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LAUNDERING MEASURES AND
THE FINANCING OF TERRORISM
(MONEYVAL)

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Bosnia and Herzegovina

6th Compliance report

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I. SECRETARIAT ANALYSIS

SIXTH COMPLIANCE REPORT

1. 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 Recommendations, including on several core and key recommendations, as indicated in the table below:

Partially compliant (PC)	Non-compliant (NC)
Core Recommendations¹ R.1 - Money laundering offence SR.II - Criminalisation of terrorist financing	Core Recommendations R.5 - Customer due diligence
Key Recommendations² 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

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

² 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

deficiencies identified in the 3rd round mutual evaluation report. It took note of the progress report 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. At the 40th plenary meeting (3-7 December 2012) it was noted that the Bosnian authorities had requested technical assistance from the Council of Europe to review proposed amendments to the AML Law and the Criminal Code. At the time of the plenary meeting the Bosnian authorities were still awaiting the opinion from the Council of Europe. As a consequence of this a number of the medium term objectives had not been fully addressed. Nonetheless the Committee recognised that this represented a positive development and accepted that, in the circumstances a delay was inevitable. It was noted that a number of other steps had been taken, including measures to address the deficiencies related to Special Recommendation III.

15. The Committee stated that the authorities should report back under step (i) in advance of the 41st plenary in April 2013 on the medium term objectives that had not been fully addressed in the Action Plan.

2. Short description of BiH legal and institutional framework

16. 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.

3. Overview of BiH's progress and review of the measures taken to address identified deficiencies

Progress since the 40th plenary meeting

17. As was reported at the 40th plenary, the BiH authorities have made considerable progress in preparing draft amendments to the AML/CFT Law and the Criminal Code and had requested that the Council of Europe provide technical assistance in reviewing the draft amendments. The Council of Europe concluded its review and issued its opinion on the amendments to the AML/CFT Law on 15 February 2013.

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 has been subject to an expert review by the Council of Europe.

19. The BiH authorities have advised the MONEYVAL Secretariat that now the expert opinions by the Council of Europe have been received 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. As the authorities have only just received the opinion of the Council of Europe they have not had the opportunity to fully consider and integrate the necessary changes into the revised drafts of the AML/CFT Law and BiH Criminal Code and consequently, have not been in a position to submit revised drafts to the MONEYVAL Secretariat for 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 force and effect.

20. 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

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

22. 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

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

24. 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.

25. 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 1978.³ 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.”

Recommendations 5, 6, 7, 8, 9, 11, 12, 15, 16, 17, 21, 22, 23 and 24

26. The medium term action points to address the deficiencies in Recommendations 5, 6, 7, 8, 9, 11, 12, 15, 16, 17, 21, 22, 23 and 24 all required amendments to the AML/CFT Law and consequential actions thereafter. As explained above, the draft amendments to the AML/CFT Law are not being considered in this analysis.

Recommendation 25

27. 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.

28. The authorities point out that since the beginning of 2013, the FID has received an increased number of STR reports from DNFBPs which they regard as being a consequence of improved outreach and guidance to this sector. They also report that the reports received have been of assistance in developing investigations into money laundering activities.

Recommendation 26, 29 and 33

29. The medium term action points to address the deficiencies in Recommendations 26, 29 and 33 all required amendments to the AML/CFT Law and consequential actions thereafter. As explained above, the draft amendments to the AML/CFT Law are not being considered in this analysis.

Recommendation 35 and Special Recommendation I

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

Special Recommendations VI and VII

31. The medium term action points to address the deficiencies in Special Recommendations VI and VII all required amendments to the AML/CFT Law and consequential actions thereafter. As explained above, the draft amendments to the AML/CFT Law are not being considered in this analysis

Special Recommendation VIII

32. A number of the medium term action points to address the deficiencies in Special Recommendation VIII required amendments to the AML/CFT Law and consequential actions thereafter. As explained above, the draft amendments to the AML/CFT Law are not being considered in this analysis.

