

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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

MONEYVAL(2013)24

# Report on Fourth Assessment Visit

## Anti-Money Laundering and Combating the Financing of Terrorism

# ISRAEL

12 December 2013

Israel is evaluated by MONEYVAL. This evaluation was conducted by MONEYVAL and the mutual evaluation report on the 4<sup>th</sup> assessment visit of Israel was adopted at its 43<sup>rd</sup> Plenary (Strasbourg, 9 – 13 December 2013)

© [2014] Committee of experts on the evaluation of anti-money laundering measures and the financing of terrorism (MONEYVAL).

All rights reserved. Reproduction is authorised, provided the source is acknowledged, save where otherwise stated. For any use for commercial purposes, no part of this publication may be translated, reproduced or transmitted, in any form or by any means, electronic (CD-Rom, Internet, etc) or mechanical, including photocopying, recording or any information storage or retrieval system without prior permission in writing from the MONEYVAL Secretariat, Directorate General of Human Rights and Rule of Law, Council of Europe (F-67075 Strasbourg or [moneyval@coe.int](mailto:moneyval@coe.int))

## TABLE OF CONTENTS

I. PREFACE.....	7
II. EXECUTIVE SUMMARY.....	9
III. MUTUAL EVALUATION REPORT .....	16
<b>1 GENERAL .....</b>	<b>16</b>
1.1 General Information on Israel.....	16
1.2 General Situation of Money Laundering and Financing of Terrorism .....	17
1.3 Overview of the Financial Sector and Designated Non-Financial Businesses and Professions (DNFBPs) .....	18
1.4 Overview of Commercial Laws and Mechanisms Governing Legal Persons and Arrangements.....	24
1.5 Overview of Strategy to Prevent Money Laundering and Terrorist Financing .....	25
<b>2 LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES .....</b>	<b>36</b>
2.1 Criminalisation of Money Laundering (R.1).....	36
2.2 Criminalisation of Terrorist Financing (SR.II) .....	43
2.3 Confiscation, Freezing and Seizing of Proceeds of Crime (R.3).....	45
2.4 Freezing of Funds Used for Terrorist Financing (SR.III).....	49
2.5 The Financial Intelligence Unit and its functions (R.26) .....	52
<b>3 PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS.....</b>	<b>67</b>
3.1 Risk of money laundering / financing of terrorism .....	67
3.2 Customer due diligence, including enhanced or reduced measures (R.5, R.6) .....	68
3.3 Third Parties and Introduced Business (R.9).....	84
3.4 Financial institution secrecy or confidentiality (R.4) .....	86
3.5 Record Keeping and Wire Transfer Rules (R.10 and SR. VII) .....	86
3.6 Monitoring of Transactions and Relationship Reporting (R. 11 and R. 21).....	94
3.7 Suspicious Transaction Reports and Other Reporting (R. 13, 25 and SR.IV).....	97
3.8 Internal Controls, Compliance, Audit and Foreign Branches (R.15 and 22).....	110
3.9 The Supervisory and Oversight System - Competent Authorities and SROs / Role, Functions, Duties and Powers (Including Sanctions) (R. 23, 29, 17 and 25) .....	121
3.10 Money or value transfer services (SR. VI) .....	152
<b>4 PREVENTIVE MEASURES – DESIGNATED NON FINANCIAL BUSINESSES AND PROFESSIONS .....</b>	<b>159</b>
4.1 Customer due diligence and record-keeping (R.12).....	159
4.2 Suspicious transaction reporting (R. 16) .....	161
4.3 Regulation, supervision and monitoring (R. 24-25) .....	164
4.4 Other non-financial businesses and professions/ Modern secure transaction techniques (R.20).....	169
<b>5 LEGAL PERSONS AND ARRANGEMENTS AND NON-PROFIT ORGANISATIONS.....</b>	<b>173</b>
5.1 Legal persons – Access to beneficial ownership and control information (R.33) .....	173
5.2 Legal arrangements – Access to beneficial ownership and control information (R.34).....	176
<b>6 NATIONAL AND INTERNATIONAL CO-OPERATION.....</b>	<b>178</b>
6.1 National co-operation and co-ordination (R. 31 and R. 32) .....	178
6.2 The Conventions and United Nations Special Resolutions (R. 35 and SR.I).....	181
6.3 Mutual legal assistance (R. 36, SR. V).....	182
6.4 Other Forms of International Co-operation (R. 40 and SR.V) .....	184
<b>7 OTHER ISSUES.....</b>	<b>201</b>
7.1 Resources and Statistics .....	201
7.2 Other Relevant AML/CFT Measures or Issues .....	202

7.3 General Framework for AML/CFT System (see also section 1.1).....	202
IV. TABLES .....	203
<b>8 Table 1. Ratings of Compliance with FATF Recommendations .....</b>	<b>203</b>
<b>9 Table 2: Recommended Action Plan to improve the AML/CFT system.....</b>	<b>211</b>
<b>10 Table 3: Authorities' Response to the Evaluation (if necessary).....</b>	<b>220</b>
V. COMPLIANCE WITH THE 3 <sup>RD</sup> EU AML/CFT DIRECTIVE .....	221
VI. LIST OF ANNEXES .....	234

**LIST OF ACRONYMS USED**

AML Law	Anti-Money Laundering Law
Amutot	Associations, (singular Amuta)
BOI	Bank of Israel
CC	Criminal Code
CCMIS	Commissioner of Capital Markets, Insurance and Savings
CCOL	Combating Criminal Organisations Law, 5763-2003
CPO	Criminal Procedure Ordinance (Search and Seizure) [New version] (1969)
CDD	Customer Due Diligence
CETS	Council of Europe Treaty Series
CFT	Combating the financing of terrorism
CID	Criminal Investigations Division
CPC	Criminal Procedure Code
CTR	Cash transaction report
DCIMS	Department of Capital Markets, Investments and Savings
DDO	Dangerous Drugs Ordinance [New Version] (1973)
DNFBPS	Designated Non-Financial Businesses and Professions
EAW	European Arrest Warrant
EC	European Commission
ETS	European Treaty Series [since 1.1.2004: CETS = Council of Europe Treaty Series]
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FCA	Financial Companies Association
FFC	Financial and Fiduciary Companies
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
GRECO	Group of States against Corruption
ILAL	The International Legal Assistance Law (1998)
IMPA	Israel Money laundering and Terror financing Prohibition Authority
IP	Israel Police
ISA	Israel Securities Authority
LEA	Law Enforcement Agency
IBEs	International Business Enterprises

IBUs	International Banking Units
IN	Interpretative note
IT	Information technologies
KYC	Know your customer
Knesset	Israeli Parliament
ML	Money Laundering
MLA	Mutual legal assistance
MLCO	Money Laundering Compliance Officer
MoU	Memorandum of Understanding
MOC	Ministry of Communication
MOF	Ministry of Finance
MOITAL	Minister of Industry, Trade and Labor
MOJ	Ministry of Justice
MSP/MSP	Money services business
MVT	Money Value Transfer
NCCT	Non-cooperative countries and territories
NIS	New Israeli Shekel
NPO	Non-Profit Organisation
OECD	Organisation for Economic Co-operation and Development
OFAC	Office of Foreign Assets Control (US Department of the Treasury)
OGBS	Offshore Group of Banking Supervisors
PEP	Politically Exposed Persons
PMLL	Prohibition of Money Laundering Law
PTFL	Prohibition on Terrorist Financing Law
PTF Regulations	Prohibition on Terrorist Financing Regulations
SAR	Suspicious Activity Report
SR	Special recommendation
SRO	Self-Regulatory Organisation
STRs	Suspicious transaction reports
SWIFT	Society for Worldwide Interbank Financial Telecommunication
TCSP	Trust and company service providers
UAR	Unusual Activity Report
UN	United Nations
UNSCR	United Nations Security Council resolution

## I. PREFACE

1. This is the eighteenth report in MONEYVAL's fourth round of mutual evaluations, following up the recommendations made in the third round. This evaluation follows the current version of the 2004 AML/CFT Methodology, but does not necessarily cover all the 40+9 FATF Recommendations and Special Recommendations. MONEYVAL concluded that the 4<sup>th</sup> round should be shorter and more focused and primarily follow up the major recommendations made in the 3<sup>rd</sup> round. The evaluation team, in line with procedural decisions taken by MONEYVAL, have examined the current effectiveness of implementation of all key and core and some other important FATF recommendations (i.e. Recommendations 1, 3, 4, 5, 10, 13, 17, 23, 26, 29, 30, 31, 32, 35, 36 and 40, and SRI, SRII, SRIII, SRIV and SRV), whatever the rating achieved in the 3<sup>rd</sup> round.
2. Additionally, the examiners have reassessed the compliance with and effectiveness of implementation of all those other FATF recommendations where the rating was NC or PC in the 3<sup>rd</sup> round. Furthermore, the report also covers in a separate annex issues related to the Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (hereinafter the "The Third EU Directive") and Directive 2006/70/EC (the "implementing Directive"). **No ratings have been assigned to the assessment of these issues.**
3. The evaluation was based on the laws, regulations and other materials supplied by Israel, and information obtained by the evaluation team during its on-site visit to Israel from 11 to 15 March 2013, and subsequently. During the on-site visit, the evaluation team met with officials and representatives of relevant government agencies and the private sector in Israel. A list of the bodies met is set out in Annex I to the mutual evaluation report.
4. The evaluation was conducted by an assessment team, which consisted of members of the MONEYVAL Secretariat and MONEYVAL and FATF experts in criminal law, law enforcement and regulatory issues and comprised: Professor William Gilmore (Professor of International Criminal Law, Faculty of Law, University of Edinburgh, scientific/legal expert to MONEYVAL) who participated as legal evaluator, Mr Nicola Muccioli (Vice – Director of the Financial Intelligence Agency of San Marino) and Mrs Daina Vasermane (Head of Financial Integrity Division, Financial and Capital Market Commission, Latvia) who participated as financial evaluators, Mr Raul Vahtra (Head of Internal Control Bureau, Estonian Police and Border Guard Board) who participated as a law enforcement evaluator and Mr John Baker and Mr Daniel Ticau, members of the MONEYVAL Secretariat. The experts reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs), as well as examining the capacity, the implementation and the effectiveness of all these systems.
5. The structure of this report broadly follows the structure of MONEYVAL and FATF reports in the 3<sup>rd</sup> round, and is split into the following sections:
  1. General information
  2. Legal system and related institutional measures
  3. Preventive measures - financial institutions
  4. Preventive measures – designated non-financial businesses and professions
  5. Legal persons and arrangements and non-profit organisations
  6. National and international cooperation
  7. Statistics and resources

Annex (implementation of EU standards).  
Appendices (relevant new laws and regulations)

6. This 4<sup>th</sup> round report should be read in conjunction with the 3<sup>rd</sup> round adopted mutual evaluation report (as adopted at MONEYVAL's 26<sup>th</sup> Plenary meeting – 31 March to 4 April 2008), which is published on MONEYVAL's website<sup>1</sup>. FATF Recommendations that have been considered in this report have been assigned a rating. For those ratings that have not been considered the rating from the 3<sup>rd</sup> round report continues to apply.
7. Where there have been no material changes from the position as described in the 3<sup>rd</sup> round report, the text of the 3<sup>rd</sup> round report remains appropriate and information provided in that assessment has not been repeated in this report. This applies firstly to general and background information. It also applies in respect of the 'description and analysis' section discussing individual FATF Recommendations that are being reassessed in this report and the effectiveness of implementation. Again, only new developments and significant changes are covered by this report. The 'recommendations and comments' in respect of individual Recommendations that have been reassessed in this report are entirely new and reflect the position of the evaluators on the effectiveness of implementation of the particular Recommendation currently, taking into account all relevant information in respect of the essential and additional criteria which was available to this team of examiners.
8. The ratings that have been reassessed in this report reflect the position as at the on-site visit in 2013 or shortly thereafter.

---

<sup>1</sup> <http://www.coe.int/MONEYVAL>



## II. EXECUTIVE SUMMARY

### 1. Background Information

1. This report summarises the major anti-money laundering and counter-terrorist financing measures (AML/CFT) that were in place in Israel at the time of the 4<sup>th</sup> round on-site visit (9-16 March 2013) and immediately thereafter. It describes and analyses these measures and offers recommendations on how to strengthen certain aspects of the system. The MONEYVAL 4<sup>th</sup> cycle of evaluations is a follow-up round, in which Core and Key (and some other important) FATF Recommendations have been re-assessed, as well as all those for which Israel received non-compliant (NC) or partially compliant (PC) ratings in its 3<sup>rd</sup> round report. This report is not, therefore, a full assessment against the FATF 40 Recommendations 2003 and 9 Special Recommendations 2001, but is intended to update readers on major issues in the AML/CFT system of Israel.

### 2. Key findings

2. Illegal gambling, extortion and fraud are the predicate offences most closely associated with organised criminal activity in Israel. As such, these are the areas of concentrated anti-money laundering enforcement activity in Israel. During the on-site visit a concern was regularly expressed that money service providers (MSP) were used to launder money, particularly unregistered MSPs, some of which were controlled by criminal organisations.
3. In terms of risk there is a serious concern that there is still no AML/CFT regime in place for the DNFBP sector. Israel is the largest global exporter of polished diamonds, exporting to a large number of countries. In particular, Orders setting out AML/CFT controls for the diamond industry, which makes a significant contribution to the Israeli economy, were still not in place.
4. Israel has taken action to align its domestic anti-money laundering legislation even more closely with international standards. Israel has utilised the array of legislative tools at its disposal to secure convictions for terrorist financing on a regular basis. The evaluators were impressed by the professionalism and commitment of those they met on-site with responsibilities in this important area. There has been a substantial increase in the number of cases involving seizure of the proceeds of crime with a corresponding increase in the sums confiscated.
5. The Israel Money laundering and Terror financing Prohibition Authority (IMPA), the Israeli FIU, now has access to a much greater range of information than at the time of the previous evaluation. The reports produced by IMPA are valued by the relevant law enforcement agencies. In the view of the evaluators, IMPA is an effective FIU fully compliant with the international standards.
6. Although Israel has taken several legislative and regulatory measures in order to address the deficiencies identified in the preventive measures in the previous evaluation report a number of important orders were still awaiting adoption at the time of the on-site visit. As a consequence of this, there remain a number of deficiencies in legislation and regulation against the FATF preventive standards for financial institutions.
7. Although detailed customer due diligence measures are in place, there remain certain deficiencies including no requirement to take reasonable measures to verify the identity of the beneficial owner of the customer with respect to provident funds, insurance companies and MSPs. Also, the definition of beneficial owner is not fully in line with the standards.
8. There is still no basic requirement to identify politically exposed persons (PEP) for provident funds, insurance companies and agents and MSPs and no requirement for provident funds, insurance companies and agents, MSPs, Stock Exchange members, portfolio managers or the Postal Bank to take reasonable measures to establish the source of wealth of customers and beneficial owners as PEPs.
9. Thresholds are permitted below which there is no requirement for document retention for the Postal Bank, insurers, MSPs, provident funds and companies managing provident funds. Also,

during the on-site visit, MSPs demonstrated a lack of understanding of what records should be kept.

10. The requirements regarding the information that must accompany wire transfers only refer to cross-border transactions. There are no specific requirements in law or regulation setting out information requirements for domestic wire transfers.
11. There has been a significant increase in the volume and quality of unusual activity reports (UAR) from the financial sector and the number of UARs on ML and TF from the non-banking sector has significantly increased.
12. There are no detailed requirements for non-banking financial institutions covering establishment and maintenance of internal control and compliance policies or AML/CFT arrangements for overseas branches.
13. The AML/CFT supervisory framework is well established. All of the designated supervisors have adequate powers. All of the supervisors appeared to be well resourced and there are sanctions in place for AML/CFT breaches which appear to be effective proportionate and dissuasive.
14. At the time of the on-site visit, all of the non-banking supervisors relied on external examiners to conduct supervisory visits. The evaluators understand that this approach is not due to a lack of resources but is intended to draw on the expertise of external bodies and avoid any conflicts of interest.
15. Although central registers exist for corporations and non-profit organisations which are open to consultation by the public, it is not sufficiently guaranteed that competent authorities have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control of legal persons. There is insufficient information available on the beneficial owners of private or foreign trusts and an absence of legal requirements on trust service providers to obtain, verify and retain records of the trusts they create, including beneficial ownership details.
16. Comprehensive mechanisms are in place for national and international cooperation and Israel actively cooperates with other jurisdictions at all levels. Israel has brought about improvements in terms of its compliance with international standards. However, the exemption for Israeli citizens who are Israeli residents from the declaration process under UN Security Council Resolution 1267 and relevant successor Resolutions is not in line with international standards.

### **3. Legal Systems and Related Institutional Measures**

17. Israel has taken action to align its domestic anti-money laundering legislation even more closely with international standards; environmental crimes and piracy have now been included as predicate offences. The evaluators do remain concerned that the threshold approach to criminal prosecutions under Section 4 of the PMLL is still in place although it is accepted that, in practice, this does not constitute a significant barrier to securing convictions in important cases. With regard to effectiveness, it is noted how genuine and widespread the cultural change in respect of the focus on the financial aspects of profit generating offences and associated money laundering appeared to be, from policy makers to prosecutors and operational police officers. The statistics indicate that this is bearing fruit in terms of money laundering investigations, prosecutions and convictions.
18. Israel has utilised the array of legislative tools at its disposal to secure convictions for terrorist financing on a regular basis. The evaluators were impressed by the professionalism and commitment of those they met with on-site with responsibilities in this important area.
19. There has been a substantial increase in the number of cases involving confiscation of the proceeds of crime with a corresponding increase in the sums confiscated. It was noted that seizure and confiscation are, along with money laundering, central to an overall national policy of targeting illicit proceeds as a primary objective in Israeli efforts to combat serious and organised

criminal conduct. There is, however, the need to extend modern legislation on confiscation and related matters to the full range of relevant predicate offences.

20. The amendments to the PFTL which came into force in July 2012 have enhanced the administrative procedures and Israel is now in a position to give effect to amendments to the UN lists in a timely fashion as required by international standards. Nonetheless, the evaluators were concerned that the timeframe for giving effect to declarations following listings made pursuant to UNSC 1267 was insufficiently prompt. It was also noted that the declaration process does not apply to Israeli citizens who are Israeli residents.
21. In the 3<sup>rd</sup> round MER, the Israel Money laundering and Terror financing Prohibition Authority (IMPA) the Israeli FIU was criticised for its lack of access to law enforcement and administrative information and the lack of timeliness in the dissemination of reports. In line with the overall improvement as noted above, IMPA has much greater access to information including the establishment of an in-house designated police working station staffed by a designated police officer which gives direct access to all on-going investigations. In the meeting with the Israeli Police during the on-site visit the Israeli Police emphasise that the IMPA product is valued and that, in their view, IMPA now had a much more surgical approach and produced a more refined product which pinpoints the felony; in their view 90% of the information from IMPA was of use and they received information back on most enquiries. In the view of the evaluators, IMPA is an effective FIU fully compliant with the international standards.

#### **4. Preventive Measures – financial institutions**

22. Since the adoption of the third round mutual evaluation report in July 2008, Israel has taken several legislative and regulatory measures in order to address the deficiencies identified in the 3rd round report. In particular, the Israeli authorities have amended the legal provisions for Stock Exchange Members, Portfolio managers and the Postal Bank. However, at the time of the on-site visit the amendments to the Banking Order, Insurance Order and MSP's Order as well as the Provident Funds Order were still awaiting for the approval of the Knesset's Constitution, Law and Justice Committee. As a consequence of this, there remain a number of deficiencies in legislation and regulation against the FATF preventive standards for financial institutions.
23. With regard to CDD measures, explicit requirements for identification of customers and to a certain acquiring extent verification of identity data prior to the business relations establishment are in place although a time limit has been set to the requirements for existing customers. The identification requirement for insurers and insurance agents as well as provident funds still contains a threshold for verification and for identification which is not in line with the FATF standard. The definition of beneficial owners is not fully in line with the FATF Glossary and there is no requirement to take reasonable measures to verify the identity of the beneficial owner of the customer with respect to provident funds, insurance companies and MSPs.
24. There is still no basic requirement to identify politically exposed persons (PEP) for provident funds, insurance companies and agents and MSPs. There remain deficiencies in the definition of PEP and there is no requirement for provident funds, insurance companies and agents, MSPs, Stock Exchange members, portfolio managers or the Postal Bank to take reasonable measures to establish the source of wealth of customers and beneficial owners as PEPs.
25. There are no secrecy or confidentiality obstacles in place that inhibit the implementation of the FATF Recommendations and all relevant information can be obtained and exchanged in Israel. There are, however deficiencies related to record keeping. In particular, thresholds are permitted on document retention for the Postal Bank, insurers, MSPs, provident funds and companies managing provident funds. During the on-site visit, the MSPs demonstrated a lack of understanding of what records should be kept in files and some MSPs interviewed stated that they were only keeping identification data.
26. Financial institutions, including banks, are still not required to obtain and maintain the originator information for all wire transfers (both cross-border and domestic ones) exceeding €1,000. Banking

corporations are not required to maintain originator information in the payment chain. The requirements regarding wire transfers only refer to cross-border transactions and there are no specific requirements in law or regulation setting out information requirements for domestic wire transfers and no risk-based procedures.

27. Apart from banking institutions, all financial institutions are not directly obliged to examine complex and unusual transaction and keep findings in writing and there is no explicit obligation to financial institutions to examine as far as possible the background and purpose of transactions with no apparent economic or visible lawful purpose where persons from countries that do not or insufficiently apply FATF Recommendations are involved.
28. There has been a significant increase in the volume and quality of suspicious transaction reports from the financial sector since the last evaluation and the number of UARs on ML and TF from the non-banking sector has significantly increased since the previous evaluation. There are, however some technical deficiencies relating to the reporting requirement. Portfolio managers are exempted from the reporting obligation for certain categories of customer. Also, there is no reporting requirement for funds where there are reasonable grounds to suspect or they are suspected to be linked or related to, or to be used for those who finance terrorism.
29. With regard to requirements on internal controls, compliance and foreign branches, there are no detailed requirements for non-banking financial institutions covering establishment and maintenance of policies, procedures and controls to prevent ML/TF, an independent audit function to test compliance with AML/CFT policies, procedures and controls, the establishment of screening procedures when hiring employees or AML/CFT Arrangements in overseas branches.
30. The AML/CFT supervisory framework, including the roles and functions of the supervisors are clearly designated under the Prohibition of Money Laundering Law (PMLL). All of the designated supervisors have adequate powers to perform their AML/CFT supervisory responsibilities. There are sanctions in place for AML/CFT breaches which appear to be effective proportionate and dissuasive although administrative sanctions do not apply to directors or senior managers of reporting legal entities and the evaluators are concerned that this could give rise to problems of effective application of sanctions for minor infringements. All of the supervisors appeared to be well resourced and to have adequate training and staff screening regimes in place.
31. At the time of the on-site visit, apart from the Bank of Israel, all of the supervisors relied on external examiners to conduct supervisory visits. The evaluators understand that this approach is not due to a lack of resources but is intended to draw on the expertise of external bodies and avoid any conflicts of interest. The supervisors provide training for the external examiners and frequently accompany them on supervisory visits. Nonetheless, the evaluators consider that there is an excessive reliance on external supervision.
32. It has already been noted above that a number of Orders remedying deficiencies in the AML/CFT regulations were still awaiting approval of the Knesset's Constitution, Law and Justice Committee. The evaluators are concerned that this delay could have a negative impact on the effectiveness and scope of AML/CFT supervision.
33. The registration procedure for MSPs is well regulated and has been reinforced by amendments to PMLL. However, during the on-site visit the view was frequently expressed that MSPs represented a vulnerability to ML and TF in Israel and that the MSPs sector is often misused by organised crime groups. It was also reported that there were a number of unregistered and thus un-regulated MSPs operating in Israel. The evaluators were concerned at the low number of on-site visits conducted to this relatively high-risk sector as well as the lack of requirements under SR.VII for domestic wire transfers.

## **5. Preventive Measures – Designated Non-Financial Businesses and Professions**

34. There are still no CDD or reporting requirements in place for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.
35. The diamond industry makes a significant contribution to the Israeli economy and Israel is the largest global exporter of polished diamonds, exporting to a large number of companies. Although the relevant provisions are now in place in the PMLL, such measures were not in force at the time of the on-site visit as the related Order had not received the approval of the designated Knesset Committee.

## **6. Legal Persons and Arrangements & Non-Profit Organisations**

36. In Israel there are two principal forms of incorporated entities; corporations (governed by the Companies Law) and “amutot” (governed by the Law of Non-Profit Organisations). A central database exists for each which is overseen by the Israeli Corporations Authority (ICA). Registration is mandatory. The evaluators were informed that the different entities are obligated to report to the relevant Registrar in the ICA regarding any change in ownership or control of companies and, with respect to all corporations, any change in directors or other senior officers. Information on the registers is open to consultation by the public. However, the information on the Register only relates to legal ownership and control (as opposed to beneficial ownership), is not verified and is therefore not necessary reliable.
37. The Israeli legal system embraces the concept of trusts. There are a number of different types of trust which can be created under the Law of Trusts. There is, however, insufficient information available on the beneficial owners of private or foreign trusts and an absence of legal requirements on trust service providers to obtain, verify and retain records of the trusts they create, including beneficial ownership details.

## **7. National and International Co-operation**

38. There are various mechanisms supporting inter-agency and multi-disciplinary cooperation and coordination in Israel. All agencies active in the AML/CFT areas cooperate with each other within their legal authority, in the form of exchange of information, joint investigations and other coordination activity. Domestic cooperation between IMPA and the Israeli Police is regulated by a PMLL Protocol. IMPA addresses intelligence reports to the Israeli Securities Authority (ISA) that may be terrorist related. It is also under a legal obligation to respond to ISA requests and provide information from its database. IMPA is also represented in the Counter terrorism National Security Council. A memorandum of understanding has been signed between the supervisor of the banks, the head of ISA, the Commissioner of Department of Capital Markets, Investments and Savings (DCIMS), the registrar of MSP's, the supervisor of the Postal Bank, the Tax Authority and the Head of IMPA which is intended to create a framework for collaboration between the various bodies charged with responsibility for the regulatory regime in Israel concerning the prohibition of money laundering and financing of terrorism.
39. A domestic task force has been formed, headed by the Attorney General, with the participation of the State Attorney, the Inspector General of the Police, the Head of the Tax Authority, and the Chairman of the Securities Authority. The intention is to coordinate the efforts of all the prosecution bodies and their activities, encouraging cooperation and sharing of information between all prosecution bodies, in order to increase the effectiveness of the prosecution system. An Integrated Intelligence Centre has been established in order to combat severe crime, organised crime and its outcomes. This Centre integrates different intelligence bodies, including the Police, the Tax Authority and IMPA as well as impermanent representatives from other relevant bodies. Overall domestic co-operation and co-ordination between the relevant authorities, governmental, law enforcement and supervisory is well organised ensuring structural coordination between diverse areas of expertise. The AML/CFT effort is subject to regular review and evaluation, which has led to several initiatives in order to improve the fight against serious and organised crime.

40. Israel has brought about improvements in terms of its compliance with international standards as these relate to the identification of beneficial owners. Israeli participation in the important treaty regimes addressed in R.35 and SR.I have positioned it to play an important and constructive role in the provision of international co-operation in the AML/CFT sphere and more generally. However, the failure to impose AML/CFT obligations on “other professions involved in financial transactions” as envisaged by the TF Convention remains unaddressed at this time. With regard to Security Council Resolution 1267 and relevant successor Resolutions the exemption from the declaration process of Israeli citizens who are Israeli residents is not in line with international standards.
41. Israel is a party to the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters as well as several relevant bilateral instruments. Israel may also seek and provide mutual legal assistance in the absence of a treaty nexus with a third country. As a matter of domestic law this area is governed primarily by the International Legal Assistance Law. Responsibility for mutual legal assistance in Israel is, in essence, divided between the Department of International Affairs in the State Attorney’s Office and the Legal Assistance Unit of the Israeli Police. The former is responsible for the drafting and submission of requests to third countries on behalf of the State of Israel. The latter is responsible for incoming requests for assistance unless they are of a nature requiring investigation by a specialised body such as the Israel Securities Authority. Overall Israel has in place a modern and comprehensive regime governing mutual legal assistance in criminal matters and the information provided to the evaluators suggests that the system so created is operating effectively and efficiently in practice.
42. The Israeli Police is a member of Interpol and uses this channel to collect and supply information. Although requests for investigative acts need to follow the MLA procedure, intelligence can be exchanged freely through Interpol, as long as it is not intended to be used as evidence and it does not entail coercive measures. IMPA has a dynamic and constructive approach towards FIU to FIU cooperation and is very active on the international scene. The restraints mentioned in the 3rd round report in relation to limited access to police information have now been eliminated.
43. Although the three main financial sectors (Banking, Securities and Insurance sectors) are governed by legislation that enable the respective supervisory authorities (Bank of Israel, ISA and the DCMIS) to exchange information with their foreign counterparts, it is worth noting that none of these laws refer to circumstances related to AML/CFT issues and only cover cases and situations related to the respective fields (e.g. host-home issues, securities markets and insurance products). Nonetheless, the Bank of Israel, has established relationships (formally and informally) with its counterparts in the main countries where the Israeli banking sector operates and the ISA has signed several MMOU and MOUs for the exchange of information.

## **8. Resources and statistics**

44. IMPA appears to be adequately structured and funded (partially by the asset confiscation fund), staffed, and provided with sufficient technical and other resources to fully perform its authorised functions. IMPA ensures that professional standards, integrity, skills and confidentiality of its employees are maintained and conducts regular training. The supervisory authorities for the financial sector also appear to have sufficient resources to perform their supervisory functions. There was a concern about the reliance on third parties to conduct AML/CFT supervision by non-banking supervisors, although this policy does not appear to be driven by resource constraints. Overall sufficient resources appear to be devoted to national cooperation and coordination. Trainings seminars are regularly organised by policy makers and policy makers take an active part in different trainings and seminars.
45. With regard to DNFBPs, as they currently fall outside of the scope of the AML/CFT regime it was not possible to assess the sufficiency of resources.
46. With regard to statistics, The Israeli authorities provided detailed and comprehensive statistics covering all main areas under consideration. The authorities displayed a good understanding of the

issues underlying the statistics and appeared to make use of these to assess the effectiveness of the AML/CFT regime.

### III. MUTUAL EVALUATION REPORT

#### 1 GENERAL

##### 1.1 General Information on Israel

1. Israel is situated in the Middle East, along the eastern coastline of the Mediterranean Sea. The country is about 290 miles (470 km) in length from north to south and some 85 miles (135 km) across at its widest point between the Dead Sea and the Mediterranean coast. Israel is bordered by Lebanon in the north, Syria to the North-east, Jordan to the east, Egypt to the South west and the Mediterranean Sea to the west.
2. On 14 May 1948, upon termination of the British mandate over Palestine granted by the League of Nations in 1922, the Jewish people proclaimed the establishment of the State of Israel (The Declaration of the Establishment of the State of Israel). Israel has been a member of the United Nations since 1949.
3. Since the establishment of the State of Israel, the Jewish population has grown from 650,000 in 1948 to over 7 million in 2013. The population comprises 76% Jews with non-Jews accounting for 24 % of the population: 17% Muslims; 2% Christians (mostly Arabs); 2 % Druze and 3% are not classified by religion. The official languages of the State of Israel are Hebrew and Arabic.
4. The history of the Arab-Israeli conflict and the peace process is outwith the scope of this report, and is well-known. At the time of the on-site visit, in 2012, Palestinian self-government had been implemented under the auspices of the Palestinian Authority in Gaza, Jericho, Bethlehem and additional areas in the West Bank. The evaluation team did not assess the implementation of the AML/CFT regime in those areas which at the time of the on-site visit were under the control of the Palestinian Authority. The team was advised that the Israeli currency, the new Israeli Shekel [NIS] is used in the areas under the control of the Palestinian Authority and that cheques from those areas are cleared through Israeli commercial banks. No Israeli banks operate in the areas under the control of the Palestinian Authority.
5. Israel has a technologically advanced market economy. Its major imports include crude oil, grains, raw materials, and military equipment. Cut diamonds, high-technology equipment, and pharmaceuticals are among the leading exports. Israel usually posts sizable trade deficits, which are covered by tourism and other service exports, as well as significant foreign investment inflows. The global financial crisis of 2008-09 spurred a brief recession in Israel, but the country entered the crisis with solid fundamentals - following years of prudent fiscal policy and a resilient banking sector. The economy has recovered better than most advanced, comparably sized economies. GDP per capita was estimated at US\$32,200 in 2012 (2011: US\$32,000) with real growth in GDP being estimated at 2.9% in 2012 (2011: 4.6%).
6. In 2011, it was estimated that bank deposits were equivalent to 95% of GDP<sup>2</sup>.
7. In 2010, Israel formally acceded to the OECD. Israel's economy also has weathered the Arab Spring because strong trade ties outside the Middle East have insulated the economy from spillover effects.
8. At the time of the on-site visit, there had been no major failures in the financial sector or need for any extraordinary fiscal stimulus. This has helped to avoid a substantial increase in public debt. Furthermore, there have been substantial new finds of offshore natural gas, which will strengthen the fiscal position, further decrease dependence on imported fuels and improve options regarding energy security. However, the low interest rates generated by the monetary-policy response to the crisis have contributed to a rapid increase in property prices, which are approaching bubble proportions.

---

<sup>2</sup> Source: World Bank.



9. Israel's diamond cutting and polishing industry is the largest in the world. In 2011, \$7.2 billion (2010: US\$5.8 billion) worth of polished stones was exported as well as exports of US\$5.7 billion (2010: US\$4.2 billion) of unpolished stones.

## **1.2 General Situation of Money Laundering and Financing of Terrorism**

10. Israel Police (IP) intelligence indicates that illicit drugs, illegal gambling, extortion and fraud are the predicate offences most closely associated with organised criminal activity in Israel. As such, these are the areas of concentrated anti-money laundering enforcement activity in Israel.
11. A recent IP Research Department study estimates illegal gambling profits at US\$2-4 billion per annum; an earlier estimate of the drug market in Israel affixed annual domestic drug proceeds at above UD\$1.5 billion per annum. With regard to foreign sources of money laundering in Israel, the truncated and sporadic nature of the intelligence received from typical source countries, make it virtually impossible to estimate the scale of illicit assets entering Israel from abroad.
12. The nature of money laundering in Israel has evolved in response to local legislative and enforcement advances. Upon legislation of the Prohibition of Money Laundering Law, much of the domestic laundering activity amounted to no more than basic "Placement", or primitive "Layering", of criminal proceeds (sometimes attended by the use of straw entities). The initial increase in overall asset seizures and money laundering prosecutions, accompanied by focused legislation and enforcement vis-à-vis informal money service providers, have led serious offenders to a greater reliance on "Integration" schemes. At the time of the on-site visit it was considered that home-grown criminals commonly streamlined money through ostensibly legal enterprises, with invoicing and audited statements. In stark contrast to this, transnational criminals operating in Israel continue to use multi-national "Layering" schemes and complex corporate structures, involving off-shore centres.

### *Current risks and vulnerabilities that Israel is facing regarding AML*

13. The involvement of criminal organisations in internet gambling, both as an illegal activity to generate proceeds from the offence and as a possible means to launder money, is regarded as a particular concern. A special task force has been established to combat the phenomenon of internet gambling. The task force is located in the Israeli Police and includes representatives from the Police, Tax Authority, Public prosecutors and IMPA. A list of international bank accounts suspected of being used for illegal internet gambling activity has been published by the police based on open source information. Reporting institutions are required to report and/or block any activity conducted with these accounts.
14. Corruption, especially where organised or serious crime is involved is perceived to be an AML risk. A task force has been established to combat corruption particularly with regard to the above mentioned crimes. There is also a national unit whose role is to investigate corruption related crimes. IMPA monitors Unusual Activity Reports (UAR<sup>3</sup>) filed for corruption-related activities and intelligence reports have been disseminated to the police.

### *Trends and Methods of Money Laundering*

15. The IP have detected activities by criminal organisations and other criminals in the area of cash money, while avoiding the banking system. These practices make it difficult to track the assets and their trail.
16. The IP detected that gambling syndicates more and more use alternative methods of payment, such as internet transfers, Hawala, and cash defrayal.
17. In 2012, the IP detected several cases involving the purchase of rights of winning bets in sports or other legal betting in Israel, where the criminals cooperated with the owners of legitimate

---

<sup>3</sup> Unusual Activity Reports are described in detail in section 2.5 below.

gambling outlets. In order to rectify this, the permit for conducting gambling by the "Payees" (legal state gambling) was changed to require the identification of the gambler, even in a partial manner, a change that made it much more difficult to launder money by way of rights purchasing.

18. Family occasions are used to disguise the transfer of large sums of cash. For example, after a wedding, a deposit of a large sum of cash may be explained as a wedding gift.
19. Front men are continuously and widely used of for all kinds of activities such as opening of accounts, registering of activities at money service providers, forging of import logs and lowering the value of imported goods.

#### *Financing of Terrorism*

20. The State of Israel has been threatened by terrorism since its independence. As a result, it has developed an extensive network of government authorities, a body of domestic legislation, a range of practical policies and an intense commitment to combat terrorism in all its aspects.

### **1.3 Overview of the Financial Sector and Designated Non-Financial Businesses and Professions (DNFBPs)**

#### **Financial Sector**

21. The Israeli authorities have made effort to improve the situation and since the adoption of the 3<sup>rd</sup> round evaluation report have worked on the implementation of recommended actions.
22. Since the last mutual evaluation report Israel has taken measures to improve its overall customer due diligence (CDD) system and obligations to apply measures are now imposed to all financial institutions. This obligation includes taking CDD measures in higher risk situations. Overall, the effectiveness of the implementation of the standards for most of the financial institutions appears to be adequate.
23. Israeli financial sector in terms of ownership structure at the moment of the on-site visit was as follows:

**Table 1: Ownership structure of commercial banks**

Ownership structure of commercial banks			
	2010	2011	2012
Foreign ownership more than 50%	1	1	1
Foreign ownership less than 50%	8	8	7
Resident Shareholders 100%	6	6	7
Foreign Branches	4	5	5
<b>Total number of banks</b>	19	20	20

Note:

1. Only commercial banks included.
2. Capital holding tested the ultimate controlling shareholders.
3. There is data only about ownership more than 5% of controlling shareholders in the banks. So that in the public holdings there is possible of holdings of foreign investors who are each separately at a rate lower than that.
24. The banking system in Israel consists of 15 banking corporations, 4 foreign banks, 2 mortgage banks, 1 financial institution and 2 joint service companies. The system is however characterized by a high level of concentration, as its five major banking groups (Hapoalim, Leumi, Discount, Mizrahi and First International) hold 93 % of the assets of the system and the first two of the aforementioned more than 50%.
25. The banking corporations provide the full range of banking services by means of commercial banks, overseas branches of Israeli banks, credit card companies, financial institutions and joint

services companies. In addition to the activity of classic banking intermediation, the banking corporations, by means of subsidiaries, deal with areas that complement their commercial banking activity, such as credit card activity and capital market activity.

26. Even though the global crisis affected Israel's economy, no domestic financial institution got into serious difficulties during the crisis. According to the authorities, this has been mainly due to the bank conservative management; limited inter-connectedness due to the small market and a strong and intrusive bank supervision. Banks profitability declined sharply in 2008, but has since recovered as loan loss provisions have decreased and net interest income has increased. Banks remain mainly deposit-funded, with customer deposits exceeding loans. According to the IMF Israel Financial System Stability Assessment from 2012, nonperforming loans are low and well provisioned; and deposits make up over two-thirds of total liabilities and in aggregate exceed loans (the loan to deposit ratio of the major Israeli banks in 2011 was at or below 100). Also the ratio of bank deposits to GDP was 90,5% in 2011 according to a World Bank survey<sup>4</sup>.
27. Regarding the tier 1 capital ratio<sup>5</sup>, on 31.12.2011 it was 7,9%, which is low in comparison with European countries. In March 2012 the Supervisor of Banks published revised guidelines, according to which all banks are required to meet a minimum common equity tier 1 capital ratio of 9% by January 1, 2015, and Bank Leumi and Bank Hapoalim will be required to further raise their minimum common equity tier 1 capital ratio by another percentage point, to 10%, by January 1, 2017. The common equity tier 1 capital targets were set at higher levels than those required by Basel III guidelines and the period for their implementation is shorter. This is expected to strengthen the resilience of the banks and their ability to absorb losses during a crisis.

#### *The Bank of Israel*

28. The Bank of Israel is the central bank of the state of Israel and is headed by the Governor of the Bank of Israel. Its objectives are to maintain price stability, to support government's objectives especially growth and employment, and to support the stability of the financial system. Among others, the function of the bank of Israel is to supervise and regulate the banking system.
29. The supervision of the banking system is undertaken by the Supervisor of Banks, who is appointed by the Governor and two committees, the Licenses Committee and the Advisory Committee. The Licenses Committee advises on the issue of licenses for the establishment of a banking corporation, the acquisition of a controlling interest in a bank, and the licensing of bank branches, whilst the Advisory Committee advises on the matters related to banking business and is consulted by the Supervisor about an issue of new Proper Conduct of Banking Business regulations. The Banking Supervision Department (BSD) performs bank inspections, assesses each bank's activity and the quality of bank's risk management with regard to money laundering and terrorist financing. The Bank of Israel is also responsible for the supervision over the implementation of money laundering obligations by the banking corporations.

#### *The Postal Bank*

30. For general information about the Postal Bank, please refer to paragraph 42 of the 3<sup>rd</sup> round Mutual Evaluation Report. In the year 2012, the banking services of the Postal Bank were provided at 682 postal units nationwide, which are all connected on-line to the Mainframe of the Postal Banking Services computer system. The number of units offering remittance services through Western Union (342 units) has doubled since the last evaluation (in comparison to 150 units then).

---

<sup>4</sup> <http://data.worldbank.org/indicator/GFDD.OI.02>

<sup>5</sup> It should be noted that for purposes of measuring capital adequacy Israeli banks use the standard method, according to which credit risk assets are weighted more conservatively than is the case for most leading banks in Europe, which use internal models.

31. Newly in May 2011, the Postal Bank contracted with Visa-Europe the possibility to issue pre-paid cards and debit-cards. At the time of the on-site visit, around 40,000 debit-cards and around 72,000 pre-paid cards were issued by the Postal Bank. The Postal Bank pre-paid cards are limited to 10,000 NIS (c. €2,000)<sup>6</sup>.
32. All financial services provided by the Postal Bank are subject to supervision by the Ministry of Communication, which appoints a Supervisor of the Postal Bank.

#### *Non-banking financial sector*

33. As well as the banking sector, the parts of the non-banking financial sector (comprising insurance companies, pension funds, and provident funds) are also highly concentrated. In the insurance sector, the four largest groups have a dominant market share in most business lines (for example, their share in the life insurance market is over 80 percent). In comparison to the banking sector, there is greater foreign involvement, with one major insurer being foreign owned.
34. For general information about the functioning and regulation of the Tel-Aviv Stock Exchange, portfolio managers activities, the insurance industry and provident funds, please refer to the 3<sup>rd</sup> round Mutual Evaluation Report (pages 21-22, paragraphs 38-41), as no significant changes occurred since the adoption of the above mentioned evaluation report.
35. The Tel-Aviv Stock Exchange being the only Stock Exchange operating in Israel, there are several trading floors serving as alternatives. The Securities Law was amended in 2010 in order to regulate both the activity and the supervision of the trading floors. The Law determines that trading floors are obligated to receive licence from the ISA, and that they are subject to the AML/CFT regime. For the purposes of specifying the concrete AML/CTF obligations for the trading floors, an order is in final stage of drafting and will be submitted soon for consultation with the Minister of Justice and the Minister of Public Security.

#### Leasing companies

36. There are 6 companies in Israel that provide financial leasing. These companies are covered in the PMLL under the definition of “Banking Corporations” which includes auxiliary companies (including leasing companies). Leasing companies are obligated to comply with the obligations under the Banking Corporations AML/CFT Order and are supervised by the Bank of Israel.

#### Supervision and regulation

37. Financial supervision responsibilities in Israel are shared among several agencies. The Bank of Israel and in particular its Banking Supervision department, headed by the Supervisor of Banks, is responsible for prudential oversight of banks and the payments system. The Israel Securities Authority oversees the securities sector, while the Commissioner of Capital Markets, Insurance and Savings at the Ministry of Finance mainly deals with the insurance and pension sector. The Tel Aviv Stock Exchange has some supervisory responsibilities for its members; otherwise the implementation of money laundering obligations regarding the activities at the Stock Exchange is subject with respect to banking personnel trading on the Stock Exchange to the regulation of the Bank of Israel and regarding the non-banking members to the supervision of the Israel Securities Authority (ISA)
38. To ensure the consistent implementation of the AML/CTF issues across the financial sector, an AML/CFT Regulators Forum was established in the year 2009. The Forum is led by IMPA and is composed of representatives from the supervisors, the IP and from the prosecution authorities. During the period 2009-2012 9 meetings took place, in which different issues were discussed.
39. In addition, a memorandum of understanding between the regulators was signed in July 2012 in order to increase cooperation and coordination between the regulators. This MOU is additional to the memorandum of understanding dated June 2007, that intended to create a framework for

---

<sup>6</sup> The rate of exchange is approximately NIS 1 = €0.20

cooperation and information exchange between the supervisors of the financial markets in Israel – the Supervisor of Banks, the Securities Authority and the Commissioner of the Capital Market, Insurance and Savings.

**Table 2: A detailed scheme of the types of businesses and services provided for in the Israeli market, together with the details on the supervisory authority**

<b>Financial Institutions</b>		
<b>Type of business</b>	<b>Supervisor</b>	<b>No. of Registered Institutions</b>
1. Acceptance of deposits and other repayable funds from the public	<ul style="list-style-type: none"> <li>For Banking Corporations – The Bank of Israel.</li> <li>For the Postal Bank (that can accept deposits but is not allowed to pay interest) – The supervisor of the Postal Bank in the Ministry of Communication.</li> </ul>	27 1
2. Lending	<ul style="list-style-type: none"> <li>Bank of Israel – Banking supervision</li> </ul>	29
3. Financial leasing	<ul style="list-style-type: none"> <li>Bank of Israel – Banking supervision</li> </ul>	6
4. The transfer of money or value	<ul style="list-style-type: none"> <li>Bank of Israel – Banking supervision</li> <li>For the Postal Bank (that can transfer only money) – The supervisor of the Postal Bank in the ministry of communication.</li> <li>ISA – for Stock Exchange members</li> <li>The Registrar of MSP's</li> </ul>	28 1 13 Stock Exchange members 1,931 MSP's
5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money)	<ul style="list-style-type: none"> <li>Bank of Israel – Banking supervision</li> <li>For the Postal Bank (that cannot issue credit cards) – The supervisor of the Postal Bank in the ministry of communication.</li> </ul>	23 1
6. Financial guarantees and commitments	<ul style="list-style-type: none"> <li>Bank of Israel – Banking supervision</li> </ul>	20
7. Trading in: (a) money market instruments (cheques, bills, CDs, derivatives etc.); (b) foreign exchange; (c) exchange, interest rate and index instruments; (d) transferable securities (e) commodity futures trading	<ul style="list-style-type: none"> <li>Bank of Israel – Banking supervision</li> <li>For the Postal Bank (for a, b and c) - The supervisor of the Postal Bank in the ministry of communication.</li> <li>ISA– for Stock Exchange members.</li> </ul>	18 1 13 Stock Exchange members
8. Participation in securities issues and the provision of financial services related to such issues	<ul style="list-style-type: none"> <li>ISA– for Stock Exchange members</li> <li>Bank of Israel – Banking supervision</li> </ul>	13 Stock Exchange members 5
9. Individual and collective portfolio management	<ul style="list-style-type: none"> <li>ISA– for portfolio managers</li> <li>Bank of Israel – Banking supervision</li> </ul>	137 portfolio management companies 12
10. Safekeeping and administration of cash or liquid securities on behalf of other persons	<ul style="list-style-type: none"> <li>ISA– for portfolio managers</li> <li>Bank of Israel – Banking supervision</li> </ul>	137 portfolio management companies 21
11. Otherwise investing, administering	<ul style="list-style-type: none"> <li>Bank of Israel – Banking</li> </ul>	11

or managing funds or money on behalf of other persons	<ul style="list-style-type: none"> <li>supervision</li> <li>The DCIMS – for provident funds and pension funds<sup>7</sup></li> </ul>	108
12. Underwriting and placement of life insurance and other investment related insurance	<ul style="list-style-type: none"> <li>Bank of Israel – Banking supervision (for insurance agencies of banking corporations).</li> <li>The DCIMS – for insurance companies.<sup>8</sup></li> </ul>	5  23
13. Money and currency changing	<ul style="list-style-type: none"> <li>The Registrar of MSP's</li> <li>For the Postal Bank - The supervisor of the Postal Bank in the ministry of communication.</li> <li>Bank of Israel – Banking supervision</li> </ul>	1,931 MSP's 1  22

### Designated Non-Financial Businesses and Professions (DNFBPS) and Non-Profit Organisations (NPOs)

40. The DNFBP sector in Israel consists of real estate agents, dealers in precious stones, legal and accountancy professions, trust and company service providers, associations, foundations and registered churches and religious communities. Due to the general prohibition on gambling in Israel, there are casinos in the country.

**Table 3: The numbers of entities operating on the Israeli market with details on the supervisory authority**

Type of business	Supervisor	No. of Registered Institutions
1. Casinos (which also includes internet casinos)	---	0
2. Real estate agents	Real estate agents have to be registered at the Registrar of Real Estate Agents at the Ministry of Justice	16,008
3. Dealers in precious metals	---	~350 companies
4. Dealers in precious stones	Dealers in precious stones are licensed by the Supervisor of Diamonds and Precious Stones at the Ministry of Industry, Trade and Labor.	2,500 diamonds dealers 40 dealers in other precious stones
5. Lawyers, notaries, other independent legal professionals and accountants – this refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to 'internal' professionals that are employees of other types of businesses, nor to professionals working for government agencies, who	<p>Lawyers are licensed by the Bar Association.</p> <p>The profession of notary is regulated according to the Notaries law, 1976.</p> <p>Accountants are licensed by the Accountants' Council according to the accountants' law, 1955.</p> <p>Tax advisors are regulated under</p>	<p>Lawyers – 52,000</p> <p>Notaries – 4,299</p> <p>Accountants – 23,802</p> <p>Tax advisors – 5,844</p>

<sup>7</sup> The Supervision of Financial Services (Provident Fund) Law, 2005.

<sup>8</sup> According to Israeli legislation, insurance businesses are subject to a license from the Commissioner of Insurance and the Capital Market. This license specifies the insurance branches that are permissible to engage with, and investment related insurance is not included in this license according to the legislation.

may already be subject to measures that would combat money laundering	the Law of Regularization of the Occupation of a Representative by Tax Advisor, 2005.	
6. Trust and Company Service Providers refers to all persons or businesses that are not covered elsewhere	Bank of Israel – Banking supervision (for trust companies of banking corporations).	7

41. For general information about the regulation and activities of the above mentioned DNFBPs,
42. please refer to the 3<sup>rd</sup> round Mutual Evaluation Report (pages 26-27, paragraphs 49-57), as no significant changes occurred since the adoption of the above mentioned evaluation report.

#### *Dealers in precious stones*

43. As was stated above in section 1.1, the diamond industry is one of the fundamental parts of Israeli economy. Even though the values of diamond export have decreased of more than 20% in the year 2012, it still remains as one of the most significant goods for Israeli trade. Due to the importance of this industry, there are currently 2,500 diamond dealers operating in the country. The extent of this market has been the reason for the need to ensure necessary regulation and supervision of the subjects involved, which led to an amendment to the PMLL in the year 2012. This amendment applies the AML/CFT regime on the sector of the dealers in precious stones, as a result of which the persons wishing to be authorised as a diamond dealer are subject to a license issued by the Supervisor of Diamonds (Ministry of Industry, Trade and Labor). The Supervisor of Diamonds also consequently supervises and inspects the sector.

#### *Supervision*

44. As was mentioned above, dealers in precious stones have to be authorised by the Supervisor of Diamonds and are subject to his supervision. At the time of the evaluation, the dealers in precious stones were the only DNFDP to which AML/CTF obligations applied, however the relevant order had not been adopted. Due to this fact, the other business sectors and professions are subject to their individual sectorial legislation and registration, but the legislation does not provide for a supervisory authority with relation to AML/CTF<sup>9</sup>.

#### *Non-profit organisations*

45. The majority of the non-profit organisations in Israel is governed by the Law of Non-Profit Organisations and are registered as “amutot” (charities). Their registration, as well as notification of any changes, is mandatory at the Registrar of Charities. A small number of non-profit organisations exist as a Public Benefit Companies, they are therefore regulated by Israel Companies Law and are registered with the Registrar of Companies. Both of these Registrars are established within the Israeli Corporations Authority.

**Table 4: Data about the non-profit sector**

Type of business	Supervisor	No. of Registered Institutions
a) Associations, registered in the Central Register of Associations	The Registrar of Cooperative Association (MOITAL)	3,827 cooperative associations
b) Foundations, registered in the Foundations Register	The Companies Authority (MOJ)	2,978 public charities
c) Registered churches and religious communities		

<sup>9</sup> A draft amendment to the PMLL and several draft orders have been currently discussed in the different committees of the Knesset. These norms should include lawyers, trust service providers, accountants, tax advisors and real estate agents under the ALM/CTF obligations and also specify the concrete obligations for each business and profession.

#### 1.4 Overview of Commercial Laws and Mechanisms Governing Legal Persons and Arrangements

46. Private and public companies are principally governed by the Israeli Companies Law, 1999 (the “Companies Law”). The courts have, however, made a significant contribution to the development of Israeli law by means of judicial interpretation. In their decisions, the courts have to some extent been influenced by continental law, although U.K and American laws presently have the greatest persuasive force as comparative sources.
47. As amended in 2012, the Companies Law recognises three types of companies: private companies; bond companies; and public companies. A private company is any company that is not a bond or a public company. A public company is a company which its shares are listed for trading in a Stock Exchange or were offered to the public by prospectus, and are held by the public. A bond company is a company which its bonds are listed for trading in a Stock Exchange or were offered to the public by prospectus, and are held by the public. In 2011 amendment no. 21 to the Companies law added the following definition of “bond company”:
- “bond company” - a company, the bonds of which are listed for trading on a Stock Exchange or were offered to the public by prospectus, within its meaning in the Securities Law, or were offered to the public abroad under a public offering document required under a statute abroad, and which are held by the public;”<sup>10</sup>*
48. In accordance with Israeli law which applies to corporate entities, a central database exists for each of the various types of corporate entities which are overseen by the Israeli Corporations Authority (ICA). The different entities are obligated to report to the relevant Registrar in the ICA regarding any change in ownership or control of the companies and with respect to all corporations – any change in directors or other senior officers. Non-profit organisations are also required to provide, protocol on the association's organs, annual financial reports, a verbal annual report and a list of all donors of more than 20,000 NIS (€4,000) per year.
49. Mainly, the information regarding the corporations regulated by the ICA is open for public inspection in the corporation's file, which includes the documents submitted by an entity in accordance with the relevant legal provisions, and in the case of NPO's, also some information on inspections of an NPO and relevant correspondence. The ICA may issue an NPO with specific authorisation for not disclosing a donor's name to the public.
50. In addition to obtaining the information by pursuing an entity's file, some of the information is available to the public online. An extract of the information on business entities may be found online on the ICA's website. The public may obtain a print-out which includes corporate details, including shareholders, directors, and certain information related to charges. Some of the information regarding NPO's is available free of charge in the Guide star website (see below).
51. There have been no changes with regard to transparency of private companies<sup>11</sup>.
52. The Corporations Authority has undertaken measures in the past two years to ensure compliance with the annual reporting requirements for private companies that include relevant details about directors and shareholders. Some of these companies are also required to submit their balance sheet annually. These measures included the implementation of sanctions against "violating companies" as well as public campaigns to increase compliance and public awareness of these

---

<sup>10</sup> In August 2012, a draft law was published by the Ministry of Justice for public comments with regard to Charities (public trusts). The law creates the charities as a corporate entity and also includes suitable oversight powers to the Registrar of Charities. However, this draft Law has not yet been adopted.

<sup>11</sup> The Corporations Authority has submitted to the legislation department at the Ministry of Justice a draft amendment to the Companies Regulations which will provide transparency with respect to the reporting requirements of private companies including, inter alia, provisions regarding to beneficial ownership, subject to the current legal measures. However, this draft Law has not yet been adopted.



reporting requirements. These measures have resulted in a significant increase in the submission of annual reports. The information reported is available to the public and most of it is publicly accessible at the website of the Corporation Authority.

53. To maximize public access to information on private companies, the regulations regarding the public viewing of information held by the Companies Registrar with regard to private companies were amended in December 2010 to include a significantly reduced cost for viewing company details at the Corporations Authority website, as well as the possibility for the public to receive by post a CD that includes the complete set of documents in a company file. These provisions resulted in a significant increase in the public access to information regarding private companies.
54. Specifically with regard to NPO's, the NPO's Division in the Corporations Authority has taken a number of measures to increase the scope of information available on NPO's and their transparency.
55. In the past two years, the Corporations Authority has undertaken measures to ensure compliance with the annual reporting requirements for private companies that include relevant details about directors and shareholders. Some of these companies are also required to submit their balance sheet annually. These measures included the implementation of sanctions against "violating companies" as well as public campaigns to increase compliance and public awareness of these reporting requirements. The authorities consider that these measures have resulted in a significant increase in the submission of annual reports. The information reported is available to the public and most of it is publicly accessible at the website of the Corporation Authority.
56. Whereas the powers of the Registrar vis-a-vis amutot are essentially administrative, the law does not enable the Registrar to obtain information from other investigative bodies such as the police, the tax authorities or the Anti-Money Laundering Authority. However, if the Registrar receives information which raises criminal suspicions he transfers the information to these aforementioned bodies so that they may implement their authorities.

## **1.5 Overview of Strategy to Prevent Money Laundering and Terrorist Financing**

### ***a. AML/CFT Strategies and Priorities***

#### *Coordinated Interagency AML/CFT Strategy*

57. Ever since the Israeli Government decision No. 4618 (dated 01.01.2006) all the relevant agencies (Intelligence, Investigative, Law enforcement, and Regulatory) have been working together in a joint, risk-based, prioritised effort to combat money laundering in Israel.
58. The Israeli government has set the goal of targeting illicit proceeds as a primary objective in the combat against serious and organised criminal activity. All the relevant agencies are required to operate in unison, subordinate to program objectives and a work plan both approved by the Executive Committee lead by the Attorney General, together with the State attorney, the Chief of Police, the Head of the Tax Authority, and the Chairman of the Securities and Exchange Commission.
59. A lower level inter-agency Implementation Committee has also been set up and charged with the task of implementing the Executive Committee's directives into an operational mechanisms and performance measurements. The Implementation Committee is chaired by the Head of CID/Israel Police, and its members include the heads of various relevant police units and district attorney's together with counterparts from the Tax Authority, The Prison Service, The Securities and Exchange Commission, The Anti-Trust Authority, as well as the Head of IMPA. The "Implementation Committee" operates through several sub committees:
  - Sub-committee for operational coordination and overview of the task forces - charged with the oversight of the task forces and the review of their effectiveness.

- Sub-committee for intelligence - charged with the task of the oversight of the fusion centre and identifying, on a risk-based approach, the future targets and areas of focus of the task forces
  - Sub-committee for legal issues - charged with identifying legal barriers and impediments and promoting their amendment.
  - Sub-committee for training – tasked with training the task force personal and enhancing multi agency training regarding financial investigation, Money laundering and forfeiture.
  - Sub-committee for IT
60. The sub-committees meet regularly and discuss issues regarding enhancement of the effectiveness of the interagency combat against serious and organised crime and money laundering. Among the topics addressed are:
- Coordinated targeting of offenders and prioritisation of cases;
  - Producing an integrated intelligence product on financial aspects of criminal activity;
  - Mechanisms for Sharing professional knowledge and expertise;
  - Means of enhancing operational-investigative cooperation;
  - Creating models for effective systemic action against defined criminal phenomena; and
  - On-going identification and dispatch of systemic “bottlenecks”.
61. The implementation committee has set a multi-annual work plan for combating serious and organised crime and money laundering. The main highlights of this plan are:
- (1) Nine multi-agency task forces - each assigned a specified criminal organisation or phenomenon, and comprised of elements from the Israel Police, the Tax Authority, and the State Attorney’s Office, with accompanying IMPA personnel.
  - (2) Intelligence Fusion Centre – comprised of permanent professional members of the IP, the Tax Authority and IMPA which have direct access to their databases, acting to cross-reference information for the purpose of exposing multi-domain criminality and enabling inter-agency enforcement initiatives.
  - (3) AML staff units in the Police and the Tax Authority – augmented and restructured to provide the necessary support, training and IT development services for optimal field implementation.
  - (4) Designated financial teams in each of the regional offices of the state attorney's office.
  - (5) Academy for Interdisciplinary Enforcement Studies – which serves as an institution for the research and learning of systemic enforcement models, performance measurements, as well as inter-agency solutions to critical complex tactical requirements. The academy actively disseminates policy and research product to decision makers, and lessons for assimilation in intra-agency doctrine and procedure.
62. Under this plan, AML-devoted manpower and IT development in the Police, Tax Authority, Prosecutors Offices, and IMPA have increased by a total of 107 positions and US\$14 million in IT funding.
63. Performance measurements for Task Force efficiency, as well as overall enforcement effectiveness, have been developed which include measurable benchmarks regarding the actual outcome of the cases (confiscation and offender imprisonment).
64. At the time of the on-site visit, Israel was implementing all mandates of Cabinet Decision 4618, passed on 1 January 2006. The interagency “fusion centre” and the interagency task forces for pursuing financial crimes are now fully operational. During 2009-2012 the fusion centre distributed 17 reports for investigation by the IP, containing integrated information from IMPA, the IP and the Israeli Tax Authority. Furthermore, 6 task forces are fully operational and engaged in different topics, for example: professional money launderers, gambling, criminal organisations etc. In 2011, 3 additional task forces were created within the district central units (in the northern, shore and south districts), operating against criminal organisations. In addition, in July 2010, the

Academy for Interdisciplinary Enforcement Studies was established, and representatives from all authorities that engage with AML/CFT issues participated in the seminars (which include practical practice, *inter alia*, with regard to confiscation). Additional training concerning financial enforcement and confiscation issues are provided continuously by the 'In-Service Training Faculty for Lawyers' and in the frame of confiscation seminars being held for attorneys from each district attorney. In addition, the Basel Institute held an international confiscation seminar for representatives from all authorities that engage with confiscation issues in Israel in November 2011.

*Overview of policies and procedures*

65. The aforementioned Israel Government decision no. 4618 requires the Implementation Committee to effect an annual intelligence survey as the basis for targeting offenders and phenomena, and prioritising cases, in the coming year's joint enforcement effort; risk assessment, as borne out in the survey, constitutes a primary factor in targeting and prioritisation decisions, as well as a basis for readjusting mechanisms set out in the overall work plan.
66. Moreover, annual risk-based policy and procedure adjustments are built into the IP intelligence work process - which itself includes continuous intelligence assessment, and routine reviews of AML investigations and case law. Adjustments with general application are disseminated across the organisation as official CID procedural updates; lessons with limited application are imparted directly to the relevant units by the AML Staff Unit, within the framework of professional instruction (and are included in training curriculum as deemed necessary). As described further on - the state attorney's office set the goal of enhancing the effectiveness of financial enforcement as one of its main strategic goals for the years 2009-2013 and beyond. Among the steps taken are the following noteworthy ones: The establishment (November 2009) of a new senior position - Deputy state attorney (financial enforcement); the designation of targeted cases in each district attorney's annual work plan; the setting of financial enforcement teams in each district attorney's office; and the establishment of the Forfeiture and Confiscation Forum. All these new mechanisms are constantly engaged in the reviewing the policies and procedures regarding effective combating AML.
67. As for the financial sector, during 2009 the AML/CFT Regulators Forum was established in order to increase cooperation, to improve enforcement, and to ensure that AML/CFT issues are consistently implemented across the whole financial sector. As part of its activity, a memorandum of understanding between regulators was signed on June 24, 2007. The MOU intended to create a framework for cooperation and information exchange between the supervisors of the financial markets in Israel - the Supervisor of Banks, the Securities Authority and the Commissioner of the Capital Market, Insurance and Savings. The purpose of the MOUs is to promote effective, fair, uniform and coordinated supervision in order to enhance the stability, transparency and fairness of the financial markets in Israel, and to promote the development and competitiveness of these markets, all this with the aim of boosting the confidence of the investors in those markets. The supervisors act within the framework of the MOUs in order to promote the application of accepted international supervisory standards and best practices to the financial markets in Israel.
68. With regard to the financing of terrorism, an Interagency Coordination Committee has been established by the Government of Israel. The Committee is responsible for domestic coordination between the different authorities, including: National Police; IDF; Customs; Ministry of Finance; Ministry of Foreign Affairs; and Ministry of Justice Money Laundering and Terror Financing Prevention Authority, in the war against terrorism financing. One of the Committee's main roles is to improve international cooperation in the field of terrorist financing, in order to enhance and improve the global efforts against the financial infrastructures of terrorist organisations. Ongoing cooperation takes place between intelligence, security and law-enforcement authorities and their counter-parts in various states in the world, including mutual exchange of information, methods and ideas. The Committee reports annually to the Prime Minister and Cabinet.

***b. The institutional framework for combating money laundering and terrorist financing***

69. The following are the main bodies and authorities involved in combating money laundering or financing of terrorism on the financial side:

Bank of Israel

70. The Banking Supervision Department in its supervisory role over the financial system is in contact with those responsible for the prohibition of money laundering in the banking corporations, answering queries and offering clarifications and interpretations as necessary with regard to the implementation of the Order and Directive 411. These meetings enable the Department to assess the quality and effectiveness of those responsible for this area in the banking corporations.
71. Likewise, the Department assesses the quality of the banking corporations' risk management with regard to money laundering and the financing of terrorism in two main ways: via its Institutional Evaluation and Licensing Unit; and via its Inspection Unit. Part of the inspection process consists of sending inspection reports to the banks, detailing the defects discovered and the steps required to correct them, and including an assessment of the quality of the bank's risk management.

Israel Securities Authority

72. The Israel Securities Authority is responsible for the AML/CFT regulation and inspection of Stock Exchange members and Portfolio managers.

Ministry of Finance

73. There are three main areas in the Ministry of Finance which play a role in combating money laundering and terrorist financing, notably:
- Capital Markets, Insurance and Savings Division which is responsible for the AML/CFT regulation and inspection of insurer, insurance agents and provident funds;
  - Registrar of Money Services Providers which is responsible for the registration and approval of money service providers as well as for AML/CFT regulation and inspection; and
  - Israel Tax Authority which conducts ML criminal investigations connected to offences under the Customs Ordinance or under the Import and Export Ordinance or breach of declaration of money at border crossings. In December 2012, the National Unit for Investigations and fight against crime was established as part of the investigation division of the Tax Authority.

Ministry of Communication - Supervisor of the Postal Bank

74. The Supervisor of the Postal Bank inspects the instructions and actions (including preventive action) which are adopted by the Postal Bank and issue directives to the Postal Bank. The supervisor also performs inspections in the branches in order to review compliance with AML/CFT obligations. Likewise, the supervisor assesses the quality of the Postal Bank's risk management with regard to money laundering and the financing of terrorism in two main ways: via Instruction of proper procedures- compliance officer; and via its Inspection. Part of the inspection process consists of sending inspection reports to the Postal banks, detailing the defects discovered and the steps required to correct them, and including an assessment of the quality of the bank's risk management

Ministry of Justice

75. The Attorney General Heads the inter agency AML steering committee. All district attorney offices prosecute ML TF offences. In particular, the Tel Aviv (economic and fiscal crimes) district and the economics department at the state attorney office Jerusalem take responsibility for major and complex cases.

76. State Attorney's Office Department for International Affairs is the central authority for outgoing international co-operation. Over the years has handled numerous requests for legal assistance and extraditions from foreign countries and entities.
77. The Legislation Department reviews and updates AML and CFT legislation and regulations.
78. The Department for International Agreements and International Litigation, a sub-unit of the Legislation Department, is responsible for issues of policy and international monitoring related to the UN Convention Against Corruption, the UN Convention against Transnational Organised Crime and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
79. The Corporation Authority is responsible for the registration of companies and trusts as well as the supervision of non-profit organisations. The Corporation Authority is also responsible for the law relating to legal persons and arrangements.

Ministry of Foreign Affairs

80. The Ministry of Foreign Affairs is responsible for the ratification of international agreements.

Ministry of Industry, Trade and Labor

81. The Ministry of Industry, Trade and Labor is the Supervisor of the diamond sector. The Ministry issues licences for persons seeking authorisation as diamond dealers and is responsible for the AML/CFT regulation and inspection of dealers in precious stones.

Ministry of Internal Security

82. The Ministry of Internal Security is responsible for the Israeli Police (IP). The IP have Responsibility for ML criminal investigations and, as such, routinely target ML offenders. They AML intelligence extraction from information collected within the framework of predicate offence investigations.
83. The IP International Department is the central authority for incoming international co-operation and, as such is the main executor of foreign requests for AML legal assistance.
84. The Serious Crime and AML Executive Committee is led by the Head of Intelligence and Investigation Department in the IP. The Committee is responsible for the Coordination and interagency cooperation with regard to serious crime and AML Task Forces and the Fusion Centre.
85. The Fusion centre is responsible for the integration of ML intelligence information and comprises permanent professional representatives from the IP the Tax Authority and IMPA. This is considered in greater depth under Recommendation 26 below.

Israel Money laundering and Terror Financing Prohibition Authority (IMPA)

86. IMPA is the FIU for Israel. Further details are set out under Recommendation 26 below.

***c. The approach concerning risk***

87. Although no formal national risk assessment has been undertaken, the Israeli authorities indicated that corruption, illicit drugs, counterfeit medicine, illegal gambling, extortion and fraud are the predicate offences most closely associated with organised criminal activity in Israel. As such, these are the areas of concentrated anti-money laundering enforcement activity in Israel.
88. Interviews on-site with the law enforcement agencies, supervisors and the private sector indicated that money service providers (MSPs) might be one of the main channels utilised to transfer money for money laundering and terrorist financing purposes. Moreover cheque discounting appears to present a high risk related to money laundering.
89. With respect to DNFBPs, they are not subject to the AML/CFT obligations and in this respect this can pose a risk. The Israeli authorities informed the evaluation team that the legislative process to

cover DNFBP's is extremely difficult and complex, due to significant objections across the Israeli Bar Association that argues against the application of AML/CFT obligations on lawyers because of the impingement on the lawyer-client privileged and confidentiality. The apprehension of the Israeli Bar Association is not insubstantial, since the lawyer-client privileged in Israel is very broad compared to continental countries. Nevertheless, the Israeli Bar has informed the Head of IMPA on 25<sup>th</sup> December 2012 that the Politburo of the Israeli Bar approved the proposed amendments to the PMLL as regard to the application of the AML/CFT obligations on lawyers

90. The evaluators noted the contribution of the Israeli Diamond Exchange to the national economy and the global reach of its activities. In this context, the evaluators encourage the Israeli authorities to bring appropriate orders into force and effect expeditiously, in order to reduce the potential risk posed by the Diamond industry.

*d. Progress since the last mutual evaluation*

**Legislation**

91. On 7 May 7 2012, the Knesset approved an amendment to the Prohibition on Money Laundering Law. This amendment applied the money laundering regime to the dealers in precious stones sector. The Ministry of Industry, Trade and Labor was designated as the AML/CFT supervisor and the sector is subject to Administrative sanctions for breaches. The amendment will come into force at the enactment of an AML/CFT Order that will specify the obligations (e.g.: CDD, record keeping and UARs obligations). However, this draft Law has not yet been adopted.
92. The amendment to the Prohibition on Money Laundering Law also enables certain intelligence agencies<sup>12</sup> to receive information from IMPA.
93. Furthermore, the law added an additional three financial services to the definition of MSP's that will be subject to AML/CFT supervision as well as expanding the authority of the Registrar of Money Service Providers with regard to the registration of applicants.
94. On 18 October 2010, the Constitution, Law and Justice Committee of the Knesset approved the amendment to the International Legal Assistance Law of 1998 that includes additional predicate offences to this law, beyond the requirement of international standards (all predicate offences according to the PMLL were added, with emphasis on fraud and breach of trust offences). This amendment enables the enforcement of foreign forfeiture orders in Israel according to requests of another state and the enforcement of forfeiture orders according to requests on behalf of the state of Israel. The authorities consider that this amendment improves the effectiveness of providing mutual legal assistance to foreign countries related to freezing, seizure and confiscation of instruments and proceeds of crime, in accordance with Recommendation 38.
95. On 14 January 2010, piracy and environmental crimes were included as predicate offences under the Penal Law.
96. An amendment to the Dangerous Drugs Regulations (management of the confiscation fund) was published on 14 July 2011. The amendment determines the establishment of a committee that will guide the activity of the PMLL confiscation fund, separately from the dangerous drugs confiscation fund. Likewise, the regulations determine, inter alia, the means of treatment of confiscated property by the management of the confiscation fund, ways of treatment in property value that was deposited in the funds, and the functions of the administrator general, with regard to the property value that was deposited in the fund.
97. An amendment to the Prohibition on Terror Financing Law was published and came into force on July 17, 2012. The authorities consider that the amendment will improve the declaration

---

<sup>12</sup> AMAN - The Institute for Intelligence and Special Functions; the Intelligence Department in the General Staff of the Israel Defence Force (Military Intelligence); MALMAB - The Director of Security of the Defence Establishment

mechanism in Israel, on terrorist and terrorist organisations that were declared outside of Israel by the United Nations Security Council. Furthermore, the amendment repairs a gap existing in the legislation regarding, the Israeli difficulty to declare a person a terrorist, which his terrorist organisation was already been declared as a “local” terrorist organisation by other legislation.

