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Report on Fourth Assessment Visit – *Executive Summary*

Anti-Money Laundering and Combating the Financing of Terrorism

CROATIA

17 September 2013

Croatia is a member of MONEYVAL. This evaluation was conducted by MONEYVAL and the mutual evaluation report on the 4th assessment visit of Croatia was adopted at its 42nd Plenary (Strasbourg, 16-20 September 2013).

LIST OF ACRONYMS USED

AGC	Act on Games of Chance
AML/CFT	Anti-money laundering and combating financing of terrorist
AMLO	Anti-money laundering Office
AMLTF Law	Anti-Money Laundering and Terrorist Financing Law
CC	Criminal Code
CCP (CPA, CPC)	Code of Criminal Procedure
CDD	Customer Due Diligence
CEN	Customs Enforcement Network
CETS	Council of Europe Treaty Series
CFT	Combating the financing of terrorism
CIA	Credit Institutions Act
CMA	Capital Market Act
CNB	Croatian National Bank
CP	Croatian Post
CPB	Croatian Post Bank
CPC	Criminal Procedure Code
CTR	Cash transaction report
CUA	Credit Unions Act
DNFBP	Designated Non-Financial Businesses and Professions
EAW	European Arrest Warrant
EC	European Commission
EJN	European Judicial Network
ELMIs	Electronic money institutions
EMA	Electronic Money Act
ESW	Egmont Secure Web
ETS	European Treaty Series [since 1.1.2004: CETS = Council of Europe Treaty Series]
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FEA	Foreign Exchange Act
FI	Financial Inspectorate
FIL	Financial Inspectorate Law
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
GD	Governmental Decision
GDP	Gross domestic product
GRECO	Group of States against Corruption
HANFA (CFSSA)	Croatian Financial Services Supervisory Agency
HRK	Croatian national currency
IBEs	International Business Enterprises
IBUs	International Banking Units
IIWG	Inter-institutional Working Group on AML/CFT
IMF	International Monetary Fund
IN	Interpretative note
IRM	Act on International Restrictive Measures
IT	Information technologies

KYC	Know your customer
LEA	Law Enforcement Agency
MEQ	Mutual Evaluation Questionnaire
MER	Mutual Evaluation Report
MFIN	Ministry of Finance
ML	Money Laundering
MLA	Mutual legal assistance
MoI	Ministry of Interior
MoJ	Ministry of Justice
MoU	Memorandum of Understanding
MVT	Money Value Transfer
NATO	North Atlantic Treaty Organisation
NBMIS	National Border Management Information System
NC	Non-compliant
NCCT	Non-cooperative countries and territories
NPO	Non-Profit Organisation
OECD	Organisation for Economic Co-operation and Development
OEM	Other enforceable means
OFAC	Office of Foreign Assets Control (US Department of the Treasury)
OST	Case referral report
PC	Partially compliant
PEP	Politically Exposed Persons
PIs	Payment institutions
PNUSKOK	Police National Office for Suppression of Corruption and Organised Crime
PSA	Payment system Act
RE	Reporting Entities
SAR	Suspicious Activity Report
SC	Supervision Committee of the CBSM
SEEPAG	Southeast European Prosecutors Advisory Group
SELEC	Southeast European Law Enforcement Center
SIA (SOA)	Security-Intelligence Agency
SR	Special recommendation
SRO	Self-Regulatory Organisation
STR	Suspicious transaction report
SWIFT	Society for Worldwide Interbank Financial Telecommunication
TA	Tax Administration
TCSP	Trust and company service providers
The Office	AMLO
UCITS	Undertakings for Collective Investment in Transferable Securities
UN	United Nations
UNSCR	United Nations Security Council resolution
USKOK	State Attorney's Office for Suppression of Corruption and Organised Crime
UTR	Unusual Transaction Report
WU	Western Union

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 the Republic of Croatia at the time of the 4th on-site visit (19 to 24 November 2012) and immediately thereafter. It describes and analyses these measures and offers recommendations on how to strengthen certain aspects of the system. The MONEYVAL 4th 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 Croatia received non-compliant (NC) or partially compliant (PC) ratings in its 3rd 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 the Republic of Croatia.

2. Key findings

2. Most money laundering in Croatia is considered to be of domestic origin. The main criminal offenses which are the primary sources of money laundering are: economic crimes such as abuse of power and authority in economic operations; abuse of power and authority; tax evasion; and abuse of drugs. Although Croatia is part of a major transit route for drugs entering Europe, there is little evidence that these networks have utilised Croatia's financial system in order to launder the proceeds of sales.

3. The new money laundering offence appears to be broadly in line with the international standards. The physical and material elements of the ML offence, however, do not fully correspond with the requirements of the Vienna and Palermo Conventions. Almost all the cases brought are "own proceeds" laundering. No autonomous money laundering cases have been brought in respect of third parties laundering on behalf of others. The low number of convictions raises concerns about the overall effectiveness of money laundering criminalisation, given the level of proceeds-generating offences in Croatia.

4. The financing of terrorism offence is largely in line with the FATF requirements and the Terrorist Financing Convention. As there is no legal definition of the terms "*terrorist*" and "*terrorist organisation*" the interpretation of the relevant articles of the Criminal Code could lead to a narrow application of the standards.

5. The current legal framework applicable to confiscation and provisional measures still appears complicated and is not harmonised. With regard to the effectiveness of operation, the level of confiscations appeared low compared with the estimated economic loss as a result of proceeds generating crime.

