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EVALUATION OF ANTI-MONEY
LAUNDERING MEASURES AND THE
FINANCING OF TERRORISM
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Secretariat Analysis

FIFTH COMPLIANCE REPORT

I. Introduction

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

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

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

Background information of the Compliance Enhancing Procedures

2. At its 34th plenary (7-10 December 2010), in view of the result of the discussions on the first 3rd round written progress report (PR) of Bosnia and Herzegovina, the Committee concluded that the report raised significant concerns about the extent of progress or speed of progress overall to rectify deficiencies identified in the 3rd round mutual evaluation report. It took note of the progress report

¹ All references to FATF Recommendations are to FATF's 2003 Recommendations.

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

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

and the analysis of the progress on the core Recommendations and pursuant to Rule 43 of the Rules of Procedure, invited Bosnia and Herzegovina to provide a fuller report to the 35th plenary. MONEYVAL, therefore, opened Compliance Enhancing Procedures (CEPs) in respect of the first 3rd round progress report for Bosnia and Herzegovina at step (i), which requires a non-complying member to provide a report or regular reports on its progress in implementing the reference documents.

3. At the 35th plenary meeting (11-14 April 2011), MONEYVAL decided to adopt and publish the first compliance report prepared by the Secretariat. The Committee noted in the first CEPs report: *“Since the adoption of the third round report in December 2009 BiH authorities have taken a number of steps especially on the legislative front to comply with the FATF Recommendations assessed above. Although this progress report covers actions taken within last 16 months since the adoption of the report, it appears that BiH has made slow or very little progress to deal with the majority of the deficiencies related to those Recommendations.”*

4. It concluded that *“BiH has not taken sufficient action implementing any of the Recommendations assessed in this report at the level of or at a level essentially equivalent to a C or LC. In addition, with regard to the Compliance Enhancing Procedures opened at the 33rd plenary (September 2010) in respect of important deficiencies in Recommendations rated NC or PC in the mutual evaluation report and merged these Compliance Enhancing Procedures, BiH has hardly made any progress on any of the important deficiencies identified at the 33rd Plenary. There appear to be some initiatives commenced; however, all these initiatives should be expedited through a concrete action plan with clear milestones and time scales to achieve quick and tangible results.”*

5. As a result it decided to maintain step (i) in the procedures, which requires a member concerned to provide a report or regular reports on its progress in implementing the reference documents. It further reiterated its decision made at the 34th plenary that the report to be submitted before the 36th plenary of the MONEYVAL Committee (26-30 September 2011) should be a merged one that will contain replies to the important deficiencies, which were identified at the 33rd plenary, under some core and key recommendations (R.1, R.5, R.26, SR.II and SR.III), and also under other Recommendations (SR.VIII and SR.IX).

6. In addition, the Committee invited Bosnia and Herzegovina to develop a clear action plan in response to the MONEYVAL’s third round mutual evaluation report. To this end, the Committee gave a mandate to the Chairman to correspond with Bosnia and Herzegovina with a view to agreeing within two months a satisfactory and practicable action plan with realistic timescales for remedying the major deficiencies identified. MONEYVAL underlined that if the Bureau is not satisfied with the action plan produced between the plenaries, the Chairman is mandated to implement step (ii) between plenaries. The Committee emphasised that in order to show a firm political commitment the agreed action plan should be approved at Government level.

7. In the meantime, BiH authorities prepared an action plan and submitted it to the Bureau on time. The Bureau examined the Action Plan, and noting the comprehensive work that had been put into it, it was satisfied with the Action Plan in its revised form. The Chairman in his letter dated 13 September 2011 invited the authorities to obtain governmental endorsement of the draft Action Plan prior to the discussions of Step (i) of the CEPs at the 36th Plenary.

8. At the 36th plenary meeting (26-30 September 2011), Bosnia and Herzegovina presented its second compliance report. The Committee decided to adopt and publish the compliance report prepared by the Secretariat, and to maintain step (i) in the procedures. It further reiterated its decision made at the 34th plenary that the report to be submitted to the 37th plenary should be a merged one that will contain replies to the important deficiencies, which were identified at the 33rd Plenary, under some core and key Recommendations (R.1, R.5, R.26, SR II and SR III), and also under other Recommendations (SR.VIII and SR.IX).

9. The Committee also reiterated its decision at the previous plenary (35th) that in order to show a firm political commitment, the agreed action plan should be approved at Government level. MONEYVAL invited the Bosnian authorities to obtain governmental endorsement of the draft action plan, in its present form, before the end of October 2011. In a press release dated 10 October 2011, the Council of Ministers of Bosnia and Herzegovina announced that, at a meeting held that day, they had

considered and adopted an action plan to remedy deficiencies which had been identified in MONEYVAL's 3rd round evaluation report on Bosnia and Herzegovina.

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

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

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

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

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

14. The Committee stated that the authorities should report back under step (i) in advance of the 40th plenary in December 2012 on short term objectives that had not been fully addressed as well as on medium term objectives in the Action Plan.

II. Short Description of BiH Legal and Institutional Framework

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

III. Overview of BiH's Progress and Review of the Measures taken to address Identified Deficiencies

Progress since the 39th plenary meeting

16. The BiH authorities have made considerable progress in preparing draft amendments to the AML/CFT Law. Subsequent to the 39th plenary meeting the BiH authorities approached the Council of Europe and requested that they provide technical assistance in reviewing the draft amendments to the AML/CFT Law; this process was ongoing at the time of drafting this analysis. It is anticipated that the Council of Europe will conclude its review and issue its opinion on the amendments to the AML/CFT Law by the end of 2012.

17. The BiH authorities have also made considerable progress in preparing draft amendments to the Criminal Code. As above, the BiH authorities again approached the Council of Europe and requested that they provide technical assistance in reviewing the draft amendments to the Criminal Code. Once again, this process is ongoing at the time of drafting this analysis. It is anticipated that the Council of Europe will conclude its review and issue its opinion on the amendments to the Criminal Code by the end of 2012.

18. Although the amended AML/CFT Law and Criminal Code were not in force at the deadline for medium term objectives of 10 October 2012, it must be regarded as a positive development that the draft legislation has been prepared and is undergoing expert review by the Council of Europe.

19. The BiH authorities have advised the MONEYVAL Secretariat that once the expert opinions by the Council of Europe have been delivered it should not take more than four months from the time that the sponsoring ministry submits the draft laws to the Council of Ministers for them to enter into effect in law.

20. The BiH authorities have submitted drafts of the amended AML/CFT Law and proposed amendments to the BiH Criminal Code in relation to the criminal offences of Money Laundering, Financing Terrorism and Confiscation of Property. Whereas the draft Law on Amendments of the Law on the Prevention of Money Laundering and Financing of Terrorist Activities (Draft AML/CFT Law) reflects many of the comments of the expert reviewer the amendments to the Criminal Code do not. It is therefore the case that the proposed amendments to the Criminal Code have not been considered in this analysis as they are likely to be subject to change following the Council of Europe's review. It should also be noted that the draft amendments to the AML/CFT Law have yet to be adopted by the Council of Ministers in BiH. Consequently, both laws should be reconsidered by the MONEYVAL Secretariat once that have been adopted and have come into effect in law.

21. It is also the case that a number of other medium-term actions points cannot be met until the relevant amended laws are adopted. This includes developing guidance and training as well as secondary legislation, such as amendments to the Book of Rules. Furthermore, once these laws are adopted at the level of BiH it will be necessary to make consequential amendments to the relevant laws in the Federation of Bosnia and Herzegovina (FBiH), Republic Srpska (RS) and Brcko District (BD). This will inevitably mean that certain other medium-term action points cannot be considered at this stage.

Recommendation 1

22. As explained above, the draft amendments to the Criminal Code are not being considered in this analysis.

23. The programme of training and awareness raising of judges, prosecutors and law enforcement agencies has continued and the BiH authorities reported that the following seminars were attended by judges and prosecutors:

- Annual Criminal Justice Seminar 7-9 June 2012: topics included money laundering, financing of terrorism, seizure and confiscation of crime proceeds.
- Money laundering; organised by European Union Police Mission, Sarajevo, held on 11-13 June 2012.
- Prevention of Terrorist activities; organised by the American Embassy in BiH, Sarajevo, 18-29 June 2012.
- Financial investigations and confiscation of proceeds; organised by the Ministry of Interior of Republic of Srpska, Banja Luka 3-4 July 2012.
- Money laundering; organised by ILECU⁴, Sarajevo, held on 11 – 13 September 2012.

⁴ The International Law Enforcement Cooperation Unit

- Financial Crime Seminar on special investigative techniques, in Sarajevo 13 September 2012 and Mostar 20 September 2012.
- Investigation and investigation skills; organised by the Centre for education of Judges and Prosecutors in Sarajevo 26 September 2012.
- Combating Domestic and Transnational Terrorism; organised by the American Embassy in BiH, Sarajevo 24 September-5 October 2012.
- Financial investigations and seizure of proceeds; organised by the Directorate for Coordination of Police Bodies of Bosnia and Herzegovina, 9-12. October 2012.
- Combating money laundering derivate from Illicit Trafficking in Narcotic Drugs; organised by the Embassy of France, Sarajevo 16-18 October 2012.
- The Best EU Practice in Financial Investigations; organised by TAIEX⁵, Sarajevo, 16 – 17 October 2012.
- Combating terrorism and financing of terrorism; organised by the American Embassy in BiH, 17-18. October 2012.

24. With regard to the backlog of money laundering cases in the courts, another positive development is that the average number of days from indictment to final conviction has dropped from 2,288 days for cases indicted in 2004 to 126 days for cases indicted in 2010.

25. One action point recommended that legislation should be introduced at all levels to allow the prosecuting and convicting of defendants *in absentia*. The BiH authorities have, however, stated that Article 247 of the Criminal Procedure Code (CPC) of B&H states that “An accused shall not be tried in absentia” and the whole criminal system is based on this requirement.

Recommendation 3

26. As explained above, the draft amendments to the Criminal Code are not being considered in this analysis.

27. With regard to training and awareness raising, a number of the seminars listed under Recommendation 1 above covered confiscation and provisional measures.

28. One action point recommended that consideration should be given to provisions in the criminal procedure which would enable the confiscation of proceeds where the criminal procedure cannot be concluded because the death or absconding of the perpetrator or for any other reason, on condition that there is a proof that the assets derive from criminal offences. However, Article 205 of the CPC of BiH states “When, during the criminal proceedings, it is established that the suspect or accused has died the proceedings shall be discontinued.” Although Article 110 (1) of the criminal code of BiH states that “Nobody is allowed to retain material gain acquired by the perpetration of a criminal offence.” This is qualified by paragraph (2) which states “The gain referred to in paragraph 1 of this Article shall be confiscated by the court decision, which established the perpetration of a criminal offence, under the terms set forth under this Code.” If the proceedings have been discontinued then it is not possible to proceed with the confiscation of the proceeds of the crime.

29. Another action point required that legislative provisions should be introduced at all levels to allow for the voiding of contracts. The BiH authorities consider that this is covered by articles 103-117 of the Law on Obligations of 1 October 1978.⁶ In particular, Article 103 states “Contract which is contrary to coercive regulations, public order or good business practices is null and void, unless the objective of the violated regulation is related to some other penalty or other legal regulations are applied to a certain case.”

⁵ The Technical Assistance and Information Exchange instrument managed by the Directorate-General Enlargement of the European Commission.

⁶ Although a law of the Federal Republic of Yugoslavia The law on Obligations is still in effect in BiH on the basis of the Law on the Takeover Code of Obligations (“Official gazette of BiH” 2/92-102, 13/93-132).

Recommendation 5

30. Although a draft of the amendments to the AML/CFT Law has been submitted it is noted that this has yet to be adopted by the Council of Ministers and is not in effect in law.

31. The Draft AML/CFT Law has introduced a number of amendments that address the following action points:

- Include an obligation to apply the CDD measures when carrying out occasional transactions that are wire transfers (Articles 17 & 18 of the Draft AML/CFT Law, amending Article 26 of the AML/CFT Law).
- Article 15 of the new AML Law should be considered. (Article 8 of the Draft AML/CFT Law, amending Article 15 of the AML/CFT Law).
- Introduce a legal obligation to apply CDD measures to existing customers beyond what is currently provided for banks under the relevant Decisions on Minimum Standards. (Article 13 (2) of the Draft AML/CFT Law, amending Article 20 (2) of the AML/CFT Law).
- Introduce an obligation for all obliged entities and persons to identify the ‘mind and management’ of a legal person beyond the requirements for banks under the relevant Decisions on Minimum Standards of the respective Banking Agencies. (Article 8 of the Draft AML/CFT Law, introducing Article 15 (3) to the AML/CFT Law).
- Require obliged entities to consider filing a suspicious report where the identification process cannot be completed. (Article 6 of the Draft AML/CFT Law, introducing Article 7a (2) to the AML/CFT Law).
- Require obliged entities to consider the termination of business where a business relationship is established but the identification process cannot be completed. (Article 6 of the Draft AML/CFT Law, introducing Article 7a (1) to the AML/CFT Law).

32. Furthermore, the Decisions on Minimum Standards have been amended to introduce a clear timing for the verification of identification information.

33. There are, however, certain action points that do not appear to have been addressed, namely:

- The definition of “transactions” has not been amended in the Draft AML/CFT Law.
- There is still no clear requirements for financial institutions to conduct ongoing due diligence on the business relationship in place.

Recommendation 6

34. Article 3 of the Draft AML/CFT Law amends the definition of politically exposed person (PEP) to bring it into line with the FATF definition except to the extent that “important party officials” are still not included. Article 16 of the Draft AML/CFT amends article 22 of the AML/CFT Law although there is some inconsistency in that for the approval of the commencement of a business relationship with a PEP only requires the “written approval of its supervisor or responsible person” whereas when it is established that an existing customer has become a PEP, continuation of the business relationship requires “written consent of the highest level of management”.

Recommendation 7

35. The scope of coverage of correspondent banking relationships has been resolved by Article 14 of the Draft AML/CFT Law, which amends Article 21 of the AML/CFT Law.

Recommendation 8

36. Article 15 of the Draft AML/CFT Law, introduces a new Article 21a to the AML/CFT Law. This new article introduces a requirement for liable persons⁷ to pay particular attention to the risk of money

⁷ Liable persons are those persons, as set out in Article 4 of the AML/CFT Law, who are subject to the provisions of the AML/CFT Law.

laundering and financing of terrorist activities arising from the implementation of new technological achievements, which make the anonymity of a party possible.

37. It is noted that the Book of Rules will be amended once the new legislation is enacted in law.

Recommendation 9

38. Article 10 of the Draft AML/CFT Law amends Article 17 of the AML/CFT Law to make it clear that liable persons are always liable for CDD procedures even if a customer is introduced through a third party. Article 11 of the Draft AML/CFT Law introduces a new Article 17a which requires that the third party is obliged to inform the liable person about the collected data about the client, which are necessary for the liable person to establish a business relationship.

Recommendation 11

39. Article 15 of the Draft AML/CFT Law, introduces a new Article 21B to the AML/CFT Law. This new article requires liable persons to pay particular attention to the transactions characterised by a complex and unusually high amount, unusual execution method, value or connection of transactions which do not have an economical or legally established purpose.

Recommendation 12

40. All DNFBP are covered by the definition of “liable person” and the amendments in the Draft AML/CFT Law concerning Recommendations 5, 6 and 8 to 11 apply to them. However, as the Draft AML/CFT Law has still to be enacted in law no training or awareness raising has been carried out in the DNFBP sector.

Recommendation 15

41. Article 20 of the Draft AML/CFT Law amends Article 32 of the AML/CFT Law to remove the exemption for small businesses. Furthermore, Article 23 of the Draft AML/CFT Law has added Article 34b to the AML/CFT Law requiring businesses to establish whether potential employees were convicted of a criminal offense to acquire illegal financial gain or criminal offenses connected to terrorism. However, as the Draft AML/CFT Law has still to be enacted in law no training or awareness raising has been carried out as required or requested.

Recommendation 16

42. As stated under Recommendation 12, the amendments in the Draft AML/CFT Law concerning Recommendations 13 to 15 and 21 apply to all DNFBP.

43. It is noted that the responsibilities for supervision of both financial institutions and DNFBP have been reallocated through Article 45 of the Draft AML/CFT Law which amends Article 68 of the AML/CFT Law. However, as previously stated, as the Draft AML/CFT Law has still to be enacted in law, no training or awareness raising has been carried out in the DNFBP sector either by the pre-existing or newly appointed supervisors.

Recommendation 17

44. Article 46 of the Draft AML/CFT Law has combined Articles 72 and 73 of the AML/CFT Law. This appears to have produced a more rational and comprehensive sanctioning regime. However, as the Draft AML/CFT Law has still to be enacted, no consequential amendments have been made to sectoral sanctioning powers; in particular to those covering the insurance sector.

Recommendation 21

45. There is still no requirement to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations or to apply appropriate counter-measures as required.

Recommendation 22

46. Article 7 of the Draft AML/CFT Law amends Article 8 of the AML/CFT Law and the revisions clarify that the higher of BiH standards and local standards should apply.

Recommendation 23

47. The responsibilities for supervision of both financial institutions and DNFBP have been reallocated through Article 45 of the Draft AML/CFT Law which amends Article 68 of the AML/CFT Law. This revision has included allocation responsibility for the Post Office to the Agency for Supervision of the Post Office Operation. The BiH authorities report that the new agency will eventually be recognised under the AML Law as the supervisory authority for AML purposes for the Post Office and that arrangements will be considered for the cooperation of the new Agency and the Agencies for Banks to ensure harmonisation and level playing field in the supervision of the payments sector.

48. The BiH authorities confirm that the risk-based approach already exists in supervision bodies in BiH although the effectiveness of this cannot be assessed from a desk-based review.

Recommendation 24

49. As previously stated, the responsibilities for supervision of both financial institutions and DNFBP have been reallocated through Article 45 of the Draft AML/CFT Law which amends Article 68 of the AML/CFT Law. In particular:

- Ministries of Finance are now responsible for casinos, pawnbrokers, accountants, auditors, legal and natural persons who perform accounting and tax advice services, real estate agencies, persons organising and executing auctions, persons trading in precious metals and stones and products made from these materials and persons trading with works of art, vessels, vehicles and aircrafts.
- Ministries of Justice are now responsible for notaries.
- Bar associations of FBiH and RS are responsible for advocates.
- The Financial Intelligence Department (FID) is responsible for trust and company service providers.

50. However, it is not clear whether the Ministries of Finance have taken any steps to prohibit individuals with criminal background from acquiring or becoming the beneficial owner of a significant or controlling interest, holding management functions in or being/becoming an operator of a casino.

Recommendation 25

51. The BiH authorities report that there is an ongoing procedure of improving the organisation of the FID. There is intention to make additional working places for supervision and education of obliged entities, however, no current initiatives appear to have been undertaken.

Recommendation 26

52. Article 37 of the Draft AML/CFT Law deletes 51 of the AML/CFT Law. However, Article 34 of the Draft AML/CFT Law introduces Article 47a (2) which states “When the FID, while proceeding in accordance with the provisions of this Law, confirms the grounds for suspicion of money laundering or funding of terrorist activities, it shall ex officio deliver the relevant report to the competent prosecutor and, **with the competent prosecutor’s approval**, to the competent law enforcement body.” This still appears to be a significant constraint on the independence of the FID.

53. The headcount of the FID has increased from 28 to 30 although this is still below the budgeted headcount of 39. The BiH authorities state that there is ongoing procedure of improving organization of Financial Intelligence Department and there is an intention to make additional working places for supervision and education of obliged entities available.

54. The FID has provided a chart setting out the exchange of information with other bodies which indicates that there is a regular exchange of information in both directions.

Recommendation 29

55. As noted above, Article 45 of the Draft AML/CFT Law amends Article 68 of the AML/CFT Law. This is aimed at introducing a significant realignment of responsibilities. Until the Draft AML/CFT

Law has been enacted and the new powers adopted it will not be possible to assess the changes relating to Recommendation 29.

Recommendation 33

56. Article 8 of the Draft AML/CFT Law amends 15 of the AML/CFT Law. This has clarified the definition of “legal person”. With the realignment of supervisory responsibilities, which have yet to come into effect, it will not be possible to assess the impact of these amendments through a desk-based review.

Recommendation 35 and Special Recommendation I

57. As explained above, the draft amendments to the Criminal Code are not being considered in this analysis.

Special Recommendation III

58. The BiH authorities have enacted an Ordinance on Implementation of Restrictive Measures Established by Resolutions of the UN Security Council 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) AND 1904 (2009) Against Members of Al-Qaida, Usama Bin Laden, The Taliban and Other Individuals, Groups, Undertakings and Entities Associated with them (Ordinance).

59. Overall the Ordinance appears to be comprehensive and implements all of the requirements of Special Recommendation III.

Special Recommendation VI

60. Article 4 of the Draft AML/CFT Law amending Article 4 of the AML/CFT Law now includes “companies dealing with electronic wire transfer” as liable persons. This is considered by the BiH authorities to include Tenfore d.o.o..

Special Recommendation VII

61. As previously stated, the responsibilities for supervision of financial institutions have been reallocated through Article 45 of the Draft AML/CFT Law which amends Article 68 of the AML/CFT Law. This revision includes allocation of responsibility for the Post Office to the Agency for Supervision of the Post Office Operation. The BiH authorities report that the new agency will eventually be recognised under the AML Law as the supervisory authority for AML purposes for the Post Office.

62. Article 18 of the Draft AML/CFT Law has introduced new Articles 26a (Data on the principal of the electronic transfer), 26b (Determining and verifying the identity of the principal in an electronic transfer) and 26c (Exceptions of the obligation of data collection about the principal of the electronic transfer) to the AML/CFT Law. These articles appear to establish what information should accompany domestic transfers and to ensure that full originator information accompanies cross-border transfers.

63. Unfortunately, no sanctions have been introduced to deal with breaches of Articles 26a to 26c.

Special Recommendation VIII

64. The BiH authorities have provided a Law on Associations and Foundations of Bosnia and Herzegovina together with amending laws. The authorities have subsequently confirmed to the MONEYVAL Secretariat confirmed that complementary laws have been enacted in FBiH, RS and BD.

65. Unfortunately, the revised laws still do not establish a single register as a single source of information on NPOs. Thus the concern remains that the information held is still not accurate enough and the possibility remains that certain NPOs could be registered at the entity and state level and counted twice.

66. Article 45 of the Draft AML/CFT Law which amends Article 68 of the AML/CFT Law reallocates Responsibility for the AML/CFT supervision of “Legal and natural persons... Receiving and/or distributing money or property for humanitarian, charitable, religious, educational or social purposes”

to “competent Ministries of Justice”. As this law has not been enacted the Ministries of Justice have yet to assume their responsibilities for ensuring that non-profit organisations cannot be abused for financing of terrorism.