98. The Securities Law was amended on June 8th, 2010, in order to regulate both the activity and the supervision of the trading floors ("Forex") serving as alternatives to the Stock Exchange. The Securities Law determines that trading floors will have to receive a licence from the ISA, and that they will be subject to the AML/CFT regime.
99. On 7 July 2012 the Committee of Ministers for Legislation approved adding tax offences to the PMLL as predicated offences and exchange of information between the Tax Authorities and IMPA.
100. On 19 December 2011 an additional draft bill for the Prohibition of Money Laundering Law was approved in first reading by the Constitution, Law and Justice Committee of the Knesset. However, this draft Law has not yet been adopted. The draft bill:
  - Applies criminal liability on a person performing any transaction of property, knowing (for the purposes of this section, "knowing" does not include 'wilful blindness') that it is prohibited property;
  - Includes all negotiable instruments for cross-border declaration; and
  - Amends the Prohibition of Financing Terror Law (PTFL) with a provision which clarifies that the obligation to report to the IP does not substitute the obligation to report to IMPA in accordance with section 7 to the PMLL.
101. In addition, the Minister of Finance applied in November 2011 to the Constitution, Law and Justice Committee of the Knesset, to get its approval of an order to amend the forth annex to the PMLL, so that the threshold for cross border reporting obligation will be reduced to 50,000 NIS (c. 10,000 €). However, this draft Law has not yet been adopted.
102. The Minister of Finance has to the Constitution, Law and Justice Committee of the Knesset, to get its approval to an order to amend the forth annex to the PMLL, so that the extended threshold for cross border reporting obligation to new immigrants on their first entrance to Israel will be cancelled. However, this draft Law has not yet been adopted.
103. On 27 July 2011 a proposed bill for combating terror was published in the official legislation publication (after it was approved in first reading by the Knesset). The purpose of the bill is to provide authorities with improved criminal and administrative measures in order to prevent the activities of terrorist organisations as well as the organisations that are financing them. The proposed bill was submitted to the Constitution, Law and Justice Committee of the Knesset, in order to prepare it to go through second and third readings, as part of the formal legislation process. However, this draft Law has not yet been adopted.
104. In addition to the foregoing, the following Orders had been drafted but had not been adopted at the time of the on-site visit:
  - Draft amendment to the Banking Order<sup>13</sup>;
  - Draft amendment to the MSPs order;
  - Draft order for Insurers and Management Companies;
  - Draft AML/CFT order for Trading floors;
  - Draft AML/CFT order for dealers in precious stones;
  - Draft AML/CFT order for Business Service Providers (DNFBPs).

---

<sup>13</sup> Amendments to the Banking Order were adopted by the Knesset in October 2013.

## **Financial**

105. During 2009, an AML/CFT Regulators Forum was established. The Forum is led by IMPA and includes representatives from the supervisors and as needed, from the IP and from the prosecution authorities. The Forum meetings are intended to ensure that AML/CFT issues are consistently implemented across the whole financial sector. During 2009-2012 there were 9 meetings, in which different issues were discussed, including:

- Reviewing the procedure of inspections performed by outsourcing;
- The distribution of confidential information from IMPA to the sanction committee;
- The contribution of financial institutions to prevent illegal Internet gambling;
- Reviewing AML/CFT relevant judgments;
- The publication of the sanction committees' decisions;
- Reviewing AML/CFT legislation amendments;
- Updates of the struggle against illegal Internet gambling;
- Reviewing the inspection procedure taken by each supervisor;
- Reviewing judgments in cases of appeals over the decisions of sanctions committees;
- Updates of the steps taken by the state of Israel in the battle against Iran's nuclear program and related programs; and
- Reviewing pending draft legislation.

106. As a result of the discussions at the forum, all of the sanctions committee's decisions are being published and are available online.

107. In addition, a memorandum of understanding between regulators was signed on July 2012 in order to increase cooperation and coordination between the regulators, with the purpose of improving enforcement. This MOU is additional to the memorandum of understanding dated June 24, 2007, that intended to create a framework for cooperation and information exchange between the supervisors of the financial markets in Israel – the Supervisor of Banks, the Securities Authority and the Commissioner of the Capital Market, Insurance and Savings. The purpose of the MOUs is to promote effective, fair, uniform and coordinated supervision in order to enhance the stability, transparency and fairness of the financial markets in Israel, and to promote the development and competitiveness of these markets, all this with the aim of boosting the confidence of the investors in those markets.

108. On 24 January 2010, the Bank of Israel amended Directive 411 concerning different issues in accordance with the Recommendations, including:

- Applying the Directive on subsidiaries and branches of banking corporation outside Israel;
- Applying an obligation that a banking corporation's policy in regard to the prevention of money laundering and financing of terrorism shall make reference to the bank's ability to scan and detect transactions that may be associated with terrorism financing and to the way the lists of terror organisations and activists as have been declared by other parties (e.g., the UN and the United States Government - OFAC);
- Applying additional detailed Know Your Customer procedures;
- Applying additional obligations with regard to the officer in charge of obligations under the PMLL;
- Applying obligations concerning internal audit relationship with the officer in charge of obligations under the PMLL;
- Applying additional obligations concerning PEPs;
- Decisions on the conduct of new correspondent relations shall be made by a senior executive;
- Requiring that, special attention shall be devoted to all provisions relating to the prevention of money laundering and financing of terrorism and, in particular, to requirements concerning the reportage of irregular transactions in training programmes;



- Requiring that a banking corporation shall establish procedures assuring the maintenance of high standards for the hiring of new staff commensurate with the nature of the job;
  - Including an additional obligation for banking corporations to examine the background and purpose of irregular activity in accounts and examine whether said activity constitutes activity that entails reporting under Section 9 of the Banking Order; and
  - Clarifying that reporting on irregular activity under Section 9 of the Order shall take place as promptly as possible under the circumstances of the case. In the event of special circumstances, an unavoidable delay, or a delay that the banking corporation considers justified, the banking corporation shall document the reasons for said delay.
109. In addition, on 12 January 2011, Directive 411 was amended to include an obligation to perform the management of risk related to illegal transactions by means of credit cards.
110. The Knesset Committee - The Constitution, Law and Justice Committee approved the AML/CFT Orders concerning portfolio managers and Stock Exchange members on 7 June 2010 and the Postal Bank Order on 21 November 2010.
111. In addition, an AML/CFT Draft Order Concerning Banking Corporations was sent on 18 August 2011 to the Constitution, Law and Justice Committee of the Knesset for its approval, as the final step of the legislation process (three discussions took place: on 6 November 2011, on 5 March 2012 and on 26 June 2012).
112. The AML/CFT Order for Money Service Providers was submitted to the approval of the Constitution, Law and Justice Committee of the Knesset. The first discussion took place on 18 December 2012.
113. The AML/CFT draft Order concerning insurers and insurance agents, provident funds and companies managing a provident fund has gone through consultation with the Minister of Justice and the Minister of Public Security and will be submitted soon to the approval of the Knesset Committee - The Constitution, Law and Justice Committee. However, these draft Laws have not yet been adopted.
114. The Administrative Sanctions Facilitation inter-ministerial Forum was established during 2010. The Forum comprises the regulators and law enforcement agencies which are empowered to lay administrative sanctions. The forum discusses case studies and issues arising in the course of implementation of the sanctions tools. The forum includes units such as Antitrust Authority, IMPA, The Bank of Israel, The Securities Authority, The Customs, The Tax Authority, The Trade and Industry Ministry, The Transport and Road Safety Ministry, The Environmental Protection Ministry, The Israeli Law Information and Technology Authority, The Communication Ministry and The Ministry of Defence. In addition, a memorandum of understanding between regulators was signed on July 2012 in order to increase cooperation and coordination between the regulators, with the purpose to improve enforcement.

### **Law enforcement**

115. The "YAHALOM" unit - The National Unit for Investigations and fight against crime was established on December 2010 as part of the investigation division of the Tax Authority. The unit was established to facilitate cooperation between law enforcement agencies in order to empower the combat against serious and organised crime. The main purpose of the unit is to engage in detection and investigation of financial crime committed in relation to activities of serious and organised crime. The unit's activity is carried out both on a regular basis as part of the "task forces" acting in a permanent cooperation framework and as part of joint investigation teams established as needed. The unit deals on a regular basis in intelligence operations and joint investigations with the Israeli Police, the prosecution and other law enforcement authorities mainly against criminal organisations and other crime generators. In addition to the unit's activity in the investigation of tax offences and financial crime, the unit deals with the detection of property connected to crime for the purpose of seizure and confiscation.

116. The state attorney's office has set the goal of enhancing the effectiveness of financial enforcement as one of its main strategic goals for the years 2009-2012 and beyond. More specifically detailed work plans were put in place specifying the steps to be taken in combating money laundering of organised crime and enhancing the effectiveness of law enforcement agencies with regard to confiscation and forfeiture. Among these steps included in the state attorney's annual work plan are the following noteworthy steps:

- The establishment in November 2009 of a new senior position, Deputy state attorney (financial enforcement) who is in charge of leading and coordinating the steps taken in this regard. One of his main tasks is to increase the number of indictments and convictions of organised crime offences and of related financial offences such as money laundering, and to significantly increase the amount of money and property that are being confiscated and forfeited.
- The designation of cases in each district attorney's work plan targeted as potentially including money laundering indictment, confiscation and forfeiture component. These prosecutor lead investigations which have defined goals with measurable outcomes, are under special scrutiny and overseen by the state attorney who is personally involved in the monitoring and follow up of these work plans.
- The interagency “fusion centre” and the interagency task forces for pursuing financial crimes has become fully operational. During 2009 - 2012 the fusion centre distributed 17 reports for investigation by the IP, containing integrated information from IMPA, the IP and the Israeli Tax Authority. Furthermore, 6 task forces are fully operational and engaged in different topics including, professional money launderers, gambling, criminal organisations etc.
- The establishment in July 2010 of the Academy for Interdisciplinary Enforcement Studies. Representatives from all authorities that engage with AML/CFT issues participate in the seminars. Additional training concerning financial enforcement and confiscation issues is provided continuously by the 'In-Service Training Faculty for Lawyers' and in the frame of confiscation seminars being held for attorneys from each district attorney. In addition, the Basel institute held in Israel an international confiscation seminar in November 2011 for representatives from all authorities that engage with confiscation issues.
- The establishment of the Forfeiture and Confiscation Forum which is permanent forum on the subject of forfeiture and with the following main goals:
  - Gathering data on temporary and final confiscations.
  - Creating a mechanism for assisting and guiding prosecutors with questions arising regarding the confiscation procedure.
  - Identifying confiscation cases and drawing lessons and best practices.
  - Developing a model for financial investigation including in respect of the role of the prosecutor who accompanies and supports this investigation.
  - Establishment of a portal in which there will be information concerning financial enforcement and confiscation (case law, directives, decisions).
  - Taking part in the enactment process of the new confiscation law.
  - Giving assistance in dealing with issues of property management.

The forum is led by the Deputy State Attorney (Financial Enforcement) and is composed of a professional team of prosecutors (a representative from each district in the state attorney's office) the National Confiscation Officer of the Israeli Police, representatives from the Administrator General (the Director of Property Management Unit), a representative from the legislation department at the Ministry of Justice, a representative from IMPA and a representative from the Tax Authority.

- The establishment of integrated financial-enforcement teams in the criminal districts, following a pilot scheme which commenced in two District Attorney Offices in 2012.

117. Closer liaison between the head of the intelligence and investigation department at the Israeli Police, the Chairman of the Israel Securities Authority, the Commissioner of Capital Markets,

Insurance and Savings at the Ministry of Finance, the Supervisor of Banks at the Bank of Israel, the Supervisor of the Postal Bank and IMPA, to tackle illegal gambling on the internet.

## 2 LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

### Laws and Regulations

#### 2.1 Criminalisation of Money Laundering (R.1)

##### 2.1.1 Description and analysis

#### *Recommendation 1 (rated LC in the 3<sup>rd</sup> round report)*

##### Summary of factors underlying the 3<sup>rd</sup> round rating

118. By the time of the 3<sup>rd</sup> round report Israel had in place legislative provisions to criminalise money laundering which were broadly in line with international standards and expectations. Furthermore that report noted that numerous investigations had been launched, indictments secured and convictions for both self-laundering and professional laundering obtained.

119. Notwithstanding the progress made a rating of LC was agreed in respect to R.1. This reflected the fact that:

- Piracy and environmental crimes were not predicate offences for money laundering; and,
- The threshold approach in section 4 of the Prohibition of Money Laundering Law, 2000 (PMLL) was not in conformity with the FATF standard and needed to be removed.

120. It is of relevance to note Israel was rated as fully compliant (C) with Recommendation 2.

##### *Legal Framework*

121. It will be recalled that Israel first criminalised money laundering in the PMLL in 2000. Sections 3(a) and 4 of that law are central to the efforts to satisfy the FATF standards in this regard. Section 3(b) has a different but closely related purpose. In, inter alia, criminalising the structuring of transactions it protects the need for accurate reporting under the PMLL and goes beyond the established international benchmarks.

122. The relevant provisions of the PMLL should be read as follows:

##### Section 3

*(a) A person undertaking a property transaction of a type referred to in paragraphs (1)-(4) below (in this Law - "prohibited property") with the object of concealing or disguising its origin, the identity of those owning the rights therein, its location, movements or a transaction in it, shall be guilty of an offence punishable by ten years imprisonment or a fine of twenty times that stated in section 61(a)(4) of the Penal Law:*

- (1) property obtained directly or indirectly through the commission of an offence;*
- (2) property which was used to commit an offence;*
- (3) property which facilitated the commission of an offence;*
- (4) property against which a crime was committed.*

*(b) A person undertaking a property transaction or giving false information in order to circumvent or prevent the submission of a report as required under sections 7, 8A or 9 or in order to cause an erroneous report to be submitted pursuant to one of those sections, shall be guilty of an offence for which the same punishments as stated in subsection (a) shall apply; for the purposes of this subsection, "giving false information" shall include not giving an update regarding any detail which must be reported.*

##### Section 4

*A person undertaking a property transaction in the knowledge that the property in question is prohibited property of a type and worth the amount listed in Schedule 2, shall be guilty of an offence punishable by seven years imprisonment or a fine of ten times that stated in section*

*61(a)(4) of the Penal Law; for the purposes of this section, "knowledge" does not include turning a blind eye to the matter as defined in section 20(c)(1) of the Penal Law.*

Section 5

*An offence shall be committed under sections 3 and 4 where it is proved that the person undertaking the transaction knew that the property was prohibited property, notwithstanding that he was unaware of the specific offence with which it was connected.*

123. For a ease understanding of the scope of the ML offence provided within PMLL it is worth to be quoted here also the definition of “**property transaction**” which should be read as follows :

Chapter 1: Interpretation

1. *In this Law –*

*“property transaction” - the acquisition or receipt of ownership or any other proprietary interest, whether gratuitously or in return for payment, as well as a disposition involving delivery, receipt, holding, conversion, a banking transaction, investment, a transaction in or the holding of securities, brokerage, the granting or receipt of credit, import, export, creation of a trust and the mixing of prohibited property or of prohibited property with non-prohibited property.*

The term “*property*” is also broadly defined in s.1 PMLL. It is worded thus “*land, chattels, money and rights, including proceeds or property attributable to or acquired from the sale of or profits generated by such property*”.

124. Israel utilises a list approach to predicate offences; i.e., offences which are specified in the First Schedule to the PMLL. The list is an extensive one which covers all major proceeds generating offences in a domestic context, prevention of terrorism offences, other serious crimes (including money laundering) and conspiracy to commit the same. However, as noted above, two matters listed in the Glossary to the 2003 FATF Recommendations (environmental crimes and piracy) were not, as of the time of the 3<sup>rd</sup> round report, so listed. Both deficiencies were cured by legislative amendment in January 2010. Criterion 1.3 is now met.<sup>14</sup>
125. As noted previously, the 2008 report also identified certain concerns about the manner in which section 4 of the PMLL had been drafted. This provision embraces, *inter alia*, acquisition, possession and use of criminal proceeds of specified categories of property without the need to show concealment. Seemingly because of its broad reach the decision had been taken to introduce a value threshold in this context; something which had not been done in respect of the core section 3(a) offence. The report concluded that the use of a value threshold in section 4 was not in conformity with criterion 1.2 of the methodology.
126. The limitative list of property comprised by Schedule 2 referred into the Section 4 of the PMLL, beyond the value threshold, is also not broad enough to encompass all the categories of property envisaged by the international standards.<sup>15</sup>

<sup>14</sup> The evaluators were also informed that an amendment to extend the list of predicates to include tax offences was being taken through the legislative process.

<sup>15</sup> PMLL, Schedule 2 (section 4) *Categories of property*

*A. The following categories of property if sold for NIS 120,000 (€24,000) or more within the framework of a single transaction or a series of transactions carried out during a three month period: (1) objets d'art; (2) ritual objects and Judaica; (3) transportation vehicles, including sailing vessels and aircraft; (4) precious stones and precious metals; (5) securities; (6) real estate; (7) antiquities; (8) carpets.*

*B. Monies in excess of NIS 500,000 (€100,000) transferred within the framework of a single transaction or a series of transactions during a three month period; where that sum was given as consideration for one of the items of property listed in paragraph A, the value limitation specified therein with respect to that item shall apply; "monies" in this context shall include travellers cheques, bank cheques and financial assets in the form of pecuniary deposits, savings, investments in provident and pension funds, as well as options and future contracts as defined in section 64 of the Joint Investment Trusts Law, 5754-1994.*

127. The previous team of evaluators also expressed concern at the inclusion within section 4 of wording intended to ensure that the concept of “wilful blindness” did not apply in this context. Though not inconsistent with the relevant international standards they urged the appropriate authorities to review the need for this limitation and its impact on effectiveness.

128. At the time of the on-site visit in March 2013 the evaluators were informed that a Bill to amend section 4 of the PMLL had been approved at first reading in December 2011 by the Constitution, Law and Justice Committee of the Knesset but had still to complete its legislative passage. It was explained that this amendment would, inter alia, remove the “wilful blindness” exception. However, while it would reduce the existing value threshold to approximately US \$10,000 it would not be eliminated as anticipated by criterion 1.2. Our Israeli counterparts accepted that this stance was not in accordance with the FATF standard but explained that for a variety of criminal justice policy and political reasons this was as far as the authorities could go at this time.

***Recommendation 32 (money laundering investigation/prosecution data)***

129. Pursuant to FATF Recommendation 32 competent authorities are required to maintain comprehensive statistics on, among other matters, money laundering investigations, prosecutions and convictions. In the mutual evaluation questionnaire the following data was provided for the years 2008-2012:

**Table 5: Number of investigations, prosecutions and convictions for ML**

Year	Investigations		Prosecutions		Convictions (final)	
	Cases	Persons	Cases	Persons	Cases	Persons
2008	48	126	8	35	10	22
2009	36	84	18	58	8	17
2010	70	156	21	82	13	27
2011	108	315	28	71	12	29
2012	168	314	33	113	17	37

***Effectiveness and efficiency***

130. As mentioned at an earlier stage of this report, in the period since the last evaluation efforts to combat money laundering and to target the proceeds of profit generating criminal activity have been afforded a very high priority within the Israeli system. This was characterised by policy makers, prosecutors and members of the law enforcement community as amounting to a cultural change. The search for and identification of criminal proceeds and the bringing of money laundering charges in conjunction with the underlying predicate offences is now said to be commonplace. Among the collateral benefits of the latter, mention was made of the increase in sentencing possibilities and the availability of value confiscation under the PMLL (see further the analysis in relation to R. 3 below).

131. As the statistical data presented above demonstrates the number of investigations, prosecutions and convictions for money laundering have continued to increase on a year-on-year basis. Further statistical information prepared since the on-site visit and presented below is also instructive. It is clear, for example, that all of the relevant provisions of the PMLL are relied upon, frequently in combination. This information also confirms that success continues to be recorded in the securing of convictions for professional or autonomous money laundering.

**Table 6: Money Laundering Offences**

	2009		2010		2011		2012		Total		Per.	
	Indic	Convic	Indic.	Convic	Indic	Convic	Indic	Convic	Indic	Convic	Indic	Convic
3A	36	7	29	27	39	15	86	16	190	65	49.4%	38.2%
3B	25	10	20	3	7	12	11	10	63	37	16.4%	21.7%

<b>4</b>	19	5	21	22	36	15	49	15	125	57	32.5%	33.5%
<b>3A without a predicate offence</b>	0	0	2	7	0	1	4	3	6	11	1.5%	6.4%
<b>3A + 3B</b>	7	0	4 <sup>1</sup>	0	2	1	1	2	14	3		
<b>3A + 4</b>	13	2	1	22 <sup>4</sup>	24	2	32 <sup>3</sup>	8 <sup>2</sup>	70	34		
<b>3B + 4</b>	0	0	0	0	1	0	2	0	3	0		
<b>3A + 3B + 4</b>	4	1	3	0	0	5	3	0	10	6		

<sup>1</sup> 1 indictment relates to 3A without a predicate offence

<sup>2</sup> 3 convictions relates to 3A without a predicate offence

<sup>3</sup> 4 indictments relates to 3A without a predicate offence

<sup>4</sup> 7 convictions relates to 3A without a predicate offence

132. It is encouraging to note that in practice a broad range of FATF designated categories of offences have acted as predicate offences for money laundering prosecutions and convictions in Israel.

**Table 7: Number of indictments and convictions for FATF Designated Categories of Offences**

FATF Designated Categories of Offences <sup>1</sup>	2009		2010		2011		2012		Total		Percentage	
	Indict	Convict	Indict	Convict	Indict	Convict	Indict	Convict	Indict	Convict	Indict	Convict
Participation in an organised criminal group and racketeering:												
§2, 3 <sup>2</sup>	0	4	8	8	7	1	12	0	27	13	7.6%	8%
Terrorism, including terrorist financing												
§8,9 <sup>3</sup> ; Offences under The Prevention of Terrorism Ordinance; Under the Defence (Emergency) Regulations, 1943; Articles 2,3,4,5,6 of Chapter 7	0	0	0	0	2	0	2	0	4	0	1.1%	0%
Trafficking in human beings and migrant smuggling; Sexual exploitation, including sexual exploitation of children;												
§370, 374A,376A, 376B, 377A, 375A, 376, 199, 201, 202, 203, 203A, 203B, 204, 205, 214	7	0	5	0	1	0	0	5	13	5	3.6%	3.1%
Illicit trafficking in narcotic drugs and psychotropic substances;												
Offences under The Dangerous Drugs Ordinance <sup>4</sup>	3	0	4	2	0	0	0	0	7	2	1.9%	1.2%
Illicit arms trafficking												

§144	0	0	1	1	0	0	6	1	7	2	1.9%	1.2%
<b>Illicit trafficking in stolen and other goods</b>												
§411, 413J, 413K	0	0	0	0	2	1	2	4	4	5	1.1%	3.1%
<b>Corruption and bribery</b>												
§291, 292, 293, 294, 295, 296, 297, §4 <sup>5</sup>	1	0	1	0	2	0	12	0	15	0	4%	0%
<b>Fraud</b>												
§415, 422, 423, 424A, 425, 426, 431, 439, 440, 441, 442, 443, 444, §17 <sup>13</sup> , §54 <sup>14</sup> , §117(b)(3) <sup>15</sup>	5 <sup>12</sup>	2 <sup>11</sup>	12 <sup>10</sup>	11 <sup>9</sup>	20 <sup>8</sup>	5	45 <sup>7</sup>	5 <sup>6</sup>	82	23	23%	14.2%
<b>Counterfeiting currency</b>												
§462, 464, 465, 471, 472, 473, 474, 475, 476, 477, 478, 479	0	0	0	0	0	0	0	0	0	0	0%	0%
<b>Counterfeiting and piracy of products</b>												
§486, Offences related to infringements of copyrights, patents, designs and trademarks, under the Copyrights Ordinance, the Patents Law, 5727-1967, Patents and Designs Ordinance, The Trademark Ordinance [New Version], 5732-1972, and the Merchandise Marks Ordinance.	0	0	4	1	0	9	0	1	4	11	1.1%	6.8%
<b>Environmental Crime</b>												
§204 <sup>16</sup> , §14 <sup>17</sup> , §111 <sup>18</sup>	0	0	0	0	2	0	0	0	2	0	0.5%	0%
<b>Murder, grievous bodily injury</b>												
§300, 305	0	0	0	0	0	0	0	0	0	0	0%	0%
<b>Kidnapping, illegal restraint and hostage-taking</b>												
§369, 370, 371, 372, 373, 374, 375, 377	4	0	0	0	0	0	1	5	5	5	1.4%	3.1%
<b>Robbery or theft</b>												



384, 390, 391, 392, 393, 402, 403, 404, 411, 413B, 413F, §16 <sup>19</sup>	6	6	9	3	5	1	5	3	25	13	7%	8%
<b>Smuggling</b>												
§211, 212 <sup>20</sup> Ordinance or under the Import and Export Ordinance [New Version], 5739-1979	1	0	7	7	4	7	5	0	17	14	4.8%	8.6%
<b>Extortion</b>												
§427, 428, 430	0	4	2	2	12	1	8	5	22	12	6.1%	7.4%
<b>Forgery</b>												
§418, 419, 420, 421, 413H, 413I	5	0	6	3	6	1	21	9	38	13	10.8%	8%
<b>Piracy</b>												
§169	0	0	0	0	0	0	0	0	0	0	0%	0%
<b>Insider trading and market manipulation</b>												
§52C, 52D, 54 <sup>21</sup>	0	0	0	0	1	1	0	0	1	1	0.2%	0.6%
<b>Gambling<sup>22</sup></b>												
§225, 228	18	11	23	11	21	10	21	11	83	43	23%	26.5%

<sup>1</sup> It should be noted that there could be more than one predicate offence per case.

<sup>2</sup> The Combating Criminal Organisation Law

<sup>3</sup> The Prohibition on Terrorist Financing Law, 2005

<sup>4</sup> Not being offences of self-use of a drug, possession of a drug for self-use, possession of premises for personal consumption of a drug and possession of instruments for self-use of a drug.

<sup>5</sup> The Combating Criminal Organisation Law

<sup>6</sup> 5 more indictments included fraud offences in addition to the primary charge(s).

<sup>7</sup> 14 more indictments included fraud offences in addition to the primary charge(s).

<sup>8</sup> 2 more indictments included fraud offences in addition to the primary charge(s).

<sup>9</sup> 5 more indictments included fraud offences in addition to the primary charge(s).

<sup>10</sup> 7 more indictments included fraud offences in addition to the primary charge(s).

<sup>11</sup> 2 more indictments included fraud offences in addition to the primary charge(s).

<sup>12</sup> 2 more indictments included fraud offences in addition to the primary charge(s).

<sup>13</sup> The Debit Card Law

<sup>14</sup> Securities law

<sup>15</sup> The Value Added Tax 5735 -1975

<sup>16</sup> The Planning and Construction Law, 1965

<sup>17</sup> The Business Law, 1968 (, all concerning to locations for disposal of garbage, to the collection and transferring garbage for adaptation, utilization and recycling of garbage, or concerning gas stations, gas to fuelling of fuel, gas to handling of fuel, gas to the storage of fuel, gas to parking tankers of fuel, gas to the sale of fuel and gas to fuel terminals, to the filling of gas tankers and to gas distribution)

<sup>18</sup> The Mines Ordinance, Concerning mining of sand

<sup>19</sup> The Debit Card Law 5748-1986

<sup>20</sup> The Customs Ordinance

<sup>21</sup> The Securities Law, 5728-1968

<sup>22</sup> Not a FATF designated offence

133. A range of factors were mentioned by our Israeli counterparts as contributing to the success achieved to date. For example, the attention of the evaluators was drawn to a series of “landmark” decisions of the Supreme Court of Israel – delivered since the 3<sup>rd</sup> round report – which had brought legal clarity to previously controversial or problematic issues in the context of section 3 and 4 of the PMLL.
134. Resort to interdisciplinarity was also identified by a broad range of our counterparts in Israel as a major contributing factor to increased focus on criminal proceeds and to effectiveness in practice. This dates back to a decision taken by the Israel government in January 2006 (Decision No. 4618). This set the goal of targeting illicit proceeds as a primary objective in efforts to combat serious and organised criminal activity. It was explained to the evaluators that all relevant agencies were required to operate in unison pursuant to programme objectives and a work plan approved by an Executive Committee. This is headed by the Attorney General. Its high level membership also includes the State Attorney, the Chief of Police, the Head of the Tax Authority and the Chairman of the Securities and Exchange Commission.
135. An Implementation Committee, chaired by the Head of the CID of the Israeli Police and again characterised by its interdisciplinary nature, is charged with overseeing its practical implementation. It, in turn, has established a detailed multi-year work plan in which the establishment of multi-agency task forces (including one on professional money launderers) plays a prominent role.
136. The progressive embedding of this approach, aided by the establishment in November of 2009 of a new senior position – that of Deputy State attorney (financial enforcement) – has done much to bring about this marked cultural shift. This has, as will be seen further below in relation to R. 3, had a significant and positive impact on the effectiveness of provisional measures and confiscation. The enhanced effectiveness of the efforts of the Israeli authorities in the context of the efforts to combat money laundering through the use of the criminal law is warmly welcomed by the evaluators. It is noted none-the-less that further work needs to be done in the context of the phenomenon of drug cases given the estimated criminal profit in this area.

#### 2.1.2 Recommendations and comments

##### ***Recommendation 1***

137. In recent years Israel has taken action to align its domestic anti-money laundering legislation even more closely with international standards. The evaluators welcome, in particular, the addition of environmental crimes and piracy as predicate offences.
138. It is noted that further amendments to improve the PMLL are in progress. As noted, these include proposals to refine the operation of section 4. While the evaluators accept the prosecutorial view that in practice the threshold utilised in this section does not constitute a significant barrier to securing convictions in important cases they reiterate the fact that criterion 1.2 requires that the offence of money laundering “extend to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime”<sup>16</sup>. It is accordingly recommended that this deficiency be addressed in a timely fashion.

---

<sup>16</sup> The Israeli authorities indicated that in practice, the limitations in the definition of property in section 4 have little or no significance. The threshold (approx. €100,000 regarding cash accumulated in 3 months, and €30,000 regarding other types of specified property) is rarely, if ever, an impediment to effectively investigating or prosecuting money laundering. In the rare cases when property is not included in schedule 2 (smaller sums or types of property not mentioned) article 411 of the Penal Code is applicable. This article reads: “*Receiving property obtained by felony - If a person, in person or through an agent, maliciously receives – in person or through an agent – money, securities or any other asset, knowing it to have been stolen, procured by blackmail, or obtained or dealt with by a felony, or if he – in person or through an agent, alone or with another – assumes control of or deals with a said asset, then they are liable to seven years imprisonment; however, they may be tried by the Court competent to try the person who committed the felony and shall be liable to the same penalty as that person.*”. In the view of the Israeli authorities this covers, in fact, most, if not, all of the “*acquisition possession or use of property*” element in section 3 (1) (c) of the Vienna convention.

139. In so far as effectiveness is concerned the evaluators reiterate how genuine and widespread the cultural change in respect of the focus on the financial aspects of profit generating offences and associated money laundering appeared to be. A commitment and sensitisation to this approach was evident in discussions at all levels – from policy makers to prosecutors and operational police officers. The statistics indicate that this is bearing fruit in terms of money laundering investigations, prosecutions and convictions.

2.1.3 Compliance with Recommendation 1

	Rating	Summary of factors underlying rating
R.1	LC	<ul style="list-style-type: none"> <li>Section 4 of the PMLL contains a threshold approach and does not extend to all possible categories of property.</li> </ul>

**2.2 Criminalisation of Terrorist Financing (SR.II)**

2.2.1 Description and analysis

*Special Recommendation II (rated C in the 3<sup>rd</sup> round report)*

*Legal framework*

140. It will be recalled from the 3<sup>rd</sup> round report that throughout its history Israel has sought to address the financing of terrorism through the criminal law. In this regard it places reliance on various laws. These include the Defence Regulations (State of Emergency) 1945, the Prevention of Terrorism Ordinance, 1948, the Penal Law (1977), and the Prohibition of Terrorist Financing Law 2005. All remain in force and effect.
141. The 2008 report concluded that Israel fully observed all of the essential criteria in a SR.II context. It had criminalised the financing of terrorism, terrorist acts and terrorist organisations in a manner consistent with international standards. Terrorist financing offences were also predicate offences for money laundering. The current evaluation team adopts that earlier analysis as its own.
142. It should be noted that according to the PTFL “An act of terrorism” – might be any kind of act that constitutes an offence or a threat to commit an act that constitutes an offence, as long as certain conditions are met. The general condition is that the act that constitutes an offence to be committed or planned to be committed is in order to influence a matter of policy, ideology or religion. This approach, which adds an element not specified in the FT Convention, is one which a number of countries have adopted to ensure that the generic definition is not used in circumstances where it was not intended. The authorities should assess the advantage of this approach in the domestic context in implementing the Convention, and ensure that Israel’s ability to prosecute in factual settings contemplated by the Convention would not be negatively impacted.
143. It is of relevance to note in this context that all of the acts provided for in the list of treaties in the annex to the FT Convention are criminalised in Israel. It is likely that in practice many of the activities covered by the annexed treaties would also qualify as acts of terrorism under the PTFL. In such instances the financing of terrorism would normally be prosecuted under that law.
144. It is possible that in a residual number of annex Convention situations satisfying the additional purposive elements contained in section 1, of the PTFL (see para. 141 above) might prove to be problematic (e.g. when the offence has been committed solely for financial gain). In such circumstances the financing of those offences can be prosecuted as ancillary offences such as complicity to the corresponding offences in the Criminal Code.
145. It is of relevance to note that at the time of the on-site visit a draft Combating Terror Bill was before the Knesset. It was explained that the purpose of this legislative initiative was to provide the authorities with improved criminal and administrative measures in order to prevent the activities of terrorist organisations as well as those that are financing them or assisting them in

any way. Due to its draft status this measure was not assessed by the evaluation team for compliance with FATF standards.

**Recommendation 32 (terrorist financing investigation/prosecution data)**

146. Further to Recommendation 32 competent authorities are required to maintain, inter alia, comprehensive statistics on terrorist financing investigations, prosecutions and convictions. In this regard our Israeli counterparts provided the evaluation team with the following data for the years 2008-2012:

**Table 8: Number of investigations, prosecutions and convictions for TF**

Year	Investigations		Prosecutions		Convictions (final)	
	Cases	Persons	Cases	Persons	Cases	Persons
2008	2	16	1	2	2	6
2009	4	5	7	8	3	4
2010	2	6	5	8	1	5
2011	4	25	8	11	3	4
2012	12	17	14	15	6	6

**Effectiveness and efficiency**

147. It is evident from the above statistical data that Israel continues to conduct, on a regular basis, investigations into terrorist financing and to launch prosecutions and secure convictions for the same. Confiscation of the proceeds is also common in such cases (see the discussion of SR. III below). The evaluators were also briefed on innovative ways in which the relevant provisions of the PMLL have been used in conjunction with those of the PTFL in appropriate cases. Resort has also been made to the Task Force approach in relation to terrorist financing.

148. Israel has established an Interagency Co-ordination Committee in the terrorist finance sphere. It is responsible for domestic coordination between the relevant authorities including the Police, IDF, Customs, Ministry of Finance, Ministry of Foreign Affairs and IMPA. The importance of this body and its operational focus was stressed in our meetings on-site. The Committee reports annually to the Prime Minister and the Cabinet.

149. The representatives from the office of the Prime Minister and the Israeli Security Agency stressed the quality and the frequency of their interactions with IMPA and the Israeli Police in a terrorist finance context.

**2.2.2 Recommendations and comments**

**Special Recommendation II**

150. Israel broadly complies with the essential criteria in a SR. II context. It has utilised the array of legislative tools at its disposal to secure convictions for terrorist financing on a regular basis. The team was impressed by the professionalism and commitment of those whom it met on-site with responsibilities in this important area.

151. Israel should consider the impact of including in section 1 of the PTFL the need to demonstrate that an act of terrorism be committed “*in order to influence a matter of policy, ideology or religion*” and ensure that its ability to prosecute in factual settings contemplated by the FT Convention are not negatively affected.

**2.2.3 Compliance with Special Recommendation II**

	Rating	Summary of factors underlying rating
SR.II	C	

## 2.3 Confiscation, Freezing and Seizing of Proceeds of Crime (R.3)

### 2.3.1 Description and analysis

#### *Recommendation 3 (rated PC in the 3<sup>rd</sup> round report)*

#### Summary of factors underlying the 3<sup>rd</sup> round rating

152. In the 3<sup>rd</sup> round report it was noted that in a limited number of important and high profile areas, including money laundering, drug trafficking and organised crime, Israel had put in place a robust system of confiscation (known as forfeiture) and for the taking of provisional measures in respect of the same<sup>17</sup>. In these criminal justice fields limited but valuable provision for civil forfeiture had also been made. The system as provided in the PTFL is outlined in relation to SR. III below.

153. While it was concluded that the system as it applied in these areas satisfied international standards a rating of PC was agreed in respect of R. 3 in the overall. This reflected:

- The need to extend modern legislation on confiscation and provisional measures to the full range of relevant predicate offences; and,
- Effectiveness concerns in respect of confiscation in areas not covered by modern legislation.

#### *Legal framework*

154. Outside of the limited number of areas mentioned above, including money laundering, where modern legislative provisions in respect of confiscation had been introduced, Israel had at the time of the 2008 report to rely primarily on the less appropriately focused sections of the Criminal Procedure Ordinance and especially on sections 32 and 39 thereof which are read as follows:

#### *“Chapter Four: Seizure of Objects*

##### *Power to seize objects*

32. (a) *A policeman may seize an object, if he has reasonable grounds to assume that an offence was or is about to be committed with it or that it is likely to serve as evidence in a judicial proceeding for an offence, or if it was given as remuneration for the commission of an offence or as a means for its commission.*<sup>18</sup>

##### *Confiscation order*

39. (a) *Notwithstanding the provisions of any enactment, the Court may – in addition to any penalty which it imposes – order an object that was seized under section 32 or which reached the police as said in section 33 to be confiscated, if the person convicted of committing the offence with or in respect of the object is the objects owner; this order shall be treated like a penalty imposed on the defendant.*

(b) *If an object was given as a remuneration for the commission of an offence or as a means for its commission and if none of the other conditions said in section 32 applies to it, then the object shall not be confiscated unless it was given by its owner or by its lawful possessor or with his consent as remuneration or as means for the commission of the offence of which the*

---

<sup>17</sup> The Prohibition of Money Laundering Law; the Combating Criminal Organisations Law; and, the Dangerous Drugs Ordinance. See further, the 3<sup>rd</sup> round MER, at paras.134-139.

<sup>18</sup> With regard to section 32 of the Criminal Procedure Ordinance the term "*object*" has been broadly interpreted in case law to include any kind of right. In the Hitachdut Hamishpatanim case 5015/99 the court ruled that any kind of right (in that case a bank account) could be considered an "*object*". The court based this on case 232/93 state of Israel v. Harnoy where it was concluded that a right originating from a legal document is an object which can be "stolen" according to the criminal code. It follows that in practice any right in a legal document or instrument etc. is in Israeli jurisprudence an "*object*" and may be seized and confiscated.

*person on trial was convicted, or as a remuneration or as a means for the commission of another offence of which the person on trial was convicted, or as a remuneration or as a means for the commission of another offence of which the person on trial was convicted; it is immaterial whether the person on trial did or did not commit the offence, and even that he did not intend to commit it.*

*(c) A confiscation order under this section may be issued either in the sentence or according to the prosecutor's petition."*

155. While it was conceded that confiscation of objects under this section might on occasion overlap with, and further the ends of, the criminal justice policy of depriving offenders of the fruits of their criminal conduct it was concluded that it was not, on its face, a mechanism designed to give effect to the confiscation of criminal proceeds in its modern conception and as reflected in the international standards (e.g., in relation to value confiscation). To that extent the Israeli law was considered not to satisfy the requirements of FATF Recommendation 3.

156. In the course of the current process the Israeli authorities shared with the evaluators some of the jurisprudence of the courts on sections 32 – 39 of the Criminal Procedure Ordinance<sup>19</sup> which had not been considered in the course of the 3<sup>rd</sup> round. This demonstrated a broad and creative approach to the interpretation of these provisions which result in an ability to secure confiscation in a variety of contexts (e.g. in respect of substitute assets) which are not explicitly addressed in the respective texts. This provides a practical route to confiscation in many instances in relation to the proceeds of predicate offences when a money laundering charge is not available. The authorities, however, acknowledged that the jurisprudence fell short of providing a basis for full compliance with the international standards on the availability of value confiscation.

157. The evaluators were nonetheless disappointed that action had not been finalised in the period since 2008 to address the limitations of the Criminal Procedure Ordinance approach<sup>20</sup>.

<sup>19</sup> The Israeli authorities indicated some relevant decisions of the Supreme Court as follows:

- In the "**Marji**" case (9719/09) the court allowed confiscation even though the perpetrator had died. The Supreme Court said there: "...even when the confiscation has been initiated in a criminal case, the confiscation (under sections 32-39 y.s.) procedure is a separate procedure and is not necessarily dependent on the criminal proceedings. Once there are grounds for confiscation, there is no significance to the fact that the perpetrator died and no criminal proceeding will be initiated. Confiscation is not necessarily of criminal or penal nature, and is of deterrent nature"
- In the "**SABAG**" case 4062/99 the Supreme Court considered a case of a conviction of gun theft. Four guns were sold and the proceeds were used to purchase a car on the name of a third person who was fully aware of the facts. The Supreme Court overturned the District Courts Confiscation Order which was based on the fact that the car was "given as remuneration for the commission of an offence". But the Supreme Court went on and said: "*what will be done with the proceeds of a theft and their substitutes. The answer to this is in sections 34-37 and 42 of the CPO... the car has replaced the guns which were stolen...*" The Supreme Court allowed the state to re - approach the district court and seek confiscation according to its general power to instruct what may be done with the object – section 34.
- In the "**Hitachdut hamishpatanim**" case 5015/99 the main question was does the term "object" include legal rights. The Supreme Court said "*It is not logical to say that we may only confiscate if a bank robber is caught with the proceeds of his crime in his hands, but we cannot confiscate if he was fast enough to deposit these proceeds in the bank, because the object has now been transformed to a right.*" The court went on and said "*with regard to the meaning of the term "given as remuneration for the commission of an offence" - It seems to me that the legislative purpose is that "crime will not pay". The purpose of seizure is to seek confiscation of the object at the end of the criminal proceeding. When the law speaks of "given as remuneration for the commission of an offence" the purpose is penal so that crime shall not pay, and therefore there is no place to differentiate between "given as remuneration for the commission of an offence" and any other pecuniary advantage or profit from the crime.*"
- In a recent case (**Saadi** 8793/13) the Supreme Court said "*No doubt the monies (found in a safe at the suspects house y.s.) have no connection to the crime he was indicted originally for, but once the monies were seized and there is a suspicion that a crime has been committed (even if fiscal) the police had a right to seize the monies under section 32*".

<sup>20</sup> However, it was encouraging to note that a draft Bill on the forfeiture of proceeds of crime had been prepared and was subject to consultation at the time of the on-site visit. They were informed that it had been inspired by the principles of the UKs Proceeds of Crime Act 2002 and was intended to create, inter alia, a uniform and modern system of value confiscation. Due to its status this Bill was not subject to evaluation for compliance with international standards.

**Recommendation 32 (statistics)**

158. Criterion 32.2(b) requires countries to maintain comprehensive national statistics on, inter alia, the number of cases and the amounts of property frozen, seized and confiscated relating to money laundering and criminal proceeds more generally.

159. In respect of money laundering cases the Israeli authorities provided the evaluators with the following data relating to the period 2008-2012;

**Table 9: The amount of proceeds seized and confiscated in respect of money laundering cases**

	Proceeds seized		Proceeds confiscated	
	cases	amount (in EUR)	cases	amount (in EUR)
<b>2008</b>	9	9,528,533 <sup>(1)</sup>	4	1,582,655 <sup>(2)</sup>
<b>2009</b>	7	13,155,665	5	998,476 <sup>(3)</sup>
<b>2010</b>	24	23,408,833	9	7,054,248 <sup>(4)</sup>
<b>2011</b>	23	26,798,019	14	2,251,393 <sup>(5)</sup>
<b>2012</b>	49	32,911,526	21	13,151,044 <sup>(6)</sup>

<sup>(1)</sup> In addition, 8 apartments, 3 cars, 8 shops and a plot of land were seized but have not yet been sold or evaluated.

<sup>(2)</sup> In addition, 4 apartments have been confiscated but have not yet been sold or evaluated.

<sup>(3)</sup> In addition, 5 vehicles (including luxury cars) and real estate have been confiscated but have not yet been sold or evaluated.

<sup>(4)</sup> In addition, 2 vehicles have been confiscated but have not yet been sold or evaluated.

<sup>(5)</sup> In addition, 1 real estate property, 2 cars (1 luxury car), 2 bank accounts, and a dozen digital appliances (computers, cellular phones, digital cameras, etc.) have been confiscated but have not yet been sold or evaluated.

<sup>(6)</sup> In addition, rights on 1 apartment, 1 luxury car and 1 motor cycle have been confiscated but have not yet been sold or evaluated; also, 196,200 EUR in fines, 8,000 EUR in ransom and 5,000 EUR in administrative fine.

160. The following information was provided in respect of the value and source of seized assets respectively:

**Table 10: Value of Assets Seized for Forfeiture**

	2008	2009	2010	2011	2012
<b>Amount (in EUR)</b>	0	103,019,335	140,359,831	139,351,496	242,663,628

**Table 11: Predicate Offence of Seized Assets**

	2008	2009	2010	2011	2012
<b>Money laundering</b>	0	65,778,324	117,044,164	62,361,637	173,431,632
<b>Terror financing</b>	0	25,500	0	661,280	1,981,050
<b>Drugs</b>	0	32,387,679	15,015,972	32,438,796	19,931,048
<b>other</b>	0	4,827,832	8,299,695	43,515,063	47,319,898
<b>Total</b>	<b>0</b>	<b>103,019,335</b>	<b>140,359,831</b>	<b>139,351,496</b>	<b>242,663,628</b>

161. At the time of the visit of the evaluation team to Israel no statistics were available concerning confiscation outside of a money laundering and terrorist finance context. However, subsequently data on this issue was kindly provided for the years 2010-2012 (but does not include confiscations made by the Prosecution Department of the Israeli Police – mostly instrumentalities). They are as follows: 2010 – €121,552; 2011 – €307,476; 2012 – €449,200. Evidence was also provided to indicate that the number of such cases was also steadily

increasing. For example in 2012 the number of non-money laundering cases resulting in a confiscation represented 64% of the total – up from 26% in 2010.

### *Effectiveness and efficiency*

162. In the discussion of R. 1 above emphasis was placed on what was said to be a cultural change brought about since the 3<sup>rd</sup> round evaluation in the approach of Israel to money laundering and profit generating crime more generally. The nature of that change and the manner in which it has been brought about directly and positively impacts on the seizure and confiscation of criminal proceeds.
163. It was stressed with some frequency in our meetings on-site with prosecutors, representatives of the police and other enforcement agencies that this area now enjoyed a greatly enhanced priority. “Going after the money” was now a predominant and entrenched policy and operational goal; parallel financial investigations were now said to be the commonplace.
164. The highly positive nature of the impact of this change in practice is clearly illustrated in impressive year on year increases in the number of cases involving confiscation revealed by the following graphic provided by Israeli authorities:

**Table 12: The Scope of Forfeiture Cases (Predicate offences + ML cases)**

	2008	2009	2010	2011	2012
<b>Number of cases</b>	0	102	277	259	493

165. A similarly strong upward trend is evident from the data on the value of seized assets presented for the same years in paragraph 159 above. The same trend can also be seen in the data on proceeds seized in money laundering cases presented in paragraph 158. That table also indicates a more uneven but nonetheless generally upward trend in proceeds confiscated in money laundering cases. The statistics presented in paragraph 160 on confiscation in non-money laundering cases, though relatively modest in value terms, are heading in the same upward direction.
166. Various factors were mentioned by our Israeli colleagues as contributing to the successes achieved in the seizure and confiscation area to date. One such, mentioned in the discussion of R. 1 above, flows from the increasing frequency with which money laundering charges are brought in conjunction with that for the underlying predicate offence. Such a practice has the benefit of making available the value confiscation provisions of the PMLL.
167. More important is the fact that seizure and confiscation is, along with money laundering, central to an overall national policy of targeting illicit proceeds as a primary objective in Israeli efforts to combat serious and organised criminal conduct. Central elements of that policy and its implementation were discussed above in the context of R. 1. Certain other specific seizure and confiscation initiatives are, however, worthy of note for present purposes.
168. It was stressed in our meetings in Israel that the State Attorney’s Office has set the enhancing of the effectiveness of financial enforcement as one of its main strategic goals. Particular responsibility for taking this forward in practice falls to the Deputy State Attorney (Financial Enforcement) and the Head of Financial Enforcement. Both of these senior posts are new (created in 2009 and 2012 respectively). Much of the positive momentum identified by the evaluation team in this area appeared to flow from the creation of these focused leadership positions. Both office holders have a commitment to co-ordination of effort across relevant agencies and to the centrality of an interdisciplinary approach.
169. Among the innovations of interest mentioned to the evaluators was the establishment of a pilot project in which integrated financial enforcement teams (covering not only confiscation, but also fiscal issues and the civil area) have been implemented in two district attorney offices. If, as hoped, the model proves itself it is intended to institute it more generally throughout the country.



### 2.3.2 Recommendations and comments

170. The Israeli authorities are to be commended for the focus they have placed on the seizure and forfeiture area, for the innovations which they have introduced, and for the enhanced results that have been achieved to date.

171. While as noted above, there have been significant improvements in terms of effectiveness since 2008, the need to extend modern legislation on confiscation and related matters to the full range of relevant predicate offences, noted in the 3<sup>rd</sup> round report, remains. The evaluators note that legislative proposals in this regard have been developed and they urge that appropriate legislative action in this area be taken forward on a priority basis.

### 2.3.3 Compliance with Recommendation 3

	Rating	Summary of factors underlying rating
R.3	LC	<ul style="list-style-type: none"> <li>• Failure to provide a comprehensive system for value confiscation.</li> </ul>

## 2.4 **Freezing of Funds Used for Terrorist Financing (SR.III)**

### 2.4.1 Description and analysis

172. It was acknowledged in the 3<sup>rd</sup> round report that Israel had for many years focused in practice on the freezing (and subsequent confiscation) of funds used for the financing of terrorism. Indeed some of the legal instruments available to it dated back to the 1940's; long before the emergence of the UN Security Council as an actor in this sphere. This legislative base was supplemented in 2005 with the enactment of the PTFL one of the purposes of which was to enhance the ability of Israel to give effect to the detailed provisions of the key UN Security Council Resolutions covered by SR.III. It will be recalled in particular from that earlier analysis (see e.g., paras 162-163) that Chapter 2 of the PTFL creates a single system within Israel by which those designated by the relevant UNSC Committees pursuant to Resolution 1267 (and successor Resolutions) as well as those listed by foreign states as envisaged by UNSC Resolution 1373 can be so treated for the purposes of Israeli Law.

173. Notwithstanding this complex legislative base relevant to the freezing of funds used for terrorist financing a rating of PC was agreed in respect of SR. III. This reflected:

- Technical shortcomings in giving effect to Security Council Resolution 1267 (1999) and 1452 (2002);
- Effectiveness concerns given the (then) recent promulgation of the PTFL Regulations; and,
- The need for comprehensive and focused guidance to financial institutions as to their obligations under Security Council Resolutions.

### *Special Recommendation III (rated PC in the 3<sup>rd</sup> round report)*

174. In the period since the 3<sup>rd</sup> round evaluation Israel has taken various steps, both legislative and administrative, to facilitate enhanced compliance with the UN Security Council dimensions to SR. III. As noted above this was the area of relative weakness identified in the 3<sup>rd</sup> round report.

175. On the legislative front the attention of the evaluators was drawn to amendments to the PTFL which came into force in July 2012. One of the primary goals of this exercise was to ease the process of domestic declaration by the relevant Ministerial Committee of those listed by the UN Security Council Committee pursuant to Resolution 1267 and successor Resolutions. Under the original version of Chapter II of the PTFL the Ministerial Committee had to be presented with “a reasonable basis” upon which to assume that a listed person was a “terrorist activist” or that an association of persons constituted a “terrorist organisation”. While that evidentiary threshold remains in a Resolution 1373 context<sup>21</sup>, i.e. where the listing has been made by a foreign country,

<sup>21</sup> In the view of the evaluators this evidentiary threshold is consistent with, inter alia, criterion III.3.

it has been removed where the action has been taken by the Security Council or a body established under its authority.

176. The situation is governed by section 2(2)(a) of the PTFL. It now reads as follows:

*“If it has been determined by the Security Council of the United Nations or by some(sic) authorised by it that a foreign person is a person who is a terrorist activist or that a foreign body of persons is a terrorist organisation, then the Committee of Ministers is entitled, subject to the provisions of section (d)(i), to declare that same person a terrorist activist or that same body of persons a terrorist organisation.”*

177. Section (d)(i) in turn regulates the interface between the exercise of this power and prior declarations of the same person or entity under other Israeli legislation.

178. It will be noted that declarations under section 2 may be made by the Ministerial Committee in relation to foreign persons and foreign bodies. In respect of the former, for example, “foreign” excludes Israeli citizens who are Israeli residents. In practice no such persons have ever been designated by the relevant UN Security Council Committees. The evaluators were informed that should such an instance arise in the future several possibilities for taking action were available to the Israeli authorities. These ranged for the prompt institution of criminal proceedings and the use of the associated freezing power to the revocation in appropriate cases of citizenship thus permitting the Ministerial Committee to make a declaration in the normal manner. Notwithstanding these assurances the evaluators are of the view that the exemption for citizens who are resident in the country constitutes a technical shortcoming in the efforts of Israel to comply with international standards.

179. At the administrative level there has also been additional focus on facilitating compliance with the expectations expressed in the essential criteria for SR. III as they related to UN Security Council issues. By way of illustration the evaluation team was informed that the Ministry of Foreign Affairs had initiated new procedures to assess its responsibilities in this sphere.

180. As noted earlier, in the 3<sup>rd</sup> round report it was recommended that the relevant authorities issue comprehensive and focused guidance to financial institutions concerning their obligations in taking action under the freezing measures relevant to the UN Security Council Resolutions (criterion III. 6). In the course of the on-site visit it became apparent that while various bodies, such as the Bank of Israel and the Israel Securities Authority, provide guidance of a general nature to their supervised entities on this issue considerable reliance was placed on the activities of IMPA in this regard. IMPA seeks to ensure effective communication on this topic by publishing guidelines, news, legal information, typologies, red flags and other data on its website. For example, when the UN Security Council decides to add a person\organisation to the declared terrorists list:

- The Foreign ministry\IMPA identifies relevant changes to lists;
- IMPA informs the Counter-Terrorism headquarters and other relevant bodies;
- Counter-Terrorism headquarters formulates a proposed decision which is transferred to the security bodies and to the Ministerial Committee for National Security;
- The declaration is published in 3 major newspapers, in different languages, and on the websites of the Defence Ministry and IMPA. The defence ministry may also transfer the declaration to the reporting bodies by registered mail, fax or e-mail;
- The person or the legal entity who holds funds, or is requested to perform a transaction in property of the designated person or organisation, reports to the IP and IMPA;
- The IP or other security agencies initiate immediate measures to freeze the funds.

181. The analysis contained in the 3<sup>rd</sup> round MER outlined the manner in which the PTFL and the 2008 “Prohibition on Financing of Terror (Declaration Regarding a Foreign Terrorist Organisation or a Foreign Terror Activist) Regulations” address other SR.III criteria including, inter alia, delisting, access to funds to meet basic and extraordinary expenses, and like matters

(see e.g., paras. 166, 168-169). There have been no changes in this regard since that time and the analysis in that report remains valid.<sup>22</sup>

182. In so far as freezing and confiscation of terrorist assets in circumstances other than those covered by UN Resolutions are concerned it will be recalled that the 3<sup>rd</sup> round report concluded that Israeli law satisfied the international standards. That regime remains in place and the current evaluation team is content to adopt that earlier analysis and its conclusions.

**Recommendation 32 (terrorist financing freezing data)**

183. As noted in the analysis of SR. II Israel continues to conduct, on a regular basis, investigations into terrorist financing and to launch prosecutions and secure convictions for the same. The following freezing and confiscation data flowing from such proceedings was provided:

**Table 13: The amount of terrorist proceeds frozen, seized and confiscated**

Year	Proceeds frozen		Proceeds seized		Proceeds confiscated	
	Cases	Amount (in ERU)	Cases	Amount (in EUR)	Cases	Amount (in EUR)
2008	3	156,433	-	-	2	163,787 <sup>(1)</sup>
2009	-	-	3	298,152	1	1,838 <sup>(2)</sup>
2010	-	-	2	156,050 <sup>(3)</sup>	-	-
2011	-	-	2	30,032	1	10,276
2012	-	-	9	346,832 <sup>(4)</sup>	3	138,000

<sup>(1)</sup> €91,912 of the sum is a fine.

<sup>(2)</sup> The sum received is a fine.

<sup>(3)</sup> In addition, a vehicle has been seized but has not yet been sold or evaluated.

<sup>(4)</sup> Seized by the Ministry of Defence.

**Effectiveness and efficiency**

184. No assets related to those legal and natural persons listed by UN Security Council Recommendation 1267 have been located in Israel to date.

185. At the time of the last evaluation implementation of the UN Security Council aspects of SR. III was still at a relatively embryonic stage. While progress since that time was, for various reasons, somewhat slow, by the time of the on-site visit Israel had designated under national law all individuals and entities listed by the relevant UN Security Council Committees. Delisting activity was also taking place pursuant to the removal of persons and entities as a consequence of amendments agreed in New York. The evaluators were further informed that the declaration provision under the PTFL had also extended beyond a Resolution 1267 context. The evaluators warmly welcome this progress.

186. The Israeli authorities have informed the evaluation team that following the amendment to the PTFL, the designation procedure became much more effective and in a timely manner. This is being represented by recent designations, as specified herein:

<sup>22</sup> With regard to compliance with essential criteria III.5, III.7, III.8, III.9, III.10 and III.13, the analysis of these criteria remains as set out in the 3<sup>rd</sup> round MER as follows:

- c.III.5. addressed in 3<sup>rd</sup> round MER, para 166
- c.III.7-8. outlined in 3<sup>rd</sup> round MER, para 168
- c.III.9. outlined in 3<sup>rd</sup> round MER, para 169
- c.III.10. outlined in 3<sup>rd</sup> round MER, para 168
- c.III.13. outlined in 3<sup>rd</sup> round MER, para 171

**Table 14: Designation procedure**

Date	Designation		De-listing			
	Persons	Organisations	Persons	Organisations		
24.12.2008		35			} 5 Months	
20.10.2009		50				
22.11.2011	255	15		14		
July 2012 The amendment to the PTFL came into force						} 3 Months
02.01.2013	119	8	9	23		
8.5.2013	8	4	18	6		

#### 2.4.2 Recommendations and comments

187. The evaluators were assured that as a result of amendments to the PTFL which came into force in July 2012 and enhanced administrative procedures (in which IMPA plays an important role) the jurisdiction is now in a position to give effect to amendments to the UN lists in a timely fashion as required by international standards. While the evaluators accept that the Israeli system now has the potential to declare listed person and entities “without delay” the evidence available, as reflected in Table 14, indicates that this process currently takes up to 3 months. This in the view of the evaluators, is still insufficiently prompt to satisfy international standards. They urge the Israeli authorities to consider how the process can be expedited further.

188. As discussed above, the current exemption from the declaration process for Israeli citizens (equally applicable in UNSC Resolution 1267 and 1373 contexts) who are Israeli residents should be reconsidered.

189. As noted earlier in this report, Israel has at its disposal a range of legislative tools to address the financing of terrorism in other contexts and utilises the same, to good effect, in practice.

#### 2.4.3 Compliance with Special Recommendation III

	Rating	Summary of factors underlying rating
<b>SR.III</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>The declaration process does not apply to Israeli citizens who are Israeli residents;</li> <li>The current timeframe for giving effect to declarations following listings made pursuant to UNSC 1267 is insufficiently prompt.</li> </ul>

### Authorities

## 2.5 The Financial Intelligence Unit and its functions (R.26)

### 2.5.1 Description and analysis

#### **Recommendation 26 (rated LC in the 3<sup>rd</sup> round report)**

##### *Establishment of an FIU as national centre (c.26.1)*

190. The Israel Money Laundering and Terror Financing Prohibition Authority (“IMPA”) serves as the designated FIU for Israel.

191. IMPA became operational in February 2002. It is an administrative FIU within the Ministry of Justice, authorised to receive, centralise, analyse and disseminate disclosures of both currency transaction reports (“CTRs”) specified by size and type and unusual activity reports (“UARs”) concerning suspected ML or TF activities (Section 29 of the PMLL).

192. There are no changes in the functions and responsibilities from those set out in the 3<sup>rd</sup> round report with regard to R.26.

*Guidance to financial institutions and other reporting parties on reporting STRs (c.26.2)*

193. According to section 2-6 of the Prohibition on Money Laundering (Modes and Times for Transmitting Reports to the Database by Banking Corporations and the Entities Specified in the Third Schedule to the Law) Regulations, the Head of IMPA is authorised after consultation with the Supervisors to give instructions pertaining to modes of reporting, structure, times and place of submission. Accordingly, IMPA provided Guidelines to each of the financial institutions, regarding the manner of reporting, including specification of reporting forms, and the procedures that should be followed when reporting. The Head of IMPA has issued guidelines to the financial institutions for reporting CTRs and UARs. Financial institutions are obligated by law to report to the FIU through periodic reports (CTR – Once a week/month, UAR – Immediate). The reports are received at the first stage by magnetic media (disc/magnetic film/CD ROM). Each bank, Trust Co. and credit card Co., sends the CTRs on a weekly basis. Other financial institutions send the CTRs on a monthly basis. However, since May 2013, IMPA has started to receive the UARs via an online reporting system (in parallel to the previous reporting system) which is a significant improvement in respect of the timeliness of reporting system.

*Access to information on timely basis by the FIU (c.26.3)*

194. In the 3<sup>rd</sup> round evaluation report criteria negatively affecting the rating under R.26 related to incomplete direct or indirect access to: relevant police law enforcement information; intelligence from security service; and administrative information from social security. In this respect there have been several developments since the 3<sup>rd</sup> round evaluation report. IMPA now has the access to the following registers and databases:

- **Criminal Registry:** Following the amendment of The Criminal Register Regulations and the Rehabilitation Regulation, 2012;
- **Information Requests Database:** Includes information regarding several thousand entities included in police and Israel Security Authority requests, including information from the Criminal Registry;
- **Customs Report Database:** Reports to customs according the PMLL;
- **Takdin:** Israeli verdicts on involved entities/specific subjects, detecting Israeli legislation;
- **Taxes and more (Missim):** Israeli verdicts regarding taxes, detecting Israeli legislation regarding taxes (indirect access); and
- **Nevo:** Israeli verdicts on involved entities/specific subjects, detecting Israeli legislation.

195. Additionally, the evaluators were informed, that on 8 May 2013, an in-house designated Police working station was established at IMPA, as an extension of the Financial Enforcement Unit of the Israeli Police and is fully operational. The Police working station consists of a computer with direct access to all relevant Police databases and is staffed by a designated Police Officer. The Israeli authorities indicated that this working station significantly improves the effectiveness of IMPA, as it ensures timely access to all relevant law enforcement information. The working station assists IMPA in performing its on-going duties; prioritising its efforts while addressing Police requests, preparing more detailed and tailored intelligence reports that answers to the Police's needs and assists the task forces. The examiners were told that the working station also improves both the timeliness and the quality of exchange of information between IMPA and the Police and further stimulates proactive dissemination of information. Additionally, the Fusion Centre is also constantly used as a tool for accessing Police information. IMPA now has access to all information relating to all on-going police investigations. This information is now being

regularly used in the analytical process. IMPA also receives the updated list of persons or companies which are under the interest of the police and also, information regarding ML phenomena being currently investigated. This information is being inserted into IMPA's database and helps IMPA to automatically find the information regarding listed persons.

*Additional information from reporting parties (c.26.4)*

196. According to Section 31(c) of the PMLL, IMPA has the right to request additional information from any reporting entity that is necessary to complete a report received into the database or which is connected with such a report and relates to a person in relation to whom the report was received. It was stated that this provision should be understood as covering all reporting entities, whether they have reported or not, and that querying such additional information was a matter of regular practice. Since 2009 the following formal requests for additional information (as opposed to requests to complete the information submitted, where the initial report was incomplete) have been submitted:

2009: 13 Requests  
2010: 1 Request  
2011: 0 Requests  
2012: 12 requests

197. IMPA have advised the evaluators that most of the additional information requested by IMPA is, in practice classified as "incomplete" information and retrieved through direct immediate (and less formal) contact of the collection department and financial institutions. The UARs are typically received with various attachments that enable IMPA to enrich the information received. IMPA constantly seeks to improve the quality of reports (both CTRs and UARs), and thus, not many requests to financial institutions are required. Furthermore, since IMPA enriches the UARs with information from other resources (various governments, commercial and public sources) thus, in many cases, additional information is not required.

198. In addition, according to the Prohibition on Money Laundering (Modes and Times for Transmitting Reports to the Database by Banking Corporations and the Entities Specified in the Third Schedule to the Law) Regulations, 5762-2002, the reporting financial institutions are obliged to accompany their reports with all the relevant required documents.

*Dissemination of information (c.26.5)*

199. IMPA is authorised to disseminate financial information and intelligence to domestic authorities for investigation or action either upon request or on IMPA's own initiative, when there are grounds to suspect money laundering and the financing of terrorism.

200. Section 30(b)(1) of the PMLL provides that, for the purpose of implementing the Law, IMPA may disseminate information from its database to the Israel Police on their reasoned request.

201. According to Section 30(c), dissemination of IMPA held information to the Israel Security Agency is allowed upon their motivated request, for the purpose of prevention and investigation of activities of terrorist organisations or of acts against national security.

202. IMPA is also authorised, according to Section 30(e) of the Law, to disseminate, on its initiative, information from the database to any person competent to receive information under the PMLL, for the purposes of AML/CFT prevention, defending state security or combating terrorist organisations.

203. There are further developments since the 3<sup>rd</sup> round evaluation. Namely, on 7 May 2012, the Knesset approved an amendment to the Prohibition on Money Laundering Law that authorises IMPA to disseminate on its initiative, information from its database to additional law enforcement agencies, as follows:

- the Institute for Intelligence and Special Functions (the Mossad - The Institute for Intelligence and Special Functions);

- AMAN - The Intelligence Department in the General Staff of the Israel Defence Force (Military Intelligence);
- MALMAB - The Director of Security of the Defence Establishment.

204. Furthermore, the law also authorises IMPA to disseminate intelligence information to law enforcement authorities, also for the purposes of implementing the Trading with the Enemy Ordinance and of the Combating Iranian Nuclear Program Law (Part 1 of Chapter 2 of the law).
205. The Prohibition on Money Laundering (Rules for Request and of Transmitting of Information from the Competent Authority to the Police) Regulations 5762-2002 and the Prohibition on Money Laundering (Rules for Request and of Transmitting of Information from the Competent Authority to the Israel Secret Service) Regulation 5762-2002, set the exact procedures for the request and dissemination of information mentioned above.

*Operational independence and autonomy (c.26.6)*

206. In respect of the operational independence and autonomy of IMPA there are no changes since the 3<sup>rd</sup> round evaluation. IMPA is part of the Ministry of Justice (MOJ), funded by the State Budget and enjoys complete professional independence. It is free of any adverse influence and independent in its operations, decisions and determines its own policy. According to an Israeli government decision, the head of the FIU is appointed by suggestion of a professional (non-political) committee that includes a public representative and according to section 29(a) of the PMLL, has the qualifications that the Minister of justice determines. Civil Services rule require IMPA staff to abstain from potential situations of conflict of interests. There have been no indications of instances of interference or undue interventions in the past.
207. According to government decision No. 4062 dated 7 September 2008, the Head of IMPA is appointed for a period of 6 years. The government decision also determines that the tenure of an officer will not be terminated during the specified period, unless the advisory committee for the appointment of seniors has recommended this termination and subject to issued government decisions.

*Protection of information held by the FIU (c.26.7)*

208. The information held by IMPA is securely protected and disseminated only in accordance with the law. Specific Data Protection Regulations were enacted according to the PMLL - Prohibition on Money Laundering (Rules for Conduct of Data Base and Protection of Information Therein) Regulations, 5762-2002. These Regulations dictate implementation of high-level data protection and Information System security measures in accordance with the national data protection standards for high classification.
209. The IMPA data processing system includes personal identification and biometric authentication tools. All user activities are being monitored and recorded, as well as detecting and alerting the System Administrator about irregular activities e.g., intrusion. The information is disseminated only in accordance with section 30 of the PMLL, and is delivered via a private, encrypted and secured channel which is detached from IMPA's data protection system.
210. No law enforcement authority has access to IMPA's database and within IMPA itself, the access to the database is limited to the Head of IMPA, heads of the divisions and additional specified employees who have received special authorisation from the General Commissioner of the Israel Police.
211. All personnel of IMPA must be classified for "Top Secret" material access by the national authority and therefore are subject to a strict screening procedure before their engagement. In addition to national security clearance and classification each employee of IMPA must be cleared by the Inspector General of the Israeli Police Force for employment in IMPA and for controlled access to the information stored in IMPA Database in accordance with his/her task. All IMPA's employees have refreshment training about information security at least every 12 months.

212. An employee of IMPA who has disclosed information intentionally or due to his negligence and was not authorised to provide such information is subject to a fine and up to 3 years of imprisonment if found guilty as charged under paragraph 31(a) of the Prohibition of Money Laundering Law 2000.
213. IMPA's premises are secured and guarded against unwanted entries. At least every 12 months an inspection by the Israeli Security Agency takes place at IMPA. The inspection includes all the implementation of the procedures regarding the information securities, the physical security and also the security of computer system protection.

*Publication of periodic reports (c.26.8)*

214. Section 31B(a) of the PMLL provides that the Head of IMPA shall, on an annual basis, submit a written report to the Constitution, Law and Justice Committee of the Knesset regarding all of the following:
- (1) The number of reports that were received by IMPA under Chapter Three (obligation imposed on providers of financial services) and under the PTFLL, classified according to the category of the reporting entity as determined in that chapter;
  - (2) The number of reports that were transmitted to IMPA under Chapter Four (obligation to report on monies at the time of entry into and exit from Israel);
  - (3) The number of dissemination of information from IMPA's database to entities permitted to receive information (Police, Israel Security Agency, counterparts FIU's).
  - (4) The number of providers of currency services who registered in accordance with Chapter Four;
  - (5) Inspection acts which were reported, in accordance with the duty of regulators according to Section 31C to transmit to the Head of IMPA periodic reports dealing with their activities with respect to the execution of the provision of the PMLL.
215. IMPA's **website** is: [www.impa.justice.gov.il](http://www.impa.justice.gov.il). The website is frequently updated with new information, legislation, court ruling, standard forms, reports and new ML/FT trends etc. The website is available in Hebrew and in English.
216. IMPA publishes on its website a triannual newsletter regarding AML/CFT issues. The newsletter is distributed by email to IMPA's mailing list, which includes, among others, a wide range of officials from financial institutions, governmental agencies, law enforcement authorities, regulators, experts in relevant fields, lawyers, accountants, academia and the general public.
217. IMPA issues a comprehensive annual report that covers its activity, main progress conducted, review of recent new regulation and judicial decisions, achievements and goals. In addition, the annual report includes detailed statistics regarding reports received, information that was disseminated from IMPA to the IP and Security Service, and detailed analyses of the main patterns use to launder money and the main predicated offences which were involved in AML, which were identified by the Research Department. At the time of the on-site visit, the most recent report was distributed in 2012 and covered the year of 2011<sup>23</sup>. The annual report is widely distributed to the relevant professionals in the field, governmental officials, financial sector, etc., and is also available at IMPA's website.
218. IMPA's Collection Department has published training manuals designated for reporting entities. The manuals are comprised of: an introduction with an overview of money laundering and financing of terror; a general description of the compliance officer and IMPA's expectations from the cooperation between organisations; an extensive collection of examples and typologies spanning the wide range of reporting entities; and a list of ML/TF indicators (red flags) sectioned into categories and explaining each indicator. During the years 2009-2012, three manuals were

---

<sup>23</sup> An updated report which covers 2012 will be issued during 2013.



prepared and disseminated (for MSP's in September 2009; for insurance companies and Insurance agents in August 2009; for Stock Exchange Members and Portfolio managers in May 2011).

*Membership of Egmont Group & Egmont Principles of Exchange of Information among FIUs (c.26.9 & 26.10)*

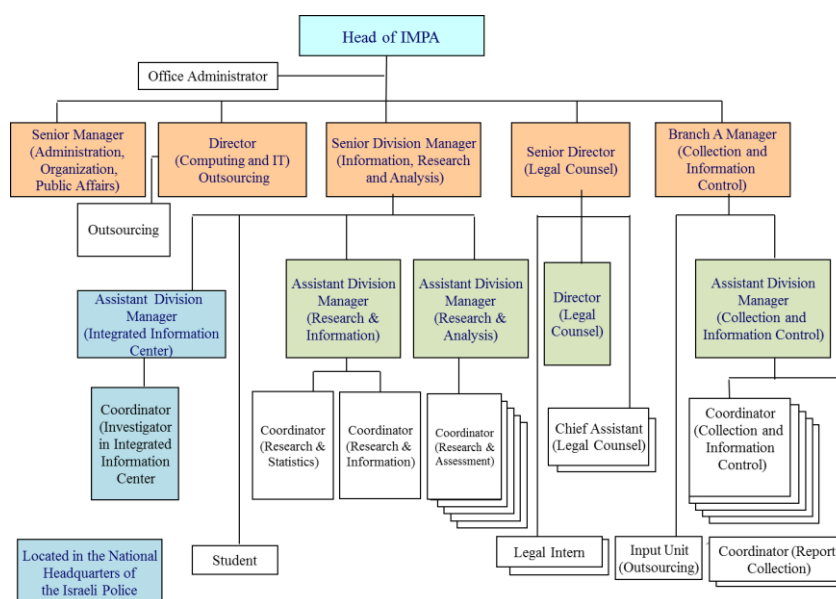
219. IMPA joined the EGMONT group in 2002 and takes an active part at the EGMONT group meeting and its committees.
220. IMPA abides by the Egmont Group principles formulated in the "Principles for Information Exchange between Financial Intelligence Units for Money Laundering and Terrorism Financing Cases".
221. Such information exchange with counterpart FIUs is based on Section 30(f) of the PMLL. The Attorney general in his decision of 7 March 2006, set the guidelines for the interpretation of section 30(f). According to these guidelines, IMPA may provide information to a counterpart authority in another country not only if there is a reasonable ground to suspect that the information relates to a specific predicate offence but also if the information includes indications of ML or TF Typologies.
222. Section 30(f) of the PMLL permits IMPA to transmit information to a foreign FIU, even in the absence of an international agreement. Nevertheless, IMPA has a policy to sign MOUs with its counterparts FIUs.
223. IMPA is also authorised, according to Section 30(e) of the Law, to disseminate, on its own initiative, information from the database to any person competent to receive information under the Law, for the purpose of preventing any offence under the PMLL, defending state security, combating terrorist organisations and for the purposes of implementing the Trading with the Enemy Ordinance and of the Combating Iranian Nuclear Program Law (Part 1 of Chapter 2 of the law).
224. IMPA has issued an internal procedure concerning best practices of work with foreign FIUs which actually adopts the "best practices for the improvement of exchange of information Between Financial Intelligence Units For money laundering and terrorism financing" issued by the EGMONT group. This internal procedure sets the mechanism of IMPA's work with foreign FIUs, and is used continuously through IMPA's daily work.

