealed.

3. In article 16, paragraph 3 of Law N° 96 of June 29, 2005 and subsequent amendments, the terms "and its anti-money laundering functions" are repealed.

4. In article 29, paragraph 3 of Law N° 96 of June 29, 2005 and subsequent amendments, after the term "penal sanctions" the following terms "and to the Financial Intelligence Agency in the exercise of its function of prevention and combating of money laundering and terrorist financing" are added.

5. In article 30, paragraph 3 of Law N° 96 of June 29, 2005 and subsequent amendments, the terms "and to the anti-money laundering unit" are repealed.

6. In article 33, paragraph 1 of Law N° 96 of June 29, 2005 and subsequent amendments, letter: "e. the anti-money laundering unit" is repealed.
7. Article 48, paragraph 2 of Law N° 96 of June 29, 2005 and subsequent amendments is replaced by the following:

"The Committee for Credit and Savings will be assigned the functions of directing and guiding the supervision over banking, financial and insurance activities and the promotion of national and international cooperation for effectively preventing and combating money laundering and terrorist financing."

8. After paragraph 3 in article 48 of Law N° 96 of June 29, 2005 and subsequent amendments, the following paragraphs are added:

"4. For the purpose of promoting national and international cooperation for effectively combating money laundering and terrorist financing, the Committee for Credit and Savings shall convene periodically.

5. A Magistrate appointed by the Judicial Council in an ordinary session, the director of the Financial Intelligence Agency or one of his delegates and a representative appointed by the Commanders of the Police Forces shall attend the meetings referred to in the previous paragraph.

6. The President of the Committee, according to items on the agenda, can invite to the meeting representatives of Professional Associations, Public administrations, and the obliged parties envisaged by the law on preventing and combating money laundering and terrorist financing."

Article 86 (Amendments to the law on companies and banking, financial and insurance services)

1. Article 36, paragraph 5, letter b) of Law N° 165 on November 17, 2005 is replaced by the following:

"to the supervisory authority in the exercise of its function of supervision, and to the Financial Intelligence Agency in the exercise of its functions of preventing and combating money laundering and terrorist financing."

2. In article 37, letter c) of Law N°. 165 of November 17, 2005, after the terms "financial nature" the following terms "in cooperation with other competent authorities" are added.

CHAPTER V
AMENDMENTS ON COMPANY LAW

Article 87 (Assembly of anonymous joint stock companies)

1. Paragraph 2 in article 44 *bis* of Law N° 47 of February 23, 2006 and subsequent amendments is replaced by the following:

"2. The notary shall:

a) identify the bearer of the shares and verify his/her identity;

b) acquire a copy of the identity document for each bearer;

c) draw up a separate act which indicates the date of the assembly, the identity of the participants and the capital represented by each participant;

d) keep copies of the acts and identity documents required for at least five years from the closure of the professional relationship with the company ."

2. Paragraph 4 in article 44 *bis* of Law N°. 47 of February 23, 2006 and subsequent amendments is replaced by the following:

"4. The information and documents referred to in paragraph 2 may be acquired by the Judicial Authority at the notary's offices in the context of criminal proceedings and by the Financial Intelligence Agency in the exercise of its functions of preventing and combating money laundering and terrorist financing.

5. The notary shall make use of the documents and information referred to in paragraph 2 to fulfil customer due diligence obligation set forth in the law on preventing and combating money laundering and terrorist financing.

6. The notary may release the information and documents referred to in paragraph 2 also to permit the fulfilment of the customer due diligence obligations by the obliged parties set forth in the law on preventing and combating money laundering and terrorist financing .

7. Apart from the cases set forth in paragraphs 4, 5 and 6, the notary who reveals the identity of the bearers of shares shall be punished according to article 377 of the criminal code."

Article 88 (Fulfillment of the customer due diligence obligations regarding anonymous joint stock companies)

1. Failing to release the documents and information by the notary, under article 44 *bis*, paragraph 6 of Law N°. 47 of February 23, 2006 as amended by article 87 of this law, shall not exonerate the obliged parties from fulfilling customer due diligence obligations.

TITLE VIII

transitory and final dispositions

Article 89 (Abrogations)

1. The following are abrogated:
   a) article 9 of Law N° 41 of April 25, 1996 "Provisions on currency matters";
   b) articles 6, 8 and 16 Law N° 28 of February 26, 2004 "Provisions on anti-terrorism, anti-money laundering and anti-insider trading";
   c) article 39, paragraph 3 of Law N°. 165 of November 17, 2005 "Law on companies and banking, financial and insurance services";
   d) Decree N° 71 of May 29, 1996 "Provisions on the matter of anti-money laundering";
   e) Law N° 123 of December 15, 1998 "Law on the matter of anti-money laundering and usury";
   f) any provision in contrast with this law.

Article 90 (Delegated decree)

1. The following shall be regulated by delegated decree:
   a) the custody, administration and management of economic resources that are the object of freezing measures;
   b) the controls on the transport of money and similar instruments across transnational borders;
   c) the procedures of closing bearer passbooks that have not been converted within the terms set forth in article 31.

2. Upon proposal by the Agency, other entities and other activities may be identified, by a delegated decree, for being subjected to the obligations set forth in this law.

3. The amounts established in article 26, paragraph 2 may be modified by delegated decree.

Article 91 (Delegated decree for the regulation of the Agency)

1. Within one month from the publication of this law, the Congress of State shall regulate the following by delegated decree:
   a) the requirements of professionalism, independence, and respectability referred to in article 3, as well as the cases of non-compatibility;
b) the legal status and pay of the Agency staff;
c) the functions of the Director and Vice Director of the Agency;
d) the organizational, functional and financial structure of the Agency.

Article 92 (Beginning of effectiveness of the Agency)

1. The Director of the Agency, appointed under article 3, shall inform the Congress of State, through the Secretary of State for Finance and Budget, of the beginning of effectiveness of the Agency.

Article 93 (Transfer of functions regarding financial analysis activity)

1. On the entry into force of this law, the functions and powers on the matter of combating money laundering and terrorist financing assigned to the Central Bank of the Republic of San Marino by the provisions abrogated by this law, shall be transferred to the Agency.
2. Before the communication referred to in article 92, the functions and powers assigned to the Agency by this law shall be carried out by the Central Bank.
3. The information and documents, also in electronic format, regarding the suspicious transaction reports received, any financial analysis carried out and the exchange of information between financial information units, shall be sent in copy by the Central Bank to the Agency within 30 days from the communication referred to in article 92. The Director of the Agency shall confirm that the documents have been delivered.
4. The electronic systems used by the Central Bank for financial analysis and exchange of information, shall be transferred to the Agency within 30 days from the communication referred to in article 92.
5. The Central Bank shall continue to exercise its duties of financial analysis of reports on suspicious transactions received before the communication referred to in article 92, in accordance with the provisions set forth in this law and compatibly with the organizational structure of the Central Bank. For the ongoing analysis on that date, the Central Bank may make use of the electronic systems transferred to the Agency.
6. Within three months from the communication set forth in article 92, the Central Bank shall inform the Agency of the results of the financial analysis of the suspicious transaction reports received before that communication. To this end, the Central Bank shall transmit a copy of the relative documentation to the Agency.
7. The documents and information already acquired by the Central Bank in the exercise of its functions and powers for preventing and combating money laundering, may not be used for other purposes set forth in article 3 of Law N° 96 of June 29, 2005.
8. Until the recruitment of its staff is completed, the Agency shall rely on the employees and officials of the Central Bank, identified by the Director of the Agency, in agreement with the Director of the Central Bank, taking into consideration the operational and functional requirements of both the Agency and the Central Bank.

Article 94 (Technical Annex)

1. For the purpose of identifying the individuals referred to in article 1, paragraph 1, letter n) and the identification of "assets" or "funds" referred to in article 1, paragraph 1, letter e), reference shall be made to the provisions in the Annex to this law.
2. The Annex referred to in the previous paragraph may be modified or integrated by delegated decree.

Article 95 (Timeframe of fulfillments and instructions)

1. The obliged parties are required to fulfil the obligations of customer due diligence, registration and reporting starting from the entry into force of this law.
2. Within six months from the communication referred to in article 92, the Agency shall issue the following instructions:
   a) on the ways for the fulfilment of the obligations referred to in article 22, paragraph 1, letter b);
   b) on the risk-assessment and additional evaluations referred to in article 25;
   c) on the identification to be carried out through third parties and on the way of transmission of documents and information referred to in article 29;
   d) on the information that shall be acquired in case of transfer of funds referred to in article 33;
   e) on the typologies of suspicious transactions and procedures for the examination of operations referred to in article 36;
   f) on the data and information that shall be registered and maintained according to article 34, paragraph 1.
3. Except as provided in article 25, the obliged parties are required to fulfil the obligations referred to in the previous paragraph according to the way set forth in the instructions issued by the Agency.

4. The provisions referred to in the previous paragraphs shall apply also to occasional transactions and professional services which might be ongoing on the entry into force of this law, as well as relationships existing on that date.
5. The Agency shall suggest to the Congress of State, through the Committee for Credit and Savings, the identification of foreign jurisdictions whose system for preventing and combating money laundering and terrorist financing is equivalent to that set forth in international standards. The Congress of State, by decision, shall identify the equivalent jurisdictions.
6. The circulars and standard letters issued by the Central Bank on matters of preventing and combating money laundering and terrorist financing shall continue to be applied, in such that they are compatible, until the issue of the instructions referred to in paragraph 2.