67. As NPOs are defined as “liable persons” under the Draft AML/CFT Law they will fall under the record keeping requirements set out in the law.

Special Recommendation IX

68. The BiH authorities report that the Indirect Taxation Authority (ITA) has initiated a discussion within the Working Group on the constraints on the ITA Customs Sector working within the framework of entities Laws on foreign currencies. It has been agreed to prepare and enact a State-level Law on Foreign Currencies, incorporating explicate mechanisms, based on which the ITA will be able to adequately monitor currency movements (both foreign and domestic). Although no timetable for this proposal has been submitted the BiH authorities have confirmed that this will be included within the programme of consequential amendments once the Draft AML Law has been adopted. Once this law has been adopted a programme of awareness raising and training will be initiated.

69. Instructions for the Border Police and the ITA are currently under preparation, which will regulate the submission of reports on cash transactions and the necessity procedures for discovering and processing in case of non-reported cash and securities.

70. The BiH authorities report that a limited amount of training has been provided to ITA representatives as follows:-

- Financial investigations and other investigating techniques “Discovering and evidencing of money laundering and Funding terrorist activities” Sarajevo 22 – 24 May 2012 – one representative.
- Temporary and permanent seizure of proceeds of crime, Banja Luka, 24 – 25 May. MOI RS TAIEX, two representatives
- Financing terrorism, Sarajevo, USA Embassy, 17-18 October 2012, - one representative.
- Investigation, Seizure and managing of seized Property, Banja Luka, 10 November 2011, MOI RS, TAIEX, one representative.
- TWINNING Project Customs and Tax guides – blueprint, Banja Luka, 2011 – 2012, Workshops in Indirect Taxation Authorities – in cooperation with Customs Authorities of Austria – many participants/officials of ITA.

IV. Overall Conclusion and Next Steps

71. The BiH authorities have made considerable progress in preparing draft amendments to the AML/CFT Law and the criminal Code. Overall the proposed amendments appear to incorporate significant improvements to the AML/CFT regime. Furthermore, once these laws have been adopted and brought into effect in law there will be consequential amendments to laws in FBiH, RS and BD as well as revised guidance and training.

72. The Amendments to the AML/CFT Law will also introduce a significant realignment of responsibilities for AML/CFT supervision and training. This realignment of responsibilities is to be welcomed although it is noted that, as a consequence of this there will be a delay in implementing sector specific training and guidance as well as disruption in supervisory activities.

73. It is noted that there are still certain matters that appear not to have been addressed and these are noted in the foregoing analysis. Most notable of these are:-

- ***Recommendation 1:*** No ability to prosecute and convict defendants *in absentia*;
- ***Recommendation 3:*** No confiscation of proceeds where the criminal procedure cannot be concluded because the death or absconding of the perpetrator.

- **Recommendation 5:** The definition of “transactions” has not been amended in the Draft AML/CFT Law and there is still no clear requirements for financial institutions to conduct ongoing due diligence on the business relationship in place.
- **Recommendation 6:** Inconsistent requirements over the level of approval for business relations with PEPs.
- **Recommendation 21:** There is still no requirement to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations or to apply appropriate counter-measures as required.
- **Recommendation 24:** it is not clear whether the Ministries of Finance have taken any steps to prohibit individuals with criminal background from acquiring or becoming the beneficial owner of a significant or controlling interest, holding management functions in or being/becoming an operator of a casino.
- **Recommendation 26:** The independence of the FID appears to be compromised by the requirement to obtain a prosecutor’s approval before distributing reports to law enforcement agencies.
- **Special Recommendation VII:** There are no sanctions for breaches of the wire transfer regulations.
- **Special Recommendation VIII:** the revised laws still do not establish a single register as a single source of information on NPOs.

74. The BiH authorities have subsequently confirmed that the above issues are still under consideration with regard to the draft AML Law and will be taken into consideration in the final draft of the amendments.

75. Overall the MONEYVAL Secretariat welcomes the progress that has been achieved by the BiH authorities in respect of the short and medium-term action points. It is however noted that, due to inevitable delays in enacting the revised laws and consequential amendments to laws, guidance, procedures and trainings, very few of the medium-term action points have been fully met. The authorities are strongly encouraged to expedite the enactment of the draft laws. At the same time those outstanding issues as set out in the preceding paragraph should be addressed promptly.

76. The Committee at the 40th plenary examined the action plan produced by Bosnia and Herzegovina. The Committee noted the progress made in respect of short and medium-term objectives in response to the MONEYVAL third round mutual evaluation report. It was agreed that Bosnia and Herzegovina should remain in under step (i) of the Compliance Enhancing Procedures and that they should report at the 41st plenary in April 2013 on progress made on short and medium-term objectives that are not yet addressed.

MONEYVAL Secretariat
December 14 2012

Secretariat Note

The attached Action Plan has been submitted by the Authorities of Bosnia and Herzegovina.

In the interests of brevity only the following Annexes, which were considered to be material to the consideration of the Action Plan, have been attached.

Annex 1: Draft Law on Amendments of the Law on the Prevention of Money Laundering and Financing of Terrorist Activities

Annex 2: Chart of number of days from indictment to final verdict

Annex 3: Cooperation – Exchange of Information

Annex 4: Ordinance on Implementation of Restrictive Measures Established by Resolutions of the UN Security Council 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) AND 1904 (2009) Against Members of Al-Qaida, Usama Bin Laden, The Taliban and Other Individuals, Groups, Undertakings and Entities Associated with them

Bosnia and Herzegovina
Progress Against Short and Medium Term Objectives in the Action Plan

Template: 20 July 2012

Submitted: 5 November 2012

Note:

Short term refers to a time period up to six months

Medium term refers to a time period up to one year

***refers important activities**

Column 1	Column 2	Column 3	Column 4	Column 5
Content of the Recommendation	Planned Corrective measures	Deadline for implementation of corrective measures: short/medium/long term	Owner of activity	Corrective measure(s) taken by the authorities to address the identified concern
R.1 Ensure full compliance with Article 3 of the Vienna Convention and Article 6 of the Palermo Convention by clearly incriminating the “transfer of property” in all Criminal Codes;*	Annual agenda of the Ministry of Justice of BiH has provided drafting of the Law on amendments to the Criminal Code of BiH, where will be made also amendments to Article 209 hereof governing money laundering in compliance with Article 3 of the Vienna Convention and Article 6 of the Palermo Convention Abovementioned law shall contain a provision under which the competent authorities of the Federation of Bosnia and Herzegovina, Republic of Srpska and the Brcko District of Bosnia and	Adoption of Criminal Codes - medium term)	Ministry of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District	The initial draft of the amendments to the BiH Criminal Code in relation to the criminal offences of Money Laundering, Financing Terrorism and Confiscation of objects, is sent to Council of Europe for review and an expert opinion. Anex 2.

	Herzegovina shall harmonize criminal laws with this law within a specified period from the date of enactment of this law.			
<p>Please provide details of when the Law on amendments to the Criminal Code of BiH was adopted and came into effect. Please provide an English translation of the amended text of Article 209 of the Criminal Code.</p>				
<p>The Bosnian authorities should address the lack of clear demarcation between the scopes of the money laundering offences in the different Criminal Codes. It is recommended that consideration should be given as to whether it would be more effective to restrict all money laundering cases to the State Court, and abolishes the Entity and Brcko District jurisdictions.*</p>	<p>The possibility of criminalization of money laundering only at the state level shall be discussed, and if the criminal offense of money laundering remains in Criminal Codes at all levels there will be made amendments to all Criminal Codes in order to clear delimitation of competencies between the State and Entities.</p> <p>Abovementioned law shall contain a provision under which the competent authorities of the Federation of Bosnia and Herzegovina, Republic of Srpska and the Brcko District of Bosnia and Herzegovina shall harmonize criminal laws with this law within a specified period from the date of enactment of this law.</p>	<p>Adoption of Criminal Codes - medium term)</p>	<p>Ministry of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District</p>	<p>The criminal offense of money laundering remains in Criminal Codes at all 4 levels. The lack of clear demarcation between the scopes of the money laundering offences in the different Criminal Codes wil be removed by amendments to the CC BiH.</p> <p>The initial draft of the amendments to the BiH Criminal Code in relation to the criminal offences of Money Laundering, Financing Terrorism and Confiscation of objects, is sent to Council of Europe for review and an expert opinion. Anex 2.</p>

**Please set out the conclusions of the discussions on the possibility of criminalization of money laundering only at the state level.
Please provide information on whether the lack of clear demarcation between the scopes of the money laundering offences in the different Criminal Codes has been addressed.
Please provide an English translation of any appropriate legislation that was adopted in this respect.**

<p>If money laundering is not criminalized exclusively at state level, the conditions in CC-BiH Article 209(1) should be reviewed; especially those not related to value thresholds as, in the view of the evaluators, the existing conditions are overly ambiguous and thus very unlikely to be adequately proven in a criminal procedure. These should, therefore, either be replaced by more precise criteria (like the involvement of organized criminality in the predicates, the fact that the offence was committed on the territory of more than one non-state level jurisdiction etc.) or substituted merely by the application of value limitations.</p>	<p>Annual agenda of the Ministry of Justice of BiH has provided drafting of the Law on amendments to the Criminal Code of BiH, where will be made also amendments to Article 209 hereof governing money laundering. To make clear demarcation between state and entity level, and introduce specific value instead of larger value.</p>	<p>Adoption of Criminal Codes - medium term)</p>	<p>Ministry of Justice of Bosnia and Herzegovina</p>	<p>The initial draft of the amendments to the BiH Criminal Code in relation to the criminal offences of Money Laundering, Financing Terrorism and Confiscation of objects, is sent to Council of Europe for review and an expert opinion. Anex 2.</p>
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**Please provide information on whether Article 209 has been reviewed if money laundering is not criminalized exclusively at state level.
Please provide an English translation of the amended text of Article 209 of the Criminal Code.**

<p>As a minimum requirement, definitions of value thresholds should be publicly known and should be provided for by the legislation (such as the Criminal Code). At the State level, steps need to be taken to fill the gap between positive criminal law and actual judicial practice by finding an adequate legislative solution instead of the current <i>contra legem</i> interpretation of the law.</p>	<p>Ministry of Justice of BiH has provided drafting of the Law on amendments to the Criminal Code of BiH, where will be made also amendments to Article 209 hereof governing money laundering. To make clear demarcation between state and entity level, and introduce specific value instead of larger value, and also to find adequate legislative solution instead of current <i>contra legem</i> interpretation of the law.</p>	<p>Adoption of Criminal Codes – medium term)</p>	<p>Ministry of Justice of Bosnia and Herzegovina</p>	<p>The initial draft of the amendments to the BiH Criminal Code in relation to the criminal offences of Money Laundering, Financing Terrorism and Confiscation of objects, is sent to Council of Europe for review and an expert opinion. Anex 2.</p>
<p>Please set out the steps BiH has taken to introduce the definitions of value thresholds that are publicly known. Please set out the steps, if any, that have been taken to fill the gap between positive criminal law and actual judicial practice. Please provide an English translation of the amended text of Article 209 of the Criminal Code.</p>				
<p>Investigators and prosecutors need to have a clear understanding of the importance of money laundering beyond the tax evasion and fiscal predicates if money laundering criminalization is to be meaningful. Effective implementation of money</p>	<p>Issue of money laundering will continue to be represented in the annual programs of Centres for Education of Judges and Prosecutors</p>	<p>Short term</p>	<p>Centres for Education of Judges and Prosecutors in BiH.</p>	

laundering incrimination should urgently be achieved beyond the tax predicate*				
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Please provide details on seminars and trainings from each of the entities conducted since June 2012.

In addition, please provide the following information:

- **how many judges and prosecutors attended the training courses;**
- **topics and goals of these seminars related to ML and TF;**
- **dates**

Annual Criminale Justice Conference (June, 7-9) in organization of Centre for education of Judges and Prosecutors.

The topics such as: Money laundering, financing of terrorism, seizure and confiscation of crime proceeds were also presented and handled.

Seminar on ML issues

	BiH	FBiH	Republic Srpska	Brcko District
Judges	15	119	43	6
Prosecutors	19	55	22	5
Other				

Combating money laundering derivate from Illicit Trafficking in Narcotic Drugs, organization of Embassy of France, Sarajevo 16 – 18 October 2012, participants from different law enforcement agencies.

Money laundering, organization of European Union Police Mission, Sarajevo, held on 11 – 13 June 2012, participants from different law enforcement agencies,

Money laundering, organization of ILECU, Sarajevo, held on 11 – 13 September 2012.

Financial Crime Seminar

SEMINAR in organization of Centre for education of Judges and Prosecutors: **SPECIAL INVESTIGATIVE ACTIONS:** surveillance and technical recording of telecommunications; access to the computer systems and computerized data processing; surveillance and technical recording of premises; covert following and technical recording of individuals, means of transport and objects related to them; undercover investigators and informants; simulated and controlled purchase of certain objects and simulated bribery; supervised transport and delivery of objects of criminal offense. Participants: 36 prosecutors and 8 from law enforcement agencies. Held on **13.09.2012 in Sarajevo and 20.09.2012 Mostar.**

	BiH	FBiH	Republic Srpska	Brcko District
Judges				
Prosecutors				

Other				
<p>Financing of Terrorism Seminar Seminar: Combating terrorism and financing of terrorism, in organisation of the American Embassy in B&H, participants: in total 46- 12 prosecutors and representatives from different law enforcement agencies in B&H. 17 – 18. October 2012.</p>				
	BiH	FBiH	Republic Srpska	Brcko District
Judges				
Prosecutors				
Other				
<p>Prevention of Terrorist activities, in organization of the USA Embassy , Sarajevo, 18 – 29 June 2012, participants from different law enforcement agencies Combating Domestic and Transnational Terrorism, in organization of USA Embassy, Sarajevo 24 September – 5 October 2012.</p>				
<p>Confiscation of Property Seminar Annual Criminale Justice Conference (June, 7-9) in organization of Centre for Judges and Prosecutors education The topics such as: Money laundering an financing of terrorism, seizure and confiscation of crime proceeds were also presented and handeld.</p>				
	BiH	FBiH	Republic Srpska	Brcko District
Judges	15	119	43	6
Prosecutors	19	55	22	5
Other				
<p>Financial investigations and seizure of proceeds, organization Directorate for Coordination of Police Bodies of Bosnia and Herzegovina, held on 9 – 12. October 2012, participants from different law enforcement agencies.</p>				
<p>Financial investigations and confiscation of proceeds, Ministry of Interior of Republic of Srpska, Banja Luka 3 – 4 July 2012, participants from different law enforcement agencies</p>				
Financial investigation into proceeds needs to become an integral part of investigation of various proceeds generating offences. For this	Issue of financial investigation will continue to be represented in the annual programs of Centres for Education of Judges and	Short term	Centres for Education of Judges and Prosecutors in BiH.	

to be achieved, more resources and training are needed especially by the prosecution service.*	Prosecutors			
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Please provide details on financial investigation seminars and trainings conducted since June 2012.

In addition, please provide the following information:

- how many judges and prosecutors attended the training courses;
- topics and goals of these seminars related to ML and TF;
- dates

Financial investigation seminar

SEMINAR in organization of Centre for Judges and Prosecutors education: **SPECIAL INVESTIGATIVE ACTIONS:** surveillance and technical recording of telecommunications; access to the computer systems and computerized data processing; surveillance and technical recording of premises; covert following and technical recording of individuals, means of transport and objects related to them; undercover investigators and informants; simulated and controlled purchase of certain objects and simulated bribery; supervised transport and delivery of objects of criminal offense. Participants: prosecutors 36 and 8 from law enforcement agencies. Held on **13.09.2012 in Sarajevo and 20.09.2012 Mostar**

SEMINAR Investigation and investigation skills in organization of Centre for education of Judges and Prosecutors held on 26.09.2012 in Sarajevo. Participants: 16 prosecutors an 16 from law enforcement agencies

	BiH	FBiH	Republic Srpska	Brcko District
Law enforcement				
FIU				
Other				

The Best EU Practice in Financial Investigations, TAIEX, Sarajevo, 16 – 17 October 2012, **participants from Prosecutors office of B&H and different law enforcement agencies**

State-level incrimination as well as those in the Federation and Brcko District should expressly include “own proceeds” laundering or, at least, appropriate guidance should be given to	Amendments to the Criminal Codes of Federation and Brcko District will provide including “own proceeds” laundering	Medium term	Ministry of Justice of Federation of Bosnia and Herzegovina and Brcko District.	Ministry of Justice of Federation of B&H, provided information that Criminal Code of FB&H will be amended during 2013.
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<p>practitioners in this respect in all the three jurisdictions where self-laundering is not explicitly covered by law (especially in the Federation and Brcko District where there is no relevant judicial practice either).</p>				
<p>Please set out the steps taken to incriminate “self-laundering” or “own proceeds” laundering at state-level as well as in FBiH and Brcko District Please provide an English translation of any relevant legislation that was adopted at state-level and in FBiH and BD in this respect.</p>				
<p>Authorities of Republic of Srpska should review the policy reasons whether and why it was considered expedient and proportionate to threaten self-laundering with higher penalty than money laundering by third parties</p>	<p>Authorities of Republic of Srpska will review the policy reasons whether and why it was considered expedient and proportionate to threaten self-laundering with higher penalty than money laundering by third parties</p>	<p>Medium term</p>	<p>Ministry of Justice of RS</p>	
<p>Please set out the reasons why the authorities of the Republic of Srpska considered that it was expedient and proportionate to threaten self-laundering with higher penalty than money laundering by third parties. Please provide an English translation of any appropriate legislation that was adopted in this respect.</p>				
<p>The language of money laundering incrimination and penalties should be harmonized across the State level, the Entities, and Brcko</p>	<p>The language of money laundering incrimination and penalties will be harmonized across the State level, the Entities, and Brcko District.</p>	<p>Medium term</p>	<p>Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District.</p>	<p>After the endorsement of the amendments to the BiH Criminal Code follows the harmonisation of entities Criminal Codes with</p>

District.				Criminal Code of B&H
Please set out the steps taken to harmonise the language of money laundering incrimination and penalties in BiH, the Entities, and Brcko District. Please provide an English translation of any appropriate legislation that was adopted in this respect.				
The uncertainty over whether the intentional element of ML may be inferred from objective factual circumstances should be addressed by appropriate guidance from the judiciary at the level of the Entities and Brcko District.	Proper guidance from the judiciary at the level of entities and Brcko District will remove the uncertainty whether the intent element of money laundering may be inferred from objective factual circumstances	Medium term	Competent courts at levels of entities and Brcko District level	This issue will be addressed through annual education program for judges and prosecutors and this is also included in article 2 of amended AML. The High Judicial and Prosecutorial Council of B&H send a letter to the Court of B&H, the Appellate Court of Brcko District and Supreme Courts of the entity, asking to be consulted on the drafting of the guidelines to the entities and Brcko District, which will remove the uncertainty of whether the intentional element of ML may be inferred from objective factual circumstances of the case and to inform HJPC officially about the common position on this issue.
Please provide details of when guidance from the judiciary at the level of the Entities and Brcko District was adopted. Please provide an English translation of any guidance provided.				

Legislation should be introduced at all levels to allow the prosecuting and convicting of defendants in absentia	BiH Authorities shall consider the possibility of prosecuting and convicting of defendants in absentia	Medium term	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District.	
<p>Please provide details of any legislation introduced to allow the prosecuting and convicting of defendants in absentia Please provide details of any prosecutions and convictions of defendants in absentia. Please provide an English translation of any appropriate legislation that was adopted in this respect.</p>				
<p>Article 247of CPC of B&H contains “Ban of Trial in Case of Absentia”: „An accused shall not be tried in absentia“, and the whole criminal system is based on this solution. This means that it would be impossible to introduce such amendment in our CPC.</p>				
The backlog in money laundering cases pending before the Court of Bosnia and Herzegovina is a problem that must be addressed by state-level authorities. It is recommended that appropriate training of the judiciary and prosecutors be provided.	Appropriate trainings of the judiciary and prosecutors will be provided through annual programs of the Centres for Education of Judges and Prosecutors	Medium term	Centres for Education of Judges and Prosecutors in BiH.	
<p>Please provide details on seminars and trainings conducted since June 2012. In addition, please provide the following information:</p> <ul style="list-style-type: none"> • how many judges and prosecutors attended the training courses; • topics and goals of these seminars related to ML and TF; • dates <p>Seminar Investigation and investigation skills in organization of Centre for education of Judges and Prosecutors, held on 26.09.2012 in Sarajevo. Participants: 16 prosecutors an 16 from law inforcement agencies</p>				

Annual Criminal Justice Conference (June, 7-9) in organization of Centre for Judges and Prosecutors education
 The topics such as: Money laundering and financing of terrorism, seizure and confiscation of crime proceeds were also presented and handled

	BiH	FBiH	Republic Srpska	Brcko District
Judges	15	119	43	6
Prosecutors	19	55	22	5

Please provide information on details of current backlog of cases:

- average time to convictions once prosecutions commenced;
- current backlog of cases in court (predicate offences, ML/TF cases)

Please see Anex 3.

R.3 The provisions on confiscation in the Criminal Code of Republic Srpska should be amended to enable the confiscation of income or other benefits. Equally, confiscation of proceeds commingled with legitimate assets should also be provided for.	Amend the provisions in the Criminal Code of the Republic of Srpska to enable confiscation of proceeds or other benefits. Also, confiscation of proceeds commingled with legitimate assets shall be prescribed.	Medium term	Ministry of Justice of RS	
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Please provide details of amendments to the Criminal Code of Republic Srpska to enable the confiscation of income or other benefits.
Please provide details of any steps taken to allow confiscation of proceeds commingled with legitimate assets.
Please provide an English translation of any appropriate legislation that was adopted in this respect.

