SELECT COMMITTEE OF EXPERTS ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES (PC-R-EV)

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Croatia

2nd Compliance Report

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Croatia is a member of MONEYVAL. This Report from Croatia under step 1 of the Compliance Enhancing Procedures was adopted at MONEYVAL's 56th Plenary Meeting (Strasbourg, 3-6 July 2018). For further information, please refer to MONEYVAL website: http://www.coe.int/moneyval .

LIST OF ACRONYMS

AML/CFT	Anti-money laundering and combating financing of terrorism
CC	Criminal Code
CCP (CPA, CPC)	Code of Criminal Procedure
CDD	Customer Due Diligence
CTR	Cash transaction report
DNFBP	Designated Non-Financial Businesses and Professions
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
KYC	Know your customer
LEA	Law Enforcement Agency
MER	Mutual Evaluation Report
ML	Money Laundering
MLA	Mutual legal assistance
NPO	Non-Profit Organisation
NRA	National Risk Assessment
SAR	Suspicious Activity Report
SR	Special recommendation
STR	Suspicious transaction report
UN	United Nations
UNSCR	United Nations Security Council resolution

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Note by the Secretariat

Introduction

1. The purpose of this paper is to introduce Romania's 2nd Compliance Report to the Plenary concerning the progress that it has made to remedy the deficiencies identified in the mutual evaluation report on the 4th round assessment visit (MER).

2. Romania has submitted its 2nd Compliance Report to the MONEYVAL Secretariat. According to the 4th Round Rules of Procedure[1], countries must have implemented those FATF Recommendations that are considered to be Core[2] and Key[3] at a level essentially equivalent to a "compliant" (C) or "largely compliant" (LC). The Plenary may retain some limited flexibility with regard to Key Recommendations if substantial progress has been made on the overall set of recommendations that were rated "partially compliant" (PC) or "non-compliant" (NC).

Background information

3. The onsite visit to Romania took place from 19 to 24 November 2012. MONEYVAL adopted the 4th round MER of Romania at its 42nd Plenary meeting in September 2013. As a result of the evaluation, Romania was rated PC on 16 Recommendations[4], including two Core, five Key and nine other Recommendations, as indicated in the table below:

Core Recommendations rated PC (no Core Recommendations were rated NC)
Recommendation 5 (Customer due diligence)
Special Recommendation IV (Suspicious transaction reporting)
Key Recommendations rated PC (no Key Recommendations were rated NC)
Recommendation 13 (Suspicious transaction reporting)
Recommendation 23 (Regulation, supervision and monitoring)
Recommendation 26 (The FIU)
Special Recommendation I (Implementation of United Nations instruments)
Special Recommendation III (Freeze and confiscate terrorist assets)

4. Upon adoption of the report, Romania was placed under the regular follow-up procedure and was requested to provide, no later than two years after the adoption of the report, information on the actions it has taken to address the factors/deficiencies underlying any of the 40+9 Recommendations that are rated PC. Romania was encouraged to seek removal from the follow-up process within three years after the adoption of the 4th round MER or very soon thereafter.

5. As a result, Romania submitted a regular follow-up report at the 48th Plenary in September 2015. The Plenary concluded that, although the country had taken some steps to address the identified

[1] MONEYVAL, *Rules of Procedure for the Fourth Round of Mutual Evaluations and for Follow-up as a Result of the Third Evaluation Round*, Rule 13, as revised in April 2016, p.13, available at https://rm.coe.int/committee-of-experts-on-the-evaluation-of-anti-money-laundering-measur/16807150e2

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

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

[4] It should be pointed out that the FATF Recommendations were revised in 2012 and that there have been various changes, including their numbering. Therefore, all references to the FATF Recommendations in the present report concern the version of these standards before their revision in 2012.

deficiencies, limited progress appeared to have been achieved since the adoption of the MER in 2013. Hence the Plenary requested Romania to provide an interim follow-up report at the 50th Plenary in April 2016.