Article 96 (Entry into force)

1. This law shall enter into force three months after its legal publication.

Issued from our Residence, on this day, June 17, 2008

THE CAPTAINS REGENT
Rosa Zafferani – Federico Pedini Amati

THE SECRETARY OF STATE
FOR INTERNAL AFFAIRS
Valeria Ciavatta

TECHNICAL ANNEX

Article 1 (Politically exposed persons referred to in article 1, paragraph 1, letter n)

1. It should be considered as "politically exposed persons":
   A) any natural person, foreign citizen, who is or has been entrusted with prominent public function abroad during the year preceding the establishment of the business relationship, transaction or professional service, including the following even if differently named:
   1) head of State, head of government, minister, vice minister, undersecretary of State, member of Parliament,
   2) member of judiciary bodies whose decisions are not generally subjected to further appeal,
   3) member of the board of directors of central banks or supervisory authorities,
   4) ambassador, chargé d'affaires, a high-ranking officer in the armed forces,
   5) member of the board of directors, management or supervisory bodies of companies owned by the State;
   B) any immediate family members of the persons foreseen in the previous letter or persons known to be close associates of such persons, including the following persons:
   1) spouse or partner considered equivalent to the spouse,
   2) children and their spouses,
   3) parents;
   C) any natural person who is known to have the beneficial ownership of companies or legal entity with a person referred to in letter A);
   D) any natural person who is the sole beneficial owner of companies or legal entities or legal arrangements which is known to have been set up for the benefit de facto of the person referred to in letter A).
2. Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence obligations, where a person has ceased to be entrusted with a prominent public function for a period of the least one year, the obliged parties shall not be required to consider such a person as politically exposed.

Article 2 ("Assets" or "funds" referred to in article 1, paragraph 1, e)

1. The following are considered "assets" or "funds": property of any kind, tangible or intangible, movable or immovable, including means of payment and credit, any document or instrumentalities, even electronic or digital, evidencing title to or interest in such property. The following can be included as an example:

a) cash, checks, bills of exchange, pecuniary credits and claims on money, payment orders and other means of payment;
b) deposits with banks or financial institutions or other entities, the balance on accounts, credits, bonds of any nature and negotiable securities at public and private levels as well as financial instruments as defined by Law N° 165 on November 17, 2005 and subsequent amendments;
c) interests, dividends and other incomes and increases of values generated by the assets;
d) credits, right of set-off (settlement and clearing), guarantee of any nature and other financial commitments, letters of credit, bills of lading and other certificates representative of assets or goods;
e) documents that demonstrate an interest in funds or economic resources;
f) all other instruments of exports-financing.

Annex: no. 02

Congress of State

Secretariat of State
for Internal Affairs

Sitting of: 26 JANUARY 2009/1708 – Decision no. 9

Subject: List of Countries, Jurisdictions and Territories whose system to prevent and combat money laundering and terrorist financing is considered equivalent to international standards

THE CONGRESS OF STATE

Having heard the reference of the Secretary of State for Finance and the Budget and Relations with the Philatelic and Numismatic State Corporation;
Having considered that, under Article 95, paragraph 5 of Law no. 92 of 17 June 2008, the Congress of State, by decision, shall identify foreign Jurisdictions whose system for preventing and combating money laundering and terrorist financing is equivalent to that set forth in international standards;
Having regard to Note no. 09/0062 of the Financial Intelligence Agency dated 20 January 2009;
Having heard the opinion of the members of the Committee for Credit and Savings;
Having acknowledged the guidelines recently adopted at international level by the Committee on the Prevention of Money Laundering and Terrorist Financing established within the European Union;
Under Article 95, paragraph 5 of Law no. 95 of 17 June 2008 (Provisions on Preventing and Combating Money Laundering and Terrorist Financing),

identifies

the following list of foreign Countries, Jurisdictions and Territories whose system for preventing and combating money laundering and terrorist financing is considered equivalent to that set forth in international standards:

Member Countries of the European Union

- Austria
- Belgium
- Bulgaria
- Cyprus
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- United Kingdom
- Czech Republic
- Romania
- Slovakia

- Slovenia
- Spain
- Sweden
- Hungary

Member Countries of the European Economic Area

- Iceland
- Liechtenstein
- Norway

Countries which are not members of the European Union

- Argentina
- Australia
- Brazil
- Canada
- Japan
- Hong Kong
- Mexico
- New Zealand
- Russian Federation
- Singapore
- United States of America
- Republic of South Africa
- Switzerland

Other Countries/Jurisdictions/Territories

- Dutch Antilles (Dutch overseas territory)
- Aruba (Dutch overseas territory)
- Mayotte (French overseas collectivity)
- New Caledonia (French overseas collectivity having a special statute)
- French Polynesia (French overseas collectivity)
- Wallis and Futuna (French overseas collectivity)
- Jersey
- Guernsey
- Isle of Man

specifies

that the list of Countries, Jurisdictions and Territories indicated above may be regularly updated, upon proposal of the Financial Intelligence Agency, on the basis of the information available at international level or according to the decisions taken in this regard within the European Union

entrusts

the Financial Intelligence Agency with the task of releasing this Decision, as far as possible, to all obliged parties referred to in Article 17 of Law no. 92 of 17 June 2008.

THE SECRETARY OF STATE

Extract from the summary of proceedings issued for the use of: Their Excellencies the Captains Regent, the Secretaries of State, the Central Bank – the Financial Intelligence Agency, the Committee for Credit and Savings

Congress of State

Annex: no. 03

Secretariat of State
for Internal Affairs

Sitting of: 2 FEBRUARY 2009/1708 – Decision no. 55

Subject: Amendment to the "Regulation governing the keeping of the electronic Register of Legal Persons" referred to in Article 63 of Law no. 165 of 18 December 2003

THE CONGRESS OF STATE

having heard the references of the Secretary of State for Justice, Information, Research and Relations with the Township Councils;

having regard to its previous Decision no. 55 of 25 October 2004 and the attached "Regulation governing the keeping of the electronic Register of Legal Persons";

having considered that under Article 26 of Law no. 47 of 23 February 2006, as amended by Decree no. 130 of 11 December 2006, which requires that the deeds of transfer of holdings and shares shall be filed with the Registrar's office of the Single Court, the examination of the folder allows to verify the corporate structure; furthermore, at present the Registrar shall issue the relevant certifications in compliance with the provisions and measures taken by the Chief Magistrate on 3 February 2003, Ref. no. 34/D/03; having considered that the Secretariats of State and the Public Offices involved, the Judicial Authority, the Supervising Authorities of the Central Bank and over economic activities, the Financial Intelligence Agency, as well as the Police Forces performing the functions of judicial police need to have timely access to the data concerning the company structure;

having considered that Article 6 of Law no. 47 of 23 February 2006 (regulating the contents of the public Register of Companies) does not indicate the members' names among the data which shall be entered in the public register,

authorises

the Registrar's Office of the Single Court to indicate the data related to the members of limited liability companies and joint-stock companies in a special section of the Register of Companies, to which only the above-mentioned Authorities shall be granted access;

orders

that the following paragraph is added to Article 4 of the "Regulation governing the keeping of the electronic Register of Legal Persons": "No restriction shall be applied to the investigation activities and inquiries carried out or ordered by the Secretariats of State and the Public Offices involved, the Judicial Authority, the Supervising Authorities of the Central Bank and over economic activities, the Financial Intelligence Agency and the Police Forces performing the functions of judicial police."

Acknowledges

that separate databases on members shall also be created for all registers related to legal persons (associations, foundations, cooperatives, consortiums, etc.), which are kept at the Registrar's Office of the Single Court. These databases shall be set up with the same characteristics and consultation modalities as the ones for companies.

the Office of Economic Planning, Data Processing and Statistics and the Chief Magistrate of the Single Court to take any necessary action falling within their competence.

THE SECRETARY OF STATE

Extract from the summary of proceedings issued for the use of: Their Excellencies the Captains Regent, the Secretaries of State, the Department Coordinators, the Control and Supervision Commission referred to in Article 15 of Law no. 53 of 28 April 1999, the Office for Control and Supervision of economic activities and the Central Liaison Office referred to in Law no. 95 of 18 June 2008, the Supervision Division of the Central Bank of the Republic of San Marino, the Financial Intelligence Agency, the Guarantor for the Protection of Personal Data, the Public Institution for Gaming Activities, the Office for International Economic Relations, the Single Court, the Office of Economic Planning, the Office of Industry, the Tax Office, the Registration Office, the Direction of the Labour Office, the State Lawyers' Office, the Gendarmerie Headquarters, the Civil Police Headquarters, the Fortress Guard Headquarters.

Annex: no. 04

Congress of State

Secretariat of State
for Internal Affairs

Sitting of: 16 FEBRUARY 2009 **Decision no. 34 File no. 0530**

Subject: Awarding of a Contract for Consulting and Assistance Services in Drafting Regulations on *Non-profit Associations, Foundations and Entities* to Mr. M.S., J.D.

THE CONGRESS OF STATE

Having heard the report of the Secretary of State for Justice, Information, Research and Relations with the Township Councils regarding the need for adoption of appropriate regulations enabling the Republic of San Marino to adjust to the Recommendations expressed by international bodies (FATF-OECD, Moneyval-Council of Europe);

Having taken note of the need to introduce new regulations on non-profit Associations, Foundations and Entities, which shall ensure accountability and transparency of this sector and protect it from any abuse aimed at terrorist financing,

entrusts

Mr. M.S., J.D. with the task of preparing a Draft Law and report thereto, defining:

- specific rules on the obligation for registering financing transactions, whose sources shall be adequately controlled and registered, both for private and public funding;
- clear coordination for the exchange of information between Supervisory Authorities.

The above-mentioned Draft Law shall also be in line with similar regulations in force in other Countries and be submitted to the competent Secretary within 45 days from the signature of the relevant Contract.

Mr. M.S. will receive €. 6,000.00 as flat-rate payment. This sum will be calculated in Budget Item 1-1-1345, called "Studies, consultations and various assistance services of the Congress of State", of the current financial year.

mandates

the Reporting Secretary of State to sign the relevant Contract with Mr. M.S. according to the text referred to in the records of this sitting.

This decision shall be sent to the Directorate-General of Public Finance – Central Supervisory Service for its legal authorisation.

THE SECRETARY OF STATE

Extract of minutes for use by: Their Excellencies the Captains Regent, the Secretaries of State, the Directorate-General of Public Finance, the General Accounting Office, the Department of Internal Affairs, the Department of Justice, Mr. M.S., J.D.

Annex: no. 04 bis

Congress of State

Secretariat of State
for Internal Affairs

Sitting of: 16 FEBRUARY 2009 **Decision no. 35 File no. 0531**

Subject: Awarding of a Contract for Consulting and Assistance Services in Drafting Regulations on *International Letters Rogatory* to Mr. GLM, J.D.