***Recommendation 30 (FIU)***

*Adequacy of resources to FIU (c.30.1)*

225. IMPA appears to be adequately structured and funded (partially by the asset confiscation fund), staffed, and provided with sufficient technical and other resources to fully perform its authorised functions. The asset confiscation fund contributes approximately 10% of the budget of IMPA. These funds are utilised for special projects, not for day-to-day running expenses. The Ministry of Finance have indicated that they will make good any shortfall on such projects in the event of there being insufficient funds in the asset confiscation fund in subsequent years.
226. The number of employees has increased since the 3<sup>rd</sup> round evaluation and IMPA currently employs 36 officials (9 additional officials compared to the previous evaluation) in four sub-units. The educational structure of the employees and suitable organisational structure of IMPA seem to fulfil all of its legal duties. As noted above, IMPA uses high level data protection and Information System security measures. IMPA is independent in its operations and decisions. IMPA's technical resources are modern and sufficient for performing its functions.

227. The following chart sets out the Organisation of IMPA:-



228. The four main operating departments are:

- Collection, Control and Organisation Department** - is in charge of the collection and filing of CTRs and UARs submitted by the financial institutions in the information processing system, quality control of reports, monitoring compliance, provision of guidance and feed-back to reporting entities. This unit is responsible for dissemination and coordination with Israeli law enforcement units and amicable FIUs which are IMPA "customers" handling requests for additional information from and enrichment information retrieval from government, commercial and public sources.
- Research, Analysis and Assessment Department** - is responsible for screening, processing, analysis and assessment of information accumulated in the Information Processing System Database for the purpose of detecting and tracing persons whose activities and properties provide grounds for suspicion of their involvement in money laundering and terror financing. Furthermore they provide law enforcement investigators with additional information to support their investigations. Thus it prepares initiated case analysis reports or responses to inquiries made by law enforcement organisations or amicable FIU. In addition, the department is responsible for conducting studies of organised crime and terror groups *Modus Operandi*, performance of pattern recognition and development and maintenance of indicators of Money Laundering and Terror Financing.
- Legal Department** - is responsible for the initiation and coordination of amendments to the Law and its secondary legislation as well as legal orders within the scope of the operation of IMPA and for coordination of legal work with regulators and legislators. Furthermore it reviews the daily activities of IMPA's personnel and assures their compliance with the pertinent laws. It conducts consultation with legal councils of counterpart units with regard to the implementation of the PMLL and with legal councils of foreign FIUs about the interpretation and meaning of other countries legislation and drawing of MOUs with such entities. The attorneys of this unit serve as members in the various AML financial sanction committees.
- Information Processing, Communication and Technology Department** - is responsible for the design, development and operation of the computing infrastructure of IMPA. Furthermore it is responsible for design implementation, operation and enforcement of Information Protection. The department team is comprised of two persons: The Chief Information Officer and a resident senior IT consultant. The entire operation is based on outsourcing professional services, integration of "Off the Shelf" advanced program products and development of "turnkey systems" by major contractors.

*Integrity of FIU authorities (c.30.2)*

229. IMPA appears to meet all requirements in respect of the professional standards, integrity, skills and confidentiality of its employees. As mentioned above, at the time of the on-site visit, IMPA employed 36 officials. Most of the persons employed in IMPA are graduates in relevant subjects e.g., Certified Accountants, Lawyers, Economics, Information Technology. Due to these unique skill acquisition needs, IMPA's personnel has been provided with a special promotion and advancement training plan by the Civil Service Commission, aimed to prolong their services within IMPA, while enabling them to be rewarded internally.

230. As mentioned above, all personnel of IMPA must be classified for "Top Secret" material access by the national authority and therefore are subject to a strict screening procedure before their engagement. The confidentiality obligation is spelled out in section 31 A, which also provides for criminal sanctions in case of breach of confidentiality.

*Training of FIU staff (c.30.3)*

231. IMPA has given high priority for training and lectures to its employees as well as to other institutions that are in contact with, both in public and in the private sector. The list of trainings, (which is set out in an annex to the report) and which was presented to the evaluators, is a clear indication to this.

**Recommendation 32 (FIU)**

232. The following statistical figures were supplied by IMPA:

**Table 15: Statistics on UARs received by IMPA from reporting institutions.**

No. of transactions reported as UAR to IMPA						
	2008	2009	2010	2011	2012*	Total
<b>Banking corporations</b>	19,442	25,475	27,343	31,146	36,363	152,419
<b>Insurance</b>	1,095	1,481	1,884	2,195	2,155	9,584
<b>MSPs</b>	19	49	76	58	110	327
<b>Portfolio managers</b>	12	75	171	252	293	813
<b>Postal banks</b>	322	624	961	1,132	1,370	4,726
<b>Provident funds</b>	39	44	54	54	85	282
<b>Stock exchange members</b>	32	284	824	1,076	813	3,051
<b>Trust co.</b>	94	63	76	125	87	521
<b>Credit cards co.</b>	657	489	697	1,287	2,238	5,379
<b>TOTAL</b>	<b>21,712</b>	<b>28,584</b>	<b>32,086</b>	<b>37,325</b>	<b>43,514</b>	<b>177,102</b>

\*Includes both ML and TF UARs (all other years only ML)

**Table 16: Distribution of UAR's by Main Reporting Entities – by Fiscal Years (up to late – December 2012)**

	2008	2009	2010	2011	2012
<b>Banks</b>	89.6%	89.0%	85.2%	83.5%	83.5%
<b>Other entities</b>	10.4%	11.0%	14.8%	16.5%	16.5%

**Table 17: Distribution of UAR's by Secondary Reporting Entities – by Fiscal Years (up to late – December 2012)**

	2008	2009	2010	2011	2012
<b>Pension funds</b>	0.2%	0.2%	0.2%	0.1%	0.2%
<b>MSP</b>	0.1%	0.2%	0.2%	0.2%	0.3%
<b>Trusts</b>	0.4%	0.2%	0.2%	0.3%	0.2%
<b>Portfolio managers</b>	0.1%	0.3%	0.5%	0.7%	0.7%
<b>Stock exchange</b>	0.1%	1.0%	2.6%	2.9%	1.9%

<b>Credit cards</b>	3.0%	1.7%	2.2%	3.4%	5.1%
<b>Postal bank</b>	1.5%	2.2%	3.0%	3.0%	3.1%
<b>Insurance</b>	5.0%	5.2%	5.9%	5.9%	5.0%
<b>Total</b>	<b>10.4%</b>	<b>11.0%</b>	<b>14.8%</b>	<b>16.5%</b>	<b>16.5%</b>

233. A significant increase in the volume of The Unusual Activity Reports is notable from the year 2008 onwards. The Israeli authorities indicated that this rise is attributable to an increased awareness of the reporting duties by the officials of the institutions and their compliance officers and by continuous guidance from IMPAs' employees to the compliance officers. Furthermore, it may also be due to the enforcement actions - criminal investigations and administrative sanctions imposed by the relevant boards and the amendment of the orders and the addition of types of occurrences which may justify its reporting to IMPA.

234. The significant increase in the volume of CTR reports is also due to the amendment of the orders that reduced the threshold for cash withdrawals/deposits from 200,000 NIS (€40,000) to 50,000 NIS (€10,000), and to TF obligations to report of 5,000 NIS (€4,000) threshold. By comparison, in 2006 IMPA only received 562,654 CTRs.

235. Although IMPA now receives a high volume of reports, IMPA has developed a Robust advanced and sophisticated electronic data processing system which stores UAR and CTR records as well as enrichment information resources, gathered from various governments, commercial and public sources. The system is based on two sub-systems:

- Collection and data entry sub-system; and
- a Case Management Tactical and Strategic Analytical sub-system that supports the collection monitoring collation analysis and dissemination of financial intelligence to Law Enforcement agencies and information sharing with FIUs.

236. The data processing system utilises, inter alia, ORACLE – Discoverer based query tools, AML "rule based" application software, which provides alerts to IMPA analysts in cases of independent reports or compilations of reports that have characteristics that meet the terms of the AML "rules" defined in the system. This sub-system includes up to date FATF recommendations, as well as rules based on "Red Flags" designated by IMPA's strategic research and analysis team and additional typology and Modus Operandi based "rules". The data processing system also provides alerts generated from a "Watched Entities" list that is maintained by IMPA. A link analysis visualisation and query tools is also used on cases opened by IMPA. IMPA also uses a statistical analysis of its database which is conducted in three different levels integrated together as part of the routine work conducted:

1. Examination of the quality of existing data, conversion and enrichment of the information in the data base.
2. Analysis of financial information in order to create organisational knowledge and identify new ML/TF financial patterns and models.

237. Creation of alerts based on ML/TF model developed which also serve as a basis to open cases.

**Table 18: No. of Transactions Reported as CTR to IMPA**

	2008	2009	2010	2011	2012*	TOTAL
<b>Banking corporations</b>	994,033	956,693	960,698	968,478	886,269	4,766,171
<b>Insurance</b>	3,307	4,863	7,729	7,528	7,402	30,829
<b>MSPs</b>	139,662	162,847	163,986	176,738	158,441	801,674
<b>Portfolio managers</b>	41,326	42,943	53,905	49,149	369	187,692
<b>Postal banks</b>	3,480	4,237	4,396	10,096	16,371	38,580
<b>Provident funds</b>	1,049	781	1,252	1,414	1,168	5,664
<b>Stock exchange members</b>	2,907	2,509	4,425	9,938	11,671	31,450
<b>Trust co.</b>	416	319	639	418	297	2,089

<b>Credit cards co.</b>	0	0	20	1,879	1,842	3,741
<b>TOTAL</b>	<b>1,186,180</b>	<b>1,175,192</b>	<b>1,197,050</b>	<b>1,225,638</b>	<b>1,083,830</b>	<b>5,897,890</b>

\* The No. of CTRs may be higher since there might have been reports for 2012 that arrived to IMPA at the beginning of January 2013.

**Table 19: Distribution of CTR's by Main Reporting Entities and Fiscal Years (up late December 2012)**

	2008	2009	2010	2011	2012
<b>Banks</b>	83.8%	81.5%	80.6%	79.5%	81.8%
<b>MSP</b>	11.7%	13.8%	13.4%	13.9%	14.6%
<b>Others</b>	4.4%	4.7%	6.1%	6.6%	3.6%

238. International wire transfers are not defined as a unique type of report by the Reporting Institutions. However, International wire transfers are being reported to IMPA by the financial institutions as an integral part of their CTR reporting obligations, according to the threshold of one million NIS (c. €200,000) or above.

**Table 20: Number of international reported transactions**

	2008	2009	2010	2011	2012 (*)
Total number of incoming transactions	32,121	62,819	77,924	76,661	72,309
Total number of outgoing transactions	19,537	38,972	46,023	53,091	56,297

**Table 21: Aggregate value of international reported transactions**

	2008	2009	2010	2011	2012 (*)
Total incoming amount (in NIS)	150,407,324,336	238,247,126,016	326,005,233,276	293,632,625,579	307,140,386,036
Total outgoing amount (in NIS)	113,002,600,919	178,627,407,149	228,520,744,558	298,785,892,761	299,046,282,450

239. Aggregated reports disseminated by IMPA to the competent authorities between 2008 and 2012 are set out beneath. The number of disseminated UAR's comparing to the 3<sup>rd</sup> round evaluation report has been increasing.

**Table 22: Disseminations of UARs and CTRs to the Israeli Police**

	2008	2009	2010	2011	2012
<b>UAR</b>	1,144	1,215	1,132	1,336	1,745
<b>CTR</b>	25,846	22,829	27,485	19,430	26,845

**Table 23: Disseminations UARs and CTRs to the Security Agency**

	2008	2009	2010	2011	2012
<b>UAR</b>	73	109	88	103	154
<b>CTR</b>	778	3,481	284	2,554	5,572

**Table 24: Israeli Police requests for information from IMPA and No. of paraphrases<sup>24</sup> from IMPA to IP**

	No. of IP requests from IMPA	No. of IMPA's paraphrases to IP	Initiated paraphrases	Replies to requests
<b>2008</b>	95	373	259	224
<b>2009</b>	183	394	239	155
<b>2010</b>	176	431	222	209
<b>2011</b>	220	468	271	197
<b>2012</b>	211 (5 were denied)	436	199	237

<sup>24</sup> "Paraphrases" are information reports disseminated to the Police/Security Agency.

**Table 25: Israel Security Agency requests for information from IMPA and No. of paraphrases from IMPA to the Israel Security Agency**

Year	No. of ISA requests from IMPA	No. of IMPA's paraphrases to ISA	Initiated paraphrases	Replies to requests
2008	15	104	36	68
2009	22	70	50	20
2010	28	75	55	20
2011	27 (1 was denied)	67	36	31
2012	29	68	35	33

**Table 26: International cooperation: Assistance made or received with counterparts FIU's**

	2008	2009	2010	2011	2012
Israeli Police forces	95	183	176	220	211
Israeli Security Agency	15	22	28	27	29
FIU's	186	156	165	121	125
<b>Total</b>	<b>296</b>	<b>361</b>	<b>369</b>	<b>368</b>	<b>365</b>

**Table 27: International cooperation: Incoming requests for assistance**

	2008	2009	2010	2011	2012
Israeli Police Forces	373	393	435	468	432
ISA	104	70	75	67	68
FIU's	26	37	95	109	125

**Table 28: International cooperation: Number of reports**

	2008	2009	2010	2011	2012
Requests received	186	156	165	121	125
Refusals	0	0	0	0	0
From No. of Countries	49	45	37	49	40
Replies from IMPA (Not including additional replies)	106	223	126	105	118
Requests made (Spontaneous referrals)	46	118	123	63	74
To No. of Countries	20	39	36	27	32

**Table 29: No. of Spontaneous Referrals to foreign FIU's**

Year	Spontaneous Referrals	No. of FIU's referred to
2008	46	20
2009	118	39
2010	123	36
2011	63	27
2012*	67	31

\* To 18 October 2012

240. The situation with regard to the statistics remains largely unchanged since the 3<sup>rd</sup> round mutual evaluation report. It was stated by the authorities that IMPA's information intelligence paraphrase is edited as an integral work and includes various information details, evaluation and summary. Therefore, IMPA still has certain difficulties in providing statistics showing the contribution of specific UAR's to the Law Enforcement Authority's investigations, integration of indictments or verdicts. Nevertheless, some statistics with regard to the contribution of IMPA's reports to prosecutions and convictions was provided to the evaluators. IMPA stated that it is aware of the importance of receiving feedback regarding the information disseminated to the Law Enforcement Agencies and its contribution to combating organised crime, Money Laundering and Terror Financing. Therefore, IMPA receives, from time to time, written feedback from the Israeli Police that includes statistics regarding IMPA's paraphrases from different aspects:

paraphrases forwarded to an investigating field unit or other authority recommending a review of the content information and even initiation of an investigation, integration of the paraphrase in an existing investigation, integration with material that was forwarded to the prosecution, or archives and follow-up. Therefore, IMPA's representative is contacted and a meeting is arranged with the ML officer of the relevant unit and its investigators, regarding specific paraphrases – their potential contribution to an investigated case as well as for clarification and increases emphasis.

### ***Effectiveness and efficiency***

241. IMPA plays an important role in the Israeli AML/CFT system. The powers allocated to IMPA are fully within the accepted standards and typical to the administrative type FIU. Firstly, it acts as a database supporting the LEAs with the information at their request (art. 30 (b) and (c) PMLL and secondly, as an analytical unit processing the disclosures with a view to their possible dissemination to the “competent authorities”.
242. IMPA is adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully perform its functions. All staff of IMPA interviewed during the on-site displayed a high degree of professionalism.
243. The evaluators were pleased to note, that since the last evaluation IMPA has taken several measures (trainings, feedback seminars, etc.) in order to further improve the level of reporting. The increased number, and arguably increased quality, of the UARs is a clear indication to the continuous efforts in this regard.
244. IMPA appears to have good cooperation with the law enforcement agencies, regulators and supervisors and contributes in a significant way to money laundering investigations through participation in the work of Task Forces and the Fusion Centre. In the meeting with the Israeli Police during the on-site visit the Israeli Police emphasise that the IMPA product is valued and that, in their view, IMPA now had a much more surgical approach and produced a more refined product which pinpoints the felony; in their view 90% of the information from IMPA was of use and they received information back on most enquiries. The Israeli Police went on to highlight that some cases on internet gambling had been initiated by IMPA and that IMPA frequently helped to identify assets abroad.
245. In the 3<sup>rd</sup> round report one issue negatively affecting the rating was related to timeliness issues relating to reports. Not all reports were said to come in on time to be immediately exploitable which as a result (together with the limited access to the law enforcement and other information) would negatively affect the speed of analysis and consequently dissemination. The evaluators were informed that since the 3<sup>rd</sup> round report IMPA has taken several measures in order to deal with those issues. In order to improve the level of reporting, the quality of UARs, and the effectiveness in relation to the timeliness of the reporting system and awareness-raising IMPA has organised several training events and feedback meetings for the reporting institutions, also it has sent feedback letters and automatic quality reports to the reporting institutions. However, during the on-site visit, some reporting entities indicated, that they would expect more feedback from the FIU.
246. The evaluators were informed that IMPA has implemented an electronic reporting system from May 2013, which enables IMPA to receive UARs and CTRs from financial institutions electronically. There is now the possibility for the reporting entity to mark the report as “urgent” which enables the FIU to pay prompt attention to such reports and disseminate them immediately to the investigative authorities for further actions. To demonstrate this, IMPA has also provided the evaluators with the numbers illustrating such disseminations (2010:142, 2011:160, and 2012:106)<sup>25</sup>.

<sup>25</sup> It also includes the reports related to the already on-going investigations of the police (where the police had previously sent the names to IMPA)

247. The Israeli Police confirmed to the evaluators that the described improvements have led to the increased quality and much faster dissemination of information by IMPA, which consequently has positively affected the reactive capabilities of the police and as a result enabled them to immobilise the suspected assets in a more effective way.
248. Another issue in the 3<sup>rd</sup> round report negatively affecting R.26 was related to IMPA's incomplete access to law enforcement, the security service and administrative information from social security as this would negatively affect its efficiency. The evaluators were glad to note that IMPA now has access to several new databases such as the Criminal Registry, Information Request Database, Customs Report Database and databases related to court verdicts. IMPA now also has access to a database containing information regarding on-going investigations (where indictment is being applied). The evaluators were also informed that as of 8 May 2013, an in-house designated Police working station was established at IMPA, as an extension of the Financial Enforcement Unit of the Israeli Police. The Police working station consists of a computer with direct access to all relevant Police databases and is staffed with a designated Police officer. It is expected that this working station will significantly improve the effectiveness of IMPA, as it ensures timely access to all relevant law enforcement information. Although this working station has not been in place for a period long enough for the evaluators to assess its full effect, it is a significant step forward in order to improve both the timeliness and the quality of analytical capabilities and proactive dissemination of information by IMPA.<sup>26</sup>
249. With regard to IMPA's powers to request additional information, the situation remains largely unchanged since the 3<sup>rd</sup> round report. Namely, in the 3<sup>rd</sup> round report some doubts were raised by the evaluators whether the formulation of Article 31 (c) PMLL could be extended to all entities subjected to the PMLL, whether they have reported or not. At the time of 3<sup>rd</sup> round evaluation the Israeli authorities were planning to amend the wording of mentioned Article 31 (c). However, the evaluation team, at that time, had some concerns regarding the new proposed wording of Article 31 (c) as according to their view the new wording would narrow IMPA's ability to receive additional information. However, after the 3<sup>rd</sup> round evaluation report the plan to amend this Article was dropped and the wording remained unchanged. The Israeli authorities have stated that this provision should be understood as covering all reporting entities, whether they have reported or not, and that querying such information was a matter of regular practice. This being said, the evaluators acknowledge the significant progress made by IMPA. The deficiencies regarding the timeliness with the reporting seem to have been eliminated now and the access to police information has further positive impact to the analytical capacity of IMPA. Taking into account the very good cooperation with all the relevant AML/CFT institutions and combining it with the qualified staff and improved analytical capacity, IMPA certainly plays the central role in the in Israeli AML/CFT system.

---

<sup>26</sup> The Israeli authorities have subsequently confirmed that the in-house designated Police working station which is now staffed by a designated police officer has direct access to all on-going investigations. They report that this working station has significantly improved the effectiveness of IMPA, as it assists IMPA in performing its on-going duties and assists in prioritising its efforts while addressing Police requests, preparing more detailed and tailored intelligence reports that answers to the Police's needs and assists the task forces.



**Table 30: Statistics on UARs received, cases opened, protected disseminations and judicial proceedings**

	Receipt of UARs			Cases opened by FIU			Cases notified to law enforcement/prosecutors			Judicial proceedings			
							ML		FT	Indictments		Convictions	
	ML	TF	Total	ML	TF	total	LEA	Prosecutors		ML	TF	ML	TF
2008	21,712	42	21,754	369	112	381	152	-	38	4	1	5	1
2009	28,584	30	28,614	509	32	541	263	-	28	10	1	4	1
2010	32,086	47	32,133	606	40	646	203	-	16	14	2	5	1
2011	37,325	184	37,509	507	67	574	215	-	12	13	0	8	0
2012	43,050	464	43,696	562	65	627	208	-	27	17	1	9	1

250. The Israeli authorities explained that Cases opened by the FIU not only includes cases related to UARs but also cases opened at the request of the law enforcement agencies and relating to horizontal reviews.

251. Based on the statistics provided by the Israeli authorities, in 2008 IMPA has opened a case in 1.7% of the total number of ML UARs received. In the same year, the number of notifications to LEA represents 0.7% of the total number of ML UARs received by IMPA. Only 4 indictments were issued. 34% of opened TF cases by IMPA were sent to LEAs (i.e. 38 notifications) from which only 1 indictment was issued. The number of ML indictments issued in 2008 represented 2.6% of the notifications sent by IMPA to LEA.

252. In 2012 the number of opened ML cases (i.e. 562 cases) represents 1.3 % of the total number of ML UARs received by IMPA (i.e. 43,050 UARs). For the same year the number of notifications (related to ML) to LEA (i.e. 208 notifications) represents 0.4% of the total number of ML UARs received by IMPA. The number of indictments issued for ML (i.e. 17 indictments) represents 8% of the notifications sent by IMPA to LEA. 41 % of the TF opened cases (i.e. 65) by IMPA were sent to LEA out of which only 1 indictment was issued. At the time of the on-site visit there were 20 open cases, among those 15 cases are on-going police requests and 5 are on-going cases investigated by IMPA.

#### 2.5.2 Recommendations and comments

##### ***Recommendation 26***

253. IMPA is an effective FIU compliant with the international standards. During the on-site visit the evaluators received feedback from LEAs and particularly the Israeli Police that IMPA was now operating much more effectively and was producing information and reports that were valued. However, it should give a consideration to give more specific (case by case) feedback to the reporting entities which would further improve the quality of the reports.

##### ***Recommendation 30***

254. IMPA is adequately structured and funded (partially by the asset confiscation fund), staffed, and provided with sufficient technical and other resources to fully perform its authorised functions.

##### ***Recommendation 32***

255. As for statistical part the situation remains largely similar as it was at the time of 3<sup>rd</sup> round evaluation. IMPA does collect the necessary figures to enable an insight into the performance of the FIU interventions. However, IMPA still has certain difficulties managing statistics regarding

the contribution of specific UAR's to the Law Enforcement Authority's investigations, integration of indictments or verdicts. It is, therefore, essential for IMPA and the Israeli Police to find a way to have a more adequate feedback regarding disseminated reports, in order to be able to evaluate the effectiveness of IMPA's analysis capacity and of the AML/CFT system as a whole.

2.5.3 Compliance with Recommendation 26

	Rating	Summary of factors underlying rating
<b>R.26</b>	<b>C</b>	

### **3 PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS**

#### **Legal framework and developments since the third round**

256. Since the adoption of the third round mutual evaluation report in July 2008, Israel has taken several legislative and regulatory measures in order to address the deficiencies identified in the 3<sup>rd</sup> round report. In particular, the Israeli authorities have amended the legal provisions for Stock Exchange Members, Portfolio managers and the Postal Bank. These developments are set out in detail under the description of each of the relevant recommendations.

257. At the time of the on-site visit the amendments to the Banking Order<sup>27</sup>, Insurance Order, MSP's Order as well as Provident Funds Order were still awaiting for the approval of the Knesset's Constitution, Law and Justice Committee.

#### **Law, regulations and other enforceable means**

258. Israel has a broadly sound legal structure for the preventive standards. The relevant texts are the PMLL, the Banking Order, the Stock Exchange Order, the Portfolio Managers Order, the Insurers and the Insurance agents Order, the Provident Funds Order, the Money Service Providers Order and the Postal Bank Order. In addition Directive 411 sets out detailed requirements for banking corporations. All of these laws and Orders including Directive 411 are adopted by the Knesset and carry appropriate sanctions and can thus be regarded as law or other enforceable means.

259. Seven Orders were issued for each financial institution that require customer identification, record keeping, and submission of UARs and CTRs. All relevant institutions have specified supervisory authorities: the Bank of Israel (BOI) which supervises banks; the Israel Securities Authority (ISA) which supervises Stock Exchange members and portfolio managers; the Ministry of Communication (MOC) which supervises the Postal Bank; and the Ministry of Finance (MOF) which supervises the insurance and provident funds sectors as well as the currency service providers.

#### **Scope**

260. The Israeli AML/CFT legislation applies to banking corporations, members of the Stock Exchange, portfolio managers, insurers and insurance agents, provident funds and companies managing provident funds, the Postal Bank and Money Service Providers. However, non-bank lending is not fully covered; although the discounting of cheques is carried out by MSPs, a small amount of other non-bank lending does fall outside the scope of the AML/CFT regime.

261. The PMLL applies to all activities and operations defined in the Glossary to the FATF Methodology in relation to financial institutions.

#### **Customer Due Diligence and Record Keeping**

##### **3.1 Risk of money laundering / financing of terrorism**

262. Israel has not conducted an overall AML/CFT risk assessment for the country. Interviews on-site with supervisors and the private sector have indicated that money service providers (MSPs) might be one of the main channels utilised to transfer money for money laundering and terrorist financing purposes. Moreover cheque discounting appears to present a high risk related to money laundering.

263. Additionally, as to the general perception of risk it should be noted that interviews with financial market participants revealed a good overall knowledge of possible higher risk situations, although there were some concerns about the application of effective enhanced CDD in practice. With regards to politically exposed persons (PEPs) almost all financial institutions were aware of the

---

<sup>27</sup> Amendments to the Banking Order have been adopted by the Knesset in October 2013; however these amendments do not fall within the two months period of time after the on-site, which was held in March 2013.

concept and were able to identify a PEP at the inception of business relationship. However, some of the institutions interviewed indicated that they would experience difficulties in finding out if a customer had become a PEP in the course of a business relationship.

264. Financial institutions appear to pay special attention to clients from high risk countries or jurisdictions. Customers from jurisdictions not sufficiently applying FATF standard are considered high risk customers and in practice enhanced CDD obligations are applied. Nevertheless, the evaluators encourage the competent authorities to provide more guidance to the financial institutions in this regard.

265. In accordance with the information provided by the Israeli authorities, the percentage of foreign customers in the financial institutions remains around 30% of the customer base. At the time of the on-site visit, the Authorities could not provide exact numbers and countries represented.

### **3.2 Customer due diligence, including enhanced or reduced measures (R.5, R.6)**

#### **3.2.1 Description and analysis**

#### ***Recommendation 5 (rated PC in the 3<sup>rd</sup> round report)***

#### ***Summary of 2008 factors underlying the rating***

266. The 3<sup>rd</sup> round evaluation report identified several deficiencies including occasional transactions, activities of Insurers and Insurance agents as well as CDD measures for occasional wire transfers. It was noted that investment linked insurance activities were not covered by any regulation. Verification of beneficial owners or holders of controlling interests was also not an obligation in law or regulation.

267. Among other deficiencies mentioned in the 3<sup>rd</sup> round evaluation report was the absence of a requirement for on-going due diligence as well as requirements for enhanced due diligence (apart from banking corporations). It was noted that there were no requirements anywhere in law or regulation to apply enhanced due diligence when there were doubts about the veracity or adequacy of previously obtained customer identification data, except for Banking corporations and portfolio managers.

268. It was mentioned by the evaluators that there was no explicit obligation for financial institutions to obtain information on the purpose and intended nature of the business relationship. The evaluators raised concerns about the separate concepts of identification and verification in higher risk situations that are not fully reflected in practice.

269. It was also recommended in the 3<sup>rd</sup> round evaluation report that Israeli authorities should bring the applicable thresholds in the relevant Orders into compliance with the FATF standards.

#### ***Anonymous accounts and accounts in fictitious names (c.5.1)***

270. Section 7 (a)(1) of the PMLL and relevant provisions of the various Orders require that financial institutions not to open an account or enter into a contract without fulfilling identification obligations.

#### ***Banking corporations***

271. Pursuant to Section 2(a) of the Banking Order banking corporations are not allowed to open an account without CDD measures. This approach could be understood as an indirect prohibition to open and maintain anonymous accounts. However, the Banking Order does not explicitly prohibit opening and maintaining accounts in fictitious names.

#### ***Stock Exchange members***

272. Section 2(a) of the Stock Exchange Members Order prohibits a Stock Exchange Member to open an account without identifying the person who wishes to be the account owner and without conducting a process of recognition of the account holder. This requirement is an indirect

prohibition to open and maintain anonymous accounts. However, the Stock Exchange Members Order does not explicitly prohibit opening and maintaining accounts in fictitious names.

Insurers and insurance agents

273. According to Section 2(a) of the Insurers and Insurance Agents Order an insurer is obliged not to enter into a life insurance contract without performing CDD measures. However, the Order does not explicitly prohibit opening and maintaining accounts in fictitious names.

Portfolio managers

274. Pursuant to Section 2(a) of the Portfolio Managers Order a portfolio manager are not allowed to commence business relationship to manage an account without identifying the person who wishes to be a client and without a procedure of recognition of a the client. This could be understood as an indirect prohibition to open and maintain anonymous accounts. However, the Portfolio Managers Order does not explicitly prohibit opening and maintaining accounts in fictitious names.

Provident funds

275. The Provident Funds Order (Section 2(a)) obliges a fund not to open or perform any transaction without CDD measures. However, the Order does not explicitly prohibit opening and maintaining accounts in fictitious names.

Money service providers

276. A provider of money services according to Section 2(a) of the Money Service Provider Order shall not provide money services without CDD measures. The money service providers do not keep any accounts, but provide occasional money services.

Postal Bank

277. According to Section 2(a) of the Postal Bank Order, the Postal Bank shall not be allowed to open an account without identifying the person who requests to be the account owner and without conducting a process of recognition of the account holder. However, the Postal Bank Order does not explicitly prohibit opening and maintaining accounts in fictitious names.

278. It can be concluded that there is no explicit prohibition for maintaining accounts in fictitious names anywhere in the legislation.

279. However, in the view of the Israeli authorities Section 3(b) of the PMLL prohibits the use of fictitious names both when opening an account and while maintaining accounts, whereas this section prohibits giving of false information, with the intent of causing false reporting to the FIU ("intent" also include knowing in high probability of the outcomes of the behaviour), both upon the opening of an account and whenever refraining of updating changes that have been made in the details of the account which should be reported, such as changing name, ID number, address, gender, etc. Though this requirement applies to providing false information in general, it still does not necessarily exclude the possibility to keep accounts in fictitious names. The Israeli authorities informed the evaluation team that the real name of the customer will always be in the database and at least two persons from the branch will have that information. At the same time it should be noted that this prohibition and duty cannot be relinquished by the bank, and in fact in Israeli jurisprudence both clients and bankers have been indicted and convicted in cases where false or fictitious information was given both when opening and/or while maintaining an account.

280. An illustration of this was given by the Israeli authorities is the case State of Israel v Martziano and others 040156/07 (district court Tel Aviv) regarding defendant No. 1 who was a client who opened and maintained fictitious accounts with false information and defendant No. 2 who was the banker in charge of compliance in the bank branch of that case, who assisted and encouraged him. In its decision the Court made it clear that section 3(b) includes a prohibition regarding

maintaining a fictitious account and not updating the true account owner and beneficiary, and the responsibilities of bankers in this context.

#### *Numbered accounts*

281. At the time of the 3<sup>rd</sup> Round Evaluation Report, the evaluation team had been informed that there were 5,300 numbered accounts (out of about 4,000,000 accounts in banking system) and it was advised that numbered accounts in Israel undergo full CDD measures according to the Banking Order.

282. Numbered accounts are defined in the Banking Directive 411 as accounts in which the name of the beneficial owner is known to the banking corporation but is substituted by an account number or code name in some documentation. Such accounts are subject to the customer due diligence procedures that apply to all accounts, including identification procedures and ongoing monitoring. It is stated in the Directive that names of such account holders are disclosed to competent authorities.

283. At the time of on-site visit in 2013 the evaluators were informed that numbered accounts still exist in four banks in Israel and did not exceed 0.05% of total number of accounts in a single bank and at the same time not exceeding 0.5% of deposit base in a single bank. The identity of such account owners is usually known to bank officials and a legal duty to apply CDD measures is in place for this type of account.

**Table 31: Ratio of deposits in numbered accounts**

<b>Bank (on group basis)</b>	<b>Ratio of deposits in numbered accounts to total deposits</b>	<b>Amounts of funds (€bn)</b>
Hapoalim	0.2%	0.1
Leumi	0.4%	0.24
Discount	0.5%	0.26
Mizrahi	0	0
FIBI	0.2%	0.03

#### *Customer due diligence*

##### *When CDD is required (c.5.2\*)*

284. In general, the legal requirements remain the same as at the time of the 3<sup>rd</sup> round evaluation report (see paragraphs 341-344, 356-357, 364-377, 385-386 and 388).

285. It was noted in the 3<sup>rd</sup> round evaluation report that investment-related insurance activities were not covered anywhere in the regulation. The Israeli authorities explained that according to specific internal legislation such type of insurance does not exist as it cannot be provided due to the fact that insurance businesses are subject to a license from the Commissioner of Insurance and the Capital Market. This licence specifies the insurance instruments that are permissible to engage with, and investment related insurance is not included in this licence list.

286. Banking corporations, the Postal Bank and the provident funds are not permitted to open an account without prior identification of the customer by obtaining the necessary information and documents verifying the identity while there are no obligations as to other CDD measures at the inception of business relationship. Even though the reference is made to “account” rather than “business relationship” the definition provided by the Banking Order and the Postal Bank Order clearly covers all bank services which require the application of CDD to the customer.

287. Similarly, the customer identification requirement in the Order for Insurers and Insurance Agents refer to “contract” rather than “business relationships”. Given that the CDD requirements within

the context of insurance business arise when an insurance contract is established, the evaluators consider the reference to “contract” to be in line with the standards.

288. All the other Orders (related to Stock Exchange members, money service providers, portfolio managers) refer to establishing business relationships.
289. With respect to occasional transactions for banking corporations it is set forth in the Banking Order that *“a banking corporation shall not carry out a transaction ... without identifying the party performing the transaction and recording the name and the identity number in accordance with the identification certificate as provided in section 3, or a certificate issued by the State of Israel bearing the party’s name, identity number, date of birth and photograph; in this subsection, “transaction” means a transaction in cash involving NIS 10,000 or more, or another transaction involving NIS 50,000 or more”*.
290. As regards Stock Exchange members they *“shall not carry out a transaction which does not require a report pursuant to section 12 without identifying the party carrying out the transaction and recording his name and identification number in accordance with the identification document”*. “Transaction” means a transaction in cash involving NIS 10,000 (€2,000) or more, or another transaction involving NIS 50,000 (€10,000) or more. Similar wording is set out in the Postal Bank Order (in which the thresholds are NIS 10,000 (€2,000) and NIS 75,000 (€15,000)).
291. The threshold for occasional transactions with respect to the Postal Bank is the same as in other Orders.
292. Portfolio Managers do not have occasional customers (since they receive authorisation from the client to manage their securities or financial assets account), nor do they carry out wire transfers.
293. In relation to wire transfers, a Stock Exchange member *“shall not perform an electronic wire transfer for an amount greater than 5,000 NIS (€1,000) without recording, in each of the transfer documents, the details of the recipient of the service initiating the transfer, and also the details of the transferee”*. The same wording is in place in the Postal Bank Order.
294. There is no requirement for financial institutions to apply CDD measures when there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds.
295. Criterion 5.2(e) requires that CDD measures are also applied when the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. This requirement is included in the Orders for Portfolio Managers, Stock Exchange Members and the Postal Bank, where it is required to repeat identification procedures for such client if there are doubts regarding the identity of the client. The mentioned Orders require relevant entities to “repeat the procedure of recognising the client”. However, the provident funds, insurance companies and MSPs are not required to apply CDD measures when there are doubts about the veracity or adequacy of previously obtained customer identification data.

*Identification measures and verification sources (c.5.3\*)*

296. The duty to identify prospective customers for financial institutions is explicitly provided in all AML/CFT Orders which were already in force at the time of the 3<sup>rd</sup> round evaluation. For further details reference may be made to the 3<sup>rd</sup> round evaluation report (see paragraphs 394-397 for banking corporations, Postal Bank, Stock Exchange Members, Portfolio Members and Money Service Providers).
297. It was noted in the 3<sup>rd</sup> round evaluation report that for insurers and insurance agents, as well as provident funds, the identification requirement contained a threshold for verification and for identification which was not in line with the FATF Methodology requirements.
298. In the 3<sup>rd</sup> round MER it was also mentioned that since the activities of Insurers and Insurance Agents seem not to be occasional, there should not be a threshold for CDD. With respect to the general identification obligation, one threshold existed in the sense that the identification

obligations at the time of the deposit applied only to policies in which the annual deposit amounted to NIS 20,000 (€4,000) or more.

299. These deficiencies identified in the 3<sup>rd</sup> round are still relevant since they still have not been addressed by the Israeli authorities.
300. It should be noted that requirements for identification and verification regarding insurers and insurance agents as well as provident funds are the same as at the time of 3<sup>rd</sup> round evaluation. The identification obligations at the time of deposit apply only to accounts and policies in which the annual deposit amounts in one of the years in which the policy/ the account were in effect are in excess of NIS 20,000 (€4,000). In any instance of withdrawal, including in case of the demise of the insured, a record must be made of the identifying particulars of the withdrawing beneficiary, and if the amount of savings in the account or the policy is greater than NIS 200,000 (€40,000) then the identifying particulars too must be verified. In case of the withdrawal of moneys by a corporation, a record must be made of the identifying particulars of the controlling shareholders, in accordance with an affidavit under hand of the signing officers. See also paragraphs 399-400 of the 3<sup>rd</sup> round evaluation report.

*Identification of legal persons or other arrangements (c.5.4)*

301. The requirement to verify that any person purporting to act on behalf of the customer is so authorised is set forth in the Banking Order as a duty to record identifying particulars in respect of all account holders and authorised signatories. It must be done by requiring to present document containing confirmation that the person who wants to open an account is competent to act on behalf of the customer.
302. As regards Portfolio managers and Stock Exchange members, insurers and insurance agents and Provident funds this duty is similarly expressed. All these obligors are required to obtain documents certifying authorised signatories of a legal entity confirmed by a lawyer.
303. For Portfolio managers it is required that among other documents needed for identification of a legal entity there should also be:

*a confirmed copy of **a decision by a competent organ of the corporation regarding the authorised signatories in the account, or confirmation from an attorney of the authorised signatories in the account.***

*As a condition of payment of the insurance benefits under a life insurance contract, the insurer shall demand from a beneficiary that is a corporation, a **declaration of the authorised signatories on the identifying particulars**, as stated in section 2(f), in respect of a controlling person of the corporation.*

*As a condition for the performance of a transaction in an account after the death of the member, under an instruction given by a beneficiary who is a corporation, **the fund shall demand from the beneficiary a declaration of the authorised signatories on the identifying particulars**, as stated in section 2(e), in respect of a controlling person of the corporation.*

304. Similar requirements apply also to MSPs.
305. Thus it can be concluded that the requirement to identify the person acting on behalf of the customer is present in the primary and secondary legislation of Israel. The requirement to verify that any person purporting to act on behalf of the customer is so authorised can be found in the various Orders, notably in Section 2 of the Banking Order which requires the bank to obtain “*a certified copy of a resolution of the competent organ of the corporation concerning the authorised signatories for the account, or a confirmation of a lawyer concerning the authorised signatories for the account.*” Similar requirements are in place for the ISA (Section 3), Postal Bank (Section 3), MSPs (Section 3 (3)), etc..
306. The verification procedures of a body corporate, body of persons, or any other form of legal entity or arrangement are set out in the Banking Order as a duty to record identification



particulars of the customers by means of obtaining identity documents as set out in the Section 3 of the Order.

*For a corporation registered in Israel, in the matter of recording of the identification particulars of the corporation as per sections 2(a)(1) to 2(a)(3)—the registration certificate or a certified copy of it; if one of the said particulars does not appear in the certificate, the recording of the particulars shall be effected in accordance with an attorney's certification.*

*For a corporation that is not registered in Israel, in the matter of recording of the identification particulars of the corporation as provided in sections 2(a)(1) to 2(a)(4)— a document attesting to its registration or a certified copy of the said document insofar as such particulars appear in the document; if one of the said particulars does not appear in the document, the recording of the particulars shall be effected in accordance with an attorney's certificate; the banking corporation shall obtain a document attesting to the corporation's registration and documents as set forth in subsections (3)(b) to (3)(e); for a corporation incorporated in a country in which there is no registration in respect of corporations of its type—the banking corporation shall obtain a certificate from an attorney that there is no registration in the country of incorporation; the banking corporation shall retain these documents or photocopies of them.*

307. The Postal Bank Order, the Stock Exchange Members Order, the Portfolio Managers Order and the Money Changers Order have similar sections.
308. The Insurer and Insurance Agent Order and the Provident Funds Order also have similar sections, but contain a threshold for verification and identification (see above paragraphs).
309. However this is not fully in line with criterion 5.4(b), as there is no requirement to verify the legal status of the legal person or legal arrangement by obtaining information concerning the directors.

*Requirement to identify beneficial owners (c.5.5)*

310. A beneficial owner is defined in the AML/CFT Law (PMLL) as *a person for whom or for whose benefit the property is being held, the transaction is being undertaken, or who has the ability to direct the disposition, and all whether directly or indirectly*. This definition is cross-referenced in all the AML/CFT Orders.
311. It should be noted that the Banking Order, the Stock Exchange Order, the Portfolio Managers Order and the Postal Bank Order extend slightly the definition of beneficial owner in the PMLL. In particular, if a beneficiary is a corporation the corporation and the holders of the controlling interest in it shall be considered beneficiaries.
312. Under section 4 of the Banking Order, banking corporations have the duty, before opening an account, to obtain a declaration from the customer as to the beneficiaries of the account; such declaration should be in the form appearing in the first schedule to the Order (*Form of Declaration regarding Beneficiaries and Holders of Controlling Interests*). Under section 2 of the Order, banking corporations should record the name and identity number of the beneficiary of the account in accordance with the customer's declaration.
313. Under section 5 of the Stock Exchange Members Order and of the Portfolio Managers Order, a portfolio manager and a Stock Exchange member have the duty, before entering into an agreement with the customer, to receive from him a declaration concerning the beneficiaries of the account, in the form appearing in the second schedule to the Orders (*Declaration of beneficiaries and controlling shareholders*). Under section 3 of the Orders, a portfolio manager and a Stock Exchange member should record the name and identity number of the beneficiary of the account in accordance with his declaration.
314. Pursuant to Section 2(a) of the Insurance Order and Section 2 of the Provident Funds Order, an insurance company and a company managing a provident fund have a duty to record and verify

- the identifying particulars of all the recipients of the service in the account or the policy, including a beneficiary entitled to the money saved during the insured's lifetime. This duty is in place if the amount of the deposit for savings is greater than 20,000 NIS (€4,000).
315. Pursuant to Section 2(d) of the Insurance Order and section 2(c) of the Provident Funds Order, it is prohibited to carry out a transaction in an account or a policy, as mentioned above, under instruction given by the beneficiary, without recording and verifying its particulars.
316. The Postal Bank, Portfolio Managers and Stock Exchange members are required in their respective Orders to take "reasonable measures with respect to the risk of laundering money and financing terrorism to verify the identification details of a beneficiary and controlling shareholder of an account".
317. It was also clarified that Stock Exchange members and portfolio managers must receive a statement up to the ultimate natural person in the chain of controlling shareholders.
318. In addition the Israeli authorities clarified that the definition of "beneficiary" included in section 7(a)(1)(a) of the PMLL uses the Hebrew word "Nehene". In Hebrew the term "Nehene" covers both "beneficial owner" and "beneficiary". Section 7(a)(1)(a) of the PMLL and the definition "Nehene" in the Orders include therefore both the owner of the property, for whose benefit the transaction in the property is being performed ("beneficial owner"), and the person who benefits from the action ("beneficiary").
319. It should be noted that referring to "a person" in the definitions (and not "natural person") is not fully in line with the definition of "beneficial owner" provided by FATF. No Order contains clear reference to natural persons.
320. As regards requirement for financial institutions to determine whether the customer is acting on behalf of another person under section 4 of the Banking Order, banking corporations should obtain a declaration from the customer as to whether he is acting for himself or on behalf of another. The declarations have to be made in the format added to the Order. The declaration should include the name of the beneficiaries, their gender, identification number and date of birth/incorporation.
321. Similar duty applies for other financial institutions and the same wording is included in other AML/CFT Orders. There is no requirement for insurance companies and agents, provident funds and MSPs to take reasonable measures to verify the identity of the beneficial owner of the customer.
322. The Bank of Israel has published guidance which clarifies the existing legislative requirements. This guidance appears as a webpage document "FAQ on implementation of the Prohibition on Money Laundering Order and Proper Conduct of Banking Business Directive 411". This document provides guidance for banking corporations and also includes clarification on the process of determining the holder of a controlling interest when there is a chain of control, thus reflecting the necessity to look for the ultimate natural person in control. The Israeli authorities indicated that they had sanctioned a bank under the Banking Order where the violation covered this point in the FAQ (which is not in itself other enforceable means).
323. However, it is still unclear to what extent other financial institutions are required to understand the control structure of the customer. Banking corporations are required only to identify the holders of the controlling interest in the corporation. Similar requirements are in place for other financial institutions and as such are covering only requirement of criterion 5.5.2. to identify those persons who exercise ultimate effective control over a legal person or arrangement, but do not cover criterion 5.5.1 (to understand the ownership and control structure of the customer).
324. Therefore the obligation to take reasonable measures to understand the ownership and control structure of the customer as well as to determine who are the natural persons that ultimately own or control the customer and those persons who exercise ultimate effective control over a legal person or arrangement seem not to be fully implemented apart from banking corporations.

*Information on purpose and nature of business relationship (c.5.6)*

325. The requirement to obtain information on the purpose and intended nature of the business relationship is provided by the BoI Directive 411 and includes a duty to obtain information on the purpose for opening the account and the activity intended to take place which is requested as part of a CDD policy.
326. In the Orders for Portfolio Managers, the Postal Bank and Stock Exchange Members, there is an obligation to carry out a CDD procedure which also includes the duty to obtain the necessary information for the purpose of criterion 5.6 of the Methodology.

*On-going due diligence on business relationship (c.5.7\*, 5.7.1 & 5.7.2)*

327. At the time of the 3<sup>rd</sup> round evaluation requirements for on-going due diligence were not in place for financial institutions other than banks, for which they were as “other enforceable means” but not in “law or regulation”. Following the 3<sup>rd</sup> evaluation round the Israeli authorities have included in the Orders for Stock Exchange Members, Portfolio Managers and for the Postal Bank the obligation to take on-going customer due diligence measures. Taking into consideration that those Orders have been approved by the Knesset Committee, they qualify as “law or regulation”.
328. The on-going due diligence obligation for banking corporations is currently provided by Directive 411 (other enforceable means). So it appears that the recommendation noted in the 3<sup>rd</sup> round MER has been addressed with regard to some of non-banking financial institutions, but the provisions related to banks are still in Directive 411.
329. The duty to conduct on-going due diligence in Directive 411 also includes the 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.
330. The Orders that were in force at the time of the on-site visit contain the requirement for keeping information and documents up-to-date and thus banking corporations, Stock Exchange members, portfolio managers and the Postal bank are covered while other financial institutions (provident funds, money service providers, insurers and insurance agents) are still not covered.
331. The representatives of the financial institutions showed a broad knowledge of the application in practice of the above provisions.

*Risk – enhanced due diligence for higher risk customers (c.5.8)*

332. Financial institutions should be required to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction.
333. Directive 411 includes requirements for banking corporations to perform enhanced due diligence for various higher risk categories. This document provides also for “*appropriate intensified systems for monitoring these customer’s accounts and shall follow up on high-risk accounts by setting key indicators for such accounts, taking note of the background of the customer, the country of origin of the funds, and the type of transactions involved*”. See also 3<sup>rd</sup> round evaluation report (paragraphs 446-447).
334. The Banking Order provides for a number of specific instances where enhanced due diligence is to be applied which include non-face-to-face customers, PEPs, cross-border correspondent banking relationships and in relation to new and developing technologies or from products or transactions that might favour anonymity.
335. The Orders for the Postal Bank, portfolio managers and for Stock Exchange members include an obligation to take CDD measures in higher AML/CFT risk situations. However high risk situations are characterised only by the country of residence of the customer and/or in the circumstances when a customer is politically exposed person. Application of CDD measures

according to the degree of risk of a customer thus is quite limited in scope and apart from banking corporations is actually not applied.

336. For other financial institutions there are no requirements for enhanced customer due diligence situations.

*Risk – application of simplified/reduced CDD measures when appropriate (c.5.9)*

337. The Banking Order refers to events where the risk may be lower and where financial institutions may apply reduced or simplified measures. Events where there is an exemption from the obligation to make a beneficiary declaration include an account which an attorney, a rabbinical pleader, or an accountant wishes to open for his clients, provided that the balance in the account at the end of every business day shall not exceed NIS 300,000 (€60,000), and no transaction in the account shall exceed NIS 100,000 (€20,000); opening such an account shall be conditional on a declaration by the applicant wishing to open an account, by means of the form in the First Schedule bearing an original signature, that this is his only account of this type.

338. A similar exemption was in place also at the time of the 3<sup>rd</sup> round evaluation (see paragraphs 451-453). The situation has not changed since the last evaluation and the concerns raised by the 3<sup>rd</sup> round evaluation team stay.

339. In addition an exemption from the obligation to declare a controlling shareholder applies also for certain categories of customers when they are registered in a stock exchange in Israel or in a member country of Organisation for Economic Cooperation and Development (OECD).

340. In the view of the evaluators, the FATF Recommendations provide no basis for such an exemption, not even by application of the permitted risk-based approach. Membership of the OECD does not automatically imply that all members have equally low risk or that they have adopted and implemented AML/CFT regimes that comply with the standard – the facts and risks would need to be considered on a country-by-country basis.

341. Section 5(b) of the Banking Order: *Accounts of a banking corporation, an insurer, a provident fund, a managing company on behalf of a provident fund under its management, a company whose shares are traded on a Stock Exchange in Israel or on a Stock Exchange in a member country of the OECD, or to the account of another type of corporation specified by the Supervisor of Banks in a directive; if the Supervisor of Banks so specifies, he shall send a reasoned notification stating so to the Constitution Committee within thirty days.*

342. For other financial institutions there is no such exemption in the current Orders.

*Risk – simplification/ reduction of CDD measures relating to overseas residents (c.5.10)*

343. Partial exemptions are set out in various Orders which equate to simplified CDD. There is no prohibition from applying simplified CDD to customers from countries which are not in compliance with and have not effectively applied FATF standards.

*Risk – simplified/ reduced CDD measures not to apply when suspicions of ML/FT or other risk scenarios exist (c.5.11)*

344. No direct prohibition from applying reduced CDD measures in the circumstances when suspicions of ML/FT or other risk scenarios exist.

*Risk-based application of CDD to be consistent with guidelines (c.5.12)*

345. The requirement of this criterion is that in the situations when a country permits financial institutions to determine the extent of the CDD measures on a risk sensitive basis, this should be consistent with guidelines issued by the competent authorities.

346. In the 3<sup>rd</sup> round evaluation report it was mentioned that such permission would be provided in the future. At that time it was also intended to include a requirement to exercise enhanced customer

due diligence for high risk customers, while on the other hand it will require simple customer due diligence for low-risk customers.

347. On 24 January 2010, the Bank of Israel amended Directive 411 concerning different issues in accordance with the 3<sup>rd</sup> round evaluation report recommendations. In addition, on 12 January 2011, Directive 411 was amended to include an obligation to perform management of risk related to illegal transactions by means of credit cards. For this purpose, “Risk-intensive industries” refers to - gambling, pornography, and the sale of a “curative drug,” “toxin,” “medical toxin,” and “preparation” in the sense of these terms in the Pharmacists Order and any other field that the board of directors defines as risk-intensive.
348. As a result of these amendments, banking corporations are now provided with certain guidance for the application of risk-sensitive due diligence.
349. Directive 411 (section 4(a)) now requires a banking corporation to establish a customer due-diligence policy that includes also *monitoring of account activity and heightened monitoring of high-risk customers*.
350. In addition, section 15 of Directive 411 specifies rules for defining high risk customers and provides list of factors that can be used as a signal for having high risk customers. Section 6(a) of Directive 411 determines that “*the management of a banking corporation shall establish customer due-diligence procedures in accordance with the policy set by the board of directors and with its risk assessment, ensuring ethical and professional standards that will prevent the banking corporation from being exploited, intentionally or unintentionally, by criminal elements*”.
351. Thus there is some guidance for the banking sector for the application of high risk leading to the requirement to apply enhanced due diligence measures. However, no further detailed provisions for this purpose are in place.
352. According to the relevant Orders other financial institutions – portfolio managers, Stock Exchange members, insurance companies, provident funds and MSP's as well as the Postal Bank are required to apply the same level of CDD for all types of customers.
353. Thus there are no further guidance documents for these entities.

*Timing of verification of identity – general rule (c.5.13)*

354. Financial institutions should be required to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers.
355. According to all the AML/CFT Orders that are in force at the time of this evaluation there are explicit requirements for customer identification and verification at the time of opening the account and for occasional customers as well.
356. In addition to the requirements of the Bank Order, Directive 411 provides for additional details for identification and verification for customers not only for the time of opening the accounts but includes also situations for occasional customers where it is required to identify a customer and verify the data obtained in the process of identification.
357. As regards the duty to verify the identity of the beneficial owners, there are no requirements in place for banking corporations, MSPs, insurance companies and provident funds. There is, however, a duty to obtain identity information from the declaration provided at the time of opening the account. If in the course of business relations a bank has doubts about the declared beneficiary, it has a legal duty to report this to IMPA and consider closing the account.
358. Stock Exchange members, portfolio managers and the Postal Bank are required by the relevant Orders to take reasonable measures with respect to the risk of laundering money and financing

terrorism to verify the identification details of a beneficiary and controlling shareholder of an account when opening an account.

*Timing of verification of identity – treatment of exceptional circumstances (c.5.14 & 5.14.1)*

359. Under certain conditions financial institutions may be permitted to complete the verification of the identity of the customer and beneficial owner following the establishment of the business relationship.
360. All of the financial institutions in Israel are required to perform identification and verification of particulars regarding beneficiaries before opening an account. The evaluators were advised that there are no exceptions to this rule for MSP's, portfolio managers and Stock Exchange members.
361. During the interviews it was confirmed by the industry representatives that in practice the verification procedure takes place before starting the business relationship.
362. However the Insurance and Provident Funds Orders provide that the recording and verification of identifying particulars must take place prior to the date of conclusion of a transaction or within 30 days of the making of the contract or the opening of the account, but in any event, prior to the withdrawal of moneys from the account or from the policy.

*Failure to satisfactorily complete CDD before commencing the business relationship (c.5.15) and after commencing the business relationship (c.5.16)*

363. According to relevant provisions of the various Orders financial institutions are not allowed to open an account, commence business relations or perform the transaction without conducting CDD measures. However there is no requirement for MSPs, provident funds and insurance companies and agents to consider making a suspicious transaction report when financial institutions are unable to comply with CDD requirements.
364. For banking corporations Section 24 of Directive 411 sets forth a requirement that where a customer fails to provide *details required to facilitate compliance with the Order, this Directive, and the procedures deriving from it, as well as reasonable cause to assume that a transaction is related to money laundering or financing of terrorism, or implementation of banking corporation policy*. Thus there is a general requirement for both situations (before starting the relationship and during the course of it), where there is no possibility to obtain full information or documents for CDD. However, this requirement appears only to cover identification and to some extent verification processes, but does not cover further CDD measures as provided in the FATF Recommendations. In practice, banks have means of monitoring the adequacy and accuracy of statements as to beneficiaries and owners over the course of an account's existence, particularly for accounts which undergo significant changes in account activity. In cases where the statement is not correct the banking corporation may consider to report it as an unusual transaction. Under the Order (see Second Addendum to the Order, section 3), Banks are also required to report UAR on a transaction that led the bank to close the account for reasons relating to the prohibition on money laundering or financing terrorism
365. There is no such requirement (as in Directive 411) for other financial institutions as according to the relevant Orders, the Postal Bank, a portfolio manager and a Stock Exchange member who are unsuccessful in carrying out the identification and authentication procedure as required by the Orders, may not open an account for the customer. In such a situation, the Postal Bank, the portfolio manager and the Stock Exchange member should file an UAR. Additionally, under their relevant Orders (in the Addendum to the Orders), the Postal Bank, the portfolio manager and the Stock Exchange member should file an UAR with regard to a transaction that led them to close the account for reasons relating to the prohibition on money laundering or financing terrorism.
366. Pursuant to the Insurance and Provident Funds Orders, failure to complete verification precludes the executing of the transactions in a policy or in an account, including withdrawal. However there are still no requirements in these Orders to file a UAR with IMPA.

367. Furthermore, there is no requirement for MSPs, insurance companies and agents and provident funds that when they have already commenced the business relationship, and are unable to comply with CDD requirements, to terminate the business relationship and to consider making a UAR.

*Existing customers – (c.5.17 & 5.18)*

368. With regard to the requirement that financial institutions should be required to apply CDD requirements to existing customers, Section 17 of the Banking Order deals with identification, authentication of particulars and receipt of declaration regarding beneficiaries in existing accounts and states

*“the banking corporation shall not carry out any transaction in accounts that were opened prior to the commencement of this Order unless the provisions of sections 2 [identification] and 3 [authentication] and 5a [partial exemptions], as relevant, have been fulfilled, except for the withdrawal of the existing balance and closure of the account, and repayment of debts”.*

369. In addition banking Directive 411, section 13(b) determines that:

*(1) A banking corporation shall undertake reviews to ascertain the existence of adequate and up-to-date information; a banking corporation shall invoke heightened reviews in accounts of high-risk customers.*

*(2) Said reviews shall take place at times and on occasions determined by the banking corporation in its procedures, such as when a significant transaction is about to take place, or when the requirements relating to customer documentation change, or when the way the account is managed changes significantly.*

*(3) If a banking corporation discovers that certain significant information about a customer is lacking, it shall take steps to ensure that it obtains the missing information as promptly as possible.*

370. There are similar requirements in place for other financial institutions as well.

371. Financial institutions are not permitted to maintain anonymous accounts. The exceptions are banking corporations where it is possible to have numbered accounts (see paragraphs under criterion 5.1). Additionally, as mentioned previously, there is no explicit prohibition from keeping accounts in fictitious names.

***Effectiveness and efficiency***

372. Several AML/CFT Orders are still in draft version and are awaiting the approval of the Knesset's Constitution, Law and Justice Committee.

373. The Israeli authorities have put in place quite explicit requirements for the identification of customers and to a certain extent verification of identity data prior to the business relations and for existing customers.

374. Insurers and insurance agents as well as provident funds identification requirement still contain a threshold for verification and for identification as well not being fully in line with the FATF Methodology requirements.

375. As it is noted under R.17 (Section 3.9.1 of the report), CDD breaches covering a broad range of failures, including failure to identify the beneficial owners, have been the subject to significant sanctions in the financial sector. Considering that there were sanctions imposed on financial institutions with respect to beneficial owners it could also be concluded that financial institutions are not fully aware of the concept of beneficial owner. Additionally, shortcoming in the definition of the BO could also lead financial institutions to some confusion.

376. Interviews with the some of the non-banking financial institutions revealed a lack of understanding of the risk-based approach in practical application as the reasons mentioned for

establishing a customer as a higher risk customer were basically geographical and if a person is a PEP.

**Recommendation 6 (rated PC in the 3<sup>rd</sup> round report)**

*Risk management systems, senior management approval, requirement to determine source of wealth and funds and on-going monitoring (c. 6.1- c. 6.4)*

377. It was noted in the 3<sup>rd</sup> round evaluation report that the definition of PEP is limited and applied only to banking corporations. Israeli legislation did not cover family members and close associates of PEPs. Furthermore, establishing a business relationship with the banking corporations was limited only to account opening. There were no provisions in place for any part of the financial sector to seek senior management approval if customer is found to have become a PEP at a later stage during the business relationship.
378. The Israeli authorities have made an effort to improve the situation and since the adoption of the 3<sup>rd</sup> round evaluation report have worked on the implementation of the recommended actions.
379. The definition of PEP is now extended beyond the banking corporations and is also included in the Stock Exchange Members Order, Portfolio Managers Order and Postal Bank Order. For other financial institutions there is still no provision as legislative provisions are still not in force (only drafts).
380. In the various Orders politically exposed persons are defined as overseas residents with senior public positions from outside Israel. This broad “*chapeau*” does not appear to cover PEPs who are no longer entrusted with such functions. Otherwise the definition itself, although allowing for some additional interpretation, seems to be broadly in line with the FATF definition. The Israeli authorities advised that a relevant word in Hebrew is “*shutaf*” which covers both business partners and associates. However there is still room for improvement and it is recommended to include in the definition existing in Israeli legislation close associates of PEPs outside of the business relationship context, in addition to family members of a PEP. Additionally, while the Israeli definition includes “members of Parliament” (arguably wider than the examples of Glossary) there is no clear coverage and no reference to important political party officials (who may not be members of Parliament) or senior executives of state-owned corporations.
381. The duty to determine if the customer is a PEP at the start of the business relations has been only partly implemented in Israel as not all the amended Orders are in force and full effect. Thus there is no such requirement for provident funds, insurance and MSPs.
382. In addition it should be noted that the requirement to determine that a customer is or is not a PEP is not extended to the beneficial owners of the customers.
383. The requirement for a senior official’s approval for continuing the business relations where customer has subsequently become PEP is now included in the Directive 411 which now determines for banking corporations that in cases where the customer has become PEP during the relationship the banking corporation is obliged to obtain senior management approval for continuation of the business.
384. For Stock Exchange members there is an obligation in the Stock Exchange Members Order and the Portfolio Managers Order to establish, at the inception of business relationship, whether a potential customer - foreign resident is a PEP. The account may not be opened without approval of the senior official. If in the course of the business relations it is found that the account holder is a politically exposed person, the Stock Exchange member shall not perform any transaction in the account until approval of a senior official is received to continue the relations. Such account holders are considered to be high risk and their transactions undergo more intensive review.
385. The same obligation is also provided in the Postal Bank Order.
386. In practice, the evaluators were advised during the on-site interviews that information about a customer being or not being a PEP is usually obtained at the beginning of the relationship and is



the reason for including the customer in high risk category if the answer affirmative. This applied to banking corporations, stock exchange members, portfolio managers and the Postal Bank. Others could not answer this question as there was no such obligation in place at time of the visit due to the draft legislation not being in force. During the on-site visit the institutions interviewed commented that, although there were no locally available databases, many of them did use commercially available sources (e.g. Worldcheck, etc.).

387. The evaluators are of opinion that at the time of the on-site interviews with some financial institutions that it was not possible in practice to establish if the customer had become a PEP during the business relationship. Some of the interviewees explained it was not possible to use any kind of reliable data basis in Israel in this respect.
388. The requirement to take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs is partially in place in the Israeli legislation. There is, however, no such requirement for beneficial owners identified as PEPs, and there is no requirement to establish source of wealth anywhere in the legislation.
389. For all the financial institutions it is a legal duty to clarify the source of funds of any customer, including obviously PEPs as well. Moreover, PEPs are considered to be high risk customers for the financial institutions having legislation in place and as such are subject to on-going transaction monitoring regime. The Insurance Companies, Provident Funds and MSPs Orders were in draft form at the time of the on-site visit and thus cannot be considered as covered for the purpose of duty for on-going monitoring high risk customers including PEPs.

#### *Additional elements*

#### **Domestic PEP-s – Requirements**

390. At the time of on-site visit, there was no legislation in place in Israel extending the requirements for foreign PEPs to the domestic PEPs.

#### **Ratification of the Merida Convention**

391. Israel signed the UN Convention against Corruption on 29 November 2005 and ratified it on 4 February 2009.

#### *Effectiveness and efficiency*

392. Financial institutions do send reports (UARs) to IMPA for each case of a customer being a PEP. Israeli authorities informed the evaluators that foreign PEPs mainly represent Eastern European countries.

**Table 32: Number of UARs received with regard to PEPs**

2009	2010	2011	2012	2013(23\10\13)	Total
177	218	241	128	217	981

393. With respect to PEPs, Israel has adopted a legal definition that seems not to cover all categories of persons in the FATF definition.
394. In practice not all financial institutions are able to recognise PEPs in the course of business relationship as there are no available databases for this purpose. Several financial institutions representatives mentioned also that there is no obligation still in place for this as one of the reasons.
395. It is unclear if the financial institutions are able to identify PEPs, their family members and connected persons following the existing definition.
396. Thus the effective practical implementation of Recommendation 6 raises concerns for the evaluators.

3.2.2 Recommendations and comments

**Recommendation 5**

397. A review of the non-bank lending activities in Israel should be undertaken and areas not specifically covered by the PMLL should be brought within the scope of the AML/CFT regime.
398. A direct prohibition for maintaining accounts in fictitious names should be introduced to a law or regulation.
399. A requirement for financial institutions to apply CDD measures when there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds should be introduced.
400. Provident funds, insurance companies and MSPs should be required to apply CDD measures when the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.
401. The requirement for insurers and insurance agents and provident funds to verify the identity of a customer, with no threshold limitation, should be brought into line with the FATF requirement.
402. A requirement to verify the legal status of the legal person or legal arrangement by obtaining information concerning the directors should be introduced.
403. The definition of the beneficial owner should be amended in order to be fully in line with the FATF Recommendations.
404. There should be a requirement to take reasonable measures to verify the identity of the beneficial owner of the customer with respect to provident funds, insurance companies and MSPs.
405. An obligation should be introduced to take reasonable measures to understand the ownership and control structure of the customer as well as determine who are the natural persons that ultimately own or control the customer and those persons who exercise ultimate effective control over a legal person or arrangement (apart from banking corporations).
406. The obligation to conduct on-going due diligence for banking corporations should be set out in “law or regulation”.
407. The requirement for financial institutions (apart from banking corporations) to apply enhanced CDD should be foreseen as required by the FATF Recommendations.
408. A prohibition from applying simplified CDD to customers from countries which are not in compliance with and have not effectively applied FATF standards should be introduced.
409. A direct prohibition from applying reduced CDD measures in the circumstances when suspicions of ML/FT or other risk scenarios exist should be introduced.
410. There should be no exemption in the Banking Order regarding registering a beneficiary if an account which an attorney, a rabbinical pleader, or an accountant wishes to open for his clients.
411. Other financial institutions (apart from portfolio managers and Stock Exchange members) should be required to consider making a suspicious transaction report when they are unable to comply with CDD requirements.

**Recommendation 6**

412. Israel should ensure that the full range of PEPs, as defined by the FATF is covered.
413. Israeli authorities are encouraged to provide guidance for financial institutions on the methods for recognising PEPs during the business relationship.
414. It is of utmost importance to put in force the relevant legislative acts that are still in draft.

3.2.3 Compliance with Recommendations 5 and 6

	Rating	Summary of factors underlying rating
R.5	PC	<ul style="list-style-type: none"> <li>No direct prohibition for maintaining accounts in fictitious names;</li> </ul>

		<ul style="list-style-type: none"> <li>• There is no requirement for financial institutions to apply CDD measures when there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds;</li> <li>• Provident funds, insurance companies and MSPs are not required to apply CDD measures when the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data;</li> <li>• As the activities of the Insurers and Insurance Agents (for which the threshold of NIS 20,000 is applicable) seems not to be occasional, the threshold is not in line with the Methodology;</li> <li>• No requirement to verify the legal status of the legal person or legal arrangement by obtaining information concerning the directors;</li> <li>• The definition of the beneficial owner is limited to “<i>a person for whom or for whose benefit the property is being held, the transaction is being undertaken, or who has the ability to direct the disposition, and all whether directly or indirectly</i>” is not fully in line with the FATF Glossary;</li> <li>• There is no requirement to take reasonable measures to verify the identity of the beneficial owner of the customer with respect to provident funds, insurance companies and MSPs;</li> <li>• No obligation to take reasonable measures to understand the ownership and control structure of the customer as well as determine who are the natural persons that ultimately own or control the customer and those persons who exercise ultimate effective control over a legal person or arrangement (apart from banking corporations);</li> <li>• The obligation to conduct on-going due diligence for banking corporations is not set out in “law or regulation” and there is no such requirement for other financial institutions (provident funds, money service providers, insurers and insurance agents);</li> <li>• The requirement for the financial institutions (apart from banking corporations) to apply enhanced CDD is limited;</li> <li>• No prohibition from applying simplified CDD to customers from countries which are not in compliance with and have not effectively applied FATF standards;</li> <li>• No direct prohibition from applying reduced CDD measures in the circumstances when suspicions of ML/FT or other risk scenarios exist;</li> <li>• The Banking Order has an exemption regarding registering a beneficiary if an account which an attorney, a rabbinical pleader, or an accountant wishes to open for his clients;</li> <li>• Only banks, the Postal Bank, portfolio managers and Stock Exchange members are required to consider making a suspicious transaction report when they are unable to comply with CDD requirements.</li> </ul>
<p><b>R.6</b></p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• The PEP definition does not cover persons who are no longer entrusted with prominent public functions;</li> <li>• Important political party officials and senior executives of state-owned corporations are not fully covered;</li> <li>• No requirement to determine whether the beneficial owners of the customer is a PEP;</li> </ul>

		<ul style="list-style-type: none"> <li>• No basic requirement to identify PEPs for provident funds, insurance companies and agents and MSPs;</li> <li>• No requirement for non-banks to establish the source of wealth of customers who are PEPs;</li> <li>• No requirement to establish the source of wealth of beneficial owners of customers who are PEPs;</li> </ul> <p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>• For some financial institutions it is problematic in practice to establish if the customer becomes a PEP during the business relationship.</li> </ul>
--	--	--

### 3.3 Third Parties and Introduced Business (R.9)

#### 3.3.1 Description and analysis

#### ***Recommendation 9 (rated N/A in the 3<sup>d</sup> round report)***

415. Recommendation 9 requires countries to meet certain criteria where financial institutions are permitted to rely on intermediaries or other third parties to perform some of the elements of the CDD process (Criteria 5.3 to 5.6) or to introduce business.

416. In Israel there is no legislation that authorises such activity. In practice this situation does not occur. Legislation in place at the time of the 3<sup>rd</sup> round evaluation taken collectively all related to the issue of the certification of identification.

417. Notwithstanding the fact that Israeli legislation has not changed in this regard and overall the situation is the same this recommendation it was considered to be rated in this report.

*Requirement to immediately obtain certain CDD elements from third parties; availability of identification data from third parties (c.9.1 & 9.2)*

418. For the banking sector, it is legal duty for banks to obtain original identification documents. Customer identification only face-to-face. In the context of Banking Order such identification includes:

- 1) identification by a representative or agent of the banking corporation;
- 2) identification by an attorney licensed to practise law in Israel;
- 3) identification by an Israeli diplomatic or consular representative abroad;
- 4) identification by an authority as per section 6 of the Convention to Abolish the Legalization Requirement; and
- 5) any other method of identification approved by the Supervisor of Banks.

419. A similar requirement is included in the Portfolio Managers and Stock Exchange Members Orders requiring the portfolio manager or the Stock Exchange member to obtain original identification documentation. Nevertheless, they can be satisfied with a certified copy of the ID document, provided it has been authenticated by one of the officials or authorities specified in section 4(b) of the Orders. In all cases the identification documents must be retained by the portfolio manager or the Stock Exchange member.

420. Section 7 of the Portfolio Managers Order and section 9 of the Stock Exchange Members Order, provide that the portfolio manager or the Stock Exchange member may perform the face to face identification of the customer also by other authorised persons/entities specified in the Order (someone who is licensed to practise law in Israel, a diplomatic or consular representative of Israel abroad or an authority stipulated in section 6 of the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, and with regard to Stock Exchange members – also an employee of a banking corporation or of the Postal Bank).