6. MONEYVAL considered the interim follow-up report submitted by Romania at the 50th Plenary in April 2016. Given the continued limited progress achieved at that point, the country was invited to provide a further interim follow-up report at the 52nd Plenary in December 2016. At its 50th Plenary, MONEYVAL also decided to streamline the remainder of its follow-up procedure for the 4th round. Under Rule 13 of the 4th round Rules of Procedure as amended, States or territories which are subject to regular follow-up will remain in a streamlined follow-up process and are expected to seek removal within four years after the adoption of the 4th round MER at the latest (i.e. September 2017 in the case of Romania).

7. Romania provided the interim follow-up report at the 52nd Plenary in December 2016. At that stage, the Plenary decided to urge Romania to address the outstanding deficiencies underlying core and key recommendations as expeditiously as possible, due to the limited progress achieved by Romania since 2013. The Plenary also invited Romania to seek removal from the follow-up procedure in September 2017 at the latest. Should the country fail to take sufficient action to be removed from the follow-up process by that time, the Plenary would then be in a position to make a decision on the further follow-up procedures to be applied.

8. At the 54th Plenary in September 2017, the Committee - while noting recent progress - considered that Romania was not yet in a position to be removed from the regular follow-up procedure. A number of significant deficiencies under both core and key recommendations remained unaddressed even four years after the adoption of the 4th round MER. The Plenary encouraged Romania to finalise legislative work on the draft AML/FT Law as soon as possible. Due to the limited progress made with respect to core and key recommendations, and mindful of Rule 13, paragraph 6 of its 4th round Rules of Procedure, the Plenary decided to apply the Step 1 of the MONEYVAL's Compliance Enhancing Procedures. The Plenary invited Romania to report on the state of the draft AML/FT Law at its 55th Plenary in December 2017, and to further report on all other remaining deficiencies at the 56th Plenary in 2018.

9. At the 55th Plenary in December 2017, Romania informed the Committee that on October 2017 the new AML/FT Law had been adopted by the Romanian Parliament. The Plenary decided to consider the analysis of the new AML/FT Law at the 56th Plenary meeting, and invited Romania to also report on the remaining deficiencies at this occasion.

10. Based on the 2nd Compliance Report submitted by Romania in May 2018, the MONEYVAL secretariat prepared the present analysis of the progress made in relation to all recommendations rated PC in the MER.

11. On a general note concerning all follow-up and compliance reports: the procedure is a paper-based "desk review", and thus by nature less detailed and thorough than a MER. Effectiveness aspects can be taken into account only through consideration of data and information provided by the authorities. It is also important to note that the conclusions in this analysis do not prejudge the results of future assessments, as they are based on information which has not been verified through an on-site process and is not, in all cases, as comprehensive as it would have been during a mutual evaluation.

Overview of the progress made by Croatia since the adoption of the MER

A. Policy developments

12. In 2015, Croatia conducted its "National Money Laundering and Terrorist Financing (ML/TF) Risk Assessment", using the World Bank National Risk Assessment (NRA) Tool. The NRA Working Group was formed by the Decision of the Inter-Institutional Working Group on AML/CFT on 23

January 2013. The NRA Working Group consisted of representatives of competent state authorities, agencies and the private sector to undertake the assessment. According to the NRA, the ML risk in Croatia is rated "medium/high" for the banking sector; "medium" for the securities sector and for the non-financial sector; and "medium/low" for other financial institutions and for the insurance sector. The FT risk is rated "medium/low". Tax evasion, corruption and drug abuse are considered to be posing the major ML threats in Croatia.

13. As for the FT threat - there were no cases of FT identified in relation to legal entities or natural persons conducting business or residing in Croatia. According to the conducted NRA, the ML/FT vulnerabilities are mainly related to technical capacities (IT infrastructure), administrative capacities (number of specialised financial investigators), and the lack of adequate statistics on international cooperation. On its 16th session held on 12 January 2017, the Government has adopted the "Action Plan for 2017 on Mitigating Identified ML/TF Risks in Croatia". The Action Plan consists of 38 legislative and operational measures aimed at mitigating the identified risks. Croatia has indicated that over the past period of time the vast majority of the measures have been finalised. In June 2018 the Ministry of Finance submitted the annual report on implementation of the Action Plan to the Government. Some of the steps taken were adoption of the new AML/TF Law; implementation of the project on enhancing IT infrastructure of the Anti-Money Laundering Office[5] (AMLO); hiring new employees for the FIU, LEAs and for the state attorney's offices; as well as improvements in the collection and maintaining of statistics.