33. With regard to improvement in national cooperation, the authorities point to the fact that a number of memorandums of understanding have been signed between various authorities with a view to improving cooperation and the exchange of information. The authorities consider that the exchange of information has improved.

Special Recommendation IX

34. 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

³ 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).

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.

35. Instruction 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.

4. Overall conclusion and next steps

36. The BiH authorities have made considerable progress in preparing draft amendments to the AML/CFT Law and the Criminal Code and a review of these amendments has been conducted by the Council of Europe. 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. It is anticipated that these revised laws will be in place before the next plenary in September 2013.

37. 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.

38. 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.

39. 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. It is anticipated that the authorities will now take action to expedite the enactment of the draft laws now that an opinion has been received from the Council of Europe. At the same time those outstanding issues as set out in the preceding paragraph should be addressed promptly.

40. following the Committee's consideration of the report submitted, the Committee took note of the report in respect of short and medium-term objectives and asked Bosnia and Herzegovina to report back under step (i) of CEPS at the 42nd plenary in September 2013 on the short and medium-term objectives that had not yet been addressed.

MONEYVAL Secretariat

II. ACTION PLAN OF THE BOSNIA AND HERZEGOVINA'S PROGRESS AGAINST SHORT AND MEDIUM TERM OBJECTIVES

15 March 2013

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 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	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	Draft of Amendments on article 209 of CC of B&H.

	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>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 as adopted and in force.</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</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>Draft of Amendments on article 209 of CC of B&H.</p>

	this law.			
<p>Please set out the conclusions of the discussions on the possibility of criminalization of money laundering only at the state level.</p> <p>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.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</p>				
<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>Draft of Amendments on article 209 of CC of B&H.</p>
<p>Please provide information on whether Article 209 has been reviewed if money laundering is not criminalized exclusively at state level.</p> <p>Please provide an English translation of the amended text of Article 209 of the Criminal Code as adopted and in force.</p>				

<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>Draft of Amendments on article 209 of CC of B&H.</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 as adopted and in force.</p>				
<p>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 practitioners in this respect in all the three jurisdictions</p>	<p>Amendments to the Criminal Codes of Federation and Brcko District will provide including “own proceeds” laundering</p>	<p>Medium term</p>	<p>Ministry of Justice of Federation of Bosnia and Herzegovina and Brcko District.</p>	<p>CC of the entities will be amended after the adoption of amendments of CC B&H.</p>

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>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 as adopted and in force at state-level and in FBiH and BD in this respect.</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	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	Medium term	Ministry of Justice of RS	CC of the entities will be amended after the adoption of amendments of CC B&H.
<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 as adopted and in force.</p>				
The language of money laundering incrimination and penalties should be harmonized across the State level, the Entities, and Brcko District.	The language of money laundering incrimination and penalties will be harmonized across the State level, the Entities, and Brcko District.	Medium term	Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District.	CC of the entities will be amended after the adoption of amendments of CC B&H.

<p>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 as adopted and in force.</p>				
<p>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.</p>				
<p>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</p>	<p>Medium term</p>	<p>Competent courts at levels of entities and Brcko District level</p>	<p>Draft of Amendments on article 209 of CC of B&H.</p>	
<p>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.</p>				
<p>Legislation should be introduced at all levels to allow the prosecuting and convicting of defendants in absentia</p>				
<p>BiH Authorities shall consider the possibility of prosecuting and convicting of defendants in absentia</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>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.</p>	
<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 as adopted and in force.</p>				
<p></p>				

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	CC of the entities will be amended after the adoption of amendments of CC B&H.
<p>Please provide details of amendments to the Criminal Code of Republic Srpska to enable the confiscation of income or other benefits.</p> <p>Please provide details of any steps taken to allow confiscation of proceeds commingled with legitimate assets.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
Competent authorities at State level and also in the Federation of Bosnia and Herzegovina and Brcko 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	Competent authorities at State level and also in the Federation of Bosnia and Herzegovina and Brcko 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	Medium term	Ministry of Justice of BiH and Ministry of Justice at Entity level and District Brcko.	Draft of Amendments on article 74 of CC of B&H.