Competent authorities at State level and also in the Federation of Bosnia and Herzegovina and Brcko	Competent authorities at State level and also in the Federation of Bosnia and Herzegovina and Brcko	Medium term	Ministry of Justice of BiH and Ministry of Justice at Entity level and District Brcko.	The initial draft of the amendments to the BiH Criminal Code in relation to the criminal offences of
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<p>District should review the articles in the respective Criminal Codes that provide for the confiscation of instrumentalities and other objects with the aim of removing or, at least, concretising the overly vague conditions under which this security measure can be applied (absolute necessity based on public safety or moral reasons etc.) so that the confiscation of such objects can actually be mandatory</p>	<p>District should review the articles in the respective Criminal Codes that provide for the confiscation of instrumentalities and other objects with the aim of removing or, at least, concretising the overly vague conditions under which this security measure can be applied (absolute necessity based on public safety or moral reasons etc.) so that the confiscation of such objects can actually be mandatory</p>			<p>Money Laundering, Financing Terrorism and Confiscation of objects, is sent to Council of Europe for review and an expert opinion. Anex 2, article 74 CCB&H</p>
<p>Please set out details of any changes adopted in the Criminal Codes of BiH, FBiH and BD that clarify the conditions for the confiscation of instrumentalities and other objects. Please provide an English translation of the amended text of relevant Articles of the Criminal Codes.</p>				
<p>The authorities of Republic of Srpska should consider introducing compulsory confiscation of such objects instead of the current, discretionary provision in the Criminal Code of Republic Srpska Article 62(1).</p>	<p>Republic of Srpska has to introducing compulsory confiscation of such objects instead of the current, discretionary provision in the Criminal Code of Republic of Srpska Article 62(1).</p>	<p>Medium term</p>	<p>Ministry of Justice of RS</p>	
<p>Please provide details of measures taken to introduce compulsory confiscation the Criminal Code of Republic Srpska Article 62(1). Please provide an English translation of the amended text of the relevant Article of the Criminal Code.</p>				

<p>Removal of overly insubstantial preconditions of <i>in rem</i> confiscation of instrumentalities and other objects (“interests of general security” etc.) should take place at all levels</p>	<p>Remove overly insubstantial preconditions of <i>in rem</i> confiscation of instrumentalities and other objects (“interests of general security” etc.) should take place at all levels</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH and Ministry of Justice at Entity level and District Brcko.</p>	<p>The initial draft of the amendments to the BiH Criminal Code in relation to the criminal offences of Money Laundering, Financing Terrorism and Confiscation of objects, is sent to Council of Europe for review and an expert opinion. Anex 2.</p>
<p>Please provide details of steps taken to remove overly insubstantial preconditions of <i>in rem</i> confiscation of instrumentalities and other objects at all levels. Please provide an English translation of any appropriate legislation that was adopted in this respect.</p>				
<p>Consideration should be given to provisions in the criminal procedure which would enable the confiscation of proceeds where the criminal procedure cannot be concluded because the death or absconding of the perpetrator or for any other reason, on condition that there is a proof that the assets derive from criminal offences.</p>	<p>Introduce provisions in the criminal procedure which would enable the confiscation of proceeds where the criminal procedure cannot be concluded because the death or absconding of the perpetrator or for any other reason, on condition that there is a proof that the assets derive from criminal offences.</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH, and Ministry of Justice at Entity level and District Brcko</p>	

Please provide information on any provisions that have been introduced in the criminal procedure which would enable the confiscation of proceeds where the criminal procedure cannot be concluded because of the death or absconding of the perpetrator or for any other reason, on condition that there is a proof that the assets derive from criminal offences.

Please provide an English translation of any appropriate legislation that was adopted in this respect.

The Basis of the Confiscation of Material Gain
Article 110 of CC of B&H

(1) Nobody is allowed to retain material gain acquired by the perpetration of a criminal offence.

(2) **The gain referred to in paragraph 1 of this Article shall be confiscated by the court decision, which established the perpetration of a criminal offence, under the terms set forth under this Code**

Article 205 of CPC of B&H

Discontinuance of the Proceedings if the Suspect or Accused Dies

When, during the criminal proceedings, it is established that the suspect or accused has died the proceedings shall be discontinued.

.....

The confiscation of proceeds where the criminal procedure cannot be concluded because of the death or absconding of the perpetrator or for any other reason would be in contradiction with our criminal justice system. The confiscation can be based only on court decision (judgment), and this court decision is the only guaranty that we know that the criminal offence is committed. It would be impossible to confiscate a material gain without knowing that the criminal offence is committed and it would cause legal uncertainty.

Legislative provisions should be introduced at all levels to allow for the voiding of contracts.

Legislative provisions should be introduced at all levels to allow for the voiding of contracts

Medium term

Ministry of Justice of BiH, and Ministry of Justice at Entity level and District Brcko

Please provide details of changes made to legislative provisions at all levels to introduce the possibility for the voiding of contracts. Please provide an English translation of any appropriate legislation that was adopted in this respect.

In Anex 4 we are providing you Law on obligations, especially emphasizing Section 4- Invalidity of the contract (article 103-117). This Law on obligations is also available on: http://ruessmann.jura.uni-sb.de/BiH-Project/Data/Zakon_obliga.pdf

<p>Domestic authorities should review the practical functioning of provisions on confiscation and provisional measures to assess their overall effectiveness to ensure that they are fully operational and to satisfy themselves that the necessary tools are really in place for a complete and effective system. Such a review should primarily be supported by compiling and maintaining of comprehensive and precise statistics on the volume and effectiveness of confiscation and the provisional measures.</p>	<p>Revise the practical functioning of provisions on confiscation and provisional measures to assess their overall effectiveness to ensure that they are fully operational and to satisfy themselves that the necessary tools are really in place for a complete and effective system. Provide maintaining of comprehensive and precise statistics on the volume and effectiveness of confiscation and the provisional measures.</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH, and Ministry of Justice at Entity level and District Brcko</p>	<p>Additionally we will provide some new information concerning provisional measures connected with new cases.</p>
<p>Please set out the steps taken to review the practical functioning of provisions on confiscation and provisional measures to assess their overall effectiveness Please provide supporting statistics as an annex to the report</p>				
<p>We already provided all the necessary information. Please see OVERALL CONCLUSION AND NEXT STEPS from the last Report on progress after the 39TM plenary meeting and (Table Anex 1 -Provisional measures - seizure of proceeds) Additionally we are providing the information that we, for the period 01.01.2012 do 30.09.2012, have a judgment of the Court of B&H, for a criminal offence of money laundering (article 209. par.2) with confiscated property of 10.845,03 KM. The judgment became final on 4.9.2012.</p>				
<p>Domestic authorities should</p>	<p>Revise the specific confiscation rule in CC-BiH</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH, and Ministry of Justice at</p>	<p>The initial draft of the amendments to the BiH</p>

<p>review the specific confiscation rule in CC-BiH Article 209(4) and identical non-state rules either in themselves or in combination with Article 74 to consider whether these provisions allow for the mandatory confiscation of instrumentalities used in or intended for use in the commission of a money laundering offence as far as such objects are not owned by the perpetrator and introduce legislation to remedy to this apparent weakness of the system.</p>	<p>Article 209(4) and identical non-state rules either in themselves or in combination with Article 74</p>		<p>Entity level and District Brcko</p>	<p>Criminal Code in relation to the criminal offences of Money Laundering, Financing Terrorism and Confiscation of objects, is sent to Council of Europe for review and an expert opinion. Anex 2.</p>
<p>Please set out the steps taken to review and revise the specific confiscation rule in CC-BiH Article 209(4) and identical non-state rules either in themselves or in combination with Article 74. Please provide an English translation of the amended text of relevant articles of the Criminal Code of BiH.</p>				
<p>Legislative amendments should be introduced to introduce explicit provisions to prevent or void contractual or other actions where the</p>	<p>Legislative amendments should be introduced to introduce explicit provisions to prevent or void contractual or other actions where the persons involved knew or</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH, and Ministry of Justice at Entity level and District Brcko</p>	

<p>persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation.</p>	<p>should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation</p>			
<p>Please provide details of legislative amendments made to introduce explicit provisions to prevent or void contractual or other actions where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation. Please provide an English translation of any appropriate legislation that was adopted in this respect.</p>				
<p>In Anex 4 we are providing you Law on obligations, especially emphasizing Section 4- Invalidity of the contract (article 103-117). These regulations can be related to Criminal Law provisions, and especially article 209 and 31, which include knowledge and concealment. One person can, commit the criminal offence of money laundering by concealing origin of money (in accordance with article 2009 of CC B&H) and this person can conclude a contract with a person who knew or should have known that the money was proceeds of crime. In this situation this second person is committing a criminal offense of accessory (art. 31 of CC B&H). On this contract are applicable the provisions of Law on obligations “Null and void contracts“. Accessory</p> <p style="text-align: center;">Article 31</p> <p>(1) Whoever intentionally helps another to perpetrate a criminal offence shall be punished as if he himself perpetrated such offence, but the punishment may be reduced.</p> <p>(2) The following, in particular, shall be considered as helping in the perpetration of a criminal offence: giving advice or instructions as to how to perpetrate a criminal offence, supplying the perpetrator with tools for perpetrating the criminal offence, removing obstacles to the perpetration of criminal offence, and promising, prior to the perpetration of the criminal offence, to conceal the existence of the criminal offence, to hide the perpetrator, the tools used for perpetrating the criminal offence, traces of the criminal offence, or goods acquired by perpetration of the criminal offence.</p> <p>.....</p> <p>According to the CCB&H proceeds will be confiscated as a result of committing of criminal offences and the contract will be nulland void.</p>				
<p>Authorities at all levels should establish unified</p>	<p>Authorities at all levels should establish unified</p>	<p>Medium term</p>	<p>BiH Agency for the management of seized assets</p>	

<p>systems for keeping statistics on the amounts of property seized and confiscated, and designate competent bodies for this purpose, in line what was recommended by the first round report. In this respect, the evaluation team considers it more practical to address this question on a Bosnia and Herzegovina wide basis and not separately for each Entity and Brcko District.</p>	<p>systems for keeping statistics on the amounts of property seized and confiscated, and designate competent bodies for this purpose, in line what was recommended by the first round report.</p>		<p>acquired through crime, the High Prosecutorial Council of BiH</p>	
<p>Please provide details of establishing unified systems for keeping statistics on the amounts of property seized and confiscated. Please provide information on whether the statistics is kept on a Bosnia and Herzegovina wide basis and not separately for each Entity and Brcko District. Please provide relevant statistics as an annex to the report.</p>				
<p>We already provided all the necessary information. Please see OVERALL CONCLUSION AND NEXT STEPS from the last Report on progress after the 39TM plenary meeting, where the statistic was evaluated as fully successful.</p>				
<p>R.5 include an obligation to apply the CDD measures when carrying out occasional transactions that are wire transfers;</p>	<p>The new amendments to AML/CFT Law will be amended to Article 26 which will include periodic electronic transfers.</p>	<p>Adoption of amendments on AML Law - medium term)</p>	<p>Council of Ministers of BiH</p>	<p>Working Group Council of Ministers of BiH prepared new Draft Law on amendments of AML/CFT Law which resolved this deficiency: Article 17. Of Draft Law Prescribes that In Article 26. paragraph (1) in</p>

				<p>the brackets after the words "payment services", the words "and charge" shall be added, and paragraphs (2), (3), (4), (5), (6) and (7) shall be deleted.</p> <p>Article 18. Of Draft Law on amendments of AML/CFT Law Prescribes : After Article 26. new Articles 26a. (Data on the principal of the electronic transfer) , 26b. (Determining and verifying the identity of the principal in an electronic transfer) , and 26c(Exceptions of the obligation of data collection about the principal of the electronic transfer) . shall be added to read:</p>
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Please provide an English translation of those clauses of the revised Article 26 of the AML/CFT Law.

review the definition of "transactions" in the new AML/CFT Law	Working Group of the Council of Ministers prepared a draft of amendments to the AML/CFT Law that includes this remark, and eliminates the definition of cash	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	This deficiency has been resolved with Draft Law on amendments of AML/CFT Law
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	transactions to avoid all doubt in the application of CDD measures.			
Please provide details of revision of the definition of “transactions” in the new AML/CFT Law. Please provide an English translation of amendments to the AML/CFT Law.				
introduce a clear timing for the verification of identification information with a review of the Decisions on Minimum Standards accordingly	The new amendments to AML/CFT Law will be amended to Article 65, paragraph (1), shall be amended which will include clear timing for the verification of identification information.	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	Planned Corrective measures for this deficiency where resolved with Decision on minimum standards for bank’s activities in prevention of Money laundering and terrorism financing in Federation of B&H and Republic of Srpska, as that was recommended by the evaluators.
Please provide an English translation of the amended article 65 paragraph (1).				
<p>Article 10 – Paragraph 3. of Decisions on minimum standards for bank’s activities in prevention of Money laundering and terrorism financing, both in Federation of B&H and Republic of Srpska - Customer identification - is resolving this deficiency. Aforementioned Decision of Federation of B&H is attached to this Questionnaire. This article is completely the same in both Decisions. Anex 5.</p> <p>Article 11 – Paragraph 2. of Decisions on minimum standards for micro credit organizations’ activities in prevention of Money laundering and terrorism financing, both in Federation of B&H and Republic of Srpska - Customer identification - is resolving this deficiency. Aforementioned Decision of Federation of B&H is attached to this Questionnaire. This article is completely the same in both Decisions. Anex 6.</p> <p>Article 11 – Paragraph 2. of Decisions on minimum standards for leasing companies' activities in prevention of Money laundering and terrorism financing, both in Federation of B&H and Republic of Srpska - Customer identification - is resolving this deficiency. Aforementioned Decision of Federation of B&H is attached to this Questionnaire. This article is completely the same in both Decisions. Anex 7.</p>				
Article 15 of the new AML Law should be considered*		Short term	Regulatory agencies at all levels in BiH and FIU	This Article has been considered and amended –

				Article 8. Of Draft Law on amendments of AML/CFT Law
Please provide an English translation of those clauses of the revised Article 15 of the AML/CFT Law				
introduce a legal obligation to apply CDD measures to existing customers beyond what is currently provided for banks under the relevant Decisions on Minimum Standards;	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include recommendation of evaluators' remark.	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	This Article has been considered and amended – Article 13. Paragraph 2 Of Draft Law on amendments of AML/CFT Law
Please provide details of the legal obligations to apply CDD measures to existing customers. Please provide an English translation of the relevant articles of the AML/CFT Law.				
introduce an obligation for all obliged entities and persons to identify the 'mind and management' of a legal person beyond the requirements for banks under the relevant Decisions on Minimum Standards of the respective Banking Agencies	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include recommendation of evaluators' remark.	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	This Article has been considered and amended – Article 8. Paragraph 2. Of Draft Law on amendments of AML/CFT Law
Please provide details of the obligation for all obliged entities and persons to identify the 'mind and management' of a legal person beyond the requirements for banks. Please provide an English translation of relevant articles of the AML/CFT Law.				

establish clear requirements for financial institutions to conduct ongoing due diligence on the business relationship	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include recommendation of evaluators' remark.	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	
<p>Please details of any clear requirements for financial institutions to conduct ongoing due diligence on the business relationship. Please provide an English translation of relevant articles of the AML/CFT Law.</p>				
require obliged entities to consider filing a suspicious report where the identification process cannot be completed	The new amendments to AML/CFT Law will be amended. After Article 7, new 7a is added which will include this objection.	Adoption of amendments on AML Law - medium term)	Council of Ministers of BiH	This deficiency has been considered and resolved by – Article 6. Of Draft Law on amendments of AML/CFT Law prescribes adding new Article 7a (Refusal of business relationship and execution of transaction)
<p>Please provide information on requirements for obliged entities to consider filing a suspicious report where the identification process cannot be completed. Please provide an English translation of those clauses of the revised Article 7 of the AML/CFT Law.</p>				
require obliged entities to consider the termination of business where a business relationship is established but the identification process cannot be completed	The new amendments to AML/CFT Law will be amended. After Article 7, new 7a is added which will include this objection.	Adoption of amendments on AML Law - medium term)	Council of Ministers of BiH	This deficiency has been considered and resolved by – Article 6. Of Draft Law on amendments of AML/CFT Law prescribes adding new Article 7a (Refusal of

				business relationship and execution of transaction)
<p>Please provide information on requirements for obliged entities to consider the termination of business where a business relationship is established but the identification process cannot be completed.</p> <p>Please provide an English translation of those clauses of the revised Article 7 of the AML/CFT Law.</p>				
R.6				
<p>At the time of the on-site visit PEPs were only partially and limitedly addressed and only for the banking sector. However even these provisions did not entirely cover the requirements for Recommendation 6. There did not appear to be any similar provisions for the whole financial sector. Although the new law now provides for the treatment of PEPs, still there is a need to create awareness and provide guidance on the identification process, including where the beneficial owner is a PEP.*</p>	<p>Make amendments to the AML/CFT Law and harmonize it with the essential criteria of Recommendation 6.</p> <p>Amend a guidebook in order to introduce a requirement for financial institutions to obtain senior management approval to continue the business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.</p>	<p>Adoption of amendments on AML Law - medium term.</p> <p>Short term</p>	<p>Working Group and Council of Ministers of BiH</p> <p>Regulatory agencies at state and entities levels</p>	<p>This deficiency has been considered and resolved by – Articles 3. (definitions) And 16. (Amended Article 22 – politically and publicly exposed persons) . Of Draft Law on amendments of AML/CFT Law.</p> <p>Other deficiencies will be resolved after adoption of Draft Law on amendments of AML/CFT Law .</p>
	<p>Create a training plan for all participants from the</p>	<p>Short term</p>	<p>Regulatory agencies at state and entities levels</p>	

	financial sector in order to raise awareness			
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Please provide information on amendments to the AML/CFT Law in order to harmonize it with the essential criteria of Recommendation 6. Please provide an English translation of relevant articles of the AML/CFT Law.

Please provide details of amendments to a guidebook in order to introduce a requirement for financial institutions to obtain senior management approval to continue the business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP. Please provide an English translation of amendments to a guidebook.

Please provide details of awareness raising seminars and trainings conducted since June 2012.

Seminars conducted since June 2012

	BiH	FBiH	Republic Srpska	Brcko District
Financial institutions: Banks Securities Insurance Other				

R.7 The coverage of correspondent banking is not comprehensive and does not appear to specifically cover	Working Group of the Council of Ministers has prepared amendments to the law that eliminates this objection as follows:	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	This deficiency has been considered and resolved by – Article 14 Of Draft Law on amendments of AML/CFT Law .
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<p>respondent bank's relationships. Although correspondent banking is now included under the new AML Law, the issue of 'payable through' accounts is not addressed. It is advisable that correspondent banking relationships be reviewed accordingly.</p>	<p>In Article 21 after paragraph (4) add new paragraph (5) that shall read:</p> <p style="text-align: center;">(Correspondent Relationship with Foreign Loan Institutions)</p> <p>(5) The obligor can not establish a loan correspondent relationship with a foreign bank or any other similar institution based on which such foreign institution may use the account with the obligor to operate directly with its clients.</p> <p>Introduce a requirement that banks shall document the AML/CFT responsibility of correspondent banks.</p>			
<p>Please provide an English translation of those clauses of the revised Article 21 of the AML/CFT Law Please provide an English translation of any requirements that banks shall document the AML/CFT responsibility of correspondent banks.</p>				
<p>R.8 Although it appears that electronic business in the</p>	<p>Working Group of the Council of Ministers will</p>	<p>Adoption of amendments on AML Law - medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>This deficiency has been considered and resolved by</p>

<p>financial sector is low, there are no obligations for financial institutions to have policies in place to prevent the misuse of technological developments. This should be provided for in the new AML Law which to date does not address this issue.</p>	<p>prepare a draft of amendments to the AML/CFT Law and eliminate this objection.</p>			<p>Article 15 Of Draft Law on amendments of AML/CFT Law – adding Article 21 (New technological achievements)</p>
<p>Please provide details of any obligations that have been introduced for financial institutions to have policies in place to prevent the misuse of technological developments. Please provide an English translation of relevant articles of the AML/CFT Law.</p>				
<p>Following the introduction of the new AML Law, a revised Book of Rules, providing guidance on its implementation and more awareness on the part of ‘persons’ under obligation’, albeit to different degrees, on the concepts and the philosophy of the law and their obligations, needs to be adopted.</p>				<p>This deficiency will be resolved after adoption of Draft Law on amendments of AML/CFT Law .</p>
<p>Please provide details of any guidance issued on implementation and more awareness of the Book of Rules on the part of ‘persons’ under obligation. Please provide an English translation of amendments to the Book of Rules.</p>				

<p>R.9 Although the old LPML does not specifically prohibit or allow third party reliance or introduced business, likewise it does not specifically allow it. However there are provisions that appear to indirectly allow such procedures. This is particularly so in relation to the use of companies specialised in customer due diligence. The absence of such companies, though recognised, impacts on procedures to licence and regulate them. This creates an uncertainty as to whether third party reliance is allowed or not. Notwithstanding the fact that the new AML Law has now clarified this doubt in that it specifically allows ‘persons’ under obligation’ to rely on third parties, as defined by the new AML Law, yet the</p>	Articles 10, 11 and 12 of the draft of amendments to the AML/CFT Law address remaining deficiencies when enacted as they currently stand.	Adoption of amendments to the AML Law - medium term	Working Group and Council of Ministers of BiH	This deficiency has been considered and resolved by Articles 9, 10, 11 and 12 Of Draft Law on amendments of AML/CFT Law.
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<p>new provisions do not fully cover the FATF criteria for Recommendation 9. In the circumstances it is recommended that the legislative and other relevant provisions be revised such that the obligations and requirements should be harmonised with Recommendation 9.</p>				
<p>Please provide information on the revised legislative and other relevant provisions so that the obligations and requirements be harmonised with Recommendation 9. Please provide an English translation of Articles 10, 11 and 12 of the draft of amendments to the AML/CFT Law.</p>				
<p>R.11</p> <p>It is recommended that Recommendation 11 be specifically addressed through a revision of the new AML legislation and an eventual consequent revision of the Banking Decisions for Minimum Standards.</p>	<p>Working Group of the Council of Ministers will prepare amendments to the AML/CFT Law and eliminate objection of 3rd round of evaluation relating to the supervision of large and unusual transactions and verify the background and purpose of these transactions and written statement on such knowledge.</p>	<p>Adoption of amendments on AML Law - medium term)</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>This deficiency has been considered and resolved by Article 15 Of Draft Law on amendments of AML/CFT Law – adding Article 21 b (Unusual transactions)</p>

	In accordance with the new legal solutions perform eventual consequent revision of the Banking Decisions for Minimum Standards		Regulatory Banking Agencies of FBiH and RS	
<p>Please provide information on whether the AML/CFT Law and the Banking Decisions for Minimum Standards were reviewed in order to meet requirements of Rec.11.</p> <p>Please provide an English translation of amendments to the AML/CFT Law and the Banking Decisions for Minimum Standards.</p>				
<p>R.12</p> <p>Although the concept of PEPs under intensified identification procedures is addressed through legal provisions and hence also for DNFBPs, in practice the issue of PEPs is not addressed by DNFBPs as there is a complete lack of awareness of the risks involved. It is therefore recommended to introduce the awareness and understanding training campaign accordingly throughout the whole sector of DNFBPs as is also required for some elements of the financial sector.*</p>	<p>The authorities will take the opportunity from the introduction of the new guidance as issued to continue to develop and implement the sector wide awareness and understanding campaign through training programmes.</p>	<p>Short term</p>	<p>FIU</p>	<p>This deficiency has been considered and resolved by – Articles 3. (definitions) And 16. (Amended Article 22 – politically and publicly exposed persons) . Of Draft Law on amendments of AML/CFT Law .</p> <p>Other deficiencies will be resolved after adoption of Draft Law on amendments of AML/CFT Law .</p>

Please provide details on awareness raising seminars and trainings conducted for DNFBP since June 2012.