6. Since the previous evaluation Croatia has made progress in addressing some gaps in respect of the freezing of funds used for terrorist financing and the legal framework has been changed to a large extent. There are still, nonetheless, a number of technical deficiencies in the legislation, as well as shortcomings in the underlying mechanisms and procedures.

7. The Anti-Money Laundering Office (AMLO) is designated as the Croatian financial intelligence unit. During the on-site visit the representatives of law enforcement agencies and prosecutors met confirmed that cooperation with AMLO was good and that they were satisfied with the information received from AMLO.

8. The preventive measures for the Croatian financial sector are primarily set out in the Anti-Money Laundering and Terrorist Financing Law ("AMLTF Law") which came into effect on 1 January 2009. Through this, Croatia has taken significant steps to remedy the deficiencies in preventive measures identified in the 3rd round. However, the effectiveness of implementation of

customer due diligence (CDD) measures relating to beneficial owners, and in business relationships with non-resident customers, was not demonstrated.

9. Croatia has introduced a number of requirements relating to CDD for politically exposed persons (PEPs) since the 3rd round. However, there are no requirements to identify situations when the customer or beneficial owner subsequently becomes a PEP in the course of a business relationship, and not all guidelines require the identification of the source of wealth.

10. The obligation to make a suspicious transaction report has been extended to apply to attempted transactions. There are, however, technical deficiencies in the reporting requirement, particularly as the obligation does not extend to funds which are "linked or related to" terrorism generally and (partially) to "those who finance terrorism".

11. The AMLTF Law defines the scope of responsibility for all of the supervisory authorities. The supervisory authorities have adopted a risk-based approach to supervision and appeared to have adequate resources as well as a good understanding of their AML/CFT responsibilities. Although "fitness and properness" procedures are in place, they do not extend to criminal associates of those holding controlling interest or managerial functions in financial institutions and there were additional shortcomings related to the identification of ultimate beneficial owners of significant or controlling interest in insurance companies and pension funds.

12. All DNFBPs are now subject to the requirements of the AMLTF Law, including CDD and reporting of suspicious transactions. Although the level of reporting of suspicious transactions has improved since the 3rd round evaluation, there are still concerns about the low level of reporting from certain DNFBP sectors.

13. The Court Register contains comprehensive information on the registered owners of legal persons as well as about persons who act on behalf of the companies and is publicly available. However, there is no requirement to provide details of the ultimate beneficial owner. Although it is no longer permissible to issue bearer shares, there was a lack of information on the number of bearer shares still in circulation.

14. The legal framework in Croatia for mutual legal assistance (MLA) includes the full range of conventions. As long as MLA is provided by Republic of Croatia based on international conventions which have precedence over national law and are from direct applicability, pursuant to the Croatian Constitution, the main international standards in this matter are met. There are some concerns related mainly to non-treaty based cooperation or for the regulation of issues not covered by the otherwise applicable treaty.

15. With regard to other forms of international co-operation, the Croatian authorities have the authority to collaborate with their foreign counterparts in their respective areas of competence. One technical concern is that although AMLO is empowered to exchange information relating to money laundering, there is no provision in the AMLTF Law for AMLO to cooperate or exchange information on the underlying predicate offence.

3. Legal Systems and Related Institutional Measures

16. Following the 3rd round report Croatia has made amendments to the money laundering and financing of terrorism provisions in the Criminal Code (CC) with a view to bring it in line with the recommendations made by the 3rd round MER.

17. The new money laundering offence appears to be broadly in line with the Vienna and Palermo Conventions. However, there are concerns with regard to implementation of the criteria related to the physical and material elements of the offence as Croatian law does not wholly correspond with the Conventions' requirements on these aspects. As the new Criminal Code only came into force and effect after the on-site visit, it was not possible to form a view of its effective

application. It is noted that almost all the cases brought were own proceeds laundering and no autonomous money laundering cases have been brought to the courts.

18. The new financing of terrorism offence is largely in line with the requirements of SR.II and the Terrorist Financing Convention. It extends to any person who provides or collects funds, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, to carry out the defined criminal offences. However, there is no legal definition of the terms "*terrorist*" and "*terrorist organisation*". While definitions are not mandatory, the scope of these terms, following analysis of the different articles of the CC, could be narrower than the FATF standards.

19. The current legal framework applicable to confiscation and provisional measures appears complicated. There are parallel regimes both in terms of criminal substantive and procedural law, with one set of rules applied for the objects which are the product of committing a criminal offence and another for pecuniary advantage. The respective measures are inaccurately formulated and their scope often overlaps to such an extent as to make the assessment of their interconnection and mutual applicability very difficult. The new Criminal Code has introduced the "*Principle of Confiscation of Pecuniary Advantage*" stating "*No one may retain a pecuniary advantage acquired through illegal means*." This is considered an important improvement to the confiscation regime. Confiscation is considered as a "*sui generis*" criminal measure of a mandatory character and can be applied to proceeds and instrumentalities of a criminal offence. With regard to effectiveness of operation, the level of confiscations appeared low compared with the estimated level of crime.

20. Since the previous evaluation Croatia has made progress in addressing some gaps in respect of SR III and the legal framework has been changed to a large extent. There are still, nonetheless, a number of technical deficiencies in the legislation. Furthermore there is no effective mechanism in place to designate persons in the context of UNSCR 1373 (2001). There is no procedure for a consolidated list to be sent to the reporting entities. This is coupled with a general lack of understanding by the reporting entities about the mechanism of freezing of funds used for terrorist financing.