based on public safety or moral reasons etc.) so that the confiscation of such objects can actually be mandatory	based on public safety or moral reasons etc.) so that the confiscation of such objects can actually be mandatory			
<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.</p> <p>Please provide an English translation of the amended text of relevant Articles of the Criminal Codes as adopted and in force.</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>				
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).	Medium term	Ministry of Justice of RS	CC of RS will be amended after the adoption of amendments of CC B&H.	
<p>Please provide details of measures taken to introduce compulsory confiscation the Criminal Code of Republic Srpska Article 62(1).</p> <p>Please provide an English translation of the amended text of the relevant Article of the Criminal Code as adopted and in force.</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	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	Medium term	Ministry of Justice of BiH and Ministry of Justice at Entity level and District Brcko.	Draft of Amendments on article 74 of CC of B&H.

**Please provide details of steps taken to remove overly insubstantial preconditions of *in rem* confiscation of instrumentalities and other objects at all levels.
Please provide an English translation of any appropriate legislation as adopted and in force.**

<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>	<p>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.</p> <p>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</p> <p>“The proceeds 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.”</p> <p>If the proceedings have been discontinued then it is not possible to proceed with</p>

				the confiscation of the proceeds of the crime.
<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.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
Domestic authorities should 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 for remedy to this apparent weakness of the system.	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	Medium term	Ministry of Justice of BiH, and Ministry of Justice at Entity level and District Brcko	Draft of Amendments on articles 74 and 209 of CC of B&H

<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.</p> <p>Please provide an English translation of the amended text of relevant articles of the Criminal Code of BiH as adopted and in force.</p>				
R.5				
include an obligation to apply the CDD measures when carrying out occasional transactions that are wire transfers;	The new amendments to AML/CFT Law will be amended to Article 26 which will include periodic electronic transfers.	Adoption of amendments on AML Law - medium term)	Council of Ministers of BiH	This Article has been considered and amended – Article 26. Of Draft Law on amendments of AML/CFT Law
<p>Please provide an English translation of those clauses of the revised Article 26 of the AML/CFT Law as adopted and in force.</p>				
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 transactions to avoid all doubt in the application of CDD measures.	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
<p>Please provide details of revision of the definition of “transactions” in the new AML/CFT Law.</p> <p>Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</p>				
Article 15 of the new AML		Short term	Regulatory agencies at all	This Article has been

Law should be considered*			levels in BiH and FIU	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 as adopted and in force.				
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 as adopted and in force.				
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 as adopted and in force.				

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	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.
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 as adopted and in force.				
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)
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 as adopted and in force.				
require obliged entities to consider the termination of business where a business relationship is established but	The new amendments to AML/CFT Law will be amended. After Article 7, new 7a is added which will	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

the identification process cannot be completed	include this objection.			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 as adopted and in force.</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</p>	<p>Make amendments to the AML/CFT Law and harmonize it with the essential criteria of Recommendation 6.</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 – Articles 3. (definitions) And 16. (Amended Article 22 – politically and publicly exposed persons) . Of Draft Law on amendments of AML/CFT Law.</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</p>	<p>Short term</p>	<p>Regulatory agencies at state and entities levels</p>	<p>Other deficiencies will be resolved after adoption of Draft Law on amendments of AML/CFT Law .</p>

process, including where the beneficial owner is a PEP.*	subsequently becomes a PEP.			
	Create a training plan for all participants from the financial sector in order to raise awareness	Short term	Regulatory agencies at state and entities levels	At the end of March and during May 2013 are planned the new education activities for both the financial and DNFBP. In March 2013 – two days long education in organisation of Auditing house REVICON DOO Sarajevo. In May 2013 four one day long educations in organisation of FID in cooperation of ICITAP.

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 as adopted and in force.