421. Responsibility for the discharge of the obligations pursuant to the Provident Funds Order and pursuant to the Insurance Order, including identification duties, rests on the insurance companies and the provident funds. Even if the identification and verification were carried out by an insurance agent or a banking corporation, the insurance company and the provident fund bear responsibility for the fulfilment thereof. Identification and verification may be made by an insurance agent or by a banking corporation.
422. According to section 5 of the Order, the provider of currency services shall personally identify the applicant of the service.
423. As a rule, section 4 of the Postal Bank Order requires the Postal Bank to obtain original identification documentation. Nevertheless, the Postal Bank can be satisfied with a certified copy of the ID document, provided it has been authenticated by one of the officials or authorities specified in section 4(b) of the Order. In all cases the identification documents must be retained by the Postal Bank.
424. According to section 8 of the Portfolio Managers Order and section 10 of the Stock Exchange Members Order, the obligation to keep all the identification documents applies to the portfolio managers and Stock Exchange members respectively.
425. The responsibility for the discharge of the obligations pursuant to the Provident Funds Order and pursuant to the Insurance Order, including the duties of identification, applies to insurance companies and provident funds. Even if the identification and the verification were performed by another concern, such as an insurance agent, a banking corporation, an attorney or a diplomatic representative, the insurance company and the provident fund bear the responsibility for the fulfilment thereof.
426. All the Orders contain requirement to obtain identification documents and no documentation can be retained by a third party. Financial institutions are responsible

*Regulation and supervision of third party & adequacy of application of FATF Recommendations (c.9.3 & 9.4)*

427. Where financial institutions rely on third parties to perform Face-to-Face identification, the third party must be regulated and supervised (as mentioned, the third parties in this case may be an Israeli lawyer, a diplomatic or consular representative of Israel abroad or an authority stipulated in section 6 of the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, and with regard to Stock Exchange members – also an employee of a banking corporation or of the Postal Bank).
428. Section 3(b)(2) of the Banking Order as described above allows the authentication of identification documents for a corporation incorporated in a member country of the OECD only if this country is not specified in the first schedule of the Order (which specifies list of AML/CFT high risk countries), also an attorney licensed to practise law in the country where the incorporation took place. Similar obligation is included in other Orders as well.
429. There is no discharging of the identification and verification obligations to a third party based in another country.

*Ultimate responsibility (c.9.5)*

430. The ultimate responsibility for customer identification and verification always rests with the financial institution.

3.3.2 Recommendations and comments

431. Overall, the requirement in Israel is that all CDD must be conducted face-to-face, without exception and no reliance is placed on third parties. Therefore, the Recommendation is fully observed.

3.3.3 Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
<b>R.9</b>	<b>C</b>	

**3.4 Financial institution secrecy or confidentiality (R.4)**3.4.1 Description and analysis**Recommendation 4 (rated C in the 3<sup>rd</sup> round report)**

432. There have not been any major changes made to legislation in relation to access to the information at financial institutions since the 3<sup>rd</sup> round MER and the analysis in that report still applies. As mentioned in the 3<sup>rd</sup> round report, the bank-client relationship is of a contractual nature and covered by a civil obligation of confidentiality, which in its turn does not inhibit the ability for Israeli authorities from gaining access to the information required. See paragraphs 514 – 518 of the 3<sup>rd</sup> round evaluation report.

433. As mentioned in the 3<sup>rd</sup> round report, there is no impediment for the competent authorities to have access to information of financial institutions and implement AML/CFT measures.

434. Generally speaking there are no obstacles for the required information to be obtained and exchanged in Israel. However, during the interviews with the financial market participants, the evaluators were informed that information exchange about the customer and the transaction for needs of R7 or SRVII is limited to some extent as there is a need to obtain customer agreement for such exchange of information.

**Effectiveness and efficiency**3.4.2 Recommendations and comments

435. The evaluators consider the requirements of Recommendation 4 fully met.

3.4.3 Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
<b>R.4</b>	<b>C</b>	

**3.5 Record Keeping and Wire Transfer Rules (R.10 and SR. VII)**3.5.1 Description and analysis**Recommendation 10 (rated PC in the 3<sup>rd</sup> round report)**

436. In the 3<sup>rd</sup> round evaluation report it was recommended to remove the thresholds for retaining the documents, to establish requirements to retain all documents recording the details of all transactions carried out by the client in the course of an established business relationship, as well as to provide a general requirement to retain documentation longer than 5 years where requested by a competent authority. The recommendations of the 3<sup>rd</sup> round evaluation report also included the necessity of ensuring that all relevant parts of this recommendation that were asterisked in the methodology were covered with respect to the Postal Bank in law or regulation.

437. The Israeli authorities have taken measures to improve the record keeping system in Israel. However, at the time of the on-site visit, some thresholds remained for the Postal Bank, insurers, MSPs, provident funds and companies managing provident funds.

438. By adopting the Postal Bank Order on 21 November 2010, Israel has addressed the recommendation of the 3<sup>rd</sup> round evaluation with respect to the Postal Bank. Furthermore, Section 88g(1) of the Postal Law which came into force on 31 July 2012 obliges the Postal Bank

to retain documents required for providing the Postal Bank services for a period of at least 7 years (with no limit or threshold). However, other deficiencies have only been partially addressed.

*Record keeping & Reconstruction of Transaction Records (c.10.1 and 10.1.1)*

439. At the time of on-site visit, by the amended Orders for Stock Exchange, Portfolio Managers and for Banking Corporations, all thresholds for retaining of the documentation were removed. Therefore, the above mentioned financial institutions shall maintain all necessary records on transactions for a period of seven years.
440. The Banking Order in force at the time of this evaluation still contained a threshold for record keeping requirement of 10,000 NIS (€2,000) and also restricted keeping transaction documentation for at least seven years after the executing the transaction and recording it on the books of a bank<sup>28</sup>.
441. Portfolio managers and Stock Exchange members are required to keep transaction records for seven years after the account has been closed disregarding any thresholds.
442. The Provident Funds Order requires an insurance company and a provident fund to retain the documents of a transaction reported to the competent authority for a period of at least seven years from the end of the year in which the transaction was concluded. Likewise, they are required to retain in “accessible form”, information on any monetary transaction concluded by virtue of a life insurance policy for a period of seven years from the end of the year in which the liability of the insurance company expires as provided by the life insurance contract, or the provident fund account was closed<sup>29</sup>.
443. A similar requirement also applies to the money service providers. As set out in the MSP's Order, MSPs are required to keep the documentation of the transaction above the reporting threshold, as well as all the customer's identification details and documentation at least for 7 years.
444. The Postal Bank Order provides a similar requirement (i.e. the Postal Bank has to retain the document instructing the performance of a transaction that is reported to the competent authority, and also the document instructing performance of a transaction having a value of 10,000 NIS (€2,000) or more, for a period of seven years from the day the transaction is recorded in the subsidiary's books).
445. In addition to this requirement, the Postal Law imposes an obligation for retaining all of the documents which are used for providing finance services, including every document that was used for the transfer, deposit or withdrawal of monies, for at least 7 years after providing such services, in accordance with the instructions of the supervisor in this regard. The Postal Law also states that all documents concerning the opening or the closing of accounts must be kept for at least 7 years from the time that the account was closed.
446. The thresholds for documentation for the Postal Bank, insurers, MSPs, provident funds and companies managing provident funds should be removed.
447. There is no requirement in any of the Orders that transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.

---

<sup>28</sup> Draft amendments to the Banking Order contain the requirement for banks to keep transaction documentation for seven years or longer if requested by supervisory authority. The amendment to the Order includes the removal of the threshold for retention.

<sup>29</sup> For these entities, an amendment to the Provident Funds Order has been drafted which will change this requirement although still not exactly in line with the FATF methodology. They will have to retain the document instructing the performance of a transaction that is reported to the competent authority, and also the document instructing performance of a transaction having a value of 10,000 NIS (€2,000) or more.

448. The Orders for Stock Exchange Members and Portfolio Managers provide a requirement to retain documentation longer than 7 years where requested by the supervisor<sup>30</sup>.
449. There is no requirement in any of the Orders that transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.

*Record keeping of identification data, files and correspondence (c.10.2)*

450. At the time of the on-site visit there was only requirement for banking corporations to keep identification data for seven years after the account is closed or a transaction has been carried out.
451. The Portfolio Managers Order apart from the obligation to maintain identification data provides requirement to maintain "*a computer database of the numbers of the accounts he manages, and of all details to be required pursuant to this Order, including an indication of any items that have been requested and have not been provided*".
452. This obligation, in the same manner, also applies to the Stock Exchange members in the Stock Exchange Members Order. The Insurance Order and the Provident Funds Order as well as the Postal Bank Order and Money Services Businesses Order also contain a requirement to keep identification data for seven years.
453. These requirements fall short of the requirement of the FATF Methodology criterion obliging countries to require financial institutions to maintain not only identification data, but also account files and business correspondence. For these purposes the Israeli authorities referred to section 88g(1) of the Postal Law and stated that it obliges the Postal Bank to obtain **all** documents that are required for providing the Postal Bank services for a period of at least 7 years.
454. Section 88G(1) of the Postal Law as provided by Israeli authorities envisages, that Postal Bank (a) *preserve any document used for the provision of the Financial Services, including a document used for the transfer, receipt or withdrawal of monies, for at least seven years from the date of the provision of the Financial Services, in accordance with instructions that the Supervisor shall give on this matter.*
455. In addition part (b) states that *Notwithstanding the provisions of subsection (a), the Company shall preserve any document related to the opening and closing of an account, for at least seven years from the date of the closing thereof.*
456. The evaluators do not consider that the above provision cover account files and business correspondence, but merely a duty to keep documents supporting transactions.

*Availability of Records to competent authorities in a timely manner (c.10.3)*

457. All the relevant financial institutions Orders (Banking Order, Portfolio Managers Order, Stock Exchange Members Order, Provident Funds Order, Insurance Order, MSP's Order and Postal Bank Order) impose a duty on the obliged entities to deliver to the relevant domestic supervisory authority upon demand, documents, information and explanations with regard to the performance of their duties.

***Effectiveness and efficiency***

458. The interviewed institutions showed a general understanding of the requirement to keep the data for seven years, but only banks appeared to fully understand what records should be kept in files. Some MSPs that were interviewed stated that they were only keeping identification data.

---

<sup>30</sup> A similar obligation is included in the draft Orders for Insurers and Insurance Agents, Provident Funds and Companies Managing Provident Funds and Banking Corporations.



---

***Special Recommendation VII (rated PC in the 3<sup>rd</sup> round report)***

***Summary of third MER factors underlying the rating***

459. Under the 3<sup>rd</sup> evaluation round, Israel was rated PC in respect of Special Recommendation VII (SRVII), with deficiencies identified as follows:

- i) no “full” originator information required to accompany cross-border wire transfers for the Postal Bank and other relevant non-banking institutions;
- ii) the threshold of 50,000 NIS (€10,000) for Postal Bank wire transfers was not in line with the requirements of SR.VII and no requirements for each intermediary and beneficiary financial institution in the payment chain to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer; and
- iii) no requirement to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information.

460. According to the Israeli sectorial legislation only the following financial institutions are authorised to perform wire transfers: banking corporations, Stock Exchange members, MSPs and the Postal Bank.

461. Portfolio managers are not allowed to perform wire transfers due to the restrictions applied by section 8(b) to the Counselling Law. Although there are no similar provisions applying to insurance and provident funds, it is noted that their sectorial legislation specifies the financial activities they are authorised to perform and wire transfers are not included.

462. It is worth mentioning that – under section 11 C(a) of the PMLL – anyone who wants to perform wire transfers must be registered except for some supervised financial institutions including insurance businesses. This implies that insurance businesses are authorised to perform wire transfers, otherwise they would not need to be exempted from the registration requirements as MSPs at the Registrar in order to carry out wire transfers. The Israeli authorities indicated to the evaluators that insurance companies and provident funds avail themselves of the banking channel to transfers funds.

***Obtain Originator Information for Wire Transfers (c.VII.1)***

463. As regards banking corporations, the situation remains unchanged as it was in the third MER. The main provision governing the transfers of money is section 27 of the Directive 411, however, as indicated in the previous MER, such article applies only to cross-border wire transfers related to “high-risk country”.

464. As indicated in paragraphs 539 and 540 of the third MER, according to section 27 of the Directive 411, banking corporations are required - regardless the threshold of the transfer they are performing - to include the name of the account holder and the number of the account (in the case of transfer other than from an account, only the name of the transferor shall be recorded) and the name and account number of the payee. However such measures do not apply for domestic wire transfers<sup>31</sup>.

465. As regards the other non-banking financial institutions, the Postal Bank and Stock Exchange members are required - under their respective AML/CFT Orders - not to perform a wire transfer from Israel to abroad for an amount greater than 5,000 NIS (€1,000) without recording the details of the recipient (including his/her name, identification number and address) who initiates the transfer, and also the details of the transferee, including his/her name and account number (see

---

<sup>31</sup> During the on-site visit, the Israeli authorities informed the evaluators that the amendments to the relevant AML/CFT Order include an obligation, when performing wire transfers and SWIFT messages, to record the details of the service recipient including name, account number and address; or the details of the transferee, including the his name and account number as proposed under draft sections 2 (k) and 2(i) of the Draft Banking AML/CFT Order. However such measures have not been adopted and implemented within the timeframe indicated by the MONEYVAL Rules of Procedures.

section 3(h) to section 3(j) for Stock Exchange members and section 3(i) to section 3(l) for Postal Bank of the respective AML/CFT Orders).

466. As regard MSPs, under section 2 (a) of the respective AML/CFT Order – these are required to record the following information before performing wire transfers that exceed 50,000 NIS (€10,000): name, identity number, date of birth and gender (for an individual) and date of incorporation and address (for a legal entity).

*Inclusion of Originator Information in Cross-Border Wire Transfers (c. VII.2); Inclusion of Originator Information in Domestic Wire Transfers (c. VII.3); Maintenance of Originator Information (c.VII.4)*

467. The deficiencies identified in paragraphs 542 and 543 of the 3<sup>rd</sup> round MER for the Postal Bank (i.e. failure to bring the lower threshold of 50,000 NIS (€10,000) in line with the requirements of SRVII and to introduce a formal requirement to include full originator information in the message accompanying the wire transfer) have been overcome by section 3 (j) and following of the Postal Bank AML/CFT Order.

468. Under section 3 (j) and (k) of this Order, an electronic transfer from Israel to abroad, in an amount greater than NIS 5,000 (€1,000) shall not be performed without recording, in each of the transfer documents, the details of the recipient of the service who initiates the transfer, including his/her name, identification number and address, and also his/her account number, to the extent one exists, and also the details of the transferee, including his/her name, identification number and account number. In case of incoming wire transfers (i.e. from abroad to Israel), in an amount greater than NIS 5,000 (€1,000), the Postal Bank shall record the particulars as stated in subsection (j), to the extent that it knows these particulars. Moreover, if such transactions are performed by means of a correspondent account, the Postal Bank shall transfer all information it receives on the details of the transfer, the transferor and the transferee, in the framework of the transfer document to the respondent institution (as set forth in section (l) of the Postal Bank Order). Similar provisions are in place for Stock Exchange members.

469. With respect to MSPs, section 2(a) of the AML/CFT Order applies. As indicated above, MSPs – performing a wire transfer exceeding 50,000 NIS (€10,000) shall be performed once the following information on the originator is obtained: name, identity number, date of birth and gender (for an individual) and date of incorporation and address (for a legal entity).

470. There are no specific provisions on domestic wire transfers for the inclusion of originator information in the domestic wire transfers as required under c.VII.3. As regards banking corporations, Israeli authorities indicated that the two (domestic) clearing systems in place (RTGS and MASAV) require the inclusion of full information about the originator's account.

471. Precisely, according the information provided in the MEQ, the RTGS clearing system is used for transactions above 1 million of NIS (€200,000) for which "SWIFT" rules apply, while the MASAV clearing system is used for smaller amounts and the requirement to include full information about the originator applies only for transactions, regardless of the amount involved, from/to Palestinian banks (see Section 5.15 of the MASAV clearing systems rules). However, these practices do not cover the requirement under c.VIII.3. There are, therefore, no specific requirements in law or regulation setting out information requirements for domestic wire transfers.

472. As regards the "Maintenance of Originator Information" in the payment chain, as required under c.VII.4, Israeli authorities have adopted amendments to the Stock Exchange Members and the Postal Bank AML/CFT Orders. However such measures are not in place for banking corporations.

473. According to the amendments in place, the Stock Exchange members and the Postal Bank, when transactions are performed by means of a correspondent account, shall transfer all information

they receive on the particulars of the transfer, the transferor and the transferee, in the framework of the transfer document to the respondent institution.

474. As regards banking corporations, under section 16 (a) of the Directive 411, when significant risk occurs, they shall identify the connected parties to a transaction (including wire transfers). However such provision applies only in case of significant risk and not on a routine basis.

*Risk-based Procedures for Transfers Not Accompanied by Originator Information (c. VII.5)*

475. Since the 3<sup>rd</sup> round evaluation, no requirements have been introduced in the Israeli legislative or regulatory framework to adopt effective risk-based procedures for identifying and handling wire transfers received by an Israeli financial institution that are not accompanied by the complete originator information. As regards the Postal Bank and Stock Exchange members, the respective AML/CFT Orders prohibit financial institutions from receiving wire transfers not accompanied by information on the originator (section 3 (h)- (j) of the Order for Stock Exchange members and section 3(j)-(l) of the Order for the Postal Bank). Money service providers, under section 6(b) (3) are required to report UARs to IMPA of any transaction exceeding 1,000 NIS (€200) not accompanied with the identity of the persons involved in the transaction and their identity number.

476. However, it is noted that the lack of such information is considered as a factor in assessing whether a transaction is suspicious. In the AML/CFT Orders of Banking Corporations, the Postal Bank and Stock Exchange Members, the notion of “unusual activity”, which obliges financial institutions to report UARs to IMPA, includes cases when wire-transfers (“substantial amounts from Israel abroad and vice versa”) are not accompanied with name or account number information of the persons involved.

*Monitoring of Implementation (c. VII.6) and Application of Sanctions (c. VII.7: applying c.17.1 – 17.4)*

**Bank corporations**

477. Having regard to the fact that the requirements on wire transfers are set forth both in the Directive 411 issued by Bank of Israel, the competent authorities in charge of monitoring the effective implementation and sanctioning violations in case of infringements are, respectively, the Bank of Israel under the Banking Laws and the competent Sanction Committee under the PMLL provisions. According to the information provided by the Israeli authorities, fines of around 3 million NIS (€600,000) have been imposed on banks for violating the provisions on wire transfers.

**Non-bank financial institutions**

478. On wire transfers, the financial institutions (other than banking corporations) are required to comply with the provisions set out under the respective AML/CFT Orders. The supervisory activity on these requirements is performed by competent authorities indicated in section 11M and followings of the PMLL.
479. In case of infringements of the provisions of the AML/CFT Orders, the Sanction Committees, under PMLL and Regulation on Sanctions Committee, are the competent authorities for enforcing compliance with these requirements by applying administrative sanctions.
480. The following financial sanctions have been imposed on wire transfers: 100,000 NIS (€20,000 euro) to the Postal Bank and to MSPs a total amount of 200,000 NIS (€40,000) (2009) and 122,000 NIS (€24,400) (2011).

*Additional elements – Elimination of thresholds (c. VII.8 and c. VII.9)*

481. As regards banking activities, the Bank of Israel have indicated that all banking corporations apply SWIFT rules requiring for all transactions (regardless any threshold) originator information.

### ***Effectiveness and efficiency***

482. As indicated above, according to the information provided by Bank of Israel, the evaluators were assured that all banking corporations, applying SWIFT rules, require the information on the originator for all wire transfers.
483. Even if this practice is accepted by the evaluators, the lack of requirements that cover domestic wire transfers limit the effectiveness and efficiency of the system and the capability of the competent authorities to sanction the financial institutions.
484. As regards banking corporations, the obligation to maintain details of the originator and the transferee in wire transfers should not be limited to “risky countries”.
485. Moreover, as illustrated above, the requirements in place do not cover all the categories of financial institutions. In practice, the Bank of Israel (Supervisor of Banks) is the sole supervisory authority that has issued a regulatory act (i.e. Directive n. 411) that contains risk-based procedures for identifying and handling wire transfers (with all the limits identified above). The other non-bank financial institutions are not required by the respective competent regulatory, supervisory or monitoring authorities to adopt binding and sanctionable measures on wire transfers. It is worth noting that wire transfer operations are typical banking transactions but that nothing inhibits the remaining financial institutions from perform such operations, if not prohibited (implicitly or explicitly) by law.
486. Thus the issuance of such measures, the harmonisation and contextualisation of regulatory measures is extremely important in order to guarantee a full coverage among Israeli financial institutions of the requirements of SRVII.

#### **3.5.2 Recommendation and comments**

### ***Recommendation 10***

487. The authorities are encouraged to introduce specific requirement to keep records longer if requested by a competent authority in specific cases and upon proper authority.
488. There is a need for specific requirement in the legislation to keep records of the account files and business correspondence.
489. A requirement should be introduced that transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.
490. Thresholds on document retention in place for the Postal Bank, insurers, MSPs, provident funds and companies managing provident funds should be removed

### ***Special Recommendation VII***

491. The evaluators welcome the amendments adopted by the Israeli authorities and the proposed draft amendments to the (AML/CFT) Orders. However some of these Orders are not in place, thus the measures hereby contained are not considered for this assessment.
492. According the Directive 411, section 27, banking corporations are required, regardless of the threshold of the transfer they are performing, to include the name of the account holder and the number of the account. However such measure apply only to cross-border wire transfers related to a “high-risk country” and not to all countries and do not apply to domestic wire transfers.
493. Thus, such requirement does not cover all wire transfers of EUR/USD 1,000 or more as recommended by c.VII.1. The evaluators recommend that the Israeli authorities take prompt actions in order to cover such requirements.
494. Since the last evaluation, the Israeli authorities have amended the Orders for the Postal Bank and Stock Exchange Members. These financial institutions are prohibited from performing a wire transfer from Israel to abroad for an amount greater than 5,000 NIS (€1,000) unless they have

recorded the details of the recipient (including his/her name, identification number and address) who initiated the transfer, and also the details of the transferee, including his/her name and account number. However such measures do not apply for domestic wire transfers.

495. The deficiencies identified for the Postal Bank (i.e. to bring the lower threshold of 50,000 NIS (€10,000) in line with the requirements of SR.VII and to introduce a formal requirement to include full originator information in the message accompanying the wire transfer) have been remedied by the amendment to the Postal Bank AML/CFT Order. Similar provisions cover Stock Exchange members and MSPs.
496. As regards the “Maintenance of Originator Information” in the payment chain, the Israeli authorities have adopted amendments to the Stock Exchange Members and the Postal Bank Orders. However such measures are not in place for banking corporations and should be considered to be implemented for MSPs if these are part of the payment chain.
497. Noting the deficiencies, the limits and the discrepancies among the AML/CFT Orders, the evaluators recommend to the Israeli authorities to adopt measures (that might be regulatory acts issued by competent regulatory or supervisory authorities) that cover all financial institutions and to harmonise the regulatory framework on SRVII among financial institutions having regards to the specific characteristics of each category of financial intermediaries.
498. Since the 3<sup>rd</sup> round evaluation, no requirements have been introduced to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by the complete originator information when the Israeli financial institutions receive wire transfers. The Postal Bank and Stock Exchange members are required not to perform a wire transfer greater than 5,000 NIS (€1,000) without recording the originator information. Financial Institutions, authorised to perform wire transfers, should be required by regulations or other enforceable means to adopt risk-based procedures (e.g. restricting or terminating the business relationship with counterparts) when information on the originator is not provided.

### 3.5.3 Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
<b>R.10</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• No specific requirement to keep records longer if requested by a competent authority in specific cases and upon proper authority;</li> <li>• No requirement that transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity;</li> <li>• Apart from the Postal Bank, no specific requirement for other financial institutions to keep records of the account files and business correspondence;</li> <li>• Thresholds on document retention in place for the Postal Bank, insurers, MSPs, provident funds and companies managing provident funds;</li> </ul> <p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>• MSPs demonstrated a lack of understanding of what records should be kept in files and some MSPs interviewed stated that they were only keeping identification data.</li> </ul>
<b>SR.VII</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• Banking corporations, MSPs, provident funds and insurance companies and agents are not required to obtain and maintain the originator information for all wire transfers (both cross-border and domestic ones) exceeding 1,000 euro/USD.;</li> <li>• Banking corporations, MSPs, provident funds and insurance</li> </ul>

		<p>companies and agents are not required to maintain originator information in the payment chain;</p> <ul style="list-style-type: none"> <li>• No specific requirements in law or regulation setting out information requirements for domestic wire transfers;</li> <li>• No requirements to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by the complete originator information.</li> </ul>
--	--	--

### **Unusual and Suspicious transactions**

#### **3.6 Monitoring of Transactions and Relationship Reporting (R. 11 and R. 21)**

##### 3.6.1 Description and analysis

#### ***Recommendation 11 (rated PC in the 3<sup>rd</sup> round report)***

##### *Special attention to complex, unusual large transactions (c. 11.1)*

499. In the 3<sup>rd</sup> round evaluation report it was recommended to the Israeli authorities to establish, for all financial institutions, enforceable requirements to conduct on-going due diligence in respect of all complex, unusual large transactions that have no apparent or visible economic or lawful purpose.

500. For the banking industry the situation remains the same as at the time of the 3<sup>rd</sup> round evaluation (see paragraphs 557-559 of the MER). The planned amendments to the Banking Directive necessary to improve the situation as described in the 3<sup>rd</sup> round MER (paragraph 560) were adopted and came into force on 24 January 2010. For other financial institutions, however, the same situation applies as in the previous report (see paragraph 562).

501. As regards portfolio managers, Stock Exchange members and Postal Bank the relevant Orders now oblige entities to carry out an on-going monitoring of customer transactions (Section 11 of the Stock Exchange Members Order, Section 10 of the Postal Bank Order and section 9 of the Portfolio Managers Order). Where it is found out that transactions lack economic or business logic it must be reported to the FIU (*Activity which appears to be lacking in business or economic logic, with reference to the type of account or the conduct of the account holders*). However, the evaluators are of the opinion that this does not cover the requirement to pay special attention to all complex and unusually large transactions.

502. The obligation for looking especially for such transactions derives from the obligation to report unusual transactions to IMPA where, in the list of indicators for possible money laundering or terrorist financing, there is a duty to report "*activity which appears to be lacking in business or economic logic*".

##### *Examination of complex and unusual transactions (c. 11.2)*

503. It is a legal duty of a banking corporation to examine the background and purpose of irregular activity in accounts and to examine whether said activity constitutes activity that entails reporting under obligations set forth in the Banking Directive 411. The findings of these examinations have to be documented in writing and made available to the supervisory authorities and the auditors "*for a period at least seven years*".

504. In addition, banking corporations may request from customers documents or other references to support the stated purpose of the transaction.

505. The Orders for Portfolio Managers and Stock Exchange Members require on-going monitoring of the transactions in the account with regard to the character of the account in accordance with his acquaintance with the client and documentation of this procedure. On-going monitoring is also required in the Postal Bank Order in the same manner.

506. Draft Orders for insurance companies, provident funds and currency service providers were still in draft form at the time of the on-site visit. Hence the relevant obligations to these categories of financial institutions were not in place as they are not required to examine the purpose and background of complex and unusual transactions and setting out the findings in writing.

*Record-keeping of finding of examination (c. 11.3)*

507. As set out above, there is an obligation in the Banking Directive 411 which sets out the duty to document the findings of examinations in writing and make them available to the supervisory authorities and the auditors for a period at least seven years.

508. The Orders for the Postal Bank (section 18(c)), Stock Exchange Members (section 19(c)) and Portfolio Managers (section 17(c)) include this obligation and were in force and effect at the time of the evaluation. Other AML Orders do not provide the relevant duty as they were in draft form at the time of the on-site visit.

***Recommendation 21 (rated PC in the 3<sup>rd</sup> round report)***

*Special attention to countries not sufficiently applying FATF Recommendations (c. 21.1 & 21.1.1), Examination of transactions with no apparent economic or visible lawful purpose from countries not sufficiently applying FATF Recommendations (c 21.2)*

509. The shortcomings disclosed in the 3<sup>rd</sup> round evaluation report revealed that only banks were partially covered and there was a need to introduce for all financial institutions the requirement to pay special attention to business relationship and transactions with persons from countries that do not or insufficiently apply FATF Recommendations.

510. Apart from that the 3<sup>rd</sup> round report also states that a clear procedure for appropriate counter-measures should be put in place where relevant. It was also noted that no explicit provision requiring financial institutions to examine as far as possible the background and purpose of transactions with no apparent economic or visible lawful purpose within the scope of Recommendation 21 and to set forth their findings in writing and to make them available to assist competent authorities was in place at that time.

511. At the time of this on-site visit the situation in general remained the same for banking industry (see paragraph 572 of the report). According to the banking Directive 411 "*transactions that lack economic or commercial sense*" are considered unusual and according to the Bank Order must be reported to the FIU. Customers from high-risk countries are high risk customers and their transactions are to be closely monitored ("*heightened monitoring*" has to be applied). Close monitoring of transactions also includes transactions for and on behalf of other financial institutions located in high risk jurisdictions. Such transactions must always be approved by the officer in charge of the banking corporation. High risk countries are those included in the public statements of FATF and are supposed to be "*determined by the head of the Competent Authority from a list of countries or territories for which the FATF has published reservations regarding their compliance with the organisation's recommendations for prohibiting money laundering and financing terrorism*"<sup>32</sup>.

512. For Stock Exchange members and the Postal Bank, there is an obligation to report to the FIU and monitor all transactions to and from high risk countries. The list of high risk countries is specified in the addendums to the AML Orders and it is updated by the Head of IMPA, according to the FATF public statements. All wire transfers above 5,000 NIS (€1,000), to and from high risk countries, are reported to IMPA as CTRs.

---

<sup>32</sup> Similar measures are included in the Orders for Stock Exchange Members, Portfolio Managers and for the Postal Bank and in the AML/CFT draft Orders for Money Service Providers, Insurance Companies and Provident Funds. The draft Orders were still not in force at the time of the on-site visit and as such are not evaluated in this report.

513. In addition, there is an obligation to report UARs to the FIU for regular transfers to and from entities in a high risk countries and transactions of non-profit organisations with entities in a high risk countries (e.g., items 16 and 18 in the third addendum to the Stock Exchange Order; the same obligation exists also in the Banking Order and the Postal Bank Order).

514. The Banking Directive 411 envisages a duty for banking corporations to determine whether complex or irregularly structured transactions are logical in economic or business terms. In addition, transactions that lack economic or commercial sense, complex transactions, and transactions involving large are supposed to be treated as unusual and as such are reported to IMPA.

*Ability to apply counter measures with regard to countries not sufficiently applying FATF Recommendations (c 21.3)*

515. In the 3<sup>rd</sup> round evaluation report it was recommended to Israel to ensure that appropriate counter-measures can be taken where a country continues not to apply or insufficiently applies FATF Recommendations.

516. Following this recommendation the Israeli supervisory authorities provide the FATF's public statements concerning identified jurisdictions that have strategic deficiencies that pose a risk to the international financial system to the market participants on a regular basis. All the authorities (the Bank of Israel, the Israeli Securities Authority and the supervisor of the Postal Bank) published notifications, to financial institutions under their supervision, to pay special attention to the ML\FT risks in transactions with financial institutions operating in those countries, including taking enhanced due diligence measures and unusual transaction reporting with regard to those countries.

517. In addition, the Head of IMPA publishes notifications concerning the FATF's public statements on IMPA'S website, every time the FATF update the statements. As a consequence, all transactions with the designated countries above 5,000 NIS (€1,000) have to be reported as CTRs to IMPA.

***Effectiveness and efficiency***

518. The Application of Recommendation 21 seems to be insufficient as during the interviews the financial institutions only showed knowledge of the FATF public statements. No other sources were cited for applying a higher risk to a country for other reasons.

519. In addition it should be noted that financial institutions to which AML/CFT Orders are in place are required only to check their customers against the list of high risk jurisdictions and report to IMPA if there are such customers identified. There is no direct requirement to pay attention to all complex transactions that have no apparent economic or visible lawful purpose done by customers from countries insufficiently applying FATF recommendations, but it is rather left to the discretion of an institution itself.

3.6.2 Recommendations and comments

***Recommendation 11***

520. Introduce a direct obligation to examine complex and unusual transactions and keep findings in writing for all MSPs, provident funds and insurers and insurance agents.

521. Provide an obligation to pay special attention to all complex and unusual large transactions for MSPs, provident funds and insurers and insurance agents.

***Recommendation 21***

522. All financial institutions should be covered for the purposes of Recommendation 21 as AML/CFT Orders concerning Money Service Providers, insurance companies and provident funds were in draft form.



523. Israeli authorities should provide explicit obligation to financial institutions to examine as far as possible the background and purpose of transactions with no apparent economic or visible lawful purpose where persons from countries that do not or insufficiently apply FATF Recommendations are involved (apart from banking institutions).

### 3.6.3 Compliance with Recommendations 11 and 21

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.11</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>• MSPs, provident funds, insurance companies and agents are not directly obliged to examine complex and unusual transaction and keep findings in writing;</li> <li>• Obligation to pay special attention to all complex and unusual large transactions is not introduced for MSPs, provident funds and insurers and insurance agents.</li> </ul>
<b>R.21</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• MSPs, provident funds, insurance companies and agents are not covered for the purposes of Recommendation 21;</li> <li>• Apart from banking institutions, there is no explicit obligation to examine as far as possible the background and purpose of transactions with no apparent economic or visible lawful purpose where persons from countries that do not or insufficiently apply FATF Recommendations are involved.</li> </ul>

## **3.7 Suspicious Transaction Reports and Other Reporting (R. 13, 25 and SR.IV)**

### 3.7.1 Description and analysis

***Recommendation 13 (rated LC in the 3<sup>rd</sup> round report) & Special Recommendation IV (rated LC in the 3<sup>rd</sup> round report)***

#### Summary of 2008 factors underlying the rating

524. Recommendation 13 was rated “Largely Compliant” in the 3<sup>rd</sup> round report of Israel. The rating was based on the following deficiencies:

- some thresholds mentioned in the Orders would send the wrong signals that only transactions above certain threshold should be reported;
- low number of reports from non-banking financial sector;
- concerns regarding the overall effectiveness in relation to the timeliness of the reporting system.

#### Legal framework

525. The legal framework for submitting a suspicious transaction report to IMPA for financial institutions is set out in different legal acts as follows:

- PMLL;
- PTFL;
- Banking Order;
- Stock Exchange Order;
- Portfolio Managers Order;
- Insurers and the Insurance agents Order;
- Provident Funds Order;
- Money Service Providers Order; and
- Postal Bank Order.

*Requirement to Make STRs on ML to FIU (criterion. 13.1)*

526. In order to understand the reporting requirement in Israel it is necessary to consider the basic ML offence which is set out in Section 3 of the PMLL whereby:

*a) A person undertaking a property transaction of a type referred to in paragraphs (1)-(4) below (in this Law - "prohibited property") with the object of concealing or disguising its origin, the identity of those owning the rights therein, its location, movements or a transaction in it, shall be guilty of an offence punishable by ten years imprisonment or a fine of twenty times that stated in section 61(a)(4) of the Penal Law -*

- (1) property obtained directly or indirectly through the commission of an offence;*
- (2) property which was used to commit an offence;*
- (3) property which facilitated the commission of an offence;*
- (4) property against which a crime was committed.*

527. The term “property transaction” is defined in Section 1 of the PMLL as “*the acquisition or receipt of ownership or any other proprietary interest, whether gratuitously or in return for payment, as well as a disposition involving delivery, receipt, holding, conversion, a banking transaction, investment, a transaction in or the holding of securities, brokerage, the granting or receipt of credit, import, export, creation of a trust and the mixing of prohibited property or of prohibited property with non-prohibited property*”. This term is broader than mere transaction as, among other things it includes “*holding*” and thus would appear to encompass all of the elements of the FATF definition of “*funds*”. “*Property*” as defined in section 1 means “*immovable and movable property, monies and rights, inclusive of property which is the proceeds of any such property, and any property accruing or originating from the profits of any such property*”; Section 7 of the PMLL authorizes the issuing of orders by the various regulators “*regarding the category of matters and property transactions to be specified in the order*”. The evaluation team is of the opinion that the definition of “*property transaction*” does in fact extend to “*funds stemming from criminal activities*”.

528. The term “*Property transaction*” is the term used in sections 3, 4 of the PMLL to cover the Money Laundering offence which is defined as the following: “*A person performing a property transaction provided in paragraphs (1) to (3) hereunder, (in this Law referred to as “prohibited property”), with the object of concealing or disguising its source, the identity of the owners of the rights, the location, movement or disposition with respect to such property*”

529. Section 3 of the PMLL then creates the link to property that is the proceeds of a criminal offence..

530. Section 4 of the PMLL sets out an offence that “*A person undertaking a property transaction in the knowledge that the property in question is prohibited property of a type and worth the amount listed in Schedule 2, shall be guilty of an offense punishable by seven years imprisonment or a fine of ten times that stated in section 61(a)(4) of the Penal Law; for the purposes of this section, “knowledge” does not include turning a blind eye to the matter as defined in section 20(c)(1) of the Penal Law.*” Section 6 of the PMLL then goes on to provide a defence against this offence in that “*A person shall not bear criminal liability under section 4 if he did one of the following:*

- (1) He reported to the police in a manner and on a date to be determined, prior to undertaking the property transaction, of his intention to do so, and complied with its instructions pertaining thereto, or reported to the police as aforesaid as soon as possible under the circumstances, after carrying out the property transaction.*
- (2) He reported in accordance with the provisions of sections 7 or 8A - where the provisions of those sections apply to him.”*

531. Section 5 of the PMLL clarifies that “*An offence shall be committed under sections 3 and 4 where it is proved that the person undertaking the transaction knew that the property was prohibited property, notwithstanding that he was unaware of the specific offence with which it was connected.*”
532. Attempted transactions appear to be covered by Section 7 (a) (2), of the PMLL. This section states that the reporting requirements should include “*the service recipient's property transactions which shall be referred to in the order in the manner which shall be stipulated in the order, including the transactions as aforesaid which were not completed*”. This would appear to include transactions that have been proposed and not commenced. Section 7 (b) applies this requirement to all financial institutions.
533. Thus the defence against committing a money laundering offence is to submit an unusual activity report (UAR). Although this section is couched in negative terms it does broaden the scope of application of the reporting requirement and would, for example, include all DNFBP within its scope regardless of whether any relevant Orders were in place. This general requirement is then supplemented by more specific requirements for the financial sector which contain more specific reporting requirements.
534. Section 7(a)(2) of the PMLL provides for a general obligation for banking corporations to report the service recipient's property transactions which shall be referred to in the Banking Order in the manner stipulated by this Order. In addition, Section 7(b) provides for the same obligation with a reference to Section 7(a)(2) with respect to other financial institutions as listed in Schedule 3 of the PMLL. In particular this Schedule includes the following financial institutions:
- A member of the Stock Exchange;
  - A portfolio manager;
  - An insurer or insurance broker;
  - Provident funds;
  - A money services provider; and
  - The Postal Bank.
535. To fully understand the reporting system of Israel the various Orders issued by the Governor of the Bank of Israel and relevant Ministers (according to Section 7 (a) and (b)) shall be considered and read in conjunction with a general provision of the PMLL.

#### *Banking corporations*

536. Section 9 (a) of the Banking Order (5761-2001) provides for the obligation to report to the competent authority transactions by a service recipient that seem to the banking corporation to be unusual in view of the information in the banking corporation's possession. In order to assist the banking corporations the Order (Schedule 2) refers to an indicative list of situations (including various examples of activity) that may be deemed unusual transactions. Although the Second Schedule provides an indicative list of instances that may be deemed unusual there is no reference to transactions or funds being the proceeds of a criminal activity and thus no specific requirement for financial institutions to report when they suspect or have reasonable grounds to suspect that funds are the proceeds of a criminal activity. Nonetheless, the overriding reporting requirement as set out in Sections 3-6 of the PMLL does contain these elements.
537. In addition, the Israeli authorities provided the evaluation team with the supplementary explanation on how banking corporations should understand the concept of “*unusual*”, thus pursuant to Section 6 of the Supervisor of Banks' circular (dated 30.08.2004) the word “*unusual*” is to be construed so that there is a reason to believe that a connection with money laundering exists, even though banking corporations have neither knowledge nor suspicion of a connection between the activity and the predicate offence, then it should be reported.
538. Attempted transactions are also not explicitly covered by the Order, although they are covered through section 7(a)(2) of the PMLL as mentioned above.

### *Stock Exchange Members*

539. Section 13 of the Stock Exchange Members Order (5770-2010) provides for the obligation to report any transaction of the service recipient to the competent authority, *including an attempt to perform transactions* that, in view of the information available to the Stock Exchange member, appear to be unusual. Also the Order contains (Third Addendum) an indicative list of situations (including various examples of activity) that may be deemed unusual transaction. Although the Third Addendum provides an indicative list of instances that may be deemed unusual there is no reference to transactions or funds being the proceeds of a criminal activity and thus no specific requirement for financial institutions to report when they suspect or have reasonable grounds to suspect that funds are the proceeds of a criminal activity. Nonetheless, the overriding reporting requirement as set out in Sections 3-6 of the PMLL does contain these elements.
540. The Israeli authorities informed the evaluation team that the Israeli Securities Authority has issued a circular (dated 8 January 2008) that provides for an explanation that the word “*unusual*” is to be construed so that there is a reason to believe that a connection with money laundering and terror financing exists, in the light of the information they have, even though Stock Exchange Members have neither knowledge nor suspicion of a connection between the activity and the predicate offence, then it should be reported.

### *Portfolio Managers*

541. Section 10 of the Portfolio Managers Order (5770-2010) provides for the obligation to report to the competent authority any transaction in a managed account<sup>33</sup>, *including an attempt to perform transactions* that in view of the information available to the portfolio manager, appears to be unusual. The Order provides for (third Addendum) an indicative list of situations (including various examples of activity) that may be deemed an unusual transaction. Although the Third Addendum provides an indicative list of instances that may be deemed unusual there is no reference to transactions or funds being the proceeds of a criminal activity and thus no specific requirement for financial institutions to report when they suspect or have reasonable grounds to suspect that funds are the proceeds of a criminal activity. Nonetheless, the overriding reporting requirement as set out in Sections 3-6 of the PMLL does contain these elements.
542. In addition, the evaluation team has observed that pursuant to the Israeli Securities Authority circular (dated 8 January 2008) the word “*unusual*” is to be construed so that there is a reason to believe that a connection with money laundering exists, even though portfolio managers have neither knowledge nor suspicion of a connection between the activity and the predicate offence, then it should be reported.
543. It should also be pointed out that Section 11 of the Order provides that portfolio managers shall be exempted from the reporting obligation of this Order if the transaction is performed in a managed account by a client who is a public institution, a banking corporation, the Postal Bank, an insurer, a Stock Exchange member, a provident fund and a managing company for the provident fund it manages, a fund. The Israeli authorities explained that this is an error which occurred in the context of the drafting of the amendments to the previous Order, and this error will be remedied in the future.

### *Insurers and Insurance agents*

544. Section 6 (C) of the Insurers and Insurance agents Order provides for the obligation for an insurer and an insurance agent to report to the competent authority any transaction under a life insurance contract which, in view of the information found in their possession, appears to be unusual in their opinion, including any transaction apparently intended to circumvent the obligation of reporting prescribed in subsections (A) and (B) of the Order (CTR reporting), but without the

---

<sup>33</sup> Section 1 of the Order 5770-2010: “Managed Account” – an account for securities or financial assets over which the Portfolio Manager has received power of attorney.

need to present questions and examine the facts with the service recipient of the executor of the transaction. There is no explanation with respect to the concept of “*unusual*” as in the case of the Banking or Portfolio Managers Orders and no reference to transactions or funds being the proceeds of a criminal activity and thus no specific requirement for financial institutions to report when they suspect or have reasonable grounds to suspect that funds are the proceeds of a criminal activity. Nonetheless, the overriding reporting requirement as set out in Sections 3-6 of the PMLL does contain these elements.

545. The Israeli authorities informed the evaluation team that the Commissioner of the Capital Market has issued a circular (dated 14 January 2008) that provides for an explanation that the word “*unusual*” is to be construed so that there is a reason to believe that a connection with money laundering and terror financing exists, in the light of the information they have, even though insurers and insurance agents have neither knowledge nor suspicion of a connection between the activity and the predicate offence, then it should be reported.

546. Attempted transactions are not covered by the Insurers and Insurance agents Order although they are covered through section 7(a)(2) of the PMLL as mentioned above..

#### *Provident funds*

547. Section 6 (10) of the Provident Funds Order provides for the obligation to report to the competent authority any transaction in an account which in view of the information found in the possession of the fund purports to be unusual, in its opinion, and inclusive of any transactions whose objective appears to be to circumvent the obligation of reporting of cash transactions (Section 6 (1) – (9) ), but without an obligation to present questions and clarify the facts with the recipient of the service and the person performing the transaction. There is no reference to transactions or funds being the proceeds of a criminal activity and thus no specific requirement for financial institutions to report when they suspect or have reasonable grounds to suspect that funds are the proceeds of a criminal activity. Nonetheless, the overriding reporting requirement as set out in Sections 3-6 of the PMLL does contain these elements.

548. In addition, the evaluation team has observed that pursuant to the Commissioner of the Capital Market circular (dated 14 January 2008) the word “*unusual*” is to be construed so that there is a reason to believe that a connection with money laundering exists, even though provident funds have neither knowledge nor suspicion of a connection between the activity and the predicate offence, then it should be reported.

549. Attempted transactions are also not explicitly covered by the Order, although they are covered through section 7(a)(2) of the PMLL as mentioned above.

#### *Money service providers*

550. Section 6 (b) of the Money Service Providers Order (Order 5762- 2002) provides for the obligation to report to the competent authority regarding the activities of a service applicant which appear to him to be irregular, but without the need to question and clarify the facts with the applicant for the service and the recipient of the service. An indicative list of activities which may be regarded as irregular is provided for (i.e. four situations, one of them conditioned by a threshold of 1000 NIS (€200)). There is no other explanation with respect to the concept of “*irregular activities*”. There is no reference to transactions or funds being the proceeds of a criminal activity and thus no specific requirement for financial institutions to report when they suspect or have reasonable grounds to suspect that funds are the proceeds of a criminal activity. Nonetheless, the overriding reporting requirement as set out in Sections 3-6 of the PMLL does contain these elements.

551. Attempted transactions are not explicitly covered by these provisions, although they are covered through section 7(a)(2) of the PMLL as mentioned above.

*Postal Bank*

552. Section 12 of the Postal Bank Order (5771- 2011) establishes the obligation for the Postal Bank to report to the competent authority transactions of a recipient of service, *including an attempt to perform transactions*, which, given the information that the Postal Bank has, appears to it to be unusual. The Order contains (third Schedule) an indicative list of situations (including various examples of activity) that can be deemed an unusual transaction. Although the Third Schedule provides an indicative list of instances that may be deemed unusual there is no reference to transactions or funds being the proceeds of a criminal activity and thus no specific requirement for financial institutions to report when they suspect or have reasonable grounds to suspect that funds are the proceeds of a criminal activity. Nonetheless, the overriding reporting requirement as set out in Sections 3-6 of the PMLL does contain these elements.

553. In addition, the evaluation team has observed that pursuant to the Ministry of Communications circular (dated 8 January 2008) the word “*unusual*” is to be construed so that there is a reason to believe that a connection with money laundering exists in light of the information they have. However this is not in line with C.13.1 since the obligation is linked to transactions related to ML/TF.

554. Reporting procedures and time frames are prescribed by binding regulation - Prohibition on Money Laundering (Methods and Times for Reporting to the Data Base by Banking Corporations and entities specified in the Third Schedule) Regulations, 5762-2002). Under Article 4(a)(2) of the regulations, all financial institutions are required to report UARs “promptly”. The comment on the 3<sup>rd</sup> round evaluation related only to the possibility that was included under Directive 411 for Banks to report “no longer than 14 days”, and therefore the Directive was amended in order to address this deficiency.

555. In accordance with sections 14(c)-(d) of the Directive No. 411 - On-going surveillance :

*“(c) A banking corporation shall establish detailed procedures setting out the channel of communications regarding unusual transactions (as per Section 9 in the Order). The procedures shall incorporate full documentation of the decision-making process from first discovery of the unusual transaction to the formulation of a decision on whether to report to the competent authority.*

*Reporting on irregular activity under Section 9 of the Order shall take place as promptly as possible under the circumstances of the cast. In the event of special circumstances, an unavoidable delay, or a delay that the banking corporation considers justified, the banking corporation shall document the reasons for said delay.”*

*Requirement to Make STRs on FT to FIU (c.13.2 & IV.1)*

556. Section 48(a) of the PTFL, Section 7 of the PMLL and the reporting obligations of UAR in various Orders constitute a system of mandatory reporting of unusual transactions related to TF. The competent authority for receiving such reports is IMPA.

557. Section 48(a) of the PTFL empowers the Governor of the Bank of Israel and the relevant Ministers to issue Orders for the purpose of enforcing the PTFL. In this respect the Governor of the Bank of Israel and the relevant Ministers issued Orders for all financial institutions (provided in Schedule 3 of the PMLL).

558. It should be pointed out that pursuant to Section 10 of the PTFL all persons (not only a reporting entity subject to the AML/CFT reporting regime) shall report suspicions related to TF to the Israeli Police in order to receive immunity from criminal liability follow the instructions of the police (section 9 of the PTFL).

559. This issue was also raised within the 3<sup>rd</sup> round report. The issue of concern was that Section 10(a) of the PTFL obliges reporting of suspicions related to TF to the Israeli Police and Section 10(b) provides a discretionary obligation to report to IMPA. In order to resolve this overlap, specific

circulars were issued by the relevant authorities that clarify the direct reporting obligation for reporting entities to report to IMPA all UARs regarding any transaction related to TF. Additionally, the Israeli authorities provided the evaluation team with a letter that clearly stated that in practice financial institutions report to IMPA in cases specified in Section 10(a) of the PTFL, additionally to the report to the Israeli Police. The Israeli authorities have confirmed that all TF UARs that were sent directly to the Israeli Police were also sent to IMPA. This supplementary explanation had been accepted by the evaluation team in the 3<sup>rd</sup> round. Moreover, as set in internal police procedures, all the reports received by the police according to section 10 of the PTFL, are transmitted immediately by the Police to IMPA. The Israeli authorities have stated that in examining all the reports made to the police under section 10 - it has been verified by IMPA that all were reported as UARs directly to IMPA under the orders made by section 48 of the PTFL. Therefore, it seems that section 10(b) does not limit the obligations of financial institutions to report to IMPA of UARs regarding any transaction related to TF. The obligation to report a UAR to IMPA is a separate and wider obligation, which is parallel to the obligation in section 10 of the PTFL. In the view of the evaluators this lacuna in the law does not present a barrier to the effective reporting of TF suspicions to IMPA and it was also reflected in practice.

560. In addition, the Israeli authorities informed the evaluation team that they have prepared several amendments to the laws and regulations in response to the recommendations of the 3<sup>rd</sup> round report (in relation to possible double-reporting of UARs on TF to both the police and FIU). However, these amendments were still not yet in force at the time of the on-site visit. The Israeli authorities confirmed that in practice this creates no problems and UARs regarding TF are always reported to IMPA.
561. As set out in section 48 of the PTFL the Israeli legislator has specifically applied the entire AML regime, including the reporting obligations of financial institutions, for an additional purpose – the combat against terror financing. Therefore, financial institutions are required to report to IMPA on TF related property transactions.
562. The term “*property transaction*” is defined in Section 1 of the PTFL as “*acquisition or receipt of ownership or other rights in property, regardless of whether any consideration is paid, including solicitation, transfer, receipt, possession, exchange, banking transactions, investment, any transaction involving securities or possession of securities, brokerage, granting or receipt of credit, import, export or creation of a trust or co-mingling of terrorist property with other property even if it is not terrorist property;*” This term is broader than mere transaction as, among other things it includes “*holding*” and thus would appear to encompass all of the elements of the FATF definition of “*funds*”. “*Property*” as defined in section 1 means “*immovable and movable property, monies and rights, inclusive of property which is the proceeds of any such property, and any property accruing or originating from such property or its profit*”; Section 48 of the PTFL authorises the issuing of orders by the various regulators for the enforcement of the PTFL. The Orders are analysed below.

#### *Banking corporations*

563. Section 9 (a) of the Banking Order provides for the obligation to report to the competent authority transactions by a service recipient that seem to the banking corporation to be unusual in view of the information in the banking corporation’s possession. In order to assist the banking corporations the Order (Schedule 2) under Section 9(b) refers to an indicative list of situations (including various examples of activity) that may be deemed unusual transactions. According to paragraphs 4 and 4a of this Second Schedule it appears that a reference is only made to the activities of designated terrorists and terrorist organisations and not to terrorist financing. Also it should be mentioned that pursuant to paragraph 3 when a transaction that resulted in the banking corporation’s decision to close the account for reasons of TF this may be deemed unusual and consequently reported to IMPA.

(3) *A transaction that resulted in the banking corporation's decision to close the account for reasons of the prohibition on money laundering or the prevention of financing terrorism;*

(4) *Activity that appears intended to replace that of an organisation declared an unlawful association under Regulation 84 of the Defense (Emergency) Regulations, 1945 or an organisation declared as terrorist under the Prevention of Terrorism Ordinance, 5708-1948 or an organisation designated a terrorist organisation pursuant to section 2 of the Prohibition on Financing Terrorism Law;*

(4a) *Activity that appears intended to replace activity by a person designated a terrorist pursuant to section 2 of the Prohibition on Financing Terrorism Law;*

564. As previously stated, the Supervisor of Banks issued a circular (dated 30 August 2004) that provides for an explanation that the word “*unusual*” is to be construed so that there is a reason to believe that a connection with money laundering exists, even though banking corporations have neither knowledge nor suspicion of a connection between the activity and the predicate offence, then it should be reported. This explanation provided by the circular clearly refers only to ML. In order to address this gap on 7 January 2008, the Supervisor of Banks published a clarification that TF should be added to circular of 30 August 2004 and the wording “*and terror financing*” should be added after the wording “*money laundering*” respectively.

565. It is noted that attempted transactions are not explicitly covered by the Banking Order, however, attempted transactions are covered through section 7(a)(2) of the PMLL as set out above.

#### *Stock Exchange Members*

566. Section 13 of the Stock Exchange Members Order (5770-2010) provides for the obligation to report any transaction of the service recipient to the competent authority, *including an attempt to perform transactions* that in view of the information available to the Stock Exchange member, appear to be unusual. Also the Order contains (Third Addendum) an indicative list of situations (including various examples of activity) that may be deemed unusual transactions. According to paragraphs 5 and 6 of this third Addendum it appears that a reference is only made to the activities of designated terrorists and terrorist organisations and not to terrorist financing. It should also be mentioned that, pursuant to paragraph 4, when an activity that caused the Stock Exchange Member to close the account for reasons of TF this may be deemed unusual and consequently reported to IMPA.

567. The Israeli authorities informed the evaluation team that the Israeli Securities Authority has issued a circular that provides for an explanation that the word “*unusual*” is to be construed so that there is a reason to believe that a connection with money laundering and terror financing exists.

#### *Portfolio Managers*

568. Section 10 of the Portfolio Managers Order (5770-2010) provides for the obligation to report to the competent authority any transaction in a managed account, *including an attempt to perform transactions* that in view of the information available to the portfolio manager, appears to be unusual. The Order provides for (third Addendum) an indicative list of situations (including various examples of activity) that may be deemed an unusual transaction. According to paragraphs 4 and 5 of this third Addendum it appears that a reference is only made to the activities of designated terrorists and terrorist organisations and not to terrorist financing. Also it should be mentioned that pursuant to paragraph 3 when an activity that caused the portfolio manager to decide to refuse to establish a business relationship with a client or to terminate the existing relationship for reasons of TF this may be deemed unusual and consequently reported to IMPA.

569. In addition, the evaluation team has observed that pursuant to the Israeli Securities Authority circular (dated 8 January 2008), which was provided to the evaluators, the word “*unusual*” is to be construed so that there is a reason to believe that a connection with money laundering or terror



financing exists, even though portfolio managers have neither knowledge nor suspicion of a connection between the activity and the predicate offence, then it should be reported.

#### *Insurers and Insurance agents*

570. Section 6(C) of the Insurers and Insurance Agents Order provides for the obligation for an insurer and an insurance agent to report to the competent authority any transaction under a life insurance contract which, in view of the information found in their possession, appears to be unusual in their opinion, including any transaction apparently intended to circumvent the obligation of reporting prescribed in subsections (A) and (B) of the Order (CTR reporting), but without the need to present questions and examine the facts with the service recipient of the executor of the transaction. The Israeli authorities informed the evaluation team that the Commissioner of the Capital Market has issued a circular (dated 14 January 2008) clarifying that the obligation to report unusual transactions also includes TF.

571. Although attempted transactions are not covered by the Insurers and Insurance Agents Order these are covered through section 7(a)(2) of the PMLL as set out above.

#### *Provident funds*

572. Section 6 (10) of the Provident Funds Order provides for the obligation to report to the competent authority any transaction in an account which in view of the information found in the possession of the fund purports to be unusual, in its opinion, and inclusive of any transactions whose objective appears to be to circumvent the obligation of reporting of the Cash transactions (Section 6 (1) – (9) ), but without an obligation to present questions and clarify the facts with the recipient of the service and the person performing the transaction.

573. The Israeli authorities informed the evaluation team that the Commissioner of the Capital Market has issued a circular (dated 14 January 2008) clarifying that the obligation to report unusual transactions also includes TF.

574. Although attempted transactions are not covered by the Insurers and Insurance Agents Order these are covered through section 7(a)(2) of the PMLL as set out above.

#### *Money service providers*

575. Section 6 (b) of the Money Service Providers Order (Order 5762-2002) provides for an obligation to report to the competent authority regarding the activities of a service applicant which appear to him to be irregular, but without need to question and clarify the facts with the applicant for the service and the recipient of the service. An indicative list of activities which may be regarded as irregular is provided for which does not contain any references to TF. There is no other explanation with respect to the concept of “*irregular activities*”.

576. Although attempted transactions are not covered by the Insurers and Insurance Agents Order these are covered through section 7(a)(2) of the PMLL as set out above.

#### *Postal Bank*

577. Section 12 of the Postal Bank Order (5771-2011) establishes the obligation for the Postal Bank to report to the competent authority transactions of a recipient of service, *including an attempt to perform transactions*, which, given the information that the Postal Authority has, appears to it to be unusual. The Order contains (third Schedule) an indicative list of situations (including various examples of activity that can be deemed an unusual transaction. According to paragraphs 4 and 5 of this third Schedule it appears that a reference is only made to transactions of designated terrorists and terrorist organisations and not to terrorist financing. It should also be mentioned that, pursuant to paragraph 3, when a transaction that led the Postal Bank to close the account for reasons of TF this may be deemed unusual and consequently reported to IMPA.

578. In addition, the evaluation team has observed that pursuant to the Ministry of Communications circular (dated 8 January 2008) the word “*unusual*” is to be construed so that there is a reason to believe that a connection with TF exists in light of the information they have.

579. Reporting procedures and time frames are prescribed by binding regulation, the Prohibition on Money Laundering (Methods and Times for Reporting to the Data Base by Banking Corporations and entities specified in the Third Schedule) Regulations, 5762-2002). Under Article 4(a)(2) of the regulations, all financial institutions are required to report UARs “*promptly*”. The comment in the 3<sup>rd</sup> round evaluation related only to the possibility that was included under Directive 411 for Banks to report “*no longer than 14 days*”, and therefore the Directive was amended in order to address this deficiency.

*No Reporting Threshold for STRs (c. 13.3 & c. SR.IV.2)*

580. The reporting requirements under relevant Orders are not subject to any threshold limitations.

*Making of ML/FT STRs regardless of Possible Involvement of Tax Matters (c. 13.4, c. IV.2)*

581. The reporting requirement relates to an unusual transaction without reference to whether the transaction is connected to tax evasion or avoidance. The Israeli authorities also specified, that this was also stated in a ruling of the Supreme Court<sup>34</sup>.

*Additional Elements – Reporting of All Criminal Acts (c. 13.5)*

582. As a reporting definition does not specifically address the source of offences, there is nothing, in theory to prevent a report being made in respect of all criminal acts that would constitute predicate offences domestically.

***Effectiveness and efficiency R.13***

583. With regard to the reporting of suspicious transactions, the evaluation team was pleased to note that there has been a significant increase in the volume and quality of suspicious transaction reports from the financial sector since the last evaluation. The representatives of the reporting entities that the evaluation team met, all displayed a sound understanding of their reporting requirements and, with a few exceptions, advised that they were receiving regular training and general feedback from IMPA.

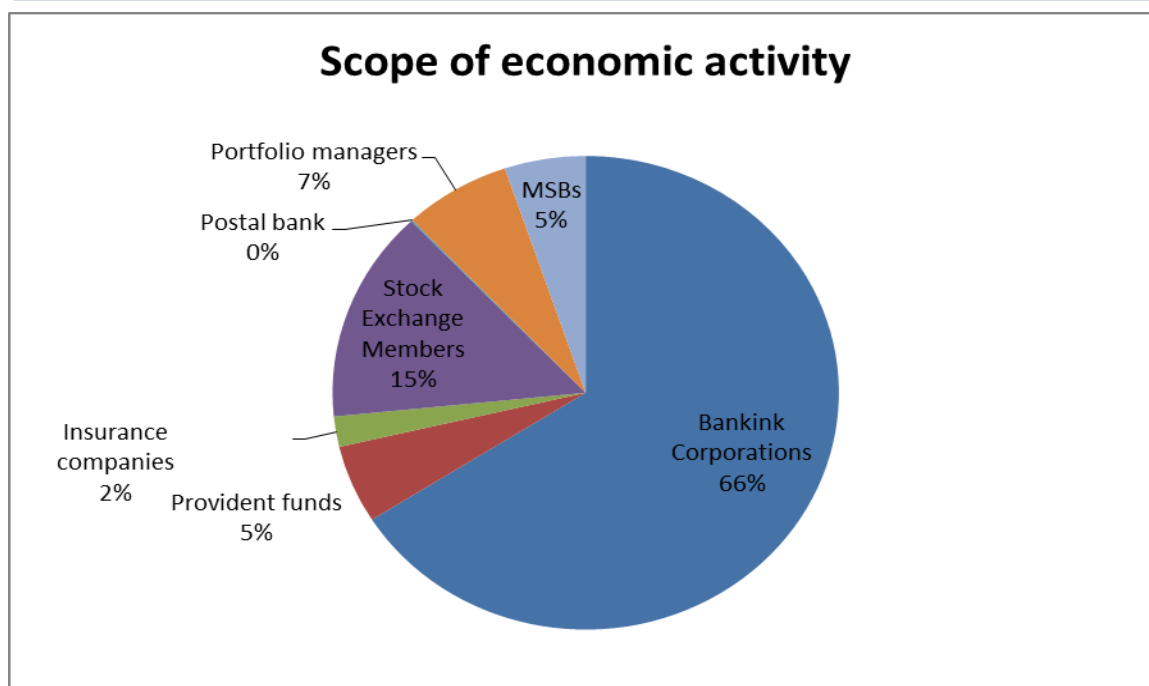
584. Although the overall volume of the UARs has significantly increased since the last evaluation, it has to be noted that the concerns regarding the fact that the majority of the reports come from banks still remains. It was noted in the 3<sup>rd</sup> round evaluation report that in 2006 approximately 93% of the reports came from banks. In 2012 the banks were sending 83.5% of the reports and other financial sectors send respectively 16.5% of the reports. So the proportion of the reports from the other parts of the financial sector has increased by 10%.

585. Careful Analysis of the data illustrates that UAR reporting from the non-banking sector has been increasing annually. The UAR reporting level of the non-banking sector compared to the relative market size of each sector appears to be largely proportionate.

586. The most relevant comparison in this context should be made between the percentage of CTRs from the non-banking sector (18.2% in 2012) and of the UARs from the non-banking sector (16.5% in 2011) which seem compatible as the CTRs represent high-risk transactions specified by type and size (e.g. cash deposits or international transactions). Comparing the relative volume size of UARs from the non-banking sector should be compared therefore to the relative volume of CTRs from the non-banking sector (and not only to the market size). Following this view, it should be noted that the volume of UARs and the way they are spread among financial institutions is largely compatible to the volume and spread of CTRs.

---

<sup>34</sup> For example: criminal appeal 6495/08, Avraham Gabai v' The State of Israel.

**Table 33: Distribution of UARs by Main Reporting Entities**

	2008	2009	2010	2011	2012
<b>Banks</b>	89.6%	89.0%	85.2%	83.5%	83.5%
<b>Other entities</b>	10.4%	11.0%	14.8%	16.5%	16.5%

587. The Israeli authorities have prepared several amendments in the laws and regulations in response to the recommendations in the 3<sup>rd</sup> round report (in relation to possible double-reporting of UARs on TF to both, the police and FIU). The confusing wording in Article 48 of the PTFL has been replaced with a provision that clarifies that the obligation to report to the Israeli Police does not override the obligation to report to IMPA in accordance with Article 7 of the PMLL. Although these amendments are not yet in force the Israeli authorities have issued on January 2008 further guidance to the effect that the clarification given in 2004 also applies to TF. The Israeli authorities confirmed that, in practice, this creates no problems and UARs regarding TF are always reported to IMPA.

588. With regard to attempted transactions, the representatives of IMPA and financial sector representatives stated that such transactions are in practice reported to the FIU. This was also illustrated by the relevant statistics presented by the Israeli authorities (see below). Nevertheless, as the relevant regulations making the reporting of attempted transactions obligatory are not yet in force for all financial institutions, thus the evaluators urge the Israeli authorities to expedite the introduction of the necessary amendments as soon as possible.

**Table 34: No. of Attempted transactions reported to IMPA as UARs**

2009	2010	2011	2012	2013(23\10\13)	Total
405	378	419	269	393	1864

589. The evaluators were also informed that the confusion with the reporting deadline for UARs (up to 14 days) has been resolved. On 24 January 2010, the Supervisor of Banks amended section 14 of Directive 411, which includes an explicit obligation to report unusual activity under Section 9 of the Banking Orders as promptly as possible (thus abolishing the maximum time frame for reporting to IMPA) under the circumstances (Section 14(D) of Directive 411), cancelling the reference to the receiving of the report by the compliance officer. Moreover, the Israeli authorities have indicated, that they have also imposed financial sanctions on financial institutions due to the delay of the submission of the reports to IMPA.

590. In the 3<sup>rd</sup> round report one issue negatively affecting the rating was related to technical solutions and the deadlines set out in the regulations, which created some serious timeliness issues relating to reports. The evaluators were pleased to note that since the 3<sup>rd</sup> round report IMPA has taken several measures in order to deal with those issues. Namely, IMPA has implemented an electronic reporting system from May 2013, which enables IMPA to receive UARs and CTRs from financial institutions electronically. There is also now the possibility for reporting entities to mark the report as “urgent” which enables the FIU to pay prompt attention to such reports. In order to improve the level of reporting, the quality of UARs, and the effectiveness in relation to the timeliness of the reporting system and awareness-raising, IMPA has organised several training events and feedback meetings for the reporting institutions, it has also sent feedback letters and automatic quality reports to the reporting institutions.

591. The number of terrorist financing reports is significant and appears to be triggering a number of investigations. For comparison, when during the 3<sup>rd</sup> round evaluation the number of reported UAR on TF was: (2004: 10, 2005: 23, 2006: 25, 2007:48, 2008: 42). The past few years have shown a significant increase in this respect (2011: 184, 2012: 464). On a positive note, it should be concluded that the number of UARs on TF received from outside the banking sector has significantly increased since the last evaluation. Nevertheless, not all the financial institutions (i.e. insurance companies, MSPs) are sending UARs on TF and therefore IMPA might consider providing more outreach in this regard.

**Table 35: No. of suspicious transaction reports related to TF sent by financial institutions**

Monitoring entities, e.g.	reports about suspicious transactions - TF				
	2008	2009	2010	2011	2012
<b>Commercial banks</b>	41	26	38	131	227
<b>Credit cards company</b>	1	3	4	6	68
<b>Insurance companies</b>	-	-	-	-	-
<b>Members of the Stock Exchange</b>	-	-	-		-
<b>Portfolio managers</b>	-	-	-		-
<b>Postal bank</b>	-	1	5	4	169
<b>Provident funds</b>	-	-	-	1	-
<b>Money service providers</b>	-	-	-	-	-
<b>Total</b>	42	30	47	184	464

592. The total lack of reports on TF from the MSP sector does raises concerns, particularly given the amount of evidence that has been produced since 9/11 on the involvement of this type of businesses in TF activities. Nonetheless the Israeli authorities have explained that this is down to a data collection issue as MSPs submit all reports as relating to ML whereas a number of UARs from MSPs have been passed to the security services as relating to TF.

***Recommendation 25(c. 25.2 – feedback to financial institutions on STRs/ rated NC in the 3<sup>rd</sup> round report)***

593. IMPA provides each reporting entity with feedback regarding its unusual activity report. They have daily contact with the compliance officers of the reporting institutions. The quality of the reports is being monitored. Moreover, as mentioned above (R.26) IMPA has provided the financial institutions with training and lectures and organised several feedback seminars.

594. The representatives of some financial sectors, who the team met, indicated, that they were receiving regular training and general feedback from IMPA (statistics, information on current ML/TF methods, trends and techniques as well as some sanitised examples of actual ML/TF cases).

595. IMPA also gives some specific case by case feedback. It acknowledges receipt of the report but generally does not provide feedback directly as to what has been done with the report. To further enhance effectiveness IMPA may wish to give consideration to providing more frequent feedback of this kind.

### 3.7.2 Recommendations and comments

596. There has been a significant increase in the volume and quality of suspicious transaction reports from the financial sector since the last evaluation. The number of UARs on ML and TF from the non-banking sector has significantly increased since the last evaluation. Nevertheless as not all the sectors of financial institutions (i.e. insurance companies, MSPs) are sending UARs on TF, IMPA should consider providing more outreach and training in this regard.

597. The evaluation team is of the opinion that considering the complexity of the legal requirements related to reporting obligations in Israel, it could be confusing and challenging for some financial institutions to clearly understand their obligations. In this respect the evaluators believe that the Israeli authorities should consider providing a general requirement in the PMLL (as in case of the PTFL) in order to remove any inconsistency and doubts among various financial institutions.

#### ***Recommendation 13 and Special Recommendation IV***

598. Although the reporting requirement in the PMLL appears clear, the reporting requirement is convoluted in a number of Orders where there is reference to a list of indicators that are deemed to indicate unusual transactions. The evaluators strongly recommend that reporting requirement in all of the Orders should be amended to include a specific requirement for the relevant institutions to report when they suspect or have reasonable grounds to suspect that funds are the proceeds of a criminal activity.

599. The portfolio managers should not be exempted from the reporting obligation under their Order if the transaction is performed in a managed account by a client who is a public institution, a banking corporation, the Postal Bank, an insurer, a Stock Exchange member, a provident fund and a managing company for the provident fund it manages or a fund.

600. Although this is covered in the PMLL, attempted transactions should be explicitly covered in the Banking Order, the Insurer and Insurance agents Order, the Provident Funds Order and the Money Service Providers Order.

601. The Israeli authorities should amend Section 10(a) of the PTFL in order to introduce a clear requirement to report UARs directly to IMPA.

#### ***Recommendation 25/c. 25.2 [Financial institutions and DNFbps]***

602. IMPA may wish to give a consideration to give more case-by-case feedback to the reporting entities. Considering the large amount of the reports it is indeed unreasonable to give the feedback regarding every and each report, however the evaluators encourage IMPA to give feedback at least in regard to the reports, which were disseminated to the law enforcement or/and have reached the court verdict.

### 3.7.3 Compliance with Recommendations 13, 25 and Special Recommendation IV

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.13</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>Portfolio managers are exempted from the reporting obligation for certain categories of customer;</li> </ul>
<b>R.25</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>More case-specific feedback on UARs could be undertaken to reporting entities.</li> </ul>
<b>SR.IV</b>	<b>C</b>	

## **Internal controls and other measures**

### **3.8 Internal Controls, Compliance, Audit and Foreign Branches (R.15 and 22)**

#### 3.8.1 Description and analysis

#### ***Recommendation 15 (rated PC in the 3<sup>rd</sup> round report)***

#### ***Summary of 2007 MER factors underlying the rating and developments***

603. Under the third round of evaluation, Israel was previously rated PC in respect of Recommendation 15, with deficiencies including the lack of obligation (legislative or other enforceable), except for banks, to:

- i) establish and maintain internal procedures, policies and controls to prevent ML/TF and to communicate these to employees; and
- ii) designate compliance officers at management level and to ensure that they have timely access to CDD, transactions and other relevant information.

604. Moreover, in the non-bank financial sector, there were no general enforceable requirements to maintain an adequately resourced and independent audit function to test compliance with AML/CFT procedures, policies and controls as well as establish ongoing employee training.

605. Selective screening procedures for high standards when hiring employees were lacking for the whole financial sector.

606. The Israeli authorities refer to the following legislative and regulatory measures as covering the requirements on internal controls, auditing functions, compliance as well as training and hiring initiatives, related to Recommendation 15:

- Companies Law (reference to Chapter 3 and 5);
- AML/CFT Law (reference to Section 8 of the PMLL);
- Sectorial legislation (Banking Laws, Laws of Insurance sectors and operators, Securities Laws etc.);
- Regulatory measures (Directives, AML/CFT Orders and other enforceable means) issued by respective regulators; and
- Circulars and Letters issued by regulators/supervisors.

607. Under Companies Law 5759-1999, Chapter 3, Article I, the Board of directors of a private company may appoint from its members an Audit Committee, whose functions are indicated in section 177 of that Law. As regards internal auditing, that Law sets forth specific provisions on auditing, whose requirements are mandatory for all entities operating in Israel. Appointment, independency, powers, duties and responsibilities of auditors and other relevant issues are indicated in Chapter 5 (on Auditor) of the Companies Law.

608. According to the PMLL, under Part 1, section 8, a corporation to which the AML/CFT obligations applies shall appoint a person to be responsible for overseeing the implementation of the obligations set forth in the PMLL and related AML/CFT Orders. This person shall take measures in order to ensure that the corporation discharges the obligations imposed on it under the provisions of sections 7 and 7A of the PMLL.

#### *Internal AML/CFT procedures, policies and controls (c. 15.1)*

#### **Banking corporations**

609. According to Section 3.a (a) of the Directive 411 on Prevention of Money Laundering and Terrorism Financing, and customer identification, issued by the Supervisor of Banks, the board of directors of banking corporations shall establish policies in regard to “*prevention of money laundering and financing of terrorism*”. Such policies shall include measures aimed at monitoring of threats, at scanning and detecting transactions that may be associated with terrorism financing and at applying “*group basis policies*” to foreign branches.