B. Legislation, regulations and guidance

14. The most significant legal reform measures undertaken by the Croatian authorities since the adoption of the 4th round MER is the adoption by the Parliament of Croatia of the new AML/TF Law on October 27, 2017 (Official Gazette No. 108/17). The adoption is aimed at addressing the deficiencies identified in the 4th round MER (FATF R. 5, R.6, R.7, R.12, R.16, R.17, R.22, R.32, R.33 and SR VIII), and harmonising the Croatian legislation with Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (4th EU AML Directive).

15. In addition to the above mentioned, Croatia has undertaken measures for adoption of the number of other legislative acts, such as:

- The "Law on Amendments to the Criminal Code" (Official Gazette No. 56/15 and 61/15);
- The "Law on Amendments to the Criminal Procedure Code" (Official Gazette No. 70/17);
- The "Law on Termination of Law on Proceedings for the Confiscation of Pecuniary Advantage Resulting from Criminal Offences and Misdemeanours" (Official Gazette No. 70/17);
- The "Law on Amendments to the Law on the Office for the Suppression of Corruption and Organized Crime" (Official Gazette No.70/17);
- The "Law on Amendments to the Credit Institutions Law" (Official Gazette No. 159/13, 19/15 and 102/15, and 15/18);
- The "Law on Amendments of the Insurance Law ("Official Gazette" no. 151/05, 87/08, 82/09, 54/13 and 94/14);
- The "Law on Mandatory Pension Funds" (Official Gazette No. 19/14);
- The "Law on Amendments of the Law on Voluntary Pension Funds" (Official Gazette No. 19/14 and 29/18);

[5] The Financial Intelligence Unit of Croatia.

- The "Law on Amendments of the Law on Pension Insurance Companies" (Official Gazette No. 29/18)
- The Factoring Law (Official Gazette no. 94/14)
- The "Law on Financial Operations and Accountancy of NPOs" (Official Gazette No. 121/14);
- The "Ordinance on Requirements for the Position of Management or Supervisory Board Members of Insurance Undertakings or Reinsurance Undertakings" (Official Gazette No. 7/16 and 91/16);
- The "Ordinance on the Issuance of Authorisation and on the Acquisition of Shares or Holdings in the Mandatory Pension Company" (Official Gazette, No. 52/14 and 39/17);
- The "Ordinance on Issuing Authorization to and on Acquisition of a Qualifying Holding in a Voluntary Pension Company" (Official Gazette, No. 52/14);
- The "Rulebook on the manner and deadlines for reporting the AMLO on suspicious transactions and persons and on keeping records by lawyers, law firms, notaries public, auditing firms and independent auditors as well as legal and natural persons involved in the performance of accounting and tax advisory services" (Official Gazette No. 01/09 and 153/13);
- The "Rulebook on controlling domestic or foreign exchange cash carrying across the state border" (Official Gazette No. 01/09 and 153/13).

C. Other developments

16. On 11 February 2016, the Minister of Finance adopted the "Decision on forming an Inter-Institutional Working Group on harmonisation of Croatian AML/TF Law with the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of ML or FT (4th EU AML Directive) and the FATF Recommendations (2012)". Within this Inter-institutional Working Group, a new Ad-Hoc Sub-Group was formed for establishing the Beneficial Owners Register (in line with Article 30 of the 4th EU AML Directive). The establishment of the Beneficial Owners Register is in progress.

17. Aimed at improving its operational and strategic analysis capacities and enhancing the information security measures in place, the AMLO initiated a "Development and enhancing of the IT System of the AMLO" Project funded by the EU Internal Security Fund with a budget of EUR 887,500. The project scope covers procurement of the hardware and software, and establishment of a new IT system. Croatia has informed that they are currently on the stage of installing the IT system, which will be operational shortly after.