Seminars conducted for DNFBP

Please provide details of :

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

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

<p>There is a need for increased awareness of threats from new or developing technologies among DNFBPs, although, as claimed, their activities are mostly related to a one-to-one customer relationship. Developments in technology on the way of carrying out certain activities could however pose certain threats</p>	<p>Working Group of the Council of Ministers will prepare amendments to the AML/CFT Law and eliminate objection concerning new technology.</p>	<p>Adoption of amendments on AML Law - medium term)</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>This deficiency has been considered and resolved by Article 15 Of Draft Law on amendments of AML/CFT Law – adding Article 21a (New technological achievements)</p> <p>Other deficiencies will be resolved after adoption of Draft Law on amendments of AML/CFT Law.</p>
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Please provide details of when the Law on amendments to the AML/CFT was adopted and came into effect.

**Please provide an English translation of amendments to the AML/CFT Law.
Please provide details on awareness raising seminars and trainings conducted since June 2012.**

Seminars conducted for DNFBPs

Please provide details of :

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

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

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

Please provide details on awareness raising seminars and trainings conducted since June 2012.

Seminars conducted for DNFBP

Please provide details of :

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

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

There is a need for the DNFBPs to be made more aware of the threats to money laundering and the financing of terrorism arising out of large complex transactions	Working Group of the Council of Ministers will prepare amendments to the AML/CFT Law and eliminate objection of 3rd round of evaluation relating to the supervision of large	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	This deficiency has been considered and resolved by Article 15 Of Draft Law on amendments of AML/CFT Law – adding Article 21 b (Unusual transactions)
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<p>that may not have economic reasons. The need to analyse and understand such transactions cannot be over emphasised. It is recommended to statutory obligations to this effect are introduced for all obligors.</p>	<p>and unusual transactions and verify the background and purpose of these transactions and written statement on such knowledge</p>			
<p>Please provide details of any statutory obligations introduced requiring DNFBP to supervise large and unusual transactions and verify the background and purpose of these transactions and written statement on such knowledge. Please provide an English translation of amendments to the AML/CFT Law in this respect.</p>				
<p>Record keeping procedures in the AML LAW need to be revisited and clarified in accordance with the requirements under Recommendation 10.</p>	<p>Working Group of the Council of Ministers prepared a draft of amendments to the AML/CFT Law that includes this remark</p>	<p>Adoption of amendments on AML Law - medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>This deficiency has been considered and resolved by Article 44 Of Draft Law on amendments of AML/CFT Law – amending Article 65 (Record keeping)</p>
<p>Please details of the amendment to the AML/CFT Law which brings record keeping procedures in the AML Law in line with the requirements of Rec. 10. Please provide an English translation of relevant text of amendments to the AML/CFT Law.</p>				
<p>R.15 Article 32(2) of the new AML Law should be</p>	<p>In Article 32 AML/CFT Law, paragraph (2) shall be</p>	<p>Adoption of amendments on AML Law - medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>This deficiency has been considered and resolved by</p>

<p>reviewed in relation to full exemptions from appointing an authorised person and from maintaining internal control by obliged entities (persons under obligation) with four or less employees – and interpretatively, obliged natural persons.</p>	<p>amended.</p>			<p>Article 20 Of Draft Law on amendments of AML/CFT Law – amending Article 32 (Authorised Person)</p>
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Please provide an English translation of those clauses of the revised Article 32 of the AML/CFT Law.

<p>Competent authorities, and in particular the FID, need to be more receptive to requests for training by the industry.*</p>	<p>Strengthen trainings in the industry</p>	<p>Short term</p>	<p>Relevant ministries of entities, regulatory agencies of financial sector, FIU</p>	<p>Currently, there is ongoing procedure of improving organization of Financial Intelligence Department. There is intention to make additional working places for supervision and education of obliged entities. Additionally Draft Law on amendments of AML/CFT Law – article 45. which is amending article 68. of Law clearly defines supervisory bodies for every obliged entity.</p>
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Please provide details on awareness raising seminars and trainings conducted since June 2012.
Please provide details of :

- **Dates**

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

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

Adequate screening procedures need to be in place and effectively applied when hiring people, if need be through mandatory obligations.	By bylaw provide adequate procedures for new employment	Medium term	Relevant ministries of entities, regulatory agencies of financial sector, FIU	This deficiency has been considered and resolved by Article 23 Of Draft Law on amendments of AML/CFT Law – adding Article 34b (Integrity of the employees)
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Please provide details of steps taken to introduce requirements for adequate screening procedures when hiring people.
Please provide an English translation of any appropriate legislation, including bylaws, adopted in respect of screening procedures.

<p>R.16 It is highly recommended that DNFBPs are made more aware of their important role in the AML/CFT regime through guidelines and training thus ensuring that, in understanding their role better, DNFBPs acknowledge and implement their AML obligation further</p>	<p>The authorities will take the opportunity from the introduction of the new guidance as issued to continue to develop and implement the sector wide awareness and understanding campaign through training programmes</p>	<p>Medium term</p>	<p>FIU</p>	<p>Currently, there is ongoing procedure of improving organization of Financial Intelligence Department. There is intention to make additional working places for supervision and education of obliged entities. Additionally Draft Law on amendments of AML/CFT Law – article 45. which is amending article 68.of Law clearly defines supervisory bodies for every obliged entity.</p>
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Please provide details on awareness raising seminars and trainings conducted since June 2012.

Please provide details of :

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

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

<p>The evaluators express serious concerns on the position taken since certain professions, in particular the legal, notary and accountancy professions, are likely to encounter and handle transactions emerging from foreign countries that may not be applying the relevant AML standards to an acceptable degree.</p>	<p>Working Group of the Council of Ministers prepared a draft amendment Law AML/CFT that includes this remark i.e. will introduce a specific obligation to terminate or reject a business relationship or the execution of transactions with companies and individuals from countries that insufficiently apply AML/CFT measures.</p>	<p>Adoption of amendments on AML Law - medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>This deficiency has been considered and resolved by Article 7 Of Draft Law on amendments of AML/CFT Law – amending Article 8. Of AML/CFT Law.</p>
<p>Please provide information on whether a specific obligation for DNFBP to terminate or reject a business relationship or the execution of transactions with companies and individuals from countries that insufficiently apply AML/CFT measures has been introduced. Please provide an English translation of amendments to the AML/CFT Law.</p>				
<p>Competent authorities, and in particular the FID, need to be more receptive to request for training by the industry.</p>	<p>Strengthen trainings in the industry.</p>	<p>Medium term</p>	<p>FIU</p>	<p>Currently, there is ongoing procedure of improving organization of Financial Intelligence Departmen. There is intention to make additional working places for supervision and education of obliged entities. Additionally Draft Law on amendments of AML/CFT Law – article 45. which is</p>

amending article 68. of AML/CFT Law clearly defines supervisory bodies for every obliged entity. After adoption of **Draft Law on amendments of AML/CFT Law** Guidelines will be reviewed and improved in order to comply with the Law.

Please provide details on awareness raising seminars and trainings conducted since June 2012.

Please provide details of :

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

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

<p>Adequate screening procedures need to be in place and effectively applied when hiring people, if need be through mandatory obligations.</p>	<p>The Guidelines for the non-financial sector issued by the FID in October 2010 do not address this issue. The FID will be reviewing the Guidelines accordingly to create this obligation for the non-financial sector.</p>	<p>Medium term</p>	<p>FIU</p>	<p>This deficiency has been considered and resolved by Article 23 Of Draft Law on amendments of AML/CFT Law – adding Article 34b (Integrity of the employees) After adoption of Draft Law on amendments of AML/CFT Law Guidelines will be reviewed and improved in order to comply with the Law.</p>
<p>Please provide details of any steps taken to introduce adequate screening procedures when hiring people in the DNFBPs sector. Please provide an English translation of any appropriate legislation or guidance adopted in respect of screening procedures.</p>				
<p>R.17 Legislation to provide for the sanctioning powers of the respective supervisory bodies in the insurance market should be introduced</p>	<p>Insurance Agency of Bosnia and Herzegovina and Ministry of finance FBiH and RS will prepare a draft of amendments to the Law on intermediaries in insurance in order to ensure harmonization of the regimes of the applicable sanctions that are now different according to the laws on insurance intermediaries in Federation Bosnia and Herzegovina and in Republic</p>	<p>Medium term</p>	<p>Ministry of Finance of FBiH and RS, and Insurance Agency of Bosnia and Herzegovina</p>	<p>After adoption of Draft Law on amendments of AML/CFT Law, which prescribes exchanged sanction powers, Law on intermediaries in insurance will be amended in order to comply with AML CFT Law in order to ensure harmonization of the regimes of the applicable sanctions.</p>

	of Srpska.			
<p>Please provide details of amendments to the Law on intermediaries in insurance in order to provide sanctioning powers to the respective supervisory bodies in the insurance market. Please provide an English translation of amendments to this Law.</p>				
Steps need to be taken to ensure that all requirements of the new AML Law are enforceable (that is; sanctions are stipulated for non-compliance).	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include this remark i.e. establish sanctions for non-compliance	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	After adoption of Draft Law on amendments of AML/CFT Law , which prescribes exchanged sanction powers, Law on intermediaries in insurance will be amended in order to comply with AML CFT Law in order to ensure harmonization of the regimes of the applicable sanctions.
<p>Please provide details of amendments to the AML/CFT Law to establish sanctions for non-compliance. Please set out the scope of sanctions for non-compliance with the AML Law. Please provide an English translation of amendments to the AML/CFT Law.</p>				
Administrative sanctions to be applied to the participants of the insurance market for non-compliance with AML/CFT requirements need to be introduced.	Insurance Agency of Bosnia and Herzegovina and Ministry of finance FBiH and RS will prepare a draft of amendments to the Law on intermediaries in insurance in order to ensure harmonization of the regimes of the applicable sanctions	Medium term	Ministry of Finance of FBiH and RS, and Insurance Agency of Bosnia and Herzegovina.	After adoption of Draft Law on amendments of AML/CFT Law , which prescribes exchanged sanction powers, Law on intermediaries in insurance will be amended in order to comply with AML CFT Law in order to ensure harmonization of the regimes

				of the applicable sanctions.	
<p>Please provide details of administrative sanctions that could be applied to the participants of the insurance market for non-compliance with AML/CFT.</p> <p>Please provide an English translation of Law on amendments.</p>					
R.21	<p>It is recommended that a specific obligation be included for financial institutions to give special attention to business relationships and transactions with financial institutions and other legal/natural persons from countries that have inadequate AML/CFT measures in place. Such an obligation should go beyond the ongoing monitoring of accounts.</p>	<p>Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include this remark i.e. will introduce a specific obligation to terminate or reject a business relationship or the execution of transactions with companies and individuals from countries that insufficiently apply AML/CFT measures and preservation of written statements on such findings and enabling access of authorities to those statements for all sectors.</p>	<p>Adoption of amendments on AML Law - medium term)</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>This deficiency has been considered and resolved by Article 7 Of Draft Law on amendments of AML/CFT Law – amending Article 8. Of AML/CFT Law.</p>
<p>Please provide details of the obligations that have been introduced for financial institutions to give special attention to business relationships and transactions with financial institutions and other legal/natural persons from countries that have inadequate AML/CFT measures in place.</p> <p>Please provide an English translation of amendments to the AML/CFT Law.</p>					
R.22					

<p>Requirements for Recommendation 22 are only partially addressed through the Banking Decisions on Minimum Standards – more specifically only to a minor extent through Article 2 – and through the new Article 8 of the new AML Law. However there are no provisions covering the main requisites of the Recommendation. It is recommended that this matter be addressed through the new legislation and through guidance issued by the relevant competent authorities.</p>	<p>The necessary changes for the banking and the securities sectors to fully meet the obligations under Recommendation 22 are under consideration and should be implemented in the near future.</p>	<p>Medium term</p>	<p>Ministry of Finance of FBiH and RS, and Regulatory bodies of banking and security sector.</p>	<p>This deficiency has been considered and resolved by Article 7 Of Draft Law on amendments of AML/CFT Law – amending Article 8. Of AML/CFT Law</p>
<p>Please provide details of measures taken to meet the requirements of Rec.22. Please provide an English translation of any appropriate legislation adopted in this respect.</p>				
<p>R.23</p>				
<p>Steps need to be taken to harmonise the efficiency of monitoring activities in respect of persons involved in money transfer and</p>	<p>Agency for Supervision of the Post Office Operation (which includes payment transfers), has now been established. The new agency will eventually be recognized</p>	<p>Short term</p>	<p>Banking Agencies and Agency for Supervision of the Post Office Operation</p>	<p>Draft Law on Amendments of the AML/CFT Law – Article 45. which amends Article 68 of AML/CFT Law – Paragraph 1. point i) recognizes Agency for postal</p>

exchange activities.	under the AML Law as the supervisory authority for AML purposes for the Post Office. Arrangements will be considered for the cooperation of the new Agency and the Agencies for Banks to ensure harmonisation and level playing field in the supervision of the payments sector.			traffic of Bosnia and Herzegovina as supervisory body for post offices in B&H
<p>Please advise when the provide an English translation of the Memorandum on cooperation between the Agency for Supervision of the Post Office at state level and the Banking Agencies of RS and FBiH.</p> <p>Please provide details of steps taken to recognise the Agency for Supervision of the Post Office Operation under the AML Law</p>				
Efficient, sufficiently frequent, risk-based supervision of financial institutions needs to be developed and implemented.	Establish guidelines for securities sector and insurance sector for effective, often and risk based supervision on financial institution	Medium term	Ministry of Finance of FBiH and RS, and Regulatory bodies of insurance and security sector	Risk-based approach is already existing in supervision bodies in Bosnia and Herzegovina.
<p>Please provide details of development and implementation of efficient, sufficiently frequent, risk-based supervision of financial institutions.</p> <p>Please provide an English translation of Guidelines for securities and insurance sectors.</p>				
<p>R.24 Prohibit individuals with criminal background from acquiring or becoming the beneficial owner of a</p>	Execute amendments to The Law draft on Gambling in the FBiH and RS, in the way as it has been done in Brcko District.	Medium term	Ministry of Finance of FBiH and RS	

<p>significant or controlling interest, holding management functions in or being/becoming an operator of a casino</p>				
<p>Please provide details of steps taken to prohibit individuals with criminal background from acquiring or becoming the beneficial owner of a significant or controlling interest, holding management functions in or being/becoming an operator of a casino. Please provide an English Translation of the amendments to the Law on Gambling in the FBiH and the RS.</p>				
<p>Define the powers of the Chambers of Lawyers, the Chambers of Notaries, and the Associations of Accountants and Auditors at entity level to supervise implementation of the obligations set forth in the new AML Law; establish systems and mechanisms for them to ensure compliance of the respective obligors with the national AML/CFT requirements.</p>	<p>As stated earlier, the formation of a special department to monitor DNFBPs will create the preconditions for effective supervision of persons under obligation in order to provide a mechanism for effective implementation of obligations under the AML/CFT Laws</p>	<p>Medium term</p>	<p>FIU, Council of Ministers of BiH</p>	<p>Draft Law on Amendments of the AML/CFT Law – Article 45. which amends Article 68 of AML/CFT Law – Paragraph 1. d) Besides the liable persons referred to in the previous item, competent entity Ministries of finances, i.e. Directorate for finances of Brčko District of BiH conduct supervision over the liable persons referred to in item f), i), k), in Article 4, item l) in the part regarding <u>accountants, auditors and legal and natural persons who perform accounting and tax advice services,</u> m), n) indent 9), n) indent 10) and n) indent 11);</p>

e) Competent Ministries of justice conduct supervision over the liable persons referred to in Article 4, item l) in the part regarding notaries, and item n), indent 1);

f) Bar associations of FBiH and RS conduct supervision over the liable persons referred to in Article 4, item l) in the part regarding advocates;

Currently, there is ongoing procedure of improving organization of Financial Intelligence Department. There is intention to make additional working places for supervision and education of obliged entities.

After adoption of **Draft Law on amendments of AML/CFT Law** this deficiency will be additionally addressed.

Please provide information on whether the powers of the Chambers of Lawyers, the Chambers of Notaries, and the Associations of Accountants and Auditors at entity level were defined to supervise implementation of the obligations set forth in the new AML Law.

Please provide details of established systems and mechanisms for the Chambers of Lawyers, the Chambers of Notaries, and the Associations of Accountants and Auditors at entity level to ensure compliance of the respective obligors with the national AML/CFT requirements

Please provide an English translation of any appropriate legislation adopted in this respect.

<p>An authority should be designated to monitor and ensure compliance of real estate agencies and traders in precious metals and stones with the national AML/CFT requirements.</p>	<p>As stated earlier, the formation of a special department to monitor DNFBP will create the preconditions for effective supervision of persons under obligation in order to provide a mechanism for effective implementation of obligations under the AML/CFT Laws</p>	<p>Medium term</p>	<p>FIU, Council of Ministers of BiH</p>	<p>Draft Law on Amendments of the AML/CFT Law – article 45. which is amending article 68.of Law clearly defines supervisory bodies for every obliged entity – which prescribes competent entity Ministries of finances and Directorate of finances of Brcko District as supervisors for real estate agencies and traders in precious metals and stones.</p>
<p>Please provide details of the steps that have been taken to designate an authority to monitor and ensure compliance of real estate agencies and traders in precious metals and stones with the national AML/CFT requirements. Please provide an English translation of any appropriate legislation adopted in this respect.</p>				
<p>R.25 FID and all other competent authorities need to introduce measures aimed at ensuring that obligor DNFBPs have a proper understanding of their obligations under the AML/CFT framework</p>	<p>Strengthen trainings in the industry</p>	<p>Medium term</p>	<p>FIU</p>	<p>Currently, there is ongoing procedure of improving organization of Financial Intelligence Department. There is intention to make additional working places for supervision and education of obliged entities. Additionally Draft Law on Amendments of the AML/CFT Law – article 45. which is amending article 68.of Law clearly defines supervisory bodies for every</p>

obliged entity.

Please provide details on awareness raising seminars and trainings conducted since June 2012.

Please provide details of :

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

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

FID should provide general and specific feedback to DNFBPs incorporating, <i>inter alia</i> , statistics on the number of STR-s, information on current ML techniques and trends, as well as information on the decisions and results of the analysis of STR-carried out by the FID.	Strengthen cooperation between FIU and DNFBPs to create feedback and statistics on the number of STR-s, information on current ML techniques and trends, as well as information on the decisions and results of the analysis of STR-carried out by the FID.	Medium term	FIU	For now, FID did not receive any STR from DNFBPs. But analyzing reports submitted by notaries and casinos helped FID on many cases with specific typologies especially money laundering related to real estate.
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Please provide details of any general and specific feedback provided to DNFBP incorporating, *inter alia*, statistics on the number of STR-s,

information on current ML techniques and trends, as well as information on the decisions and results of the analysis of STR-carried out by the FID.

<p>Whilst the provision of comprehensive and exhaustive lists of indicators for identifying suspicious transactions and persons is commendable, supervisory authorities should ensure that such indicators are not interpreted as being conclusive such that the examination of transactions is only guided accordingly without any flexibility.</p>	<p>Insist that the DNFBPs in recognition of suspicious transactions be managed by risk-based approach</p>	<p>Medium term</p>	<p>FIU</p>	<p>Currently, there is ongoing procedure of improving organization of Financial Intelligence Department. There is intention to make additional working places for supervision and education of obliged entities. Additionally Draft Law on Amendments of the AML/CFT Law – article 45. which is amending article 68.of Law clearly defines supervisory bodies for every obliged entity. After adoption of Draft AML/CFT Law Guidelines in cooperation with supervisory bodies will be reviewed and improved in order to comply with the Law</p>
<p>Please provide details of measures taken to provide guidance DNFBP on the risk-based approach to identifying suspicious transactions. . Please provide an English translation of any appropriate guidance provided.</p>				
<p>R.26 Article 51.5 of the new AML Law needs to be amended to allow FID to disseminate information on its own</p>	<p>As instructed by the Minister of Security, in June 2010, the group of experts in money laundering and terrorism</p>	<p>Adoption of amendments on AML Law - medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>This deficiency has been addressed and resolved by Draft Law on Amendments of the AML/CFT Law –</p>

<p>initiative to domestic authorities for investigation or action when there are grounds to suspect money laundering and/or terrorist financing.</p>	<p>financing developed a draft new Law on prevention of money laundering and financing of terrorist activities, which has been forwarded to the BiH authorities for adoption. The new Law provides for establishment of a new Financial Intelligence Agency (FIA) within the Ministry of Security which will be able to forward independently information to national authorities and conduct investigations when there is a grounded suspicion about money laundering and/or terrorism financing</p>			<p>articles 32, 33, 34, 35, 37 and 38. Which are amending, and adding new articles in group of articles which defines work of FID – especially removing Article 51 – Paragraph 5. and adding articles 47a, and 51a.</p>
<p>Please provide an English translation of those clauses of the revised Article 51 of the AML/CFT Law.</p>				
<p>Staffing of the Investigation Department at FID is not in proportion to the commonly understood expectations of other law enforcement agencies regarding FID's role in initiating ML investigations in BiH. FID should make it a priority to attract suitably qualified staff to fill the current vacancies.</p>				<p>Currently, there is ongoing procedure of improving organization of Financial Intelligence Department. There is intention to make additional working places for supervision and education of obliged entities, since this was found as weakness. Actual staff number is sufficient for doing all other</p>

FID activities.

Please provide details of staffing levels of FID.

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

Ensure that the FID does not operate in isolation from other law enforcement agencies and financial intelligence at the FID is requested by or disseminated to other law enforcement agencies at the level of entities and Brcko District when investigating predicate offences of money laundering	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include recommendation of evaluators' remark.	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	This deficiency has been addressed and resolved by Draft Law on Amendments of the AML/CFT Law – articles 32, 33, 34, 35, 37 and 38. Which are amending, and adding new articles in group of articles which defines work of FID.
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Please provide details of the FID operation with law enforcement.

Please provide information on whether the FID is requested by or disseminated to other law enforcement agencies at the level of entities and Brcko District when investigating predicate offences of money laundering.

See Anex 8.