610. Moreover, under section 4.(a), the board of directors of a banking corporation are required to establish customer due-diligence policies (including acceptance policy, risk-based approach procedures and monitoring activities), having regard to the factors indicated in section 4.(b) (among which, wealth/income of the customer, intended activity, his/her connection with Israel etc.)
611. Banking corporations are also required to maintain appropriate division of powers to ensure the implementation of such policies (section 5 of the Directive 411).
612. Customer due-diligence procedures shall be established by the management of a banking corporation, in accordance with the policies indicated above and set by the board of directors.
613. In particular, under section 8 of this Directive, a banking corporation shall establish customer-acceptance policies, customer identification procedures and ongoing controls of high-risk accounts by various means (e.g., external databases) in accordance with the extent of exposure to risk. The following sections (from 11 to 22) prescribe provisions on specific circumstances, business activities and customers: private banking, high risk accounts, numbered accounts, “third party accounts” (e.g. trust lawyers etc.), PEPs and correspondent banking accounts.
614. Such policies, procedures and controls shall also be performed on a (financial) group basis and applied to foreign branches if such measures do not contrast with local (host) legislation and regulation.
615. As regards the retention of documents and information, section 13(a) and section 13(b) require banking corporations to establish procedures on this regard, as well as procedures for maintenance and updating of information and documents.
616. The detection of an unusual transaction, according to the Israeli AML/CFT framework, is also covered by the requirement for banking corporations to operate a computerised system aimed at detecting unusual activities in all customer accounts (section 14 (b)). Follow up procedures related to unusual transactions are detailed in section 14 (b1), 14 (c) and 14(d) of Directive 411.

#### **Insurance companies and provident funds**

617. Unlike the banking sector, the Commissioner of Capital Markets, Insurance and Savings, the competent regulator under the sectorial law, has not issued an equivalent detailed regulation (at the same hierarchy level of Directive 411 for banking corporations) on establishment and maintenance of policies, procedures and controls to prevent ML and FT as required under c.15.1.
618. The evaluators were informed that on 27 June 2007, the Commissioner issued a Regulation (i.e. “Control of Financial Services (Insurance) (Board of Directors and its Committees) Regulations, 5767-2007”) on some aspects of the corporate governance of insurers and provident funds. In that regulation provisions on Board of Directors, Board of Directors Committee as well as on Control Board are set forth, however none of them covers the issues under c.15.1.
619. The Israeli authorities indicated to the evaluators that, after the enactment of the pertinent AML/CFT Order, insurance companies were required to hold a meeting of the Board of Directors in order to discuss steps for ensuring the company’s organisation for the prevention of ML on the following matters:
- i) deployment of the insurer for the application of the obligations pursuant to the Order;
  - ii) approval of the allocation of the resources for handling the matter; and
  - iii) timetable for the conclusion of the preparation.
620. Moreover, the Israeli authorities informed the evaluators that insurance companies were also required to forward to the Commissioner a report on their deployment in terms of organisational preparations and computerisation for the application of the provisions of the Order, including:
- organisation of the computer system;
  - deployment of the organisational system;

- appointment of a team of officer who are to undergo training in the matter of ML; and
- establishing written procedures as regards internal reporting processes, internal audit plan and training in connection with the provisions of the PMLL and the pertinent Orders.

### **Portfolio management companies and Stock Exchange members**

621. Unlike the banking sector, the ISA (which regulates Stock Exchange members and portfolio managers, including with regard to AML/CFT issues under the PMLL), has not issued an equivalent detailed regulation (at the same hierarchy level of Directive 411 for banking corporations) on establishment and maintenance of policies, procedures and controls to prevent ML and FT as required under c.15.1. The regulatory power of the ISA is assigned under section 48(b) and 51(b) of the Securities Law.
622. As regards Stock Exchange members, under section 46 of the above mentioned Law, the statute of the Stock Exchange shall establish rules for proper and fair operation as well as rules for the listing of securities for trading. Such rules include requirements that might be correlated to the prevention and contrast of ML and TF (see section 46 (a) 1, sub letters (c), (d) and (e)).
623. It is worth mentioning that, under section 46 (d) of the Securities Law, the board of directors of the Stock Exchange may, with the approval of the ISA, enact directives that include specifications, conditions and reservations with regard to anything set out in the by-laws. Thus, the Israeli authorities could also consider making use of this provision to enact directives covering the issues indicated under c.15.1.

### **Postal Bank and money service providers**

624. Unlike the banking sector, equivalent detailed regulation (at the same hierarchy level of Directive 411 for banking corporations) on establishment and maintenance of policies, procedures and controls to prevent ML and FT as required under c.15.1 has not been issued by the competent Israeli authorities.
625. Israeli authorities indicated that under the Postal Law, the Supervisor of the Postal Bank has the power to issue administrative orders regarding the activity and management of the Postal Bank (see section 88(N) of the Postal law).

*Develop appropriate compliance management arrangements and Nominated Compliance Officers at the management level (15.1.1)*

### **Banking corporations**

626. Section 7 of the Directive 411 establishes the “*Officer in charge of obligations under the Prevention of Money Laundering Law*” who shall ensure that the banking corporation meets its obligations in accordance with section 8 of the PMLL. Such activities shall be also implemented on a group basis level (see section 7 (b)).
627. The “*Officer in charge*” reports, in written form and on an annual basis, to the management and/or the board of directors of the banking corporation on the application of the banking corporation’s policy and procedures regarding customer due diligence.
628. According to the sections 7 (a) and 7 (a1) of the Directive 411, the “*Officer in charge*” shall be appointed at the level of a member of the management of the banking corporation or a direct subordinate of a member of the management who is not responsible for any operative area.
629. Moreover the “*Officer in charge*” shall have a senior formal status at the banking corporation and shall have proper skills and competences commensurate with his/her duties.
630. Additional provisions related to the duties of the “*Officer in charge*” and the overseas activities of a banking corporation are prescribed under the above mentioned section 7.
631. In particular, under section 7 (e), the “*Officer in charge*” at a branch or subsidiary located abroad shall be professionally subordinate to the officer in charge in Israel (and not to the manager of his



branch abroad) and, according to section 7 (f), the “*Officer in charge*” of the parent banking corporation shall verify the employment of a suitably qualified “*Officer in charge*” at relevant branch or subsidiary of the banking corporation in Israel and abroad.

632. As regards compliance management agreements, Directive 411 sets forth specific provisions (section 7a (a) and section 8) on the relations between the “*Officer in charge*” and the Internal Auditor or the internal audit functions and on the establishment of risk management and internal control systems.
633. Under Directive 308 “*Compliance Officer*”, banking corporations are required to appoint a “*Compliance Officer*” in the general framework of a banking corporation’s risk management, assisting the management and board of directors in meeting its responsibilities with regard to compliance with the requirements of the law, including the prevention of money laundering.
634. According to the information provided during the visit, the representatives of the Industry indicated that the person acting as “*Compliance Officer*” is often the same person acting as “*Officer in charge*”.
635. Directive 308 sets forth provisions on the independence of this position, on compliance program and tasks of the compliance officer as well as monitoring and reporting activities.
636. As regards compliance program agreements, specific provisions of this Directive govern the relation of the “*Compliance Officer*” with the board of directors (i.e. section 11 (b)), with other departments of a bank corporation (section 14 and followings) and with the management (section 17(b) and 18).

#### **Insurance companies and provident funds**

637. As mentioned above, unlike the banking sector, the Commissioner has not issued a regulation (such as Directive 411 for banking corporations) on compliance management arrangements and appointment of compliance officer at the management level.
638. However, during the visit, evaluators were informed of a Circular that has been drafted three months before the on-site visit on the “*Compliance Officer*” in charge of money laundering issues.

#### **Portfolio management companies, Stock Exchange members and MSPs**

639. As mentioned above, unlike the banking sector, the competent regulator has not issued a regulation (such as Directive 411 for banking corporations) on compliance management arrangements and appointment of compliance officer at the management level.
640. It is worth indicating that the representatives of the ISA consider the position of the compliance officer and their resources as an issue of major importance. According to the information provided, the ISA annually posts a circular on the ISA website on the findings of inspections conducted on its supervised entities. One chapter of this publication is devoted to inspections conducted under the PMLL. Moreover, in the circular published on June 2012 the ISA has expressed its opinion on the role of compliance officers, their status, and the need for companies to provide compliance officers with an appropriate work environment and resources. (June 2012 circular “*Findings of audits by the Investment Department conducted in the years 2010-2011*”).
641. Moreover the Israeli authorities have indicated that the ISA publishes on its website a Q&A with regard to various AML/CFT issues to portfolio managers and Stock Exchange members: ( available in Hebrew only):

<http://www.isa.gov.il/Default.aspx?Site=YOATZIM&ID=4050,1044>  
<http://www.isa.gov.il/Default.aspx?Site=YOATZIM&ID=4050,4115>  
<http://www.isa.gov.il/Default.aspx?Site=YOATZIM&ID=4050,4116>  
<http://www.isa.gov.il/Default.aspx?Site=YOATZIM&ID=4050,4191>  
<http://www.isa.gov.il/Default.aspx?Site=YOATZIM&ID=4050,4192>

<http://www.isa.gov.il/Default.aspx?Site=YOATZIM&ID=4050,5451>

642. Although these initiatives are to be welcomed, the evaluators consider that the ISA should issue binding and sanctionable regulations for supervised entities on these issues.

#### **Postal Bank**

643. The representatives of the Israeli authorities briefed evaluators on a Directive on Compliance Officer.

644. After the on-site visit, the evaluators have been provided with a directive which entered into force on 1 May 2013 on “*Compliance Officer*” issued by the Postal Bank of Supervision Department. Such a regulatory measure indicates the procedures for the appointment of the compliance officer (6.1), the functions (sections 6.2, 6.3 and section 7) the activities and the reporting mechanisms (section 6.4 to 6.9) and the power assigned (section 6.10). However it is worth noting that the evaluators were not in a position to discuss these measures with the designated officer and thus they are not in a position to ascertain the effective implementation.

*Compliance officer and other appropriate staff should have timely access to customer identification data and other CDD information (c.15.1.2)*

#### **Banking corporations**

645. Under section 6 (b) of Directive 411, the procedures established by the management in accordance with the policies set by the board of directors shall cover, *inter alia*, the reporting system and the staff authorised to handle the reports, the types of records that shall be kept in regard to customer identification and specific transactions, and the period of their retention.

646. As regards the “*Officer in charge*”, according to section 7 (d), he/she shall have unlimited access to all records and information on customer identification and additional customer due diligence documents, transaction documents, and all other relevant information.

647. A specific provision of this Directive governs cases where numbered accounts exists (section 18) granting access to the “*Officer in charge*”. In this respect banking corporations shall ensure that numbered accounts are examined and monitored at least as thoroughly as those of customers regarding whom no such special measures are taken, and shall ensure that the “*Officer in charge*” and the internal auditors have direct access to information concerning these accounts.

648. Under Directive 308 “*Compliance Officer*”, section 10, the “*Compliance Officer*” shall have access to all banking corporation’s units and assets, wherever they may be, and to all its records and information if in his view this is necessary for his work.

#### **Postal Bank**

649. The Postal Bank Supervision Department has issued, on 1 May 2013, a Compliance Officer Directive that, according to section 6.10, assigns to this officer the “*direct access, at any reasonable time, to all the units and assets of the Postal Bank and to all its records*”.

650. Considering the fact that this measure has been adopted after the on-site visit, evaluators were not in a position to assess the effective implementation of this requirement.

#### **Insurance companies, provident funds, portfolio management companies, Stock Exchange members, and MSPs**

651. As mentioned above, unlike the banking sector, the competent regulators have not issued regulations (such as Directive 411 for banking corporations) on the power and capability of compliance officer and other staff to access to customer identification data and other CDD information.

*Compliance Management Arrangements (c. 15.2)*

**Banking corporations**

652. Under section 14.e (Internal Auditor) of the Banking Ordinance 1941 “*An ordinance to consolidate and amend the law regulating the business of banking*”, the board of directors of a banking corporation shall appoint an internal auditor (letter a, section 14E).
653. According to such provision, the internal auditor shall examine the proper functioning of the banking corporation as regards its adherence to the law, preservation of integrity, economy, efficiency and maintenance of proper banking practice and he/she shall also examine adherence to the directives of the Supervisor of Banks (letter b, section 14E).
654. Moreover, the internal auditor operates according to accepted professional standards and under the guidance of the audit committee, and shall report his/her findings to the chairman of the board of directors, the director-general, and the chairman of the Audit Committee.
655. According to the Banking Ordinance 1941, where appropriate, the internal auditor shall be governed by the sections of the Internal Audit Law, 5752-1992.
656. Directive 307 refers to the “*Internal Audit Functions*”. In particular the Directive 307 details “*characteristics of these functions*” (among which are independence, professional competence, conflict of interest etc.), “*duties of the functions*”, “*internal audit charter*”, “*scope of activities*”, “*working methods*” (i.e. procedures, risk focus and audit plan and program etc.) and other relevant issues.
657. Under Directive 411, section 7a.(a), the Internal Auditor is required to review the adequacy and efficacy of the working framework of the “*Officer in charge*”. These findings shall be forwarded to the “*Officer in charge*” for the discharge of his/her duties. The Internal Audit function is required to set aside adequate resources for its review of compliance in this regard (including sample inspections), policies, procedures, and controls.

**Insurance companies and provident funds**

658. Under article 41G of the Control of Financial Services (Insurance) Law 5741-1961, the auditor is appointed by the insurer, thus, relevant provisions (sections 154 to 170) of the Companies Law shall applied to it.
659. In case of a violation of any provision of the Insurance Law or other Orders made thereunder, the auditor is required to report to the audit committee and to the board of directors and ask for the general manager's reaction within the time he/she shall specify in the notice. If the latter's reaction is not received or the action is not considered appropriate the auditor shall notify the Commissioner of the violation.
660. Qualification, provisions on conflicts of interests and approval of the appointment are prescribed under sections 41H, 41I and 41J of this Law.
661. It is worth mentioning that such measures are not incorporated in the Law on Benefit Fund and Law on Pensions Counselling, Marketing and Clearing System (namely “*Control of financial services Law 5765- 2005*”).
662. However, on August 2007, the Commissioner issued a Circular whose title is “*the Internal Auditing System of the Institutional body*”, in order to establish rules to ensures the efficiency and proper operation of the internal auditing systems.
663. The Circular contains detailed provisions on the internal audit system (such as functions and power assigned, independence, resources, knowledge and expertise, work methods, planning and audit programs and reporting mechanism), on internal auditor service, on auditing the internal auditing system and on responsibility of the management of company.

### **Portfolio management companies and Stock Exchange members**

664. The Securities Law does not contain specific provisions on internal audit functions and the internal auditor. However, the law refers to the capability of ISA to avail itself of the opinion or review by the accountant in certain circumstances (for examples on “*prospectuses issue*”).
665. Moreover, ISA may request an “*ad hoc auditing activity*” under section 56F of the Securities Law, under the circumstances indicated in that section by appointing a person to conduct an audit. This provision is not applicable to a Stock Exchange, banking corporation or to an insurer as defined in the Insurance Business (Control) Law, 5741-1981.
666. It is worth mentioning that specific provisions on internal auditor are set forth in “*Joint Investment Trust Law, 5754-1994*” and under the “*Regulation of Investment Advice, Investment Marketing and Portfolio Management Law, 1995*”.
667. Under the Joint Investment Trust Law, 5754-1994, the requirement on internal auditor is set forth in section 99A. (a), according to which specific provisions of the Internal Audit Law, 5752-1992 shall apply. The functions of the internal auditor are indicated in letter b) and c) of the section 99A., among which the “*compliance with the provisions of the law, proper business procedure and the procedures stipulated by the board of directors of the fund manager*” and the requirement to “*report his (her) findings to the chairman of the board of directors, to the audit committee, to the general manager and the trustee*”.
668. Moreover, Chapter D-1 of the “*Regulation of Investment Advice, Investment Marketing and Portfolio Management Law, 1995*” prescribes some specific provisions on Corporate Governance among which, under section 24F (3), the requirement for financial institutions to appoint an “*internal auditor as proposed by the audit committee and to approve his/her work plan on the recommendation of the audit committee and to discuss his/her findings and ways of correcting the shortcomings he/she has found*”.
669. The Israeli authorities have pointed out that these requirements apply only to “*Large Portfolio Managers Companies*” as defined by that law. (i.e. “*Large portfolio management company*” is a company that holds a portfolio management license and that on December 31, at least one of the following conditions took place regarding it: 1) the company, and other companies that have a portfolio management license which belongs to the same group, had over than 50 customers; and/or 2) the total asset value was over 5 billion NIS (€1bn). It is worth noting that the Israeli authorities have indicated that, in practice, “*Large portfolio management companies*” avail themselves of audit services.
670. With regard to Stock Exchange Members, for those Stock Exchange members that are banking corporations, the banking legislation and regulation apply. As regards the other non-bank Stock Exchange members, there is an obligation to appoint an internal auditor according to the Stock Exchange Rules (TASE) In particular under section 6 of the TASE, these members shall appoint and internal auditor in accordance to the Companies Law.
671. According to the information provided, the TASE has also issued “*Regulations to the First Part of the Rules – Stock Exchange Membership*”. The regulations specify the role and duties of the internal auditor.
672. Moreover, the Israeli Securities Authority, on August 2011, has issued a document named “*Criteria for Recognition of an Internal Enforcement Program in the Securities Field*”, addressed to corporations under “*Securities Law*”, “*Joint Investment Trust Law*” and “*Regulation of Investment Advice Law*”.
673. This document is “*voluntary mechanism*” for implementing an internal enforcement program aimed to bring each company in compliance with the provisions of laws indicated above. It contains “*recommendations*” on board of directors’ and management’s responsibilities, internal mechanism of reporting, surveillance and controls.

### **The Postal Bank**

674. As regards internal controls requirements, according to the information provided by Israeli authorities, since the Postal Bank is a government supervised company, it is obligated to appoint an accountant; an external auditor. Furthermore, the Postal Bank shall appoint an internal auditor with knowledge and expertise of financial activities.

### **Money service providers**

675. The Israeli authorities have not provided any information for MSPs, however it is reasonable to understand that when the MSP is a company, Companies Law applies (i.e. Chapter 5 on Internal Audit).

#### *Employee Training (c. 15.3)*

676. Under 7A of the PMLL, financial institutions are required to train employees “*regarding the ways in which they are to be complied with as set out in the order issued under that section, and shall also oversee that compliance*”.

677. With regard to all financial institutions, IMPA:

- a) conducts advanced studies, conferences, training session and feedback meetings;
- b) publishes AML/CFT guidelines, news, legal information, typologies and other relevant information on its website; and
- c) posts on its website a triannual newsletter regarding AML/CFT issues.

678. With regard to MSPs, training seminars are conducted once every few months, in order to insure that new employees will be informed about the different aspects of AML/CFT.

### **Banking corporations**

679. Under section 23 of Directive 411, banking corporations are required to provide dedicated training on CDD requirements between new staff, management, branch staff and employees who deal with the acceptance of new customers and those engaged in compliance.

680. According to this section training shall be performed on an on-going basis in order to assure that the information in the hands of staff is up to date and includes information on the latest techniques, methods, and trends. In the training, special attention shall be devoted to all provisions relating to the prevention of money laundering and financing of terrorism and, in particular, to requirements concerning the reportage of irregular transactions.

681. Moreover a banking corporation shall bring the procedures that it has established to all employees' knowledge.

### **Insurance companies and provident funds**

682. The Israeli authorities indicated that since the enactment of the dedicated Order, insurance companies were required to report to the Department of Capital Markets, Investments and Savings (DCMIS) on their action plans, including in the matter of the training of employees and agents.

683. Moreover, the evaluators were briefed on training sessions and seminars held by representatives of the DCMIS and with their participation and guidelines to prevent ML/TF based on the IAIS guidelines, however such guidelines were not provided on-site. Please see on the MOF website: [http://ozar.mof.gov.il/hon/2001/halbana/memos/white\\_iais.pdf](http://ozar.mof.gov.il/hon/2001/halbana/memos/white_iais.pdf).

### **Securities companies**

684. Section 7A of the PMLL contains an obligation that the compliance officer shall train employees and shall also oversee that compliance. Under the circular “*Findings of audits by the Investment Department conducted in the years 2010-2011*” which was issued in June 2012, the ISA has

instructed its supervised entities to perform employees training and informed them that this issue will be reviewed during inspections.

### **Postal Bank**

685. According to the information provided during the visit, trainings on AML/CFT requirements to the Postal Bank staff have been performed by Postal Supervisor, IMPA and Israeli Police.

#### *Employee Screening (c. 15.4)*

### **Banking corporations**

686. Under section 23 (b) of Directive 411, banking corporations shall establish procedures assuring the maintenance of high standards for the hiring of new staff commensurate with the nature of the activity.

### **Insurance companies and provident funds**

687. The “*Control of financial services (insurance) Law 5741-1961*” contains provisions (section 41J (b)) on the appointment of “*officer*” (i.e. Director, General Manager, and Internal auditor as well as other persons designated by the Commissioner). These appointments are subject to the Commissioner’s approval (or lack of objection), and notification must be submitted at least 60 days before the actual appointment.

688. Israeli authorities explained to the evaluators that, in addition to what is indicated in that section, according to the procedures, the Commissioner considers the fitness and propriety of the person recommended. In the approval process, both education and prior experience are taken under consideration, in addition to personal characteristics such as lack of criminal record. Every case is examined in light of the nature, scale and complexity of the business activity of the undertaking concerning.

689. It is to clarify that this requirement is only applicable to senior management and not to all employees indicated in c.15.4.

### **Portfolio management companies and Stock Exchange members**

690. The Israeli authorities indicated that officials and licensees who are employed in a portfolio management company must withstand the reliability test (Section 8 and 10 of the Counselling Law). There are no restrictions regarding other employees of the Company.

691. Section 6 of the TESA regulation determines specific requirements for Stock Exchange membership qualification.

### **Postal Bank**

692. Israeli authorities indicated that staff of the Postal Banks are required to pass specific exams.

#### *Additional elements (c. 15.5)*

693. As regards the independence, autonomy and formal status of the “*AML/CFT Compliance Officer*”, the Bank of Israel, under section 7 of Directive 411, has set forth specific and detailed provisions governing his/her activities.

694. The evaluators were not informed of any equivalent regulatory measures adopted by other regulators/supervisors on this issue.

### ***Effectiveness and efficiency***

695. Despite the general requirements stipulated under section 7A and 8 of the PMLL adopted in 2012, as illustrated above, none of the regulators/supervisors, with the exception of the Bank of Israel, have issued regulatory acts or other enforceable means in order to establish and maintain policy, internal procedures, controls focus on and dedicated to AML/CFT issues as required under R.15. It is worth indicating that the Israeli authorities, after the on-site visit, have provided

a directive issued by the Supervisor of the Postal Bank on Compliance Officer; however the evaluators were not in a position to ascertain the effectiveness of the measure introduced.

696. The Bank of Israel has issued and amended, in the recent years, Directive 411 that covers some of the main issues under R.15, complementing such requirements with other Directives of “*proper conduct of banking business*” on prudential supervision, inspired by the international standards (such as the Basel Committee on Banking Supervision) that accompany other related requirements under R.15 (Internal controls, internal audit functions, etc.).

697. Although, all the sectorial legislation contain detailed provisions on internal auditor and internal controls and the ISA and DCMIS have issued Directives or Circulars that, to a certain extent, cover the requirements related to prudential supervision, however, none of these regulatory acts refers specifically to the AML/CFT issues indicated under R.15

698. It is worth mentioning that the representatives of the industries (banking, securities and insurance) as well as the senior management of the Postal Bank, demonstrated a good understanding of the main requirements under R.15 and illustrated to the evaluators the implementation in practice of such measures within their businesses (e.g. the structure of internal procedures and controls on AML/CFT matters, as well as the role, functions and responsibilities of the compliance officer (i.e. “*AML Officer in Charge*” according to the Israeli notion)).

699. As regards MSPs, there are no regulatory acts that cover these operators.

***Recommendation 22 (rated PC in the 3<sup>rd</sup> round report)***

700. The 3<sup>rd</sup> round evaluation report criticises Israel for not having a general obligation for all financial institutions requiring their branches and subsidiaries to observe AML/CFT measures consistent with home requirements and the FATF recommendations to the extent that host country laws and regulations permit. It was also noted that there was no requirement to pay particular attention to situations where branches and subsidiaries were based in countries that do not or insufficiently apply the FATF recommendations.

701. Provision for situations where the minimum AML/CFT requirements of home and host countries differ, and thus branches and subsidiaries in host countries have to apply the higher standard, was not in place at the time of the 3<sup>rd</sup> round evaluation nor there was obligation to inform the home country supervisor when branch or subsidiary was unable to apply appropriate AML/CFT measures.

***Consistency of the AML/CFT measures with home country requirements and the FATF recommendations (c. 22.1 & 22.2)***

702. According to the Israeli authorities, only banking corporations have foreign branches and subsidiaries. Thus the legal obligation to apply AML/CFT measures consistent with Israeli requirements and FATF recommendations are made for these entities only. There are several international banking groups present in Israel having branches or subsidiaries in the USA, UK, Switzerland, Luxembourg and some other countries.

703. In the amended Banking Directive 411, in Article 29, it is mentioned that “*A banking corporation shall make sure that branches and corporations under its control in countries that do not adequately apply FATF recommendations, honour the provisions of the Directive insofar as said provisions do not contravene local laws and regulations*”.

704. It is also required in Directive 411 that banking corporations report to their supervisor (Bank of Israel) “*whenever a foreign corporation that the bank controls, or in which it has a substantial interest, or a branch of a banking corporation outside Israel, does not act in accordance with this Directive because the Directive contravene the provisions of local laws*”.

705. The evaluators are of opinion that not having branches and subsidiaries abroad is not sufficient reason for not having relevant obligations for Recommendation 22 for financial institutions other

than banks. It is strongly advised to reconsider application of Recommendation 22 for all financial institutions in Israel.

*Additional elements (c. 22.3)*

706. Banking Directive 411 obliges application of CDD measures at the group level.

***Effectiveness and efficiency***

707. During the interviews it was revealed that banks pay do pay sufficient attention to how their branches follow Israeli legislation for AML/CFT purposes. It was said that they have group-wide compliance policies in place as well as exchanging information on their customers inside the group and exchanging typologies. Furthermore, they also make use of external audits, pay visits to branches and include branches in the audit plans.

3.8.2 Recommendation and comments

***Recommendation 15***

708. Regardless the general requirements set forth with the amendments of 2012 under section 7A and 8 of the PMLLL, on internal controls, compliance and auditing function, the AML/CFT framework remains broadly unchanged since the last evaluation.

709. The banking sector avails itself of the Directive 411, issued by the Bank of Israel in its capacity of Supervisor of Banks that covers almost all the requirements under Recommendation 15 with precise and detailed reference to the AML/CFT issues.

710. Except for the banking regulator, the others competent authorities have not issued any detailed regulation on establishment and maintenance of policies, procedures and controls to prevent ML/TF as required under c.15.1.

711. It is worth mentioning that the Postal Bank Supervisor has issued a Directive on Compliance Officer indicating the main functions, power assigned and other relevant issues, however as such measures entered into force after the on-site visit, the evaluators were not in a position to assess them.

712. As regards the non-banking financial institutions, the requirement to maintain an independent audit function is set forth under the respective sectorial legislation, however these requirements do not explicitly refer to AML/CFT policy, procedures and controls.

713. The meetings with the representatives of the Industry have led the evaluators to conclude that the knowledge, the awareness and the effective implementation of these requirements is quite high.

714. As regards the non-bank financial institutions the situation remains unchanged. It is worth mentioning that even if the sectorial legislation contains general provisions on internal controls, compliance and auditing function and even if the competent regulators have issued regulatory acts (e.g., Directives and Circulars) on these subjects, the Israeli competent authorities have not issued detailed regulations on AML/CFT requirements set forth under Recommendation 15.

715. It is acknowledged that the regulatory measures enacted for non-bank financial institutions broadly follow the international standards of prudential supervision on internal controls, compliance and internal auditors, these acts are not related at all to the AML/CFT issues.

716. For these reasons, the competent regulators are invited to issue general enforceable requirements on the establishment and maintenance of policies, procedures and controls to prevent ML and FT as required under c.15.1, on the maintenance of an adequately resourced and independent audit function to test compliance with AML/CFT policies, procedures and controls as well as on the establishment of on-going employee training on AML/CFT following the example of the banking sector.



**Recommendation 22**

717. A binding obligation to apply AML/CFT measures consistent with Israeli requirements and FATF recommendations should be made to all financial institutions, not only banking corporations as there is a possibility for them to open a foreign branch or subsidiary in the future.

3.8.3 Compliance with Recommendations 15 and 22

	Rating	Summary of factors underlying rating
<b>R.15</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• Except for the banking sector, the competent regulators have not issued detailed regulation on establishment and maintenance of policies, procedures and controls to prevent ML/TF as required under c.15.1;</li> <li>• Except for the banking sector, the competent regulators have not issued regulations on the maintenance of an adequately resourced and independent audit function to test compliance with AML/CFT policies, procedures and controls;</li> <li>• Except for banking corporations, there are no enforceable requirements for the establishment of screening procedures when hiring employees.</li> </ul>
<b>R.22</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• No binding obligation to apply AML/CFT measures consistent with Israeli requirements and FATF recommendations for all financial institutions (apart from banks).</li> </ul>

### **3.9 The Supervisory and Oversight System - Competent Authorities and SROs / Role, Functions, Duties and Powers (Including Sanctions) (R. 23, 29, 17 and 25)**

3.9.1 Description and analysisSummary of 2007 MER factors underlying the rating and developments

718. Under the third round of evaluation of Israel, Recommendation 23 was rated PC with the following deficiencies identified:

- i) reliance upon outsourcing of supervision on AML/CFT in the Ministry of Finance and Ministry of Communication;
- ii) no mechanism for ensuring that an appropriate and sufficient level of supervision is consistently implemented across the whole financial sector; and
- iii) insufficient evidence of effective supervision in Money Services Providers and Postal Bank.

Authorities/SROs roles and duties & Structure and resources**Recommendation 23 (23.1, 23.2) (rated PC in the 3<sup>rd</sup> round report)***Regulation and Supervision of Financial Institutions (c. 23.1)*

719. All financial institutions are subject to the PMLL (Section 7) and PTFLL (Section 48) and therefore subject to the supervision of the designated supervisory authorities (see Table 37).

*Designation of Competent Authority (c. 23.2)*

720. The Israeli AML/CFT regulatory framework is characterised by 7 Orders each of them dedicated to a specific category of financial institution as illustrated below.

**Table 36: Designated regulatory authorities under PMLL**

Financial institutions	Designated regulatory authority under PMLL
Banking corporations	Governor of the Bank of Israel
Debt and credit cards companies	Governor of the Bank of Israel
Portfolio managers and Stock Exchange Members	Israeli Securities authority
Insurers or insurance brokers	Minister of Finance
Provident funds	Minister of Finance
The Postal Bank	Minister of Communication
Money services providers	Minister of Finance

721. These regulatory measures have been issued under sections 7 and 32 of the PMLL and under section 48(a) of the PTFL, according to which the competent Ministers (except for banks, for which the competent regulator is the Governor of the Bank of Israel) are entitled to issue Orders on the provisions set forth in these Laws.

722. The Orders are enacted following consultation with the Minister of Justice and the Minister for Internal Security, and with the approval of the Constitution, Law, and Justice Committee of the Knesset as prescribed under section 32 (c) of PMLL.

723. The Orders are customised for each type of financial business activity, nevertheless the structure is broadly the same: the first chapter contains definition; the second and the third sections contain provisions for identification of the customer and reporting requirements; and the fourth section is dedicated to miscellaneous among which record keeping requirements. Schedules and addendum are attached to the Orders.

724. According to the provisions of PMLL, such regulatory acts (i.e. Orders) shall pass through the consultation of two Ministers and the approval of a designated Committee of the Knesset. This process may cause delay (as actually happened) in the approval of measures that can be extremely urgent in order to prevent and contrast ML/TF as demonstrated by the experience of these years (some of these Orders have been enacted after some years and others have not yet been approved) have not taken any relevant regulatory measures on AML/CFT.

725. Moreover the information and documents provided to the evaluators indicate that the competent supervisory authorities have powers to issue regulatory acts under the framework of the respective sectorial legislation (e.g. ISA under the Securities Laws, the DCMIS under the Insurance and Provident Funds legislations).

726. The Supervisor of Banks has issued an extended and detailed regulation on AML/CFT requirements namely Directive 411 “*Prevention of money laundering and terrorism financing, and customer identification*” in accordance with section 5 of the Banking Ordinance 1941. This Directive covers some of the recommendations made by the MONEYVAL assessors during the previous round of assessment.

#### AML/CFT supervisory framework

727. The competent authorities in charge of supervising the compliance with the AML/CFT requirements are designated under Chapter 4B “*Inspectors and their Powers*”, section 11M(a) of the PMLL. The table below illustrates the respective competences:

**Table 37: Designated supervisory authorities under PMLL**

Financial institutions	Designated Supervisors under PMLL
Banking corporations	Supervisor of Banks – Banking Supervisor Department at Bank of Israel
Debt and credit card companies	Supervisor of Banks – Banking Supervisor Department at Bank of Israel
Portfolio managers and Stock	Israel Security Authority (ISA)

Exchange members	
Insurers or insurance brokers	Department of Capital Market and Insurance Savings at Ministry of Finance (DCMIS)
Provident funds (and a company which manages a fund)	Department of Capital Market and Insurance Savings at Ministry of Finance (DCMIS)
The Postal Bank	Ministry of Communication
Money services providers	Registrar of Money services Providers at Ministry of Finance

728. According to the PMLL, banking corporations, as defined in the Banking (Licensing) Law, are subject to AML/CFT regulation and supervision by the Banking Supervisor Department at the Bank of Israel, in its capacity of Supervisor of Banks, as indicated in the Part 1, section 7, of that law.
729. The Bank of Israel, in order to perform AML/CFT supervision, avails itself of the powers assigned by the respective laws (mainly, Bank of Israel Law, Banking Laws and Currency Control Law). Such ability is also indicated in section 11N(d) of the PMLL.
730. The Banking Supervision Department (BSD) performs prudential supervision on banking corporations and debit and credit card companies and assesses their business activities in order to ensure that they are properly managed. As regards, on-site inspections, the BSD performs AML/CFT supervision relying on its own staff.
731. As indicated in the 3<sup>rd</sup> round MER (see paragraphs 661 and 662 of that MER), the Israeli Securities Authority (ISA), the Department of Capital Market and Insurance Savings of the Ministry of Finance (DCMIS) and the Supervision Division at the Ministry of Communication as well as the Registrar of the MSPs avail themselves with the support of external contracted persons, duly appointed, in order to perform on-site inspections.
732. As prescribed in section 11M (a) of the PMLL and further detailed in section 11N(a)(1), in order to supervise the effective implementation of the AML/CFT requirements the Supervisors “*shall appoint inspectors who shall exercise their powers in relation to the supervised body [...]*”. Such appointment must be published in the Official Gazette by the Minister responsible. Under the same section, the (external) inspector is a public servant and shall receive a “*suitable training*”.
733. The appointment of such persons (serving as inspectors) is subject to Israel Police scrutiny for reasons of public order.
734. Under section 11N(b), the powers assigned to an inspector in order to fulfil the functions assigned are the followings:
- to demand information and documents relating to the activities of the financial institutions to ensure that the supervised body complying with its AML/CFT obligations;
  - “*to enter and carry out an inspection of premises from which inspector has a reasonable basis for assuming the supervised body is operating and to demand that he be presented with all the documents connected with the supervised body's activities*”;
  - “*to seize a document, if inspector has a reasonable basis for assuming that one of the provisions contained in Chapter 3 (related to “identification, reporting and maintenance of records obligations) and Chapter 4A ( i.e. “Money Service Providers”) has been breached; although an original document shall not be seized if a certified copy of it shall suffice.*”.
735. During the on-site visit, the Israeli authorities explained to the evaluators that such reliance on external contracted persons varies from authority to authority.
736. As regards the ISA, their representatives have informed evaluators that a decision has been taken to replace the contracted external parties with permanent ISA employees who will perform on-site inspections of all the supervised entities. According to the information provided by ISA, this decision will be implemented from mid-2013 onward.

737. Moreover, according to the information provided after the visit, the ISA has already established a new unit (i.e. Stock Exchange and Trading Platforms Supervision Department) that, in a short period of time, will take over the supervision of non-bank Stock Exchange members.
738. Meanwhile, 7 external companies have been used to carry out on-site inspections on the securities sector. The Israeli authorities have indicated that the work is contracted to accounting firms that were selected in a tender process after having satisfied qualifying conditions; and the inspectors who perform the on-site inspections undergo training and certification by the ISA and sign an NDA (Non-disclosure Agreement).
739. The inspection action-plan is prepared by the ISA that decides the mandate for each inspection. Representatives of the ISA also attend the first meeting of the on-site inspection. The same staff are also involved in the drafting of the outcome of the report.
740. The representative of the Department of Capital Market and Insurance Savings (DMCIS) informed the evaluators that on-site inspections are carried out by external auditors, accompanied by staff of the DMCIS in order to ensure appropriate and sufficient level of supervision. Meetings with outsourced inspectors are held with supervisors in order to instruct properly the on-site inspection.
741. The Postal Bank Supervisor representatives have confirmed to the evaluators their reliance on two audit companies to perform on-site supervision.
742. Meetings with the representatives of the industries that have been inspected confirmed to evaluators the presence of the supervisors' staff during the on-site inspections.

**Recommendation 30 (all supervisory authorities) (rated LC in the 3<sup>rd</sup> round report)**

*Adequacy of Resources (c. 30.1); Professional Standards and Integrity (c. 30.2); Adequate Training (c. 30.3)*

**Bank of Israel**

743. The staff of the Banking Supervision Department comprises 150 employees. The Israeli authorities are of the opinion that the BDS has sufficient resources to perform its supervisory functions with regard to the prohibition on ML/FT.
744. The Banking Supervision Department has 4 divisions:
- 1) (Head) Policy and Regulation Division;
  - 2) Bank Customer Division: whose main competence is the regulatory function;
  - 3) Off-site Division: this Division is divided in 5 Units, each Unit is dedicated, in terms of off-site supervision, to the each banking corporations; and
  - 4) On-site Division: this Division is in charge of on-site inspections and it is divided into 5 Units, each Unit covers a specific risk (Market risk, IT risk, Operational risk, Governance risk and Compliance risk). The Compliance Unit covers AML/CFT risks
745. According to the information provided by the Israeli authorities, the Inspection Unit (within the Compliance Unit), specialised in AML /CTF, has 5 skilled examiners (including a manager), who have been assigned to examine the compliance of the banking corporations (and credit and debit companies) with the AML/CFT standards. During the on-site visit, the evaluators met with them and discussed some of the main issues.
746. The Off-Site Division, consisting of 29 people, assesses through on-going off-site inspections the banking corporations' risk management with regard to AML/CFT issues. The Policy and Regulation Division has allocated a full time job of an employee, who is in charge with advising on new regulations, answering queries and offering clarifications and interpretations as necessary with regard to the implementation of the Order and Directive 411. There is also an on-going support from the Legal Department of the Bank of Israel (BOI) with regard to issues of AML/CFT.

747. The Israeli authorities declared that the Banking Supervision Department staff are committed to the highest professional standards in carrying out their duties. All the banking supervision employees engaged in this field are university graduates with experience (e.g., accountants, lawyers, and economists).
748. As regards confidentiality, the staff of the BOI are subject to the secrecy rules set forth under section 15A of the Banking Ordinance, 1941. Moreover, section 31A(a) of the Prohibition on Money Laundering Law provides the legal basis for the obligation to maintain confidentiality in the area of the prohibition of money laundering.
749. According to the information provided in the MEQ, the BSD staff, engaged in the AML/CFT area, have undergone training and participated in courses in Israel and abroad, and have studied professional literature and are familiar with the professional standards of supervisory authorities around the world in the field of the prevention of ML/FT.

### **Israel Security Authority**

750. The Investment Department is the unit of the ISA in charge of supervising portfolio managers, the investment advisers and investment marketing agents. The Department contains 45 employees (out of 235 persons). Of these, 13 employees are involved in supervision. Moreover, the Israeli authorities indicated that the Stock Exchange and Trading Platforms Supervision Department will take over the supervision of non-bank Stock Exchange members.
751. The ISA representatives indicated that the inspectors have an academic degree in economics, law or accountancy.
752. The duty of confidentiality of employees of the ISA derives from section 56E of the Securities Law and from the provisions of section 31A of the PMLL.
753. The Israel Securities Authority has a protocol for ‘locating conflicts of interests and making arrangements for preventing conflicts of interests at the Israel Securities Authority.’ The purpose of the protocol is to determine the procedural process for preventing situations in which a suspicion of a conflict of interests may arise between the work of an employee and another issue relating to him. The protocol ensures that the highest standards of employee integrity are maintained and it ensures care and punctiliousness with regard to all matters concerning conflicts of interests.
754. In addition, for the purpose of conducting examinations under the PMLL, since December 2006, the ISA has been using the services of external examiners in order to make inspections. For this purpose, 7 examiners were chosen.
755. The external examiners have been chosen on the basis of their professional qualifications, after conducting interviews and after receiving references. Their education is academic degrees in the fields of accountancy, law and economics. In order to benefit from examiners with special areas of expertise, as stated above, examiners were chosen with experience in various fields: persons with experience in conducting examinations in small companies; persons with extensive economic experience; persons with a background in the Investigations Department of the ISA; and persons with knowledge and experience in writing procedures for portfolio management companies with regard to money laundering.
756. The examiners attended training with regard to the prohibition of money laundering, which took place at the ISA with the participation of lecturers from the Israel Securities Authority and IMPA.
757. The contract with the external examiners regulates the relationship between the examiner and the Israel Securities Authority, including in matters of remuneration, confidentiality and conflicts of interests. It should be noted that the examiners are required to make a declaration with regard to companies where they have a conflict of interest, in order to prevent an inspection of those companies by those examiners.

758. Employees of the ISA who are involved in supervision underwent training in recent years and took part in various lectures on the subject of the prohibition of money laundering such as service training on behalf of the Israel Bar Association, the Institute of lawyers' service training.

### **The Department of Capital Market and Insurance Savings**

759. According to the information provided during the on-site visit, the number of the staff in charge of performing supervision (including AML/CFT issues) for the Department of Capital Market and Insurance Savings (DCMIS) is 5 out of a total department containing 30 employees.

760. The Israeli authorities indicated that the DCMIS staff are committed to the highest professional standards in carrying out their duties. The confidentiality rules are based on section 50A and 39(c) of the insurance and provident funds legislations.

761. Employees of the DCMIS that are involved in supervision underwent training in recent years and took part in various lectures on the subject of the prohibition of money laundering. Regular training is also provided to the external examiners.

### **Supervisor Division at the Ministry of Communication of the Postal Bank**

762. The unit supervising the Postal Bank (Supervision Division) numbers 4 skilled employees in the field of supervising financial activity. Moreover, this unit avails itself with external services in order to perform the supervision and control over the activity of the Postal Bank.

763. Employees of the Supervision Division and the external examiners are obligated to have the training and skill suitable to perform their work, including knowledge of information systems (minimum required training is a graduated title in economics or accountancy or business administration). As a part of the process of assimilating the employees in the Division, they go through a security check by the Security Officer of the Ministry of Communication. In addition, the external examiners are obligated to keep the secrecy and avoid conflict of interest both with the supervision section and the Postal Bank.

764. The employees of the Supervision Division and the external examiners are required to have the proper training and skills to perform their job; moreover, they underwent training in recent years.

765. The Postal Law includes strict instructions of secrecy concerning the supervision regulations as set forth under section 88w in the Postal Law.

### **Registrar of MSPs at the Ministry of Finance**

766. The designated Unit within the division which is responsible for registration and inspection of the MSP's consists of 6 workers (currently 5 occupied). The Unit uses the services of 6 accountancy firms in order to perform on-site inspections to MSPs.

767. The employees of the Unit are educated in finance (minimum requirement is graduate in economics or CPA's). In the screening process prior to recruiting, each employee is subject to a security check conducted by the Security Department of the Ministry of Finance along with the Israeli Police. Confidentiality rules apply to the employees who are subject to strict secrecy rules. This applies also to the accountancy firms' employees, acting as external examiners, who are subject to the same set of rules and procedures.

768. According to the information provided by the Israeli authorities, the staff of the Unit attends seminars in cooperation with other authorities such as the Police, Prosecutors, and IMPA. These seminars are intended to enrich the participant's knowledge of the subject. This also contributes to better cooperation between authorities.

### **Conclusion**

769. Overall all of the supervisors met during the on-site visit appeared to be adequately structured and operationally independent. The staff met appeared knowledgeable on AML/CFT issues and

focussed on the important issues. All of the supervisors had adequate staff screening and secrecy provisions.

#### Authorities' powers and sanctions

##### **Recommendation 29 (rated C in the 3<sup>rd</sup> round report)**

*Power for Supervisors to Monitor AML/CFT Requirement (c. 29.1); Authority to Conduct AML/CFT Inspections by Supervisors (c. 29.2); Power for Supervisors to Compel Production of Records (c. 29.3 & 29.3.1); Powers of Enforcement & Sanction (c. 29.4)*

#### **Bank of Israel**

770. Under Section 5(a) of the Banking Ordinance, 1941, the Governor of the Bank of Israel appoints a “*Supervisor of Banks*” (hereinafter referred to as “*the Supervisor*”), who, upon being appointed, shall be an employee of the Bank of Israel and shall be charged with the inspection and general supervision of every banking corporation.

#### Powers assigned

771. The Supervisor and staff acting on her/his behalf in the Banking Supervisory Department, (BSD) have the power to require a banking corporation, as well as a banking corporation's director, employee or auditor, to deliver to her/him information and documents in their possession that relate to the business of the banking corporation and of every corporate under its control, or to enable him to examine, copy or photograph any document. If the information required is stored in a computer, the information shall be delivered in a manner as required. The same situation applies in respect of credit or debit cards companies.

772. Under Section 11N of the PMLL, the Supervisor is granted powers to require banking corporations (and credit or debit cards companies) to provide any document that relates to the compliance with the PMLL obligations.

773. The Supervisors' powers relate to on-site and off-site inspections, access to all relevant records and information required to examine compliance, including information on accounts or business relations, as well as all procedures, analysis and database and any relevant document. The Supervisor's authority with regard to access to records, information and document, for supervisory purposes, does not require a Court Order.

#### Supervisory activities

774. The BSD supervises the banking corporations' compliance with ML and TF requirements (with respect to PMLL, Banking AML/CFT Order and Directive 411 provisions) and assesses the quality of the banking corporations' risk management with regard to ML/TF through its Institutional Evaluation Division (off-site inspections) and through its Inspection Division (on-site inspections).

775. The on-site inspections are based on a risk-based methodology. On-site inspections might either cover general aspects of the banking corporation's activities or can be targeted to specific inspection, e.g. activities, terror financing, or high-risk customers. The inspectors review policies, procedures, accounts, records and any other document and use meetings with branches managers and sample testing using a risk-based approach (RBA).

776. The surveillance over the foreign subsidiaries and branches of Israeli banking corporations is performed through the use of off-site questionnaires and with the support of the supervisor where the financial institution is located, this is done under the umbrella of formal or informal agreements between supervisors (for further detail, see R.40).

#### **Israel Securities Authority**

777. The Israel Securities Authority (ISA) is the regulatory and supervisory agency covered with responsibility for AML/CFT matters (regulation and inspection included) for Portfolio Managers and Stock Exchange members.

#### Powers assigned

778. Leaving aside the provisions indicated in section 11.N of the PMLL, the ISA, in performing supervision, avails itself with the extensive powers assigned by the sectorial legislation: the Securities Law, 1968; Joint Investments Trust Law (i.e. Mutual Fund Law; 1994); the Regulation of Investment Advising, Investment Marketing; and Investment Portfolio Management Law, 1995.
779. Among others powers assigned, the ISA is empowered to obtain information and documents, to conduct investigations (i.e. searching and seizing of documents) and to take corrective measures when deficiencies have been identified (See section 56A of the Securities Law, section 97A (b) of the Joint Investments Trust Law and section 29(b) of the Regulation of Investment Advising).

#### Supervisory activities

780. The Israel Securities Authority supervises portfolio managers and Stock Exchange members concerning compliance with the provisions under the PMLL by carrying out on-site inspections and correspondence audit (off-site inspections), both by employees of the ISA and by outsourcing, under the umbrella of the PMLL provisions.
781. During the mission, the representatives of the ISA clarified to evaluators that non-bank Stock Exchange members are supervised by the Audit Unit of the Investment Department of ISA that performs inspections on a revolving three-year schedule. Regarding the supervision of investment portfolio managers, the Licenses Supervision Unit operates on the basis of a risk management model based on the ARROW model (i.e. United Kingdom model adopted by the FCA<sup>35</sup>), adjusted to conditions in Israel. Thus both on-site and off-site inspections are carried out on regards of investment portfolio managers.
782. The representatives of the private sector indicated to the evaluators that, according to their knowledge, the ML/TF risk mainly lies in the “over the counter” transactions. Moreover they also indicated that there is no prohibition to go to the non-bank Stock Exchange members with monies in cash and operate (this, in the view of the representatives, might pose some risks related to ML/TF).

#### **The Department of Capital Market and Insurance Savings**

783. The DCMIS of the Ministry of Finance is the supervisory authority for insurance companies and provident funds under the Insurance Control Law and Provident Funds Law.

#### Powers assigned

784. The Financial Services (Insurance) Control Law (hereafter “The Insurance Law”), 5741-1981 and the Financial Services (Provident Funds) Control Law 5765-2005 (hereafter “The Provident Funds Law”) regulate the activities in the insurance sector and the provident funds sector, and define the powers of the Supervisor.
785. Section 50 of the Insurance Law and section 39(C) of the Provident Funds Law empower DCMIS to require of an insurer, an insurance agent, managing company and any office holder therein, any information and documents pertaining to its business.
786. Pursuant to Chapter G of the Insurance Law that was applied in Section 39 (C) of the Provident Funds Law, if DCMIS is persuaded an insurer of a managing company is not capable to fulfil his covenants, he is entitled to remove an office holder from office, to render contingent or to restrict the power of an office holder, to appoint a licensed administrator or a special supervisor.

#### Supervisory activities

787. The DCMIS supervises insurance companies and provident funds concerning compliance with the rules under the PMLL. The supervisory activities include performing on-site inspections, access to all relevant records and information needed to check compliance, including information on accounts.

---

<sup>35</sup> Until 1 April 2013 the Financial Services Authority (FSA).



788. The team performing on-site inspections on behalf of the DCMIS is a joint group of external examiners and staff of the DCMIS that makes use of the internal reports and other information and documents provided off-site.
789. According to the information provided by the representatives of the private sector, the provident funds business is related to pension schemes whose customers are mainly people who live in Israel, while life insurance companies deal with investments provided, mainly, by employees. According to the understanding of the Industry, the ML risk might be associated with investments in deposits in long-term whose funds are withdrawn before the expiring of the investments as well as with operations that are not consistent with the clientele profile.

#### **Supervision Division at the Ministry of Communication for Postal Bank**

790. The Ministry of Communication is in charge of supervising the Postal Bank and all of the Postal Company, by force of the Postal Law. The Ministry has the authority to issue a license, to regulate and to supervise over the activity of the Postal Bank.

#### Powers assigned

791. Under the framework of the Postal Law, the Minister of Communication is authorised to appoint a Supervisor which has the authority to regulate, to control and to review the Postal activities which are a part of the framework of a general license and the supervision regulations.
792. Section 88N(a)(f) of the Postal Law empowers the Supervisor of the Postal Bank to take steps to preserve the stability of the Postal Bank.
793. Section 88N(b)(2) of the Postal Law empowers the Supervisor to fix the amount of capital of the Postal Bank as a condition for supplying the financial services. Section 88M of the Postal law empowers the Supervisor to order the Postal Bank to repair the defects or to stop to carry out activities. According to Section 109B the Supervisor of the Postal Bank has the authority to impose monetary sanction on the Postal Bank if the instructions including the Supervisor's instructions are violated.

#### Supervisory activities

794. The Supervisory activities are performed both on-site and off-site. The latter is carried out by staff of the Supervision Division that collects information and data on a quarterly basis, while on-site inspection is performed, based on the information provided off-site and by external contracted persons. Moreover, according to the information provided on-site, the Postal Bank Supervisors frequently meet the management of the Postal Bank in order to discuss several issues, among which AML/CFT matters.
795. The supervisory activities are also influenced by the financial services provided by the Postal Bank with its 600 branches widespread in the Country. In fact, it is worth mentioning that the main customers of the Postal Bank are Public Administration Offices and retail customers (household, low-income workers and immigrants), thus the Postal Bank is mainly involved in the payments for the public administration (salary, pensions, tax collection etc.) as well as wire transfers as money foreign-immigrants remittance. The Postal Bank is the unique agent in Israel for Western Union and operates with Eurogiro as well.
796. According to the understanding of the senior management of the Postal Bank met during the on-site visit, the ML/TF risk is associated with MSPs who, acting as customers of the Postal Bank, do not properly perform the CDD requirements in respect of their customers. Moreover the ML/TF risk is also associated with occasional customers who require wire transfers or exchange of monies.

#### **Registrar of MSPs at the Ministry of Finance**

797. The function assigned to the Registrar at the Ministry of Finance to supervise money service providers on AML/CFT requirements, the powers assigned to perform such function and the supervisory activities carried out are described under SRVI.

***Effectiveness and efficiency (R. 23 [c. 23.1, c. 23.2]; R. 29, and R. 30 (all supervisors))***

798. The AML/CFT regulatory and supervisory framework assigns regulatory competences to the designated Ministries that are required to issue AML/CFT Orders for implementing PMLL provisions while the supervisory duties (on-site and off-site inspections) are allocated to the sectorial Supervisors (Bank of Israel, ISA and DCMIS), while having the latter regulatory competences under the respective sectorial legislations.
799. As regards the AML/CFT regulatory measures, the evaluators are concerned that the Israeli authorities have not updated, in due time, the provisions set forth these Orders. In fact, the experience shows that some of the AML/CFT amendments to the Orders have not yet been approved. The evaluators are concerned that the failure to update these orders on a timely basis could have a negative impact on the effectiveness and scope of AML/CFT supervision.
800. Moreover, despite having regulatory power, the Israeli Supervisors, with the exception of the Bank of Israel, have not issued any directive, circular to support and complement the AML/CFT requirements and to comply with the FATF recommendations.
801. For these reasons, the evaluators invite the Israeli authorities to adopt the measures that are still pending and recommend that all Supervisors take a pro-active AML/CFT regulatory attitude, as Bank of Israel has done.
802. As regards the AML/CFT supervisory activities, all Supervisors, under the PMLL, have a clear mandate to supervise the compliance of the supervised entities with the AML/CFT requirements. In order to perform these duties, the authorities have adequate powers to compel documents, records, information and data. These powers have been assigned by the PMLL and by the sectorial legislation.
803. The supervisory activities performed by the Supervisors comprise on-site and off-site inspections, integrating mutually with each other. The off-site activities (i.e. receiving and analysing documents) are done by staff of the Supervisors, while the on-site inspections are performed with the support of external contracted examiners (except for the Bank of Israel, which performs on-site inspections with its staff only). The ability to perform on-site inspections, supported by third contracted parties, is regulated by PMLL. Confidentiality and conflict of interest rules apply.
804. The use of external examiners might be connected to the need of educated and experienced persons, which is a reasonable issue. This might also be an issue of effective and efficient supervisory activities. However it is extremely important that the staff of the Supervisors are involved in the on-site process in order to guarantee a continue dialogue between the Supervisors and the external contracted examiners in term of compliance with the AML/CFT requirements and ML/FT risks.
805. The ISA indicated to the evaluators that the Authority is moving forward with the establishment of an internal inspection team thus, in medium term, on-site inspections will be performed by ISA staff only.
806. As regards the adequacy of resources, the Bank of Israel declared itself satisfied with the resources assigned while, as regards the other Supervisory Authorities, the Israeli authorities indicated that the use of external contracted examiners is not connected with the lack of adequate number of staff, having regard to the fact the contracted examiners are paid by the Supervisors; but this approach was a policy-decision by the Supervisor themselves to draw on the expertise of external bodies and avoid any conflicts of interest and in order for the supervisors to gain more direct experience.
807. The use of risk-based approach to (AML/CFT) supervision, as well as the reliance on external examiners, may allow the Israeli authorities to allocate its resources where the risks are higher.
808. The evaluators invite the Israeli authorities to consider:
- i) adopting an AML/CFT Risk-Based Approach (RBA); and
  - ii) guaranteeing full coverage of the supervised entities.

809. As regards the risk-based approach adopted by the Israeli supervisory authorities, it is worth noting that the ML/FT risk is a component (although not the main criterion) of the overall assessment, as such the evaluation of this risk might be underestimated in the general assessment of the intermediary, with possible negative consequences on the effectiveness and efficiency in the supervisory activities for AML/CFT purpose.

***Recommendation 17 (rated C in the 3<sup>rd</sup> round report)***

*Availability of Effective, Proportionate & Dissuasive Sanctions (c. 17.1); Range of Sanctions—Scope and Proportionality (c. 17.4)*

810. The Israeli AML/CFT sanctioning regime is governed by the PMLL and the ML Prohibition Regulation 2001. Chapter 5 (Financial Sanctions) of the PMLL establishes the Sanctions Committee and its authority to impose financial sanctions; while the ML Prohibition Regulation, 2001 sets out the procedures of the Sanctions Committees and lays down criteria for imposing financial sanctions.

811. The following criminal sanctions are available:

- The confidentiality obligations attract criminal penalties under Section 31 A and B PMLL of 3 years or a fine, or one year or a fine, if committed negligently;
- Disclosures with regard to reports under Section 7 (c) of the PMLL (which in some respects covers tipping off) attract a criminal penalty of one year's imprisonment; and
- Failing to report does attract criminal penalties under Section 10 PMLL or a fine at the rate stated in Section 61 (a) (4) Penal Law or ten times the amount which was not reported on. However, Section 9 of the Banking Order provides for unusual transaction reporting and appears to have been the subject of financial sanctions under the administrative procedure (see table beneath). Failing to comply with AML/CFT obligations (e.g. reporting to the FIU) by a financial institution is subject to a financial sanction by an Administrative Sanctions Committee, set up under the PMLL (see Section 14 PMLL). In cases where there is evidence of criminal intent to avoid reporting to IMPA it is possible to charge the relevant person (e.g. the person performing the financial activity or the person withholding the relevant CDD information) with criminal charges according to section 3(b) of the PMLL before a criminal court.

812. The following Administrative sanctions are available:

- Section 14.H of the Banking Ordinance 1941 enables the Supervisor of Banks in the BOI to impose financial sanctions on banking corporations if he has reasonable grounds to assume that it violated the proper conduct of the Banking Business Directive. Section 8.C of the Banking Ordinance 1941 enables the Supervisor of Banks to suspend, restrict or remove an office holder if, inter alia the banking corporation has not rectified defects notified to it or prevented their adverse consequences;
- Under the PMLL a system of Sanctioning Committees has been established. Sections 12-20 PMLL enable the Banking Sanctions Committee to impose financial sanctions on a banking corporation that violates the requirements of Section 7 PMLL (which sets out the main AML/CFT obligations including the reporting obligation) and Section 8 PMLL (dealing with the appointment and the duties of a compliance officer), and/or the Banking Order;
- With regard to the ISA, Ministry of Finance and the Postal Bank, under Section 14 PMLL, the Financial Sanctions Committee is competent to impose financial sanctions on a person or corporation that does not appoint a compliance officer or that does not comply with Section 7 of PMLL and the Orders. The MSP Registrar has similar powers to propose sanctions;
- The Registrar of MSP is empowered under s. 11 (i) PMLL to demand the termination of employment of a senior manager in the case of an indictment for an AML violation either in Israel or in a third country;

- The sanctions that exist in the PMLL for breach of provisions in the law are applied flexibly and include financial sanctions up to NIS 2,020,000, according to the parameters set by the Prohibition of money laundering (Financial Sanctions) Regulation 5762-2001. There is no specific provision in the PMLL for the revocation of a licence. This situation would be dealt with under the general powers of the Bank of Israel or any other regulator under s. 11N (D) PMLL.

813. According to the provisions set forth under section 14 of the PMLL, administrative sanctions are imposed on any obliged entity that breaches its obligations. The Israeli authorities indicated that if the obliged entity is a natural person (in the case of cross border reporting, MSPs, portfolio managers and insurance agents) an administrative sanction is imposed on the natural person. Where the person breaching the obligation is not a natural person (such as for banking corporations) sanctions are imposed on the financial institutions itself and not on the directors, senior management or the employee who infringed the AML/CFT requirements.

814. The measures under the PMLL do not inhibit the supervisory authorities, under the respective sectorial duties, to adopt other types of measures: written warnings; withdrawal of license; and, in some circumstances, indictment.

815. The Israeli authorities indicated that for natural persons, criminal sanctions apply under section 3B of the PMLL. For example, when the manager of a financial institution fails to comply with the CDD requirements, a criminal sanction under section 3B is imposed.

816. As regard the application of section 3B of the PMLL, the Israeli Authorities provided evaluators the table below that indicates the cases indicted related to the failure to comply with the AML/CFT requirements:

<b>Position</b>	<b>Name</b>	<b>Number of Criminal Case/Indictments</b>
Bank Employee	sanitised	40156/07
Bank Employee	sanitised	4202/09
Bank Employee	sanitised	4202/09
Bank Employee	sanitised	4202/09
Bank Employee	sanitised	40346/09
Bank Employee	sanitised	40346/09
Bank Employee	sanitised	344/04
Bank Employee	sanitised	344/04
Bank Employee	sanitised	343/03
Bank Employee	sanitised	40182/02
Bank Employee	sanitised	40279/08
Portfolio Manager	sanitised	44540-06-12
MSP	sanitised	8303/09
MSP	sanitised	8303/09
MSP	sanitised	40183/02
MSP	sanitised	51845-05-12
MSP	sanitised	51845-05-12
MSP	sanitised	3395/06
MSP	sanitised	40083/07
MSP	sanitised	473/07
MSP	sanitised	473/07
MSP	sanitised	473/07

MSP	sanitised	9416/03
MSP	sanitised	9416/03

817. The Israeli authorities indicated to the evaluators that it is common practice for supervisors to contact the police whenever an inspection reveals possible personal involvement of individuals in the AML/CFT violations by the financial institution (including directors and senior management), which then leads to a criminal investigation and possible criminal indictment under section 3(b) of the PMLL.
818. The evaluators were briefed on a criminal case that resulted both in criminal indictment against bank managers, and administrative sanctions against the bank. It is the view of the Israeli authorities that this case had an important deterrent effect.
819. The right to appeal against a financial sanction is set forth under section 17 of the PMLL, while procedures are described under the ML Prohibition Regulation 2001 (section 14 to 19).
820. All of the financial sanctions imposed are published on the website of the supervisors, which is a positive feature.
821. Timeliness of the sanctions imposed is an issue to address. In practice the information provided during the on-site visit and the table attached below indicate that several months pass from the detection of an infringement before sanctions are imposed. The evaluators indicate that this might be an issue in terms of the effectiveness of the sanctioning regime. Nevertheless, it is noted that the issue of timeliness existed in previous years, has been substantially improved during the years 2011-2012.
822. For example, the Postal Bank was inspected in 2008, while sanctions were imposed in March 2013. One insurance company was inspected in December 2011 and the decision on sanctions was imposed in May 2013. Three portfolio & Stock Exchange members have been inspected in 2008 and one has been inspected in 2007. All of them were sanctioned in December 2009. Two banks, inspected respectively in 2008 and in 2009, have both been sanctioned in December 2010.

**Table 38: Information on the date of the AML/CFT inspections and when the sanctions have been imposed**

Obligated entity	Date of Inspection	Date of Committee	Date of Decision of sanctions <sup>36</sup>
The Postal Bank	5.12.2007-25.11.2008	4.9.2012	4.3.2013
Insurance Company	9.2009-7.2010	21.9.2010	21.9.2010
Insurance Company	9-12.2011	12.12.2012	May 2013
Portfolio & Stock Exchange Member	30.7.2007	28.12.2008	9.12.2009
Portfolio & Stock Exchange Member	18.3.2008	28.12.2008	9.12.2009
Portfolio & Stock Exchange Member	25.9.2008	2.9.2009	9.12.2009
Portfolio & Stock Exchange Member	13.11.2008	2.9.2009	9.12.2009
Portfolio & Stock Exchange Member	15.9.2009	25.8.2010	5.10.2010
Portfolio & Stock Exchange Member	4-8.2010	24.1.2012	8.5.2012
Portfolio & Stock Exchange Member	11.2009-5.2010	3.4.2011	15.5.2011
Banking Corporation	15.7.2008	5.10.2010	7.12.2010
Banking Corporation	2.9.2009	25.11.2010	30.12.2010
Banking Corporation	2004 (Police Investigation)	25.11.2010	30.12.2010
Banking Corporation	28.2.2012	24.7.2012	19.9.2012

<sup>36</sup> The Israeli authorities have reported that there have been a number of sanctions imposed since May 2013 where the period from the time of the original infraction to decision of sanction has been reduced.

Banking Corporation	11.10.2011	2.12.2012	30.12.2012
---------------------	------------	-----------	------------

823. The tables below illustrate the number of infringements identified during the on-site inspections by the Supervisors, the measures adopted and, in case of administrative sanctions, the amount imposed by the competent Sanctions Committees.

**Table 39: Sanctions imposed on banking corporations and credit card companies**

	2008	2009	2010	2011	2012
<b>Number of AML/CFT violations identified by the supervisor</b>	1	2	3	6	2
<b>Type of measure/sanction</b>					
Written warnings	-	-	-	-	-
Fines	1	-	3	-	2
Removal of manager/compliance officer	-	-	-	-	1
Withdrawal of license	-	-	-	-	-
Other measures adopted	-	-	-	-	-
<b>Total amount of fines (Euro)</b>	740,000	0	1,545,000	0	1,180,000
<b>Number of sanctions taken to the court (where applicable)</b>	0	0	0	0	0

**Table 40: Sanctions imposed on insurance companies and provident funds**

	2008	2009	2010	2011	2012
<b>Number of AML/CFT violations identified by the supervisor</b>	0	0	1	0	1
<b>Type of measure/sanction</b>					
Written warnings	-	-	-	-	-
Fines	-	-	1	-	1
Removal of manager/compliance officer	-	-	-	-	-
Withdrawal of license	-	-	-	-	-
Other measures adopted	-	-	-	-	-
<b>Total amount of fines (Euro)</b>	0	0	376,666	0	200,000
<b>Number of sanctions taken to the court (where applicable)</b>	0	0	0	0	0

**Table 41: Sanctions imposed on portfolio managers and Stock Exchange members**

	2008	2009	2010	2011	2012
<b>Number of AML/CFT violations identified by the supervisor</b>	0	2	4	2	5
<b>Type of measure/sanction</b>					
Written warnings	-	-	-	-	-
Fines	-	4	1	1	1
Removal of manager/compliance officer	-	-	-	-	-
Withdrawal of license	-	-	-	-	-
Other measures adopted	-	-	-	-	-
<b>Total amount of fines (Euro)</b>	0	213,400	52,800	30,000	82,500
<b>Number of sanctions taken to the court (where applicable)</b>	0	0	0	0	0

**Table 42: Sanctions imposed to money service providers**

	2008	2009	2010	2011	2012
<b>Number of AML/CFT violations identified by the supervisor</b>	25	24	12	36	28
<b>Type of measure/sanction</b>					
Written warnings	-	-	-	-	6
Fines	11	7	12	11	23
Removal of manager/compliance officer	-	-	-	-	-
Withdrawal of license	-	2	-	1	-
Other (indictments as a result of inspections)	2	1	1	5	-
<b>Total amount of fines (Euro)*</b>	122,000	327,200	74,600	500,600	254,800

<b>Number of sanctions taken to the court (where applicable)</b>	2	1	3	1	2
Number of final Court Orders	2	1	2	1	2

\* The sanctions were calculated with reference to the year that they were imposed by the sanction committee; therefore, sanctions imposed in a specific year could refer to inspections in prior years.

824. In 2012, the Supervisors identified 36 AML/CFT infringements (28 of which were in the MSPs sector). These resulted in 6 written warnings and 27 administrative sanctions for a total amount of €1,717,300. It is worth noting that the two sanctions imposed on the banking sector amounted to €1,180,000.

825. In the last 5 years (from 2008 to 2012), 6 fines have been imposed in the banking sector for a total amount of €3,465,000 (with an average of around €570,000 per sanction imposed).

826. The money service providers, in the same period of time, have been sanctioned 64 times, for a total amount of €1,279,000 (with an average of around €20,000 per sanction imposed).

827. The insurance and provident fund sectors are, by far, the least sanctioned sectors: according to the information provided, in the last 5 years, 2 sanctions have been imposed for €376,666.

828. According to the information provided by the Israeli authorities, the table below illustrates the violations ascertained.

829. The CDD breaches are the violations most frequently identified for banking, insurance and securities sectors. The representatives of the supervisors indicated that such violations refer to several activities related to the CDD requirements and cover a broad range of failures (e.g. failure to identify properly the beneficial owner, expired identification documents, lack of signature in the CDD documents etc.).

**Table 43: Breakdown of breaches ascertained**

<b>Obligated entity</b>	<b>UAR Breaches</b>	<b>CTR Breaches</b>	<b>Record Keeping Breaches</b>	<b>CDD Breaches</b>
Banking corporation	4	1	26	45
Banking corporation	11	4	10	42
Banking corporation	21	0	0	0
Banking corporation	10	Widespread violation	13	73
Banking corporation	9	Widespread violation	4	38
Insurance company	4	12	0	0
Insurance company	6	2	1	0
Portfolio & Stock Exchange member	0	13	several cases	several cases
Portfolio & Stock Exchange member	0	0	8	11
Portfolio & Stock Exchange member	1	0	16	19
Portfolio & Stock Exchange member	0	0	7	16
Portfolio & Stock Exchange member	1	0	11	15
Portfolio & Stock Exchange member	7	0	18	23
Portfolio & Stock Exchange member	3	0	5	6
The Postal Bank	1	8	177	64

830. As regards the money service providers, the following table illustrates the violations ascertained by the supervisor. Violations for the CDD breaches as well as for UARs and CTRs are the most identified

**Table 44: Breakdown of breaches ascertained in MSPs**

Obligated entity	UAR Breaches	CTR Breaches	Record Keeping Breaches	CDD Breaches
MSP - company	2	2	Widespread violation	Widespread violation
MSP - individual	26	30	Widespread violation	Widespread violation
MSP - company	1	5	Widespread violation	5
MSP - individual	No UAR were reported to IMPA	No CTR were reported to IMPA	Widespread violation	Widespread violation
MSP - company	11	135	Widespread violation	Widespread violation
MSP - company	0	30	128	128
MSP - individual	0	10	10	10
MSP - company	0	1	1	1
MSP - individual	0	10	Widespread violation	Widespread violation
MSP - individual	No UAR were reported to IMPA	No CTR were reported to IMPA	Widespread violation	Widespread violation
MSP - company	0	285	42	1,249
MSP - company	6	413	343	343
MSP - company	0	0	0	42
MSP - individual	2	11	0	6
MSP - individual	27	20	0	253
MSP - company	0	83	0	33
MSP - company	0	4	4	4
MSP - individual	No UAR were reported to IMPA	No CTR were reported to IMPA	Widespread violation	Widespread violation
MSP - individual	0	9	0	16
MSP - company	0	197	1	127
MSP - company	0	162	0	134
MSP - company	0	451	0	418
MSP - individual	0	115	0	460
MSP - individual	5	2	0	7
MSP - company	0	286	286	286
MSP - company	0	70	0	169
MSP - company	200	0	4	4
MSP - company	19	505	0	737
MSP - company	4	190	0	60
MSP - company	298	2	7	21
MSP - individual	0	229	0	41
MSP - individual	38	19	25	57
MSP - individual	300	34	22	1,728
MSP - company	0	34	34	34
MSP - company	1,232	0	34	51
MSP - individual	0	229	0	32,489
MSP - company	9,719	4,535	0	12,926
MSP - company	99	0	0	4
MSP - company	546	0	0	1,417
MSP - individual	0	3	0	15
MSP - company	1,691	0	0	6
MSP - individual	212	0	199	0
MSP - individual	0	2	0	2
MSP - company	1,951	6	0	0
MSP - individual	2	0	0	0



MSP - individual	0	5	0	46
MSP - company	3,390	0	0	0
MSP - company	3	5	0	6
MSP - individual	17	14	0	14
MSP - individual	0	0	0	51
MSP - company	0	22	42	9
MSP - company	1,299	1,052	0	5,067
MSP - company	0	3	0	4
MSP - company	15	10	10	46
MSP - individual	2	3	3	6
MSP - company	12	0	0	394
MSP - individual	0	3	0	6
MSP - company	17	127	0	127
MSP - company	0	6	0	
MSP - company	188	22	0	94
MSP - individual	195	0	0	995
MSP - individual	106	57	0	353
MSP - company	0	1,369	0	1,901

831. As already indicated in this report, MSPs have been identified as posing a higher risk of ML/FT. In several cases, competent authorities indicated that intelligence shows links between criminal activity and MSPs, having regard to the widespread use of cheques and wire transfers.

832. To address this risk the Israeli Police and the MSP Supervisor regularly cooperate to coordinate a supervisory action by the MSP Registrar together with a criminal investigation against the director or senior management of the MSP corporation. It should be emphasised that the Steering Committee (established following government decision of 2006 for countering serious crime) identified the risk imposed by the MSPs sector, and assigned a task force to investigate MSPs that are involved in criminal activities additionally to investigations carried by the Fusion Centre.

*Designation of Authority to Impose Sanctions (c. 17.2)*

833. The Sanctions Committee set up under section 13 of the PMLL is made up of representatives of the supervisor of the sector (e.g. Supervisor of Banks in case of a banking corporation, ISA in case of Stock Exchange members, etc.). The composition of each committee is as follows: the chairman; an employee appointed by the Supervisor; and an attorney appointed by the Minister of Justice from among the employees of his Ministry. Currently, the attorney is an employee of the legal department of IMPA.

834. The Minister of Justice laid down the working arrangements for the committee and the criteria for the imposition of a financial sanction in the ML Prohibition Regulations, 2001 (Financial Sanction).