Review of measures taken in relation to Core and Key Recommendations

Recommendation 1 - Money laundering offence

Deficiency (1): The purposive element of disguising which should characterise the conversion or transfer is not fully covered.

18. Croatia has drafted respective amendments to Article 265(1) of the Criminal Code (CC) reflecting on the purposive element of disguising the illicit origin of the pecuniary advantage. The deficiency would be addressed with the adoption of the draft amendments to the CC in their current form.

Deficiency (2): The purposive element of helping any person involved in the commission of the predicate offence to evade the legal consequence of his or her action is not fully covered.

19. Croatia has drafted respective amendments to Article 265(1) of the CC reflecting on the purposive element of helping any person involved in the commission of a predicate offence to evade the legal consequence of his or her action. The deficiency would be addressed with the adoption of the draft amendments to the CC in their current form.

Deficiency (3): Disguise as "actus reus" is not provided.

20. Croatia has drafted respective amendments to Article 265(2) of the CC providing the disguise as "actus reus". The deficiency would be addressed with the adoption of the draft amendments to the CC in their current form.

Deficiency (4): The perpetrator of the predicate offence could not be the perpetrator of the ML offences committed through the actions of concealment.

21. Croatia has drafted respective amendments to Article 265(2) of the CC to extend the subject matter of the actions to the pecuniary advantage "*derived from criminal activity*", hence ensuring that the perpetrator of the predicate offence could be perpetrator of the ML offences committed through the actions of concealment or disguise. The deficiency would be addressed with the adoption of the draft amendments to the CC in their current form.

Deficiency (5): The person who commits the predicate offence could not be the perpetrator of the ML offence committed through acquisition, possession or use of the proceeds of crime.

22. Croatia drafted certain amendments to Article 265(3) of the CC. However, according to the current wording the subject matter of the actions of acquisition, possession or use, is the pecuniary advantage "*derived by another from criminal activity*". Hence, in this case the person who commits the predicate offence cannot be the perpetrator of the ML offence committed through acquisition, possession or use of the proceeds of crime. The deficiency would not yet be addressed by the draft amendments. Croatia is encouraged to address this deficiency while the legislative process to amend the CC is on-going.

Deficiency (6): Potential difficulties in determining the scope of the concept of "pecuniary advantage" as "corpus delicti" for the ML offence. Proceeds without subsequent increase are not subject matters of ML offence.

23. In the 4th round MER the evaluators considered that, as long as the Croatian authorities and the practitioners confirmed that in practice, in order to determine the "*pecuniary advantage*" as a constitutive element of the ML offence, it is also necessary to take into consideration the provisions of the "Law on the Proceedings for the Confiscation of Pecuniary Advantage Resulting from Criminal Offences and Misdemeanours", this will generate difficulties for the investigation and prosecution of the ML offence. In this regard, Croatia has indicated that the aforementioned Law was repealed in 2017 (Official Gazette No 70/17). The deficiency has been addressed.

24. In this respect, it was also recommended in the 4th round MER to clarify and harmonise the scope of the subject matter of the ML offence and the way in which it may be interpreted in different pieces of legislation which provide a definition for "pecuniary advantage". Croatia has indicated, that not only the Law on Confiscation was repealed for this purposes, but also that the Law on Amendments to the Criminal Procedure Code was adopted in 2017 (Official Gazette No. 70/17) to eliminate the overlap in interpreting the term in different pieces of legislation. Provisions of the Law on the Office for the Suppression of Corruption and Organised Crime and the Law on Responsibility of Legal Persons for Criminal Offences containing a reference to the above-mentioned acts also ceased to take effect. The deficiency is addressed.

Deficiency (7): The subject matter of the ML offence, as it is defined by the new CC does not cover all types of property (i.e. legal documents or instruments evidencing title to, or interest in such assets).