THE CONGRESS OF STATE

Having heard the report of the Secretary of State for Justice, Information, Research and Relations with the Township Councils regarding the need for adoption of appropriate regulations enabling the Republic of San Marino to adjust to the Recommendations expressed by international bodies (FATF-OECD, Moneyval-Council of Europe);

Having taken note of the need to introduce, in this context, new regulations on International Legal Assistance – International Letters Rogatory -;

entrusts

Mr. GLM, J.D. with the task of preparing a Draft Law and report thereto, to establish and specify the procedures to be applied in case of requests for international assistance in criminal investigations.

The Draft shall specify which criteria (admissibility requirements) shall be applied by the San Marino Judiciary to grant international cooperation requests, even if they are submitted by Countries with which San Marino has not signed any relative Convention at bilateral level.

The above-mentioned Draft Law shall also be in line with similar regulations in force in other Countries and be submitted to the competent Secretary within 45 days from the signature of the relevant Contract.

Mr. GLM will receive €. 8,000.00 as flat-rate payment. This sum will be calculated in Budget Item 1-1-1345, called "Studies, consultations and various assistance services of the Congress of State", of the current financial year.

mandates

the Reporting Secretary of State to sign the relevant Contract with Mr. Mularoni according to the text referred to in the records of this sitting.

This decision shall be sent to the Directorate-General of Public Finance – Central Supervisory Service for its legal authorisation.

THE SECRETARY OF STATE

Extract of minutes for use by: Their Excellencies the Captains Regent, the Secretaries of State, the Directorate-General of Public Finance, the General Accounting Office, the Department of Internal Affairs, the Department of Justice, Mr. GLM, J.D.

Annex: no. 04 ter

Congress of State

Secretariat of State
for Internal Affairs

Sitting of: 16 FEBRUARY 2009 **Decision no. 36 File no. 0532**

Subject: Awarding of a Contract for Consulting and Assistance Services in Drafting Regulations on Telephone Tapping and Bugging in Criminal Proceedings to Mr. P.R., J.D.

THE CONGRESS OF STATE

Having heard the report of the Secretary of State for Justice, Information, Research and Relations with the Township Councils regarding the need for adoption of appropriate measures to prevent and contrast money laundering and terrorist financing, Law no. 92 of 17 June 2008, and, in this framework, adopt appropriate regulations in the field of telephone tapping and bugging, with a view to implementing the provisions referred to in Art. 15, subparagraph 2 of Law no. 28 of 26 February 2004, and in Art. 7, subparagraph 2 of Law no. 60 30 April 2002;
Taking into account that the Plan drafted by Prof. G.G: according to decision no. 54 of 21 December 2007 needs further analysis, review and integration,

entrusts

Mr. P.R., J.D. with the task of preparing a Draft Law and report thereto, defining specific methods, limitations and use of telephone tapping and bugging along with relevant sanctions, and, in addition, of establishing the physical location of technical devices as well as the procedures regarding the execution, authorisation and custody of the records to be used in criminal proceedings.
The above-mentioned Draft Law shall also be in line with similar regulations in force in other Countries and be submitted to the competent Secretary within 45 days from the signature of the relevant Contract.
Mr. P.R. will receive €. 6,000.00 as flat-rate payment. This sum will be calculated in Budget Item 1-1-1345, called "Studies, consultations and various assistance services of the Congress of State", of the current financial year.

mandates

the Reporting Secretary of State to sign the relevant Contract with Mr. P.R. according to the text referred to in the records of this sitting.

This decision shall be sent to the Directorate-General of Public Finance – Central Supervisory Service for its legal authorisation.

THE SECRETARY OF STATE

Extract of minutes for use by: Their Excellencies the Captains Regent, the Secretaries of State, the Directorate-General of Public Finance, the General Accounting Office, the Department of Internal Affairs, the Department of Justice, Mr. PR, J.D.

Annex: no. 04 quater

Department of Justice

Ref. 43 – Department of Justice

San Marino, 19 February 2009

To
Financial Intelligence Agency

As per telephone conversation, I wish to inform you of the measures and initiatives adopted or about to be adopted by this Secretariat of State in order to ensure compliance with the recommendations issued by FATF-OECD and Moneyval-Council of Europe.

In this regard, having heard the report of the Secretary of State for Justice, the Congress of State has adopted the following:

- decision no. 55 of 2 February 2009 amending the *Regulation Governing the Keeping of the Electronic Register of Legal Persons*;
- decision no. 34 of 16 February 2009 on the awarding of a contract for consulting and assistance services in drafting new regulations on *Associations, Foundations and Non-Profit Entities*;
- decision no. 36 of 16 February 2009 on the awarding of a contract for consulting and assistance services in drafting new regulations on *Telephone Tapping and Bugging*;
- decision no. 35 of 16 February 2009 on the awarding of a contract for consulting and assistance services in drafting new regulations on *International Letters Rogatory*.

While stressing the Government's intention to rapidly approve the aforementioned legislation, I also wish to inform that, after review of Law no. 92 of 17 June 2008 *Provisions on Prevention of and Contrast to Money Laundering and Terrorism Financing* is completed, this Secretariat of State will undertake to make the necessary changes to said provisions to ensure compliance with Moneyval's recommendations.

I also wish to inform that, in order to meet the requests formulated by the Chief Magistrate on the urgent need to recruit more staff to the Single Court in order to ensure more effective law enforcement in the fight against financial crimes, the Secretariat of State has already provided for the Great and General Council to approve, by way of derogation from the existing procedures referred to in Qualified Law no. 145 of 30 October 2003, a transitional law to allow a rapid, transparent and effective recruitment of new staff to the Single Court.

While remaining at your full disposal should you need any further clarification, I avail myself of this opportunity to convey to you my best regards.

Department Coordinator

Annex: no. 05

REPUBLIC OF SAN MARINO

DELEGATED DECREE no.146 of 28 November 2008
(Ratification of Delegated Decree no. 135 of 31 October 2008)

Courtesy translation

We the Captains Regent
of the Most Serene Republic of San Marino

Having regard to Delegated Decree no. 135 of 31 October 2008 "Regulations of the Financial Intelligence Agency" promulgated:

Having regard to article 91 of Law no.92 of 17 June 2008;

Having regard to the decision no. 2 of the State Congress adopted in the sitting of 29 October 2008;

Having considered that the adoption of the decree in question becomes obligatory and bound within the times by Law 92/2008;

Having regard to the amendments made to the aforementioned decree during its ratification by the Great and General Council in the sitting of 25 November 2008;
Having regard to articles 30, paragraph 2, and 31, paragraph 2, of Law no. 31 of 18 February 1998;
Having regard to articles 8 and 9, paragraph 5, of Qualified Law no. 186/2005;
We promulgate and send for publishing the final text of Delegated Decree no. 135 of 31 October 2008, as modified by the amendments approved by the Great and General Council during its ratification:

REGULATIONS OF THE FINANCIAL INTELLIGENCE AGENCY

Article 1

(Logistical independence, custody and protection of data)

1. The Financial Intelligence Agency, established at the Central Bank of the Republic of San Marino, shall operate in separate premises made available by the Central Bank for the exclusive use of the same Agency.
2. The Agency shall avail of the equipment, support services, computer and communication systems made available by the Central Bank for the exclusive use of the Agency in order to ensure the correct, autonomous and efficient performance of the functions assigned by law.
3. The Agency shall adopt suitable measures to guarantee, with maximum effectiveness, that the documents, data, and information acquired, as well as the computer systems, are accessible only to the authorised personnel of the Agency.

Article 2

(Requirements of professionalism for the Director and Vice Director)

1. The Director and the Vice Director, appointed by the State Congress in accordance with article 3 of Law no. 92 of 17 June 2008 must possess following requirements of professionalism:
a. a degree in economic, legal or banking science disciplines;

b. knowledge of the financial system and financial analysis skills gained through appropriate professional experience;
c. knowledge of the systems for preventing and combating money laundering and the financing of terrorism.
2. The Director and the Vice Director must themselves ensure that they remain updated on combating money laundering and the financing of terrorism, also through participation in specific courses.

Article 3

(Requirements of honourability for the Director and Vice Director)

1. Nobody who has been sentenced, even not definitively, for a non-negligent offence to detention or to prohibition from public offices for a period of no less than year may be nominated as Director and Vice Director and, if nominated, the assignment shall be terminated.
2. The Director and the Vice Director, if subject to criminal proceedings for acts inherent to their office or for other acts of serious criminal importance, may be suspended from office by a provision of the State Congress.
3. In the case where the suspension regards both the Director and the Vice Director, the functions assigned to them shall be performed by the official of the highest level and with the greatest seniority.
4. The Director and the Vice Director shall be removed by the State Congress in the cases provided for by article 3, paragraph 2 of Law no. 92 of 17 June 2008, in the cases provided for by article 4, or in the case where they have committed or omitted acts in a situation of conflict of interest, pursuant to article 5, or where they have damaged the reputation of the office or the prestige of the Agency.

Article 4

(Requirements of independence for the Director and Vice Director)

1. The office of Director and Vice Director is incompatible with:
a. the position of partner, director, manager, statutory auditor, official, employee, auditor of the subjects designated by article 17 of Law no. 92 of 17 June 2008 of subjects designated in other States;
b. performing one of the activities specified in articles 18 letters d), e), f), 19 and 20 of Law no. 92 of 17 June 2008;
c. assignments of a political nature;
d. carrying out any other assignment, commitment, professional or advisory activity.
2. From the acceptance of the nomination, all current employment or assignments shall cease.
3. If an employee of the Central Bank is nominated as Director or Vice Director, in exception to the previous paragraph, from the acceptance of the nomination, the functions performed at the same Central Bank shall cease.
4. In accepting the nomination, the Director and Vice Director must declare any interests in companies that carry out any of the activities specified by article 17 of Law no. 92 of 17 June 2008.
5. These interests must be disposed of within 30 days of assuming office.

Article 5

(Conflicts of interest of the Director and Vice Director)

1. In carrying out their functions, the Director and the Vice Director must refrain from initiating acts or making decisions in a situation of conflict of interest.
2. A conflict of interest pursuant to the previous paragraph arises when the Director or the Vice Director, in performing their assigned functions, are called upon to perform acts that have a specific impact on their property, on that one a spouse, relatives or in-laws to the second degree, or on businesses, companies or similar bodies in which they have a direct or indirect interest.
3. The Director who finds himself in a situation of conflict of interest shall immediately inform the Vice Director of this, who shall, exclusively and without hierarchical restriction, assume the jurisdiction to perform the functions assigned to the Agency in relation to the acts or decisions due to which the Director's conflict of interest arises.