21. The Anti-Money Laundering Office (AMLO) is designated as the Croatian financial intelligence unit. Amendments to the AMLTF Law have defined the competences and responsibilities of AMLO. AMLO has sufficient structural and operational independence, and sufficient financial resources. A significant number of cases are notified to law enforcement agencies and prosecutors. The quality of the analytical work appears high. During the on-site visit the representatives of law enforcement agencies and prosecutors met confirmed that cooperation with AMLO was good and that they were satisfied with the information received from AMLO. AMLO has provided the reporting entities with typologies and reports on AML/CFT.

22. Croatia has a declaration system for monitoring incoming and outgoing cross-border transportations of cash. The Croatian Authorities have established a border control system which allows for screening of cash imports and exports. Data on cash entering and leaving Croatia is registered and forwarded to AMLO and sanctions have been applied for misdemeanours.

4. Preventive Measures – financial institutions

23. The preventive measures for the Croatian financial sector are primarily set out in the Anti-Money Laundering and Terrorist Financing Law ("AMLTF Law") which came into effect on 1 January 2009. The AMLTF Law introduces complete customer due diligence (CDD) procedures according to the 3rd EU Directive, as well as requirements relating to PEPs, restrictions on cash operations and a prohibition of the use of anonymous products. The AMLTF Law is supplemented by guidelines issued by the supervisory bodies and rulebooks issued by the

Ministry of Finance. The AMLTF Law has introduced the risk-based approach which is embedded in the AMLTF Law and in related guidance and regulations.

24. Croatia has taken significant steps to remedy the deficiencies in preventive measures identified in the 3rd round. Reporting entities identify and verify their customers and the system is generally in line with the international standards. However, some deficiencies still remain, particularly relating to the application of enhanced CDD and simplified CDD. The evaluators were also concerned that there were structural weaknesses in the implementation of CDD measures relating to beneficial owners and in business relationships with non-resident customers. Nonetheless, representatives from the financial sector interviewed during the on-site visit displayed a high level of understanding of their CDD obligations.

25. Croatia has introduced a number of requirements relating to CDD for politically exposed persons (PEPs) since the 3rd round. There are, however a number of shortcomings. The definition of foreign politically exposed person is not in line with the standard and the provisions do not apply to foreign PEPs who are temporarily or permanently resident in Croatia. Furthermore, there are no requirements to identify situations when the customer or beneficial owner subsequently becomes a PEP in the course of a business relationship and not all guidelines require the identification of the source of wealth.

26. Since the 3rd round report, Croatia has introduced comprehensive provisions relating to correspondent banking relationships, although the definition is narrower than that defined by FATF. The AMLTF Law has also introduced a requirement that financial institutions are required to pay special attention to any ML/TF risk which may stem from new technologies enabling anonymity. Croatia has also put policies and measures in place aimed at preventing the use of new technologies for ML/TF purposes. Although the evaluators were advised that financial institutions prefer not to entrust CDD to third parties, provisions concerning the introduction of clients by third parties have been introduced. These are broadly in line with the standard, although there is no clear obligation for financial institutions to take adequate steps to satisfy themselves that CDD procedures will be made available by the third party.

27. With regard to the requirement that financial institutions secrecy should not inhibit implementation of the FATF Recommendations, the evaluators noted that overall there are provisions that allow the sharing of information in defined circumstances. There are, however, certain technical deficiencies which could present problems in sharing information, particularly with regard to leasing companies and correspondent banking. Nonetheless, during the on-site visit the evaluators were informed that there did not appear to be any problems experienced in practice in receiving information from domestic reporting entities. In the AMLTF Law there is a general requirement for the reporting entities to ensure data storage and protection and these are reinforced by requirements in sectoral legislation.

28. With regard to wire transfers, Croatia has modified its legal framework by introducing specific provisions under the AMLTF Law, which were further complemented by the Rulebook on Wire Transfers which sets out the content and type of information on payers accompanying cash wire transfers, on duties of payment service providers and exceptions from the cash wire transfer data collection obligation.

29. The AMLTF Law now contains a requirement that reporting entities are obliged to pay special attention to all complex and unusually large transactions, as well as to each unusual form of transaction without an apparent economic or visible lawful purpose even in instances when reasons for suspicion of money laundering or terrorist financing have not yet been detected in relation to such transactions. There are also general provisions requiring enhanced CDD at the establishment of a correspondent relationship with a bank or other similar credit institution seated in a third country.

30. The AMLTF Law imposes the obligation to report any transaction suspected of being related to either money laundering or the financing of terrorism, without a threshold. The obligation to make a suspicious transaction report applies to attempted transactions. There are, however, technical deficiencies in the reporting requirement, particularly as the obligation does not cover funds which are suspected to be linked or related to terrorism and those who finance terrorism. The authorities consider that the reports received are of a high standard and that the new legal provisions have had a positive impact on the whole system of reporting; although the number of reports decreased, their quality has increased significantly.

31. The AMLTF Law now requires that reporting entities shall be obliged to define the procedures for the implementation of CDD measures in their internal enactments. Reporting entities are required to have a compliance officer, an internal audit function, employee training and employee screening although the evaluators considered that the compliance officer is not required to report to a sufficiently senior level. The law also contains requirements that financial institutions should be required to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and the FATF Recommendations although, in practice very few institutions have foreign branches or subsidiaries. There is no clear requirement that financial institutions should pay special attention in the case of jurisdictions which do not or insufficiently apply the FATF Recommendations. A prohibition on conducting business with shell banks has been introduced, although the lack of further guidance could have an impact on effectiveness.