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 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				
<p>The coverage of correspondent banking is not comprehensive and does not appear to specifically cover correspondent 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>Working Group of the Council of Ministers has prepared amendments to the law that eliminates this objection as follows:</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>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 14 Of Draft Law on amendments of AML/CFT Law .</p>
<p>Please provide an English translation of those clauses of the revised Article 21 of the AML/CFT Law as adopted and in force.</p>				

Please provide an English translation of any requirements that banks shall document the AML/CFT responsibility of correspondent banks.				
R.8				
Although it appears that electronic business in the 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.	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law and eliminate this objection.	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 (New technological achievements
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 as adopted and in force.				
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				This deficiency will be resolved after adoption of Draft Law on amendments of AML/CFT Law .

philosophy of the law and their obligations, needs to be adopted.				
<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>				
R.9				
<p>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</p>	<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.</p>	<p>Adoption of amendments to the AML Law - medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>This deficiency has been considered and resolved by Articles 9, 10, 11 and 12 Of Draft Law on amendments of AML/CFT Law.</p>

<p>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 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 amendments to the AML/CFT Law as adopted and in force.</p>				
<p>R.11</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.	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.	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
	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	After adoption of Draft Law on amendments of AML/CFT Law this deficiency will be resolved.
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.				
Please provide an English translation of amendments to the AML/CFT Law and the Banking Decisions for Minimum Standards as adopted and in force.				
R.12				
Although the concept of PEPs under intensified identification procedures is addressed through legal provisions and hence also for DNFBPs, in practice the	The authorities will take the opportunity from the introduction of the new guidance as issued to continue to develop and	Short term	FIU	This deficiency has been considered and resolved by – Articles 3. (definitions) And 16. (Amended Article 22 – politically and publicly exposed persons) . Of Draft

<p>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>implement the sector wide awareness and understanding campaign through training programmes.</p>			<p>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>At the end of March and during May 2013 are planed the new education activities for both the financial and DNFBP. In March 2013 – two days long education in organisation of Auditing house REVICON DOO Sarajevo. In May 2013 four one day long educations in organisation of FID in cooperation of ICITAP.</p>
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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
<p>DNFBPs: Casinos Real estate agents Dealers in precious metals and stoned Lawyers, notaries, other</p>				

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>
<p>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 as adopted and in force. Please provide details on awareness raising seminars and trainings conducted since June 2012.</p> <p>Seminars conducted for DNFBPs Please provide details of :</p> <ul style="list-style-type: none"> • Dates • Topics covered • Number of delegates from each DNFBP sector 				
DNFBPs: Casinos Real estate agents Dealers in precious metals and stoned	BiH	FBiH	Republic Srpska	Brcko District

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 to conduct proper due diligence of non-face-to-face customers is included in any awareness raising exercise.*</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>At the end of March and during May 2013 are planned the new education activities for both the financial and DNFBP. In March 2013 – two days long education in organisation of Auditing house REVICON DOO Sarajevo. In May 2013 four one day long educations in organisation of FID in cooperation of ICITAP.</p>
<p>Please provide details on awareness raising seminars and trainings conducted since June 2012.</p>				
<p>Seminars conducted for DNFBP Please provide details of :</p> <ul style="list-style-type: none"> • Dates • Topics covered • Number of delegates from each DNFBP sector 				
	<p align="center">BiH</p>	<p align="center">FBiH</p>	<p align="center">Republic Srpska</p>	<p align="center">Brcko District</p>

<p>DNFBP: Casinos Real estate agents Dealers in precious metals and stoned Lawyers, notaries, other independent legal professionals Accountants and auditors</p>				
<p>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 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>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>
<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 as adopted and in force.</p>				

Record keeping procedures in the AML LAW need to be revisited and clarified in accordance with the requirements under Recommendation 10.	Working Group of the Council of Ministers prepared a draft of amendments to the AML/CFT Law that includes this remark	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 44 Of Draft Law on amendments of AML/CFT Law – amending Article 65 (Record keeping)
<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.</p> <p>Please provide an English translation of relevant text of amendments to the AML/CFT Law as adopted and in force.</p>				
<p>R.15</p> <p>Article 32(2) of the new AML Law should be 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>	In Article 32 AML/CFT Law, paragraph (2) shall be amended.	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 20 Of Draft Law on amendments of AML/CFT Law – amending Article 32 (Authorised Person)
<p>Please provide an English translation of those clauses of the revised Article 32 of the AML/CFT Law as adopted and in force.</p>				