4. If a situation of conflict of interest concerns the Vice Director, he shall, regardless of the assignment of delegations, immediately inform the Director of said situation.
5. In the case where the conflict of interest regards both the Director and the Vice Director, the functions shall be performed by the official of the highest level and with the greatest seniority.
6. The provisions of this article do not exclude the application of the civil, criminal or administrative rules in force, whenever they may be applicable.

Article 6

(Regulatory and remunerative framework for the Director and Vice Director)

1. The regulatory treatment provided for by the work contract of the management officials of Central Bank shall apply to the Director and to the Vice Director; the remunerative treatment and framework shall be defined by the nomination measure.

Article 7

(Functions of the Director and the Vice Director)

1. The Director shall be responsible for the operations of the Agency, the activity of which he shall plan, manage and control in full autonomy. The Director shall adopt the provisions relating to the functions assigned to the Agency, with the right to delegate the Vice Director.
2. The Director shall coordinate and controls the operations of the personnel of the Agency, for whom he shall promotes training and updating on matters regarding the prevention and combating of money laundering and the financing of terrorism.
3. The Director shall produce an appropriate report proposing the personnel structure of the Agency and modifications thereto to the Credit and Savings Committee, with due considerations to the specific operational and organisational requirements of the Agency. The Credit and Savings Committee, having heard the Board of Management of the Central Bank, shall establish whether the personnel meets the criteria of economy, proportionality, efficiency and effectiveness and, if the report is approved, shall send it to the Central Bank for so that it can fulfil its obligations.
4. The Director of the Agency shall supervise the personnel and shall present the Board of Management of the Central Bank with the information and assessments regarding personnel for decisions on hiring, promotion and other contractual conditions.
5. The Director shall govern the organisation and operation of the Agency with independent provisions.
6. The Vice Director shall assist the Director in the carrying out his functions. Should the Director be impeded or absent, his functions shall be carried out by the Vice Director.

Article 8

(Employees)

1. The personnel of the Agency shall be hired according to the procedures and with application of the contracts in force at the Central Bank and is structured according to professionalism, level of responsibility and autonomy, functions and duties carried out.
2. Personnel must be selected in such a manner as to guarantee the complete independence of the Agency.
3. Personnel may also be hired on a fixed term contract, in compliance with the rules in force and the provisions specified in the contracts of the personnel of the Central Bank.
4. The transfer of personnel from the Central Bank to the Agency and vice versa is governed by agreement between the Director of the Agency and the General Director of the Central Bank, holding account of the operational and functional requirements of the Agency and the Central Bank.
5. The personnel of the Agency shall report directly and exclusively to the Director and the Vice Director.
6. The personnel of the Agency may not assume any other assignment or employment, carry on any other professional or advisory activity or cover assignments of a political nature.

Article 9

(Personnel from external transfers)

1. The Agency may avail of employed personnel from Public Administrations who possess the skills and requirements of professionalism and experience necessary to carry out the specific functions or duties.
2. The transfer of employees of Public Administrations, compatible with the approved staffing plan, shall be arranged following a justified request from the Director of the Agency, subject to acceptance on the part of the Director of the Public Administration in question.
3. The legal and economic treatment provided for by the contracts of employees and officials of the Central Bank shall be applied to personnel on transfer from Public Administrations for the full duration of their transfer; the burden shall fall on the Central Bank. The service performed at the Agency is equivalent, to the full effect of the law, with that performed at the Administrations of origin. Transferred personnel are entitled to be readmitted to the job that they held before.
4. The service performed by police personnel of police applied at the Agency in compliance with article 51 of Law no. 92 of 17 June 2008is equivalent , to the full effect of the law, to that performed at the respective Headquarters of origin. The related costs shall be sustained by the Administration of origin.

Article 10

(Central Bank personnel and transfer of functions)

1. Within a month of the nomination, the Director of the Agency, in agreement with the General Director of the Central Bank, shall identify the personnel of the Central Bank that the Agency will use in completing the personnel structure.
2. The General Director of the Central Bank and the Director of the Agency shall ensure the functional and rapid transfer of the functions as specified in article 93 of Law no. 92 of 17 June 2008.

Article 11

(Observance of official secrets)

1. Transferred personnel, in compliance with article 9, are obliged to comply with official secrecy regarding their Administrations and Headquarters of origin.
2. The Director, the Vice Director and the personnel of the Agency are obliged to comply with official secrecy also in regard to the Central Bank.
3. The obligation of secrecy regarding all information that may come to light in the performance of functions or duties carried out at the Agency must be observed even after the assignment or employment is terminated.

Article 12

(Costs estimate document)

1. The cost estimate document pursuant to article 2, paragraph 4 of Law no. 92 of 17 June 2008 shall specify and quantify of the financial and instrumental resources necessary for the subsequent year, established according to criteria of economy, proportionality, efficiency and effectiveness.
2. The Director of the Agency shall present the document to the Credit and Savings Committee.
3. The Credit and Savings Committee, having obtained the opinion of the Board of Management of the Central Bank and having performed the assessments specified by article 2 paragraph 4 of Law no. 92 of 17 June 2008, shall send the document with its resolution to the Central Bank.
4. The Board of Management of the Central Bank, having received the cost estimate document, shall record an appropriate item of expenditure in its Financial Statements.
5. Should any additional financial resources become necessary in order to guarantee the operation of the same Agency, the Director of the Agency may request a change to the cost estimate document in the same manner as described in this article.

Article 13

(Directors' report)

1. The directors' report, signed by the Director of the Agency, contains the overall outline of the financial and instrumental resources used by the Agency in the previous year and illustrates the items of expenditure incurred in detail. The report is sent to the Credit and Savings Committee which, with its resolution, sends it to the Board of Management of the Central Bank.

Article 14

(Operational independence and performance of financial investigations)

1. The Agency performs the tasks assigned to it by Law regarding the prevention and combating of money laundering and the financing of terrorism in full autonomy and independence.
2. The Agency shall perform the investigation functions specified in article 4, paragraph 1, letter b) of Law no. 92 of 17 June 2008, by performing the financial analysis and investigation of reports received and of the data and the information that it has at hand.
3. To perform the financial investigation function, the Agency shall exercise the powers under article 5, paragraph 1, letters a), b), c) and f) of Law no. 92 of 17 June 2008. It shall also enjoy the powers provided for by articles 8, 11, 12, 14 and 16 of Law no. 92 of 17 June 2008.

Article 15

(Assistance to the Judicial Authority)

1. On the delegation of the Judicial Authority, pursuant to article 5, paragraph 4 of Law no. 9o2 of 17 June 2008, the Agency may perform inquiries and evidence taking, availing of Police personnel transferred to the Agency, or other Police personnel specified by the Legal Authority. The reports of the actions carried out shall be immediately sent to the Judicial Authority.
2. The Judicial Authority may request the assistance of the Agency in proceedings relating to crimes of money laundering and financing of terrorism and to the offences and administrative violations provided for by Law no. 92 of 17 June 2008.
3. If the Judicial Authority receives a report pursuant to article 15 of Law no. 92 of 17 June 2008, or a report forwarded by a Police Authority, the Agency, in exception to the provisions of article 7 paragraph 1 of Law no. 92 of 17 June 2008, it shall inform the Judicial Authority of the outcome of the financial investigation carried out, even if no acts of criminal significance emerge.

Done at Our Residence, 28 November 2008/1708 since the Foundation of the Republic

THE CAPTAINS REGENT
Ernesto Benedettini – Assunta Meloni

THE SECRETARY OF STATE
FOR INTERNAL AFFAIRS
Valeria Ciavatta

Annex: no. 06

THE DIRECTOR
OF THE FINANCIAL INTELLIGENCE AGENCY

HAVING REGARD TO Law no. 92 of 17 June 2008, "*Provisions for the prevention and countering of money laundering and terrorist financing*", and in particular to Article 4, paragraph 1, subparagraph d), on the basis of which the Agency is able to issue instructions concerning the prevention and countering of money laundering and terrorist financing;

HEREBY ISSUES

the annexed Instruction no. 2009-01 on the countering of money laundering and terrorist financing.

San Marino, 29 January 2009

SIGNED BY: THE DIRECTOR
Nicola Veronesi

INSTRUCTION
IN RELATION TO THE COUNTERING OF MONEY LAUNDERING AND TERRORIST FINANCING

year 2009 / number 01

ENHANCED PROCEDURES FOR DUE DILIGENCE ON CUSTOMERS RESIDENT OR LOCATED IN COUNTRIES, JURISDICTIONS OR TERRITORIES SUBJECT TO STRICT MONITORING BY THE FATF AND THE MONEYVAL COMMITTEE

Introduction

This order of the Financial Intelligence Agency is intended – in accordance with recent provisions issued by the Financial Action Task Force (FATF) and the MONEYVAL Committee of the Council of Europe to its member Countries and Associations – to raise the awareness of the designated persons concerning the potential direct and indirect risks associated with the establishment of continuing relationships or the execution of transactions with counterparties resident or located in countries, jurisdictions or territories subject to strict monitoring by the FATF and MONEYVAL, because the rules and procedures adopted by them to counter money laundering and the financing of international terrorism clearly do not comply with the international standards.

The countries, jurisdictions or territories currently subject to strict monitoring by the FATF and MONEYVAL are listed in Annex A to this instruction.

The Financial Intelligence Agency shall promptly send out any updates issued by the competent international organisations.

This Instruction 2009-01 therefore sets out the rules of conduct designed to avoid or minimise the risks of the involvement of San Marino intermediaries in money laundering or terrorist financing activities in relations with counterparties located in the aforementioned countries, jurisdictions or territories.

Article 1 – Addressees

This instruction is addressed to all the "designated persons" provided for in Law no. 92 of 17 June 2008:

a) financial operators;
b) non-financial operators;
c) professionals.