32. The AMLTF Law defines the scope of all of the supervisory authorities. All of the authorities appear to have adequate powers to compel the production of records as required. Sanctions for AML/CFT breaches are set out in the AMLTF Law, although the sanctions do not cover the requirements relating to complex and unusual transactions and certain data protection issues. Although "fitness and properness" procedures are in place, they do not extend to criminal associates and there are additional shortcomings for insurance companies and pension companies related to ultimate beneficial owners. There is also a concern that there is no licensing or registration for money and value transfer services offered by the Croatian Post and entities engaged in factoring activities. All relevant supervisors have issued comprehensive guidance which is given statutory backing by the AMLFT Law. The supervisory authorities have adopted a risk-based approach to supervision and appeared to have adequate resources as well as a good understanding of their AML/CFT responsibilities. An equivalent supervisory regime is in place for money and value transfer services, although the representatives of Croatian Post met during the on-site visit did not demonstrate an appropriate understanding of the requirements related to wire transfers.

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

33. All DNFBPs are now subject to the requirements of the AMLTF Law, including CDD and reporting of suspicious transactions. As such the deficiencies already outlined also apply in relation to DNFBPs. Although the level of reporting of suspicious transactions has improved since the 3rd round evaluation, there are still concerns about the low level of reporting from certain DNFBP sectors.

34. Subsequent to the 3rd round evaluation, the authorities sought technical assistance from the IMF in order to develop a supervision manual for inspectors in accordance with the AMLTF Law and guidance for implementation and enforcement of AMLTF Law measures for reporting entities. Overall the evaluators were impressed with the supervisory arrangements for DNFBPs which appeared to be comprehensive. The one concern is that there is no requirement for preventing criminal associates from holding significant interests in casinos.

6. Legal Persons and Arrangements & Non-Profit Organisations

35. Since the 3rd round evaluation, the authorities have introduced a definition of beneficial owner which is set out in the AMLTF Law. The AMLTF Law requires the reporting entities to collect the information on the beneficial owner of the customer. The Court Register contains comprehensive information on the registered owners of legal persons as well as about persons who act on behalf of the companies. Legal persons are required to file information on change of control as well as annual financial information. This information is publicly available both to competent authorities and reporting entities. However, there is no requirement to provide details of the ultimate beneficial owner. The evaluators were also concerned that although it is no longer permissible to issue bearer shares there was a lack of information on the number of bearer shares still in circulation. This raised concerns over the effectiveness of appropriate measures to ensure that they are not being misused for money laundering.

36. With regard to non-profit organisations (NPOs), the evaluators noted that the supervision of NPOs is fragmented and carried out by a number of authorities. Although AMLO had organised meetings with state authorities responsible for the supervision of NPOs with the aim of enhancing cooperation there had still been no comprehensive review of the vulnerability of the NPO sector to terrorist financing risks. Furthermore, apart from the issuance of typology reports, there has been insufficient outreach to the NPO sector and little awareness-raising on the risk of NPOs being misused for TF.

7. National and International Co-operation

37. The Inter-institutional Working Group on AML/CFT (IIWG) was formed after the 3rd round evaluation. This working group comprises all major government agencies involved in the fight against ML and TF. The IIWG meets regularly to improve cooperation and coordination of all institutions involved in achieving strategic and operational objectives in the fight against money laundering and terrorist financing. In particular the IIWG seeks to identify weaknesses and risks in the process of combating money laundering and terrorist financing, as well as obstacles that hinder the achievement of these strategic and operational goals. During the on-site visit it was confirmed to the evaluators that there was a high level of co-operation between the relevant national bodies.

38. The legal framework in Croatia for mutual legal assistance includes the full range of conventions: Vienna; Palermo; TF convention; the Strasbourg Convention; the Convention on Mutual Assistance in Criminal Matters and its additional protocols; and CETS 198, which have all been signed, ratified and are in force. However, as noted in Section 3 above, there are a number of areas where the conventions have not been fully implemented in legislation. This does give rise to the concern that these deficiencies could limit the degree to which the authorities can respond to requests for mutual legal assistance. Nonetheless the evaluators received a number of very positive responses to the questionnaire on international co-operation and a number of respondents were complimentary concerning the speed and quality of responses.

39. With regard to other forms of international co-operation, the Croatian authorities have the authority to collaborate with their foreign counterparts in their respective areas of competence. In the majority of cases, international cooperation may take place directly between authorities exercising similar responsibilities and functions in a manner foreseen by the international treaties or other special acts which regulate such cooperation. One technical concern is that, although AMLO is empowered to exchange information relating to money laundering, there is no provision in the AMLTF Law for AMLO to cooperate or exchange information on the underlying predicate offence. The lack of comprehensive statistics has meant that it is not possible to fully assess the effectiveness of international cooperation.

8. Resources and statistics

40. Apart from AMLO, which appeared to be understaffed, all of the supervisory bodies appeared to have adequate resources. Overall the evaluators were impressed by the calibre of the supervisors who were met on-site.

41. Croatia does, however, need to pay more attention to the collection and use of statistics. In particular, there is a lack of statistics on both national and international cooperation and, although interlocutors indicated that cooperation was satisfactory, there were no statistics to support this. Furthermore, there is a lack of detailed analysis of the reasons for the low number of convictions for stand-alone money laundering, given the level of economic crime in Croatia.