<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> <p>At the end of March and during May 2013 are planed the new education activities for both the financial and DNFBP. In March 2013 – two days long education in organisation of Auditing house REVICON DOO Sarajevo. In May 2013 four one day long educations in organisation of FID in cooperation of ICITAP.</p>
<p>Please provide details on awareness raising seminars and trainings conducted since June 2012. Please provide details of :</p> <ul style="list-style-type: none"> • 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				
R.16				
<p>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.</p> <p>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>

				At the end of March and during May 2013 are planned the new education activities for both the financial and DNFBP. In March 2013 – two days long education in organisation of Auditing house REVICON DOO Sarajevo. In May 2013 four one day long educations in organisation of FID in cooperation of ICITAP.
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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
DNFBPs: Casinos Real estate agents Dealers in precious metals and stoned Lawyers, notaries, other independent legal professionals Accountants and auditors				

The evaluators express serious concerns on the	Working Group of the Council of Ministers	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	This deficiency has been considered and resolved by
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<p>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>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>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 as adopted and in force.</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 amending article 68.of AML/CFT Law clearly defines supervisory bodies for every obliged entity. After adoption of Draft Law</p>

				<p>on amendments of AML/CFT Law Guidelines will be reviewed and improved in order to comply with the Law.</p> <p>At the end of March and during May 2013 are planed the new education activities for both the financial and DNFBP. In March 2013 – two days long education in organisation of Auditing house REVICON DOO Sarajevo. In May 2013 four one day long educations in organisation of FID in cooperation of ICITAP.</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 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.				
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.	Medium term	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) 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>Please provide details of any steps taken to introduce adequate screening procedures when hiring people in the DNFBPs sector.</p> <p>Please provide an English translation of any appropriate legislation or guidance adopted in respect of screening procedures.</p>				
R.17				
Legislation to provide for the sanctioning powers of the respective supervisory bodies in the insurance market	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	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

should be introduced	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 of Srpska.			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 Law on intermediaries in insurance in order to provide sanctioning powers to the respective supervisory bodies in the insurance market.</p> <p>Please provide an English translation of amendments to this Law as adopted and in force.</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.</p> <p>Please set out the scope of sanctions for non-compliance with the AML Law.</p> <p>Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</p>				
Administrative sanctions to be applied to the participants	Insurance Agency of Bosnia and Herzegovina and	Medium term	Ministry of Finance of FBiH and RS, and Insurance	After adoption of Draft Law on amendments of

of the insurance market for non-compliance with AML/CFT requirements need to be introduced.	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		Agency of Bosnia and Herzegovina.	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 the relevant amendments to the Law on Intermediaries as adopted and in force.</p>				
R.21				
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.	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.	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 7 Of Draft Law on amendments of AML/CFT Law – amending Article 8. Of AML/CFT Law.

<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. Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</p>				
<p>R.22</p>				
<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.</p>				

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

R.23				
Steps need to be taken to harmonise the efficiency of monitoring activities in respect of persons involved in money transfer and exchange activities.	Agency for Supervision of the Post Office Operation (which includes payment transfers), has now been established. The new agency will eventually be recognized 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.	Short term	Banking Agencies and Agency for Supervision of the Post Office Operation	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

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.