25. With the adoption of the Law on Amendments to the CC in 2015 (Official Gazette No. 56/15 and 61/15) the term "property" was introduced in the (new) paragraph 23 of Article 87. It reads as follows: *"(23) Property of any type is considered to be property, regardless if it is tangible or intangible, moveable or immoveable i.e. legal documents or instruments which serve as proof to the*

right to the interest in such property or of an interest in such property." The term "property" thus includes such types of the property as "legal documents or instruments evidencing title to, or interest in such assets", but does not cover "corporeal" and "incorporeal" assets, as provided in the FATF Recommendations' General Glossary. Nevertheless, the deficiency has been largely addressed.

Deficiency (8): Facilitating and counselling the commission of the ML offence are not explicitly provided by the CC as ancillary offences and there are no legal reasons to consider that these acts would be investigated, prosecuted and convicted as offences in the absence of a committed ML offense.

26. Croatia drafted respective amendments to Article 265(4) of the CC criminalizing facilitating and counselling the commission of the ML offence. The deficiency would be addressed with the adoption of the draft amendments to the CC in their current form.

Deficiency (9): Shortcomings in the definition of TF as a predicate offence. According to the 4th round MER, implementation of SR.II by Croatia was considered to be at a level LC. Although there is no progress reported by Croatia on the steps taken to address the identified deficiencies, considering their cascading nature these do not have a significant impact on the level of compliance with the R.1.

27. *Effectiveness of implementation.* Based on the statistics provided by Croatia, it appears that the law enforcement authorities became more proactive in investigating ML offences over the recent years, as compared with 2013. In 2017 there were 11 investigations initiated (as compared to 4 in 2013), with 18 indictments (as compared to 4 in 2013) and 9 convictions, of which 5 were final and 4 non-final (as compared to 2 final conviction in 2013).

Conclusion:

28. In light of information provided by Croatia with regard to the application of R.1, it can be observed that, with the adoption of the draft Article 265 of the CC, the majority of deficiencies identified in the 4th round MER would be addressed. Concerns remain with regard to extending the subject matter of the actions of acquisition, possession or use to the pecuniary advantage "*derived from criminal activity*", and to extending of the definition of the property to cover corporeal and incorporeal assets. Croatia should seek to address these deficiencies with the adoption the amendments to the CC as speedily as the legislative process allows and sufficiently in time before the 57th Plenary in December 2018.

Recommendation 3 (Confiscation and provisional measures)

Deficiency (1): The definition of the pecuniary advantage, as the subject matter of confiscation, provided by the new CC, does not explicitly cover incorporeal assets and legal documents or instruments evidencing title to, or interest in such assets.

29. With the adoption of the Law on Amendments to the CC in 2015 (Official Gazette No. 56/15 and 61/15) Croatia has introduced a definition of the term "property" in paragraph 23 of Article 87. However, as stated in the analysis of Deficiency (7) of Recommendation 1, the term "property" does not cover "corporeal" and "incorporeal" assets, as provided in the FATF Recommendations' General Glossary. The deficiency has been nevertheless largely addressed.

Deficiency (2): The concept of "pecuniary advantage" adds supplementary features and an additional burden of proof, to determine proceeds of crime, property laundered and proceeds from ML, subject to confiscation regime, in comparison to property subject to confiscation in the meaning of the FATF standards. With this respect in the 4th round MER it was recommended to Croatia to revise the wording "increase or prevention of decrease in the property which came

about as a result of the commission of a criminal offence" used in Article 87(21) of the CC to define "pecuniary advantage".

30. No legislative amendments are introduced to the CC to address the identified deficiency. Croatia has provided no further update on this matter since the 54th Plenary meeting. The deficiency is not yet addressed.

Deficiency (3): The confiscation of the instrumentalities is conditioned by the supplementary element of the risk that they will be reused in another criminal activity.