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 Croatia. *It includes ratings for FATF Recommendations from the 3rd round evaluation report that were not considered during the 4th assessment visit. These ratings are set out in italics and shaded.*

Forty Recommendations	Rating	Summary of factors underlying rating[1]
Legal systems		
1. Money laundering offence	**PC**	• The purposive element of disguising which should characterise the conversion or transfer is not fully covered; • The purposive element of helping any person involved in the commission of the predicate offence to evade the legal consequence of his or her action is not fully covered; • Disguise as "*actus reus*" is not provided; • The perpetrator of the predicate offence could not be the perpetrator of the ML offences committed through the actions of concealment; • The person who commits the predicate offence could not be the perpetrator of the ML offence committed through acquisition, possession or use of the proceeds of crime; • Potential difficulties in determining the scope of the concept of "pecuniary advantage" as "*corpus delicti*" for the ML offence. Proceeds without subsequent increase are not subject matters of ML offence; • The subject matter of the ML offence, as it is defined by the new CC does not cover all types of property (i.e. legal documents or instruments evidencing title to, or interest in such assets); • Facilitating and counselling of ML offense are not explicitly provided by the Criminal Code as ancillary offences and there are no legal reasons to consider that these acts would be

[1] These factors are only required to be set out when the rating is less than Compliant.

		investigated, prosecuted and convicted as offences in the absence of a committed ML offense; • Shortcomings in the definition of TF as a predicate offence; **Effectiveness** • Only two cases of conviction for non-self ML offense and no convictions for autonomous ML; • The overall effectiveness of ML criminalisation raises concerns considering a relative low number of convictions for ML, given the level of proceeds generating offences in Croatia; • Due to the timing of its introduction there was no opportunity to assess the effectiveness of the new Criminal Code.
2. Money laundering offence Mental element and corporate liability	*LC*	• *Significant backlogs both in general terms and especially in money laundering cases are seriously threatening the effectiveness of the AML system.*
3. Confiscation and provisional measures	**PC**	• The definition of the pecuniary advantage, as the subject matter of confiscation, provided by the new CC, does not explicitly cover incorporeal assets and legal documents or instruments evidencing title to, or interest in such assets; • The concept of "*pecuniary advantage*" adds supplementary features and an additional burden of proof, to determine proceeds of crime, property laundered and proceeds from ML, subject to confiscation regime, in comparison to property subject to confiscation in the meaning of the FATF standards; • The confiscation of the instrumentalities is conditioned by the supplementary element of the risk that they will be reused in another criminal activity; • The confiscation of property of corresponding value of the instrumentalities is not provided; • The provisions related to provisional measures are heterogeneous; the references to property subject to confiscation in different pieces of legislation are done using different terminology; • The possibility to take provisional measures ex-parte is explicitly provided only by the Act on Confiscation and consequently it is related only to pecuniary advantage in the meaning of

		this Act; **Effectiveness** • Limited effectiveness of the general confiscation regime; • The parallel and inadvertent provisions related to proceeds and laundered property, subject to confiscation create confusion in the understanding of the scope of the confiscation regime; • Ambiguities regarding the scope of provisional measures related to "*funds*" used or intended to be used in TF offense; • No comprehensive tools (e.g. manuals, guidance) for the practitioners to ease the application of different and parallel provisions related to confiscation regime.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	**LC**	• The Leasing Act requirement on the data confidentiality inhibits information sharing (the implementation of the FATF Recommendation) in cases of terrorist finance; • It is unclear whether credit institutions are allowed to share information about their clients CDD to their correspondent banks; • No special provision in AMLTF Law that the contract for the correspondent banking relationship should determine a correspondent bank´s ability to submit the data gathered in the course of identification and verification of the customer based on an enquiry. **Effectiveness** • The banking secrecy regulations may give rise to the possibility to inhibit the implementation of the FATF Recommendation 4.
5. Customer due diligence	**PC**	• There is no requirement to verify whether any person purporting to act on behalf of a person is so authorised; • Financial institutions are not required to obtain from customers information on a foreign legal person's or foreign legal arrangement's form, directors and powers to bind; • The AMLTF Law creates blanket exemptions from the CDD requirements where the risk of money laundering and terrorist financing is low; • The application of simplified CDD measures to customers resident in a third country is not

		limited to countries which are in compliance with and have effectively implemented FATF Recommendations; • Derogation under Art. 10 §2 allows the postponement of all CDD measures, not just verification and there is no requirement that CDD measures should be completed as soon as reasonably practicable after the initial contact in case of the reporting entity is allowed to conduct the CCD measures during the establishment of a business relationship with a customer; • There are no clear provisions in the law which requires adopting risk management procedures concerning the conditions under which business relationship is permitted to utilise prior to verification of the identity of the customer; **Effectiveness** • Effectiveness and efficiency of implementation CDD measures in regard to beneficial owners and in business relationships with non-resident customers is not demonstrated.
6. Politically exposed persons	**PC**	• The definition of foreign politically exposed person is not in line with the FATF Recommendations; • The provisions do not apply to foreign PEPs who are temporarily or permanently resident in Croatia; • No specific requirement to obtain senior management approval to establish or continue a business relationship where the customer is found to be or becomes a PEP; • There is no clear provision that reporting entities are obliged to determine whether a customer's beneficial owner is a politically exposed person; • There are no requirements to identify situations when the customer or beneficiary owner subsequently becomes a PEP in the course of a business relationship; • Other than in the Financial Inspectorate's Guidelines, there is no requirement to identify the source of wealth of PEPs. **Effectiveness** • Lack of clarity over what procedures were to be followed to identify a PEP´s family members or persons known to be close associates of such persons.