Remove the limitations to and unacceptable constraints of the power of the FID to disseminate information to domestic authorities, and	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	This deficiency has been addressed and resolved by Draft Law on Amendments of the AML/CFT Law – articles 32, 33, 34, 35, 37 and
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demonstrate the effectiveness of dissemination of information to domestic authorities	include recommendation of evaluators' remark.			38. Which are amending, and adding new articles in group of articles which defines work of FID.
<p>Please provide details of amendments to remove the limitations to and unacceptable constraints of the power of the FID to disseminate information to domestic authorities.</p> <p>Please provide statistics as an annex to the report in order to demonstrate the effectiveness of dissemination of information to domestic authorities</p> <p>Please provide an English translation of any appropriate legislation.</p>				
See Anex 8.				
<p>R.29</p> <p>The supervisory processes of the FID and establish mechanisms for the enforcement of its decisions regarding removal of irregularities in the operations of persons under obligation should be clearly defined.</p>	<p>As stated earlier, the formation of a special department to monitor DNFBP will create the preconditions for effective supervision of persons under obligation in order to provide a mechanism for effective implementation of obligations under the AML/CFT Laws</p>	Medium term	FIU	<p>Currently, there is ongoing procedure of improving organization of Financial Intelligence Departmen. There is intention to make additional working places for supervision and education of obliged entities.</p> <p>Additionally Draft Law on Amendments of the AML/CFT Law – article 45. which is amending article 68.of Law clearly defines supervisory bodies for every obliged entity, and prescribes duties of FID as an direct and indirect supervisory body.</p> <p>Article 70. of existing AML/CFT Law prescribes acting of FID in case of irregularities of persons under obligation.</p>

**Please provide details of the special department of the FID established to monitor DNFBBs.
Please provide details of established mechanisms for the enforcement of the special department of the FID decisions regarding removal of irregularities in the operations of persons under obligation.
Please provide an English translation of any appropriate legislation adopted in this respect.**

<p>Adequate powers should be granted to supervisors in the insurance market to monitor and ensure compliance with AML/CFT requirements and to take enforcement measures and sanction both the institutions/businesses and their directors/senior management for non-compliance with AML/CFT requirements.</p>	<p>Provide adequate powers for the supervisors of the insurance market for the measures and ensure compliance with AML/CFT requirements and to take measures for the enforcement of sanctions for companies and their management, and directors for non-compliance with the AML/CFT requirements.</p>	<p>Medium term</p>	<p>Ministry of Finance of FBiH and RS, and Insurance Agency of Bosnia and Herzegovina and Insurance Agency for supervision at entity level</p>	
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**Please provide details of the powers granted to supervisors in the insurance market to monitor and ensure compliance with AML/CFT requirements.
Please provide details of enforcement measures and sanction both the institutions/businesses and their directors/senior management for non-compliance with AML/CFT requirements. If available provide statistics on use of supervisory powers in an annex to this report.
Please provide an English translation of any appropriate legislation adopted in this respect.**

<p>R.30 An adequate structure, funding, staffing, and</p>	<p>In the course of establishing the new FI Agency measures are being taken to set up a</p>	<p>Medium term</p>	<p>FIU, and Council of Ministers of BiH</p>	<p>Since Draft Law on Amendments of the AML/CFT Law which was</p>
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<p>technical resources should be made available for supervision of implementation of the national AML/CFT requirements by DNFBPs.</p>	<p>specialised internal unit which will be responsible for education and supervision of those entities (DNFBPs and other obligors) that do not fall under the remit of any other supervisory authority. In this regard the Agency will be seeking to employ specialised and experienced personnel for this job. It will also have to increase its budget and install technical and other resources such that the Agency is able to fulfil these new obligations effectively and efficiently.</p>			<p>prepared during 2011 was not adopted by House of Representatives of the Parliamentary Assembly of B&H, it was given up of establishing new FI Agency in the new Draft Law on Amendments of the AML/CFT Law</p>
<p>Please provide details of the new FI agency including</p> <ul style="list-style-type: none"> • Level of staff • Technical resources • Budget • Scope of responsibilities • Date of establishment • Legislation setting out powers and responsibilities <p>Please provide an English translation of any appropriate legislation adopted in this respect.</p>				
<p>There is a need to define professional standards (including confidentiality and integrity requirements), and required expertise/skills of</p>	<p>Establish the Team for training and supervision of DNFBPs</p>	<p>Medium term</p>	<p>FIU</p>	<p>Currently, there is ongoing procedure of improving organization of Financial Intelligence Department. There is intention to make additional working places for</p>

<p>the staff of bodies implementing supervision of DNFBPs.</p>				<p>supervision and education of obliged entities. Additionally Draft Law on Amendments of the AML/CFT Law. – article 45. which is amending article 68.of Law clearly defines supervisory bodies for every obliged entity. After adoption of Draft Law on Amendments of the AML/CFT Law. After adoption of Draft Law on Amendments of the AML/CFT Law this deficiency will be addressed.</p>
<p>Please provide details of professional standards (including confidentiality and integrity requirements), and required expertise/skills of the staff of bodies implementing supervision of DNFBPs.</p>				
<p>R.33 It is recommended that the obliged entities apply Articles 10 and 15 of the new AML Law better and verifies information through other public registers such as the Register of Securities</p>	<p>Ensure that the obliged entities apply Articles 10 and 15 of the new AML Law and verify information through other public registers such as the Register of Securities</p>	<p>Medium term</p>	<p>FIU</p>	<p>Article 15. was amended by Article 8. of Draft Law on Amendments of the AML/CFT Law. After adoption of Draft Law on Amendments of the AML/CFT Law this deficiency will be addressed and resolved in cooperation with supervisory bodies, which are clearly defined by amended Article 68. of AML/CFT Law – Article 45. of Draft Law on</p>

				amendments of AML/CFFT Law.
<p>Please provide information on the measures taken to oblige reporting entities to apply Articles 10 and 15 of the new AML Law through other public registers such as the Register of Securities.</p> <p>Please provide an English translation of any appropriate legislation adopted in this respect.</p>				
<p>R.35 and SR.I</p> <p>The same comments as are made on R. 31 in relation to implementation of the respective Conventions (especially the Terrorist Financing Convention) and the UN Security Council Resolutions apply here.*</p>	<p>Remove deficiencies for the efficient implementation of the Convention relating to the criminalization of crimes of money laundering and terrorism financing (especially the Convention on the Financing of terrorism) and UN Security Council Resolution</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH and Ministry of Justice at Entity level and District Brcko</p>	<p>The initial draft of the amendments to the BiH Criminal Code in relation to the criminal offences of Money Laundering, Financing Terrorism and Confiscation of objects, is sent to Council of Europe for review and an expert opinion. Anex art.202 CCB&H. Anex 2.</p>
<p>Please provide details of steps taken to apply UN Conventions.</p> <p>Please provide an English translation of any appropriate legislation adopted in this respect.</p>				
<p>SR.II</p> <p>The terrorist financing (“funding of terrorist activities”) offences need to be incriminated in all four Criminal Codes so as to clearly provide criminal sanctions concerning the</p>	<p>By annual agenda of the Ministry of Justice of BiH for 2011, it is envisaged the creation of the proposal of the Law on Amendments to the Criminal Code of BiH, where will be made the</p>	<p>Adoption of Criminal Codes - medium term)</p>	<p>Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District</p>	<p>The initial draft of the amendments to the BiH Criminal Code in relation to the criminal offences of Money Laundering, Financing Terrorism and Confiscation of objects, is</p>

<p>collection and provision of funds with the unlawful intention that they are to be used, in full or in part, by a terrorist organisation or by an individual terrorist as required by SR.II.*</p>	<p>amendments of Article 202 of the same, which regulates the financing of terrorist activities. Abovementioned Law shall contain a provision under which the competent authorities of the Federation of Bosnia and Herzegovina, Republic of Srpska and Brcko District of Bosnia and Herzegovina shall harmonize their criminal laws with this law within a specified period from the date of enactment of this law.</p>			<p>sent to Council of Europe for review and an expert opinion. Anex 2.</p>
<p>Please provide details of amendments to the terrorist financing (“funding of terrorist activities”) offences of all four Criminal Codes so as to clearly provide criminal sanctions concerning the collection and provision of funds with the unlawful intention that they are to be used, in full or in part, by a terrorist organisation or by an individual terrorist as required by SR.II. Please provide an English translation of amendments to the Criminal Codes.</p>				
<p>Criminal laws should be amended to incorporate the funding of terrorist organizations and individual terrorists, both at State level and that of the Entities and Brcko District.</p>	<p>By annual agenda of the Ministry of Justice of BiH for 2011, it is envisaged the creation of the proposal of the Law on Amendments to the Criminal Code of BiH, where will be made the amendments of Article 202 of the same, which regulates the financing of terrorist activities.</p>	<p>Adoption of Criminal Codes - medium term)</p>	<p>Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District.</p>	<p>The initial draft of the amendments to the BiH Criminal Code in relation to the criminal offences of Money Laundering, Financing Terrorism and Confiscation of objects, is sent to Council of Europe for review and an expert opinion. Anex 2.</p>

	<p>Abovementioned Law shall contain a provision under which the competent authorities of the Federation of Bosnia and Herzegovina, Republic of Srpska and Brcko District of Bosnia and Herzegovina shall harmonize their criminal laws with this law within a specified period from the date of enactment of this law.</p>			
<p>Please details of amendments to the Criminal Codes to incorporate the funding of terrorist organisations and individual terrorists,. Please provide an English translation of amendments to the Criminal Codes.</p>				
<p>Domestic authorities at all competent level should satisfy themselves that the full definition of "funds" according to Criterion II.1b is properly covered by the current terrorist financing offences.</p>	<p>Amendments to the Criminal Codes in BiH will provide a complete definition of funds in accordance with the criterion II.1b.</p>	<p>Medium term</p>	<p>Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District</p>	<p>The initial draft of the amendments to the BiH Criminal Code in relation to the criminal offences of Money Laundering, Financing Terrorism and Confiscation of objects, is sent to Council of Europe for review and an expert opinion. Anex 2.</p>
<p>Please provide details of measures taken to properly cover the definition of "funds" as required by Criterion II.1b. Please provide an English translation of amendments to the Criminal Code.</p>				

Consideration should be given to whether the financing of terrorism should remain criminalized at all levels of legislation in Bosnia and Herzegovina or be qualified among those exclusively dealt with at state level.	The possibility of criminalization the financing of terrorism only at the state level shall be discussed.	Medium term	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District	The criminal offense of financing of terrorism remains in Criminal Codes at all 4 levels. The initial draft of the amendments to the BiH Criminal Code in relation to the criminal offences of Money Laundering, Financing Terrorism and Confiscation of objects, is sent to Council of Europe for review and an expert opinion. Annex 2.
<p>Please provide details of the steps taken to consider whether the financing of terrorism should remain criminalised at all levels of legislation in Bosnia and Herzegovina or be dealt with exclusively at state level.</p> <p>Please provide an English translation of any appropriate legislation adopted in this respect.</p>				
Consideration should be given to abandoning the use of “double definitions” of legal terms pertaining to criminal substantive law in multiple legal sources.	Consideration will be given to abandoning the use of “double definitions” of legal terms pertaining to criminal substantive law in multiple legal sources	Medium term	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District	After the endorsement of the amendments to the BiH Criminal Code follows the harmonisation of entities Criminal Codes with Criminal Code of B&H
<p>Please provide details of the steps taken to consider whether to abandon the use of “double definitions” of legal terms pertaining to criminal substantive law in multiple legal sources.</p> <p>Please provide an English translation of any appropriate legislation adopted in this respect.</p>				
SR.III establish a comprehensive system for freezing of terrorist	Ministry of Security shall prepare an Amendment of	Revise the existing draft of the Book of rules on assets	Ministry of Security of BiH	There were no amendments on Book or Rules.

<p>assets in accordance with the requirements of SR.III together with the provision of clear and publicly known guidance to financial institutions concerning their responsibilities;</p>	<p>existing Book of rules related to assets freezing which will cover all requirements under SR III</p>	<p>freezing - medium term)</p>		
<p>Please provide details of the steps taken to establish a comprehensive system for freezing of terrorist assets in accordance with the requirements of SR.III together with the provision of clear and publicly known guidance to financial institutions concerning their responsibilities. Please provide an English translation of any amendments to the Book of Rules. Adopted BOOK OF RULES ON IMPLEMENTATION OF RESTRICTIVE MEASURES ESTABLISHED BY RESOLUTIONS OF THE UN SECURITY COUNCIL 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) AND 1904 (2009) AGAINST MEMBERS OF AL-QAIDA, USAMA BIN LADEN, THE TALIBAN AND OTHER INDIVIDUALS, GROUPS, UNDERTAKINGS AND ENTITIES ASSOCIATED WITH THEM, and published on Web site of Ministry of Security of B&H. Anex 9.</p>				
<p>create and/or publicise a procedure for considering de-listing requests and unfreezing assets of delisted persons;</p>	<p>Adopted BOOK OF RULES ON IMPLEMENTATION OF RESTRICTIVE MEASURES ESTABLISHED BY RESOLUTIONS OF THE UN SECURITY COUNCIL 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) AND 1904 (2009) AGAINST MEMBERS OF AL-QAIDA, USAMA BIN LADEN, THE TALIBAN AND OTHER</p>	<p>Adopt the existing draft of Book of rules on implementation of restrictive measures) medium term</p>	<p>Ministry of Security of BiH</p>	

	INDIVIDUALS, GROUPS, UNDERTAKINGS AND ENTITIES ASSOCIATED WITH THEM			
<p>Please provide details of the published procedure for considering de-listing requests and unfreezing assets of delisted persons. Adopted BOOK OF RULES ON IMPLEMENTATION OF RESTRICTIVE MEASURES ESTABLISHED BY RESOLUTIONS OF THE UN SECURITY COUNCIL 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) AND 1904 (2009) AGAINST MEMBERS OF AL-QAIDA, USAMA BIN LADEN, THE TALIBAN AND OTHER INDIVIDUALS, GROUPS, UNDERTAKINGS AND ENTITIES ASSOCIATED WITH THEM, and published on Web site of Ministry of Security of B&H. Anex 9. European Commission recorded progres in this area in its Report dated 10. October 2012. Anex 10.</p> <p>Please provide an English translation of any amendments to the Book of Rules.</p>				
create and/or publicise a procedure for unfreezing in a timely manner the funds and assets of persons inadvertently affected by the freezing mechanism upon verification that the person is not a designated person.	Adopted BOOK OF RULES ON IMPLEMENTATION OF RESTRICTIVE MEASURES	Adopt the existing draft of Book of rules on the implementation of restrictive measures) medium term	Ministry of Security of BiH	
<p>Please provide details of the published procedure for unfreezing in a timely manner the funds and assets of persons inadvertently affected by the freezing mechanism upon verification that the person is not a designated person. Article 12. of BOOK OF RULES ON IMPLEMENTATION OF RESTRICTIVE MEASURES ESTABLISHED BY RESOLUTIONS OF THE UN SECURITY COUNCIL 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) AND 1904 (2009) AGAINST MEMBERS OF AL-QAIDA, USAMA BIN LADEN, THE TALIBAN AND OTHER INDIVIDUALS, GROUPS, UNDERTAKINGS AND ENTITIES ASSOCIATED WITH THEM. Published on Web site of Ministry of Security of B&H. Anex 9. European Commission recorded progres in this area in its Report dated 10. October 2012. Anex 10.</p> <p>Please provide an English translation of the amendments to the Book of Rules.</p>				

<p>SR.VI The Bosnia and Herzegovina authorities should examine the operations of Tenfore d.o.o within the context of the obligations of the obliged entities under Article 3 of the old LPML– now Article 4 under the new AML Law. Indeed, through the ‘Agent Compliance Manual’, the company already seems to be imposing upon itself certain AML obligations, in particular in reporting and providing information to the FID. This is a positive initiative on the part of Tenfore d.o.o., however if there is a need for Tenfore d.o.o. to impose such obligations, this need should be officially formalised through the AML Law.</p>	<p>Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include TENFORE as obligor.</p>	<p>Medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>This deficiency has been addressed and resolved by article 4 of Draft Law on Amendments of the AML/CFT Law which amends article 4. of existing AML/CFT Law – paragraph 1. point recognizes as person under obligation - f) Companies dealing with electronic money transfer.</p>
<p>Please provide details of relevant amendments to the AML/CFT to include Tenfore d.o.o as an obligor. Please provide an English translation of amendments to the AML/CFT Law.</p>				

<p>R.VII Although wire transfers are covered by the Law on Payment Transactions of both Entities and Brcko District yet most of the criteria for SR VII are not met as the Law only covers the technical operational aspects. The new AML Law now addresses some of the missing aspects identified at the on-site visit. The new law however does not differentiate between domestic and cross-border payments and hence it is difficult to identify compliance with the respective criteria. Notwithstanding, it is recommended that specific legal provisions be introduced:</p> <p>to ensure that full originator information accompanies cross-border transfers;</p> <p>to establish what information should</p>	<p>Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include the specific provisions:</p> <ul style="list-style-type: none"> • to ensure that full originator information accompanies cross-border transfers; • to establish what information should accompany domestic transfers; • to ensure that the Post Office is monitored on its compliance with such regulations as may be established; • to ensure that appropriate sanctions can be and are applied for non-compliance. 	<p>Medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>Working Group Council of Ministers of BiH prepared new Draft Law on amendments of AML/CFT Law which resolved this deficiency: Article 17.and 18. Of Draft Law .</p> <p>Draft Law on Amendments of the AML/CFT Law – Article 45. which amends Article 68 of AML/CFT Law – Paragraph 1. point i) recognizes Agency for postal traffic of Bosnia and Herzegovina as supervisory body for post offices in B&H</p>
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<p>accompany domestic transfers;</p> <p>to ensure that the Post Office is monitored on its compliance with such regulations as may be established;</p> <p>to ensure that appropriate sanctions can be and are applied for non-compliance.</p>				
<p>Please provide details of measures taken to ensure:</p> <p>that full originator information accompanies cross-border transfers;</p> <p>what information should accompany domestic transfers;</p> <p>that the Post Office is monitored on its compliance with such regulations as may be established;</p> <p>that appropriate sanctions can be and are applied for non-compliance.</p> <p>Please provide an English translation of relevant amendments to the AML/CFT Law.</p>				
<p>SR.VIII</p> <p>The statistics on the number of the existing NPOs in BiH are not accurate enough, considering the lack of a clear mechanism on the reciprocal recognition of associations and foundation and the possibility that certain NPOs are registered,</p>	<p>The Ministry of Justice of Bosnia and Herzegovina made a draft of Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina, and Amendments on Law on Associations and Foundations of BiH, the further procedure is in the</p>	<p>Adoption of Framework Law - medium term</p>	<p>Ministry of Justice of Bosnia and Herzegovina</p>	<p>The Ministry of Justice of Bosnia and Herzegovina made a draft of Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina, and The first one is rejected by the Parliament at the 14. meeting held on 27.09.2011.</p>

<p>for example, at the entity and state level and counted twice. The authorities should undertake appropriate measures for avoiding double/triple registration and counting of NPOs and improving the mechanism of reciprocal recognition of associations and foundation.</p>	<p>course.</p>			<p>In the annex we are providing you the <i>Law on associations and foundations of Bosnia and Herzegovina</i> (OG 32/01), Law on amendments to the law on associations and foundations of Bosnia and Herzegovina (OG 42/03), Law on amendments to the law on associations and foundations of Bosnia and Herzegovina (OG 63/08), Law on amendments to the law on associations and foundations of Bosnia and Herzegovina from (OG 76/11). The Ordinance on the manner of keeping the registry of associations and foundations of Bosnia and Herzegovina and foreign international associations and foundations and other non-profit organisations. Annexes 11.1, 11.2, 11.3, 11.4 and 11.5.</p>
<p>Please provide details of steps taken to ensure that all NPOs are clearly identified and registered. Please provide an English translation of amendments to the Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina and to the Law on Associations and Foundations of BiH .</p>				

<p>There is no single Register of non-profit organisations, as is the case with churches and religious communities, and the authorities should consider introducing such a centralised register for the above mentioned purposes. Also, considering the very limited number of NPOs that decide to be registered at the state level, measures should be undertaken in order to clarify the specific of state and entity registration, advantages of state registration, etc.</p>	<p>The Ministry of Justice of Bosnia and Herzegovina made a draft of Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina, and Amendments on Law on Associations and Foundations of BiH, the further procedure is in the course.</p>	<p>Adoption of Framework Law - medium term</p>	<p>Ministry of Justice of Bosnia and Herzegovina</p>	<p>The Ministry of Justice of Bosnia and Herzegovina made a draft of Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina, and The first one is rejected by the Parliament at the 14. meeting held on 27.09.2011.</p> <p>In anex we are providing you the <i>Law on associations and foundations of Bosnia and Herzegovina</i> (OG 32/01), Law on amendments to the law on associations and foundations of Bosnia and Herzegovina (OG 42/03), Law on amendments to the law on associations and foundations of Bosnia and Herzegovina (OG 63/08), Law on amendments to the law on associations and foundations of Bosnia and Herzegovina from (OG 76/11).The Ordinance on the manner of keeping the registry of associations and foundations of bosnia and herzegovina and foreign international associations and foundations and other non-profit organisations.</p>
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				Anexes 11.1, 11.2, 11.3, 11.4 and 11.5.
<p>Please provide details of steps taken to establish a centralised register for the Register of non-profit organisations.</p> <p>Please provide details of the Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina, indicating whether this law has been enacted and has come into effect.</p> <p>Please provide details of the Amendments on Law on Associations and Foundations of BiH,</p> <p>Please provide an English translation of amendments to the Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations, if enacted, and the Amendments on Law on Associations and Foundations of BiH.</p>				
<p>Concrete steps need to be taken to address the essential criteria under the AML/CFT Methodology to ensure that non profit organisations cannot be abused for financing of terrorism.</p>				
BiH authorities shall pass bylaws that will regulate supervision over non profit organization financial operations in order to prevent their abuse for financing of terrorism	Medium term	Ministry of Justice of Bosnia and Herzegovina and Ministry of Security of BiH	This is foreseen in our amended AML (art 45.) which has been already sent for review and an expert opinion to the Council of Europe. Anex 1	
<p>Please provide details of steps taken to introduce bylaws that will regulate supervision over non profit organization financial operations.</p> <p>Please provide an English translation of any appropriate legislation adopted in this respect.</p>				
<p>There should be express legal provisions requiring that the business records of the NPOs are kept for at least five years.</p>				
<p>Please provide an English translation of any legislative provisions introduced requiring that the business records of the NPOs are kept for at least</p>				

five years.

AML/CFT Law

(Deadline for Keeping Data by the Person under Obligation)

Article 65

1. A person under obligation is required to keep information, data, and documentation obtained in accordance to this Law for at least 10 years after identification, completion of a transaction, closing of an account or termination of business relationship.
2. A person under obligation shall keep information and corresponding documentation on authorised person and deputy authorised person mentioned in Article 32 of this Law, on the professional training of employees and conducting of internal control for at least 4 years after the appointment of the authorised person and deputy authorised person, after the completion of professional training and conducting of internal control.