Financial operators shall mean:

a) Authorised persons pursuant to Law no. 165 of 17 November 2005 as amended;
b) The Central Bank, when it establishes continuing relationships or carries out occasional transactions, as part of its institutional functions, that entail compliance with the requirements established in this law;
c) Post offices, when they establish continuing relationships or carry out occasional transactions that entail compliance with the requirements established in this law;
d) Financial advisors pursuant to Articles 24 and 25 of Law no. 165 of 17 November 2005;
e) Insurance and reinsurance intermediaries pursuant to Articles 26 and 27 of Law no. 165 of 17 November 2005;
f) Persons who undertake the business of credit recovery on behalf of third parties.

Non-financial persons shall mean the persons who undertake the following business activities:

a) Office of co-trustee pursuant to Law no. 37 of 17 March 2005;
b) Assistance and advice in relation to investment services;
c) Assistance and advice on tax, financial and commercial matters;
d) Credit brokerage;
e) Real estate brokerage;

f) Management of casinos and betting shops as provided for in Law no. 67 of 25 July 2000 as amended;
g) Custody and transport of cash, securities and valuables;
h) Running of auction houses or art galleries;
i) Trade in antiques;
j) Purchase of unrefined gold;
k) Manufacture, brokerage and trade, including the import and export, of precious metals and stones.

Professionals shall mean:
a) Members of the Register of Chartered and Certified Accountants of the Republic of San Marino;
b) Members of the Register of Independent Auditors and Auditing Firms and the Register of Actuaries of the Republic of San Marino;
c) Members of the Register of Lawyers and Notaries of the Republic of San Marino, when they carry out any financial or real estate transactions in the name of or on behalf of their customers or when they assist their customers in the planning and execution of transactions relating to the:
1) Transfer of any form of property rights over immovable goods or enterprises;
2) Management of customer money, securities or other assets;
3) Opening or management of bank, savings or securities accounts;
4) Creation, operation or management of trusts, companies or similar structures, with or without legal personality;
5) Organisation of the contributions necessary for the creation, operation or management of companies.

Article 2 – Definitions
Pursuant to this Instruction, the terms below shall have the following meanings:

1. **"occasional transaction"**: any transaction, service or act executed on behalf of customers, outside a continuing relationship, that involves the transfer or movement, electronically or otherwise, of cash or other means of payment;
2. **"continuing relationship"**: any agreement entered into with the customer, the performance of which involves the execution of several transactions.

Article 3 – Establishment of continuing relationships or the execution of occasional transactions with customers or counterparties resident or located in countries, jurisdictions or territories subject to strict monitoring by the FATF and by the MONEYVAL Committee of the Council of Europe

The addressees of this Instruction are urged to use extreme caution in the establishment of continuing relationships or the execution of occasional transactions with customers or counterparties (with or without legal personality) resident or located in countries, jurisdictions or territories subject to strict monitoring by the FATF and the MONEYVAL Committee.

Should the addressees of this Instruction wish to establish continuing relationships or execute occasional transactions with said customers or counterparties, the enhanced customer due diligence requirements must be adopted in compliance with the rules and standards laid down in Article 27 of Law no. 92 of 17 June 2008.

Article 4 – Execution of transactions in favour of customers or counterparties resident or located in countries, jurisdictions or territories subject to strict monitoring by the FATF and the MONEYVAL Committee of the Council of Europe

The designated person must comply with the enhanced customer due diligence requirements established in Article 27 of Law 92/2008 also when a customer intends to execute a transaction in favour of one or more customers or counterparties resident or located in the countries, jurisdictions or territories listed in annex A to this instruction.

Article 5 – Execution of transactions that originate from counterparties resident or located in countries, jurisdictions or territories subject to strict monitoring by the FATF and the MONEYVAL Committee of the Council of Europe

The requirements established in Article 4 must be also observed for transactions ordered by customers or counterparties resident or located in countries, jurisdictions or territories subject to strict monitoring by the FATF and MONEYVAL in favour of customers of San Marino designated persons.

Article 6 – Obligation to refrain

If the addressees of this Instruction are unable to satisfy the enhanced customer due diligence requirements established in Article 27 of the Law 92/2008, they must refrain from establishing continuing relationships or executing occasional transactions, or must terminate them if already underway, at the earliest available opportunity.

Article 7 – Transitional provisions

For continuing relationships already in existence at the time of the entry into force of this Instruction, where the data, information, documentation and other assessment elements required by Article 27 of Law 92/2008 are not already available to the designated person, the latter shall be obliged to request the aforementioned items from the customer or the counterparty as promptly possible.

Article 8 – Repeal

This Instruction repeals the Instruction 2008-02 in relation to the countering of money laundering and terrorist financing issued on 4 July 2008 by the Director General of the Central Bank of the Republic of San Marino.

Article 9 – Entry into Force

This Instruction enters into force on 4 February 2009.

San Marino, 29 January 2009

ANNEX A

LIST OF COUNTRIES, TERRITORIES OR JURISDICTIONS SUBJECT TO STRICT MONITORING BY THE FATF AND THE MONEYVAL COMMITTEE OF THE COUNCIL OF EUROPE

a) AZERBAIJAN;

b) UZBEKISTAN;

c) IRAN;

d) PAKISTAN;

e) TURKMENISTAN;

f) SAO TOME' AND PRINCIPE;

g) NORTHERN CYPRUS.

The above list has been compiled on the basis of the statements published by the FATF on 28 February 2008 and by the MONEYVAL Committee on 12 December 2008.

Annex: no. 07

THE DIRECTOR
OF THE FINANCIAL INTELLIGENCE AGENCY

HAVING REGARD TO Law no. 92 of 17 June 2008, "*Provisions for the prevention and countering of money laundering and terrorist financing*", and in particular to Article 4, paragraph 1, subparagraph d), on the basis of which the Agency is able to issue instructions concerning the prevention and countering of money laundering and terrorist financing;

HEREBY ISSUES

the annexed Instruction no. 2009-02 on the countering of money laundering and terrorist financing.

San Marino, 6 February 2009

SIGNED: The Director
Nicola Veronesi

INSTRUCTION
IN RELATION TO THE COUNTERING OF MONEY LAUNDERING
AND TERRORIST FINANCING

year 2009 / number 02

DUTIES TO INFORM FOREIGN COUNTERPARTS

Foreword

Law No. 92 of 17 June 2008 has consolidated the reform process of San Marino Law, which is aimed at the recognition, by the International community, of the compliance of the International principles on countering of money laundering and financing of terrorism.

In the light of all this, the Financial Intelligence Agency of the Republic of San Marino, in terms of this Law and in line with its function as defined under the same Law, places great importance on the actions of the designated subjects which must be transparent and on the collaboration necessary to fulfil the obligations pursuant to such International standards.

This of course applies even when the operations of the designated subjects obliges them to commence continuing relations or to carry out occasional transactions or to provide professional services with foreign counterparts obliged in terms of their local legislation, and in line with the applicable standards, to comply with client identification duties.

In this context in default of the Republic of San Marino obtaining recognition of equivalence of International standards applicable to countering money laundering and financing of terrorism, this topic becomes vitally important to retain the reputation of the National economic system, which uses direct access to foreign payment systems.

Consideration must also be given to Recommendation No. 2009-01 by which the Central Bank of the Republic of San Marino with reference to this subject, has in terms of Article 40 of Law No. 165 of 17 November 2005 given in to its own interpretation on the effect of Article 36, sub-article 6, letter c) of the same Law, except for the breach of banking secrets in cases in which revelation of the data collected in the exercise of the reserved activities is carried out by an intermediary who must carry out the transactions and which in default, will be compelled to refrain from carrying out the transaction requested in relation to the obligations pursuant to the legislation countering money laundering and financing of terrorism in force in its Country.

In any event Article 150 of Law No. 165 of 17 November 2005, in general, establishes a principle of hierarchical precedence of anti money laundering legislation over financial legislation, including banking secrecy and the relative sanctions in case of breach.

Scope

The present Instruction was adopted in terms of Article 4, sub-article 1, letter d), of Law No. 92/2008 and in the spirit of the same Law, is aimed at reinforcing the regulations to counter money laundering and terrorism financing, in line with the duties assumed internationally by the Republic of San Marino, even in order to obtain full acknowledgement of the validity of such International standards.

Article 1 - Addressees

This instruction is addressed to all the "designated persons" provided for in Law no. 92 of 17 June 2008

Article 2 – Definitions

Pursuant to this Instruction, the terms below shall have the meanings given to them under Law No. 92/2008.

Article 3 – Obligations to inform foreign counterparts

In all cases in which the designated subject in terms of article 17 of Law No. 92/2008 - in exercising its activities and for the purposes of creating continuing relations or to carry out occasional transactions or to provide professional activities- establishes a relationship with a foreign counterpart falling compelled

under its legislation to obligations similar to those under the provisions of Law No. 92/2008 binds the designated San Marino subjects who are obliged to provide on request of the foreign counterpart (including express reference to the requirement to fulfil the obligations of client identification imposed by local legislation to counter money laundering and financing of terrorism), all information requested, provided that this is equivalent or in any case compatible with the terms of article 22 of Law No. 92/2008, and necessary and essential to establish a continuing relationship or to carry out an occasional transaction or to provide a professional service.

Article 4 – Equivalent Jurisdictions

In terms of Article 3, foreign counterparts subject to the obligations equivalent to those in terms of Law No. 92/2008 shall be binding on designated San Marino subjects, all those having offices in States, Jurisdictions and foreign Territories included those listed by the Congress of State in terms of its resolution[1] pursuant to Article 95 sub-article 5 of Law No. 92/2008.

Article 5 – Entry into force

The present Instruction shall enter into force on 9 February 2009.

San Marino, 6 February 2009

Annex: no. 08

THE DIRECTOR GENERAL
OF THE CENTRAL BANK OF THE REPUBLIC OF SAN MARINO

Having regard to Article 36, paragraph 6 of Law no. 165 of 17 November 2005, according to which no breach of banking secrecy shall be deemed to have occurred in the cases described therein, and to paragraph 9 entrusting the Supervisory Authority with the task of monitoring the strict observance of banking secrecy;

Having regard to Article 40 of Law no. 165 of 17 November 2005, under which the Supervisory Authority shall be vested with the power to issue recommendations, for the purposes of interpreting the provisions contained in the above-mentioned Law;

Having regard to the Statute of the Central Bank of the Republic of San Marino, approved through Law no. 96 of 29 June 2005 and, in particular, to its Article 30, paragraph 3, according to which Central Bank instruments pertaining to matters of supervision, as resolved by the Supervision Committee, shall be issued by the Director General;

Having regard to the Supervision's Committee decision approving the text of the Central Bank's Recommendation regarding the interpretations of Article 36, paragraph 6 of Law no. 165 of 17 November 2005;

ISSUES

Recommendation no. 2009-01, herewith enclosed.