Please provide details of steps taken to recognise the Agency for Supervision of the Post Office Operation under the AML Law

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
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<p>Please provide details of the steps taken to develop and implement efficient, sufficiently frequent, risk-based supervision of financial institutions. Please provide details of Guidelines for the securities and insurance sectors.</p>				
<p>R.24</p>				
<p>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</p>	<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.</p>	<p>Medium term</p>	<p>Ministry of Finance of FBiH and RS</p>	<p>At its 42 session held on 13 March 2013 Council of Ministers of BiH adopted Report of BH Moneyval delegation with proposed conclusion “to invite Owners of remaining activity of Action plan to address them”, and also invited permanent members of BH Moneyval Delegation to monitor the realisation of remaining activities.</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 as adopted and in force.</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</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</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.</p>

<p>new AML Law; establish systems and mechanisms for them to ensure compliance of the respective obligors with the national AML/CFT requirements.</p>	<p>obligations under the AML/CFT Laws</p>			<p>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); e) Competent Ministries of justice conduct supervision over the liable persons referred to in Article 4, item l) in the part regarding <u>notaries</u>, 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 <u>advocates</u>; <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. After adoption of Draft Law</p> </p>
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				<p>on amendments of AML/CFT Law this deficiency will be additionally addressed.</p>
<p>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.</p> <p>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</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<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.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p></p>				

R.25				
<p>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 obliged entity.</p> <p>At the end of March and during May 2013 are planed the new education activities for both the financial and DNFBP. In March 2013 – two days long education in galvanization of Auditing house REVICON DOO Sarajevo. In May 2013 four one day long educations in galvanization of FID in cooperation of ICITAP.</p> <p>Also FID has practice to work directly with particular obliged entities on awareness rising. In recent time it works</p>

				mostly with DNFBP.
<p>Please provide details on awareness raising seminars and trainings conducted since June 2012.</p> <p>Please provide details of :</p> <ul style="list-style-type: none"> • 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>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.</p>				
	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	<p>Since the begging of 2013 FID received 15 STRs from DNFBP obliged entities - 1 from notaries and 14 from dealers in precious metals.</p> <p>Also analyzing reports submitted by notaries and casinos helped FID on many cases with specific typologies especially money laundering related to real estate.</p>
<p>Please provide details of any general and specific feedback provided to DNFBP incorporating, <i>inter alia</i>, statistics on the number of STR-s,</p>				

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.				
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.	Insist that the DNFBPs in recognition of suspicious transactions be managed by risk-based approach	Medium term	FIU	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
Please provide details of measures taken to provide guidance DNFBP on the risk-based approach to identifying suspicious transactions. . Please details of any appropriate guidance provided.				
R.26				
Article 51.5 of the new AML Law needs to be amended to allow FID to disseminate information on its own	As instructed by the Minister of Security, in June 2010, the group of experts in money laundering and terrorism	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 –

<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 as adopted and in force.</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.
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.				
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

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 as adopted and in force.</p>				
R.29				
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.	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	Medium term	FIU	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 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. 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 DNFBPs. 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 as adopted and in force.</p>					
<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>	<p>After adoption of Draft Law on amendments of AML/CFT Law this deficiency will be additionally addressed.</p>	
<p>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 as adopted and in force.</p>					
<p>R.30</p>					

<p>An adequate structure, funding, staffing, and technical resources should be made available for supervision of implementation of the national AML/CFT requirements by DNFBPs.</p>	<p>In the course of establishing the new FI Agency measures are being taken to set up a 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>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 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 as adopted and in force.</p>				
<p>There is a need to define professional standards</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</p>

<p>(including confidentiality and integrity requirements), and required expertise/skills of the staff of bodies implementing supervision of DNFBPs.</p>				<p>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 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. Please provide an English translation of any appropriate legislation as adopted and in force.</p>				
<p>R.33</p>				
<p>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,</p>

				which are clearly defined by amended Article 68. of AML/CFT Law – Article 45. of Draft Law on 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 as adopted and in force.</p>				
R.35 and SR.I				
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.*	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	Medium term	Ministry of Justice of BiH and Ministry of Justice at Entity level and District Brcko	Draft of Amendments on articles 202 and 209 of CC of B&H .
<p>Please provide details of steps taken to apply UN Conventions.</p> <p>Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</p>				
SR.II				
The terrorist financing (“funding of terrorist activities”) offences need to be incriminated in all four	By annual agenda of the Ministry of Justice of BiH for 2011, it is envisaged the creation of the proposal of	Adoption of Criminal Codes - medium term)	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of	Draft of Amendments on article 202 of CC of B&H .