31. According to the 4th round MER, the wording used in Article 79 of the CC is not in line with the FATF essential criterion 3.1, as confiscation of the instrumentalities used in or intended for use in the commission of any ML, FT or other predicate offence is conditioned by the supplementary element of the risk that they will be reused in another criminal activity (paragraph 327-327 of the MER). With the adoption of the Law on Amendments to the CC in 2015 (Official Gazette No. 56/15 and 61/15) Croatia has amended Article 79 of the CC. Part 2 of the aforementioned Article stipulates that "Items and means which were intended for the commitment of a criminal offence or which were used to commit a criminal offence shall be confiscated if the danger exists that they will again be used to commit a criminal offence …" As, the supplementary element of the risk remains in the text of Article 79, this is not in line with the R.3 (FATF Methodology Essential Criterion 3.1). Croatia has indicated that the deficiency would be addressed by adoption of amendments to Article 256 of the CC, since it contains special provisions on confiscation of instrumentalities with no supplementary element. The secretariat however deems that this will not cover the FATF requirements in full scope, since this provision is applicable to the ML offence only. The envisaged amendments thus do not cover confiscation of proceeds deriving from FT and other predicate offences. Moreover, even in the case of confiscation of proceeds deriving from the ML offence, it would be somewhat unclear which provision - Article 79 or Article 265 – would take precedence in this case. The secretariat thus considers that this deficiency is not yet addressed.

Deficiency (4): The confiscation of property of corresponding value of the instrumentalities is not provided.

32. Croatia has indicated that Article 128 of the Law on Amendments to the Criminal Procedure Code form 2017 (Official Gazette No. 70/17) addresses the deficiency. However, this provision appears to concern merely the revocation of the pecuniary benefit resulting from the criminal offence. Hence, concerns remain with regard to the confiscation of property of corresponding value of the instrumentalities. Croatia has provided no further update on this matter since the 54th Plenary meeting. The deficiency is not yet addressed.

Deficiency (5): The provisions related to provisional measures are heterogeneous; the references to property subject to confiscation in different pieces of legislation are done using different terminology.

33. With the adoption of the Law on Amendments to the Criminal Procedure Code in 2017 (Official Gazette No. 70/17), the term "object" is replaced by the broader term "proceeds". With the adoption of the "Law on Termination of Law on Proceedings for the Confiscation of Pecuniary Advantage Resulting from Criminal Offences and Misdemeanours", and the "Law on Amendment to the Law on the Office for the Suppression of Corruption and Organised Crime" in 2017 (Official Gazette No. 70/17) the overlap in interpreting the term in different laws is addressed. The deficiency is addressed.

Deficiency (6): The possibility to take provisional measures ex-parte is explicitly provided only by the Law on Confiscation and consequently it is related only to pecuniary advantage in the meaning of this Act.

34. Croatia has terminated the "Law on Proceedings for the Confiscation of Pecuniary Advantage Resulting from Criminal Offences and Misdemeanours in 2017 (Official Gazette No. 70/17). Application of the provisional measures ex-parte is thus provided in Article 557b of the Law on Amendments to the Criminal Procedure Code. The deficiency is addressed.

Recommended action: Art 261 of the CPC should be amended since it is limited to "objects which have to be seized pursuant to the CC" and it is unclear if the scope of "objects" entirely extends over the scope of "funds".

35. Croatia has introduced amendments to the CPC with respect to the confiscation process (Articles 556-563), which however do not eliminate the identified deficiency, as they do not reflect on the provisional measures such as the seizure of property. Croatia has not introduced any amendments to Article 261. It remains unclear if the term "objects" entirely extends to the scope of "funds". The deficiency is not yet addressed.

Effectiveness of implementation.

36. Based on the provided statistics, it appears that Croatia has demonstrated effective implementation of preliminary measures. In 2014 the freezing measures were applied to an amount equivalent to EUR 23,168,524. In 2015 the freezing measures wereapplied to an amount equivalent to EUR 8,526,365 and in 2016 to EUR 29,988,424. Furthermore, on the basis of 1205 verdicts in 2014 the courts have ordered confiscation for an amount equivalent to EUR 26,737,546. In 2015 there were 941 court verdicts with confiscation orders for the amount equivalent to EUR 22,279,695, and in 2016 a total of 912 court verdicts with a confiscation order for the amount equivalent to EUR 25,636,002.