The national cooperation and information exchange between all agencies involved in the investigation of predicate offences, ML and FT cases, at the entities, BD and state level should be improved				
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Please provide details of steps taken to improve national cooperation and information exchange between all agencies involved in the investigation of predicate offences, ML and FT cases, at the entities, BD and state level.

MEMORANDUM OF UNDERSTANDING ON EXCHANGE OF INTELLIGENCE IN CONJUNCTION WITH CRIMINAL OFFENSES

- signed in Sarajevo on 30.03.2005. by authorized representatives of the following B&H institutions:
- The Ministry of Security of B&H;
- The State Investigation and Protection Agency;
- State Border Service;
- Intelligence-security Agency;

- Interpol B&H;
- Indirect Taxation Authority of B&H;
- Ministry of Internal Affairs of the Federation of B&H;
- Ministry of Internal Affairs of the Republic Srpska;
- Ministries of Internal Affairs of all 10 Cantons in the Federation of B&H;
- Police/Government of Brcko District;
- Taxation Authority of FB&H, R.S. and Brcko District
- Financial Police of the FB&H.

<p>SR.IX The Indirect Tax Authority of Bosnia and Herzegovina does not appear to be fully involved in implementing the current partial regime existing on the entity level in the context of AML CFT according to SR IX efficiently and effectively. In particular it lacks the appropriate powers and tools to do so. A significant number of essential criteria do not appear to be met and there is therefore a need to review the whole framework of cross border declarations and disclosures against the essential criteria for SR IX.</p>	<p>Review the whole framework of cross border declarations and disclosures against the essential criteria for SR IX.</p>	<p>Medium term</p>	<p>The Indirect Tax Authority of Bosnia and Herzegovina, Ministry of Finance of BiH</p>	<p>On the initiative of representatives of Indirect taxation Authority in sessions of Working group AML/CFT at the level of Institutions of Bosnia and Herzegovina there was continuous discussion on limitations appearing while ITA Customs Sector works within framework of entities Laws on foreign currencies. Entities Laws on foreign currencies beside fact that they do not comply each to other, also do not offer good framework for effective AML/CFT approach. Conclusions were adopted to make initiative for preparing and enacting of State level Law on foreign currencies, incorporating explicate mechanisms, basing on</p>
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				<p>which ITA authorities will be able to make adequate monitoring on taking in and out currency (both foreign and domestic. Enacting state level Law, preconditions for effective approach in respect of AML/CFT will be made.</p> <p>In the framework of Commission and Sub commissions for integrated managing of borders, currently is being prepared Instruction for Border police and ITA, which will regulate submitting reports on cash transactions and necessity procedures for discovering and processing in case of non-reported cash and securities.</p>
<p>Please provide details of steps taken to review the whole framework of cross border declarations and disclosures against the essential criteria for SR IX and any action taken as a result of this review.</p> <p>Please provide an English translation of any appropriate legislation or regulations adopted as a consequence of this review.</p>				
Adequate funding and training is required for Customs and the financial sectors to implement and respect the customs and tax legislation.	Provide adequate funding and training is required for Customs and the financial sectors to implement and respect the customs and tax legislation.	Medium term	The Indirect Tax Authority of Bosnia and Herzegovina and Ministry of Finance of BiH	Education and funding of Customs sector of ITA has been discussed on the meetings of Working group. In contest of initiative of enacting Law on foreign currency at state level , it

would be organized trainings for ITA officials in contest of effective application of AML/CFT Law.

Within framework of enacting aforementioned Instruction related to Integrated managing of borders, campaign of declaring cash on borders, directed on passengers traffic, will be financed.

Please provide details of steps taken to have adequate funding and training is required for Customs and the financial sectors to implement and respect the customs and tax legislation.

Please provide details on awareness raising seminars and trainings conducted.

Please provide details of :

- **Dates**
- **Topics covered**
- **Number of delegates**

1. Financial investigations and other investigating techniques ``Discovering and evidencing of money laundering and Funding terrorist activities`` Sarajevo 22 – 24 May 2012 – one representative .
2. Financing terrorism, Sarajevo, USA Embassy, 17-18 October 2012, - one representative.
3. Investigation, Seizure and managing of seized Property, Banja Luka, 10. November 2011, MOI RS, TAIEX, one representative.
4. Temporary and permanent seizure of proceeds of crime, Banja Luka, 24 – 25 May. MOI RS TAIEX, two representatives
5. TWINNING Project Customs and Tax guides – blueprint, Banja Luka, 2011 – 2012, Workshops in Indirect Taxation Authorities – in cooperation with Customs Authorities of Austria – many participants / officials of ITA.

	BiH	FBiH	Republic Srpska	Brcko District
Customs				

Annex 1: Law on amendments of the Law on the Prevention of Money Laundering and Financing of Terrorist Activities

Based on Article IV. 4. a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the meeting of the House of Representatives, held on _____2012, and at the meeting of the House of Peoples, held on _____2012, passed the

Article 1.

In the Law on the Prevention of Money Laundering and Financing of Terrorist Activities ("Official Gazette BiH", Nr. 53/09) Article 1. shall be amended and reads:

„Article 1.
(Subject of the Law)

This Law prescribes:

- a) Measures, actions and activities in the financial and the non-financial sector, carried out with the purpose of preventing money laundering and financing of terrorist activities;
- b) Liable persons carrying out the measures, actions and activities obliged to act under this Law;
- c) Supervision of liable persons in the implementation of measures, actions and activities in the financial and non-financial sector, for the purpose of preventing money laundering and financing of terrorist activities;
- d) Tasks and jurisdictions of the Financial Intelligence Department of the State Agency for investigation and protection (hereinafter: FID);
- e) Interinstitutional cooperation in the prevention of money laundering and financing of terrorist activities in Bosnia and Herzegovina,
- f) International cooperation in the area of preventing money laundering and financing of terrorist activities;
- g) Tasks, jurisdictions and activities of other state authorities and legal persons with public authorities in the prevention of money laundering and financing of terrorist activities;
- h) Other issues significant for the development of the system for the prevention of money laundering and financing of terrorist activities."

Article 2.

In Article 2. paragraph 1. point a), item 5. shall be added to read:

„5) The purpose, knowledge, intention needed as elements for money laundering can be concluded based on objective and factual circumstances."

Article 3.

In Article 3. paragraph 1. point a), after the word „receiving“ comma , the word „giving“ comma, shall be added.

In point b) the words „there are grounds for suspicion“ shall be changed with the words „there is suspicion“.

In point e) after the words „property rights over the property“, a comma shall be added instead of the full stop and the words "including but not limited to bank loans, traveller's checks, banking checks, money orders, shares, securities, bonds, bills and letter of credits" full stop shall be added.

In point o) after the word „institutions“ comma the word „foundations“ comma shall be added. In the same point the word „main“ shall be deleted.

After point s) new points: t), u), v) z), aa), bb) cc) and dd) shall be added to read:

„t) Politically and publicly exposed persons, foreign and domestic, concerning this law, include every natural person who is entrusted or was entrusted with a prominent public function in the previous year, including the closest family members and close associates.

u) "Foreign politically exposed person" is a natural person who is or was entrusted with a prominent public function:

- 1) Head of state , prime Minister, Ministers, their Deputies and Assistants;
- 2) Elected representatives of legislative bodies;
- 3) Judges of the Supreme and Constitutional Court and other high judiciary institutions;
- 4) Members of the audit team and central bank Governors" Committee;
- 5) Ambassadors and highly positioned officers from military forces;
- 6) Members of management and supervisory boards and directors of companies mainly owned by the state,

v) Domestic politically and publicly exposed person is a natural person who is or was assigned with a significant public function:

- 1) Members of the Presidency, chairperson of the Council of Ministers, Ministers and Deputy Ministers.
- 2) Presidents, deputies, heads of government, ministers and their deputies or assistants on the level of the FBIH, RS, Brčko District.
- 3) Elected representatives of legislative bodies on the level of BIH, RS, FBIH and District Brčko;
- 4) presidents of political parties;
- 5) judges of the constitutional courts of BIH, FBIH and RS and the judges of the Supreme Courts of RS and FBIH, judges of the Appellate Court of the District Brčko, judges of the Court of BIH and members of the High Judicial and Prosecutorial Council of BIH;
- 6) chief prosecutor and prosecutors of the prosecution of BIH, the chief prosecutor and prosecutors of the prosecution of RS, FBIH and the District Brčko
- 7) board members, the Governor and deputies of the Governor of the Central Bank of BIH;
- 8) diplomatic representatives (ambassadors and consuls);
- 9) members of the Joint Staff of the Armed Forces of Bosnia and Herzegovina.

10) Members of Steering, Supervisory boards and directors of companies with majority state or entity ownership or ownership of the District Brčko.

z) The closest family members of the persons listed in points u) and v) of this article: spouses, parents, brothers and sisters, children and their spouses:

aa) Close associates from u) and v) of this article are natural persons who participate in the profits from property or are in a business relationship or are have any other relation with the business.

bb) A personal identification document is every public document with a photograph of the person, issued by the competent domestic or foreign authority, for the purpose of person identification.

cc) Competent authorities are all authorities authorized to proceed in the detection of predicate criminal offences, prevention of money laundering and financing of terrorist activities in accordance with this law and other laws in Bosnia and Herzegovina.

dd) Foreign financial intelligence unit is the central national body for receiving, analysing and forwarding of information, data and documentation about suspicious transactions in connection with money laundering and financing of terrorist activities."

Article 4.

Article 4. shall be amended and reads:

„Article 4.

(Liable persons for implementation of measures)

Measures for detecting and preventing money laundering and financing of terrorist activities *shall be carried out according to this law by the liable persons listed below:*

- a) Banks;
- b) Insurance companies, insurance representation companies licensed to deal with life insurance affairs;
- c) Leasing companies;
- d) Microcredit organizations;
- e) Authorised agents trading in financial instruments, foreign exchange, exchange, interest rates, index instruments, transferable securities and commodity futures;
- f) Companies dealing with electronic money transfer;
- g) Investment and pension companies and funds, whatever the legal form;
- h) Post offices;
- i) Casinos, gambling houses and other organizers of games and special lottery games, particularly betting, slot machines, internet games and games on other telecommunication means;
- j) Currency exchange offices;
- k) Pawnbroker offices;

- 1) Public notaries, lawyers, accountants, auditors and legal and natural persons performing accounting services and tax counselling services
- m) Real estate agencies;
- n) Legal and natural persons performing the following activities:
 - 1) Receiving and/or distributing money or property for humanitarian, charitable, religious, educational or social purposes,
 - 2) Transfer of money or value,
 - 3) factoring,
 - 4) forfeiting,
 - 5) Safekeeping, investing, administering, managing or advising in the management of property of third persons,
 - 6) Issuing, managing and performing operations with debit and credit cards and other means of payment;
 - 7) Issuing financial guarantees and other warranties and commitments;
 - 8) Lending, crediting, offering and brokering in the negotiation of loans;
 - 9) Organizing and executing auctions;
 - 10) Trade in precious metals and stones and products made from these materials;
 - 11) Trading with works of art, vessels, vehicles and aircrafts;
 - 12) Persons referred to in Article 3. item m) of this Law.“

Article 5.

Paragraph (3) in Article 7. shall be deleted.

Article 6.

From Article 7. a new Article 7a. shall be added to read:

“Article 7a.

(Refusal of business relationship and execution of transaction)

- (1) A liable person not able to implement measures from article 7. paragraph (1) point a), b, and c) of this Law, must not establish a business relationship or conduct a transaction, i.e. the liable person must terminate the already established business relationship.
- (2) In the case from paragraph (1) of this Article, the liable person shall inform FID about the refusal or termination of the business relationship and the refusal of conducting transactions with all the previously collected data about the client or the transaction in accordance with Article 30. and 31. of this Law."

Article 7.

In Article 8. paragraph (1) after the word "law", the words "to the same extent" shall be added, the words "and subsidiaries" shall be added after the word "branch offices", and after the word "abroad" instead of a full stop, a comma shall be added as well as the following words: "if permitted by the laws and regulations of the state."

After paragraph (1) new paragraphs (2) and (3) shall be added to read:

„(2) In the case where minimal requirements for the prevention and detection of money laundering and financing of terrorist activities prescribed by this law and by the law and regulations of a foreign state where the branch office, subsidiary and other organizational unit of the liable person is situated, differ, the branch office, subsidiary and other organizational units of the liable person shall apply either this law or laws and regulations of the foreign country, depending on which regulations ensure a higher standard of prevention and detection of money laundering and financing of terrorist activities, to the extent allowed by the laws and regulations of that foreign country."

(3) If the regulations of the foreign country do not permit the implementation of actions and measures for the prevention and detection of money laundering and financing of terrorist activities to the extent prescribed by this law, the liable person must immediately inform FID and adopt appropriate measures for the elimination of the risk of money laundering and financing of terrorist activities."

Former paragraph (2) shall become paragraph (4), and after the word "branch offices" the words "subsidiaries" shall be added."

Article 8.

In Article 15. paragraph (1) the words "legal persons" shall be replaced by the words: "client which is a business organization or another legal person, representation, branch office/subsidiary or another subject of the domestic and foreign right", and after the word "data" the following words shall be added: "from Article 44. paragraph (1) point m) of this law."

After paragraph (2), a new paragraph shall be added (3) to read:

“(3) The liable person must collect data about the final real owners of the client from paragraph (1) of this Article. The liable person verifies the collected data in a way that allows him knowledge of the ownership structure and client control to the extent which, depending on the risk assessment, corresponds to the criteria of a satisfactory knowledge of the real owners."

Article 9.

In Article 16., paragraph (1), point a) shall be amended and reads “organizations stated in Article 4. point a),b),c),d) and e) of this law,".

In paragraph 4. of the same Article, the word "make" shall be replaced by the word "determine".

In the same article after paragraph (4) a new paragraph shall be added (5) to read:

„(5) The liable person must not verify the performance of specific actions and measures of identification and monitoring of clients to third persons from the state which is on the list of countries not applying standards in the area of prevention of money laundering and financing of terrorist activities."

The former paragraph (5) shall become paragraph (6).

Article 10.

In Article 17. after paragraph (2) a new paragraph shall be added (3) to read:

„(3) The liable person must not accept the performance of specific actions and measures of identification and monitoring of clients through a third person, if that person has determined and verified the client's identity without his presence.“

The former paragraph (3) shall become paragraph (4), which shall be amended and reads:
“The verification of the performance of specific actions and measures of identification and monitoring of clients to a third person does not free the liable person of the liability for a proper performance of actions and measures of identification and monitoring of the client in accordance with this law. The liable person is still responsible for the final liability for the implementation of identification and monitoring measures entrusted to a third person.“

After paragraph (4) a new paragraph (5) shall be added to read:
"(5) The third person is responsible for the fulfilment of obligations from this law, including the liability for keeping data and documentation."

Article 11.

After Article 17. new Articles 17.a and 17b. shall be added to read:

“Article 17a.

(Obtaining data and documentation from a third person)

(1) A third person which performs specific actions and measures of client identification and monitoring, in accordance with the regulations of this law and in place of the liable person, is obliged to inform the liable person about the collected data about the client, which are necessary for the liable person to establish a business relationship according to this law.

(2) The third person is obliged to provide the liable person without delay, upon his request, with the copies of the documents and other documentation which were the base for the performance of actions and measures of identification and monitoring of the client and obtaining of the requested data about the client. The liable person shall keep the obtained copies of the documents and documentation in accordance with this law.

(3) If the liable person doubts the authenticity of the performed actions and measures of identification and monitoring of the client, i.e. the identification documentation, or the veracity of the collected data on the client, he will demand from the third person to deliver a written statement on the authenticity of the performed actions or measures of identification and monitoring of the client and the veracity of the collected data on the client.

Article 17b.

(Prohibition of establishing business relationships)

The liable person shall be prohibited from establishing a business relationship if:

- (1) the actions and measures of identification and monitoring of the client were carried out by a person which is not the third person from Article 16. of this law;
- (2) the third person has determined and verified the identity of the client without his presence;
- (3) he did not previously collect data from Article 17.a paragraph (1) of this law from the third person;
- (4) he did not previously receive copies from the third person of the identification documents and other documentation on the clients;
- (5) if he doubts the authenticity of the performed actions and measure of identification and monitoring of the client or the veracity of the data collected on the client, and has not received the requested written statement from Article 17.a paragraph (3) of this law.

Article 12.

In Article 18. after paragraph (3), a new paragraph shall be added (4) which reads:

„ (4) The activities of the regular monitoring cannot be entrusted to a third person."

Article 13.

In article 20. paragraph (1) point a) after the word "abroad" a comma shall be added as well as the words: "which is not on the list of countries implementing international standards in the area of detection and prevention of money laundering and financing of terrorist activities, which are on the standard level of the European Union or higher".

In Article 20. paragraph (2) after the word "cases" a comma shall be added as well as the words: "as well as on the existing clients,", and after the words "related to the clients" a comma shall be added and the words "based on the risk assessment from Article 5. of this law".

Article 14.

In Article 21. paragraph (1) after the word "abroad" a comma shall be added and the words: "which is not on the list of countries implementing international standards in the sector of detection and prevention of money laundering and financing of terrorist activities, which are on the standard level of the European Union or higher".

In paragraph (2) the words "superior and person in charge" shall be replaced with the words "highest level of management".

In paragraph (2) the full stop at the end of the paragraph shall be deleted, a comma shall be added and the following words: "if that relationship was established, a continuation without a written approval of the highest level of management in the liable person is not possible".

In paragraph (4) point b) of the same Article, the words "superior and person in charge" shall be replaced with the words "highest level of management".

In the same Article after paragraph (4), paragraphs (5) and (6) shall be added, which read:
"(5) The liable person is obliged, in the contract which is the base for the establishment of a correspondent relationship, to specially determine and document the obligations of every contracting party connected to the detection and prevention of money laundering and financing of terrorist activities. The liable person is obliged to keep that contract in accordance with the law.

(6) The liable person may not establish a correspondent relationship with a foreign bank or a similar credit institution, by which that institution may use the account at the liable person by enabling his clients to directly use this account."

Article 15.

After Article 21. new Articles 21a. and 21b. shall be added to read:

"Article 21a. (New technological achievements)

(1) The liable person is obliged to pay particular attention to the risk of money laundering and financing of terrorist activities arising from the implementation of new technological achievements, which make the anonymity of a party possible (e.g. Electronic banking, use of ATMs, phone banking etc.).

(2) The liable person is obliged to establish procedures and take additional measures for the elimination of risks and prevention of the abuse of new technological achievements for the purpose of money laundering and financing of terrorist activities.

Article 21b. (Unusual transactions)

(1) The liable person is obliged to pay particular attention to the transactions characterized by a complex and unusually high amount, unusual execution method, value or connection of transactions which do not have an economical or legally established purpose, i.e. they are not harmonized or are disproportionate with the usual i.e. the expected business operations of the party, and other circumstances connected to the status or other characteristics of the party.

(2) The liable person is obliged to determine the base and purpose of the transaction from paragraph (1) of this Article and to make a note in written form, kept in accordance with the law."

Article 16.

Article 22. shall be amended and reads:

„Article 22. (politically and publicly exposed persons)

(1) The liable persons shall establish an appropriate procedure to determine whether the client and/or the real owner of the client from Bosnia and Herzegovina or abroad is politically or publically exposed. They shall define such procedures by their internal official record following at the same time the guidelines of the FID and the competent monitoring bodies mentioned in Article 68. of this Law.

(2) If the client and/or the real owner of the client entering the business relationship or performing the transaction or if the client and/or the real owner of the client on whose behalf he is entering into the business relationship or performing a transaction is a politically and publically exposed person, the liable person shall undertake the following measures within the framework of the procedure of the increased identification and monitoring of clients, besides the measures mentioned in Article 20. of this law:

a) collect the data on the source of the assets and property which is or will be the subject of a business relationship or transaction from the documents and the rest of the documentation enclosed by the client and/or the real owner of the client. When such data cannot be collected in the described manner, the liable person shall receive them directly from the written statement of the client.

b) the employee of the liable person implementing the procedure for the establishment of the business relationship with the client and/or the real owner of the client who is a politically or publically exposed person shall ensure a written approval of its supervisor or responsible person before entering into such a relationship.

c) after entering into the business relationship, the liable person shall follow the transactions and the other business activities of the politically and publically exposed person, carried out through the liable person by procedures of identification and monitoring.

(3) If the liable person establishes that the client or the real owner of the client has become a politically exposed person during the business relationship, he shall apply actions and measures from paragraph (2) of this article, and for the continuation of the business relationship with that person he shall obtain a written consent of the highest level of management."

Article 17.

In Article 26. paragraph (1) in the brackets after the words "payment services", the words "and charge" shall be added, and paragraphs (2), (3), (4), (5), (6) and (7) shall be deleted.

Article 18.

After Article 26. new Articles 26a., 26b., and 26c. shall be added to read:

“Article 26a.

(Data on the principal of the electronic transfer)

(1) The provider of the payment services and charge is obliged to collect accurate and complete data on the principal and to include them in the form or the message accompanying the electronic transfer of assets sent or received, regardless of the currency. These data must follow the electronic transfer during the whole path through the chain of payment, regardless if the agents in the electronic chain exist and regardless of their number.

(2) The data from paragraph (1) of this Article are:

- name and surname of the principal of the electronic transfer;
- address of the principal of the electronic transfer;
- account number of the principal of the electronic transfer or the unique identification code.

(3) If it is not possible to access the data on the address of the principal of the electronic transfer, the provider of the payment service and charge is obliged to collect some of the following data, instead of the address

- personal identification number or another identification number;
- place and date of birth of the principal of the electronic transfer;

Article 26b.

(Determining and verifying the identity of the principal in an electronic transfer)

(1) The provider of the payment services and charge is obliged to determine and verify the identity of the principal of the electronic transfer before carrying out this transfer, in accordance with Article 9. to 13. of this law.

(2) If the electronic transfer is carried out without opening an account, the obligations from paragraph (1) of this Article shall only be carried out if that transfer amounts to 2000 KM or the European counter value.

(3) The provider of the payment service and charge is obliged to fulfil the obligations from Article 26a. paragraph (1) of this law whenever there are doubts that it is about money laundering or financing of terrorist activities, regardless of the amount of the electronic transfer.

(4) If the electronic transfer does not contain the correct and complete data about the principal of the electronic transfer, the provider of the payment service and charge is obliged to obtain the missing data or to reject the execution of this transfer, within three days from the reception of that transfer.

(5) The provider of the payment service and charge is obliged to consider the termination of the business cooperation with other providers of payment services and charge, which frequently fails to fulfil the obligations from article 26a. paragraph (1) if this law, provided that he warns him about the termination of the business relationship before its execution. The provider of the payment service and charge is obliged to inform the FID about the termination of the cooperation.

(6) The provider of the payment service and charge is obliged to consider if the lack of accurate and complete data on the principal of the electronic transfer is cause for suspicion that money laundering and financing of terrorist activities is involved and to make an official note kept in accordance with the law, and to consider the implementation of the increased identification and monitoring of the client with regard to the estimated risk level.