7. Correspondent banking	**PC**	• No clear requirement to document the respective AML/CFT responsibilities of each institution; • The requirements regarding correspondent banking relationships only apply to third countries; • No requirement to ascertain that the AML/CFT measures implemented by the respondent institution are adequate and effective; • No clear requirement to obtain approval from senior management before establishing new correspondent relationships.
8. New technologies and non face-to-face business	**C**	
9. Third parties and introducers	**LC**	• There is no requirement that the delegating party obtain the necessary information concerning, inter alia, elements of the customer due diligence process; • There is no clear obligation for financial institutions to take adequate steps to satisfy themselves that data of CDD will be made available from the third party without delay.
10. Record keeping	**LC**	• There is no requirement in law or regulation to keep documents longer than five years if requested by a competent authority; • There is no regulation and no guidance regarding the keeping of business correspondence.
11. Unusual transactions	**LC**	• There is no specific requirement in the law to keep analyses about the background and purpose of transactions for at least five years; • There is no specific requirement to make transaction records available to auditors; **Effectiveness** • The lack of further guidance for other reporting entities as to what analysis of complex and unusual transactions might consist of could have an impact on the effectiveness of implementation; • Although the rest of the financial sector was in general aware of the obligation to examine the unusually large transactions, they considered this as a form of suspicious transactions reporting.
12. DNFBPS – R.5, 6, 8-11	**PC**	***Applying Recommendation 5*** • Deficiencies under Recommendation 5 also apply to the DNFBP sector; ***Applying Recommendation 6*** • Deficiencies under Recommendation 6 also

		apply to the DNFBP sector; ***Applying Recommendation 8*** • There is no obligation in the AMLTF Law requiring DNFBPs to have in place or take measures to prevent the misuse of technological developments in AML/CFT schemes and to address the specific risks associated with non-face to face business relationships or transactions; ***Applying Recommendation 10*** • Deficiencies under Recommendation 10 also apply to the DNFBP sector; ***Applying Recommendation 11*** • Deficiencies under Recommendation 11 also apply to the DNFBP sector; • Lack of adequate guidance on identifying complex, unusual large transactions, or unusual patterns of transactions that have no apparent or visible economic or lawful purpose could have an impact on the effectiveness of application.
13. Suspicious transaction reporting	**LC**	• The reporting requirement does not include funds which are "linked or related to" terrorism generally and (partially) to "those who finance terrorism"; **Effectiveness** • Low number of STRs submitted by certain categories of reporting entities raises effectiveness questions.
14. Protection and no tipping-off	**LC**	• No protection of directors, officials and other natural persons contributing to the direction, management or representation of a reporting entity.
15. Internal controls, compliance and audit	**LC**	• No explicitly defined legal provision for compliance officers to be designated at management level; • Lack of clarity in Article 44 of the AMLTF Law might provide an option for reporting entities to exempt them from the obligation of appointing a compliance officer; • No formal requirement and practical implementation of employee screening procedures.
16. DNFBPS – R.13-15 & 21	**PC**	***Applying Recommendation 13*** • The deficiencies under R.13 also apply to DNFBPs; **Effectiveness** • Concerns over the effective implementation, especially the low level of reporting from

		certain DNFBPs; ***Applying Recommendation 14*** • Deficiencies under Recommendation 14 also apply to DNFBPs; **Effectiveness** • Lack of awareness on the legal protection on the AML/CFT matters; ***Applying Recommendation 15*** • Deficiencies under Recommendation 15 also apply to DNFBPs; ***Applying Recommendation 21*** • Deficiencies under Recommendation 21 also apply to DNFBPs; • The lack of guidance and training for DNFBPs relating to doing business with countries not sufficiently applying the FATF Recommendations could have an impact on the effectiveness of implementation.
17. Sanctions	**PC**	• No specific sanctions for the failure to comply with some requirements of the AMLTF Law; • The range of sanctions for AML/CFT non-compliance is not commensurate with those applicable for different violations of relevant laws in the financial sector; **Effectiveness** • Low number of sanctions applied raises concerns about the effectiveness of the AML/CFT sanctions regime.
18. Shell banks	**C**	
19. Other forms of reporting	*Compliant*	•
20. Other DNFBPS and secure transaction techniques	**C**	
21. Special attention for higher risk countries	**LC**	• There are no specific provisions on the application of counter-measures where a country continues not to apply or insufficiently applies the FATF Recommendations.
22. Foreign branches and subsidiaries	**PC**	• There is no clear requirement that financial institutions should pay special attention in case of jurisdictions which do not or insufficiently apply the FATF Recommendations; • There is no clear requirement that the financial institutions should apply the higher standards in branches and subsidiaries in host countries in the event that local requirements are not fully in line with international standards or the host countries standards are higher;

		• Although there is a requirement to advise AMLO, there is no requirement to notify CNB, FI or HANFA as primary supervisory authorities.
23. Regulation, supervision and monitoring	**PC**	• No requirement to obtain information on ultimate beneficial owners and, respectively, their criminal background for insurance companies and pension companies; • The requirement to prevent criminals from holding shares or managerial positions in financial institutions does not appear to be fully met; • Failure to include criminal associates into the scope of the measures aimed at prevention of criminals from holding a controlling interest or management function in financial institutions; • No licensing or registration for money and value transfer (and other financial) services offered by the Croatian Post; • Lack of legislatively defined licensing requirements and procedures for business entities engaged in factoring activities; **Effectiveness** • Lack of MoUs between all supervisory agencies could lead to confusion/inefficiency due to overlaps in the work of different supervisory agencies; • Insufficient coverage of inspections in terms of supervisory cycle and AML/CFT compliance check.
24. DNFBPS - Regulation, supervision and monitoring	**LC**	• No requirement for preventing criminal associates from holding of a significant interest in casinos.
25. Guidelines and Feedback	**LC**	• Only a limited amount of information is provided to financial institutions on ML/TF trends.
Institutional and other measures		
26. The FIU	**C**	
27. Law enforcement authorities	*Largely Compliant*	• *There have been no convictions or final decisions in any money laundering case since 2003 (effectiveness).*
28. Powers of competent authorities	*Compliant*	