Conclusion:

37. In light of the progress demonstrated by Croatia with regard to application of R.3, it can be observed that as a whole the majority of deficiencies identified in the 4th round MER have not yet been addressed. Even though the effectiveness of implementation of R.3 involved figures indicating that the volume of property frozen and confiscated is not insignificant, the overall rating is not yet up to a level equivalent to "largely compliant". Croatia is urged to use the occasion that its CC is currently being amended to include amendments which would address the outstanding deficiencies under R.3 which relate to technical compliance.

Recommendation 5 (Customer due diligence)

Deficiency (1): There is no requirement to verify whether any person purporting to Law on behalf of a person is so authorised.

38. Croatia introduced the requirement to verify whether any person purporting to Law on behalf of a person is so authorised in Article 15(2) of the AML/FT Law adopted in 2017 (Official Gazette No. 108/17). The deficiency is addressed.

Deficiency (2): Financial institutions are not required to obtain from customers information on a foreign legal person's or foreign legal arrangement's form, directors and powers to bind.

39. Croatia introduced the requirement to obtain from customers information on a foreign legal person's or foreign legal arrangement's form, directors (for legal persons) and powers to bind in Articles 20(4), 23(6) and 31(1)(3) of the AML/FT Law. The deficiency as originally identified by the MER is addressed. However, the AML/FT Law does currently not provide for similar requirements with regard to domestic legal entities to be fully in line with the FATF standards.

Deficiency (3): The AML/FT Law creates blanket exemptions from the CDD requirements where the risk of money laundering and terrorist financing is low.

40. Croatia retained exemptions from the application of the measures prescribed in the AML/FT Law for the reporting entities engaged in a financial activity on an occasional or limited basis, for which there is a low risk of ML or FT determined by the NRA in Article 10 of the AML/FT Law. This regulation is not fully in line with the FATF standards whereby minimum CDD (i.e. less detailed CDD) should nevertheless be accomplished, including in circumstances where the risk of ML and FT is low. The deficiency is not addressed.

Deficiency (4): The application of simplified CDD measures to customers resident in a third country is not limited to countries which are in compliance with and have effectively implemented FATF Recommendations.

41. Croatia introduced the specific risk factors to be considered by the reporting entities when assessing the risks related to particular business relationships or occasional transactions in Article 14 of the AML/FT Law. The risk factors which may indicate a potentially lower geographical risk are not limited to countries that are in compliance and have effectively implemented the FATF Recommendations. The deficiency is not addressed.

Deficiency (5): The prohibition on the use of the simplified CDD measures does not extend to "specific higher risk scenarios" as required by the FATF Recommendations.

42. It is stipulated in Article 43(5) of the AML/FT Law that "Simplified customer due diligence shall not be allowed when there … specific scenarios of high risk of ML or TF are applied …". It appears that the legal provisions do not cover situation between the "low" and "high" risk scenarios, although the FATF Recommendations refer to "higher" risk scenarios, thus leaving room for application of simplified measures (e.g. in circumstances presenting a "medium" risk). The deficiency is partly addressed.

Deficiency (6): Derogation under Art. 10 §2 allows the postponement of all CDD measures, not just verification and there is no requirement that CDD measures should be completed as soon as reasonably practicable after the initial contact in case of the reporting entity is allowed to conduct the CDD measures during the establishment of a business relationship with a customer.

43. According to Article 17(2) of the AML/FT Law, reporting entities are permitted to postpone verification of the identity of the customer and the beneficial owner and not the overall CDD measures. The verification should be accomplished as soon as possible after the first contact with the client. The deficiency is addressed.

Deficiency (7): There are no clear provisions in the law which requires adopting risk management procedures concerning the conditions under which business relationship is permitted to utilise prior to verification of the identity of the customer.

44. Croatia introduced the requirement for the financial institutions to adopt risk management procedures concerning the conditions under which business relationship is permitted for utilization prior to verification of the identity of the customer in Article 17(5) of the AML/FT Law. The deficiency is addressed.

Conclusion:

45. Overall, the majority of technical deficiencies identified in the 4th Round MER are addressed. Concerns remain however with regard to setting similar requirements for obtaining information on legal entities and arrangements for domestic ones, exemptions from the CDD requirements, and application of the simplified CDD measures, and the application of CDD measures to the customers from third countries. The rating for R.5 is thus not yet brought to a level equivalent to "largely compliant".