(7) The provisions of Article 26a. of this law and this Article shall be implemented regardless if it concerns electronic transfer carried out in the state or abroad, i.e. regardless if it is executed by domestic or foreign providers of payment services and charge.

(8) When collecting data from Article 26a. of this law, the providers of payment services and charge identify the payee by using a valid identification document, and credible and reliable documentation sources.

Article 26c.

(Exceptions of the obligation of data collection about the principal of the electronic transfer)

(1) The provider of the payment service and charge is not obliged to collect data about the principal of the electronic transfer in the following cases:

a) when the electronic transfer is conducted from an account opened by the provider of payment service and charge and if the measures of knowledge and monitoring of the client have already been conducted in accordance with this law;

b) when using credit cards and debit cards, under the condition:

1) that the principal of the electronic transfer has a contract with the provider of the payment service and charge, which is the base for paying goods and services;

- 2) that transfers of financial funds are conducted with a unique identification code, which is the base to determine the identity of the principal of the electronic transfer;
- d) when both the principal and the user of the electronic transfer are providers of the payment service and charge in their own name and for their own account;
- e) when the principal of the electronic transfer withdraws money from his account."

Article 19.

In Article 30. paragraph (3) shall be deleted, and paragraph (4). shall become paragraph (3).

Paragraph (5) shall become (4) where the words „upon consultations“ shall be replaced with the words: „at the proposal of the FID“.

Article 20.

Article 32. shall be amended and reads:

„Article 32.

(Authorised Person)

(1) For the purpose of delivering the information to the FID as well as in order to carry out other duties in accordance with the provisions of this law, a liable person is to appoint an authorised person and one or more deputies of the authorised person (hereinafter authorised persons). They are to inform the FID about the appointments within seven days from the day of the appointments or change of details about the authorised persons.

(2) Liable persons who have got four or less employees, if not appointed, an authorised person is the legal representative or another person conducting the business activities of the liable person, i.e. the responsible person of the liable person according to the legal provisions."

Article 21.

In the title of Article 33. the words „an Authorised Person and Deputy“ shall be changed with the words „authorised persons“.

In paragraph 1. point b) after the word „proceedings“ a comma shall be added and the words: „except for criminal offences from the area of traffic safety“:

Paragraph 2. shall be deleted.

Article 22.

In the title of Article 34. the words "an Authorised Person and Deputy" shall be replaced with the words: "Tasks of authorised persons"

Article 23.

After Article 34. new Articles 34a. and 34b. shall be added to read:

"Article 34a.

(Obligations of the liable person)

(1) The liable person shall provide the authorised person with:

- a) an unlimited access to data, information and documentation necessary for carrying out his activities;
- b) appropriate personnel, material, informational and technological and other working conditions;
- c) appropriate spatial and technical capabilities which provide a certain level of protection of confidential data which the authorised person has access to;
- d) continuous professional training;
- e) a deputy for the time of his absence
- f) protection in the sense of disclosure of data about him to unauthorised persons, and the protection from other activities which may influence the unhindered execution of his duties.

(2) Internal organizational units, including the highest ranking management in the liable person, shall be obliged to provide the authorised person with help and support for carrying out his activities, and to inform him regularly about the facts which are or may be connected to money laundering or financing of terrorist activities. The liable person is obliged to prescribe the cooperation method between the authorised person and the other organizational units.

Article 34b.

(Integrity of the employees)

(1) The liable person shall determine the procedure, when establishing a working relationship at the work place where the provisions of this law and the regulations based on this law are implemented, which verifies the candidate for that work place whether he was convicted of a criminal offense to acquire illegal financial gain or criminal offenses connected to terrorism."

Article 24.

In Article 35. paragraph (2) the words „exist the grounds for suspicion “, shall be changed to „exists suspicion“.

Article 25

In Article 37, paragraph (1), the word “ground” is deleted and the word “suspicions” is replaced with the word “suspicion”.

Article 26

In Article 39, the introductory sentence is deleted and replaced with: “Persons who perform professional activities referred to in Article 38 of this Law, proceed in accordance with Article 6 of this Law in cases when:”.

Article 27

In Article 41, a new paragraph (4) shall be added to read:

“The notary is obliged to deliver to the FID the data on every certified sales contract of property transactions, value of which is 30.000 KM or higher.”

Article 28

In Article 42, paragraph (1) is deleted and replaced with the following paragraph:

“(1) Persons who perform advocate activities do not apply provisions referred to in Article 41 of this Law in relation with the data received from the clients or are collected on the client during client representation, which regard the court proceedings, which includes the consultations on suggesting or avoiding court proceedings, regardless of the data being received or collected before, during or after the court proceedings.”

In paragraph (2) of the same Article, after the words “persons who perform”, the word “professional” is deleted and amended to read “advocate”.

In the same paragraph, number “30” is deleted and replaced with number: “47.”.

Paragraph (3) of the same Article is deleted and amended with the following paragraph.

“(3) Persons who perform professional activities are not obliged to:

- a) notify the FID on the transactions referred to in Article 30, paragraph (1), item b) and c) of this Law;
- b) conduct internal audit of performance of activities related to the prevention of money laundering and funding of terrorist activities.”

Article 29

In the title of Article 43, the words “there are grounds for suspicion” are amended to read: “there is suspicion”.

In Article 43, paragraph 1, the words “there are grounds for suspicion” are amended to read: “there is suspicion”.

In Article 43, paragraph 3, the word “grounds” is deleted.

Article 30

In Article 44, paragraph (4), item a), after the words “date and place of birth”, the words: “and personal identity number” are added.

In Article 44, paragraph (4), item b) is amended to read:

“b) name and head office and registration number of a legal person or name, surname and permanent address and personal identity number of a natural person on behalf of whom the transfer of cash or property over the state borders is performed;“

In Article 44, after paragraph (4), a new paragraph (5) is added to read:

“(5) Records and information referred to in Article 59 a) of this Law regarding the sale of the state capital include the following data:

- a) name, surname and permanent address, date and place of birth and personal identity number of a natural person who purchases the state capital.
- b) name and head office and registration number of a legal person and name, surname, permanent address, date and place of birth and personal identity number of a natural person whom a legal person represents when purchasing the state capital.
- c) The data regarding:
 - 1) number and date of contract;
 - 2) subject of sale;
 - 3) conditions of sale (contract price of capital, payment manner, other conditions and ways in which these conditions are to be executed).“

Article 31

In Article 45, a new paragraph is added to read:

„(2) Financial Intelligence Department is the central financial intelligence unit which receives, collects, files, analyses, investigates and forwards the results of analyses, data, information and documentation in accordance with the provisions of this Law.“

Article 32

Article 46 is deleted.

Article 33

Article 47 is amended to read:

„Article 47

(Requirements of the person obliged to deliver data on suspicious transactions and persons)

(1) When there is suspicion of money laundering and funding of terrorist activities regarding a certain transaction or a person, the FID shall perform all activities and conduct all inspections, and due to them may require from liable persons information in written form as referred to in Article 44 of this Law, information on ownership and bank transactions of that person as well as other information, data and documentation necessary for performance of the FID's activities in accordance with the provisions of this Article. In urgent cases, the FID may request information, data and documentation verbally and may inspect the documentation on the liable person's premises, provided that the FID shall be obliged to submit a written request to the liable person the following work day at the latest.

(2) The liable person is obliged to deliver to the FID, with no further delays, the information, data and documentation as referred to in paragraph 1 of this Article in the period of 8 work days at the latest from the day of the receipt of the FID's request.

(3) In case the documentation is extensive or due to some other justifiable reasons, the FID may, at a written request, notify in written of the extended deadline as referred to in paragraph 2 of this Article and may, in such cases, inspect the documentation on the premises of the liable person.”

Article 34

After Article 47, a new Article 47a is added to read:

“47a

(Discovery and investigation of money laundering and funding of terrorist activities)

1) When the FID, while proceeding in accordance with the provisions of this Law, confirms the grounds for suspicion of money laundering or funding of terrorist activities, it shall ex officio deliver the relevant report to the competent prosecutor along with all collected information, data and documentation.

(2) When the FID, while proceeding in accordance with the provisions of this Law, confirms the grounds for suspicion of money laundering or funding of terrorist activities, it shall ex officio deliver the relevant report to the competent prosecutor and, with the competent prosecutor's approval, to the competent law enforcement body.

(3) When the FID, while proceeding in accordance with the provisions of this Law, fails to confirm the grounds for suspicion of money laundering or funding of terrorist activities, and the collected information, data and documentation confirm suspicion or the grounds for suspicion of some other criminal act, the FID shall ex officio notify the competent prosecutor or the competent law enforcement body in Bosnia and Herzegovina.

(4) The bodies referred to in paragraph 1 and 2 of this Article are obliged to notify the FID on the accomplished results based on the data, information and documentation forwarded by the FID in accordance with the provisions of these Articles.

(5) the FID, in cases referred to in paragraph (1), (2) and this Article, shall not state the data on an employee or employees of the liable person, who notified it of the data in accordance with this Law or who are in any other way involved in executing the transaction on behalf of the liable person, unless there are reasons for suspicion that this liable person or their employee committed a criminal act, or if this information is necessary in order to establish facts during criminal proceedings.”

Article 35

In Article 48, after the paragraph (1), a new paragraph is added to read:

“(2) A written order for temporary suspension of a suspicious transaction or transactions as referred to in paragraph (1) of this Article, may be issued by the FID, in accordance with its own assessment of fulfilment of conditions as referred to in paragraph (1) of this Article, and upon the request of law enforcement agencies of BiH, other bodies and institutions in BiH as referred to in Article 51a, paragraph (1) of this Law, as well as foreign financial intelligence units.”

Former paragraph (2) becomes paragraph (3).

Former paragraph 3 is deleted.

In Article 48, paragraph (5), after the word “decision”, a word: “competent” is added, and the words “Law on criminal proceedings of BiH” are amended with words: “laws on criminal proceedings in Bosnia and Herzegovina”.

Article 36

In Article 49, paragraph (1), the words “grounds for suspicion” is amended with words: “suspicions”.

Article 37

The title of Article 51 is amended to read: “Requests and electronic access to data of other bodies”.

In Article 51, paragraph (1), the word “liable person” is replaced with the word “bodies”.

Paragraph (2) becomes paragraph (4).

Paragraph (3) becomes paragraph (2) and in the same paragraph, the words “and (2)” are deleted.

Paragraph (4) becomes paragraph (3) and in the same paragraph, number “3” is amended to read number “2”.

Paragraph (5) is deleted.

Article 38

After Article 51, new Articles 51a and 51b are added to read:

“Article 51a)

(1) The competent prosecutor or the competent law enforcement body in Bosnia and Herzegovina may submit an elaborated request to the FID for the deliverance of available i.e. collected data and information which may be of significance to the applicants for issuing decisions within their competency regarding the investigation of criminal acts of money laundering and funding of terrorist activities.

(2) An elaborated request as referred to in paragraph (1) must contain: the legal basis for submitting a request, basic general data for a natural person i.e. the name and head office of a legal person, description of suspicion for a criminal offence of money laundering or funding of terrorist activities.

(3) the FID may decline the applicant's request referred to in paragraph 1 in case the applicant's request fails to fulfil the conditions prescribed in paragraph 2, and shall notify of this in written the applicant of the request.

(4) When the FID, while proceeding in accordance with an elaborated request from the prosecution referred to in paragraph (1), collects the requested data, information and documentation, the same shall deliver to the applicant of the request.

(5) When the applicant of the request is the competent law enforcement body, the data, information and documentation shall be delivered to the applicant of the request and to the competent prosecution, unless it is clear that the competent body is already proceeding upon the prosecutor's request.

(6) When the FID, while proceeding in accordance with the request referred to in paragraph 1, collects the data, information and documentation which may be of significance to other bodies, which are not the request's applicants referred to in paragraph 1, for issuing a decision in their competency regarding other criminal acts, the FID shall ex officio notify these bodies in writing.

(7) FID, in cases referred to in paragraph 1 and 3 of this Article, shall not state the data on an employee or employees of the liable persons, who notified it of the data in accordance with this Law or who are in any other way involved in executing the transaction on behalf of the liable person, unless there are reasons for suspicion that this liable person or its employee committed a criminal act, or if this information is necessary in order to establish facts during criminal proceedings."

(8) The bodies referred to in paragraph (1), paragraph (4), paragraph (5) and paragraph (6) of this Article are obliged to notify the FID on the accomplished results based on the data, information and documentation forwarded by the FID in accordance with this Article.

Article 51b

Information feedback

The results of analyses of the received data regarding a transaction or a person in relation to whom there are determined reasons for suspicion of money laundering or funding of terrorist activities, on which the liable persons who reported the transaction shall be notified by the FID as referred to in Article 4 of this Law, unless assessed that it may harm further proceedings and outcome of procedures, and it shall do so by:

a) confirming the receipt of information on the reported transaction,

b) delivering the data on the decision or the result of the case if the reported case is closed or finished, and the data on it available,

c) delivering, at least once annually, the statistical data to the liable person on the received information on transactions and the results of the proceedings."

Article 39

In Article 59, paragraph (1), after the word “money”, a comma is added and the words: “cheques, stocks, precious metals and jewels”.

Article 40

After Article 59, a new Article 59a is added to read:

“Article 59a

(Privatization agencies and bodies)

(1) Privatization agencies and bodies are obliged to, upon the conclusion of a sales contract of the state capital, deliver to the Financial Intelligence Department the data on the subject of the sale, conditions of the sale and the buyer of the capital within 3 days.

(2) Bodies referred to in paragraph (1) are obliged to notify the FID on every termination of contract on sale of the state capital, with reasons for the termination in the deadline prescribed in paragraph (1).”

Article 41

In the title of Article 60, after the word “prosecutors”, a comma is added, “and” is deleted”, and after the word “courts”, words “and law enforcement agencies” are added.

In Article 60, after paragraph (2), a new paragraph (3) is added to read:

“3) Law enforcement agencies are obliged to deliver to the FID, upon submitting a Report on the offender and the grounds for suspicion of perpetration of a criminal act of money laundering, predicate criminal act, criminal act of funding of terrorist activities or a criminal act due to which an extensive property benefit is gained, the following data:

- a) number and date of the submitted report,
- b) the prosecution to which the report was made,
- c) basic data on reported natural and legal persons,

d) short description of a criminal act, amount of “laundered money”, material damages and property benefits.”

Article 42

In Article 62, paragraph (3) is amended to read: “The FID, other authorized official person or the prosecutor may not reveal the source of information, data and documentation collected in accordance with this Law on the persons to whom they apply.”.

Article 43

Article 64 is amended to read:

“The FID and state bodies, legal persons with public authorizations and other subjects may use the data, information and documentation collected in accordance with this Law for the purpose of prevention and discovery of money laundering and funding of terrorist activities unless otherwise provided by this Law.”

Article 44

In Article 65, paragraph (1) is amended to read:

“(1) The liable person is obliged to keep the information, data and documentation regarding the client, the established business relationship with the client and the conducted transactions

collected in accordance with this Law for at least 10 years from the day of the completion of a business relationship, executed transaction, the moment of client's identification in a casino, or a gaming house, or client's access to a safe.”

Article 45

Article 68 is amended to read:

“(1) Supervision over the liable person's activities in relation to the implementation of provisions of this Law and other laws which stipulate the obligations of the implementation of measures for prevention of money laundering and funding of terrorist activities is conducted by special agencies and bodies in accordance with the provisions of this and other laws which regulate the activities of individual liable persons and of competent agencies and bodies, as follows:

- a) Supervision over the liable persons' activities referred to in Article 4, item a), c) and d) is conducted by the Banking Agency of the FBiH and the Banking Agency of RS;
- b) Supervision over the liable person referred to in item j) is conducted by the Banking Agency of the FBiH, the Banking Agency of RS and foreign currency inspectorates, each within their competencies;
- c) Supervision over the liable persons' activities referred to in Article 4, item o) 2), 3) 4) 5) 6) 7) and 8), unless these activities are performed by the bank as one of its activities, is conducted by the entity Ministries of finances, i.e. Directorate for finances of Brčko District of BiH;
- d) Besides the liable persons referred to in the previous item, competent entity Ministries of finances, i.e. Directorate for finances of Brčko District of BiH conduct supervision over the liable persons referred to in item f), i), k), in Article 4, item l) in the part regarding accountants, auditors and legal and natural persons who perform accounting and tax advice services, m), n) indent 9), n) indent 10) and n) indent 11);
- e) Competent Ministries of justice conduct supervision over the liable persons referred to in Article 4, item l) in the part regarding notaries, and item n), indent 1);
- f) Bar associations of FBiH and RS conduct supervision over the liable persons referred to in Article 4, item l) in the part regarding advocates;
- g) The Insurance Supervisory Agency of FBiH and The Insurance Supervisory Agency of RS conduct supervision over the liable persons' activities referred to in Article 4, item b). Supervision over associations for management of voluntary pension funds is conducted by the RS Insurance Agency;
- h) RS Securities Commission and The Securities Commission of the FBiH and Brčko District Securities Commission conduct supervision over the liable persons' activities referred to in Article 4, items e) and g);
- i) Agency for postal traffic of Bosnia and Herzegovina conducts supervision over the liable persons referred to in Article 4, item h) post offices;
- j) the FID shall conduct supervision over the implementation of the provisions of this Law over liable persons referred to in item o), indent 12).

(2) Competent entity Ministries of finances and their bodies, i.e. the Finance Directorate of Brčko District of BiH conducts supervision over the implementation of provisions referred to in Article 29 of the Law (Limits on cash payments), over the persons

who are not liable persons referred to in Article 4 of this Law, and who conduct activities of selling goods and services in Bosnia and Herzegovina.

(3) the FID conducts indirect supervision over the implementation and enforcement of this Law in all liable persons referred to in Article 4 of this Law by collecting and inspecting of data, information and documentation delivered in accordance with this Law.

(4) the FID and the supervising bodies shall cooperate, within their individual competencies, during the supervision over the implementation of the provisions of this Law.”

Article 46

Articles 72 and 73 are amended to become one Article 72 which reads:

“Article 72

(Sentencing of legal persons and responsible persons within the legal person for offences)

(1) A fine in the amount of 20.000 KM to 200.000 KM shall be imposed on the offending legal person referred to in Article 4 of this Law, if such a person:

- a) fails to perform risk assessment in accordance with the provisions referred to in Article 5, paragraph (1);
- b) fails to perform risk assessment in accordance with the guidelines for performing risk assessment referred to in Article 5, paragraph (2);
- c) fails to take measures of identifying and tracking of clients during the establishment of a business relationships with the client referred to in Article 6, paragraph (1), item a);
- d) fails to take measures of identifying and tracking of clients during a transaction in the amount of 30.000 KM or more, in accordance with Article 6, paragraph (1), item b);
- e) fails to take measures of identifying and tracking of client during the issuance of electronic money referred to in Article 6, paragraph (1), items c) and d);
- f) during the execution of a transaction referred to in Article 6, paragraph (1), item (b), performs on the basis or without previously established legal relationships and fails to collect the data referred to in Article 7, as well as the missing data referred to in Article 44, paragraph (1), items a), b), c), e), f), g), i), and m);
- g) fails to fully comply with the provisions of this Law in its head office, affiliates and other organizational parts in the country or abroad referred to in Article 8, paragraph (1);
- h) fails to implement increased measures of identification and tracking of activities in affiliates and other organizational parts in the country or abroad, and especially in the countries which do not apply internationally accepted standards in the area of prevention of money laundering and funding of terrorist activities, or do so inadequately as referred to in Article 8, paragraph (3);
- i) fails to collect all necessary data for identification in accordance with the provisions referred to in Article 7 of this Law or fails to conduct identification in manners referred to in Articles 10, 11, 12, 13, 14, 15 and 17 of this Law;
- j) fails to determine and confirm the identity of a natural person by directly inspecting a valid identification document of the client in their presence;
- k) fails to collect the missing data from other valid public documents with the meaning of provisions in Article 9, paragraph (2);

- l) fails to conduct client identification, or if identification is not conducted in accordance with the provisions prescribed in Article 7 of this Law;
- m) the liable person fails to collect the data on final real owners as prescribed in paragraph (3) of Article 15;
- n) the liable person entrusts the performance of individual activities and measures of identification with a third person, from a country which is on the list of countries which do not apply the standards in the area of prevention of money laundering and funding of terrorist activities referred to in Article 16 of this Law;
- o) in case the liable person accepts the measures of identifying and tracking of a client from the third person, in case this person confirmed and inspected the client's identity without their presence;
- p) tracking of business activities which the client conducts does not involve provisions prescribed in Article 18, paragraph (2), items a) and b);
- q) during the establishment of a corresponding relationship with a bank or other similar credit institution, the head office of which is abroad, fails to apply increased measures of identification;
- r) fails to proceed in accordance with the provisions prescribed in Article 22;
- s) a client is not personally present during the confirmation and inspection of identity while taking measures of identification and tracking;
- t) during the establishment of a corresponding business relationship with a bank or similar credit institution, the head office of which is abroad, the liable person fails to collect the data, information and documentation referred to in Article 21, paragraph (1), items a) through f);
- u) liable person's employee establishes a relationship with a corresponding bank referred to in Article 21, paragraph 2 of this Law without a previous written approval from their superior and liable person's responsible person;
- v) liable person fails to collect all data referred to in Article 21, paragraph (1) by conducting inspection of the public or other available registries or by inspecting documents and business reports which was attached by the bank or other similar credit institution with its head office situated abroad;
- z) establishes or continues a correspondent relationship with a bank or a similar credit institution with its head office situated abroad without previously fulfilling the conditions referred to in Article 21, paragraph (4), items a) through d);
- aa) fails to establish an adequate procedure for determining of a politically exposed person in accordance with Article 22;
- bb) fails to undertake measures referred to in Article 22, paragraph (6);
- cc) during the establishment of a business relationship or execution of a transaction by a politically exposed person, the liable person, apart from the measures referred to in Article 20 regarding the procedure of increased identification and tracking of client;
- dd) fails to proceed in accordance with the provisions prescribed in Article 23, 24 and 25;
- ee) opens, issues or enables a client the possession of a hidden account and other products referred to in Article 27 of this Law;
- ff) establishes a business relationship with shell banks referred to in Article 28 of this Law;

hh) fails to notify the FID or fails to deliver information, data and documentation prescribed in Articles 30 and 31 of this Law;

ii) activities of an authorized person and their deputy entrusts with a person who fails to fulfil the conditions referred to in Article 33, paragraph (1), items a) through d);

jj) lawyers, lawyer associations and notaries fail to proceed according to provisions prescribed in Article 39, paragraph (1), items a) and b);

kk) in case the persons who conduct professional activities concerning identification and tracking procedures fail to proceed in accordance with provisions prescribed in Article 40 when establishing a business relationship and during the execution of a transaction;

ll) in case the persons who conduct professional activities proceed contrary to the provisions prescribed in Articles 41 and 43;

mm) liable person's records do not contain minimum of information referred to in Article 44, paragraph (1);

nn) fails to proceed on FID's order for temporary suspension of a transaction or fails to proceed on FID's provided instruction regarding this order and in accordance with provisions prescribed in Article 48 of this Law;

oo) fails to keep the information, data and documentation in accordance with provisions prescribed in Article 65 of this Law for at least 10 years after identification, executed transaction or closure of an account.