<p>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.*</p>	<p>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. 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>Justice of RS and Brcko District</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 as adopted and in force.</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</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>Draft of Amendments on article 202 of CC of B&H .</p>

	<p>of the same, which regulates the financing of terrorist activities.</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 as adopted and in force.</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>Draft of Amendments on article 202 of CC of B&H .</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 as adopted and in force.</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. Draft of Amendments on article 202 of CC of B&H. CC of the entities will be amended after the adoption of amendments of CC B&H.
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. Please provide an English translation of any appropriate legislation as adopted and in force in this respect.				
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	CC of the entities will be amended after the adoption of amendments of CC B&H.
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. Please provide an English translation of any appropriate legislation as adopted and in force in this respect.				
SR.VI				
The Bosnia and Herzegovina	Working Group of the	Medium term	Working Group and Council	This deficiency has been

<p>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>Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include TENFORE as obligor.</p>		<p>of Ministers of BiH</p>	<p>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 as adopted and in force.</p>				
<p>R.VII</p> <p>Although wire transfers are covered by the Law on</p>	<p>Working Group of the Council of Ministers will</p>	<p>Medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>Working Group Council of Ministers of BiH prepared</p>

<p>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 accompany domestic transfers;</p> <p>to ensure that the Post Office is monitored on its compliance with such</p>	<p>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>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>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> <ul style="list-style-type: none"> • that full originator information accompanies cross-border transfers; • what information should accompany domestic transfers; • that the Post Office is monitored on its compliance with such regulations as may be established; • that appropriate sanctions can be and are applied for non-compliance. <p>Please provide an English translation of relevant amendments to the AML/CFT Law as adopted and in force.</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, for example, at the entity and state level and counted twice. The authorities should undertake appropriate measures for avoiding</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 new draft of Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina, which is in the Parliamentary procedure.</p>

<p>double/triple registration and counting of NPOs and improving the mechanism of reciprocal recognition of associations and foundation.</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 as adopted and in force .</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 new draft of Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations in Bosnia and Herzegovina, which is in the Parliamentary procedure.</p>

<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 as adopted and in force.</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 as adopted and in force.</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>				
<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</p>	<p>Medium term</p>	<p>Ministry of Justice of Bosnia and Herzegovina and Ministry of Security of BiH</p>	<p>This deficiency has been considered and resolved by Article 45 Of Draft Law on amendments of AML/CFT Law</p>	
<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 as adopted and in force 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 see paragraph 65 of last Compliance Enhancing Procedures Bosnia and Herzegovina – Step (i). NPO’s are defined as “liable persons” and they fall under the record keeping requirements set out in the existing AML/CFT Law.</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 five years.</p>				

<p>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</p>				<p>MEMORANDUM OF UNDERSTANDING ON EXCHANGE OF INTELLIGENCE IN CONJUNCTION WITH CRIMINAL OFFENSES</p> <ul style="list-style-type: none"> - signed in Sarajevo on 30.03.2005. by authorized representatives of the following B&H institutions: <ul style="list-style-type: none"> - 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
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				<p>- Financial Police of the FB&H.</p> <p>Please see Paragraphe 52 of your last Report.</p> <p>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.</p>
<p>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.</p>				
<p>SR.IX</p>				
<p>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</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.</p>

<p>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>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 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. 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>				

Please provide an English translation of any appropriate legislation or regulations adopted and in force 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.</p>	<p>Provide adequate funding and training is required for Customs and the financial sectors to implement and respect the customs and tax legislation.</p>	<p>Medium term</p>	<p>The Indirect Tax Authority of Bosnia and Herzegovina and Ministry of Finance of BiH</p>	<p>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.</p> <p>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.</p>
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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**

	BiH	FBiH	Republic Srpska	Brcko District
Customs				