29. Supervisors	**C**	
30. Resources, integrity and training[2]	**LC**	• AMLO appears to be understaffed.
31. National co-operation	**LC**	• More coordination needed between AMLO, the Police and prosecutors on the reasons for the low number of money laundering convictions; • More coordination required with DNFBP given low numbers of STRs submitted.
32. Statistics[3]	**PC**	• Lack of statistics on additional requests made by AMLO for supplementary information broken down by reporting entities and authorities; • Lack of detailed statistics to assist in systematic review of effectiveness of the whole AML/CFT system relating to domestic cooperation; • Lack of detailed analysis on reasons for the low number of convictions for stand-alone money laundering given the level of economic crime in Croatia; • There are no comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing relating to mutual legal assistance; • Lack of statistics on other forms of international cooperation by supervisory authorities on AML/CFT issues; • Lack of statistics on other forms of international cooperation by law enforcement agencies on AML/CFT issues.
33. Legal persons – beneficial owners	**PC**	• Lack of information on the number of bearer shares still in circulation raises concerns over the effectiveness of appropriate measures to ensure that they are not misused for money laundering; • No measures in place to guard against abuse of companies by the use of bearer shares.
34. Legal arrangements – beneficial owners	**N/A**	

[2] 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 3rd round report on resources integrity and training of law enforcement authorities and prosecution agencies.

[3] 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 3rd round report on Recommendations 37, 38 and 39.

International Co-operation		
35. Conventions	**PC**	*Vienna and Palermo Convention* • The purposive element of disguising which should characterise the conversion or transfer is not fully covered (R1); • The purposive element of helping any person involved in the commission of the predicate offence to evade the legal consequence of his or her action is not fully covered (R1); • Disguise as "*actus reus*" is not provided (R1); • The perpetrator of the predicate offence could not be the perpetrator of the ML offences committed through the actions of concealment (R1); • The person who commits the predicate offence could not be the perpetrator of the ML offence committed through acquisition, possession or use of the proceeds of crime (R1); • Potential difficulties in determining the scope of the concept of "*pecuniary advantage*" as "*corpus delicti*" for the ML offence. Proceeds without subsequent increase are not subject matters of ML offence (R1); • The subject matter of the ML offence appears not to cover all types of property; the concept of "*pecuniary advantage*" provided by the CC appears not to fully cover the scope of the concept of "*property*" and "*proceeds of crime*" in the international standards (i.e. legal documents or instruments evidencing title to, or interest in such assets appears to be not covered) (R1); • Facilitating and counselling are not explicitly provided by the Criminal Code as ancillary offences (R1); • The parallel and inadvertent provisions related to proceeds and laundered property, subject to confiscation create confusion in the understanding of the scope of the confiscation regime (R3); • The definition of the pecuniary advantage, as the subject matter of confiscation, provided by the new CC, does not explicitly cover incorporeal assets and legal documents or instruments evidencing title to, or interest in such assets (R3); • The concept of "*pecuniary advantage*" adds supplementary features and an additional burden of proof, to determine proceeds of

		crime, property laundered and proceeds from ML, subject to confiscation regime, in comparison to property subject to confiscation in the meaning of the FATF standards (R3); • The confiscation of the instrumentalities is conditioned by the supplementary element of the risk that they will be reused in another criminal activity (R3); • The confiscation of property of corresponding value of the instrumentalities is not provided (R3); • The provisions related to provisional measures are heterogeneous; the references to property subject to confiscation in different pieces of legislation are done using different terminology (R3); • The possibility to take provisional measures ex-parte is explicitly provided only by the Act on Confiscation and consequently it is related only to pecuniary advantage in the meaning of this Act (R3); *Convention for the Suppression of the Financing of Terrorism* • The scope of the terms "terrorist" and "terrorist organisation", derived from logical and systemic interpretation of different articles of the CC, is narrower than envisaged by the FATF standards (SR II); • Ambiguities regarding the scope of provisional measures related to "*funds*" used or intended to be used in TF offense.
36. Mutual legal assistance (MLA)[4]	**LC**	• Deficiencies of criminalisation of money laundering offences might limit mutual legal assistance based on dual criminality; • Deficiencies of the confiscation regime might impact on mutual legal assistance; • The mechanism for determining the best venue for prosecution in cases that are subject to prosecution in more than one country shall be improved. The legal possibilities to taking over the proceedings for the offences committed abroad should not be limited only to those cases in which the extradition is not allowed; **Effectiveness** • The lack of statistics on the number of MLA requests both received and sent has meant that

[4] The review of Recommendation 36 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendation 28.