(2) Sentence referred to in paragraph (1) shall be imposed on a person referred to in Article 29 of this Law, who allows for cash payments in the amount of over 30.000 KM contrary to the provision prescribed in Article 29 of this Law;

(3) A fine in the amount of 5.000 KM to 20.000 KM shall be imposed on the responsible person within a legal person for an offence referred to in paragraph (1) and (2) of this Article.

(4) A fine in the amount of 3.000 KM to 20.000 KM shall be imposed on a self-employed natural person conducting activities for an offence referred to in paragraph (1) and (2) of this Article.

(5) A fine in the amount of 3.000 KM to 20.000 KM shall be imposed on the offending legal person referred to in Article 4 of this Law, if such a person:

a) fails to perform re-identification of a foreign legal person at least once annually in accordance with the provisions prescribed in Article 10, paragraph (7) of this Law;

b) fails to deliver to the FID the prescribed information or fails to deliver them in a prescribed manner in accordance with the provisions prescribed in Article 47 of this Law;

c) fails to establish internal control or fails to draw up a list of indicators for recognizing suspicious transactions in the prescribed deadline or in the prescribed manner in accordance with the provisions under Article 36 and 37 of this Law;

d) fails to appoint an authorized person or fails to notify the FID of this appointment in accordance with the provisions prescribed in Article 32 of this Law;

e) fails to ensure professional training for personnel in accordance with the provisions prescribed in Article 35 of this Law;

f) fails to keep the data on the authorized person and their deputy, on the professional training of employees and on internal control performance for at least four years after the appointment of the authorized person and their deputy, after the completion of professional training or the

performance of internal control, in accordance with the provision prescribed in Article 65, paragraph (2) of this Law;

(1) A fine in the amount of 1.000 KM to 5.000 KM shall be imposed on the responsible person within a legal person for an offence referred to in paragraph (5) of this Article.

(2) A fine in the amount of 2.000 KM to 10.000 KM shall be imposed on a self-employed natural person conducting activities referred to in Article 4 of this Law for an offence referred to in paragraph (5) of this Article.

Article 47

Former Article 74 shall become Article 73.

In paragraph (2), after the word “may”, a comma is added and words: “on the FID’s proposal”, and a comma.

Article 48

Former Articles 75, 76, 77 and 78 become 74, 75, 76 and 77.

Article 49

After Article 76, a new Article 76a is added to read:

“Article 76a)

Within one year from the day of entry into force of this Law on amendments, other legal regulations regulating this subject shall be aligned with it.”

Article 50

(Entry into force)

This Law enters into force on the eighth day from the day of publishing in the “Official Gazette of BiH”.

PSBiH, number: /12

xx. yyyy 2012-10-15 Sarajevo

Speaker of the
House of Representatives
Of the Parliamentary Assembly of BiH

Speaker of the
House of Peoples
Of the Parliamentary Assembly of BiH

Annex 2: Chart of number of days from indictment to final verdict

case number	indictment confirmed	date of judgment - first instance	number of days from the confirmation of indictment to judgment - first instance	date of judgment - second instance	number of days from first instance judgement to second instance judgement	third instance judgement	final verdict	Number of days from confirmation of indictment to final verdict
KPV 04/04	05/08/2004	23/11/2010	2301	-		-	23/11/2010	2301
KPV 07/07	05/08/2004	28/10/2010	2275	-		-	28/10/2010	2275
Average days for 2004								2288
X-KŽ-06/181	22/03/2006	21/09/2007	548	21/04/2009	578	-	21/04/2009	1126
KPV 06/04 (KPŽ 14/09)	13/09/2006	21/04/2009	951	07/12/2009	230	-	07/12/2009	1181
KPV 01/07	03/10/2006	26/02/2010	1242	-		-	26/02/2010	1242
X-K-06/177	06/11/2006	24/09/2009	1053	09/03/2010	166	-	09/03/2010	1219
Average days for 2006								1192
X-K-07/436	26/03/2008	10/05/2010	775	16/12/2010	220	-	16/12/2010	995
Average days for 2008								995
KPV 01/09 (KPŽ 13/10)	27/01/2009	28/01/2010	366	15/10/2010	260	-	15/10/2010	626
X-K-05/64-2	01/10/2009	13/12/2010	438	04/04/2011	112	-	04/04/2011	550
Average days for 2009								588
X-K-08/594-2	23/04/2010	19/08/2010	118	-		-	19/08/2010	118
S1 2 K 003100 11 K	25/10/2010	15/04/2011	172	-		-	15/04/2011	172
S1 2 K 003646 11 K	03/12/2010	02/03/2011	89	-		-	02/03/2011	89
Average days for 2010								126
average number of days			861		261			1 413

Annex 3: Cooperation – Exchange of Information

COOPERATION – EXCHANGE OF INFORMATION for period January - September 2012																												
COOPERATION IN B&H																								INTERNATIONAL COOPERATION				
Court and Prosecutor office of B&H		Courts and Prosecutor offices of entities		Police Agencies at level of B&H		ISA		ITA and CBB&H		FMOI and MOI of RS		MOIs of Cantons		Police of Brcko DC		Ministries of B&H		Other institutions in B&H		Embassies, OHR, EUFOR		OTHERS (Egmont Group)		NCB INTERPOL		OTHERS		
↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	
SIPA Σ																												
Financial Intelligence Department	31	21	10	4	15	17	0	0	26	30	44	45	24	13	2	1	6	18	73	58	0	0	133	839	42	37	98	77

Annex 4: Ordinance on Implementation of Restrictive Measures Established by Resolutions of the UN Security Council 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) AND 1904 (2009) Against Members of Al-Qaida, Usama Bin Laden, The Taliban and Other Individuals, Groups, Undertakings and Entities Associated with them

Pursuant to Article 17 of the Law on the Council of Ministers of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, no. 30/03, 42/03, 81/06, 76/07, 81/07, 94/07 and 24/08) and to Article 2 of the Law on Application of Certain Temporary Measures in Support of Effective Implementation of the Mandate of the International Criminal Tribunal for the Former Yugoslavia and Other International Restrictive Measures (Official Gazette of Bosnia and Herzegovina No. 26/06), Council of Ministers of Bosnia and Herzegovina on its 166th session held on 09.11.2011, adopted the

ORDINANCE

**ON IMPLEMENTATION OF RESTRICTIVE MEASURES ESTABLISHED BY
RESOLUTIONS OF THE UN SECURITY COUNCIL 1267 (1999), 1333 (2000), 1363 (2001),
1373 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) AND
1904 (2009) AGAINST MEMBERS OF AL-QAIDA, USAMA BIN LADEN, THE TALIBAN
AND OTHER INDIVIDUALS, GROUPS, UNDERTAKINGS AND ENTITIES ASSOCIATED
WITH THEM**

Article 1

(Subject of the Ordinance)

This Ordinance shall determine the manner of implementation of restrictive measures established by resolutions of the UN Security Council 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) and 1904 (2009) and which also relate to Consolidated List of persons, subject to measures of resolutions 1267 (1999) and 1333 (2000) (hereinafter: Consolidated List).

Article 2

(Definitions of terms)

Particular terms used in this Ordinance shall have the following meaning:

a) **Committee** is a body of UN Security Council concerning Al-Qaida members, Usama bin Laden and the Taliban and other individuals, groups, undertakings and organizations associated with them, established pursuant to Security Council resolution 1267 (1999);

b) **Armament** is the weapon and military equipment included in the List of armament and military equipment (Official Gazette of Bosnia and Herzegovina no. 94/09 and 82/10);

c) **Dual-use goods** include all items listed on the List of goods and technology (hereinafter: List of dual-use), including software and technology that can be used both in civilian and military purposes and goods which can be used in non-explosive purposes, but which in any way can help in the production and dissemination of chemical, biological or nuclear weapons or could be used for military end use or the intended end user, or state to which the conduct of international restrictive measures. List of dual-use goods (Official Gazette of Bosnia and Herzegovina no. 40/10);

d) **Goods for special purposes** are all non-military means for commercial purposes that could threaten the security of Bosnia and Herzegovina mentioned in the List of goods for special purposes (Official Gazette of Bosnia and Herzegovina no. 52/10);

e) **Funds** mean financial assets and benefits of every kind, such as:

- 1) Cash, cheques, claims on money, promissory notes, payment orders and other payment instruments,
- 2) Deposits with financial institutions or other entities, balances on accounts, claims and rights arising from claims,
- 3) Securities subject to stock exchange or other type of trade, such as stocks and shares, certificates, bonds and other kinds of securities,
- 4) Interest, dividends and other income generated by assets,
- 5) Credit, right of set-off, performance guarantees and other financial commitments,
- 6) Letters of credit, bill of lading, consignment note, contract,
- 7) Documents evidencing an interest in funds or financial resources,
- 8) Every other instrument to stimulate export financing;

g) **Economic resources** mean assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services.

Article 3

(Volume of International Restrictive Measures)

- (1) In accordance with the provisions of Article 1 of this Ordinance, international restrictive measures against members of Al-Qaida, Usama bin Laden, the Taliban and other individuals, groups, undertakings and organizations associated with them, include the following:
 - a) Freeze without delay the funds and other financial assets or economic resources including funds derived from property owned by persons from the List or under their direct or indirect supervision or under control of persons acting on their behalf or their instructions, or the person acting in as their successors;
 - b) Prevent the entry into and transit through the territory of Bosnia and Herzegovina;
 - c) Prevent the direct or indirect supply, sale and traffic of arms and related material, including military, dual use equipment and special purpose and military vehicles meant for special, technical guidance, assistance or training related to military activities, in conjunction with individuals, groups, associations and organizations listed in the Consolidated List.

Article 4

(Publication Procedures of Consolidated List)

- (1) The latest version of the Consolidated List, which the Committee published on 05 October 2011, is part of the Annex to this Ordinance and will be available on the official website of the Ministry of Security of Bosnia and Herzegovina (hereinafter: Ministry) (www.msb.gov.ba) on the date of enactment of this Ordinance.
- (2) For any further publication of the updated Consolidated List, the Council of Ministers of Bosnia and Herzegovina charges the Ministry, in manner that the same in its original form i.e. as received from the fit of the competent authority of UN Security Council, makes available on its own website.
- (3) On the date of publication of a new updated Consolidated List, the same shall supersede the previous Consolidated List.
- (4) The authorities of Bosnia and Herzegovina are obliged to regularly follow the procedures outlined in paragraphs (1), (2) and (3), and act in accordance with the provisions of this Ordinance and the Law on the application of certain temporary measures for the effective implementation of the mandate of the International Criminal Tribunal for the Former Yugoslavia and other international restrictive measures.
- (5) In the case of a notice on new listing of person or entity from Bosnia and Herzegovina, before the publication of these data on the official website of the Ministry, shall be taken the following steps:
 - a) Freeze without delay all the economic resources and other funds;
 - b) Inform the person listed and learn in detail about the facts and refer to the possibility of filing a complaint.

Article 5

(Implementation of Financial restrictive measures)

- (1) The authorities of Bosnia and Herzegovina will freeze without delay and without prior notice all funds and economic resources of all persons, groups, undertakings and organizations included in the Consolidated List.
- (2) The measures referred to in paragraph (1) of this Article shall also apply to economic assets and funds derived from property owned by persons from the Consolidated List or under their direct or indirect supervision or control of persons acting on their behalf or by their instructions, or the person acting as successor. Furthermore, will ensure that any assets owned by other persons not directly or indirectly be available for use by persons from the Consolidated List.
- (3) Upon obtaining information from the competent authority on the basis of paragraph (1) of this Article, the Ministry will publish information on its website.
- (4) Against a legal act of the competent authority under paragraph (1) of this Article, a procedure may be initiated before Court of Bosnia and Herzegovina.
- (5) The competent authorities referred to in paragraph (1) of this Article, are the bodies defined in Article 12 of the Law on Application of Certain Temporary Measures in Support of Effective Implementation of the Mandate of the International Criminal Tribunal for the Former Yugoslavia and Other International Restrictive Measures.

Article 6

(The application of restrictive measures prohibiting entry in and transit through the territory of Bosnia and Herzegovina)

- (1) It is forbidden to enter Bosnia and Herzegovina or transit through Bosnia and Herzegovina for Usama bin Laden, members of Al-Qaida, the Taliban and other individuals, members of groups, undertakings and organizations associated with them, and included in the Consolidated List, compiled by the Committee.
- (2) Measures referred to in paragraph (1) shall not apply to persons from the Consolidated List which are citizens of Bosnia and Herzegovina.
- (3) Measures referred to in paragraph (1) of this Article shall not apply when entering Bosnia and Herzegovina or transit through the territory of Bosnia and Herzegovina is necessary for the implementation of court proceedings and the Committee, in considering individual cases, determines that such entry or transit is justified and informs the Ministry on it.

Article 7

(Application of restrictive measures concerning the prevention of arms supply)

It is forbidden to all legal and natural persons a direct or indirect supply, sale or traffic of arms and related material, including military, dual-use goods and goods for special purpose and military and vehicles for special purpose, technical guidance, assistance or training related to military activities, and toward persons from the Consolidated List.

Article 8

(Obligation to deliver information and Database management)

The authorities of Bosnia and Herzegovina shall cooperate with the Ministry in the implementation of this Ordinance, and in that sense the provisions of Articles 6 and 7 of the Law on the application of certain temporary measures for the effective implementation of the mandate of the International Criminal Tribunal for the Former Yugoslavia and other international restrictive measures shall apply.

Article 9

(Exemption for living expenses and the exemption for certain obligations)

- (1) In regard to the exemption for living expenses and exemption for certain obligations, the provisions referred to in Articles 8 and 9 of the Law on Application of Certain Temporary Measures for the Effective Implementation of the Mandate of the International Criminal Tribunal for the Former Yugoslavia and Other International Restrictive Measures shall apply, provided that the application for exemption will be referred to the Ministry.
- (2) An application for exemption for living expenses and the exemption for certain obligations, the Ministry shall submit to the Committee with explanation and procedures that is to be implemented in that sense.
- (3) The decision of the Committee referred to in paragraph (2) has a mandatory character in terms of further action on the request for an exemption for living expenses and the request for an exemption for certain obligations.

- (4) An application, referred to in paragraph (2) of this Article, toward the Ministry may be filed only by the person from the Consolidated List, who is a citizen of Bosnia and Herzegovina or legally residing in Bosnia and Herzegovina or its legal representative.

Article 10

(Application of restrictive measures against persons who are brought in contact with people from the Consolidated List)

1) The provisions of this Ordinance shall apply also to persons for which the competent authorities in Bosnia and Herzegovina determined to be in conjunction with persons from the Consolidated List.

(2) For the purposes of paragraph (1) of this Article, the following acts or activities indicate that a person, group, economic entity or organization associated with persons from the Consolidated List:

- a) participation in the financing, planning, facilitating, preparing or perpetrating of acts or activities by, in conjunction with persons from Consolidated List or under their name, on their behalf or in support thereof;
- b) perform activities of intermediation, supply, sale or traffic of arms and related material, including military, special equipment and dual use, military vehicles and vehicles for special purpose, technical guidance, assistance or training related to military activities;
- c) perform recruitment activities or recruitment for their needs, or
- (d) actions or activities that otherwise constitute the support of Al-Qaida, Usama bin Laden or the Taliban or any of their cell, affiliate, splinter group or derivative thereof or act according to their ideology.

Article 11

(Listing Procedure)

- (1) The competent authorities for law enforcement in Bosnia and Herzegovina shall provide the Ministry a proposal for starting procedures for the listing, or placing on the Consolidated List.
- (2) In the explanation of the proposal for the listing, in each case, the authorities are obliged to be guided by the provisions of Article 10 of this Ordinance and the relevant Guidelines of the Committee.
- (3) The final decision on submitting the listing application to the competent authority of the UN Security Council, in each case, shall be issued by the Council of Ministers with the consent of the Presidency of Bosnia and Herzegovina.

Article 12

(Proceedings on claims of third parties if their rights have been compromised)

- (1) All competent authorities in Bosnia and Herzegovina are obliged to take care that the application of the provisions of this Ordinance shall not be to the detriment of third parties.
- (2) If there is a threat to the rights of third parties they can address the Ministry which is obliged to consider their allegations and make a decision within 30 days.

Article 13

(De-listing Procedure)

- 1) Citizens of Bosnia and Herzegovina and the people who legally reside in Bosnia and Herzegovina, as well as responsible persons of legal entities registered in Bosnia and Herzegovina and located on the Consolidated List may at any time apply for delisting to the Ministry.
- (2) Notwithstanding paragraph (1) of this Article, the request for delisting or providing opinions in an open procedure of delisting can be delivered also indirectly by the Committee or the Ombudsperson of the United Nations for issues of de-listing from the Consolidated List (hereinafter referred to as The Ombudsperson).
- (3) The requirements of paragraph (1) of this Article shall contain the identification information for the applicant and a statement / explanation of the reasons for the delisting request. In addition to the request, copies of any document or other supporting material which the applicant considers to be of importance in the process of delisting may be enclosed.
- (4) In considering requests for delisting, the Ministry is guided by the provisions of Article 10 of this Ordinance, the positive regulations in Bosnia and Herzegovina and the Guidelines of the Committee.
- (5) In proceedings on the application of paragraph (1) of this Article, the Ministry is obliged to obtain all necessary opinions of other competent bodies in Bosnia and Herzegovina, and in particular all police agencies / institutions in charge of the prosecution, the Tribunal and the Intelligence and Security Agencies of Bosnia and Herzegovina. In carrying out this process, the Ministry may require additional explanation or amendment from the person who has applied for de-listing.
- (6) After collected all the opinions and other required documents, the Ministry shall forward the same to the Council of Ministers for decision. The Council of Ministers of Bosnia and Herzegovina is obliged before making final paragraph and sending the same to the Committee and the Ombudsperson to obtain the opinion of the Presidency of Bosnia and Herzegovina.

Article 14

(Termination of restrictive measures upon notice of the Committee about the fact of de-listing)

- (1) Upon receiving notification of the Committee about approved deletion of specific person from the List, the Ministry will provide the information with the proposal of measures to be revoked to the Council of Ministers for adoption.
- (2) Upon the completion of adoption procedures of information about the abrogation of measures by the Council of Ministers of Bosnia and Herzegovina, the Ministry will in writing notify the person in matter about above mentioned, and update information on the website (www.msb.gov.ba)
- (3) On the above-mentioned, the Ministry will in writing inform the relevant authorities in Bosnia and Herzegovina for further actions within their jurisdiction.
- (4) Termination of restrictive measures do not apply to measures which are determined in accordance with the provisions of the other positive legislation in Bosnia and Herzegovina, particularly criminal law, the cases pending or resolved before the competent judicial authorities in Bosnia and Herzegovina.

Article 15

(Exchange of Information via Interpol)

(1) For the implementation of this Ordinance, and in particular Article 6, competent authorities in Bosnia and Herzegovina are obliged to ensure that fraudulent, counterfeit, stolen and lost passports and other travel documents as soon declared void and removed from circulation, and information about these documents promptly exchange with other Member States through the Interpol database.

(2) Interpol Sarajevo NBC will share all data related to the fraudulent, counterfeit, lost and stolen identification and travel documents that fall under the jurisdiction of Bosnia and Herzegovina, as if some of the people from the Consolidated List is found in the use of false identities, which includes the acquisition of credit cards or fraudulent travel documents.

Article 16

(Submission of Guidelines and other related documents)

(1) To effective implementation of this Ordinance, as well as ensuring greater transparency in the application of international restrictive measures provided for in this Ordinance, the Ministry shall carry out the translation of all Guidelines and other related documents to the Committee and the Ombudsperson and shall make them available on its official website (www.msb.gov.ba).

(2) Guidelines and other related documents referred to in paragraph 1 of this article are in Annex to this Ordinance.

(3) Annex of Ordinance (Consolidated List and Guidelines and other related documents of the Committee and the Ombudsman) shall not be published in the "Official Gazette", but the same in accordance with Article 4 t (1) and (2) and Article 17 Paragraph (1) of this Ordinance will be publicly available on the official website of the Ministry (www.msb.gov.ba).

Article 17

(Coordination and supervision of implementation of measures contained in this Ordinance)

The Ministry shall be responsible for coordination and supervision of implementation of measures contained in this Ordinance.

Article 18

(Entry into force of the Ordinance)

This Ordinance shall enter into force on the day following its publication in the Official Gazette of Bosnia and Herzegovina.

CM no _____/11

_____ 2011

Sarajevo

Chairman
of the Council of Ministers of Bosnia and Herzegovina

Dr Nikola Špirić

Explanation

Legal basis

Legal basis for the adoption of this Ordinance is the Law on Application of Certain Temporary Measures for the Effective Implementation of the Mandate of the International Criminal Tribunal for the Former Yugoslavia and Other International Restrictive Measures (Official Gazette of Bosnia and Herzegovina no. 26/06).

Reasons for adoption of the Ordinance

Pursuant to the Law on application of certain temporary measures for the effective implementation of the mandate of the International Criminal Tribunal for the Former Yugoslavia and other international restrictive measures (Official Gazette of Bosnia and Herzegovina no. 26/06), Recommendation of the Moneyval – Special Recommendation III related to suppression of the financing of terrorism, FATF Special Recommendations and Article 14 of the Law on Ministries and Other Governing Bodies in Bosnia and Herzegovina, the Ministry of Security of Bosnia and Herzegovina shall establish effective and comprehensive system of application of international restrictive measures in Bosnia and Herzegovina, including adoption of appropriate subordinate legislation.

In terms of the above mentioned, there should be especially emphasized the summary assessment of the Committee of the Council of Europe Moneyval in terms of fulfilling the Special Recommendation III, as follows: „There is not yet in place a comprehensive system for allowing all financial institutions to freeze without delay the funds or other assets of persons and entities designated (in the context of terrorism or financing of terrorism), including public de-listing procedures etc. The existing legal framework consists of parallel and significantly overlapping regimes which are either incomplete considering procedural laws (law on Banking Agency) or are designed for other purposes (IRM as support to a ICTY mandate) and therefore both are only a limited use.“ Assessment SR III does not conform.

Required funds

Implementation of this Ordinance does not require special financial funds from the Budget of Bosnia and Herzegovina.