San Marino, 30 January 2009

THE DIRECTOR GENERAL
Luca Papi

Recommendation no. 2009-01

INTERPRETATION
of Article 36, paragraph 6 of Law no. 165/2005

Introduction

The evolution of international standards to prevent and counter money laundering and terrorist financing, which have been introduced and implemented in the national legislations of the different Countries, may require the intermediaries establishing a relationship with San Marino banks and other financial institutions to obtain from them any necessary information to fulfil the obligations contained in the AML legislation in force in their Countries or, when this information is not provided, to refuse to carry out the transaction requested.

Granted that the intermediary that conducts the transaction, in whole or in part, shall be considered a third party under Article 36 of Law no. 165/2005, some San Marino financial businesses have asked this supervisory authority to clarify the aspects concerning the acceptance of information requests in relation to the observance of banking secrecy, which is monitored by this Authority under paragraph 9 of the aforementioned article.

Purposes

In order to encourage San Marino financial institutions to adopt correct and uniform procedures, the Supervisory Authority has decided to use the interpretative instrument referred to in Article 40 of Law no. 165/2005, by issuing a relevant Recommendation.

Contents

As it is known, paragraph 6 of Article 36 of Law no. 165/2005 lists a series of cases and situations in which the disclosure of data covered by banking secrecy to third parties does not constitute a violation of the prohibition referred to in paragraph 1 of the above-mentioned Article.

Among these cases, those described in letters a) and c) are particularly significant for the purposes of this Recommendation.

When the transaction requested by the customer to the San Marino authorised party shall be carried out, in whole or in part, by banks or other financial intermediaries or, in any case, by parties which shall comply with the AML provisions in force in their own Countries, the situation described in letter c) occurs, provided that the communication to the above-said third parties is "necessary" to execute the customer's request.

For all the other cases in which the requirement of "necessity" does not occur, the disclosure to third parties, however, may not constitute a violation of banking secrecy if the customer, as the party concerned, has given a specific written declaration of consent to the data. This clearly shows that banking secrecy is not of binding nature in relation to the powers of disposition recognised by the law to the party concerned.

However, it is reiterated that, in particular in case of transactions requested in the context of contractual relationships existing before the current legislative framework entered into force, business relationships with customers shall be based on transparency, properness and diligence rules, under Article 66 of Law no. 165/2005, adequately informing customers in order to limit the risk of disputes.

San Marino, 30 January 2009

Annex: no. 09

To the financial parties
referred to in Article 18 of
Law no. 92 of 17 June 2008

San Marino, 18 February 2009

Ref. no. 09/0258

Subject: obligations arising from the application of Law no. 92 of 17 June 2008 – articles 27 and 45 – survey

As it is well-known, **Article 27**, paragraph 5 of Law no. 92 of 17 June 2008 provides for that the financial parties referred to in Article 18, letters a), b) and c) of the aforesaid Law, which maintain business relationships or carry out occasional transactions with foreign financial institutions located in States that do not require obligations equivalent to those set forth in San Marino legislation and do not impose supervision and control over compliance with such obligations, shall adopt enhanced customer due diligence measures, according to the procedures envisaged.

Having said that, this Financial Intelligence Agency would like to carry out a survey aimed at verifying whether the above-mentioned situations occur; therefore, financial parties are requested to complete **Form A**, herewith attached, and return it to the Financial Intelligence Agency by **10 March 2009.**

Under **Article 45** of the aforesaid Law no. 92/2008 financial parties shall ensure that their foreign branches or subsidiaries fulfil obligations equivalent to those set forth in San Marino legislation.

For the above-mentioned purposes and according to Article 45, paragraph 2, financial parties are requested to fill in **Form B**, herewith attached, which shall be returned by **10 March 2009**.

Best regards,

THE DIRECTOR
Nicola Veronesi

Documents attached: 2 forms

Survey carried out by the Financial Intelligence Agency (Article 27, paragraph 5 of Law no. 92/2008)

FORM 'A'

NAME OF THE FINANCIAL PARTY

1 Do you have business relationships with any party referred to in Article 27, paragraph 5 of Law no. 92/2008?
(The Countries which set forth equivalent obligations are listed in Instruction no. 2009-02 of the Financial Intelligence Agency)

□ NO
□ YES

2 If yes,

How many are the customers? No. ____

How many are the relationships? No. ____

What are the categories of customers? _____ (banks, financial institutions, other)

What are the types of relationships? _____ (currents accounts, deposits, securities account, other)

Which are the Countries of origin? _____

What measures have been adopted among those envisaged in Art. 27, paragraph 5 of Law no. 92/2008. How have they been adopted?

3 Did the parties referred to in Article 27, paragraph 5 of Law no. 92/2008 carry out occasional transactions with San Marino financial parties in the period from 1 January 2009 to 15 February 2009?

□ NO
□ YES

4 If yes,

How many are the customers? No. ____

How many are the transactions? No. ____

What are the categories of customers? _____ (banks, financial institutions, other)

What are the types of relationships? _____ (currents accounts, deposits, securities account, other)

Which are the Countries of origin? _____

What measures have been adopted among those envisaged in Art. 27, paragraph 5 of Law no. 92/2008. How have they been adopted?

STAMP AND SIGNATURE

SURVEY CARRIED OUT BY THE FINANCIAL INTELLIGENCE AGENCY (ARTICLE 45 OF LAW NO. 92/2008) FORM 'B'

NAME OF THE FINANCIAL PARTY

1 Does the financial party have foreign branches?*

□ NO
□ YES

2) If yes,

How many are they? No. _____

In which Countries are they located?

If they are located in Countries which do not impose obligations equivalent to those set forth in San Marino legislation, what measures referred to in Article 45, paragraph 2 of Law no. 92/2008 have been taken?

(the Countries which provide for equivalent obligations are listed in Instruction no. 2009-02 of the Financial Intelligence Agency)

* a foreign branch is a seat of business activities constituting a part thereof, without legal personality, and which exercises all or some of the reserved activities for which the party has been authorised (Article 1, letter rr of LISF)

3 Does the financial party own controlling interests** in foreign companies subject to AML legislation in the Country of origin?

□ NO
□ YES

4) If yes,

How many are they? No. _____

In which Countries are they located?

If they are located in Countries which do not impose obligations equivalent to those set forth in San Marino legislation, what measures referred to in Article 45, paragraph 2 of Law no. 92/2008 have been taken?

(the Countries which provide for equivalent obligations are listed in Instruction no. 2009-02 of the Financial Intelligence Agency)

** for the notion of "control" see Article 2 of Law no. 165/2005 (LISF)

STAMP AND SIGNATURE

Annex: no. 10

Republic of San Marino
ADMINISTRATIVE COURT

THE JUDGE OF SUPERVISION OF TRUSTS

Having regard to Law no. 37 of 17 March 2005;
Having regard to Decree no. 86 of 10 May 2005;

ORDERS

the Office of Industry to establish, with immediate effect, a paper-based Register of Trusts in compliance with the criteria referred to in Article 9 of Law no. 37/2005 and Articles 2 and 3 of Decree no. 86/2005.

This Register shall also contain information and data describing schematically the situation in 2006, 2007 and 2008 respectively and a special section shall be reserved for foreign trusts with an administrative office in the Republic of San Marino.

For completeness purposes

ALSO ORDERS

that the Register of Trusts shall be held on an annual basis;
anyone having access to the Register shall be identified;
that the Register must not contain any writing between the lines, writing in the margins and erasures.

Finally, he underlines that according to law the Register of Trusts must be authenticated at the start of each solar year through stamping and progressive numbering of each page, with express indication of the solar year in question. The last page of the Register of Trusts authenticated must indicate the total number of sheets of paper forming the Register of Trusts of the current solar year, together with the data and signature of the manager of the Office.

The Manager of the Office of Industry shall comply with this order.

San Marino, 10 February 2009

THE JUDGE OF SUPERVISION OF TRUSTS
G. C.

Annex: no. 11

Republic of San Marino
ADMINISTRATIVE COURT

San Marino, 18 February 2009

Ref.: 12/2009/GV

To the Director of the Office of Industry,
Handicraft and Trade, Mrs. M.G.

THE JUDGE OF SUPERVISION

Having regard to Law no. 37 of 17 March 2005;
Having regard to Decree no. 86 of 10 May 2005;

With reference to the concept of confidentiality and the publicity of the Register of Trusts, the extent of which has been subject to evaluations and analyses, I am pleased to underline the following, for clarification purposes:

- the confidentiality of the registrations referred to in Article 3 of Decree no. 86/2005, which seems to be in contradiction with point 2) of Article 9 of Law no. 37/2005 – stating that the Register of Trusts is public – shall be evaluated in the light of point 7) of Article 4 of Decree no. 86/2005.

I would like to specify that, in line with the *modus operandi* of this office, confidentiality requirements shall apply when the information requested, if divulged, may cause a threat to national security, exercising of national sovereignty, continuity and correctness of international relations, protection of public order and crime suppression and prevention.

Having said that,

I RECOMMEND

to follow the same *modus operandi* in order to verify that none of the aforementioned circumstances arise, by applying point 1) of Article 3 of Decree no. 86/2005 and identifying the persons who have access to the Register of Trusts.

Best regards,

THE JUDGE OF SUPERVISION

Annex: no. 12

Memorandum of Understanding between the Central Bank of the Republic of San Marino and the Financial Intelligence Agency signed on 26 November 2008

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Addendum on the transfer of personnel from the Central Bank of the Republic of San Marino to the Financial Intelligence Agency

In order to ensure the adequate operational stability of the Financial Intelligence Agency and in compliance with the principles of autonomy and independence assigned to the Agency by the legislation in force, the Central Bank of the Republic of San Marino and the Financial Intelligence Agency agree the following:

1. Under Article 8 of Delegated Decree no. 146 of 28 November 2008, the personnel transferred from the Central Bank to the Financial Intelligence Agency shall be hired on an open-ended contract.