*Ability to Sanction Directors and Senior Management of Financial Institutions (c. 17.3)*

835. Under section 14 of the PMLL it is possible to impose financial sanctions on any person that breaches a requirement. As indicated above senior managers and board of directors are not sanctionable in administrative terms.

836. As regards Money Services Providers, according to sections 11I(d)-(e) of the PMLL, the MSP's Registrar has the power to demand the termination of employment of a functionary or a branch manager in the MSP (or to suspend his registration), where such person is indicted with an offence or is subject to a financial sanction.

837. According to the information provided by the Bank Supervisor, a compliance officer has been removed in 2012 due to the lack of the implementation, within a credit card company, of the provisions contained in AML/CFT Order.

Market entry

**Recommendation 23 (rated PC in the 3<sup>rd</sup> round report)**

**Recommendation 23 (c. 23.3, c. 23.3.1, c. 23.5, c. 23.7, licensing/registration elements only)**

*Prevention of Criminals from Controlling Institutions, Fit and Proper Criteria (c. 23.3 & 23.3.1)*

838. Detailed market entry information have been provided in the 3<sup>rd</sup> round MER (from Para 706 to 719, page 146-147 of the Report). Israeli authorities confirmed to the evaluators that the regulatory framework herein described is still valid and in place. The following paragraphs briefly highlight some of the main issues.

**Banking sector**

839. Banking (Licensing) Law 5741-1981 contains the notion of “*control*” and “*means of control*” at section 1, while section 34 of that Law covers the issue of “*control and holding of means of control in a bank*”.

840. According to that section a person shall hold no more than five per cent of any particular type of means of control in a bank or in a bank holding corporation except in accordance with a permit that the Governor shall issue after consulting with the Licenses Committee.

841. The Israeli authorities have indicated to the evaluators that the permit of the Governor is issued only after a detailed examination, which covers the applicant’s integrity and whether he has any criminal convictions.

842. The ultimate owners of a banking corporation, including all shareholders with an ownership interest of 5 per cent or more, are subject to a “*fit and proper*” procedure to determine their suitability as owners or holders of means of control. As a result, owners who hold their interest indirectly are also subject to “*fit and proper*” considerations.

843. According to the information provided on-site, “*fit and proper*” check on the ownership controllers is done by BSD with the support of the Israeli Tax Authorities and Israeli Police, while “*fit and proper*” test for directors and senior managers (CEO and Board of Directors) is done through the use of questionnaires and documents provided by the applicants.

844. According to the secrecy provisions in force, IMPA is not permitted to disclose information to the BSD if requested, however this information may be gathered by the BSD via the Israeli Police for which the sharing of information with IMPA is possible.

**Insurance sector**

845. As regards insurers, section 32 of the Control of Finance Service (Insurance) Law 5741-1961 inhibits any person from holding more than five per cent of a particular category of means of control in an insurer, except under a permit issued by the Commissioner. Moreover no person shall control an insurer or incorporated agent, except under a permit issued by the Commissioner. A similar provision applies for provident funds under section 9 of the relevant sectorial Law.

846. The Israeli authorities have indicated that such a permit is issued only after a thorough examination, which covers the applicant’s integrity and whether he has any criminal convictions.

**Securities sector**

847. As regards Portfolio managers, Regulation of Investment Advice (section 8) specifies the conditions for granting portfolio manager’s license.

848. In particular section 8(b) (3) indicates that someone who has been convicted of an offence in accordance with the list of offences in section 1 of the Regulation mentioned above may not hold office as an officer in a company that is a licensed portfolio manager.

849. Moreover the Israeli authorities indicated that section 8(b)(2) of the Regulation requires that a company may only employ in portfolio management those employees who are themselves licensed

for portfolio management, and a condition for receiving a personal license in section 8(b)(3) is that the individual has not been convicted of the offences indicated in section 1 of the Regulation.

850. Section 8(c)(2) of the Regulation of Investment Advice indicates that ISA is entitled to refuse to give a license to a company if one of the officers of the company or one of the controlling shareholders of the company is not fit to be a licensee (the fit and proper test).
851. Lastly, under section 10 of the same Regulation, ISA is competent to revoke or suspend a license of someone who no longer complies with the terms of the license, including someone who was convicted of one of the offences indicated in the Regulation.
852. As regards Stock Exchange members, sections 5 and 6 of the first section of the Tel Aviv Stock Exchange Members' Statute provide that one of the conditions for a Stock Exchange membership for a company, which is not a banking corporation, is that its controlling person and senior managers are of good repute and have not been convicted of an offence involving ignominy.
853. In addition, Section 75 of the first section of the Tel Aviv Stock Exchange Member's Statute provides that the Stock Exchange Board of Directors may prohibit a member from engaging in certain transactions or in trade on or off the Stock Exchange should an indictment be filed against the member or its control person; this serious step may be taken according to the indictment's gravity.
854. Furthermore, the Board of Directors may suspend a member in such cases (Section 76 of the first section of the Tel Aviv Stock Exchange Member's Statute) or revoke a member's membership if he has been convicted of an offence involving ignominy (Section 78).

#### **Postal Bank**

855. For the Postal Bank, the circumstances described under paragraph 713 of the 3<sup>rd</sup> round MER remain unchanged.

#### **Money Service Providers**

856. Under PMLL provisions, the persons (both natural and legal) that want to operate as money service providers shall be registered in the Registrar at the Ministry of Finance.
857. The requirements that operators shall satisfy in order to be registered are described under SR.VI.

*Directors and senior management of "fit and proper" criteria including those relating to expertise and integrity. (C. 23.3.1)*

#### **Banking sector**

858. Section 11A(a) of the Banking Ordinance, 1941 sets forth provisions on "*Approval of appointment of officer*".
859. In accordance with such requirement, section 4(a) of Directive 301 issued by Supervisor of Banks requires candidates for "*office holders*" to fulfil a questionnaire attached in the Appendix A of this Directive. This questionnaire contains detailed questions on several issues among which are included: possible conflict of interests; education; integrity; employment during the past 10 years; and so on.
860. Thus, forthcoming directors, executive officers, internal auditors and legal advisers, shall undergo the "*fit and proper*" considerations and the supervisor shall determine, for each banking corporation, which of its officers require the approval of their appointment.
861. As illustrated above, the suitability test includes a review of the integrity of the individuals, both personally and in business relationships, experience and education in disciplines relevant to banking, and an investigation of possible conflicts of interest. A criminal background check is also conducted.

#### **Insurance sector**

862. Measures on "*fit and proper test*" remain unchanged since the last evaluation, for this reason evaluators suggest to refer to paragraph 718 of the 3<sup>rd</sup> round MER.

## **Securities sector**

863. In addition to the provision (section 8 (c )(2) of the Regulation on Investment Advice) indicated and described in paragraph 716 of the 3<sup>rd</sup> round MER, the Israeli authorities referred also to Section 10(a1)(a) of this Regulation which allows the ISA to revoke or suspend a license of a licensed corporation, after giving the licensee an opportunity to bring his arguments.
864. Under this provision, if the ISA finds that the circumstances specified in the list under paragraph (4) ("*List of reliability*") have taken place, indicating that he/she is not appropriate to be a licensee (hereinafter, the reliability flaw); such circumstances will be examined, *inter alia*, regarding the controlling shareholder of the license holder and an official of the corporation license holder or controlling shareholder.
865. As regards Stock Exchange members, the description under paragraph 717 of the 3<sup>rd</sup> round MER is still valid.

## **Postal Bank**

866. Section 1b(f) of the Postal Law empowers the Minister of Communication to set terms for the appointment of function holders and directors.
867. Section 88J(a)(4) of the Postal Law gives the Minister of Communication specific authority to enact regulations that set qualification terms to directors (the regulations were drafted and should be submitted to consultation). The regulations set terms such as the integrity of the functionary, his/her occupation and skills, and determine an obligation to report to the supervisor the appointment and the termination of the appointment. Nevertheless, the provisions of the Governmental Corporations Regulations apply on the directors of the Postal Bank (which is a state owned company) with regard to the qualification terms of the Postal Bank. Additionally, the Supervisor of the Postal Bank issued a Directive "The conduct of the Directorate", published on May 2013, with regard to the qualification requirements from the directors of the Postal Bank, including their integrity, financial skills, conflict of interest etc.

### *Licensing or Registration of Value Transfer/Exchange Services (c. 23.5)*

868. The PMLL, under Chapter 4A on Money Service Providers, sets forth provisions governing the Registrar of these operators.
869. MSPs are required to be registered and to keep registered on annual basis. Such requirements are provided from section 11A to section 11L of PMLL and described in detail under SRVI.

### *Licensing of other Financial Institutions (c. 23.7)*

870. According to the information and documents provided by the Israeli authorities there are no other persons (natural or legal) operating in Israel, falling within the notion of "*Financial Institutions*" under the FATF Methodology or performing the type of business therein indicated, that are not licensed or regulated by the competent authorities.

## **On-going supervision and monitoring**

### ***Recommendation 23 & 32 (c. 23.4, c. 23.6, c. 23.7, supervision/oversight elements only & c. 32.2d)***

*Application of Prudential Regulations to AML/CFT (c. 23.4); Statistics on On-Site Examinations (c. 32.2(d))*

## **Bank of Israel**

871. According to the information provided during the mission, the Banking Supervision Department (BSD) of the Bank of Israel acts according to a Risk-based Supervision Methodology which was adopted in November 2008. This approach permits the BSD to focus supervision on the evaluation of the banking corporations' risks. The risks are itemized as: credit risk; financial risk; IT risk; compliance risk (that includes AML risk); and corporate governance risk.

872. The supervisory process is composed of 5 stages: understanding the bank and assessing its risks; planning; performing; reporting; and summarising the supervising activities. In order to carry out these stages, the BSD avails itself of the information and documents obtained with off-site procedures.
873. The supervisory approach adopted by the Bank of Israel is developed both at single bank corporation as well as for banking groups. The supervisory plan is based on both on-site and off-site supervision and it is scheduled as a 3 years working plan.
874. As regards the off-site activities related to AML/CFT matters, these include: i) an on-going risk assessment carried out by meeting with AML/CFT Officers, internal auditors, CEO, CRO and other relevant senior managers; ii) a quarterly basis report and half-year report presented to the Governor; and iii) an annual supervisory letter sent to the boards of directors of the entities supervised. The off-site supervision is aimed at identifying and assessing the risk profile of each bank corporation. For this reason, regular contacts between the BSD's analyst assigned to a specific bank corporation and the board of directors of that bank are held. Moreover, the BSD representatives indicated that special examination may be carried out upon request of the banks on specific issues.
875. The on-site inspections are carried out based on: questionnaires; requests for gap analysis; compliance risk cards (i.e. instruments used for risk-assessment, one of which is dedicated to AML/CFT issue); and any relevant information provided by the off-site supervision. The representatives of the Banking Supervision Department informed evaluators that on-site inspections include, among others, examinations of AML/CFT policies, procedures, controls, internal audit functions as well as the capability of the supervised entity to detect and report UARs and CTRs.
876. The on-site inspections might either cover general aspects of the banking corporation's activities or can be targeted to specific inspections (e.g. terror financing, high-risk customers). The team of inspectors has full access to bank's database and system, as well as all to documents.
877. The on-site and off-site divisions work cooperatively, they usually meet quarterly for updating, and discussing and coordinating the supervisory work plan as well as the on-site and off-site procedures.

### **Israel Securities Agency**

878. The ISA has adopted a supervisory strategy that differentiates the approach for the non-bank Stock Exchange members (the banking corporations acting as Stock Exchange members are supervised by the BOI) from the one dedicated to investment portfolio managers.
879. According to the view of the ISA representatives, the ML/FT risk associated with portfolio managers is lower than the ML/FT risk related to Stock Exchange members, however the evaluators were not provided with any factual elements that support such assessment.
880. Having regard to the fact that there are a total of 13 non-bank Stock Exchange members, the Audit Unit of the Investment Department of the ISA performs inspections of these regulated entities on a revolving three-year schedule. This means that each year, 4 non-bank Stock Exchange members shall be supervised with on-site inspections.
881. Regarding supervision of investment portfolio managers, the Licenses Supervision Unit of ISA operates on the basis of a risk management model based on the FCA's (United Kingdom) "ARROW" risk model, adjusted to conditions in Israel.
882. It is worth recalling that, at the time of the visit, the ISA made use of external (contracted) inspectors to perform on-site inspections (at the time of the visit, 7 external auditors), however a decision to replace the contracted examiners with permanent ISA employees is planned to be implemented from mid-2013 onward. As illustrated above the third contracted parties are not only required to sign a Non-Disclosure Agreement (NDA) but confidentiality rules apply (see section 56E of the Security Law and section 28(2) of the Investment Advice Law and section 97(d) of the Mutual Funds Law).

883. The risk-based approach adopted by the ISA is the following: once every two years a questionnaire is disseminated to the largest 40 portfolio management firms (in terms of assets under management); then the risk in each firm is evaluated and assigned having regard to the information collected from external and private information sources; and, at the end of the process, each firm receives a score. The score is weighted with the data on the value of the managed assets, which results in a rating score for each firm.
884. The risk-based approach adopted by the ISA might have some negative aspects. In particular, it does not consider properly, in term of supervisory activities, the portfolio management companies that have small amount of assets under management. In fact, money laundering operations may potentially occur through (many) small financial intermediaries.
885. On this issue, the Israeli authorities have a different view. The Licensee Supervision Unit of the Investment Department operates by a risk management model that it developed based on the UK FCA's risk management model, adapted to fit the supervised entities and market. One of the parameters taken in consideration in this model in order to rank a company is its internal compliance and enforcement. Typically compliance officers are in charge of ensuring the company's compliance with the Prohibition of Money Laundering Law.
886. Another parameter considered is the findings of the inspections performed in the company. The inspection findings relating to the PMLL are taken into consideration in rating companies.
887. The Investment Department's Licensee Supervision Unit operates on the basis of a model where the higher risk companies have an on-going close relationship with one of the units' employees. Each employee serves as a referent for several high-risk companies (rated according to the risk management model), and directly oversees them on an on-going basis. The referents also regularly review the companies' obligations under the PMLL. Among other things, the referents review the individual appointed as compliance officer in charge of Prohibition of Money Laundering obligations and the compliance officers' subordinates; the referents also review the number of workers allocated to this topic (relative to the size of the company) to ensure that the issues are being addressed with all due seriousness. In the case of specific deficiencies, the referents examine the manner in which the breach was addressed and the means used to prevent its recurrence.
888. The highest-rated firms are assigned a "Relationship Manager" (i.e. each employee of the ISA acts as a referent for supervised companies), while the remaining firms are assigned supervisory resources depending on the assets under management. This approach is similar to the one adopted by Bank of Israel.
889. The referents also regularly review the companies' obligations under the PMLL. Among other things, the referents review the individuals appointed as "*Officer in charge*" of PMLL obligations and the compliance officers' subordinates; the referents also review the number of workers allocated to this topic (relative to the size of the company) to ensure that the issues are being addressed with all due seriousness. In the case of specific deficiencies, the referents examine the manner in which the breach was addressed and the means used to prevent its recurrence.
890. During the on-site inspections, the inspectors avail themselves of a supervisory manual that includes issues related to AML/CFT. The main topics are the following: corporate governance environment and the controls; obligations concerning the identification, verification, and declarations of beneficiaries; know-your-client procedures; intra-company transfers (for TASE members only); and the reporting regime. The supervisory manual also defines a procedure that is based on interviews conducted with officials in the regulated organisations (CEO, compliance officer, and others), and on the basis of analysis of empirical data obtained from a randomly selected sample of client files.
891. The on-site inspections usually last three months. After the inspection, the report is sent to the supervised entity and comments are required, than the report is finalised and, in case of sanctions the report is sent to the Sanction Committee for enforcement.

### **The Department of Capital Market and Insurance Savings**

892. The supervisory strategy of DCMIS includes both off-site and on-site inspection. The latter is performed by the appointment of external auditors.
893. According to the information provided, the DCMIS selects supervised entities based on the current information regarding the provident funds and the insurance companies received through off-site supervision.
894. On insurance companies, the representative of the supervisor illustrated to the evaluators the DCMIS supervisory strategy according to which major insurance companies are considered first (5 insurance companies covers around 70% of the entire insurance market). In two years DCMIS has planned to supervise all the insurance companies. According to the information provided (both data and documents), the Israeli Authorities informed the evaluators that both insurance companies and insurance agents are supervised by DCMIS for AML/CFT purposes as well as for other prudential issues.
895. As regards provident funds, the DCMIS considers the risk associated to them extremely low, however evaluators were not provided with any factual evidences of this view. The DCMIS's supervisory strategy is to prioritise the reviews of the major provident funds. In the previous two years, they have conducted eight audits of the provident funds. Furthermore, in the next two years, DCMIS intends to conduct additional audits which will mean that approximately 80% of the provident funds will have been audited over a period of four years.
896. According to the Israeli authorities, due to legal changes introduced in 2008, the savings in provident funds can be withdrawn only when they are in excess of an amount that is needed to purchase a monthly annuity. As a result, the risk of money laundering in these funds is low since they are not unduly liquid.
897. The on-site inspection plan includes the examination of the compliance system, the supervisory and monitoring functions within the entity and the existing processes for the entity's compliance with the provisions of the PMLL and the Order. In addition, the inspection team reviews the regular reports and the reports for unusual transactions sent to IMPA and the processes associated with these reports, comparing the reports received during the current period at IMPA to those which should have been reported based on to the Order. At the conclusion of the inspection, a report is submitted to the supervised entity. The report includes, if needed, recommendations concerning AML practices and reporting instructions.
898. Like the other supervisory authorities, DCMIS, in order to perform off-site inspections, collects data and figures provided by all insurance companies and provident funds.
899. During the on-site visit, the DCMS representatives briefed evaluators on a new initiative for the forthcoming months aimed at collecting information on the number and type of UARs sent by supervised entities to IMPA in order to find the transactions that they consider "*usual*" that might be useful to properly identify the ML/TF risk and act, on the supervisory side, properly.

### **Supervisor Division at the Ministry of Communication of the Postal Bank**

900. The supervisory function is performed both by the staff of the supervisor of the Postal Bank at the Ministry of Communication and by the external examiners under section 11N of the PMLL with regard to conducting on-site inspection. In addition, according to section 88Q of the Postal Law the supervisor and its employees.
901. The representatives of the supervisor indicated that supervision is performed on a risk-based approach. However, according to the information and documents provided, the supervisor seems to focus attention exclusively where the risk is high.
902. In order to detect the level of risk, the representatives indicated that information gathered during the meetings with the Postal Bank management as well as information provided by the Postal Bank on

UARs, CTRs, wire transfers and information on open/close accounts are the main drivers to detect the highest risk situations.

903. The Postal Bank Supervisor confirmed that they do have a supervisory manual. They also stressed that the staff of the Supervisor is actively involved in the on-site process by preparing documents and taking part in all of the meeting with the Postal Bank.

*Monitoring and Supervision of Value Transfer/Exchange Services (c. 23.6)*

904. The supervisory mechanism for money service providers, adopted by the Israeli authorities, has been described under SRVI.

*Supervision of other Financial Institutions (c. 23.7)*

905. There are no other Financial Institutions except those described under c. 23.4

*Statistics on On-Site Examinations (c. 32.2(d), all supervisors)*

**Banking sector**

906. According to the information provided during the visit, the number of entities supervised on AML/CFT matters are here below indicated (as of 31 December 2012):

- 5 Major banking groups (whose branches abroad are located in US, UK, CH), consisting in 10 banks;
- 3 Independent banks;
- 5 Branches of foreign banks (whose parent bank is locate in US, UK and India); and
- 3 Credit card companies.

907. The following table illustrates the number of AML/CFT inspections (or that incorporate AML/CFT issues) performed by the Bank of Israel:

**Table 45: Number of AML/CFT inspections performed by the Bank of Israel**

	2009	2010	2011	2012
<b>Number of on-site inspections</b>	2	3	6	4
<b>Number of off-site inspections</b>	0	0	11	22

**Securities sector**

908. According to the information provided during the visit, the number of entities supervised on AML/CFT matters are here below indicated (as of 31 December 2012):

- 132 Portfolio Managers;
- 13 Non-bank Stock Exchange members; and
- 15 Stock Exchange members that are banks, thus supervised by the Bank of Israel.

909. It is worth noting that the ISA supervises other entities (i.e. Investment advice firms and investment marketing firms) that are not required to comply with the AML/CFT requirements as their financial activities do not fall within the FATF notion of “*financial institutions*”. In fact those companies shall only provide advice on all types of investments or provide advice to clients about financial products.

910. The table below illustrates the number of AML/CFT inspections (or that incorporate AML/CFT issues) on portfolio managers and non-bank Stock Exchange members.

**Table 46: Number of AML/CFT inspections on portfolio managers and non-bank Stock Exchange members**

	2009	2010	2011	2012
<b>Number of on-site inspections**</b>	4	4	3	8
<b>Number of off-site inspections</b>	0	0	0	1*



\* This “horizontal” inspection reviewed 30 portfolio managers (with regard to their compliance with the fulfilment of the “Know Your Customer” procedures).

\*\* All inspections conducted jointly with external inspectors and supervisors.

### Insurance sector

911. According to the information provided during the visit, the number of entities supervised on AML/CFT matters are here below indicated (as of 31 December 2012):

- 23 insurance companies;
- 65 provident funds

912. As regards the insurance sector, the table below indicates the inspections carried out by the DCMIS on insurance companies and provident funds.

**Table 47: Number of AML/CFT inspections on insurance companies and provident funds**

	2009	2010	2011	2012
<b>Number of on-site inspections</b>	0	2	2	5
<b>Number of off-site inspections*</b>	0	4	6	9

\* All inspections conducted jointly with external inspectors and supervisors.

### The Postal Bank

913. As regards the Postal Bank, the figures refer to the inspections carried out by the Supervisor at the Postal Bank.

**Table 48: Number of AML/CFT inspections on the Postal Bank**

	2009	2010	2011	2012
<b>Number of on-site inspections</b>	1	1	1	1
<b>Number of off-site inspections*</b>	3	3	4	3

\* All inspections conducted jointly with external inspectors and supervisors.

### Money service providers

914. As regards the MSPs, the figures refer to the inspections carried out by the Registrar. MSPs registered in as of 2012 were 1,931.

**Table 49: Number of AML/CFT inspections on MSPs**

	2009	2010	2011	2012
<b>Number of on-site inspections</b>	24	12	36	28
<b>Number of off-site inspections*</b>	0	0	0	0

\* All inspections conducted jointly with external inspectors and supervisors.

*Statistics on Formal Requests for Assistance (c. 32.2(d), all supervisors)*

915. In this regard, no information and figures have been provided to the evaluators.

***Effectiveness and efficiency (market entry [c. 23.3, c. 23.3.1, c. 23.5, c. 23.7]; on-going supervision and monitoring [c. 23.4, c. 23.6, c. 23.7], c. 32.2d], sanctions [c. 17.1-17.3])***

916. Market entry provisions on the banking, securities and insurance sectors are broadly in line with the prudential supervisory international standards. The MSPs registration procedures require operators certain level of “fit and proper” criteria in order to be registered and to keep being registered.

917. The measures adopted, according to the information provided, appear to be sufficiently robust to prevent criminals from controlling financial institutions and to guarantee fit and proper criteria, education and expertise for the senior management of these entities.

918. The supervisors have presented to the evaluators their concept and practice for on-going supervision. These supervisory activities are mainly based on (prudential) risk-based approach. This means that, as indicated above, the AML/CFT risk is only one of the components of the overall assessment of the supervised intermediaries. Such approach, to a certain extent, is reasonable, having regard to the fact that supervisors have to cover (i.e. take under control) risks other than ML (e.g. credit risk, liquidity risk, market risk etc.). However, the challenge for the supervisors in the forthcoming months would be to adopt an AML/CFT risk-based approach as set forth by FATF recommendations.
919. With regard to the sanctions regime, the provisions for the enforcement of the AML/CFT requirements are set forth under the PMLL and ML Prohibition Regulation of 2001 according to which the infringements identified by the designated supervisors are notified to the respective Sanction Committee that are in charge of assessing the violations and determining the amount of the administrative sanctions, having regard to the criteria indicated in the Regulation mentioned above.
920. According to the provisions of the PMLL, administrative sanctions may be imposed both to legal and natural persons. However, in practice, administrative sanctions have only been imposed to legal entities rather than to natural persons due to the interpretation of the section 14 of the PMLL that refers, generically, to obliged entities. According to the information provided and the cases illustrated on-site, this means that if an obliged entity is a natural person (such as in the case of insurance and portfolio agents and, to certain extent, MSPs) an administrative sanction is imposed on the violator. If the violator, which is the most frequent case, is a legal entity (e.g. banks, insurance companies and Stock Exchange members), administrative sanctions are imposed only on the financial institution and not on the persons in charge of governing or managing these entities (senior manager or directors).
921. All supervisors (BOI, ISA and DCMIS) publish on their web-sites the information on the entities sanctioned.
922. On the basis of information provided, the period of imposing sanctions, considering when the violation has been ascertained, is quite long, thus the dissuasive effect of the sanctions imposed may be reduced.
923. The information and data provided by the Israeli authorities indicate that level of sanctions is differentiated between banking sector, insurance, securities and MSPs. It is worth noting that the latter sector is the most sanctioned, however the average of the sanctions imposed to these operators is considerably low in comparison to the sanctions imposed to the bank corporations.
924. The publication of the sanctions as well as the fact that there are very few appeals to the Court on sanctions imposed suggest that these measures are quite dissuasive.
925. Finally, as indicated in the descriptive part of R17, although the AML/CFT enforcement regime is based on sanctions applied by the Sanction Committees, according to the information and data provided, the designated supervisors have adopted sectorial enforcement measures such as warnings letters, removal of the officers and withdrawal of license.

## **Guidelines**

### **Recommendation 25 (c. 25.1 – guidance for financial institutions other than feedback on STRs)**

926. The Israeli authorities briefed evaluators on some initiatives (directives, circulars, Q&As and seminars) drafted or organised jointly between main financial supervisors (BOI, ISA and DCMIS) and other Israeli authorities (Israel Police, Prosecutors, IMPA), in order to assist financial institutions on the compliance with the AML/CFT requirements and on the effective implementation of the AML/CFT legislation and regulation.

### **Bank of Israel (Supervisor of Banks)**

927. Following the enactment of the PMLL and the Banking Order, the Supervisor of Banks issued Directive n. 411, on Proper Conduct of Banking Business, which deals with specific issues, and provides general directives to the banking corporations with regard to the implementation of the Law and the Order. The Directive has been amended several times during the years to include reference to additional AML/CFT issues.
928. The Supervisor has also issued several circulars on specific subjects that clarify certain difficulties that arose in the course of implementing the requirements of the Law and the Order, and that came to light in the inspections carried out in banks, for example, following the FATF's public statements concerning identified jurisdictions that have strategic deficiencies that pose a risk to the international financial system, the Bank of Israel published a notification to banking corporations, to pay special attention to the ML/FT risks in transactions with financial institutions operating in those countries, including taking enhanced due diligence measures and unusual transaction reporting with regard to those countries (the BOI published the notification on 22 March 2011).
929. In addition, as a result of inspections that had been performed in banking corporations, all banks were required, in February 2012, to conduct a gap-analysis to meet the requirements of the PMLL, the Banking Order and the Directive n. 411, based on a list of findings and deficiencies identified.
930. In February 2013, the Policy and Regulation Division issued Q&As that reflect the Banking Supervision Division approach on AML/CFT issues regarding & implementing FATF recommendations.
931. As regards trainings and seminars, on 14 December 2008, IMPA initiated a seminar for compliance officers of banking corporations concerning CFT issues. During the seminar lecturers from IMPA, the Israeli Police and the Bank of Israel provided guidelines concerning CFT issues.
932. On 20 July 2011, IMPA and the Bank of Israel initiated a seminar for compliance officers of banking corporations concerning AML/CFT issues. On May 2012, the Bank of Israel initiated a seminar for compliance officers of banking corporations concerning AML/CFT issues, including typologies and trends identified worldwide regarding ML/FT methods.

### **Israeli Securities Authority**

933. Representatives of the Israel Securities Authority (ISA) indicated to the evaluators that the Authority has published frequently asked Q&As for portfolio managers and Stock Exchange members on its website, with regard of their duties under the PMLL.
934. On 1 April 2009, the ISA together with IMPA held a full day conference attended by senior (CEO's and compliance officers) representatives of all non-banking Stock Exchange members. The major aim of the conference was to increase awareness and provide guidelines regarding unusual transaction reporting.
935. The ISA conducted seminars for Stock Exchange members (on 21 November 2010) and for Portfolio Managers (on 28 November 2010) as a preparation for the implementation of the amended Orders, concerning AML/CFT issues.
936. In addition, according to the information provided on-site, every new company that receives a license for portfolio management is obliged to undergo personal training with a supervisor of the Israel Securities Authority. In this training, the companies are instructed, inter alia, with regard to their duties under the PMLL.
937. Following the FATF's public statements concerning identified jurisdictions that have strategic deficiencies that pose a risk to the international financial system, the ISA has published notification to Stock Exchange members and portfolio managers, to pay special attention to the ML/FT risks in transactions with financial institutions operating in those countries, including

taking enhanced due diligence measures and unusual transaction reporting with regard to those countries (the ISA published notifications on 22 September 2009, 14 April 2010, and 15 November 2010).

938. On May 2011 IMPA, in cooperation with the ISA, issued guidelines and instructions booklet to Stock Exchange members and Portfolio managers.

939. In addition, on June 6 2012, the ISA published a circular containing the findings of audits conducted by the Investment Department in 2010-2011, including reviews on ML/TF. The purpose of the circular was to inform the supervised entities staff about the ISA positions in these matters to help improve their ways of conduct and prevent violations of the law.

#### **The Department of Capital Market and Insurance Savings**

940. Following the enactment of the PMLL and the related AML/CFT Order for the insurance and provided funds sectors, the DCMIS issued a booklet to insurance companies and provident funds, which specifies and clarifies the AML/CFT obligations under the PMLL and respective Orders.

941. During 2009, the DCMIS and IMPA issued guidelines and instructions booklets to insurers, insurance agencies and to MSPs concerning AML/CFT issues such as red flags for ML and TF reports, relevant typologies and sanitised cases.

#### **The Registrar of the MSPs at the Ministry of Finance**

942. According to the information provided on-site, the Ministry of Finance and IMPA conduct training to the newly registered MSPs with regard to their AML/CFT obligations.

943. In addition, upon registration, the Israeli authorities informed evaluators that MSPs receive a booklet covering the main PMLL and Order requirements.

#### **Supervisor Division at the Ministry of Communication of the Postal Bank**

944. According to the information provided, the Supervisor of the Postal Bank holds meetings with the Postal Bank management, compliance officer and with the employees which are responsible for AML/CFT issues, in order to increase awareness with respect of AML/CFT.

945. As well as the other Israeli supervisory authorities, following the FATF's public statements concerning identified jurisdictions that have strategic deficiencies that pose a risk to the international financial system, the Supervisor of the Postal Bank published notification to the Postal Bank to pay special attention to the ML/FT risks in transactions with financial institutions operating in those countries, including taking enhanced due diligence measures and unusual transaction reporting with regard to those countries.

946. On 17 January 2011, the Supervisor of Postal Bank and IMPA conducted a seminar for the Postal Bank, as a preparation to the implementation of the amended Order. During the seminar lecturers from IMPA, the IP and the Supervisor of the Postal Bank provided some guidelines concerning AML/CFT issues including typologies and sanitised cases.

#### ***Effectiveness and efficiency (R. 25)***

947. With regard to AML/CFT guidelines, the initiatives taken by the supervisory authorities in order to assist financial institutions in the correct and effective implementation of the AML/CFT requirements are significant.

948. These authorities avail themselves with the use of circulars, Q&As and attendance at seminars. The seminars are organised by the Supervisors jointly with other Israeli authorities (IMPA, Israeli Police and Prosecutors).

949. In comparison to the previous assessment the Israeli authorities have demonstrated an ability to take prompt actions.

3.9.2 Recommendations and comments

**Recommendation 23**

950. As regards the AML/CFT regulatory framework, the legislative approach adopted by the Israeli authorities inhibits prompt and effective regulatory action having regard to the fact that such Orders (that shall enforce the PMLL requirements – section 7(a) of that Law) have to be approved by the Knesset Committee. This is confirmed by the failure to adopt, in due time, some of the draft Orders indicated in the 3<sup>rd</sup> round MER.
951. Such lack of a rapid adoption of regulatory acts should be balanced by a pro-active approach by the designated supervisors who, under the respective sectorial legislation, should consider issuing Directives, Circulars or any other enforceable means in order to comply with the FATF and MONEYVAL recommendations and to complement or support the AML/CFT requirements. With the exception of the Directive 411 issued by Bank of Israel, the other Supervisors have not issued any detailed AML/CFT regulation.
952. As regards the AML/CFT supervisory framework, the roles and functions of the supervisors are clearly designated under the PMLL. These authorities avail themselves of the powers assigned under that Law as well as under the respective sectorial legislation.
953. The supervisors of banks, insurance and securities informed evaluators, providing translated documents, on AML/CFT supervisory policies and procedures that illustrate the methodologies used to perform supervision (both on-site and off-site). Such supervisions are done carrying out on-going activities that include, among others, on-site visits, periodic meetings with the supervised entities, reporting on data, information and documents on AML/CFT matters. Having regard to the information provided in that documents and the information provided on-site, some of which has been detailed before in the report, it is possible to conclude that the Bank of Israel (i.e. SBD), ISA and CIMSD have some common elements that characterized their supervisory methodologies, covering AML/CFT issues.
954. As regards off-site supervision, the following activities are carried out by Supervisors: examination of the minutes of the decisions taken by the Board of Directors and Audit Committee on AML as well as the internal audit reports on AML, scrutiny of the (working) procedures and information requested on training programs on AML as well as analysis of the reports sent to IMPA. As regards on-site supervision, inspectors carry out interviews with officials responsible for AML (Officer in charge, Compliance Officer) as well as other persons of the supervised entities, analysis of sample testing for verifying the compliance with AML/CFT requirements, exams of the documentation and evidence according to the smart sample and assessment of the reports, and their quality, sent to IMPA.
955. As regards the insurance and the securities sectors (precisely for portfolio manager firms), the approaches adopted by these supervisors mainly focus on primary intermediaries, in term of size, leaving aside the smaller financial institutions. This approach might lead to possible misuse for ML/TF risk.
956. As noted under Recommendation 5 above, some limited aspects of non-bank lending are not fully covered by the AML/CFT regime. A review of the non-bank lending activities in Israel should be undertaken and areas not specifically covered by the PMLL should be brought within the scope of the AML/CFT supervisory regime.

**Recommendation 17**

957. The AML/CFT sanction regime is governed by the PMLL and ML Prohibition Regulation. The range of sanctions is quite broad and not limited to administrative sanctions, as other measures are applicable (e.g. written warnings, removals and changes of Officer etc.).

958. As regard the level of administrative sanctions, these are decided by the Sanction Committees, which are the competent authorities in charge of imposing sanctions under the PMLL provisions. The criteria to determine the level of fines are set forth under the ML Prohibition Regulation.
959. The Israeli authorities have adopted measures that include the right to appeal against the sanctions to the Court. Only the MSPs have availed themselves of such measures. Moreover, the sanctions imposed upon financial institutions are posted on the web-site of the respective supervisors.
960. There are two issues of concern for the evaluators. The first one refers to criterion 17.3 of R17, is related to the fact that if the violators are legal entities (such as banking corporations, insurance companies, Stock Exchange members) administrative sanctions are only imposed on the financial intermediary and not on the directors neither to the senior managers. The second issue, that reduces the effectiveness of the measures adopted, is related to the timeliness of the sanction imposed. According to the information provided, since the detection of the infringements, several months (in some cases, years) pass by before sanctions are imposed. The Israeli authorities should reconsider the timeliness of sanction imposed.
961. As regards the first issue, the Israeli authorities indicated that if an inspection reveals possible personal involvement of individuals in AML/CFT violations by the financial institution, a criminal indictment under section 3(b) of the PMLL is possible. However, the use of a criminal sanction for failure to apply an administrative CDD requirement, according to the view of the evaluators, is not proportionate and leaves a certain prosecutorial discretion. The Israeli authorities should consider extending administrative sanctions to directors and senior managers.

***Recommendation 25(c. 25.1 [Financial institutions])***

962. Since the last evaluation, the Israeli authorities have taken initiatives in order to support financial institutions to properly implement and comply with their respective AML/CFT requirements.
963. The Israeli authorities avail themselves with the use of circulars and Q&As sent to the supervised persons, as well as posted on web-site.
964. The MSPs representatives have emphasised a lack of information on their AML/CFT requirements. For this reason, Israeli authorities are invited to increase the coverage of information and education among financial institutions, having regard to the risk posed by MSPs in term of ML/TF as indicated by the Israeli authorities themselves and by the representatives of the industries.

***Recommendation 29***

965. As regards the AML/CFT supervisory activities, all the designated supervisors, under the PMLL, have a clear mandate to supervise the compliance of the supervised entities with the AML/CFT requirements. In order to perform these duties, the authorities have adequate powers to compel documents, records, information and data. These powers have been assigned by the PMLL and by the sectorial legislation.
966. As indicated earlier in the report, the use of a risk-based approach to (AML/CFT) supervision, as well as the reliance on external examiners, may support allocation of resources where the risks are higher.
967. However, the evaluators invite Israeli authorities to consider:
- i) adopting an AML/CFT Risk-Based Approach (RBA) that is fully in line with the FATF Recommendations; and
  - ii) guaranteeing a full coverage of the supervised entities.
968. As regards the risk-based approach adopted by the Israeli Supervisory Authorities, the ML/TF risk is a component (and not the main criterion) of the overall prudential risk assessment. As such the evaluation of this risk might be underestimated in the general assessment of the intermediary.

969. For this reason, the evaluators invite the Israeli authorities to conduct a full coverage of inspections, in due time, of all supervised entities, avoiding under-estimation of ML/TF cases.

**Recommendation 30 (all supervisory authorities)**

970. The representatives of the supervisors as well as information provided before the on-visit indicated that the competent authorities have adequate (human) resources to perform the functions assigned. However, all supervisors, except for the Bank of Israel, use external examiners (mainly accounting firms) that, under the PMLL provisions and the confidentiality rules, perform on-site inspections. The representatives of the Israeli authorities affirmed that the reliance on third external parties, fully paid by Supervisors, derives from policy decisions and is not related to the issue of limited (human) resources. The ISA indicated that in the near future on-site inspections will be performed by its internal staff only.

971. In any event, the evaluators recommend to the Israeli authorities to consider an increase in the staff of all supervisory authorities dedicated to on-site inspections, after having properly identified and assessed the concrete and factual ML/FT risks (as a whole, and not only as a component of the overall prudential supervisory risk) and a need for a full coverage, in due time, of the supervised entities according to the FATF Recommendations on AML/CFT risk-based approach supervision.

972. As an interim measure, the evaluators recommend that the supervisors work closely with the external examiners in order to permit themselves to be continuously informed on the supervised persons and to foster a more effective link between the supervisors and the external examiners. This should at strengthen a clearer understanding of compliance and the AML/CFT risks. For this reason, the developing practice of attendance at the on-site inspections of a representative of the supervisor is welcome. Other additional measures to promote this initiative and extend, on on-going basis, dialogue between supervisors and externally contracted examiners should be considered.

973. 1,931 money service remitters were registered as at 31 December 2012. However, the evaluators understand that many persons perform this business without being registered. The Registrar uses external auditors for on-site inspections. However still it remains a challenge for the Supervisor to develop a fully mature and effective risk-based supervisory strategy for the money remitters.

974. On professional standards and integrity checks, the information and documents provided illustrate sound legislative measures as well as effective controls on profiles of the personnel operating for the Supervisor. Training seminars and other similar initiatives carried out with other Israeli authorities.

**Recommendation 32**

975. The statistics on AML/CFT matters are exhaustive and comprehensive for this round of assessment. However, the Israeli authorities are invited to consider the FATF recommendations (e.g., National Risk Assessment, AML/CFT risk-approach supervision and effectiveness and efficiency) in order to properly monitor, through the use of innovative templates of statistics and other methods, the efficiency and effectiveness of the Israeli AML/CFT system.

3.9.3 Compliance with Recommendations 23, 29, 17 & 25

	Rating	Summary of factors underlying rating
R.17	C	
R.23	LC	<p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>The lack of prompt adoptions on the Orders by the competent Ministers that require the approval of the designated Knesset Committee.</li> </ul>
R.25	LC	<ul style="list-style-type: none"> <li>There is not a full coverage of guidelines for the whole of the financial</li> </ul>

		sector; <ul style="list-style-type: none"> <li>No guidance for financial institutions on the methods for recognising PEPs during the business relationship.</li> </ul>
<b>R.29</b>	<b>C</b>	

### 3.10 Money or value transfer services (SR. VI)

#### 3.10.1 Description and analysis

#### *Special Recommendation VI (rated PC in the 3<sup>rd</sup> round report)*

#### *Summary of third MER factors underlying the rating*

976. Under the 3<sup>rd</sup> evaluation round, Israel was rated PC in respect of Special Recommendation VI (SRVI), due to the fact that the deficiencies identified in that report in respect of Rec 5, 15 and 21 affected the compliance of the money value transfers operators with the FATF Recommendations overall.

977. The following table sets out the number of MSPs as of March 2013. At the time of the third MER (November 2007), there were around 1,153 registered MSPs, while on December 2012, these were 1,931.

**Table 50: Breakdown of MSPs**

Breakdown of MSPs	2013 (March)
Natural persons	1,143
Legal entities incorporated in Israel	931
Legal entities incorporated abroad	20
<b>TOTAL</b>	<b>2,094</b>

*Designation of registration or licensing authority (c. VI.1), adequacy of resources – MVT registration, licensing and supervisory authority (R. 30)*

978. According to the Israeli legislation, natural and legal persons that perform money or value transfer services are defined as Money Services Providers (MSPs) and they are required, under the PMLL, to be registered at the Registrar of MSPs set in the Ministry of Finance and to comply with all the requirements set by that law and relevant AML/CFT Order.

979. Under the PMLL provisions, any person providing the following (financial) services shall be considered a MSP:

- (1) converting one national currency into another;
- (2) selling or redeeming travellers cheques in any type of currency;
- (3) using financial assets in one country to obtain financial assets in another country;
- (4) currency conversion;
- (5) discounting cheques, bills of exchange and promissory notes;
- (6) discounting services as defined in section 7A of the Banking (Service to Customer) Law, 5741-1981; and
- (7) providing financial assets in return for money;

980. According to the information provided on-site and to the meetings with the representatives of the Industry the three main business activities of MSPs are

- i) sending and receiving wire transfers,
- ii) exchanging of monies; and
- iii) discounting checks.



981. As indicated under R.20, the Bank of Israel referred to the widespread use of cheques in Israel compared with the rest of the world. Such paper-based means of payments are accepted and used widely in Israel.
982. At the time of the on-site visit, registered MSPs there were 1,931. However, after the meeting with representatives of the Israeli authorities as well as with the representatives of the private sector, evaluators understood that this business is also performed by not-registered persons.
983. As indicated by representatives of the Israeli Authorities and of the private sectors, MSPs have been identified as high risk with regard to AML\CFT, and in several cases intelligence shows links between criminal activity and MSPs. To address this risk the Israeli Police and the MSP regulator (i.e. the Registrar) regularly cooperate in coordinating supervisory action taken according to the PMLL by the MSP Registrar against MSPs together with a criminal investigation against the director or senior management of the MSP corporation. It should be emphasised that the Steering Committee (established following government decision of 2006 for countering serious crime) identified the risk imposed by the MSP sector, and assigned a task force to investigate MSPs that are involved in criminal activities additionally to investigations carried by the Fusion Centre.
984. Moreover, meetings with the Israeli authorities also confirmed that many organised crime groups have their own (unregistered) MSPs affiliated.

*Application of the FATF 40+9 Recommendations (applying R. 4 – 11, 13 – 15 & 21 – 23 and SR IX (c. VI.2))*

985. The PMLL imposes on MSPs identification, reporting and maintenance of records obligations under Chapter 3 of that Law (see Schedule 3 and section 7(b) of PMLL).
986. As regards MSPs, the Ordinance to Prohibit Money Laundering (Requirements Regarding Identification, Reporting and Record-Keeping by providers of currency services) Order, 5762-2002 contains detailed requirements on identification and verification of the identity of the customer, registration of data and their maintenance and reporting suspicious transactions.
987. The implementation for MSPs of the recommendations referred to in c.VI.3 have been described, commented and recommended in the respective sections above (e.g., see R.5 on CDD, R.15 on internal controls, R.21 on countries which do not or insufficiently apply the FATF Recommendations etc.).
988. Thus, the deficiencies identified earlier in the report for the recommendations indicated under c.VI.3 affect the compliance of the MSPs with the FATF Recs.
989. As regards wire transfers operations performed by MSPs, it is worth mentioning that, as indicated under SRVII, there is no specific regulatory act, or other enforceable means, governing wire transfers executed by these operators. Having regard to the risks and vulnerabilities identified *in primis* by the Israeli authorities, the evaluators encourage the competent authorities to take prompt action in line with the requirements set forth under SRVII to make the threshold equivalent to 1,000 USD/EUR for both domestic and foreign wire transfers.

*Monitoring MVT services operators (c. VI.3)*

990. The competent authority in charge of supervising the effective implementation of the requirements set forth in the PMLL is the Registrar of MSPs at the Ministry of Finance.
991. The supervisory powers of the Registrar (and of its inspectors) are set forth in section 11N. (a) and (b) of the PMLL.
992. The Israeli authorities informed evaluators that a “Unit” – in charge of registration of the MSPs - has been established at the Ministry of Finance.
993. This Unit is responsible for the review of the application for registration by persons who wish to conduct MSP business. The Registrar reviews approximately 250-300 applications annually. If the application provides satisfactory information as required by law (e.g. applicant has no criminal

- record, etc.), the Unit issues a registration certificate (see following c.VI.4). The Unit monitors the MSPs and persons involved in conducting its business and revokes the permission to operate in certain circumstances (e.g., the manager or major shareholder was convicted for a criminal offence). The MSP license is renewable annually.
994. Representatives of the Israeli authorities also informed the evaluators that each new MSP is given a booklet that contains a guide for best practices to comply with the AML/CFT legislation and regulation. However the representatives of the private sector met on-site were not aware of the existence of such documents and regretted a lack of information and education on the AML/CFT requirements.
995. On this issue, Israeli authorities informed evaluators that the Unit invites all MSPs to training conferences 3 to 5 times a year focused on provisions of the PMLL and the Regulations. Having regard to the good experience and results obtained by the Israeli authorities in order to contrast ML/TF (e.g., results of Police Force and Prosecutors in the investigations and prosecutions) it would be equitable to also focus training on risks, vulnerabilities and threats as well as on trends and typologies related to money services business.
996. With regard to the supervisory field, the MSPs Enforcement Division at the Ministry of Finance is currently comprised of 5 workers overseeing 1,931 registered MSPs (as of 31 December 2012), with an average of 3 to 5 persons for each MSP (the largest number being 10 persons). This Division uses the services of an additional 7 accountancy firms in order to perform on-site inspections. External auditors are accompanied by staff of the supervisory activities. According to the information provided, the Enforcement Division conducts every year an average of about 30 on-site inspections.
997. The monitoring system established by the Israeli authorities is a mix of on-site inspections and off-site examinations and analysis of the data gathered on-site.
998. As regards on-site inspections, the annual inspection is defined in a work-plan that is based on random sampling of the registered MSPs, as well as on information about their compliance deficiencies and reporting quality, that is provided by IMPA and other law enforcement agencies such as the Israeli Police, Tax Authority etc. Geographic criterion is also used; it is worth noting that, according to the information provided by the Supervisor, wire transfers are mainly sent to China, Philippines, Egypt and other African countries.
999. The evaluators encourage the Israeli authorities to adopt an AML/CFT risk-based supervisory approach rather than “random sampling”, having regard to the FATF recommendations on “RBA”. This would permit Israeli authorities to focus on risky areas, services and operators and to make use of their resources more effectively, having also regard to the information provided by competent authorities.
1000. The inspectors of the Enforcement Division or the accountancy firms’ staff visit the place of business of MSPs and perform a review of the paper records, which include copies of customers’ identification documents, requests for services forms, bank accounts records, etc..
1001. The Israeli authorities informed the evaluators that, in accordance with provisions of the PMLL (section 11 N. (b)), the inspection team downloads the content of the digital storage of the local Information System in order to carry out an examination and analysis of the transactions off-site (i.e. “desk review analysis”). Thereafter the inspection team conducts an audit of the computer system to validate its capability to support the MSP's compliance with the AML/CFT requirements.
1002. The findings of the inspection are submitted to the MSP management. In cases where the inspection revealed that there are discrepancies in the reporting of the MSP to IMPA, or that the MSP did not comply with all its duties specified by the Order, the management is invited for a review before the Sanctions Committee.
1003. The Sanctions Committee discusses the alleged violations by the MSP and imposes financial sanctions on the MSP in the cases where the explanations and justifications for non-compliance provided by the alleged violators are not accepted.

*Lists of agents (c. VI.4)*

1004. The Registrar of Money Services Providers (MSPs) is established under section 11B of the PMLL.
1005. According to this provision, the Registrar maintains a register of the MSPs, which is open to public inspection.
1006. Under section 11C.(a) of the PMLL, any person (natural or legal) engaged in providing one of the (financial) services set forth in that Law, even if it is not his/her sole occupation, shall apply for his/her registration in the register.
1007. The application for registration shall be submitted to the Registrar as indicated in the section 11D.(a) of the PMLL and shall include each of the following:
- a) the name, identification details and address of the applicant and the beneficiary, if there is one; where the applicant is a corporation, the application shall also include documents attesting to its incorporation or regulating its activities and the names, identification details and addresses of its functionary; where the applicant is an unincorporated business, the application shall also include the names, identification details and addresses of its functionary;
  - b) details of the applicant's head office, the addresses of the branches which the applicant wishes to operate and names, identification details and addresses of their managers, if there are any;
  - c) details of the applicant's other vocations, if he has any; and
  - d) any additional details stipulated by the Minister of Finance.
1008. Thus, the requirement to maintain a list of agents is covered under the section 11 D(a) of the PMLL. This information is keep up-dated and publically available (see section 11.K of the PMLL).
1009. The Registrar shall record an applicant in the register provided he/she or it satisfies each of the following requirements set forth in the section 11E.(a):
- i. in the case of an individual applicant – he/she is an adult and an Israeli citizen or a resident of Israel;
  - ii. in the case of a corporate applicant which was incorporated in Israel - at least one - of its functionary is an adult and an Israeli citizen or a resident of Israel;
  - iii. in the case of a corporate applicant which was incorporated outside Israel - in the country in which the corporation is registered legislation exists which prohibits ML, and it is lawfully registered in Israel.
1010. Section 11.F (a) of the PMLL stipulates the circumstances and the procedures to be followed when changes occur.
1011. Once the MSP is registered at the register, he/she receive a certificate of registration that is valid for on calendar year. The registration certificate shall be displayed in a prominent place at every one of his branches and shall print the registration number on every sign, advertisement or document which he/she shall issue.
1012. When the Registrar rejects the applicant's request to be registered as a MSP, the applicant may appeal providing information and documents as indicated in section 11.H.
1013. The Registrar is also empowered to delete a registration of a MSP as well as to suspend his/her registration.
1014. The PMLL also establishes procedures for any person who sees himself as having been affected by a decision of the Registrar by filing a petition against it with the Administrative Affairs Court (section 11.J (b)).
1015. In order to maintain a public list to the MSPs, section 11.K of the PMLL indicates that the Registrar shall publish a notice in the Official Gazette regarding each of the following:
- a. the registration of a money services provider, including his name, address and the addresses of any branches;

- b. a change of a money services provider's address or the address of any of his branches;
- c. the deletion of a money services provider or one of his branches from the register or the suspension of his registration;
- d. the re-registration of a money services provider whose registration had been suspended

*Sanctions (applying c.17 – 1 – 17.4 & R. 17 (c. VI.5))*

1016. As described in c. VI.3, the findings of the inspection are submitted to the MSP management. In cases that the inspection reveals that there are discrepancies in the reporting of the MSP to IMPA, or that the MSP has not complied with all its duties specified by the relevant Order or the PMLL requirements, the management is invited for review before the Sanctions Committee.

1017. The Sanctions Committee discusses the alleged violations by the MSP and imposes financial sanctions on the MSP in cases that the explanations and justifications for non-compliance provided by the alleged violators are not accepted.

1018. The Israeli authorities informed the evaluators that during 2008-2012, the Supervisor of MSPs identified 125 violations that resulted in 64 fines for the aggregate amount of €1,279,200 and 6 written warnings. According to the information provided during the on-site visit, the main breaches identified were failure to report UAR and CTR as well as to comply with the CDD requirements.

1019. Moreover, as regards Money Services Providers, according to sections 11I(d)-(e) of the PMLL, the MSP's Registrar has the power to demand the termination of employment of a functionary or a branch manager in the MSP (or to suspend his registration), in cases where he was indicted with an offence or was imposed a financial sanction. According to the information provided, since 2009, three licenses have been revoked.

**Table 51: Number of administrative sanctions imposed on money service providers**

	2004*	2005*	2006	2007	2008	2009	2010	2011	2012
<b>Number of AML/CFT violations identified by the supervisor</b>	14	13	18	8	25	24	12	36	28
<b>Type of measure/sanction**</b>									
Written warnings		2	2						6
Fines	17	4	2	8	11	7	12	11	23
Removal of manager/compliance officer									
Withdrawal of license						2		1	
Other** (indictments as a result of inspections)	2	2	3	5	2	1	1	5	
<b>Total amount of fines (Euro)**</b>	241,600	103,000	22,000	44,000	122,000	327,200	74,600	500,600	254,800
<b>Number of sanctions taken to the court (where applicable)</b>		2	6	1	2	1	3	1	2
Number of final Court Orders			2	2	2	1	2	1	2

\* For Comparison

\*\* The sanctions were calculated with reference to the year that they were imposed by the sanction committee; sanctions imposed in a specific year could refer to inspections in previous years.

*Additional elements – applying Best Practices paper for SR. VI (c. VI.6)*

1020. Apart from the measures illustrated above, the Israeli authorities have not provided the evaluators with any additional information concerning whether the measures set out in the Best Practices Paper for SR.VI have been implemented.

***Effectiveness and efficiency***

1021. With the amendments of 2012 to the PMLL, the Israeli authorities have strengthened and detailed the mechanism of registration.

1022. However the information obtained on-site indicates that un-registered MSPs are still operating in Israel and some of the services provided by MSPs (in particular discounting of cheques and money remittances) are considered high risk by banks and other financial institutions. Moreover, evidence

of investigations indicate that MSPs (both registered and un-registered) are being used to launder proceeds of crime.

1023. The weakness identified under preventive measures (e.g. R5, R15, R21 and SRVII) impacts the overall effectiveness of the MSPs framework.

1024. In the view of the huge number of operators (both registered and un-registered), the Israeli authorities should consider implementing a monitoring mechanism that is able to cover the factual risk of the MSPs sectors and, in due time, a full coverage of the operators.

1025. Moreover it's worth mentioning that for clearance and settlement services, the MSPs, in order to perform, among other activities, wire transfers and discounting cheques, use the traditional banking channels and/or other appropriate settlement channels or network (e.g. clearing house, direct current bank accounts and correspondent banks accounts). Taking into consideration the risk associated with MSPs, indicated both by the private sector and Competent Authorities (investigations and convictions in relation to MSPs are a clear indicator of this threat), this vulnerability might affect, if not properly managed and limited, the banking sector with which the MSPs operate. The Israeli authorities should consider issuing further guidance aimed at preventing the banking sector from being used for ML purposes.

### 3.10.2 Recommendations and comment

1026. The registration procedure for MSPs is well regulated and has been reinforced by the 2012 amendments to PMLL, however the meetings with the Israeli authorities (in particular those with Police and Prosecutors) and with the representatives of the private sector (especially those in the banking and financial sector) have highlighted the risks that MSPs pose to Israel.

1027. In particular, the Israeli authorities have indicated that the MSPs sector is often misused by organised crime groups and, in general, these businesses are used to commit several financial crimes, for these reasons the main bank corporations have decided to limit significantly the business affairs and services to MSPs.

1028. Therefore, the evaluators appreciate the efforts made by the authorities to introduce a system of registration, however this system shows some vulnerability noting the strong presence of unregistered persons that operate as MSPs in Israel.

1029. The evaluators encourage the Israeli authorities to conduct AML/CFT surveillance (i.e. monitoring or supervision) focused on the risk in the light of the experience gathered (e.g. on-site and off-site inspections, investigations, indictments, convictions, UARs, CTRs, etc.). Moreover, the Israeli authorities should strengthen the regulatory measures, in particular those related to wire transfers (in line with SRVII). It is also recommended that, given the large number of MSPs operating in Israel and the perceived risk that they represent, a greater number of dedicate AML/CFT inspections are conducted annually.

1030. Among the financial institutions, MSPs are, based on the information available at the date of the on-site visit, present one of the highest ML/TF risks with particular reference to three main activities (money exchange, transfers of funds abroad and in Israel and the discounting of checks).

1031. One of the key challenges the Israeli authorities have to face is the issue of un-registered MSPs that are operating in Israel. The Israeli authorities should take action to identify un-registered MSPs and make these persons subject to AML/CFT requirements also having regard to the FATF Best Practices paper for SRVI.

1032. The Israeli authorities should ensure an effective implementation of the registration system for MSPs and make sure that the requirements applicable to MSPs fully meet the FATF requirements.

1033. Many of the deficiencies identified for preventive measures under section 3 are applicable for MSPs. For examples, MSP are not required to develop internal controls (as required under R15). Thus the effective implementation of Recommendations 5, 6, 10, 11, 15, 21, 22, 23 and SR.VII in the MSPs sector suffers from the same deficiencies as those that apply to other financial institutions. In

particular, the authorities should also take steps to make the threshold equivalent to 1,000 USD/EUR for both domestic and foreign wire transfers.

1034. For this reasons, the Israeli authorities are encouraged to adopt legislative and regulatory measures in accordance with the FATF Recommendations on the preventive side.

1035. The Israeli authorities should pay attention to the effectiveness of the monitoring mechanism in order to guarantee a proper surveillance of the MSPs operators.

### 3.10.3 Compliance with Special Recommendation VI

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>SR. VI</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>The gaps identified under Recommendation 5, 6, 10, 11, 15, 21-23 and SR.VII also affect compliance with Special Recommendation VI;</li> </ul> <p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>The risk of un-regulated MSPs is not addressed;</li> <li>The monitoring mechanism adopted by the Israeli authorities might be negatively affected by the continuous increase in the number of the MSPs.</li> </ul>

## **4 PREVENTIVE MEASURES – DESIGNATED NON FINANCIAL BUSINESSES AND PROFESSIONS**

### Generally

#### **4.1 Customer due diligence and record-keeping (R.12)**

(Applying R.5 to R.10)

##### 4.1.1 Description and analysis

1036. In the 3<sup>rd</sup> round MER it was recommended that the Israeli authorities implement CDD obligation for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.

1037. With respect to the requirements of Recommendation 12 requiring application of Recommendations 5, 6 and 8-11 to DNFBPs nothing has changed compared to the situation at the time of 3<sup>rd</sup> round evaluation.

1038. On 7 May 2012, the Knesset approved an amendment to the Prohibition on Money Laundering Law. The amendment applies the AML/CFT regime on dealers in precious stones sector, according to international standards. The sector will be supervised by the Ministry of Industry, Trade and Labor and will be subject to administrative sanctions.

1039. The amendment will come into force at the enactment of an AML/CFT Order that will specify the obligations (e.g.: CDD, record keeping and UARs obligations)<sup>37</sup>.

1040. Hence, in general, the situation remains the same as at the time of the 3<sup>rd</sup> round MER (see paragraphs 752-753 in the 3<sup>rd</sup> round report).

#### ***Recommendation 12 (rated NC in the 3<sup>rd</sup> round report)***

##### *Applying Recommendation 5(c. 12.1)*

1041. No requirements for DNFBPs as at the moment of 3<sup>rd</sup> round evaluation they do not fall under the AML/CFT obligations.

##### *Applying Recommendations 6, 9, and 11(c. 12.2)*

1042. No requirements for DNFBPs as at the moment of 3<sup>rd</sup> round evaluation they do not fall under the AML/CFT obligations.

##### *Applying Recommendation 10*

1043. No requirements for DNFBPs as at the moment of 3<sup>rd</sup> round evaluation they do not fall under the AML/CFT obligations.

#### ***Effectiveness and efficiency***

1044. The interviews showed that representatives of DNFBPs categories that were met during the on-site visit understand the general requirements of identification, to certain extent record keeping as well as duty to identify PEPs. Though it seems to be possible to identify a PEP at the inception of business relationship it will only be one of the reasons for not continuing business.

1045. There is lack of understanding of the risk-based approach in general across all the DNFBP sectors.

---

<sup>37</sup> Although a draft bill concerning the application of AML/CFT obligations on DNFBP's was approved in first reading on 11 May 2012 by the Constitution, Law and Justice Committee of the Knesset it was still awaiting final approval of Knesset's Constitution, Law and Justice Committee at the time of the on-site visit.

4.1.2 Recommendations and comments

1046. The Israeli authorities should introduce the relevant requirements for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants as at the moment of this evaluation they do not fall under the AML/CFT obligations. The evaluators are concerned that the situation with regard to DNFBPs remains the same as in the 3<sup>rd</sup> round report. As it was recommended in the 3<sup>rd</sup> round MER, the evaluators urgently recommend that Israeli authorities to take prompt action to introduce the relevant Orders.

**Recommendation 5**

1047. Introduce CDD obligations for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.

**Recommendation 6**

1048. Introduce obligations for determination of PEPs both at the inception of business relationship as well as during the relationship for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.

**Recommendation 8**

1049. Introduce the obligations under R.8 for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.

**Recommendation 9**

1050. Introduce the obligations under R.9 for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.

**Recommendation 10**

1051. Introduce record keeping obligations for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.

**Recommendation 11**

1052. Introduce the obligations to examine complex and unusual transactions and keep findings in writing as well as to pay special attention to all complex and unusual large transactions for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.

4.1.3 Compliance with Recommendation 12

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.12</b>	<b>NC</b>	<p><i>Applying Recommendation 5, 6, 8, 9, 10 and 11</i></p> <ul style="list-style-type: none"> <li>No requirements for DNFBPs as they do not fall under the AML/CFT obligations.</li> </ul>



## **4.2 Suspicious transaction reporting (R. 16)**

(Applying R.13 to 15 and 21)

### **4.2.1 Description and analysis**

#### ***Recommendation 16 (rated NC in the 3<sup>rd</sup> round report)***

1053. As previously noted, on 7 May 2012 the Knesset approved an amendment to the Prohibition on Money Laundering Law. The amendment applies the AML/CFT regime on dealers in precious stones sector, according to international standards. The sector will be supervised by the Ministry of Industry, Trade and Labor and will be subject to administrative sanctions. The amendment will come into force at the enactment of an AML/CFT Order that will specify the obligations (e.g.: CDD, record keeping and UARs obligations). However, no such obligations were in force at the time of the visit.

1054. The remaining DNFBPs (i.e. real estate agents, dealers in precious metals, lawyers, notaries and other independent legal professionals and accountants and trust and company service providers) are not covered by the AML/CFT legislation and therefore no reporting obligations and (and no tipping-off obligations) apply to DNFBP. The situation remains unchanged compared to the previous evaluation.

#### ***Applying Recommendations 13, 15 and 21***

*Requirement to Make STRs on ML/FT to FIU* (c. 16.1; applying c. 13.1 & c.13.2 and SR. IV to DNFBPs)

1055. With the exception of dealers in precious stones that are required to comply with the AML/CFT requirements (although such obligations were not in force at the time of the visit), the remaining DNFBPs (i.e. real estate agents, dealers in precious metals, lawyers, notaries and other independent legal professionals and accountants and trust and company service providers) are not covered by the AML/CFT legislation. Recommendation 16 (applying Recommendations 13, SR.IV) should be implemented as a matter of urgency

#### ***Legal Privilege***

1056. Lawyers and other legal professionals are not subject to the AML/CFT obligations.

*No Reporting Threshold for STRs* (c. 16.1; applying c. 13.3 to DNFBPs)

1057. With the exception of dealers in precious stones that are required to comply with the AML/CFT requirements (although such obligations were not in force at the time of the visit), the remaining DNFBPs (i.e. real estate agents, dealers in precious metals, lawyers, notaries and other independent legal professionals and accountants and trust and company service providers) are not covered by the AML/CFT legislation. Therefore criteria 16.1; applying c. 13.3 is not met.

*Making of ML/FT STRs Regardless of Possible Involvement of Tax Matters* (c. 16.1; applying c. 13.4 to DNFBPs)

1058. With the exception of dealers in precious stones that are required to comply with the AML/CFT requirements (although such obligations were not in force at the time of the visit), the remaining DNFBPs (i.e. real estate agents, dealers in precious metals, lawyers, notaries and other independent legal professionals and accountants and trust and company service providers) are not covered by the AML/CFT legislation. Therefore criteria 16.1; applying c. 13.4 is not applicable to DNFBPs.

#### ***Reporting through Self-Regulatory Organisations* (c.16.2)**

1059. With the exception of dealers in precious stones that are required to comply with the AML/CFT requirements (although such obligations were not in force at the time of the visit), the remaining DNFBPs (i.e. real estate agents, dealers in precious metals, lawyers, notaries and other

independent legal professionals and accountants and trust and company service providers) are not covered by the AML/CFT legislation. Therefore criterion 16.2 is not covered.

*Legal Protection and No Tipping-Off (c. 16.3; applying c. 14.1 to DNFBPs) Prohibition against Tipping-Off (c. 16.3; applying c. 14.2 to DNFBPs)*

1060. The remaining DNFBPs (i.e. real estate agents, dealers in precious metals, lawyers, notaries and other independent legal professionals and accountants and trust and company service providers) are not covered by the AML/CFT legislation and therefore no reporting obligations and (and no tipping-off obligations) apply to DNFBP

*Establish and Maintain Internal Controls to Prevent ML/FT (c. 16.3; applying c. 15.1, 15.1.1 & 15.1.2 to DNFBPs)*

1061. With the exception of Dealers in precious stones that are required to comply with the AML/CFT requirements (although such provisions were not in force at the time of the visit), the remaining DNFBPs (i.e. real estate agents, dealers in precious metals, lawyers, notaries and other independent legal professionals and accountants and trust and company service providers) are not covered by the AML/CFT legislation.

1062. Thus, measures requiring the establishment and the maintenance of internal controls to prevent ML/TF for DNFBPs are set forth neither in the legislation nor in the regulation...

*Independent Audit of Internal Controls to Prevent ML/FT (c. 16.3; applying c. 15.2 to DNFBPs)*

1063. Measures requiring the establishment of independent audit of internal controls to prevent ML/TF for DNFBPs are set forth neither in the legislation nor in the regulation...

*Ongoing Employee Training on AML/CFT Matters (c. 16.3; applying c. 15.3 to DNFBPs)*

1064. With the exception of dealers in precious stones that are required to comply with the AML/CFT requirements (although such obligations were not in force at the time of the visit), the remaining DNFBPs (i.e. real estate agents, dealers in precious metals, lawyers, notaries and other independent legal professionals and accountants and trust and company service providers) are not covered by the AML/CFT legislation.

1065. Moreover there are neither legislative nor regulatory provisions in respect R.16.3 (applying c.15.3 to DNFBPs). The situation remains unchanged compared to the previous evaluation.

*Employee Screening Procedures (c. 16.3; applying c. 15.4 to DNFBPs)*

1066. With the exception of dealers in precious stones that are required to comply with the AML/CFT requirements (although such measures not in force at the time of the visit), the remaining DNFBPs (i.e. real estate agents, dealers in precious metals, lawyers, notaries and other independent legal professionals and accountants and trust and company service providers) are not covered by the AML/CFT legislation

1067. Moreover there are neither legislative nor regulatory provisions in respect R.16.3 (applying c. 15.4 to DNFBPs). The situation remains unchanged compared to the previous evaluation.

*Additional Element—Independence of Compliance Officer (c. 16.3; applying c. 15.5 to DNFBPs)*

1068. With the exception of dealers in precious stones that are required to comply with the AML/CFT requirements (although such obligations were not in force at the time of the visit), the remaining DNFBPs (i.e. real estate agents, dealers in precious metals, lawyers, notaries and other independent legal professionals and accountants and trust and company service providers) are not covered by the AML/CFT legislation.

1069. Moreover there are neither legislative nor regulatory provisions in respect R.16.3 (applying c. 15.5 to DNFBPs). The situation remains unchanged.

### Applying Recommendation 21

1070. There are no changes in application or requirements of Recommendation 21 for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants in comparison with 3<sup>rd</sup> round evaluation report as there are no requirements in this regard for DNFBPs as they do not fall under the AML/CFT obligations (see paragraph 757 of the 3<sup>rd</sup> round report).

### ***Effectiveness and efficiency***

1071. The effectiveness and efficiency could not be assessed since DNFBPs are not subject to the AML/CFT obligations.

### **Applying Recommendation 13**

1072. With the exception of dealers in precious stones that are required to comply with the AML/CFT requirements (although such provisions were not in force at the time of the visit), the remaining DNFBPs (i.e. real estate agents, dealers in precious metals, lawyers, notaries and other independent legal professionals and accountants and trust and company service providers) are not covered by the AML/CFT legislation.

### **Applying Recommendation 15**

1073. With the exception of dealers in precious stones that are required to comply with the AML/CFT requirements (although such provisions were not in force at the time of the visit), the remaining DNFBPs (i.e. real estate agents, dealers in precious metals, lawyers, notaries and other independent legal professionals and accountants and trust and company service providers) are not covered by the AML/CFT legislation.

1074. Thus measures requiring the establishment and the maintenance of internal controls, internal audit controls, screening procedures to prevent ML/TF for DNFBPs are not set forth either in the legislation or in the regulation.

1075. Therefore, in term of effectiveness and efficiency, the AML/CFT framework for DNFBPs is not properly assessable and shows serious deficiencies.

#### 4.2.2 Recommendations and comments

### **Applying Recommendation 13**

1076. Recommendation 16 (applying Recommendations 13 and SR.IV) should be implemented as a matter of urgency.

### **Applying Recommendation 15**

1077. Dealers in precious stones are required to comply with the AML/CFT requirements however such measures were not in force at the time of the visit.

1078. The remaining DNFBPs (i.e. real estate agents, dealers in precious metals, lawyers, notaries and other independent legal professionals and accountants and trust and company service providers) are not covered by the AML/CFT legislation. This is an issue of serious concern.

1079. In general, as regards all DNFBPs, the situation remains unchanged compared to the previous evaluation.

1080. There are no AML/CFT requirements in force for DNFBPs on internal controls, internal audit, screening procedures and on-going training on AML/CFT issues.

1081. As it was recommended in the previous MER, evaluators urgently recommend Israeli authorities to take prompt action in order to extend AML/CFT preventive measures to all DNFBPs as well as set forth obligations on internal controls, internal audit, screening procedures and on-going training on AML/CFT issues.

**Applying Recommendation 21**

1082. Requirements for DNFBPs under Recommendation 21 must be implemented for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants as matter of urgency.

4.2.3 Compliance with Recommendation 16

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.16</b>	<b>NC</b>	<p><b><i>Applying Recommendation 13</i></b></p> <ul style="list-style-type: none"> <li>• Currently there are no reporting obligations upon real estate agents, dealers in precious metals, trust and company service providers, lawyers, notaries, other independent legal professionals and accountants (Recommendation 13)</li> </ul> <p><b><i>Applying Recommendation 15</i></b></p> <ul style="list-style-type: none"> <li>• There are no AML/CFT requirements in force for all DNFBPs on internal controls, internal audit, screening procedures and on-going training on AML/CFT issues.</li> </ul> <p><b><i>Applying Recommendation 21</i></b></p> <ul style="list-style-type: none"> <li>• No changes with respect to requirements of Recommendation 16 requiring application of Recommendation 21 to DNFBPs compared to the situation at the time of 3<sup>rd</sup> round evaluation.</li> </ul>

**4.3 Regulation, supervision and monitoring (R. 24-25)**4.3.1 Description and analysis***Recommendation 24 (rated NC in the 3<sup>rd</sup> round report)******Regulation and Supervision of Casinos (c. 24.1, c.24.1.1, 24.1.2 & 24.1.3)***

1083. As regards Casinos, Israeli legislation does not permit their establishment.

1084. Legal gambling in Israel takes place in the form of lotteries and sports betting, each of which is operated by a single public body which are the Israeli State Lottery and the Council for Regulation of Sports Gambling, respectively.

1085. According to the information provided by Israeli authorities, special provisions apply for national lotteries. These lotteries operate according to a special permit issued under the Penal Code (1977) by the Ministry of Finance. The permit is issued after conferring with IMPA regarding the AML aspect.

1086. Israeli authorities informed the evaluators that the granting of a lotteries permit is subject specific requirements illustrated under R.20.

***Monitoring and Enforcement Systems for Other DNFBPS-s (c. 24.2 & 24.2.1)***Diamonds sector

1087. Regarding dealers in precious stones (in particular, diamonds sector), although the relevant provisions are in place in the PMLL, such measures are not in force since the approval of the related Order at the designated Knesset Committee.

1088. Once the Order is adopted, the dealers in precious stones will be supervised by the Diamond Supervisor appointed by the Minister of Industry, Trade and Employment.

1089. The PMLL provides the Diamond Supervisor the authority to monitor and sanction (see sections 11N-11O and 13-14 to the PMLL).