		it has not been possible to fully assess the effectiveness of Croatia's MLA regime.
37. Dual criminality	*Largely Compliant*	• *The definitional problems with the domestic offences intended to cover the financing of terrorism would severely limit mutual legal assistance based on dual criminality.*
38. MLA on confiscation and freezing	*Largely Compliant*	• *Because financing of terrorism is insufficiently, if at all, criminalised in the current domestic legislation, the requirement of dual criminality for extradition would mean that not all kinds of terrorist financing offences would be extraditable.*
39. Extradition	*Largely Compliant*	• *In the complete absence of statistics it is not possible to determine whether and to what extent Croatia provides effective and timely response to foreign requests concerning freezing, seizure or confiscation.* • *Croatia has not considered establishing an asset forfeiture fund into which all or a portion of confiscated property will be deposited and will be used for law enforcement, health, education or other appropriate purposes.* • *There are no arrangements for coordinating seizure or confiscating actions with other countries.* • *Croatia has not considered authorising the sharing of confiscated assets with other countries when confiscation is a result of coordinated law enforcement action.*
40. Other forms of co-operation	**LC**	• No provision in the AMLTF Law for AMLO to cooperate or exchange information on the underlying predicate offence; **Effectiveness:** • Effectiveness issues regarding law enforcement authorities; • Lack of comprehensive statistics means that it has not been possible to fully assess the effectiveness of international cooperation.
Nine Special Recommendations		
SR.I Implement UN instruments	**PC**	• The scope of the terms "terrorist" and "terrorist organisation", derived from logical and systemic interpretation of different articles of the CC, is narrower than envisaged by the FATF standards (SR II); • Ambiguities regarding the scope of provisional

		measures related to "*funds*" used or intended to be used in TF offense; • Deficiencies under SR.III.
SR.II Criminalise terrorist financing	**LC**	• The scope of the terms "terrorist" and "terrorist organisation", derived from logical and systemic interpretation of different articles of the CC, is narrower than envisaged by the FATF standards.
SR.III Freeze and confiscate terrorist assets	**PC**	• The scope of "assets", subject matter of the freezing mechanism in Croatia is narrower than the scope of "funds or other assets" as it is provided by the FATF standards; • The freezing actions referred to under Art. 11 of the IRM Act extend only to assets owned, held or belonging in any way to the subject to whom restricted measures are being applied to, and to assets controlled or supervised by that subject. Assets controlled jointly or indirectly are not explicitly covered; • The situation envisaged by the UNSCRs in terms of control or possession of funds by persons acting on behalf of the subject or acting at their direction does not appear to be explicitly covered; • Funds derived or generated from assets owned or controlled directly by the designated persons, terrorist, those who finance terrorism or terrorist organisations, are only partially covered (art. 3 para 2 (c), (e), (f) of the IRM Act); • The obligation to not make funds available, directly or indirectly, to designated persons is limited to the scope of funds as they are defined by the IRM Act; • The condition which is reaffirmed in c.III.1 (freezing to take place without prior notification) is approached only at the level of guidelines and freezing assets with prior notice to the designated persons involved is not punishable. Safeguards are not strong enough to maintain the surprise effect intended by the UN Resolution; • There is no effective mechanism in place to designate persons in the context of UNSCR 1373(2001); • There is no legal procedure to examine and give effect to, if appropriate, the actions initiated under the freezing mechanism of other jurisdictions; • There is no procedure the consolidated list to

		be sent to the reporting entities; • Unclear provisions for funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly, wholly or jointly, by designated persons, terrorists, those who finance terrorism or terrorist organisations. (mix of III.1 and III.4(b)); **Effectiveness** • There is a general lack of understanding by the reporting entities about the mechanism of freezing of funds used for terrorist financing.
SR.IV Suspicious transaction reporting	**LC**	• The reporting requirement does not include funds which are "linked or related to" terrorism generally and (partially) to "those who finance terrorism".
SR.V International co-operation	**LC**	• Deficiencies of criminalisation of terrorist financing offences might limit mutual legal assistance based on dual criminality; • Financing of an individual terrorist is not an extraditable offence as long as this behaviour is not criminalised; • Deficiencies of confiscation regime, in particular those related to instrumentalities and confiscation of corresponding value of funds and instrumentalities could impede the execution of a MLA request related to TF offence; • Ambiguities regarding the scope of provisional measures related to "*funds*" used or intended to be used in TF offense could impede the execution of a MLA request related to TF offence; • No arrangements for co-ordinating seizure and confiscation action with other countries; • No provisions related to an asset forfeiture fund into which all or portion of confiscated property will be deposited and will be used for law enforcement, health, education, or other appropriate purposes; • No legal provisions related to the authorisation of sharing of confiscated assets with another country when confiscation is directly or indirectly a result of co-ordinated law enforcement actions. • Shortcomings in the terrorist financing offense described in SR.II may affect the implementation in terrorist financing cases; **Effectiveness:** • Effectiveness issues regarding law enforcement

		authorities.
SR.VI AML requirements for money/value transfer services	**LC**	**Effectiveness** • Effectiveness of implementation not fully demonstrated (also due to the lack of compliance checks).
SR.VII Wire transfer rules	**LC**	• No specific requirement for financial institutions to consider the lack of complete originator information as a factor in assessing whether a wire transfer or related transactions are suspicious and, as appropriate, whether they are thus required to be reported to FIU. **Effectiveness** • No evidence of effective mechanisms available for ensuring compliance of certain money transfer service providers (such as the Croatian Post and electronic money institutions); • Croatian Post did not demonstrate an appropriate understanding of the requirements related to wire transfers.
SR.VIII Non-profit organisations	**PC**	• Lack of the comprehensive review as well as regular update in relation to the vulnerability of NPOs to terrorist financing risks; • No requirement to maintain, for a period of at least five years, records of domestic and international transactions; • Apart from the issuance of typology reports, there has been insufficient outreach to the NPO sector and little awareness raising on risks for NPOs to be misused for TF.
SR.IX Cross Border declaration and disclosure	**LC**	• No requirement to retain the identification data in instances when a declaration exceeds €10,000, where there is a false declaration, where there is a suspicion of ML or TF; • No powers to apply sanctions to persons who make a false declaration.