2. The Director General of the Central Bank shall inform the employee of the transfer, in compliance with the rules in force and the provisions specified in the "Labour Contract for Employees and Assistants" and the "Labour Contract for Managerial Staff", which are in force at the Central Bank.

3. The Director General of the Central Bank may request the Director of the Agency that the employees transferred return to work at the Central Bank for urgent and reasonable operational needs. The request shall indicate the reasons, define the urgency and specify whether the return is provisional or definitive. It is agreed by both Parties that the request for the employee's return, if it is accepted by the Director of the Agency, shall be executed only after 45 days from its reception, unless otherwise agreed by the Parties.

4. If the Director of the Agency considers that it is no-longer necessary to rely on the activity carried out by one or more employees transferred, since operational needs have changed, he shall request that the employees concerned return to work at the Central Bank. The request shall indicate the reasons. It is agreed by both Parties that the request for the employee's return, if it is accepted by the Director General of the Central Bank, shall be executed in accordance with the times and modalities agreed every time by the Parties.

5. In the cases mentioned in points 3 and 4, the Director of the Agency shall inform the employee of his/her return to work at the Central Bank, in accordance with the times and modalities referred to in point 2.

6. Any reasonable request for transfer from the Agency to the Central Bank, submitted by the Agency's staff, shall be examined by the Director of the Agency and the Director General of the Central Bank, according to the operational and functional needs of the Agency and the Central Bank. The decision shall be taken in compliance with Article 8, paragraph 4 of Decree no. 146/2008.

San Marino, 6 February 2009

For the
CENTRAL BANK OF THE
REPUBLIC OF SAN MARINO
The Director General
Mr. Luca Papi

For the
FINANCIAL INTELLIGENCE
AGENCY
The Director
Mr. Nicola Veronesi

Annex: no. 13

REPUBLIC OF SAN MARINO

CIVIL AND CRIMINAL COURT

ASSOCIATIONS

Total number of associations registered as of 31 December 2008	313
Associations struck off	32
Total number of associations operating as of 31 December 2008	281
Associations in compulsory winding-up	0
Associations in voluntary winding-up	3
Proposals for dissolution	7

Associations registered from 1 January 2008 to 31 December 2008	29
Associations struck off in 2008	4
Compulsory winding-up in 2008	0
Voluntary winding-up in 2008	3

FOUNDATIONS

Total number of foundations registered as of 31 December 2008	85
Foundations struck off	18
Total number of foundations operating as of 31 December 2008	67
Foundations in compulsory winding-up	1
Foundations in voluntary winding-up	2
Proposals for dissolution	13

Foundations registered from 1 January 2008 to 31 December 2008	10
Foundations struck off in 2008	5
Compulsory winding-up in 2008	1
Voluntary winding-up in 2008	0

Annex: no. 14

Passive Rogatory Letters on Extradition received and responded

Source: Single Court

Offence	Year 2008	2007	2006	2005
Partecipation on an organized criminal group and murder	-	-	-	1
Total	**0**	**0**	**0**	**1**

Passive Rogatory Letters [1] received and responded

Source: Single Court

	Year 2008		2007		2006		2005	
Offence	received	responded	received	responded	received	responded	received	responded
Fraudulent bankruptcy	7	7	0	0	0	0	0	0
Money Laundering	8	6	8	7	5	5	6	2
Kidnapping and extortion	1	1	0	0	0	0	0	0
Banking offence	1	1	0	0	0	0	0	0
Theft	10	9	0	0	0	0	0	0
by internet	*3*	*3*	*0*	*0*	*0*	*0*	*0*	*0*
misappropriation	*1*	*1*	*0*	*0*	*0*	*0*	*0*	*0*
felony	*4*	*3*	*0*	*0*	*0*	*0*	*0*	*0*
felony treasonable offence	*1*	*1*	*0*	*0*	*0*	*0*	*0*	*0*
by falsehood in private contracts	*1*	*1*	*0*	*0*	*0*	*0*	*0*	*0*
Association to commit offences aimed to import and trade drugs	1	1	0	0	0	0	0	0
Sale of stolen property	8	8	0	0	0	0	0	0
Fraudulent use and clonation of credit cards	1	1	0	0	0	0	0	0
Illicit introduction and trade of drugs	2	1	0	0	0	0	0	0
Bankruptcy offences	1	1	0	0	0	0	0	0
Smuggling (felony)	1	1	0	0	0	0	0	0
Robbery and theft	2	2	0	0	0	0	0	0
War crimes	1	1	0	0	0	0	0	0
Total	**44**	**40**	**8**	**7**	**5**	**5**	**6**	**2**

[1] Predicate offences related to Money Laundering

Passive Rogatory Letters on Money Laundering received and responded

Source: Single Court

Predicate Offence	Year							
	2008 [1]		2007 [2]		2006		2005 [3]	
	received	responded	received	responded	received	responded	received	responded
Theft	4	3	3	3	2	2	2	-
Tax offence	-	-	-	-	1	1	1	1
Fraudulent bankruptcy	-	-	1	1	-	-	1	-
Counterfeiting documents	1	1	-	-	-	-	1	-
Corruption	-	-	1	1	-	-	-	-
Illicit arms trafficking and partecipation on an organized criminal group	1	1	-	-	-	-	-	-
Collusive tendering and partecipation on an organized criminal group	-	-	1	1	-	-	-	-
Abetment and partecipation on an organized criminal group	-	-	-	-	1	1	-	-
International drugs trafficking	1	1	-	-	-	-	-	-
Drugs trafficking	-	-	2	1	1	1	1	1
Offence not yet identified	1	-	-	-	-	-	-	-
Total	**8**	**6**	**8**	**7**	**5**	**5**	**6**	**2**

[1] 2 Passive Rogatory Letters are not respondend: 1 because is under examination by the Single Court (January, 23 2009) and 1 because the request of information is not completed yet by the Authority of the origin country

[2] 1 Passive Rogatory Letter is not respondend: the Authority of the origin country rinounced

[3] 4 Passive Rogatory Letters are not respondend: 2 because the request of information is not completed yet by the Authority of the origin country, 1 because the Authority of the origin country rinounced and 1 because could not be prosecuted by the Single Court

Passive Rogatory Letters on Money Laundering received and responded

Source: Single Court

Country of origin	Year							
	2008		2007		2006		2005	
	received	responded	received	responded	received	responded	received	responded
Italy	5	3	6	6	4	4	6	2
Austria [1]	1	1	-	-	-	-	-	-
Malta [2]	1	1	-	-	-	-	-	-
Poland [3]	1	1	-	-	-	-	-	-
Luxembourg [4]	-	-	1	-	-	-	-	-
Belgium [5]	-	-	1	1	-	-	-	-
Switzerland [6]	-	-	-	-	1	1	-	-
Total	**8**	**6**	**8**	**7**	**5**	**5**	**6**	**2**

[1] Counterfeiting Documents

[2] Theft

[3] Theft

[4] Drugs Trafficking

[5] Drugs Trafficking

[6] Theft

Seizures executed on Passive Rogatory Letters on Money Laundering

Source: Single Court
Period: January 1, 2005 - January 31, 2009

Predicate Offence (FATF's categories)	Year				
	2009	2008	2007	2006	2005
	total	total	total	total	total
Partecipation in an organised criminal group and racketeering	-	-	-	-	-
Illicit trafficking in narcotic drugs and psychotropic substances	-	-	€ 54.795,59	-	€ 147.939,53
Fraud	-	-	€ 2.914,87	€ 222,02	-
Kidnapping, illegal restraint and hostage taking	-	-	-	-	-
Robbery or theft	-	-	-	-	-
Banking offence	-	-	-	-	-
Offence not yet identified	-	-	-	-	-
Total	**€ 0,00**	**€ 0,00**	**€ 57.710,46**	**€ 222,02**	**€ 147.939,53**

Prosecutions

Source: Single Court
Period: January 1, 2005 - January 31, 2009

	Year				
Offence	**2009**	**2008**	**2007**	**2006**	**2005**
Money Laundering	1	13	4	4	1
Banking and financial offence	0	3	5	3	0
Total	**1**	**16**	**9**	**3**	**1**

Prosecutions on Money Laundering

Source: Single Court

	Year									
Predicate Offence (FATF's categories)	**January, 31 2009**		**2008**		**2007**		**2006**		**2005**	
	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons
Partecipation in an organised criminal group and racketeering	-	-	1	n.d.	-	-	-	-	-	-
Illicit trafficking in narcotic drugs and psychotropic substances	1	n.d.	1	8	-	-	-	-	-	-
Fraud	-	-	4	6	-	-	1	1	-	-
Kidnapping, illegal restraint and hostage taking	-	-	-	-	2	14	1	7	-	-
Robbery or theft	-	-	2	2	1	6	-	-	1	2
Banking offence	-	-	1	4	-	-	-	-	-	-
Offence not yet identified	-	-	4	2	1	1	2	2	-	-
Total	**1**	**0**	**13**	**22**	**4**	**21**	**4**	**10**	**1**	**2**

Seizures executed on Prosecutions on Money Laundering

Source: Single Court

	Year				
Predicate Offence (FATF's categories)	**January, 31 2009**	**2008**	**2007** [1]	**2006**	**2005**
	total	total	total	total	total
Partecipation in an organised criminal group and racketeering	-	-	-	-	-
Illicit trafficking in narcotic drugs and psychotropic substances	-	-	-	-	-
Fraud	-	-	-	€ 222,02	-
Kidnapping, illegal restraint and hostage taking	-	-	-	-	-
Robbery or theft	-	€ 672.941,20	€ 1.919.757,90	-	-
Banking offence	-	-	-	-	-
Offence not yet identified	-	-	-	-	-
Total	**€ 0,00**	**€ 672.941,20**	**€ 1.919.757,90**	**€ 222,02**	**€ 0,00**

[1] During 2007 seizure for around € 18 MIO has been disposed and executed for around € 11 MIO of which € 7.5 MIO returned to the victim of the crime. This information is in note because the Court proceeded for the Fraud case and not for Money Laundering case.