1090. Dealers are licensed by Ministry of Industry. At the time of the on-site visit there were 2,500 licensed dealers. According to the information provided on-site, the granting of a licence is subject to certain “*fit and proper tests*” in particular, experience (at least 4 years of experience before getting a license) and absence of a criminal record are essential requirements to obtain a license.
1091. Regarding Diamond Delivery companies, these are licensed only to deliver diamonds at the Israeli Diamond Exchange. According to the information provided on-site, any diamond entering or leaving the Israeli Diamond Exchange is evaluated by experts; controls are done at the entrance (weight, value) and at the exit.
1092. Moreover, financial operations/transactions related to diamond purchase are done through banking channels and cheques are also used as payment instrument, while cash, according to the information provided, is not used at the Israel Diamond Exchange.
1093. Representatives of the Diamond Supervisor informed the evaluators that several licenses have been revoked. For example, 10 licenses have been revoked for dealing in undeclared diamonds (rough diamonds).
1094. Following the entry into force of the AML/CFT requirements for dealers, the Diamond Supervisor plans to employ two accountant officers whose main task will be to check compliance with the AML/CFT requirements. As regards national cooperation among competent authorities, a representative of the Diamond Supervisor confirmed to the evaluators that there is a good level of cooperation with the Police Forces.
1095. The evaluators also met representatives of the Israel Diamond Centre, Diamonds Industry Association and Legal Counsel during the on-site visit. The Industry representatives demonstrated a good knowledge of the anti-money laundering requirements and an understanding of the possible risks (and vulnerabilities) associated with the diamond industry.
1096. The evaluators were also provided by the Office of the Diamond Controller with the following information and figures on the Israel Diamond industry.
- In 2011 the Israeli Diamond industry saw an increase of 23.5% in the export of polished diamonds and 14.5% in rough diamonds. In that year there was a remarkable increase in polished exports to Far East, with an increase of 40% in export to Hong Kong and an increase of 40% in export to China.
  - In 2011, the United States continued to be the major market for Israel’s polished diamonds exports, accounting for 47.3% of the export market. Hong Kong followed with 27.5%, followed by Belgium with 7.7% , Switzerland with 4.4% , and the rest of the world with 14.1%.
1097. The new challenges and market strategy are acquiring new sources of rough diamonds as well as developing new markets in the Far East and elsewhere.
1098. The following figures have been provided by the Office of the Diamond Controller (i.s. Diamond Supervisor, [www.moital.gov.il](http://www.moital.gov.il)).
- In 2010, the Israel Nominal GDP was around 813 billion NIS<sup>38</sup> (UD\$ 229 billion<sup>39</sup>),
  - In 2010 the business of the Diamond Industry, calculating as the sum of Import and Export of rough and polished diamonds, in terms of Gross value (i.e. before return), was around US\$ 25 billion, that is around 12% of the 2010 GDP of Israel.

---

<sup>38</sup> According to the information provided in Table “Israel: Medium-term Fiscal Outlook, 2010-15” at page 13 by the IMF “Israel: 2012 Article IV Consultation” IMF (Country Report No. 12/70)

<sup>39</sup> Exchange rate as of 31/12/2010 when 1,00 USD was equal to 3,5490 NIS

**Table 52: Export of Polished Diamonds**

Export of Polished Diamonds (Before Return)		
Year	USD	carats
2009	9,423,309,579	4,256,032
2010	12,920,296,710	5,069,262
2011	16,651,776,175	5,275,697
2012	14,963,039,241	4,682,312

**Table 53: Import of Polished Diamonds**

Import of Polished Diamond (Gross)		
Year	USD	carats
2009	2,657,087,441	2,204,350
2010	4,342,238,864	3,033,003
2011	5,909,946,939	3,588,412
2012	4,485,355,517	2,834,917

**Table 54: Import of Rough-Gem Diamonds**

Import of Rough-Gem Diamonds (Before Return)		
Year	USD	carats
2009	2,649,451,335	13,337,507
2010	4,018,324,834	17,369,959
2011	4,815,634,964	15,728,776
2012	4,265,172,731	10,438,051

**Table 55: Export of Rough Diamond**

Export of Rough Diamond (Gross)		
Year	USD	carats
2009	2,167,959,526	14,898,985
2010	3,440,373,634	19,986,714
2011	3,967,926,105	14,716,822
2012	3,171,653,185	11,397,661

Legal and accountancy professionals

1099. Lawyers, notaries, other independent legal professionals and accountants are still not covered by AML/CFT requirements.

1100. The Israeli authorities informed the evaluators that in 2012 the Executive Committee of the Israeli BAR approved the following outline with regard to the proposed amendment to the PMLL as regard to the application of AML/CFT obligations on lawyers:

- “Lawyers will be excluded from the obligation to report UARs due to the lawyer-client privileged; Instead, an ethical rule will be applied on lawyers determining that a lawyer will not perform a transaction for a client if he suspects that the transaction may constitute a violation of the PMLL; if the lawyer will perform the transaction, it will be considered an ethical infringement;
- Lawyers will have to identify their clients and to perform a KYC procedure; the identification documents will have to be retained for 5 years;
- Supervision over lawyers will include inspection at law offices only if there is a suspicion for a violation of the PMLL.”

1101. The evaluators are of the view that such outlines (with the exception of the second bullet point) are not in line with the international standards (FATF Recommendations).
1102. Representatives of the lawyers and accountants, met on-site, expressed to the evaluators their commitment on the fight against ML and TF.
1103. However, the lawyers have indicated that the legal privilege rules in Israel inhibit the application of certain AML/CFT requirements, in particular those related to the reporting of suspicious transactions. According to the information provided on-site, confidentiality is one of the strong measures of protection of civil rights in Israel and the privilege even arises when someone (who is not yet client) calls the Lawyer.
1104. Lawyers have also indicated that the AML/CFT Law has been criticised on “ML offence definition”, on UAR requirements and on supervision. At least 14 meetings have been held on AML/CFT matters but the approach adopted by Israeli authorities, according to the private sector, was “too extreme”.
1105. Having said that, the representatives of the lawyers have indicated that the identification procedures might be acceptable in term of “legal privilege”.
1106. It was also noted that, in the future, an SRO mechanism for supervision might be acceptable to both professions (lawyer and accountants).
1107. As regards representatives of the accountants they indicated that reporting requirements should be mandatory and automatic as much as possible and both professions (lawyers and accountants) should have the same obligations.
1108. Regarding supervision, the SRO model has been taken into consideration by Institute of Certified Public Accountants (ICPA) for supervisory action.

Remaining DNFBPs categories (Dealers in precious metals, trust and other service providers and real estate agents)

1109. In addition to lawyers and accountants, even the remaining DNFBPs categories are still not covered by AML/CFT requirements. As indicated above, this is an issue of great concern.
1110. The absence of AML/CFT requirements for these categories of DNFBPs implies a lack of any monitoring, supervising or any other enforcement system.

***Recommendation 25 (rated NC in the 3<sup>rd</sup> round report)***

**Guidance for DNFBPs other than feedback on STRs (c. 25.1)**

1111. As consequence of the absence of AML/CFT requirements for DNFBPs, guidance does not exist.
1112. Such guidance does not even exist for the diamond sector, due to the fact that the amendments to the AML/CFT were not in force at the time of the on-site visit.

**Feedback (applying c. 25.2)**

1113. As consequence of the absence of AML/CFT requirements for DNFBPs, feedback on UARs does not exist.
1114. Such feedback does not even exist for the diamond sector, due to the fact that the amendments to the AML/CFT were not in force at the time of the on-site visit.

***Adequacy of resources supervisory authorities for DNFBPs (R. 30)***

1115. Regarding the diamond sector, the Diamond Supervisor has informed evaluators on the recruitment of two additional accountants in order to perform the supervision on the compliance with the AML/CFT requirements. It is worth mentioning that, at the time of the on-site visit, the

Supervisor Diamond staff consisted of 3 persons (including the Director), while Dealers numbered 2,500 operators.

1116. Thus, it is reasonable to conclude that it is quite hard to think of a way in which 5 people (including the Director) can effectively supervise or monitor 2,500 operators. However, the evaluation of the adequacy of resources of the Diamond Supervisor is only possible once the AML/CFT obligations enter into force and there is a full knowledge about the legal requirements, the parties involved and the policy and procedures adopted by the Supervisor.

**Effectiveness and efficiency (R. 24-25)**

1117. The Israeli AML/CFT system on preventive measures has only been extended to Dealers in precious stones (Diamonds sectors), however such provisions are not yet in force.

1118. The remaining DNFBPs are not subject to the AML/CFT requirements.

1119. As consequence, there is no mechanism in place on regulation, supervision and monitoring or any other enforcement system for DNFBPs. Moreover, guidance and feedback on UARs do not exist.

1120. Therefore, in term of effectiveness and efficiency, the AML/CFT framework for DNFBPs is not assessable and shows relevant deficiencies.

4.3.2 Recommendations and comments

1121. As regards DNFBPs the situation of the previous MER remains broadly unchanged.

1122. The amendments to the AML legislation incorporated dealers in precious stones as obliged persons. However such provisions were not in force at the time of the on-site visit since the approval of the related Order at the designated Knesset Committee. This is of considerable concern given that the Israel Diamond Exchange is the biggest in the world and thus has a global impact, as well as the contribution to the domestic economy.

1123. The remaining DNFBPs categories (in particular, dealers in precious metals, legal and accountancy professionals, trust and other service providers and real estate agents) are still not covered by AML/CFT requirements.

1124. Thus, at the time of the on-site visit, there were no mechanisms in force for supervising and monitoring compliance with AML/CFT obligations.

1125. As it was recommended in the previous MER, the evaluators urgently recommend Israeli authorities to take prompt action in order to extend the AML/CFT preventive measures to all DNFBPs as well as to establish enforcement mechanisms on regulation, supervision and monitoring.

4.3.3 Compliance with Recommendations 24 and 25 (Criteria 25.1, DNFBPs)

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.24</b>	NC	<ul style="list-style-type: none"> <li>There are no AML/CFT requirements in force for DNFBPs, thus there are no mechanisms in place for supervising, monitoring compliance with AML/CFT obligations</li> </ul>
<b>R.25</b>	NC	<ul style="list-style-type: none"> <li>As consequence of the absence of AML/CFT requirements for DNFBPs in force, guidance and feedback on UARs do not exist.</li> </ul>



#### **4.4 Other non-financial businesses and professions/ Modern secure transaction techniques (R.20)**

##### Summary of third MER factors underlying the rating

1126. Under the third round of evaluation, Israel was previously rated PC in respect of Recommendations 20 with deficiencies identified as no consideration had been given to applying preventive measures to those non-financial and professions (other than DNFBPs as defined by FATF).

##### **Recommendation 20 (rated PC in the 3<sup>rd</sup> round report)**

###### 4.4.1 Description and analysis

*Applying Recommendations 5, 6, 8-11, 13-15, 17 and 21 to non-financial businesses and professions (other than DNFBP) (c.20.1)*

1127. The Israeli authorities identified prize purchasing by criminals as an area of ML/TF risk (especially in the absence of the legal casino). In order to prevent this phenomenon, the Israeli authorities have adopted specific and detailed measures which include, *inter alia*, unique identification requirements with regards of purchasing of lottery tickets and regards to paying the winnings.

1128. As indicated under R.24, legal gambling in Israel takes place in the form of lotteries and sports betting and special provisions apply for national lotteries.

1129. These lotteries operate according to a special permit issued under the Penal Code (1977) by the Ministry of Finance. The permit is issued after conferring with IMPA regarding the AML aspect.

1130. The granting of lotteries permit is subject to the following requirements:

- No betting ticket shall be printed which entitles its holder to participate in a game offering potential winnings of over 58,500 NIS (€11,700) (hereinafter, a game requiring identification), unless the participant's details were provided and encrypted thereon;
- The identity of a winning ticket holder in a game requiring identification shall be verified in accordance with a procedure that was instituted by lottery;
- Where a prize which the lottery, an authorised marketing agent or concessionaire is obliged to pay in a game requiring identification, is being paid by cheque, it shall only be paid by a crossed cheque made out to the Order of the identified winner and marked "*to the payee only, not negotiable or transferable*". According to the information provided, the crossed cheques shall only be deposited in current account at banks (banking corporations or Postal Bank) of the beneficiary's account (i.e. the winner).
- The lottery shall appoint an employee (hereinafter, the ML Prevention Officer) who shall prepare standard operating procedures designed to prevent ML and minimize crime risks. The ML Prevention Officer shall ensure that workers employed by the lottery and its authorised marketing agents and concessionaires receive training with regard to those procedures and shall monitor their implementation. Where a concessionaire is suspected of involvement in the commission of an offence, including in connection with ML, a person demanding payment or anyone else directly or indirectly associated with such a person, the ML prevention Officer shall report the matter to the Israeli Police and inform the lottery board of directors that he/she has done so. Should the Ministry of Finance find that certain of the procedures introduced are lacking or fail to meet the requirements of the PMLL, it may instruct the lottery to amend them, in which case the lottery shall implement those amendments within thirty days;
- At least twice a year the ML prevention Officer shall present the lottery's board of directors with the findings of the auditor's reports prepared by the authorised marketing agents and concessionaires. These reports shall be kept for a period of not less than five years; and

- The lottery shall ensure, including by contractual means that the authorised marketing agents and concessionaires fulfil all the terms stated in this paragraph.

1131. On this issue, according to the information provided by Israeli authorities, on 25 March 2012, the Israeli Government announced the establishment of a committee for the purpose of recommending a general and detailed policy for the regulation of legal gambling in Israel. Among the purpose of the committee is to review the option of establishing a new regulator that will be in charge with the task of supervising on the activities of the Israeli State Lottery and the Council for Regulation of Sports Gambling. In addition, the committee will discuss the need for new laws or amendments to the existing laws regarding the regulation of legal gambling in Israel. Among its goals is the need to reduce the crime risks involved with gambling, including the use of legal gambling for purposes of money laundering.

1132. The chairman of the committee is the Minister of Justice and it includes representatives of the following organisations: the Ministry of Justice; the Israeli Police; the Ministry of Finance; the Ministry of Public Security; the Ministry of Social Services; the Ministry of Culture and Sport; the Prime Minister Office; and IMPA.

1133. It is worth mentioning that the Israeli authorities have identified some of the risks and vulnerabilities that Israel is facing regarding ML/FT as well as trends and methods on ML/FT. Such information might be extremely useful in detecting additional professions and non-financial businesses for which the extension of the AML/CFT requirements would be reasonable. In particular, it is worth mentioning that the evaluators have been informed by the Israeli authorities that IMPA has applied to the Legislation Department in the Ministry of Justice with a request to consider applying the AML/CFT regime on car dealers. The Representative of IMPA has also met with representatives of the Car Dealers Association in order to examine the possibility of this application. The evaluators welcome this initiative, however no further action has been taken in the timeframe of the MONEYVAL Rules of Procedures.

*Measures to encourage the development and use of modern and secure techniques for conducting financial transactions (c.20.2)*

1134. During the on-site visit, the evaluators have been briefed on proposed amendments to the AML/CFT legislation that include new developments.

1135. The amendments to the Prohibition on Money Laundering Law, approved by Knesset on 7 May 2012, include not only the introduction of an AML/CFT requirement for dealers in precious stones, but also complement the definitions of MSPs' financial services other services that will be subjected to the AML/CFT and extends the authorities of the MSPs' Registrar with regard to the registration of applicants<sup>40</sup>.

1136. On cross-border declarations, Minister of Finance has applied to the designated Committee of the Knesset to get its approval of an Order to amend the forth annex to the Prohibition on Money Laundering Law in order to:

- i) reduce the cross border declaration to 50,000 NIS (€10,000); and
- ii) cancel the extended threshold for cross-border declaration to new immigrants on their first entrance to Israel.

1137. As regards measures to encourage the development and use of modern and secure techniques, several initiatives have been taken by Israel in order to reduce the use of cash and other paper-based means of payments.

1138. In particular, the Israeli authorities have identified, among others, the following challenges:

---

<sup>40</sup> On 19 December 2011, an additional draft bill for the Prohibition on Money Laundering Law was approved in the first reading by the designated Committee of the Knesset. This document includes "all negotiable instruments" for the cross-border declaration.

- i) encourage the use of electronic means of payment; and
- ii) reduce the use of paper-based means of payments.

1139. The paper-based means of payment, in particular, the cheques, according to the Bank of Israel, “are widespread compared with the rest of the world”, “around 53 per cent of the payment orders settled in Zahav system”, compared to maximum 20 per cent in Europe countries<sup>41</sup>.

1140. The Israeli authorities informed evaluators that, in May 2011, the Postal Bank contracted with Visa-Europe for the issuing pre-paid cards and debit-cards by the Postal Bank. The agreement was achieved following a review performed by Visa of the regulations and the approval of the Minister of Communication. As at the time of the on-site visit, around 40,000 debit-cards cards were issued by the Postal Bank and around 72,000 pre-paid cards. In 2012 the volume of financial transaction performed in pre-paid card was 240,000,000 NIS (€48 million) and in debit-cards 186,000,000 NIS (€37.2 million)

1141. According to information provided by the Bank of Israel, the use of credit cards has expanded in the last years, in the last decade the number of credit cards increased by 73% (6.34 million by the end of 2012). The number of transactions performed in credit cards also increased in previous years, including micropayments.

1142. Various initiatives taken by the BOI have increased the use in credit cards:

- Under the commissions' reform in 2008, the commissions for holding credit cards were consolidated and simplified;
- On December 2009, under Directive 06-2252 of the banks Supervisor, it was determined that only single commission can be imposed for early repayment of loans made by credit transactions in credit cards;
- On 2010, Directive 432 was amended to ease the transition from bank to bank with regard to on-going transactions (such as credit card transactions); and
- On January 2013, the commission's rules were amended in order to revoke the commission that was charged by credit card companies for changing debit date, and it was determined that for transactions performed in Israel, no exchange commission will be imposed.

1143. Moreover, the Bank of Israel launched the RTGS system (Real-time gross settlement) that enables immediate wire transfers. On June 2010, the Bank of Israel issued several initiatives to encouraged the use of this service, including reducing the commission that can be charged by banks and revoking the commission that was charged by the Bank of Israel from banking corporations.

1144. In September 2013, under an Israeli Government decision, a committee was established to review and suggest options to the government to reduce the use in cash in Israel.

1145. As regards cash, banknotes are issued with value of 20, 50, 100 and 200 NIS. The latter is equivalent around to €40. It is worth mentioning that the Bank of Israel noted “in the recent years the growth trend in the means of drawing cash”<sup>42</sup> with an increase in ATM and alternatives such as marketing chains, public recreation-sites and gas stations.

1146. The statistics below, provided by the Israeli authorities, represent the low percentage of cash held by the public as part of the GDP, compared to EU countries:

---

<sup>41</sup> See page 11 and 13 of “Israel’s Payment and Settlement Systems, 2011 – Red Book by the Bank of Israel [www.boi.org.il/en/PaymentSystem/Documents/redb2011e.pdf](http://www.boi.org.il/en/PaymentSystem/Documents/redb2011e.pdf)

<sup>42</sup> page 33 of the “Israel’s Payment and Settlement Systems, 2011 – Red Book by the Bank of Israel

**Table 56: Percentage of cash held by the public**

State	% of public cash against GDP
Israel	5.2
The Euro Zone	9.1
Czech Republic	9.5
Denmark	3.0
Latvia	7.4
Lithuania	9.1
Hungary	8.2
Poland	6.2
Romania	5.2
Sweden	2.7
UK	3.7

Sources: For Israel - Central Bureau of Statistics For EU countries - Statistical Data Warehouse, European Central Bank

#### 4.4.2 Recommendations and comments

1147. The evaluators welcome the measures taken by the Israeli authorities to adopt specific preventive requirements in regard to the gambling sector as well the other initiatives on car dealers. Moreover the Israeli authorities have promoted legislative measures in respect of the cross borders declaration.

1148. After the adoption of the 3<sup>rd</sup> round MER, the Israeli authorities proposed to the policy makers several amendments to the AML/CFT legislation and regulations, several of these amendments represent concrete AML/CFT actions.

1149. The evaluators encourage the Israeli authorities to continue in this process and to adopt the measures drafted.

1150. In relation to techniques and measures aimed to reduce the risk of money laundering, it is worth mentioning the efforts undertaken by the competent authorities to encourage the use of electronic means of payment, as illustrated above, to reduce the use of paper-based means of payments (such as checks) and not issuing very large denomination banknotes (e.g. the largest NIS is 200 NIS, that is around €40) are in line with the requirements set forth under R.20.

#### 4.4.3 Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
<b>R.20</b>	<b>C</b>	

## 5 LEGAL PERSONS AND ARRANGEMENTS AND NON-PROFIT ORGANISATIONS

### 5.1 Legal persons – Access to beneficial ownership and control information (R.33)

#### *Recommendation 33 (rated PC in the 3<sup>rd</sup> round report)*

#### *Summary of factors underlying the 3<sup>rd</sup> round rating*

1151. The rating of ‘PC’ in respect of R.33 in the 3<sup>rd</sup> round report was based on the following factors:

- Information on the Companies Register related only to legal ownership and control (as opposed to beneficial ownership) and was not verified and was not necessarily reliable;
- Weaknesses in respect of verification of beneficial ownership information in R.5 were relevant in the context of the investigative route; and,
- It was unclear how many companies were on bearer shares and no specific measures had been taken to ensure that legal persons which were able to issue bearer shares were not misused for money laundering and that the principles set out in criteria 33.1 and 33.2 applied equally to legal persons that used bearer shares.

#### 5.1.1 Description and analysis

##### *Legal framework*

1152. In Israel there are two principal forms of incorporated entities; corporations (governed by the Companies Law) and “amutot” (governed by the Law of Non-Profit Organisations). A central database exists for each overseen by the Israeli Corporations Authority (ICA). Registration is mandatory. The evaluators were informed that the different entities are obligated to report to the relevant Registrar in the ICA regarding any change in ownership or control of companies and, with respect to all corporations, any change in directors or other senior officers. Information on the registers is open to consultation by the public.

1153. A range of information of the standard kind appears on the relevant register. However, the 3<sup>rd</sup> round report noted (at para. 774) that “the law does not enable the Registrar to obtain information from investigative bodies ..... and thus no verification is undertaken of information provided, and therefore [it] may not always be reliable”. This situation remains unchanged.

1154. Of greater concern to the previous evaluation team was the fact that there was no information available on the register on beneficial ownership of companies save in the case of public corporations where shareholder information was available. There was no requirement to identify and register beneficial owners in circumstances in which a legal person held shares in another company (see, e.g., para. 783).

1155. The current evaluation team was disappointed to learn that this difficulty had yet to be addressed by the appropriate Israeli authorities<sup>43</sup>.

1156. While it would be of value to have direct access to up-to-date beneficial information through the registry system the evaluators acknowledge that the law enforcement authorities have

---

<sup>43</sup> The evaluators’ attention was, however, drawn to a draft amendment to the companies regulations which had been submitted by the ICA for consideration by the Ministry of Justice. It was explained that this was designed to enhance transparency with respect to reporting requirements by private companies. In the current context it would require reporting that there was a beneficial owner but would not require the identification of the same. Even this limited proposal had, however, proved to be controversial. This initiative was, at the time of the on-site visit, still subject to internal discussions within the government and no legislative proposals had yet been submitted to the legislature.

sufficient powers to enable them to obtain such information as may be available at, inter alia, the head offices of the legal persons concerned

1157. A further source of concern to the evaluators in the 3<sup>rd</sup> round evaluation related to the issue of bearer shares. It was concluded that legal persons in Israel are able to issue bearer shares and that there is no record kept of the first bearer; the bearer being registered simply by the fact that there are bearer shares. It was noted that no mitigating measures appeared to have been taken to ensure that the relevant legal persons were not misused for money laundering. As seen above, concern over the bearer share issue was a factor underlying the eventual rating of ‘PC’.
1158. In the MEQ completed by Israel for the 4<sup>th</sup> round (at p. 389) it was noted that there had been no change since the last evaluation. It was explained on-site that no policy discussion had taken place due to the fact that it had not arisen as a difficulty in practice. In the view of the ICA only an insignificant number of companies still utilized bearer shares. It also pointed out that the registration forms used did not directly address the issue. The evaluators took some comfort from the assurances thus received on the frequency with which bearer shares are in fact used.
1159. Subsequent to the on-site visit the evaluators were informed that “*it is impossible to establish a company at the Companies register according to the law unless the shareholders are being fully identified*”, although under the Israeli law an existing company may issue bearer shares. This conclusion was reached in discussions between the ICA and the Legislation Department of the Ministry of Justice; discussions stimulated by the exchange of views with the evaluation team on-site. It is a conclusion which flows from the interaction of Sections 8 and 23 of the Companies Law.
1160. This conclusion as to the position in law stands in contradiction to the conclusions of the 3<sup>rd</sup> round report, and is at variance with the reflections on practice contained in the MEQ and in our discussions with the authorities in Israel. However the evaluators accept the technical clarification noted in the paragraph above. The evaluators were further advised that of the approximately 328,500 companies registered in Israel only 12 are recorded as having issued bearer shares. It was stated in our discussions with representatives of the banking sector that while the use of bearer shares by corporations was infrequent it was not unknown. Their use was regarded as a factor indicating high customer risk. The representatives of one bank indicated that it had approximately 25 such corporate customers, although it is probable that a number of these would have been foreign corporations. Under its procedures accounts could only be opened in such circumstances following high level managerial clearance.
1161. In the view of the evaluators the confusion surrounding this issue is disturbing and clarity needs to be brought to this situation, through legislation if necessary, as a matter of priority.
1162. The final factor underlying the rating in the 2008 Report related to weaknesses in respect of verification of beneficial ownership in a R.5 context. It will be recalled that under section 4 of the Banking Order there was a duty, before opening an account, to receive from the customer a declaration stating whether he or she was acting on his/her own behalf or on behalf of another. In the latter case the declaration had to indicate the name and identity number of the beneficial owner. Under section 2 this information had to be recorded. Though verification of this information was not an obligation in ‘law or regulation’ a certain level of effective implementation in practice was ascertained by the evaluators.
1163. In the subsequent period some progress on this issue has been recorded. For instance, the Orders for Stock Exchange Members, for Portfolio Managers and for the Postal Bank, include the obligation to take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source so that the financial institutions shall

be satisfied that it knows who the beneficial owner is. However, remedial action in relation to banks was still in draft form<sup>44</sup>.

1164. The following statistics was provided by the Israeli Companies Authority:

- 115,451 companies were declared as "breaching companies" for various reasons; out of these companies:
  - 1) 16,286 companies amended the breach;
  - 2) 15,066 companies paid fees;
  - 3) 22,678 companies submitted annual reports;
  - 4) 7,249 companies began the process of liquidation; and
  - 5) 3,053 companies were liquidated.
- The no. of companies who were declared "in breach" only for not submitting the annual report is 34,964 companies; among those companies 8,466 companies amended the beach.

1165. It should be noted that the fact that the company is "in breach" is specified in the companies' registry, which is open for public view.

#### 5.1.2 Recommendations and comments

1166. While progress has been recorded since the 3<sup>rd</sup> round evaluation in respect of verification of beneficial ownership information in a R.5 context this needs to be extended to the Banking Order. The evaluators note that it is still the case that information on the Companies Register continues to relate only to formal legal ownership and control (as opposed to beneficial ownership). Furthermore as the information held is not verified, it is not necessarily reliable. These factors contribute to the concern that at present it is not sufficiently guaranteed that the competent authorities have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control of legal persons. The authorities should consider how best to address this concern.

1167. Although at present it appears that only a very limited number of Israeli companies issue bearer shares and financial institutions treat such customers as high-risk, the evaluators recommend that further consideration be given by the appropriate authorities to the adequacy of the existing approach. In this context they should consider prohibiting the issue of bearer shares or taking other appropriate measures such as immobilisation or dematerialisation.

#### 5.1.3 Compliance with Recommendation 33

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.33</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• Concern that it is not sufficiently guaranteed that competent authorities have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control of legal persons;</li> <li>• Concern over the comprehensiveness of the current approach to bearer shares.</li> </ul>

<sup>44</sup> The evaluators were informed that in the draft amendment to the Banking Order, banking corporations should review whether the declaration on beneficial ownership was reasonable. A bank should take reasonable measures, related to AML/CFT risk, to authenticate the identity of the beneficial owner.

## **5.2 Legal arrangements – Access to beneficial ownership and control information (R.34)**

### ***Recommendation 34 (rated PC in the 3<sup>rd</sup> round report)***

#### **5.2.1 Description and analysis**

##### ***Summary of factors underlying the 3<sup>rd</sup> round rating.***

1168. R. 34 was rated ‘PC’ in the 3<sup>rd</sup> round report. This reflected, in particular, the following concerns:

- There was little information available on the beneficial owners of private or foreign trusts; and,
- There were no legal requirements on trust service providers to obtain, verify and retain records of the trusts they create, including beneficial ownership details.

##### ***Legal framework***

1169. Although, as will be seen below, at the time of the on-site visit in March 2013 draft legislation on DNFBPs was under consideration by the Knesset and a draft law concerning charities (public trusts) was the subject of a process of public consultation, the law and practice of Israel relevant to R. 34 was, in essence, the same as at the time of the 3<sup>rd</sup> round report.

1170. It will be recalled from that earlier report that the Israeli legal system embraces the concept of trusts. There are a number of different types of trust which can be created under the Law of Trusts.

1171. Trustees may be trust companies, lawyers, banks, accountants etc. The evaluators were informed that there are at present 6 trust companies in Israel. Of these 3 are owned by licensed banks and, as such, are supervised by the Bank of Israel including for AML/CFT purposes. As noted earlier in this Report, trust companies regularly make reports about suspicious transactions to IMPA. In the years since the last evaluation the data is as follows: 2008 – 94 reports; 2009 – 63 reports; 2010 – 76 reports; 2011 – 125 reports; 2012 – 87 reports. The figure for 2012 represents approximately 0.2 per cent of the total number of such reports submitted by obligated entities to the FIU. All reports from trust companies related to suspicions of money laundering rather than the financing of terrorism.

1172. As noted above, at the time of the on-site visit a Bill to amend the PMLL was under consideration by the Knesset and addresses the application of AML/CFT obligations to DNFBPs. It was explained to the evaluators that if enacted in its present form trust service providers would have to obtain, verify and retain the records of the trusts created, including beneficial ownership details. Until such time, however, no such legal obligation exists although it is acknowledged that at present some practitioners may in practice collect such information.

1173. Public Trusts – similar to charitable trusts in other jurisdictions – are registered with the Registrar of Trusts. There are approximately 2,800 such trusts. The information held on such entities is, as a general proposition, available to the public. However, given the charitable nature of public trusts no information on beneficial ownership is retained. Private trusts – whether domestic or foreign – are not registered with the Registrar. Consequently while some limited information is available from this source none is held in respect of private trusts.

1174. In essence the Israeli approach to preventing the unlawful use of such legal arrangements by money launderers relies on the investigating powers of law enforcement. However, as pointed out in the 3<sup>rd</sup> round report (para. 799): “these mechanisms are only as good as the information that is there to be acquired. The particular characteristics of private trusts make obtaining information particularly problematic”.



5.2.2 Recommendations and comments

1175. Israel should promptly implement legislation, and such other measures as may be appropriate, to ensure that adequate, accurate and timely information is available to its law enforcement authorities concerning the beneficial ownership of trusts. In particular – it is necessary that a legal requirement be put in place for all trust service providers (including lawyers) to obtain, verify and retain all records of the trusts they create, including identification and verification of all beneficial owners. An appropriate supervisory framework to ensure compliance with the above and through which appropriate guidance is provided on the identification of unusual transactions in this context is equally important.

5.2.3 Compliance with Recommendation 34

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.34</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• Insufficient information available on the beneficial owners of private or foreign trusts;</li> <li>• Absence of legal requirements on trust service providers to obtain, verify and retain records of the trusts they create, including beneficial ownership details.</li> </ul>

## **6 NATIONAL AND INTERNATIONAL CO-OPERATION**

### **6.1 National co-operation and co-ordination (R. 31 and R. 32)**

#### **6.1.1 Description and analysis**

##### ***Recommendation 31 (rated C in the 3<sup>rd</sup> round report)***

1176. There are various mechanisms supporting inter-agency and multi-disciplinary cooperation and coordination in Israel.

##### ***Effective mechanisms in place for domestic cooperation and coordination in AML/CFT (c.31.1)***

1177. All agencies active in the AML/CFT areas cooperate with each other within their legal authority, in the form of exchange of information, joint investigations and other coordination activity.

1178. Domestic cooperation between IMPA and the Israeli Police is regulated by a PMLL Protocol concerning "the cooperation procedure between the prohibition of money laundering authority and the Israeli Police", Prohibition on Money Laundering Regulations (Rules for Use of Information Transferred to the Israel Police Force and the General Security Service for Investigation of Other Offences and for Transferring it to Another Authority), etc.

##### **FIU – Israel Police (IP)**

1179. In the framework of the exchange of information, on request or at the IMPA initiative as described above (R.26), a co-operation protocol on the co-operation procedure between the prohibition of money laundering authority and the Israeli Police has been approved on March 6<sup>th</sup> 2006 by the Deputy State Attorney (Criminal affairs) to streamline the mutual co-operation and establish clear procedures for the exchange of information. The procedure provides that the police and IMPA will cooperate in order to advance the investigations in the area of money laundering. The police will share information with IMPA, whenever it is required for the purposes of an investigation. IMPA assists the police in its areas of expertise.

1180. Professional training and courses in the field of money laundering take place on a regular basis.

##### **FIU – Israel Security Agency (ISA)**

1181. IMPA addresses intelligence reports to the ISA that may be terrorist related. It is also under a legal obligation to respond to ISA requests and provide information from its database. IMPA is also represented in the Counter terrorism National Security Council. However, IMPA has no access to the information held in ISA.

##### **FIU – Regulators**

1182. According to the PMLL, the transfer of information between IMPA and the Regulators can be done through the police or Israel Security Authority, for the purpose of implementation of the PMLL or the PFTL or for the purpose of investigating additional crimes set forth in the Prohibition on Money Laundering Regulations (Rules for Use of Information Transferred to the Israel Police Force and the General Security Service for Investigation of Other Offences and for Transferring it to Another Authority), 5,766 – 2006

1183. As a new development since the 3<sup>rd</sup> round mutual evaluation, a memorandum of understanding was signed on July 2012 between the supervisor of the banks, the head of ISA, the Commissioner of Department of Capital Markets, Investments and Savings (DCIMS), the Registrar of MSP's, the supervisor of the Postal Bank, the Tax Authority and the Head of IMPA. The Memorandum of Understanding is intended to create a framework for collaboration between the various bodies charged with responsibility for the regulatory regime in Israel concerning the prohibition of money laundering and financing of terrorism. The purpose of the Memorandum is the hope to promote efficient and coordinated supervision, in so far as is possible, by the Regulatory Bodies

of the Financial Institutions or other entities under their authority, as the case may be, of aspects of the PMLL, the PTFLL, and the Orders issued pursuant to them, with the object of fighting the phenomenon of money laundering and financing of terrorism, in the State of Israel.

#### **FIU – Sanctions committee**

1184. A legal representative from IMPA is one of the sanctions committee's members together with two representatives of the relevant regulator (Customs).

#### **FIU - Customs**

1185. The research section of IMPA carries out an operation for spotting couriers and transfers potential couriers' details to the Customs Authority in order to include them for search when they enter Israel or for standing before sanctions committee and then transfers these details to the police.

#### **Operational co-operation in terror issues - special task force on terror financing**

1186. The Israeli investigative authorities and agencies cooperate in order to effectively prevent resources from being transferred to terrorists. The Israel Security Agency works in cooperation with the Israel Police, the Israel Customs and VAT Authority and IMPA, to trace movements of monies to and from terrorist organisations. This mechanism also includes cooperation with representatives of the Ministry of Justice, the Ministry of Finance and the Ministry of Foreign Affairs. This cooperation takes the form of investigation and intelligence operations, thus enabling the authorities to take the necessary administrative and criminal measures in order to seize monies facilitating terror and eventually confiscate them. In addition all these agencies are members of an interagency special task force on terror financing.

#### **The Government decisions and the Intelligence Fusion Centre**

1187. On 1 January 2006, the Government has approved a decision titled "The Battle against Severe Crime and Organised Crime and their Outcomes ". According to this decision, a special "Task Force" was formed, headed by the Attorney General, with the participation of the State Attorney, the Inspector General of the Police, the Head of the Tax Authority, and the Chairman of the Securities Authority. The Task Force is coordinated by a senior aid to the Attorney General. The team has acknowledged the importance of coordinating the efforts of all the prosecution bodies and activities, cooperation and maximal sharing of information between all prosecution bodies, in order to increase the effectiveness of the prosecution system.

#### **The Intelligence Fusion Centre**

1188. An Integrated Intelligence Centre was established, on 5 March 2007, in order to combat severe crime, organised crime and its outcomes, in accordance with the previously reported government decision on The Battle against Severe Crime and Organised Crime and their Outcomes dated January 2006. The Integrated Intelligence Centre integrates different intelligence bodies, including the Police, the Tax Authority and IMPA as well as impermanent representatives from other relevant bodies. The Centre will constantly be manned by 9 people: 3 Tax authority workers with estimating qualification; 4 police workers, 3 with estimating qualification and 1 informant; 2 IMPA workers; and 1 Securities Authority worker which will come to the committee every two weeks or by specific order from the head of the Centre for crossing and floating relevant information with the Centre.

*Additional element – Mechanisms for consultation between competent authorities and the financial sector and other sectors (including DNFBPS)(c. 31.2)*

#### **BOI**

1189. Co-operation and coordination within the existing legal procedures between the Banking Supervision Department and the law enforcement is common in operational matters. Furthermore

the interaction also occurs in the organisation of seminars for the banking corporations on the subject of money laundering and the financing of terrorism is regularly discussed jointly with the relevant authorities, e.g. IMPA.

### **Postal Bank**

1190. There is a tight connection mechanism between the Minister of Communication and the management of the Postal Bank (conversations a few times a week and meetings once every two weeks). There is also a periodical meeting for consultation with the directors and managers of the Postal Bank who are in charge of the regulations and guidelines. The supervisor also continuously instructs the Postal Bank and issues guidelines on specific issues regarding the fulfilment of their AML/CFT obligations under the law and order.

### **ISA and supervised entities**

1191. The connection between the Investment Department of the ISA and the supervised entities is reflected in several levels: answering legal questions and publishing preliminary guidelines; publishing the ISA position on the ISA website, *inter alia*, by means of FAQ and circulars; holding conferences in cooperation with IMPA; and publishing instruction manuals and holding meetings with the supervised entities, including providing training and guidance to new companies within the framework of on-site inspections.

### **MSP and MOF**

1192. Both the MSP's Registrar and DCIMS have published a guide for the implementation of the anti-money laundering regime requirements. In addition DCIMS is in contact with the supervised entities to answer questions regarding AML.

1193. However, the evaluators have not been able to find such mechanisms in laws, regulations or other enforceable means in place which require or mandate consultation between the competent authorities and DNFBBs.

### ***Review of the effectiveness of the AML/CFT system on a regular basis (Recommendation 32.1)***

1194. The Steering Committee led by the Deputy State Attorney has recommended modes of improving effectiveness regarding the enforcement of money laundering offence and other relevant issues related to enforcement policy according to the PMLL. The chairman of this Sub-Bureau is the Deputy State Attorney (Criminal Affairs), and all senior members of the related authorities take part in this committee. Additionally, the AML/CFT system is reviewed in other ways:

- Report to the Knesset: According to section 31B of the PMLL, IMPA reports annually in writing to the Constitution, Law and Justice Committee of the Knesset regarding the number of UAR and CTR received at IMPA, the number of requests for information to IMPA and the number of transmissions of information from IMPA to entities entitled to receive such information and the number of providers of currency services that were registered.
- IMPA operates according to an annual plan which determines its annual goals, and measurable benchmarks to determine the effectiveness of its function.

### ***Recommendation 30 (Policy makers – Resources, professional standards and training)***

1195. Overall sufficient resources appear to be devoted to national cooperation and coordination. The trainings are regularly organised by policy makers. Also, policy makers take actively part in different trainings and seminars.

### ***Effectiveness and efficiency***

1196. The co-operation and co-ordination between relevant authorities, governmental, law enforcement and supervisory is well organised ensuring structural coordination between diverse

areas of expertise. The AML/CFT effort is subject to regular review and evaluation, which has led to several initiatives in order to improve the fight against serious and organised crime.

#### 6.1.2 Recommendations and Comments

##### ***Recommendation 31***

1197. Recommendation 31 is fully observed.

#### 6.1.3 Compliance with Recommendations 31 and 32 (criterion 32.1 only)

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.31</b>	<b>C</b>	

## **6.2 The Conventions and United Nations Special Resolutions (R. 35 and SR.I)**

### *Summary of factors underlying the 3<sup>rd</sup> round ratings*

1198. At the time of the adoption of the 3<sup>rd</sup> round report in 2008 Israel was a party to the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the UN Convention against Transnational Organised Crime and the UN International Convention for the Suppression of the Financing of Terrorism. In each relevant sphere implementing legislation was in place.

1199. Notwithstanding the above a rating of LC was agreed in respect of R. 35. This reflected:

- Concerns about effectiveness of implementation of some of the preventative standards in the TF Convention (e.g., identification of the beneficial owner); and,
- That preventative obligations on other professions involved in financial transactions, as anticipated by the TF Convention, had not been put in place.

1200. In so far as SR. I is concerned the rating of ‘LC’ was based on the following:

- Lack of full formal compliance with Security Council Resolution 1267 (1999); and,
- Effectiveness concerns given the recent promulgation of the PTFL Regulations.

#### 6.2.1 Description and analysis

##### ***Recommendation 35 (rated LC in the 3<sup>rd</sup> round report) & Special Recommendation I (rated LC in the 3<sup>rd</sup> round report)***

1201. As has been noted at an earlier stage of this report in the years since 2008 Israel has brought about improvements in terms of its compliance with international standards as these relate to the identification of beneficial owners.

1202. It should be noted that Israel has strengthened its participation in multilateral efforts to combat money laundering. In particular, it has become a party to both the UN Convention against Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. As noted above regarding the UN Convention, accession to the OECD Convention was only made possible after verification that all the provisions of the Convention corresponded with the domestic legal framework. Israel has also joined the International Academy against Corruption as a founding member state. The evaluators warmly welcome these developments.

1203. At the time of the last evaluation implementation of UN Security Council Resolutions relating to the prevention and suppression of the financing of terrorism, and in particular Resolution 1267, was incomplete. Since that time, as noted in the context of SR. III, Israel has amended the PTFL so as to improve its domestic declaration, or listing, mechanism, altered its administrative arrangements, and provided further guidance to obligated entities.

1204. In addition, and as noted earlier in this report, by the time of the on-site visit all individuals and entities listed by the relevant UN Security Council committees had been designated by Israel.

#### 6.2.2 Recommendations and comments

1205. Israeli participation in the important treaty regimes addressed in R.35 and SR.I have positioned it to play an important and constructive role in the provision of international co-operation in the AML/CFT sphere and more generally.

1206. The evaluators welcome the progress recorded by Israel in seeking to facilitate full compliance with Security Council Resolution 1267 and relevant successor Resolutions. The evaluators accept that as a result of the various changes which have been brought about the jurisdiction is now in a position to give effect to amendments to the UN lists “without delay” as required by the international standards. However, as noted in the analysis of SR.III above, actual practice is still insufficiently prompt. Furthermore, the exemption from the declaration process of Israeli citizens who are Israeli residents is not in line with international standards.

#### 6.2.3 Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying rating
<b>R.35</b>	<b>C</b>	
<b>SR.I</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>Exemption of Israeli citizens who are Israeli residents from the declaration system;</li> </ul> <p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>The current timeframe for giving effect to declarations following listings made pursuant to UNSCR 1267 is insufficiently prompt.</li> </ul>

### **6.3 Mutual legal assistance (R. 36, SR. V)**

#### 6.3.1 Description and analysis

#### ***Recommendation 36 (rated C in the 3<sup>rd</sup> round report)***

#### ***Summary of factors underlying the 3<sup>rd</sup> round ratings***

1207. The 3<sup>rd</sup> round report concluded that Israel fully observed all essential criteria in respect of R. 36 and the current evaluation team adopts that earlier analysis as its own.

#### *Legal framework*

1208. At the time of the 3<sup>rd</sup> round report Israel had in place a modern and comprehensive regime governing mutual legal assistance in criminal matters. It is a party to the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters as well as several relevant bilateral instruments. Israel may also seek and provide mutual legal assistance in the absence of a treaty nexus with a third country. As a matter of domestic law this area is governed primarily by the International Legal Assistance Law.

1209. It will be recalled that the International Legal Assistance Law, 1998 created a somewhat separate regime of co-operation in respect of forfeiture and confiscation. While this important part of the Israeli system was regarded as meeting a large majority of the essential criteria for R. 38 the 3<sup>rd</sup> round report noted that it was, under Schedule Two of the 1998 Law, only available in respect of a limited range of offences (including sections 3 and 4 of the PMLL). This restrictive approach was not in accordance with criterion 38.1. Consequently Israel received a rating of ‘LC’ for R. 38.

1210. Although R. 38 is not, as such, subject to evaluation in the current round it is of relevance (see criterion 36.1) that Israel has since directly addressed this deficiency. In particular, in 2009 an amendment was enacted as a consequence of which confiscation assistance is now available in

respect of all predicate offences for money laundering established by the PMLL. Indeed, the drafting technique utilised ensures that all extensions to the list of predicates to the PMLL will automatically apply to the scope of international co-operation under the 1998 Law. (See, Schedule Two, B).

1211. It is of interest to note that Israel has, in a manner consistent with the recommendations made in the 3<sup>rd</sup> round report, also identified other potential barriers to the effective operation of the confiscation assistance system and taken action in respect of the same. In particular, the 1998 Law has been amended (see, sections 39(c) and 43) so as to permit the waiver of the previously absolute requirement of an undertaking by a requesting country in respect of compensation and damages. In the view of the Israeli authorities this removes a significant practical obstacle to co-operation in this important area. The evaluators were advised of a further proposed amendment designed to facilitate the effectiveness of co-operation of this kind. The evaluators welcome these positive developments.

***Special Recommendation V (rated LC in the 3<sup>rd</sup> round report)***

1212. In the 3<sup>rd</sup> round report it was concluded that Israel fully observed all of the essential criteria in respect of SR.V. The relevant legal framework remains in place.

***Recommendation 32 (Statistics – c. 32.2)***

1213. Responsibility for mutual legal assistance in Israel is, in essence, divided between the Department of International Affairs in the State Attorney's Office and the Legal Assistance Unit of the Israeli Police. The former is responsible for the drafting and submission of requests to third countries on behalf of the State of Israel. The latter is responsible for incoming requests for assistance unless they are of a nature requiring investigation by a specialised body such as the Israel Securities Authority. In practice the police unit works in full coordination with the state attorney's international department on a daily basis. Specifically with regard to AML and forfeiture issues, regular meetings are held at the office of the deputy state attorney (financial enforcement). These meetings deal with Ad Hoc cases, the procedures of coordination between them and like matters.

1214. Though there exists close co-operation between the above mentioned bodies this does not, at present, extend to the production of a common set of comprehensive statistics. Nor do they utilise a common format for the presentation of statistical data in this sphere. This situation is clearly sub-optimal.

1215. Notwithstanding the above the evaluators were provided with data which confirm that the channels for mutual legal assistance (and extradition) are in particular utilised in a money laundering context on both an incoming and outgoing basis with some regularity. Thus, in the period 2008-2012 the Department of International Affairs dealt with 46 outgoing mutual legal assistance requests involving money laundering. In the same period the Police Legal Assistance Unit received 97 requests for assistance relating to money laundering. In addition it received 11 foreign requests relating to the financing of terrorism. The Israeli authorities confirmed to the evaluation team that none of the AML/TF requests received in this period were refused.

1216. Subsequent to the on-site visit the evaluators were supplied with the following statistics on MLA practice in general:

**Table 57: Statistics on MLA**

	<b>Total Incoming Requests</b>	<b>Total Outgoing Requests</b>
<b>2008</b>	79	95
<b>2009</b>	130	77
<b>2010</b>	200	67

<b>2011</b>	159	80
<b>2012</b>	204	122

### ***Effectiveness and efficiency***

1217. The evaluators were informed that Police Guideline No. 03.300.07 requires that mutual legal assistance requests be executed in a timely manner and without undue delay. Requests asking for immediate assistance are prioritised and dealt with on an urgent basis. The evaluation team has not been made aware of any concerns by third countries regarding effectiveness in this context. The evaluators were also impressed by the commitment and professionalism of those officials whom they met with responsibilities in this important area.

#### **6.3.2 Recommendations and comments**

##### ***Recommendation 36***

1218. As noted above, Israel has put in place a modern and comprehensive regime for mutual legal assistance in criminal matters which satisfies the criteria relevant to both R. 36 and SR. V.

1219. As a general proposition it may be said that the available information suggests that the system so created is operating effectively and efficiently in practice. The evaluators welcome the efforts made by the Israeli authorities since the 3<sup>rd</sup> round report to identify and remove obstacles to the development of confiscation assistance. Notwithstanding these efforts there has been little or no practice to date in this area. Accordingly it is recommended that the relevant authorities continue to monitor developments in this area with particular care.

#### **6.3.3 Compliance with Recommendation 36 and Special Recommendation V**

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.36</b>	<b>C</b>	
<b>SR.V</b>	<b>C</b>	

### **6.4 Other Forms of International Co-operation (R. 40 and SR.V)**

#### **6.4.1 Description and analysis**

##### ***Recommendation 40 (rated LC in the 3<sup>rd</sup> round report)***

##### ***Legal framework***

##### **Israeli Police**

1220. The Israel police has growing cooperation ties with other foreign police organisations through:

- a. Israel police representatives around the world;
- b. Other law enforcement organisations representatives located in Israel; and
- c. Interpol.

1221. The cooperation in these different channels is being coordinated in the Economic Enforcement Unit in the Police Headquarters. The unit receives the different requests from other police organisation in the world and provides answers and information based on intelligence needs or for investigations abroad.

1222. In the past year there has been increase in the resources invested by the unit regarding international cooperation. The number of requests, meetings and cooperation regarding investigations has gone up especially with law enforcement organisations in Europe and North America.



1223. The economic enforcement unit, initiate requests for information regarding Israeli citizens who are involved in illegal gambling and international drug deals involved high scale money laundering operations.

1224. The increased resources led to appointment of 2 officers in that unit to coordinate that cooperation and additional officers in the mutual legal assistance unit (MLA). The following statistics in is an indication to that increase.

1225. In addition, one of the appointed task forces has an orientation to developed international investigations together with other police organisation. That task force is responsible for dealing with professional money launderers. Some investigations are being currently handled.

**Table 58: Statistics on Mutual Legal Assistance**

	INCOMING	OUTGOING
2008	79	95
2009	130	77
2010	200	67
2011	159	80
2012	204	122

#### **Prosecutor informal cooperation**

1226. The Israeli State Attorney's Office engages with its counterparts around the world using both formal MLA channels and informal contacts used to effectively receive and provide assistance in investigating and prosecuting offences in relation to AML and CFT. The State Attorney's Office participates in various forums which facilitate international prosecutorial cooperation (e.g. The prosecutor meetings of the Council of Europe, Eurojust, The IAP - International Association of Prosecutors etc.). Prosecutors on all levels regularly attend international conferences on AML CFT issues (organised by the EU (Taiax), Europol etc.), as well as conferences and seminars organised on a bilateral or multilateral basis.

1227. The personal contacts and informal channels created through these activities have proven to be instrumental in providing the widest possible range of international cooperation, both in furthering AML and CFT investigations, and with regard to assistance needed in the trial stage in relation to money laundering, and are provided on a regular basis both spontaneously and upon request.

#### **IMPA**

1228. Art. 30(f) of the PMLL specifically permits IMPA to transmit information from its database to an equivalent foreign authority. The Minister of Justice has delegated to the Head of IMPA the authority to receive requests under the Legal Assistance Law, while the Attorney General has delegated to the Head of IMPA his authority to submit a request for legal assistance.

1229. As for the FIU to FIU cooperation, the Attorney General has set the guidelines for interpretation of section 30(f) in his decision of 7 March 2006. According to these guidelines, IMPA may provide information to a counterpart authority in another country not only if there is a reasonable ground to suspect that the information relates to a specific predicate offence but also if the information includes indications of ML or TF Typologies

#### **Bank of Israel (Supervisor of Banks)**

1230. The Banking Ordinance, 1941 provisions (sections 15A.1 and 15A.2) governs the international co-operation between the Bank of Israel (i.e. Supervisor of Banks) and foreign counterparts.

1231. Section 15A.1 of the Banking Ordinance indicates the circumstances when the Supervisor of Banks cooperates with the competent authority in a foreign country in providing information.
1232. The situations when Supervisor of Banks shares information with foreign authorities (i.e. forwarding of information to foreign counterpart) are related to the presence abroad of branches or subsidiaries held by Israeli banking corporations or the presence of a foreign bank authorised to operate in Israel or that controls an Israeli banking corporation.
1233. The Bank of Israel is entitled to exchange information under the following conditions:
- a) The information is needed for supervising the stability of the branch, the banking institution, or the foreign corporation; and
  - b) The foreign supervisory authority confirms that a confidentiality requirement similar to the provisions set forth in section 15A of the Banking Ordinance, 1941 applies to it or has undertaken not to forward the information to any other (third) party.
1234. Under section 15A.1 (c), Supervisor of Banks shall not share information with a counterpart if this information is liable to impair a pending investigation of the State of Israel.
1235. Section 15A.2 regulates the forwarding of information to the domestic supervisory authorities. This section governs the exchange of information between the Bank of Israel, in its capacity of Supervisor of Banks, and the other national supervisory authorities, the Israel Securities Authority for the securities market and the Department of the Capital Market, Insurance and Savings (DCMIS) at the Ministry of Finance for the insurance and provident funds markets.
1236. According to the provision indicated above (section 15A.2), the Supervisor of Banks may inform or may forward documents to other domestic supervisory authorities, provided the Supervisor is aware that the information or document is required for the discharge of the domestic supervisory authorities functions and duties.
1237. Under that section, the dissemination of this information to third parties is sanctioned under section 15A (c) of the Banking Ordinance, 1941.
1238. As regards national collaboration between supervisors, it is worth mentioning that the representatives of the three supervisory authorities (Bank of Israel, Israel Securities Authority and the Department of the Capital Market, Insurance and Savings) informed the evaluators of the existence of a protocol that establishes the framework under which information may be exchanged. This protocol has been signed in June 2007. These supervisory authorities also signed, on July 2012, a Memorandum with the MSPs Registration Unit, the Supervision of The Postal Bank, the Tax Authority and IMPA in order to promote an efficient and coordinated supervision.

### **The Israel Securities Authority**

1239. The Securities Law, under Chapter 9B (Sections 54K1 – 54K9), enables the Israel Securities Authority (ISA) to cooperate and provide assistance to foreign securities authorities with which it has signed a Memorandum of Understanding (MOU).
1240. Once the MOU is signed, non-public information may be released by the ISA to a foreign authority, subject to certain conditions as outlined in Section 54K2 of the Securities Law.
1241. The ISA is a full signatory of the IOSCO Multilateral Memorandum of Understanding ("MMOU"), which enables information sharing to facilitate detection, deterrence, licensing and surveillance. Under the MMOU, the ISA exchanges information with foreign counterparts on a regular basis.

### **The Department of the Capital Market, Insurance and Savings**

1242. As regards the insurance sector, the Law on Control of Financial Services (Insurance) 5741-1961 sets forth provisions on delivering information to supervisory authorities abroad (section 50C). According to this requirement, having regard to the provision on confidentiality prescribed

under section 50A, the Department of the Capital Market, Insurance and Savings (DCMIS) may transfer information or documents in his possession to the competent authority of a foreign country, which is responsible for supervising whoever engage in insurance or in insurance brokerage in that country.

1243. The conditions under which the DCMIS may exchange information are similar to those applicable to the Bank of Israel under the Banking Ordinance, 1941. In particular the DCMIS shall be satisfied that the following conditions are met:

- a. the documents and information were requested for the exercise of the competent authority's responsibility of supervising;
- b. the competent (foreign) authority certified that an obligation of confidentiality, similar to the provisions of section 50A, applies to it, or it undertook not to transmit the information or document to others (third parties).

1244. Moreover, the DCMIS may not share information or documents if it was determined that their delivery is liable to interfere with a pending investigation or with national security of the State of Israel.

### **The Supervision of the Postal Bank and Money Service Providers Registration Unit at the Ministry of Finance**

1245. As regards the supervisory authorities indicated above, the sectorial legislations governing the respective financial institutions (i.e., the Postal Bank and Money Services Providers) are silent on the capability of the designated supervisory or monitoring authorities to share information with foreign counterparts.

*Wide range of international co-operation (c.40.1); Provision of assistance in timely, constructive and effective manner (c.40.1.1); Clear and effective gateways for exchange of information (c.40.2), Spontaneous exchange of information (c. 40.3)*

#### **Supervisory authorities**

#### **Bank of Israel (Supervisor of Banks)**

1246. During the on-site visit, the evaluators were briefed on the international cooperation between the Bank of Israel and foreign supervisory authorities.

1247. Based on the information provided during the visit, the Supervisor of Banks cooperates in a formal basis, through the signing of Memorandum of Understanding (MOU) or informally, by establishing informal contacts with the supervisory authorities in other states.

1248. Formal and informal mechanisms, according to the representatives of the Bank of Israel, are very effective. Both of them consist in meetings among representatives of the supervisory authorities in Israel and abroad.

1249. As regards MOUs, the purpose of the signing of these protocols is to establish a formal basis for co-operation regarding relevant banking supervision and licensing, including the exchange of information, investigative assistance and on-site examinations.

1250. In 2011, a MOU was signed between Banking Supervision Department (DSB) of Bank of Israel and the United States (Board of Governors of the Federal Reserve System and Federal Deposit Insurance Corporation). The text of the MOU is publically available on the web-site of Bank of Israel (<http://www.boi.org.il/en/BankingSupervision/Pages/Default.aspx>).

1251. In addition, the Bank of Israel has established informal contacts with the supervisory authorities in other countries (such as with FINMA in Switzerland).

1252. The formal and informal cooperation of Bank of Israel with Supervisory Authorities of other countries include both various subjects among which AML/ CFT issues, "fit and proper" tests (regarding directors and executive management) as well as other corporate governance issues.

1253. Moreover there have been discussions regarding a wide range of risks, including AML/CFT on several occasions (e.g. Credit card clearing houses and modes of delivery of banking activity outside the physical branch).

1254. Although not precisely stated in the legislation, the Israeli authorities indicated that there are no limitations on spontaneously exchanging of information beside the limitations described under section 15A.1 of the Banking Ordinance, 1941.

1255. The following table illustrates the informal cooperation carried out by the Banking Supervision Department of the Bank of Israel

**Table 59: List of BSD communications/meetings with regulators**

The Regulator	Pertinent Details	Date
Central Bank of Argentina	Registration of IDB Rep	April 2010
- " -	Supervision of Rep Office BLL	November 2010
Australian Prudential Regulation Authority	Credit card clearing houses and modes of delivery of banking activity outside the physical branch	February 2012
- " -	Visit with Australian Minister for Financial Services & Superannuation to BSD	May 2012
Banking, Finance and Insurance Commission, Belgium	We requested vetting for Fit & Proper process	May 2009
Office of the Superintendent of Financial Institutions, Canada	Meetings of BSD Mission	June 2009
Cayman Islands Monetary Authority	Ongoing monitoring of directors and officers	January 2012
China Banking Supervisory Commission	Visit to BSD	April 2011
Danish Financial Supervisory Authority	Executive Order "Supervisory Diamond"	November 2011
European Banking Authority	Stress tests, PDs LGDs	August 2011
Autorité de Contrôle Prudentiel at the Banque de France	Correspondence concerning home-host issues	December 2011
- " -	Meeting concerning home-host issues	October 2012
Hong Kong Monetary Authority	Info on Bank Hapoalim	November 2010
Reserve Bank of India	We requested vetting for Fit & Proper process	October 2010
Irish Financial Services Regulatory Authority	We requested info for customer-bank relations	June 2009
Bank of Italy	Meetings of BSD mission	November 2010
Jersey Financial Services Commission	Vetting procedures for Fit & Proper process	September 2010
National Bank of Kazakhstan	Vetting procedures for Fit & Proper process	December 2011
Commission de Surveillance du Secteur Financier, Luxembourg	Consolidated supervision of Bank Leumi Le-Israel Group of BL Luxembourg S.A.	November 2010
Malta Financial Services Authority	Vetting procedures for Fit & Proper process	December 2011
Comisión Nacional Bancaria y de Valores, Mexico	Bank Hapoalim to open joint rep office	January 2010
Central Bank of Montenegro	Bank Leumi Le-Israel OK	June 2008

Central Bank of Norway/ Kredittilsynet (The Financial Supervisory Authority of Norway)	Correspondence concerning Survey of the Authorisation Process for Shareholders in a Bank	February 2010
Polish Financial Supervision Authority	Correspondence concerning Survey of the Authorisation Process for Shareholders in a Bank	November 2009
Bank of Portugal	Correspondence concerning Survey of the Authorisation Process for Shareholders in a Bank	July 2010
National Bank of Romania	Vetting procedures for Fit & Proper process	January 2012 August 2012
Monetary Authority of Singapore	Correspondence concerning Survey of the Authorisation Process for Shareholders in a Bank	November 2009
South African Reserve Bank	Correspondence concerning Survey of the Authorisation Process for Shareholders in a Bank	December 2009
Bank of Spain	Correspondence concerning Survey of the Authorisation Process for Shareholders in a Bank	November 2009
Finansinspektionen, Sweden	Correspondence concerning Survey of the Authorisation Process for Shareholders in a Bank	January 2010
Swiss Federal Banking Commission	We requested vetting for Fit & Proper process	December 2011
FINMA, Switzerland	Visit to BSD	March 2011
- " -	Home-Host issues	December 2011
- " -	Meetings of BSD mission	November 2010
Financial Services Authority – UK	Home-host issues	March 2011
- " -	Home-host issues	January 2011
National Bank of Ukraine	Vetting procedures for Fit & Proper process	November 2010
Central Bank of Uruguay	Vetting procedures for Fit & Proper process	April 2011
Board of Governors of the Federal Reserve System, WDC – USA	Meetings of BSD mission	May 2010
- " -	Meetings of BSD mission	July 2011
- " -	MoU Signed	August 2011
- " -	Home-host issues	September 2012
Federal Deposit Insurance Corporation, WDC – USA	Meetings of BSD mission	May 2010
- " -	Meetings of BSD mission	July 2011
- " -	MoU Signed	August 2011
- " -	Home-host issues	September 2012
Federal Reserve Bank of New York – USA	Meetings of BSD mission	May 2010
- " -	Meetings of BSD mission	July 2011
- " -	BSD Supervisor visits Sarah Dahlgren	June 2012
- " -	Home-host issues	September 2012
New York State Department of Financial Services – USA	Meetings of BSD mission	May 2010

- " -	Meetings of BSD mission	July 2011
- " -	Home-host issues	September 2012
Office of the Comptroller of the Currency – USA	Meetings of BSD mission	May 2010

### The Israel Securities Authority

1256. Israeli authorities indicated that, under the IOSCO MMOU, the ISA exchanges information with foreign counterparts on a regular basis.

1257. In addition to the IOSCO MMOU procedures, the ISA has also signed 19 MOUs with foreign securities regulators concerning cooperation, exchange of information and surveillance of securities activities. The lists of the MOUs signed and their content is available at the ISA public web-site: <http://www.isa.gov.il/Default.aspx?Site=ENGLISH&ID=1488,2820> .

1258. An MOU is defined in section 54K1(a) of the Securities Law as an agreement concerning cooperation in the administration and enforcement of securities laws however such notion does not refer to AML/CFT issues.

1259. It is worth noting that some of the MOUs posted on the ISA web-site clearly indicates that ISA is competent on the “*supervision over compliance of portfolio managers and non-bank Stock Exchange members to the Prohibition of Money Laundering Law*”, having regard to the scopes of the MOU, among which, “*d) supervising and monitoring the trading, clearing and settlement, and other activities of securities, futures and other investment products markets, and their compliance with relevant laws and regulations*”, thus it might be reasonable to believe that some of the MOUs signed also cover AML/CFT sharing of information.

1260. The information provided by Israeli authorities indicates that the requests for cooperation with agencies with which the ISA has not entered a MOU or are not signatories to the IOSCO MMOU are handled through the State Attorney's Office (Ministry of Justice) under the Law for Legal Assistance Between States, 1998.

1261. According to the information provided by the Israeli authorities, although not explicitly mentioned in the legislation, the ISA can exchange information spontaneously. The ISA has signed the IOSCO agreement which contains, in section 13, an obligation to provide information to counterpart authority without prior request.

1262. As regards the informal cooperation carried out by the ISA, apart from IOSCO, the Authority is also a member at the ERC (European Regional committee) since 2012; prior to its membership at the ERC, it was a member of the AMERC (Africa/Middle–East Regional Committee).

1263. In 2012 the ISA participated in seminars, conferences and working groups in IOSCO, including:

- The annual IOSCO's conference meeting;
- Committee 4 – on enforcement issues and exchange of information;
- Participating in the IOSCO MMOU Screening Group;
- Committee 6 – on grading credit card companies;
- Initiating activities on application and enforcement of IFRS rules.
- Participating in IOSCO's Assessment Committee;
- Participating in the working group (Work Stream 1) of the Standing Committee on Risk and Research (SCRR).

1264. The ISA is also an active participant in the OECD in regard to corporate governance. Additional information on the ISA international activities is available in the ISA's annual report published at: [http://www.isa.gov.il/Download/IsaFile\\_7639.pdf](http://www.isa.gov.il/Download/IsaFile_7639.pdf).

### **The Department of the Capital Market, Insurance and Savings**

1265. The provision on the exchange of information between the DCMIS and its foreign counterparts is quite basic, referring to the possibility for the Insurance Supervisor to share information and documents in his possession with the competent authority of a foreign country. According to the understanding of the evaluators this provision is a quite clear and effective gateway (if properly used) for the exchange of information. It is worth mentioning that the counterpart of DCMIS shall only be a foreign authority responsible for supervising insurance companies or insurance brokerage in that country.

1266. The Insurance Law does not contain provisions which allow DCMIS to support foreign counterparts in a timely, constructive and effective manner and to exchange information spontaneously.

1267. As regards membership in international organisations, the Israeli authorities indicated that the DCMIS is a member in the following international organisations:

- The International Organisation of Pension Supervisors (IOPS).
- International Association of Insurance Supervisors (IAIS), in the framework of which the DCMIS is a member in the regional group of East and Central Europe countries.
- The Organisation for Economic Co-operation and Development (OECD) – DCMIS represents the State of Israel in the Insurance and Private Pensions committee of the OECD, and acts as an observer in the Investment committee and in the Committee on Financial Markets in the organisation.
- International Network on Financial Education (INFE).

1268. In addition, the DCMIS participates (alongside the other financial regulators) in discussions with the European Union (EU) and the World Trade Organisation (WTO) regarding financial services, in which the leader of the discussions from the Israeli side is the Foreign Trade Administration in the Ministry of Economy.

1269. Moreover as regards the international activity, it is worth mentioning that for in 2012, the DCMIS is working towards joining the IAIS Multilateral Memorandum of Understanding (MMOU). The committee that was appointed to examine the possibility of the DCMIS joining the MMOU has given a positive recommendation and the final decision is expected to be given in the following weeks.

1270. In addition, the DCMIS began the process for getting an “equivalence status” in the EU – According to which, the capital requirements as calculated by insurance companies in Israel would be acknowledged. Continuation of the process depends on the EU's progress regarding the Solvency II directive.

1271. Israeli authorities also indicated that DCMIS representatives had paid recent visits to the German financial regulator, The Financial Stability Institute (FSI) and the Toronto Centre.

1272. The information provided by the Israeli authorities indicates that the DCMIS is in the process of being part of sectorial international organisations that would require the DCMIS to cooperate with foreign counterparts, including the exchange of information.

### **The Supervision of the Postal Bank and Money Service Providers Registration Unit at the Ministry of Finance**

1273. As regards the supervisory authorities indicated above, as already indicated the sectorial legislations are silent on the capability of the designated supervisory or monitoring authorities to share information with foreign counterparts.

#### **Law enforcement authorities**

1274. Section 30(f) of the PMLL permits IMPA to transmit information to a foreign FIU, even in the absence of an international agreement. Nevertheless, IMPA has a policy to sign MOUs with its

counterparts FIUs. IMPA has signed MOUs with 36 foreign FIUs and has been in contact with 27 other countries in order to start a process of signing additional MOUs.

1275. IMPA is also authorised, according to Section 30(e) of the Law, to disseminate, on its initiative, information from the database to any person competent to receive information under the Law, for the purpose of preventing any offence under the PMLL, defending state security, combating terrorist organisations and for the purposes of implementing the Trading with the Enemy Ordinance and of the Combating Iranian Nuclear Program Law (Part 1 of Chapter 2 of the law).

1276. Since IMPA was accepted in the Egmont Group in June 2002, it has begun to actively participate in its activities and actively enhanced international cooperation in various manners, subject to the Egmont Principles presented in the document of the “Best practices for information exchange of information between financial intelligence units”. IMPA is connected to the Egmont Secure Web (hereinafter: "ESW"), enabling effective, quick and secure exchange of information with counterpart FIU's worldwide.

1277. All incoming information requests received by IMPA originating from counterpart FIU's are answered, also in case of a negative reply. IMPA aims to prioritise requests classified as urgent, and requests in which a close deadline is indicated. All other requests are processed in the same timely manner as domestic requests for information.

1278. IMPA states that it strives to pursue as a priority the enhancement of information exchange on the basis of reciprocity, be it spontaneously or upon request. All foreign requests are treated in the same way as domestic requests for information. IMPA aims to grant approvals for further dissemination of the information provided, upon request, and whenever possible.

1279. In addition to the information requests sent to counterpart FIU's, spontaneous disclosures are being sent by IMPA, with information which could be of key interest to foreign FIU's. Spontaneous disclosures usually contain information directly linked to the relevant country: the offence and/or money laundering indicators being committed abroad, information received at IMPA from reporting institutions and/or media publications regarding individuals of foreign citizenship.

*Making inquiries on behalf of foreign counterparts (c.40.4), FIU authorised to make inquiries on behalf of foreign counterparts (c. 40.4.1), Conducting of investigation on behalf of foreign counterparts (c. 40.5)*

1280. As set out below there appear to be certain constraints on supervisors conducting investigations on behalf of foreign counterparts. It is, however, noted that the provisions of the International Legal Assistance Law (1998) (ILAL) state in section 2 (a)

*Legal assistance between the State of Israel and another state (in this Law: legal assistance) is every one of the following: service of documents, taking evidence, search and seizure operations, transmittal of evidence and other documents, transfer of a person in order to testify in a criminal proceeding or to participate in an investigative act, investigative acts, transmittal of information, confiscation of property, provision of legal relief, authentication and certification of documents or the performance of any other legal act, all in connection with a civil matter or a criminal matter.*

1281. This is a broad provision which covers both criminal and civil matters. This is reinforced by section 28 (a) which states:

*If the Competent Authority decided to approve another state's request that an investigative act be carried out, then the request shall be transmitted for implementation to whoever is authorised to perform in Israel an act of the kind requested.*

1282. The Israeli authorities have confirmed that these provisions have proved sufficient to allow supervisory bodies to conduct investigations on behalf of foreign counterparts.



Supervisory authorities

**Bank of Israel (Supervisor of Banks)**

1283. Under section 15A.1 of the Banking Ordinance, 1941 it is stated that: “ [...], *Supervisor may forward information in his possession to a competent authority in a foreign country [...]*”. Such wording might be interpreted as the Supervisor may only exchange information in its possession at the time of the request and is not allowed to make additional inquiries (e.g. through on-site visits and/or off-site requests) in order to gather and then to exchange the information related to the requests made by foreign counterparts.

1284. According to the understanding of the Israeli authorities the above mentioned section does not restrict the authority of the Supervisor of Banks to gather information or conducting an audit after a request for information.

**The Israel Securities Authority**

1285. As indicated above, the sharing of information with foreign authorities is governed by “Chapter 9B of the Securities Law” according to which, an “*Assistance to a Foreign Authority*” is intended as a demand for information and documents, the conducting of a search [and/or] seizure of documents etc.

1286. This means that ISA may make inquiries on behalf of a foreign counterpart in order to obtain and exchange information.

**The Department of the Capital Market, Insurance and Savings**

1287. The provision on the exchange of information between the DCMIS and the foreign counterpart - Section 50C of the Insurance Law - refers to the possibility of the Insurance Supervisor sharing information and documents in his possession with the competent authority of a foreign country.

1288. Thus, DCMIS may only exchange information in its possession when the request is received from a foreign counterpart. This means, according to the understanding of the evaluators, that the DCMIS is not in a position to make inquiries on behalf of foreign counterparts to support their needs.

**The Supervision of the Postal Bank and Money Service Providers Registration Unit at the Ministry of Finance**

1289. As regards the supervisory authorities indicated above, as already indicated, the sectorial legislations are silent on the capability of the designated supervisory or monitoring authorities to share information with foreign counterparts.

Law enforcement authorities

1290. When acting on a request, IMPA can use all its powers and query information from its own database and from other databases it has access to. In the event that complementary information is needed from reporting institutions, and/or databases of which IMPA does not have direct access to (i.e.: annual incomes), requests for complementary information may be sent. IMPA can also disseminate Police and Tax Authority’s information to counterparts FIUs subject to prior consent by the relevant authorities.

1291. Israel conducts criminal investigations on behalf of the requesting state, pursuant to legal assistance requests. In addition, as mentioned, Israel conducts investigations on behalf of foreign counterparts pursuant to various agreements for international cooperation, e.g. agreements in matters of securities, customs and income tax.

*No unreasonable or unduly restrictive conditions on exchange of information (c.40.6)*

Supervisory authorities

**Bank of Israel (Supervisor of Banks)**

1292. Under section 15A.1 of the Banking Ordinance, 1941, the Bank of Israel, in its capacity of Supervisor of Banks, is entitled to exchange information under the following conditions:

- c) The information is needed in supervising the stability of the branch, the banking institution, or the foreign corporation;
- d) The foreign supervisory authority confirms that a confidentiality requirement similar to the provisions set forth in section 15A of the Banking Ordinance, 1941 applies to it or has undertaken not to forward the information to any other (third) party.

1293. According to the understanding of the evaluators, the conditions mentioned above are not too restrictive and unreasonable to properly exchange information with foreign counterparts.

**The Israel Securities Authority**

1294. Confidentiality rules are governed by section 13 and section 56E of the Security Law under which all information provided to the ISA by foreign supervisory authorities must be kept confidential by its staff.

1295. For the signing of Memorandum of Understanding with foreign counterparts, ISA is subject to the prior authorisation of two Ministries (Minister of Foreign Affairs and Minister of Justice) and the Cabinet (Government).

1296. Although such requirements seem to be too restrictive (the Bank of Israel is not required to have the same system of prior authorisation), the high number of MOUs signed shows that such authorisation procedures have not limited the capability of ISA to sign protocols with foreign counterparts in practice.