Annex: no. 15

Offences as figures at February, 20 2009

Source: Police forces

Offences	Art. CC	Designed categories of offences based on FATF Methodology	Year	Seizures by free initiative		Seizures by pro-active action confirmed by the judge		Co-operation between Foregin Police Forces	
				number	value of seizures (eur)	number	value of seizures (eur)	received	requested
Swindling	204	FRAUD	**2009**	-	-	2	70.000,00	-	-
			2008	-	-	-	-	-	3
			2007	1	-	-	-	-	-
			2006	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
			2005	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
Total - FRAUD				**1**	**-**	**2**	**70.000,00**	**-**	**3**
Counterfeiting and alteration of marks of intelectual works and trademarks Products and intellectual works bearing deceitful marks	308 309	COUNTERFEITING AND PIRACY OF PRODUCTS	**2009**	-	-	1	-	-	-
			2008	4	15.000,00	2	60.000,00	-	1
			2007	7	15.000,00	1	200.000,00	-	1
			2006	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
			2005	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
Total - COUNTERFEITING AND PIRACY OF PRODUCTS				**11**	**30.000,00**	**4**	**260.000,00**	**-**	**2**
Theft Robbery Misappropriation	194 195 197	ROBBERY OR THEFT	**2009**	10	99.000,00	-	-	-	-
			2008	3	25.000,00	7	94.249,00	-	35
			2007	2	8.000,00	1	1.035,00	1	35
			2006	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
			2005	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
Total - ROBBERY OR THEFT				**15**	**132.000,00**	**8**	**95.284,00**	**1**	**70**
Sale of stolen property	199	ILLICIT TRAFFICKING IN STOLEN AND OTHER GOODS	**2009**	1	24.000,00	-	-	-	1
			2008	-	-	-	-	-	-
			2007	-	-	-	-	-	-
			2006	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
			2005	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
Total - ILLICIT TRAFFICKING IN STOLEN AND OTHER GOODS				**1**	**24.000,00**	**-**	**-**	**-**	**1**
Counterfeit currency, stamps and negotiable instruments	401	COUNTERFEITING CURRENCY	**2009**	-	-	-	-	-	-
			2008	2	45.620,00	-	-	-	2
			2007	1	100,00	-	-	-	1
			2006	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
			2005	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
Total - COUNTERFEITING CURRENCY				**3**	**45.720,00**	**-**	**-**	**-**	**3**
n.d.	n.d.	SEXUAL EXPLOITATION, INCLUDIND SEXUAL EXPLOITATION OF CHILDREN	**2009**	-	-	-	-	-	-
			2008	1	-	-	-	-	-
			2007	-	-	-	-	-	-
			2006	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
			2005	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
Total - SEXUAL EXPLOITATION				**1**	**-**	**-**	**-**	**-**	**-**
Illegal restraint	169	KIDNAPPING, ILLEGAL RESTRAINT AND HOSTAGE-TAKING	**2009**	-	-	-	-	-	-
			2008	-	-	-	-	-	-
			2007	1	-	-	-	-	1
			2006	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
			2005	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
Total - KIDNAPPING				**1**	**-**	**-**	**-**	**-**	**1**
Total				**33**	**231.720,00**	**14**	**425.284,00**	**1**	**80**

Annex: no. 16

Republic of San Marino
Secretariat of State for Finance and the Budget

San Marino, 17 February 2009

Ref. no. 465

Mr.
Director of the Financial
Intelligence Agency
Via del Voltone, 126
47890 – San Marino

Subject: identification of the staff and budget document outlining expenses of the Financial Intelligence Agency for the year 2009

I am pleased to inform that the Committee for Credit and Savings, in its sitting of 12 February 2009, in consultation with the Central Bank, approved the staff composition and the budget document outlining expenses for the year 2009 submitted by the Financial Intelligence Agency and forwarded to this Secretariat with Notes of 30 December 2008 and 15 January 2009 respectively.

Yours faithfully,

THE SECRETARY OF STATE

Annex: no. 17

Secretariat of State for
Finance and the Budget

San Marino, 29 October 2008

Ref. 3904

Headquarters of
- Civil Police
- Gendarmerie
- Fortress Guard
- Interpol National Central Bureau
- Single Court
- Central Bank – AML Service

On 24 October a meeting was held at this Secretariat of State and attended by the Commander of the Fortress Guard, two representatives of the Gendarmerie and a representative of the Civil Police. The meeting was focused on the necessity that besides the Court and the competent authority established at the Central Bank, also Law Enforcement Agencies shall collect and keep comprehensive statistical data concerning effectiveness and efficiency of the systems to combat money laundering and terrorist financing. Taking account of the observations made by Moneyval's Committee of Experts, it shall be pointed out that any authority performing AML/CFT functions shall keep data on the measures taken in relation to the above-mentioned offences, their predicate offences or any offence which may generate proceeds that might be used again (for instance: theft, embezzlement, robbery, fraud, extrusion, drug-related offences, etc.)

In particular, law enforcement agencies shall keep statistics (divided into years) in relation to the seizures executed, indicating the relevant offence, the type and value of items seized, the number of persons investigated, any individual precautionary measure, claims received, international cooperation, activities carried out by own initiative and reports submitted to the judicial authority.

Data shall be collected as many as possible so that it will be feasible to evaluate Police Forces' "effectiveness and efficiency". Data shall be processed in the light of the specific requests made every time by international bodies.

Data shall be collected in such a way to facilitate the filling in of the table attached herewith.

The amount of cash money, cheques or other bearer instruments shall be indicated as item's value. If it is drugs, the quantity of the substance seized shall be indicated (cut or not) as well the cash amount. If other goods are seized (cars, clothes, weapons, immovable assets, etc.) the number and the kind of the object seized shall be reported (ex. 10 cars), indicating approximately its commercial value (ex. € 100,000.00).
However, the procedures to collect data shall be clear (in order to avoid that the same data are registered twice or left out).
Special investigative techniques shall include, besides the investigating instruments envisaged in AML/CFT legislation, seizure and examination of computers and electronic devices.

In view of the Moneyval's Plenary Assembly to be held in December 2008, during which San Marino shall present at report on the implementation of the new law and the statistics

also elaborated by the Law Enforcement Agencies, data shall be collected from 1 April 2007 and be available by 20 November 2007.

These data should be processed and collected by qualified staff specialised in financial investigations. Each Police Force shall identify its personnel being skilful in establishing relations with other authorities. In this regard, it should be stressed that international evaluators are magistrates, police officers or officials of Financial Intelligence Units.

Moreover, on the occasion of the next on-site visits, meetings with evaluators shall be attended by officials who have acquired adequate professionalism and gained experience in financial investigations. In particular, these persons shall be in the position to know the evaluation parameters followed by evaluators (FATF recommendations and methodology), as well as the previous evaluation reports on San Marino.

It is fundamental to know AML regulations and the functions of judicial police very well. In particular, officials shall enjoy great autonomy and may answer to questions (written and oral) concerning the structure, duties and activities of the respective organisms, without asking for the intervention of officials who do not belong to their agencies.

Evaluation reports, the recommendations and the instructions on the methodology are public and anyone can have access to them (web-sites: Moneyval – http://www.coe.int/moneyval and FATF: http://www.fatf-gafi.org)

In the working group to be established within any agency, there should be persons being able, at least, to understand written English.

Taking account of the evaluations expressed in the previous reports, law enforcement agencies (in cooperation with each other and with other Authorities) shall provide adequate professional up-dating courses to their officers involved in financial investigations. Therefore, officers should have the opportunity to attend courses and conferences abroad. The number of participants, hours attended and certifications obtained are issues mentioned in specific questions of questionnaires.

While hoping that fruitful cooperation may be established so that the progress achieved so far will be positively evaluated and will be in line with the recommendations contained in the third round evaluation report published on 15 September, herewith enclosed with the provisional Italian translation and the first report of January 2001, the second report of January 2005, the progress report of 2006 as well as the first compliance report of July 2008, I avail myself of this opportunity to renew my kindest regards.

THE SECRETARY OF STATE

SEE ALSO THE ANNEXES TO THE SECOND COMPLIANCE REPORT:

Annex	Document
01	Law 17 June 2008 No.92 (Law No.92/2008)
02	Law 18 June 2008 No.95 (Law No.95/2008)
03	Law 23 February 2006 No.47 (Law No.47/2006)
03 *bis*	Law of 20 June 2008 No.97 (Law No.97/2008)
04	Delegate Decree 31 October 2008 No.135 (Delegated Decree No.135/2008)
05	Delegate Decree 31 October 2008 No.136 (Delegated Decree No.136/2008)
06	Delegate Decree 31 October 2008 No.137 (Delegated Decree No.137/2008)
07	Delegate Decree 31 October 2008 No.138 (Delegated Decree No.138/2008)
08	Congress of State Decisions 3 November 2008 No.19
09	Congress of State Decisions 6 October 2008 No.2
10	Congress of State Decisions 6 October 2008 No.3
11	CBSM Regulations No.2008-01(Insurance), No.2007-07(Banking), 2006-03 (Collective Investment schemes)
12	CBSM Instructions 12 June 2008 No.2008-01 (Instructions No.2008-01)
13	CBSM Instructions 4 July 2008 No.2008-02 (Instructions No.2008-02)
14	FIA Instructions 24 November 2008 No.2008-03 (Instructions No.2008-03)
15	FIA Instructions 24 November 2008 No.2008-04 (Instructions No.2008-04)
16	FIA Instructions 24 November 2008 No.2008-05 (Instructions No.2008-05)
17	FIA Draft Instructions "Professionals"
18	FIA Draft Instructions "Post Offices"
19	MOU Banca Centrale e AIF
20	FIA Flow
21	FIA Letter Prot.087675
22	FIA Letter Prot.7713
23	CBSM Letter "Comunicazione personale"
24	Court Letter Ref. 400
25	Court Letter Ref. 401
26	Guidelines "Lawyers"
27	Guidelines "Accountants" (*university degree*)
28	Guidelines "Accountants"
29	Table AML/CFT Sanctions
30	AML Service – CBSM Annual Report
31	Supervision Committee Decision No.370
32	Supervision Committee Decision No.393
33	Data of Police Forces
34	Data of Interpol
35	Data on Cross-Border Controls
36	Data of FIA on STRs and International Cooperation
37	Data of CBSM on AML/CFT Inspections
38	Data of Court on Penal Proceedings
39	Data of Court on MLA (Rogatory letters)