**The Department of the Capital Market, Insurance and Savings**

1297. The conditions under which the DCMIS may exchange information are the followings:

- a. the documents and information were requested for the exercise of the competent authority's responsibility of supervising;
- b. the competent (foreign) authority certified that an obligation of confidentiality, similar to the provisions of section 50A, applies to it, or it undertook not to transmit the information or document to others (third parties).

1298. These conditions are similar to those applicable in the banking sector and, according to the understanding of the evaluators, are not too restrictive and unreasonable to properly exchange information with foreign counterparts.

Law enforcement authorities

1299. IMPA exchanges information accordingly to the Egmont Group Best Practices for the Exchange of Information between Financial Intelligence Units. The cooperation is based on the principle of reciprocity and confidentiality. As mentioned above, IMPA aims to grant approvals for further dissemination of the information provided, upon request, and whenever possible.

*Provision of assistance regardless of possible involvement of fiscal matters (c.40.7)*

Supervisory authorities

**The Bank of Israel, the Israel Securities Authority and the Department of the Capital Market, Insurance and Savings**

1300. The provisions of respective legislation that govern the exchange of information between supervisors do not inhibit international cooperation due to the involvement of fiscal matters.

1301. Representatives of the supervisory authorities met during the meetings held on-site have confirmed that there are no provisions that would constrain international assistance for fiscal matters.

#### Law enforcement authorities

1302. The Israeli Legal Assistance Law provides discretion to the Minister of Justice to refuse a legal assistance request dealing with fiscal matters. However, in practice, this discretion is not employed in cases, in which the fiscal matter is an integral part of a criminal episode involving other types of crimes, e.g. fraud.

*Provision of assistance regardless of existence of secrecy and confidentiality laws (c.40.8)*

#### Supervisory authorities

##### **Bank of Israel (Supervisor of Banks)**

1303. As indicated above, the Banking Ordinance, 1941 governs the exchange of information with foreign and domestic counterparts. However, information shared shall be treated in a confidential manner. In this respect it is worth mentioning that section 15A of the Banking Ordinance mandates confidentiality of the information and the documents gathered by Bank of Israel in performing its functions and duties.

1304. Notwithstanding the provisions of Section 15A, the sharing of information between the Bank of Israel and foreign counterparts as well as among Israeli supervisory authorities is defined under sections 15A.1 and 15A.2 described above.

##### **The Israel Securities Authority**

1305. Confidentially rules are governed by Sections 13, 52OO and 56E of the Securities Law. The main general obligation is set forth under section 13, according to which information and documents submitted to ISA (i.e. “*deliberations and the material submitted*”) shall not be disclosed without the prior consent of ISA or its Chairman except upon demand of the Attorney General for purposes of a criminal trial or upon demand of the Court or of the panel appointed to adjudicate the violation.

1306. Under section 54K9(a) of the Securities Law the ISA may refrain from transferring to a third party any information or document submitted to it by a Foreign Authority (i.e. “*entity charged with executing and enforcing the securities laws in a foreign country, even if it has not signed a Memorandum of Understanding with the ISA*”), or any information or documents received, collected or created as a result of a request for assistance or a request for information or a document that was submitted by a Foreign Authority, including the request itself. The sole exception is demand of the Attorney General for the purposes indicated in the Para. above.

##### **The Department of the Capital Market, Insurance and Savings**

1307. Under Section 50A of the Control of Financial Services (Insurance) Law 5741-1961, the DCMIS as well as any employee acting under its capacity or on its behalf shall not reveal any information and shall not show any document he/she was given by virtue of his/her position or his/her powers under that Law.

1308. Notwithstanding the provisions of Section 50A on confidentiality, the sharing of information between the DCMIS and foreign counterparts is governed by Section 50C of the above mentioned law.

#### Law enforcement authorities

1309. IMPA does not refuse legal assistance requests on the basis of "banking secrecy" or the confidentiality of other financial institutions.

*Safeguards in use of exchanged information (c.40.9)*

Supervisory authorities

**The Bank of Israel, the Israel Securities Authority and the Department of the Capital Market, Insurance and Savings**

1310. Under c.40.9, Israel should establish controls and safeguards to ensure that information received by foreign supervisory authorities is used only in an authorised manner. These controls and safeguards should be consistent with national provisions on privacy and data protection.

1311. As regards privacy and data protection law, Israeli authorities indicated that the Data Protection Regulations determine basic principles regarding safeguarding of the database, such as the principle of completeness of original information, separation of computerisation system, safeguarding of the communication lines, maintenance of computerisation and communication system, and so forth.

1312. Moreover, section 7 of the Regulations provides that in the infrastructures of the computerisation system and operating software at the base, the requirements of the Standards for Safeguarding of Information Systems, determined in accordance with Israeli Standard T.I. 7799 and International Standard ISA-15408 shall be complied with; the computerisation system and operating software shall comply with the requirements laid down in these regulations for systems with a high classification that contain computer material and are conducted on a number of levels of security classification and access authorisations.

1313. Such measures seem to be applicable to the activities of the supervisory authorities, including international cooperation

1314. Moreover, regarding the Bank of Israel, as indicated above (section 15A and section 15A.1 of the Banking Ordinance, 1941) the issues of secrecy, confidentiality and reciprocity are some of the conditions for the sharing of information among supervisors.

1315. As regards ISA, under Section 13 of the Securities Law, all information provided to the ISA by foreign authorities must be kept confidential by its employees.

1316. In the insurance sector, section 50A of the Control of Financial Services (Insurance) Law 5741-1961 governs the confidentiality of the information and document gathered by DCMIS and his employees for the exercise of its functions and duties.

Law enforcement authorities

1317. The same level of secrecy, including privacy and data protection, is guaranteed as provided by the national legislation for information from national sources. As already explained under Recommendation 26, IMPA has strict data security and confidentiality measures in place.

*Additional elements – Exchange of information with non-counterparts (c.40.10 and c.40.40.1); Exchange of information to FIU by other competent authorities pursuant to request from foreign FIU (c.40.11)*

Supervisory authorities

**Bank of Israel (Supervisor of Banks)**

1318. Banking legislation is silent on provisions related to exchange of information with “non-counterparts”.

1319. However it is extremely clear when it indicates “*the Supervisor may forward information in his possession to a competent authority in a foreign country that serves the function of supervising [...]*”. (section 15A1 of the Banking Ordinance, 1941).

**The Israel Securities Authority**

1320. As indicated in Chapter 9B (Cooperation with a Foreign Authority) of the Securities Law, the ISA shall cooperate only with foreign authorities that are entities in charged with executing and enforcing the securities laws in a country which has signed a Memorandum of Understanding with the ISA. Thus the exchange of information with non-counterparts is not covered by the Securities Law.

1321. Having said that, the Securities law is silent on provisions related to exchange of information with “non-counterparts”. Furthermore, Israeli authorities indicated that the ISA can exchange only public information with non-counterparts. In order to share non-public information, the foreign authority has to be a counterpart to a bilateral MOU or a Multilateral MoU that contains confidentiality provisions.

**The Department of the Capital Market, Insurance and Savings**

1322. Section 50C of the Control of Financial Services (Insurance) Law 5741-1961 governs the exchange of information between the DCMIS and foreign counterparts. This section clearly indicates that the sharing of information between the DCMIS and foreign counterparts is subject to the condition that the foreign counterpart shall perform supervision.

1323. Thus, equally to Bank of Israel and Israel Securities Authority, the DCMIS is not in a position to exchange information with “non-counterparts”.

**Law enforcement authorities**

1324. IMPA can obtain from other competent authorities relevant information requested by a foreign counterpart FIUs. Most of the information can be disseminated to foreign FIUs without prior permission. In cases that such permission is required; IMPA seeks for it without delay.

***International co-operation under SR.V (applying 40.1-40.9 in R.40, c.V.5) (rated LC in the 3<sup>rd</sup> round report)***

1325. All of the above mentioned in answers to criteria 40.1-40.9, also apply to International co-operation on TF issues.

***Additional element under SR.V – (applying 40.10-40.11 in R.40, c.V.9)***

1326. The analysis for Recommendation 40 also applies to cooperation in relation to the financing of terrorism.

***Recommendation 32 (Statistics – other requests made or received by the FIU, spontaneous referrals, requests made or received by supervisors)***

1327. The following table illustrates the exchange of information between the main Israel Supervisors (i.e. Banking Supervisor Department of the Bank of Israel (BSD), the Israel Securities Authority (ISA) and the Department of Capital Markets, Investment and Savings (DCMIS)) and foreign counterparts.

**Table 60: Number of requests for assistance (formal and informal requests on general issues and detailed for AML/CFT matters)**

	2009			2010			2011			2012		
	BSD	ISA	DCMIS	BSD	ISA	DCMIS	BSD	ISA	DCMIS	BSD	ISA	DCMIS
Number of Requests of Assistance made :	1	5	0	1	8	0	1	8	0		5	0
of which related to AML/CFT matters (fit & proper):	1			1			1					
Home host issues							3			5		
Number of Requests of Assistance received :	1	22	0	2	17	0	3	9	0	1	12	0
of which related to AML/CFT matters (fit & proper):	1			2			2			1		

1328. Since IMPA's establishment in 2002, information requests have been received from 95 countries worldwide, at a growing rate. All information requests are thoroughly examined in order to obtain detailed and prompt replies. IMPA sent numerous information requests to 69 counterpart units worldwide. Since the beginning of its operations, IMPA has handled more than 1,415 requests for information from foreign FIUs and sent approximately 771 requests to foreign FIU's. The following figures were provided in respect of information requests to and from IMPA.

**Table 61: Assistance made or received with counterparts FIU's**

	2008	2009	2010	2011	2012
<b>Requests received</b>	186	156	165	121	125
<b>Refusals</b>	0	0	0	0	0
<b>From No. of Countries</b>	49	45	37	49	40
<b>Replies from IMPA (Not including additional replies)</b>	106	223	126	105	118
<b>Requests made (Spontaneous referrals)</b>	46	118	123	63	74
<b>To No. of Countries</b>	20	39	36	27	32

#### Additional elements

1329. The Israeli Police has an overall authority to investigate all offences under Israeli jurisdiction. The Israeli Police is a member of Interpol and uses this channel to collect and supply information. Requests for investigative acts need to follow the MLA procedure, but intelligence can be exchanged freely through Interpol, as long as it is not intended to be used as evidence and it does not entail coercive measures. Also, the information can be exchanged through the Israeli Police officers situated in other countries or the police officers of foreign countries in Israel. The statistics illustrates the significant improvement of international cooperation since the 3<sup>rd</sup> round evaluation.

#### *Effectiveness and efficiency*

##### FIU

1330. The responses received to MONEYVAL's standard enquiry on International Cooperation which was sent to MONEYVAL and FATF members received a positive response with no indications of a failure to cooperate on a daily basis. In the 3<sup>rd</sup> round evaluation report the only restraints regarding R.40 in respect of IMPA were related to its limited access to law enforcement information, which could have limit its capacity to give full assistance to its counterparts. However, as a police working station has now been installed at IMPA, this impediment seem to be eliminated and IMPA is able to provide the requesting counterparts with the relevant police information on a timely manner. Therefore it can be concluded that IMPA now appears to be an effective FIU in regard to the international information exchange.

##### Supervisory authorities

1331. Although the three main financial sectors (Banking, Securities and Insurance sectors) are governed by legislation that enable the respective supervisory authorities (Bank of Israel, ISA and the DCMIS) to exchange information with their foreign counterparts, it is worth noting that none of these laws refer to circumstances related to AML/CFT issues and only cover cases and situations related to the respective fields (e.g. host-home issues, securities markets and insurance products). However, this is understandable considering the scope for which such legislation has been enacted.

1332. Having said that, the information provided by the Israeli authorities as well as the figures provided during the visit, indicate that Bank of Israel, in its capacity of Supervisor of Banks, has

established relationships (formally and informally) with its counterparts in the main countries where the Israeli banking sector operates.

1333. The Israeli Securities Authority has signed several MMOU and MOUs for the exchange of information and has also provided the evaluators with details.

1334. The DCMIS, while having the power to cooperate with foreign counterparts, seems not to be involved in any process of signing MOU's or in any case of sharing of information with counterparts (in particular related to AML/CFT purposes).

#### Law enforcement authorities

1335. The Israeli Police has an overall authority to investigate all offences under Israeli jurisdiction. The Israeli Police is a member of Interpol and uses this channel to collect and supply information. Requests for investigative acts need to follow the MLA procedure, but intelligence can be exchanged freely through Interpol, as long as it is not intended to be used as evidence and it does not entail coercive measures. Also, the information can be exchanged through the Israeli Police officers situated in other countries or the police officers of foreign countries in Israel. The statistics illustrates the significant improvement of international cooperation since the 3<sup>rd</sup> round evaluation.

#### 6.4.2 Recommendation and comments

##### FIU

1336. In the view of evaluators IMPA has a dynamic and constructive approach towards FIU to FIU cooperation and is very active on the international scene. On a positive note, the restraints mentioned in the 3<sup>rd</sup> round evaluation report in relation to limited access to police information have now been eliminated.

##### Supervisory authorities

1337. The provisions of the Banking Ordinance, Securities Law and Control of Financial Services (Insurance) Law clearly indicate that the Israeli supervisory authorities (Bank of Israel, ISA and The Commissioner) may exchange information with foreign counterparts, having regards to the confidentiality provisions set forth in each of the legislation.

1338. According to the understanding of the evaluators the confidentiality provisions, as set forth in the respective legislation, do not inhibit these supervisory authorities to properly guarantee effective channels for the exchange of information.

1339. Moreover fiscal matters are not considered as an issue that might limit the cooperation with foreign authorities and the conditions for the exchange of information are broad enough to permit the Israeli supervisory authorities to properly cooperate, even if the provisions of laws do not empower supervisors to conduct inquires on behalf of a foreign counterpart and it is worth mentioning that the counterpart shall be a foreign authority in charge of supervising, thus the exchange of information with "non-counterparts" is not allowed.

1340. The Bank of Israel and the Commissioner may cooperate without any prior authorisation, while MOUs signed by ISA are subject to the consent of two Ministries and the Cabinet (Government of Israel). However, it is worth noting that ISA has signed 19 MOUs and is a full signatory of the IOSCO MMOU.

1341. The legal requirements described in this section do not contain any provision on spontaneous exchange of information and, with the exception of ISA, the Bank of Israel and the Commissioner shall exchange only the information in their possession.

1342. Moreover there are no specific requirements in the sectorial legislations that impose Israeli supervisory authorities to provide information in a timely and effective way. In this regard, evaluators noted, during the visit, a willingness by these authorities to properly cooperate with counterparts.

Law enforcement authorities

1343. The law enforcement agencies are willing and capable to provide international cooperation and information exchange at intelligence level, i.e. outside the mutual legal assistance and extradition context. This form of assistance is a matter of daily practice.

6.4.3 Compliance with Recommendation 40 and Special Recommendation V

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.40</b>	<b>C</b>	
<b>SR.V</b>	<b>C</b>	



## 7 OTHER ISSUES

### 7.1 Resources and Statistics

#### 7.1.1 Description and analysis

##### **Recommendation 30**

1344. IMPA appears to be adequately structured and funded (partially by the asset confiscation fund), staffed, and provided with sufficient technical and other resources to fully perform its authorised functions. IMPA ensures that professional standards, integrity, skills and confidentiality of its employees are maintained and conducts regular training.

1345. The BoI also appears to have sufficient resources to perform its supervisory functions with regard to the prohibition on ML/FT. All BoI staff are subject to BOI are subject to secrecy rules and relevant staff receive regular AML/CFT training. With regard to other supervisory bodies for financial institutions all appear to be adequately staffed although there is as concern, as expressed under Recommendation 23 above, about the reliance on third parties to conduct AML/CFT supervision, although this policy does not appear to be driven by resource constraints.

1346. Overall sufficient resources appear to be devoted to national cooperation and coordination. Training seminars are regularly organised by policy makers and policy makers take an active part.

1347. As all other DNFBPs currently fall outside of the scope of the AML/CFT regime is was not possible to assess the sufficiency of resources.

##### **Recommendation 32**

1348. The Israeli authorities provided detailed and comprehensive statistics concerning:

- prosecutions and convictions for ML and TF offences;
- the activities of IMPA;
- suspicious activity reporting;
- AML/CFT supervision and sanctioning; and
- National and international cooperation.

1349. The authorities displayed a good understanding of the issues underlying the statistics and appeared to make use of these to assess the effectiveness of the AML/CFT regime.

#### 7.1.2 Recommendations and comments

1350. The requirements of Recommendations 30 and 32 are fully met.

#### 7.1.3 Compliance with Recommendations 30 and 32

	Rating	Summary of factors underlying rating
<b>R.30</b>	<b>C</b>	
<b>R.32</b>	<b>C</b>	

**7.2 Other Relevant AML/CFT Measures or Issues**

1351. N/A

**7.3 General Framework for AML/CFT System (see also section 1.1)**

1352. N/A

## IV. TABLES

### 8 TABLE 1. RATINGS OF COMPLIANCE WITH FATF RECOMMENDATIONS

The rating of compliance vis-à-vis the FATF 40+ 9 Recommendations is made according to the four levels of compliance mentioned in the AML/CFT assessment Methodology 2004 (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (N/A).

The following table sets out the ratings of Compliance with FATF Recommendations which apply to Israel. <i>It includes ratings for FATF Recommendations from the 3<sup>rd</sup> round evaluation report that were not considered during the 4<sup>th</sup> assessment visit. These ratings are set out in italics and shaded.</i>		
Forty Recommendations	Rating	Summary of factors underlying rating <sup>45</sup>
<b>Legal systems</b>		
1. Money laundering offence	<b>LC</b>	<ul style="list-style-type: none"> <li>• Section 4 of the PMLL contains a threshold approach and does not extend to all possible categories of property.</li> </ul>
2. <i>Money laundering offence Mental element and corporate liability</i>	<i>C</i>	
3. Confiscation and provisional measures	<b>LC</b>	<ul style="list-style-type: none"> <li>• Failure to provide a comprehensive system for value confiscation.</li> </ul>
<b>Preventive measures</b>		
4. Secrecy laws consistent with the Recommendations	<b>C</b>	
5. Customer due diligence	<b>PC</b>	<ul style="list-style-type: none"> <li>• No direct prohibition for maintaining accounts in fictitious names;</li> <li>• There is no requirement for financial institutions to apply CDD measures when there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds;</li> <li>• Provident funds, insurance companies and MSPs are not required to apply CDD measures when the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data;</li> <li>• As the activities of the Insurers and Insurance Agents (for which the threshold of NIS 20,000 is applicable) seems not to be occasional, the threshold is not in line with the Methodology;</li> <li>• No requirement to verify the legal status of the legal person or legal arrangement by obtaining</li> </ul>

<sup>45</sup> These factors are only required to be set out when the rating is less than Compliant.

		<p>information concerning the directors;</p> <ul style="list-style-type: none"> <li>• The definition of the beneficial owner is limited to “a person for whom or for whose benefit the property is being held, the transaction is being undertaken, or who has the ability to direct the disposition, and all whether directly or indirectly” is not fully in line with the FATF Glossary;</li> <li>• There is no requirement to take reasonable measures to verify the identity of the beneficial owner of the customer with respect to provident funds, insurance companies and MSPs;</li> <li>• No obligation to take reasonable measures to understand the ownership and control structure of the customer as well as determine who are the natural persons that ultimately own or control the customer and those persons who exercise ultimate effective control over a legal person or arrangement (apart from banking corporations);</li> <li>• The obligation to conduct on-going due diligence for banking corporations is not set out in “law or regulation” and there is no such requirement for other financial institutions (provident funds, money service providers, insurers and insurance agents);</li> <li>• The requirement for the financial institutions (apart from banking corporations) to apply enhanced CDD is limited;</li> <li>• No prohibition from applying simplified CDD to customers from countries which are not in compliance with and have not effectively applied FATF standards;</li> <li>• No direct prohibition from applying reduced CDD measures in the circumstances when suspicions of ML/FT or other risk scenarios exist;</li> <li>• The Banking Order has an exemption regarding registering a beneficiary if an account which an attorney, a rabbinical pleader, or an accountant wishes to open for his clients;</li> <li>• Only banks, the Postal Bank, portfolio managers and Stock Exchange members are required to consider making a suspicious transaction report when they are unable to comply with CDD requirements.</li> </ul>
<p>6. Politically exposed persons</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• The PEP definition does not cover persons who are no longer entrusted with prominent public functions;</li> <li>• Important political party officials and senior executives of state-owned corporations are not fully covered;</li> <li>• No requirement to determine whether the beneficial</li> </ul>

		<p>owners of the customer is a PEP;</p> <ul style="list-style-type: none"> <li>• No basic requirement to identify PEPs for provident funds, insurance companies and agents and MSPs;</li> <li>• No requirement for non-banks to establish the source of wealth of customers who are PEPs;</li> <li>• No requirement to establish the source of wealth of beneficial owners of customers who are PEPs;</li> </ul> <p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>• For some financial institutions it is problematic in practice to establish if the customer becomes a PEP during the business relationship.</li> </ul>
7. Correspondent banking	LC	<ul style="list-style-type: none"> <li>• <i>Although high risk situations are covered for other situations no requirement for obtaining approval from senior management for new correspondent relationships.</i></li> <li>• <i>As far as banking corporations are concerned essential criteria 7.4 and 7.5 are not covered.</i></li> </ul>
8. New technologies and non face-to-face business	LC	<ul style="list-style-type: none"> <li>• <i>Israel has not implemented adequate measures for the non-banking sector.</i></li> </ul>
9. Third parties and introducers	C	
10. Record keeping	PC	<ul style="list-style-type: none"> <li>• No specific requirement to keep records longer if requested by a competent authority in specific cases and upon proper authority;</li> <li>• No requirement that transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity;</li> <li>• Apart from the Postal Bank, no specific requirement for other financial institutions to keep records of the account files and business correspondence;</li> <li>• Thresholds on document retention in place for the Postal Bank, insurers, MSPs, provident funds and companies managing provident funds;</li> </ul> <p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>• MSPs demonstrated a lack of understanding of what records should be kept in files and some MSPs interviewed stated that they were only keeping identification data.</li> </ul>
11. Unusual transactions	LC	<ul style="list-style-type: none"> <li>• MSPs, provident funds and insurers and insurance agents are not directly obliged to examine complex and unusual transaction and keep findings in writing;</li> <li>• Obligation to pay special attention to all complex and unusual large transactions is not introduced for MSPs, provident funds and insurers and insurance agents.</li> </ul>

12. DNFBPS – R.5, 6, 8-11	NC	<p><b><i>Applying Recommendation 5, 6, 8, 9, 10 and 11</i></b></p> <ul style="list-style-type: none"> <li>• No requirements for DNFBPs as they do not fall under the AML/CFT obligations.</li> </ul>
13. Suspicious transaction reporting	LC	<ul style="list-style-type: none"> <li>• Portfolio managers are exempted from the reporting obligation for certain categories of customer;</li> </ul>
14. <i>Protection and no tipping-off</i>	LC	<ul style="list-style-type: none"> <li>• <i>Tipping off only covered with regard to the existence or non-existence of the report for all financial institutions but not to all related information outside of banking corporations.</i></li> </ul>
15. Internal controls, compliance and audit	PC	<ul style="list-style-type: none"> <li>• Except for the banking sector, the competent regulators have not issued detailed regulation on establishment and maintenance of policies, procedures and controls to prevent ML/TF as required under c.15.1;</li> <li>• Except for the banking sector, the competent regulators have not issued regulations on the maintenance of an adequately resourced and independent audit function to test compliance with AML/CFT policies, procedures and controls;</li> <li>• Except for banking corporations, there are no enforceable requirements for the establishment of screening procedures when hiring employees.</li> </ul>
16. DNFBPS – R.13-15 & 21 <sup>46</sup>	NC	<p><b><i>Applying Recommendation 13</i></b></p> <ul style="list-style-type: none"> <li>• Currently there are no reporting obligations upon real estate agents, dealers in precious metals, trust and company service providers, lawyers, notaries, other independent legal professionals and accountants (Recommendation 13)</li> </ul> <p><b><i>Applying Recommendation 15</i></b></p> <ul style="list-style-type: none"> <li>• There are no AML/CFT requirements in force for all DNFBPs on internal controls, internal audit, screening procedures and on-going training on AML/CFT issues.</li> </ul> <p><b><i>Applying Recommendation 21</i></b></p> <ul style="list-style-type: none"> <li>• No changes with respect to requirements of Recommendation 16 requiring application of Recommendation 21 to DNFBPs compared to the situation at the time of 3<sup>rd</sup> round evaluation.</li> </ul>
17. Sanctions	C	
18. <i>Shell banks</i>	LC	<ul style="list-style-type: none"> <li>• <i>Measures to prevent the establishment of shell banks are not sufficiently explicit.</i></li> <li>• <i>There is no specific enforceable obligation that requires financial institutions to satisfy themselves</i></li> </ul>

<sup>46</sup> The review of Recommendation 16 has taken into account the findings from the 3<sup>rd</sup> round report on Recommendation 14.

		<i>that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.</i>
19. Other forms of reporting	C	
20. Other DNFbps and secure transaction techniques	C	
21. Special attention for higher risk countries	PC	<ul style="list-style-type: none"> <li>• MSPs, provident funds, insurance companies and agents are not covered for the purposes of Recommendation 21;</li> <li>• Apart from banking institutions, there is no explicit obligation to examine as far as possible the background and purpose of transactions with no apparent economic or visible lawful purpose where persons from countries that do not or insufficiently apply FATF Recommendations are involved.</li> </ul>
22. Foreign branches and subsidiaries	PC	<ul style="list-style-type: none"> <li>• No binding obligation to apply AML/CFT measures consistent with Israeli requirements and FATF recommendations for all financial institutions (apart from banks).</li> </ul>
23. Regulation, supervision and monitoring	LC	<p><b>Effectiveness</b></p> <ul style="list-style-type: none"> <li>• The lack of prompt adoptions on the Orders by the competent Ministers that require the approval of the designated Knesset Committee.</li> </ul>
24. DNFbps - Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>• There are no AML/CFT requirements in force for DNFbps, thus there are no mechanisms in place for supervising, monitoring compliance with AML/CFT obligations</li> </ul>
25. Guidelines and Feedback	PC	<ul style="list-style-type: none"> <li>• More case-specific feedback on UARs could be undertaken to reporting entities;</li> <li>• There is not a full coverage of guidelines for the whole of the financial sector;</li> <li>• No guidance for financial institutions on the methods for recognising PEPs during the business relationship;</li> <li>• As consequence of the absence of AML/CFT requirements for DNFbps in force, guidance and feedback on UARs do not exist.</li> <li>• Lack of guidance for financial institutions on the methods for recognising PEPs during the business relationship could have an impact on effectiveness of implementation.</li> </ul>
<b>Institutional and other measures</b>		
26. The FIU	C	
27. Law enforcement authorities	LC	<ul style="list-style-type: none"> <li>• <i>Effectiveness could be enhanced if opportunities for more fully exploiting FIU intelligence were</i></li> </ul>

		<i>considered and acted upon as appropriate</i>
28. Powers of competent authorities	C	
29. Supervisors	C	
30. Resources, integrity and training <sup>47</sup>	C	
31. National co-operation	C	
32. Statistics <sup>48</sup>	C	
33. Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> <li>Concern that it is not sufficiently guaranteed that competent authorities have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control of legal persons;</li> <li>Concern over the comprehensiveness of the current approach to bearer shares.</li> </ul>
34. Legal arrangements – beneficial owners	PC	<ul style="list-style-type: none"> <li>Insufficient information available on the beneficial owners of private or foreign trusts;</li> <li>Absence of legal requirements on trust service providers to obtain, verify and retain records of the trusts they create, including beneficial ownership details.</li> </ul>
<b>International Co-operation</b>		
35. Conventions	C	
36. Mutual legal assistance (MLA)	C	
37. Dual criminality	C	
38. MLA on confiscation and freezing	LC	<ul style="list-style-type: none"> <li>Limited range of offences contained in Schedule 2 of the 1998 Law.</li> <li>Concerns over effectiveness.</li> </ul>
39. Extradition	C	
40. Other forms of co-operation	C	
<b>Nine Special Recommendations</b>		
SR.I Implement UN instruments	LC	<ul style="list-style-type: none"> <li>Exemption of Israeli citizens who are Israeli residents from the declaration system;</li> </ul> <p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>The current timeframe for giving effect to declarations following listings made pursuant to</li> </ul>

<sup>47</sup> The review of Recommendation 30 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3<sup>rd</sup> round report on resources integrity and training of law enforcement authorities and prosecution agencies.

<sup>48</sup> The review of Recommendation 32 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3<sup>rd</sup> round report on Recommendations 27, 37, 38, 39 and SR.IX.



		UNSCR 1267 is insufficiently prompt.
SR.II Criminalise terrorist financing	C	
SR.III Freeze and confiscate terrorist assets	LC	<ul style="list-style-type: none"> <li>The declaration process does not apply to Israeli citizens who are Israeli residents;</li> <li>The current timeframe for giving effect to declarations following listings made pursuant to UNSC 1267 is insufficiently prompt.</li> </ul>
SR.IV Suspicious transaction reporting	C	
SR.V International co-operation	C	
SR.VI AML requirements for money/value transfer services	PC	<ul style="list-style-type: none"> <li>The gaps identified under Recommendation 5, 6, 10, 11, 15, 21-23 and SR.VII also affect compliance with Special Recommendation VI;</li> </ul> <p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>The risk of un-regulated MSPs is not addressed;</li> <li>Monitoring mechanism adopted by the Israeli authorities might be negatively affected by the continuous increase in the number of the MSPs.</li> </ul>
SR.VII Wire transfer rules	PC	<ul style="list-style-type: none"> <li>Banking corporations, MSPs, provident funds and insurance companies and agents are not required to obtain and maintain the originator information for all wire transfers (both cross-border and domestic ones) exceeding 1,000 euro/USD;</li> <li>Banking corporations, MSPs, provident funds and insurance companies and agents are not required to maintain originator information in the payment chain;</li> <li>No specific requirements in law or regulation setting out information requirements for domestic wire transfers;</li> <li>No requirements to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by the complete originator information.</li> </ul>
SR.VIII Non-profit organisations	LC	<p><i>Though important steps are being taken:</i></p> <ul style="list-style-type: none"> <li><i>No evidence that the adequacy of the law on Non-Profit Organisations overall had been formally reviewed.</i></li> <li><i>No specific outreach programme to raise awareness had commenced.</i></li> <li><i>Unclear whether detailed domestic and international transaction records are kept.</i></li> <li><i>Threshold for identification of significant donors needs reviewing.</i></li> <li><i>Gateways for international information sharing need clarifying.</i></li> </ul>

---

<i>SR.IX Cross Border declaration and disclosure</i>	<i>LC</i>	<ul style="list-style-type: none"><li>• <i>Not all bearer negotiable instruments covered.</i></li><li>• <i>The threshold declaration regime is too high under the immigrant rules.</i></li></ul>
--	-----------	--

**9 TABLE 2: RECOMMENDED ACTION PLAN TO IMPROVE THE AML/CFT SYSTEM**

AML/CFT System	Recommended Action (listed in order of priority)
<b>1. General</b>	<b>No text required</b>
<b>2. Legal System and Related Institutional Measures</b>	
2.1 Criminalisation of Money Laundering (R.1 & 2)	The offence of money laundering should “extend to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime”.
2.2 Criminalisation of Terrorist Financing (SR.II)	Israel should consider the impact of including in section 1 of the PTFL the need to demonstrate that an act of terrorism be committed “ <i>in order to influence a matter of policy, ideology or religion</i> ” and ensure that its ability to prosecute in factual settings contemplated by the FT Convention are not negatively affected
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	The Israeli authorities should take steps to extend modern legislation on confiscation and related matters to the full range of relevant predicate offences.
2.4 Freezing of funds used for terrorist financing (SR.III)	<p>The current exemption from the declaration process for Israeli citizens who are Israeli residents should be reconsidered.</p> <p>The evaluation team urges the Israeli authorities to consider how the designation process can be expedited further, since it is still insufficiently prompt to satisfy international standards.</p>
2.5 The Financial Intelligence Unit and its functions (R.26)	It is essential for IMPA and the Israeli Police to find a way to have a more adequate feedback regarding disseminated reports, in order to be able to evaluate the effectiveness of IMPA’s analysis capacity and of the AML/CFT system as a whole.
<b>3. Preventive Measures – Financial Institutions</b>	
3.1 Risk of money laundering or terrorist financing	
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<p><b>Recommendation 5</b></p> <p>All outstanding Orders should be adopted promptly.</p> <p>A review of the non-bank lending activities in Israel should be undertaken and areas not specifically covered by the PMLL should be brought within the scope of the AML/CFT regime.</p> <p>A direct prohibition for maintaining accounts in fictitious</p>

	<p>names should be introduced to a law or regulation.</p> <p>A requirement for financial institutions to apply CDD measures when there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds should be introduced.</p> <p>Provident funds, insurance companies and MSPs should be required to apply CDD measures when the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.</p> <p>The requirement for insurance companies and agents and provident funds to verify the identity of a customer, with no threshold, should be brought into line with the FATF requirement.</p> <p>A requirement to verify the legal status of the legal person or legal arrangement by obtaining information concerning the directors should be introduced.</p> <p>The definition of the beneficial owner should be amended in order to be fully in line with the FATF Recommendations.</p> <p>There should be a requirement to take reasonable measures to verify the identity of the beneficial owner of the customer with respect to provident funds, insurance companies and MSPs.</p> <p>An obligation should be introduced to take reasonable measures to understand the ownership and control structure of the customer as well as determine who are the natural persons that ultimately own or control the customer and those persons who exercise ultimate effective control over a legal person or arrangement (apart from banking corporations).</p> <p>The obligation to conduct on-going due diligence for banking corporations should be set out in “law or regulation” ” and should be introduced for provident funds, insurance companies and agents and MSPs.</p> <p>The requirement for non-banking financial institutions to apply enhanced CDD should be foreseen as required by the FATF Recommendations.</p> <p>A prohibition from applying simplified CDD to customers from countries which are not in compliance with and have not effectively applied FATF standards should be introduced.</p> <p>A direct prohibition from applying reduced CDD measures in the circumstances when suspicions of ML/FT or other risk scenarios exist should be introduced.</p> <p>There should be no exemption in the Banking Order regarding registering a beneficiary if an account which an attorney, a</p>
--	--

	<p>rabbinical pleader, or an accountant wishes to open for his clients.</p> <p>Other financial institutions (apart from banks, the Postal Bank, portfolio managers and Stock Exchange members) should be required to consider making a suspicious transaction report when they are unable to comply with CDD requirements.</p> <p><b>Recommendation 6</b></p> <p>Israel should ensure that the full range of PEPs, as defined by the FATF is covered.</p> <p>Israeli authorities are encouraged to provide guidance for financial institutions on the methods for recognising PEPs during the business relationship.</p> <p>It is of utmost importance to put in force the relevant legislative acts that are still in draft</p>
<p>3.3 Third Parties and Introduced Business (R.9)</p>	<p>None</p>
<p>3.4 Financial institution secrecy or confidentiality (R.4)</p>	<p>None</p>
<p>3.5 Record keeping and wire transfer rules (R.10 &amp; SR.VII)</p>	<p><b>Recommendation 10</b></p> <p>The authorities are encouraged to introduce specific requirement to keep records longer if requested by a competent authority in specific cases and upon proper authority.</p> <p>There is a need for specific requirement in the legislation to keep records of the account files and business correspondence.</p> <p>A requirement should be introduced that transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.</p> <p>Thresholds on document retention should be removed for the Postal Bank, insurers, MSPs, provident funds and companies managing provident funds;</p> <p><b>Special Recommendation VII</b></p> <p>The evaluators encourage the Israeli authorities to expedite the adoption of the draft Orders.</p> <p>The requirement to include the name of the account holder and the number of the account should extend to all cross-border and domestic wire transfers.</p> <p>The requirement should cover all wire transfers of EUR/USD 1.000 or more as recommended by c.VII.1.</p> <p>As regards the “<i>Maintenance of Originator Information</i>” in the payment chain, the Israeli authorities have adopted</p>

	<p>amendments to the Stock Exchange members and the Postal Bank Orders. However such measures are not in place for banking corporations provident funds, insurance companies and agents and should be considered to be implemented for MSPs if these are part of the payment chain.</p> <p>The Israeli authorities should adopt measures (that might be regulatory acts issued by competent regulatory or supervisory authorities) that cover all financial institutions and harmonise the regulatory framework on SRVII among financial institutions having regards to the specific characteristics of each category of financial intermediaries.</p> <p>A requirement should be introduced to adopt an effective risk-based procedure for identifying and handling wire transfers that are not accompanied by the complete originator information when the Israeli financial institutions receive wire transfers.</p>
<p>3.6 Monitoring of Transactions and Relationship Reporting (R. 11 and R. 21)</p>	<p><b>Recommendation 11</b></p> <p>Introduce direct obligation to examine complex and unusual transactions and keep findings in writing for MSPs, provident funds and insurers and insurance agents.</p> <p>Provide obligation to pay special attention to all complex and unusual large transactions for MSPs, provident funds and insurers and insurance agents.</p> <p><b>Recommendation 21</b></p> <p>MSPs, provident funds and insurers and insurance agents should be covered for the purposes of Recommendation 21 as AML/CFT orders concerning money service providers, insurance companies and provident funds were in draft form.</p> <p>Israeli authorities should provide explicit obligation to MSPs, provident funds and insurers and insurance agents to examine as far as possible the background and purpose of transactions with no apparent economic or visible lawful purpose where persons from countries that do not or insufficiently apply FATF Recommendations are involved.</p>
<p>3.7 Suspicious transaction reports and other reporting (R.13-14 &amp; SR.IV)</p>	<p>It is recommended that the Israeli authorities should consider providing a general requirement in the PMLL (as in case of the PTFL) in order to remove any inconsistency and doubts among various financial institutions</p> <p>The Portfolio managers should not be exempted from the reporting obligation under their Order if the transaction is performed in a managed account by a client who is a public institution, a banking corporation, the Postal Bank; an insurer; a Stock Exchange member; a provident fund and a managing company for the provident fund if manages a fund.</p> <p>Attempted transactions should be explicitly covered in the Banking Order, the Insurer and Insurance Agents Order, the Provident Funds Order and the Money Service Providers</p>

	<p>Order.</p> <p>The Israeli authorities should amend Section 10(a) of the PTFL in order to introduce a clear requirement to report UARs directly to IMPA.</p>
<p>3.8 Internal controls, compliance, audit and foreign branches (R.15 and 22)</p>	<p><b>Recommendation 15</b></p> <p>The competent regulators are invited to issue general enforceable requirements on the establishment and maintenance of policies, procedures and controls to prevent ML and FT as required under c.15.1, on the maintenance of an adequately resourced and independent audit function to test compliance with AML/CFT policies, procedures and controls as well as on the establishment of an on-going employee training on AML/CFT following the example of banking sector.</p> <p><b>Recommendation 22</b></p> <p>A binding obligation to apply AML/CFT measures consistent with the Israeli requirements and the FATF recommendations should be made to all financial institutions, not only banking corporations as there is a possibility to open a foreign branch or subsidiary in the future.</p>
<p>3.9 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 )</p>	<p><b>Recommendation 23</b></p> <p>As some limited aspects of non-bank lending are not fully covered by the AML/CFT regime. A review of the non-bank lending activities in Israel should be undertaken and areas not specifically covered by the PMLL should be brought within the scope of the AML/CFT supervisory regime</p> <p>A lack of rapid adoption of regulatory Orders might be balanced with a pro-active role of the designated Supervisors that, under the respective sectorial legislations, should consider issuing Directives, Circulars or any other enforceable mean in order to comply with the FATF and MONEYVAL recommendations and to complement or support the AML/CFT requirements.</p> <p>The evaluators recommend the Israeli authorities to structure in a clear and detailed manner the AML/CFT supervision, having regard to the fact that – for example – the ISA is starting to carry out on-site inspections with its own internal staff.</p> <p><b>Recommendation 17</b></p> <p>The Israeli authorities should consider extending administrative sanctions to directors and senior managers.</p> <p>The timeliness of sanction imposed should be reconsidered.</p> <p><b>Recommendation 25(c. 25.1 [Financial institutions])</b></p> <p>The Israeli authorities are invited to increase the coverage of information and education among financial institutions, having regard to the risk posed by MSPs in term of ML/TF as</p>

	<p>indicated by the Israeli authorities themselves and by the representatives of the Industries.</p> <p><b>Recommendation 29</b></p> <p>The evaluators invite the Israeli authorities to consider:</p> <ul style="list-style-type: none"> <li>i) to adopt an AML/CFT Risk-Based Approach (RBA) that is fully in line with the FATF Recommendations; and</li> <li>ii) to guarantee a full coverage of the supervised entities.</li> </ul> <p>The evaluators invite the Israeli authorities to conduct a full coverage of inspections – in due time – of all supervised entities, avoiding under-estimated ML/TF cases.</p>
<p>3.10 Money or value transfer services (SR. VI)</p>	<p>Evaluators encourage the Israeli authorities to conduct AML/CFT surveillance (i.e. monitoring or supervision) focused on the risk in the light of the experience gathered (e.g. on-site and off-site inspections, investigations, indictments, convictions, UARs, CTRs, etc.). Moreover, Israeli authorities should strengthen the regulatory measures, in particular those related to wire transfers (in line with SRVII).</p> <p>The Israeli authorities should take action to identify un-registered MSPs and make these persons subject to AML/CFT requirements having also regard to the FATF Best Practices paper for SRVI.</p> <p>The Israeli authorities should ensure an effective implementation of the registration system for MSPs and make sure that the requirements applicable to MSPs fully meet the FATF requirements. . In particular, the authorities should also take steps to make the threshold equivalent to 1,000 USD/EUR for both domestic and foreign wire transfers.</p> <p>The Israeli authorities are encouraged to adopt legislative and regulatory measures in accordance with the FATF Recommendations on the preventive side.</p> <p>The Israeli authorities should pose attention to the effectiveness of the monitoring mechanism in order to guarantee a proper surveillance of the MSPs operators.</p>
<p><b>4. Preventive Measures – Non-Financial Businesses and Professions</b></p>	
<p>4.1 Customer due diligence and record-keeping (R.12)</p>	<p>The Israeli authorities should introduce the relevant requirements for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants as at the moment of this evaluation they do not fall under the AML/CFT obligations. The evaluators are concerned that the situation with regard to DNFBPs remains the same as in the 3<sup>rd</sup> round report. As it was recommended in the 3<sup>rd</sup> round MER, the evaluators urgently recommend that Israeli authorities to take prompt action to introduce the relevant Orders.</p>



	<p><b>Recommendation 5</b></p> <p>Introduce obligation for CDD for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.</p> <p><b>Recommendation 6</b></p> <p>Introduce obligations for determination of PEPs both at the inception of business relationship as well as during the relationship for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.</p> <p><b>Recommendation 8</b></p> <p>Introduce obligation under R.8 for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.</p> <p><b>Recommendation 9</b></p> <p>Introduce obligation under R.9 for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.</p> <p><b>Recommendation 10</b></p> <p>Introduce record keeping obligations for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.</p> <p><b>Recommendation 11</b></p> <p>Introduce obligations to examine complex and unusual transactions and keep findings in writing as well as to pay special attention to all complex and unusual large transactions for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.</p>
<p>4.2 Suspicious transaction reporting (R.16)</p>	<p>As it was recommended in the previous MER, the evaluators urgently recommend the Israeli authorities to take prompt action in order to extend the full range of ML/FT reporting requirements to all DNFBPs.</p> <p><b>Recommendation 13</b></p> <p>Recommendation 16 (applying Recommendations 13 and SR.IV) should be implemented as a matter of urgency.</p> <p><b>Recommendation 15</b></p> <p>The evaluators urgently recommend the Israeli authorities to take prompt action in order to extend AML/CFT preventive measures to all DNFBPs as well as set forth obligations on internal controls, internal audit, screening procedures and on-</p>

	<p>going training on AML/CFT issues.</p> <p><b>Recommendation 21</b> Requirements for DNFBPs under Recommendation 21 must be implemented for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants as matter of urgency.</p>
4.3 Regulation, supervision and monitoring (R.24-25)	The evaluation team urgently recommends the Israeli authorities to take prompt action in order to extend AML/CFT preventive measures to all DNFBPs as well as to establish enforcement mechanisms on regulation, supervision and monitoring.
4.4 Other non-financial businesses and professions/ Modern secure transaction techniques (R.20)	
<b>5. Legal Persons and Arrangements &amp; Non-Profit Organisations</b>	
5.1 Legal persons – Access to beneficial ownership and control information (R.33)	<p>The Companies Register continues to relate only to formal legal ownership and control (as opposed to beneficial ownership). The evaluators recommend that the adequacy of the current approach be revisited by the appropriate Israeli authorities with a view to ensuring that the competent authorities have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control of legal persons.</p> <p>Although at present it appears that only a very limited number of Israeli companies issue bearer shares and financial institutions treat such customers as high-risk, the evaluators recommend that further consideration be given by the appropriate authorities to the adequacy of the existing approach. In this context they should consider prohibiting the issue of bearer shares or taking other appropriate measures such as immobilisation or dematerialisation.</p>
5.2 Legal arrangements – Access to beneficial ownership and control information (R.34)	Israel should promptly implement legislation, and such other measures as may be appropriate, to ensure that adequate, accurate and timely information is available to its law enforcement authorities concerning the beneficial ownership of trusts. In particular – it is necessary that a legal requirement be put in place for all trust service providers (including lawyers) to obtain, verify and retain all records of the trusts they create, including identification and verification of all beneficial owners. An appropriate supervisory framework to ensure compliance with the above and through which appropriate guidance is provided on the identification of unusual transactions in this context is equally important.

<b>6. National and International Co-operation</b>	
6.1 National co-operation and coordination (R.31)	
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	<p>The Israeli citizens who are Israeli residents should not be exempted from the declaration system;</p> <p>The current timeframe for giving effect to declarations following listings made pursuant to UNSCR 1267 should be reconsidered by the Israeli authorities since it is insufficiently prompt.</p>
6.3 Mutual Legal Assistance (R.36 & SR.V)	It is recommended that the relevant authorities continue to monitor the development of confiscation assistance with particular care.
6.5 Other Forms of Co-operation (R.40 & SR.V)	
<b>7. Other Issues</b>	
7.1 Resources and statistics (R. 30 & 32)	<p><b>Recommendation 30</b></p> <p>The evaluators recommend the Israeli authorities to consider increasing the staff dedicated to on-site inspections.</p> <p>The evaluators recommend supervisors to work closely with external examiners in order to permit Supervisors to be continuously informed on the supervised persons and to guarantee an effective linkage between the Supervisors and the external examiners aimed at strengthening a clear understanding of the compliance and the AML/CFT risks. For this reason, for example, the practice to attend the on-site inspections by a representative of the Supervisor is welcome. Other additional measures to promote this expectation as well as to extend, on on-going basis, dialogue between Supervisors and external contracted examiners should be considered.</p> <p><b>Recommendation 32</b></p> <p>The Israeli authorities are invited to consider the FATF recommendations (e.g. National Risk Assessment, AML/CFT risk-approach supervision and effectiveness and efficiency) in order to properly monitor – through the use of innovative templates of statistics and other methods - the efficiency and effectiveness of the Israeli AML/CFT system.</p>
7.2 Other relevant AML/CFT measures or issues	
7.3 General framework – structural issues	

**10 TABLE 3: AUTHORITIES' RESPONSE TO THE EVALUATION (IF NECESSARY)**

<b>RELEVANT SECTIONS AND PARAGRAPHS</b>	<b>COUNTRY COMMENTS</b>

## V. COMPLIANCE WITH THE 3<sup>RD</sup> EU AML/CFT DIRECTIVE

Israel is not a member country of the European Union. It is not directly obliged to implement **Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing** (hereinafter: “the Directive”) and the **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.**

The following sections describe the major differences between the Directive and the relevant FATF 40 Recommendations plus 9 Special Recommendations.

1.	Corporate Liability
<i>Art. 39 of the Directive</i>	Member States shall ensure that natural and legal persons covered by the Directive can be held liable for infringements of the national provisions adopted pursuant to this Directive.
<i>FATF R. 2 and 17</i>	Criminal liability for money laundering should extend to legal persons. Where that is not possible (i.e. due to fundamental principles of domestic law), civil or administrative liability should apply.
<i>Key elements</i>	The Directive provides no exception for corporate liability and extends it beyond the ML offence even to infringements which are based on national provisions adopted pursuant to the Directive. What is the position in your jurisdiction?
<i>Description and Analysis</i>	<p>Section 23 of the Penal Code covers the corporate liability.</p> <p>As regards the infringement of the preventive legislation (i.e. Prohibition of Money laundering Law, PMLL), section 14 of PMLL sets forth administrative sanctions imposed to any obliged party that violates the provisions of that law.</p> <p>The procedures of the Sanctions Committees – in charge of imposing these sanctions – are governed by the ML Prohibition Regulation 2001.</p> <p>However, as indicated earlier in this report (under R17), Israeli authorities indicated that if the obliged entity is a natural person (as it is in the case of cross border reporting, MSPs, portfolio managers and insurance agents) an administrative sanction is imposed on the natural person in violation. If the violator is not a natural person (such as for banking corporations) sanctions are imposed to the financial intermediary itself and nor to the directors and senior managements and neither to the employee who infringed the AML/CFT requirements.</p> <p>It is worth mentioning that infringement of certain preventive measures (such as “failure to apply CDD requirements”) is liable to criminal sanction under section 3B of the PMLL.</p> <p>However this measure, in the view of the evaluators, leaves a certain prosecutorial discretion and is not proportionate the violations</p>

	ascertained.
<i>Conclusion</i>	<p>The Israeli Penal Code incorporates the offence of criminal liability for legal entities under section 23 and natural and legal persons are liable of criminal sanction under section 3B of the PMLL for violations of that law.</p> <p>However the Israeli AML/CTF sanction regime inhibits the application of administrative sanction to the directors and senior managements of legal obliged parties (such as banking corporations, securities and insurance companies).</p>
<i>Recommendations and Comments</i>	Administrative sanctions should be imposed on directors and senior management of legal entities.

<b>2.</b>	<b>Anonymous accounts</b>
<i>Art. 6 of the Directive</i>	Member States shall prohibit their credit and financial institutions from keeping anonymous accounts or anonymous passbooks.
<i>FATF R. 5</i>	Financial institutions should not keep anonymous accounts or accounts in obviously fictitious names.
<i>Key elements</i>	Both prohibit anonymous accounts but allow numbered accounts. The Directive allows accounts or passbooks on fictitious names but always subject to full CDD measures. What is the position in your jurisdiction regarding passbooks or accounts on fictitious names?
<i>Description and Analysis</i>	<p>Numbered accounts are allowed in Israel. Numbered accounts are defined in the Banking Directive 411 as accounts in which the name of the beneficial owner is known to the banking corporation but is substituted by an account number or code name in some documentation. Such accounts are subject to full CDD measures that apply to all accounts, including identification procedures and on-going monitoring. It is envisaged in the Directive that names of such account holders are disclosed to competent authorities.</p> <p>As for the accounts in fictitious names they are not prohibited in Israel. Nonetheless, any accounts in Israel are subject to full CDD measures.</p>
<i>Conclusion</i>	The situation in Israel is in line with the 3 <sup>rd</sup> Directive, however this is not in line with the FATF Recommendations
<i>Recommendations and Comments</i>	N/A

<b>3.</b>	<b>Threshold (CDD)</b>
<i>Art. 7 b) of the Directive</i>	The institutions and persons covered by the Directive shall apply CDD measures when carrying out occasional transactions <u>amounting</u> to EUR 15 000 or more.
<i>FATF R. 5</i>	Financial institutions should undertake CDD measures when carrying out occasional transactions <u>above</u> the applicable designated threshold.
<i>Key elements</i>	Are transactions and linked transactions of EUR 15 000 covered?
<i>Description and Analysis</i>	<p>Israeli legislation for banking corporations, Stock Exchange members and Postal Bank provides that occasional transaction in cash involving NIS 10,000 (€2,000) or more, or another transaction involving NIS 50,000 (€10,000) or more are not carried out without identification.</p> <p>According to the MSP's Order, the identification process is required whenever a transaction is taking place, whether it is a single operation or several operations linked together. The type of transactions which</p>

	demand identification include currency exchange – 50,000 NIS, Check cashing – 50,000 NIS (if the check is cashed into counter check, the threshold is 500,000 NIS (€100,000)), wire transfers – 50,000 NIS.
<i>Conclusion</i>	Occasional transactions above €15,000 are covered.
<i>Recommendations and Comments</i>	N/A

<b>4.</b>	<b>Beneficial Owner</b>
<i>Art. 3(6) of the Directive (see Annex)</i>	The definition of ‘Beneficial Owner’ establishes minimum criteria (percentage shareholding) where a natural person is to be considered as beneficial owner both in the case of legal persons and in the case of legal arrangements
<i>FATF R. 5 (Glossary)</i>	‘Beneficial Owner’ refers to the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or legal arrangement.
<i>Key elements</i>	Which approach does your country follow in its definition of “beneficial owner”? Please specify whether the criteria in the EU definition of “beneficial owner” are covered in your legislation.
<i>Description and Analysis</i>	The definition of “beneficiary” in section 7 to the PMLL is as follows: <i>““beneficiary” – a person for whom or for whose benefit the property is held or the transaction in the property was carried out, or who has the ability to guide a transaction in property, all of this directly or indirectly;”</i> In the case the account is opened by a corporation or the transaction is carried out by a corporation, the beneficiary may include the one who has control of the corporation. The term “control” for this matter, has been defined in section 7 of the PMLL by way of a referral to the Securities Law, meaning, the following definition: <i>“Control” – the ability to direct the activity of the corporation, excluding the ability which derives only from serving as a director or as another position of the corporation, and it is assumed that a man is a holder of controlling interest of the corporation if he holds half or more of a certain type of control means of the corporation”.</i>
<i>Conclusion</i>	There is no reference in the definition of “beneficial owner” to the percentage shareholding, however the definition is not fully in line since it does not refer to “a natural person”.
<i>Recommendations and Comments</i>	The beneficial owner definition should be amended in order to refer to “a natural person”.

<b>5.</b>	<b>Financial activity on occasional or very limited basis</b>
<i>Art. 2 (2) of the Directive</i>	Member States may decide that legal and natural persons who engage in a financial activity on an occasional or very limited basis and where there is little risk of money laundering or financing of terrorism occurring do not fall within the scope of Art. 3(1) or (2) of the Directive. Art. 4 of Commission Directive 2006/70/EC further defines this provision.
<i>FATF R. concerning financial institutions</i>	When a financial activity is carried out by a person or entity on an occasional or very limited basis (having regard to quantitative and

	absolute criteria) such that there is little risk of money laundering activity occurring, a country may decide that the application of anti-money laundering measures is not necessary, either fully or partially (2004 AML/CFT Methodology para 23; Glossary to the FATF 40 plus 9 Special Recs.).
<i>Key elements</i>	Does your country implement Art. 4 of Commission Directive 2006/70/EC?
<i>Description and Analysis</i>	Israel has not granted any exemptions to legal or natural persons who engage in a financial activity on an occasional or very limited basis.
<i>Conclusion</i>	Israel did not implement Art. 4 of Commission Directive 2006/70/EC.
<i>Recommendations and Comments</i>	N/A

<b>6.</b>	<b>Simplified Customer Due Diligence (CDD)</b>
<i>Art. 11 of the Directive</i>	By way of derogation from the relevant Article the Directive establishes instances where institutions and persons may not apply CDD measures. However the obligation to gather sufficient CDD information remains.
<i>FATF R. 5</i>	Although the general rule is that customers should be subject to the full range of CDD measures, there are instances where reduced or simplified measures can be applied.
<i>Key elements</i>	Is there any implementation and application of Art. 3 of Commission Directive 2006/70/EC which goes beyond the AML/CFT Methodology 2004 criterion 5.9?
<i>Description and Analysis</i>	In Israel, financial institutions are always required to apply CDD measures in all circumstances.
<i>Conclusion</i>	Israel did not implement Art. 3 of Commission Directive 2006/70/EC
<i>Recommendations and Comments</i>	N/A

<b>7.</b>	<b>Politically Exposed Persons (PEPs)</b>
<i>Art. 3 (8), 13 (4) of the Directive (see Annex)</i>	The Directive defines PEPs broadly in line with FATF 40 (Art. 3(8)). It applies enhanced CDD to PEPs residing in another Member State or third country (Art. 13(4)). Directive 2006/70/EC provides a wider definition of PEPs (Art. 2) and removal of PEPs after one year of the PEP ceasing to be entrusted with prominent public functions (Art. 2(4)).
<i>FATF R. 6 and Glossary</i>	Definition similar to Directive but applies to individuals entrusted with prominent public functions in a foreign country.
<i>Key elements</i>	Does your country implement Art. 2 of Commission Directive 2006/70/EC, in particular Art. 2(4), and does it apply Art. 13(4) of the Directive?
<i>Description and Analysis</i>	In various Orders politically exposed person is defined as overseas residence with senior public positions from outside Israel. It can be considered as being in line with FATF definition. Art. 13(4) of the Directive is applied for customers being PEPs. Such customers are considered high risk customers. However, the definition does not extend to “PEPs after one year of the PEP ceasing to be entrusted with prominent public functions”.



<i>Conclusion</i>	Israel did not implement Art. 2 of Commission Directive 2006/70/EC.
<i>Recommendations and Comments</i>	N/A

<b>8.</b>	<b>Correspondent banking</b>
<i>Art. 13 (3) of the Directive</i>	For correspondent banking, Art. 13(3) limits the application of Enhanced Customer Due Diligence (ECDD) to correspondent banking relationships with institutions from non-EU member countries.
<i>FATF R. 7</i>	Recommendation 7 includes all jurisdictions.
<i>Key elements</i>	Does your country apply Art. 13(3) of the Directive?
<i>Description and Analysis</i>	ECDD measures are applied to all foreign banks, except for those situated in the OECD countries.
<i>Conclusion</i>	Israel did not apply Article 13(3) of the Directive
<i>Recommendations and Comments</i>	N/A

<b>9.</b>	<b>Enhanced Customer Due Diligence (ECDD) and anonymity</b>
<i>Art. 13 (6) of the Directive</i>	The Directive requires ECDD in case of ML or TF threats that may arise from <u>products</u> or <u>transactions</u> that might favour anonymity.
<i>FATF R. 8</i>	Financial institutions should pay special attention to any money laundering threats that may arise from new or developing <u>technologies</u> that might favour anonymity [...].
<i>Key elements</i>	The scope of Art. 13(6) of the Directive is broader than that of FATF R. 8, because the Directive focuses on products or transactions regardless of the use of technology. How are these issues covered in your legislation?
<i>Description and Analysis</i>	Financial institutions in Israel are required to determine a policy, tools and risk management with regard to the prohibition of ML and TF, for the application of the obligations according to the order, including in order of tracing ML and TF threats deriving, inter alia, from new technologies, particularly those that enables non face to face transactions.
<i>Conclusion</i>	The approach used in Israel is in line with the FATF Recommendations, however is not in line with the 3 <sup>rd</sup> Directive.
<i>Recommendations and Comments</i>	N/A

<b>10.</b>	<b>Third Party Reliance</b>
<i>Art. 15 of the Directive</i>	The Directive permits reliance on professional, qualified third parties from EU Member States or third countries for the performance of CDD, under certain conditions.
<i>FATF R. 9</i>	Allows reliance for CDD performance by third parties but does not specify particular obliged entities and professions which can qualify as third parties.
<i>Key elements</i>	What are the rules and procedures for reliance on third parties? Are there special conditions or categories of persons who can qualify as third parties?
<i>Description and Analysis</i>	As a rule, the Orders require financial institutions to obtain original identification documentation. Nevertheless, they can be satisfied with a certified copy of the ID document, provided it has been authenticated by one of the officials or authorities specified the Orders (see hereinafter).

	The Orders also provide that financial institutions may perform the face to face identification of the customer also by other authorised persons / entities specified in the Order - someone who is licensed to practise law in Israel, a diplomatic or consular representative of Israel abroad or an authority stipulated in section 6 of the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents.
<i>Conclusion</i>	In Israel there is no direct permission to rely on the CDD performance by third parties, but rather the provision to rely on the face to face identification only done by a person so authorised (lawyers, diplomatic or consular representatives).
<i>Recommendations and Comments</i>	N/A

<b>11.</b>	<b>Auditors, accountants and tax advisors</b>
<i>Art. 2 (1)(3)(a) of the Directive</i>	CDD and record keeping obligations are applicable to auditors, external accountants and tax advisors acting in the exercise of their professional activities.
<i>FATF R. 12</i>	CDD and record keeping obligations <ol style="list-style-type: none"> <li>1. do not apply to auditors and tax advisors;</li> <li>2. apply to accountants when they prepare for or carry out transactions for their client concerning the following activities: <ul style="list-style-type: none"> <li>• buying and selling of real estate;</li> <li>• managing of client money, securities or other assets;</li> <li>• management of bank, savings or securities accounts;</li> <li>• organisation of contributions for the creation, operation or management of companies;</li> <li>• creation, operation or management of legal persons or arrangements, and buying and selling of business entities (2004 AML/CFT Methodology criterion 12.1(d)).</li> </ul> </li> </ol>
<i>Key elements</i>	The scope of the Directive is wider than that of the FATF standards but does not necessarily cover all the activities of accountants as described by criterion 12.1(d). Please explain the extent of the scope of CDD and reporting obligations for auditors, external accountants and tax advisors.
<i>Description and Analysis</i>	DNFBPs are not subject to the AML/CFT obligations.
<i>Conclusion</i>	DNFBPs are not subject to the AML/CFT obligations.
<i>Recommendations and Comments</i>	The Israeli authorities are strongly advised to introduce obligation for CDD for real estate agents, dealers in precious metals and stones, trust and company service providers, lawyers, notaries, other independent legal professions and accountants.

<b>12.</b>	<b>High Value Dealers</b>
<i>Art. 2(1)(3)e) of the Directive</i>	The Directive applies to natural and legal persons trading in goods where payments are made in cash in an amount of EUR 15 000 or more.
<i>FATF R. 12</i>	The application is limited to those dealing in precious metals and precious stones.
<i>Key elements</i>	The scope of the Directive is broader. Is the broader approach adopted

	in your jurisdiction?
<i>Description and Analysis</i>	High value dealers are not subject to the AML/CFT obligations
<i>Conclusion</i>	High value dealers are not subject to the AML/CFT obligations
<i>Recommendations and Comments</i>	N/A

<b>13.</b>	<b>Casinos</b>
<i>Art. 10 of the Directive</i>	Member States shall require that all casino customers be identified and their identity verified if they purchase or exchange gambling chips with a value of EUR 2 000 or more. This is not required if they are identified at entry.
<i>FATF R. 16</i>	The identity of a customer has to be established and verified when he or she engages in financial transactions equal to or above EUR 3 000.
<i>Key elements</i>	In what situations do customers of casinos have to be identified? What is the applicable transaction threshold in your jurisdiction for identification of financial transactions by casino customers?
<i>Description and Analysis</i>	As regards Casinos, Israeli legislation does not permit their establishment (including internet casinos). Legal gambling in Israel takes place in the form of lotteries and sports betting, each of which is operated by a single public body that are the Israeli State Lottery and the Council for Regulation of Sports Gambling, respectively. The national lottery operates according to a special permit issued under the Penal Code (1977) by the ministry of finance. The permit issued after conferring with IMPA regarding to AML aspects.
<i>Conclusion</i>	There are no casinos in Israel (including internet based casinos).
<i>Recommendations and Comments</i>	N/A

<b>14.</b>	<b>Reporting by accountants, auditors, tax advisors, notaries and other independent legal professionals via a self-regulatory body to the FIU</b>
<i>Art. 23 (1) of the Directive</i>	This article provides an option for accountants, auditors and tax advisors, and for notaries and other independent legal professionals to report through a self-regulatory body, which shall forward STRs to the FIU promptly and unfiltered.
<i>FATF Recommendations</i>	The FATF Recommendations do not provide for such an option.
<i>Key elements</i>	Does the country make use of the option as provided for by Art. 23 (1) of the Directive?
<i>Description and Analysis</i>	DNFBPs are not covered by the AML/CFT legislation.
<i>Conclusion</i>	DNFBPs are not covered by the AML/CFT legislation.
<i>Recommendations and Comments</i>	The Israeli authorities are strongly advised to introduce AML/CFT obligation for all DNFBPs.

<b>15.</b>	<b>Reporting obligations</b>
<i>Arts. 22 and 24 of the Directive</i>	The Directive requires reporting where an institution knows, suspects, or has reasonable grounds to suspect money laundering or terrorist financing

	(Art. 22). Obligated persons should refrain from carrying out a transaction knowing or suspecting it to be related to money laundering or terrorist financing and to report it to the FIU, which can stop the transaction. If to refrain is impossible or could frustrate an investigation, obliged persons are required to report to the FIU immediately afterwards (Art. 24).
<i>FATF R. 13</i>	Imposes a reporting obligation where there is suspicion that funds are the proceeds of a criminal activity or related to terrorist financing.
<i>Key elements</i>	What triggers a reporting obligation? Does the legal framework address <i>ex ante</i> reporting (Art. 24 of the Directive)?
<i>Description and Analysis</i>	Financial institutions are obliged to report to the competent authority any transactions of a customer that, in view of the information in his possession, appear to him unusual, including an attempt to perform a transaction. In addition, the Orders refer to the Schedule of the Orders as a reference list for unusual activities (a non-exhaustive list).
<i>Conclusion</i>	Reporting obligation is triggered by suspicion.
<i>Recommendations and Comments</i>	N/A

<b>16.</b>	<b>Tipping off (1)</b>
<i>Art. 27 of the Directive</i>	Art. 27 provides for an obligation for Member States to protect employees of reporting institutions from being exposed to threats or hostile actions.
<i>FATF R. 14</i>	No corresponding requirement (directors, officers and employees shall be protected by legal provisions from criminal and civil liability for “tipping off”, which is reflected in Art. 26 of the Directive)
<i>Key elements</i>	Is Art. 27 of the Directive implemented in your jurisdiction?
<i>Description and Analysis</i>	Section 24(a) of the PMLL determines that: “Failure to perform in good faith any property transaction, including one with prohibited property, disclosure or non-disclosure, reporting or any other act or omission under the provisions of this Law, shall not constitute a breach of the obligation of confidentiality and trust or any other breach under the provisions of any law or agreement, and any person who acts or fails to act as stated”.
<i>Conclusion</i>	Employees are protected from liability.
<i>Recommendations and Comments</i>	N/A

<b>17.</b>	<b>Tipping off (2)</b>
<i>Art. 28 of the Directive</i>	The prohibition on tipping off is extended to where a money laundering or terrorist financing investigation is being or may be carried out. The Directive lays down instances where the prohibition is lifted.
<i>FATF R. 14</i>	The obligation under R. 14 covers the fact that an STR or related information is reported or provided to the FIU.
<i>Key elements</i>	Under what circumstances are the tipping off obligations applied? Are there exceptions?
<i>Description and Analysis</i>	Section 31A of the PMLL provides for a confidentiality obligation. It states that a person who receives information pursuant to the PMLL, in

	<p>the course of fulfilling his duties or in the course of his work, shall keep it confidential, shall not disclose it to another and shall not make any use of it except in accordance with the provisions of the law or in accordance with a Court Order.</p> <p>The tipping off issue is regulated broadly in the Orders that apply to the financial sector. Section 12 in the Banking Order states:</p> <p><i>"Disclosure of the formulation, existence, nonexistence or contents of a report pursuant to section 9, and of the existence of a complementary report pursuant to section 31(c) of the Law, the existence of a request for the said report or the contents on one of these, and allowing the inspection of documents attesting to a report as aforesaid is prohibited, except to someone duly authorised to be privy to such information for purposes of fulfilling his function in the banking corporation, the supervisor or someone he authorised, the competent authority or pursuant to a court order."</i></p> <p>The Orders for non-banking financial institutions include similar tipping off provision as in the Banking Order.</p>
<i>Conclusion</i>	Prohibition on the disclosure of reporting fact is present in Israeli legislation.
<i>Recommendations and Comments</i>	N/A

<b>18.</b>	<b>Branches and subsidiaries (1)</b>
<i>Art. 34 (2) of the Directive</i>	The Directive requires credit and financial institutions to communicate the relevant internal policies and procedures where applicable on CDD, reporting, record keeping, internal control, risk assessment, risk management, compliance management and communication to branches and majority owned subsidiaries in third (non EU) countries.
<i>FATF R. 15 and 22</i>	The obligations under the FATF 40 require a broader and higher standard but do not provide for the obligations contemplated by Art. 34 (2) of the EU Directive.
<i>Key elements</i>	Is there an obligation as provided for by Art. 34 (2) of the Directive?
<i>Description and Analysis</i>	Only banking corporations have branches and subsidiaries. There is a legal obligation for banking corporations (Directive 411) stating that bank is obliged to apply policy for AML/CFT on a group basis and it is applicable to overseas branches as well. It is also prescribed that whenever the provisions relating to the prevention of money laundering and terrorism financing in the country where said corporation or branch is established differ from the Israel legislation, the stricter provisions among them shall apply insofar as they do not contravene the provisions of local law.
<i>Conclusion</i>	Israel provides obligation according to FATF standards and includes branches and subsidiaries in all foreign countries. This applies to banking industry only.
<i>Recommendations and Comments</i>	Israel should consider applying AML/CFT obligations to other financial institutions as well.

<b>19.</b>	<b>Branches and subsidiaries (2)</b>
<i>Art. 31(3) of the</i>	The Directive requires that where legislation of a third country does not

<i>Directive</i>	permit the application of equivalent AML/CFT measures, credit and financial institutions should take additional measures to effectively handle the risk of money laundering and terrorist financing.
<i>FATF R. 22 and 21</i>	Requires financial institutions to inform their competent authorities in such circumstances.
<i>Key elements</i>	What, if any, additional measures are your financial institutions obliged to take in circumstances where the legislation of a third country does not permit the application of equivalent AML/CFT measures by foreign branches of your financial institutions?
<i>Description and Analysis</i>	In accordance with Section 25(d) of Directive 411- Reporting to the Supervisor of Banks: "A banking corporation shall report to the Supervisor of Banks whenever a foreign corporation that the bank controls, or in which it has a substantial interest, or a branch of a banking corporation outside Israel, does not act in accordance with this Directive because the Directive contravene the provisions of local laws."
<i>Conclusion</i>	There are no additional measures applicable where local legislation of host country differs from the home country requirements and does not permit application of equivalent measures.
<i>Recommendations and Comments</i>	Israel might wish to consider introducing application of additional measures in the circumstances where local legislation does not permit application of equivalent measures.

<b>20.</b>	<b>Supervisory Bodies</b>
<i>Art. 25 (1) of the Directive</i>	The Directive imposes an obligation on supervisory bodies to inform the FIU where, in the course of their work, they encounter facts that could contribute evidence of money laundering or terrorist financing.
<i>FATF R.</i>	No corresponding obligation.
<i>Key elements</i>	Is Art. 25(1) of the Directive implemented in your jurisdiction?
<i>Description and Analysis</i>	No such obligation. When supervisors encounter in course of their work fact that could contribute evidence of ML/TF, they inform the IP.
<i>Conclusion</i>	Israel has not implemented Art. 25(1) of the Directive.
<i>Recommendations and Comments</i>	Israel might wish to consider introducing obligation for supervisory bodies to inform FIU about the facts evidencing ML or TF.

<b>21.</b>	<b>Systems to respond to competent authorities</b>
<i>Art. 32 of the Directive</i>	The Directive requires credit and financial institutions to have systems in place that enable them to respond fully and promptly to enquires from the FIU or other authorities as to whether they maintain, or whether during the previous five years they have maintained, a business relationship with a specified natural or legal person.
<i>FATF R.</i>	There is no explicit corresponding requirement but such a requirement can be broadly inferred from Recommendations 23 and 26 to 32.
<i>Key elements</i>	Are credit and financial institutions required to have such systems in place and effectively applied?
<i>Description and Analysis</i>	There is no direct requirement for financial institutions to have appropriate systems in place. Legislative acts contain duty to provide information to competent bodies upon their request.
<i>Conclusion</i>	No direct requirement for having in place appropriate systems.

<i>Recommendations and Comments</i>	Israel might consider introducing requirement to have systems in place for responding promptly and fully to FIU inquiries.
-------------------------------------	--

<b>22.</b>	<b>Extension to other professions and undertakings</b>
<i>Art. 4 of the Directive</i>	The Directive imposes a <i>mandatory</i> obligation on Member States to extend its provisions to other professionals and categories of undertakings other than those referred to in A.2(1) of the Directive, which engage in activities which are particularly likely to be used for money laundering or terrorist financing purposes.
<i>FATF R. 20</i>	Requires countries only to consider such extensions.
<i>Key elements</i>	Has your country implemented the mandatory requirement in Art. 4 of the Directive to extend AML/CFT obligations to other professionals and categories of undertaking which are likely to be used for money laundering or terrorist financing purposes? Has a risk assessment been undertaken in this regard?
<i>Description and Analysis</i>	IMPA has applied to the legislation department in the ministry of justice with a request to consider applying the AML/CFT regime on car dealers, and also met with representatives of the car dealers association in order to examine the possibility of this application.
<i>Conclusion</i>	Israel is in line with the FATF Recommendations, however is not fully in line with the 3 <sup>rd</sup> Directive.
<i>Recommendations and Comments</i>	N/A

<b>23.</b>	<b>Specific provisions concerning equivalent third countries?</b>
<i>Art. 11, 16(1)(b), 28(4),(5) of the Directive</i>	The Directive provides specific provisions concerning countries which impose requirements equivalent to those laid down in the Directive (e.g. simplified CDD).
<i>FATF R.</i>	There is no explicit corresponding provision in the FATF 40 plus 9 Recommendations.
<i>Key elements</i>	How, if at all, does your country address the issue of equivalent third countries?
<i>Description and Analysis</i>	There are no provisions concerning countries which are EU equivalent third countries.
<i>Conclusion</i>	Israel does not address issue of equivalent third countries as it stands in EU Directive.
<i>Recommendations and Comments</i>	N/A

### **Annex to Compliance with 3<sup>rd</sup> EU AML/CFT Directive Questionnaire**

#### **Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3<sup>rd</sup> 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 2005/60/EC (3<sup>rd</sup> 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.

## **VI. LIST OF ANNEXES**

**See MONEYVAL(2013)24ANN**