Recommendation 23 (Regulation, supervision and monitoring)

Deficiency (1-3): No requirement to obtain information on ultimate beneficial owners and, respectively, their criminal background for insurance companies and pension companies. The requirement to prevent criminals from holding shares or managerial positions in financial institutions does not appear to be fully met. Failure to include criminal associates into the scope of the measures aimed at prevention of criminals from holding a controlling interest or management function in financial institutions.

46. As stated in the analysis of the follow-up reports for the previous rounds, some measures were undertaken in 2014-2015 to address the identified deficiencies, including amendments to the relevant legislative acts, namely the Credit Institutions Law (Official Gazette No. 159/13, 19/15, 102/15, and 15/18), the Mandatory Pension Funds Law (Official Gazette No. 19/14), and the Insurance Law ("Official Gazette" no. 151/05, 87/08, 82/09, 54/13 and 94/14). Croatia has informed that in 2018 amendments were introduced also to the Pension Insurance Companies Law (Official Gazette 29/18) and the Voluntary Pension Funds Law (Official Gazette 29/18).

47. Although the Insurance Law was amended, some outstanding shortcomings remain. While the amended provisions prescribe that certain information (on whether the proposed acquirer has been convicted of a misdemeanour or a criminal Law that constitutes a grave violation of regulations, and information on the source of information) should be provided to the supervisory authority, there is no requirement to obtain information on the beneficial owners of insurance companies. Shortcomings identified in the 4th round MER are partly covered by the Ordinance on Requirements for the Position of Management or Supervisory Board Members of Insurance Undertakings or Reinsurance Undertakings (Official Gazette 7/16 and 91/16) containing provisions on prevention of criminals from holding management positions in insurance companies. However, the legislative amendments do not seem to prevent criminal associates from holding a controlling interest or management function in insurance companies.

48. Some shortcomings related to the Voluntary Pension Funds Law, Pension Insurance Companies Law and the Mandatory Pension Funds Law appear to be outstanding. In addition to these Croatia has adopted Ordinance on the Issuance of Authorization and on the Acquisition of Shares or Holdings in the Mandatory Pension Company ("Official Gazette", no. 52/14, 39/17) and Ordinance on Issuing Authorization to and on Acquisition of a Qualifying Holding in a Voluntary Pension Company ("Official Gazette", no. 52/14). As for the mandatory pension funds there is a requirement set to provide data on persons related with acquirer of the shares, which seems to be similar to the data on beneficial ownership. The provisions on checking the criminal background extends only to the acquirer of the shares. There are no requirements for the beneficial owners set. As for the recent amendments to Voluntary Pension Funds Law (Official Gazette No. 19/14 and 29/18), and the Pension Insurance Companies Law (Official Gazette No. 29/18) Croatia has informed that these acts now state that criminal or criminal associate could not be the member of the managing body or the beneficial owner of the voluntary pension fund, or the pension insurance company respectively. However, the gap remains with regard to providing the authorities with data on the beneficial owners and on their criminal background. The Secretariat has not yet been provided with a translation of the mentioned legal acts to ultimately verify the statements.

49. As for the Credit Institutions Law, Croatia has adopted amendments to the act in 2018 (Official Gazette No. 15/18) addressing the deficiencies identified in the 4th round MER related to prevention of criminal associates from holding a controlling interest and a management function.

50. Croatia has stated that the Ministry of Finance continued drafting the necessary legislative amendments started in 2017, which would address the MONEYVAL recommendation from the 4th Round MER to introduce a requirement to obtain information on ultimate beneficial owners and,

respectively, their criminal background for insurance companies, credit institutions and other financial institutions. The deficiency is partly addressed.

Deficiency (4): No licensing or registration for money and value transfer (and other financial) services offered by the Croatian Post.

51. The Croatian Post that offers money transfer services (using the Western Union logo) was registered at the Croatian National Bank as a direct agent of Western Union Payment Services Ireland Limited (WUPSIL). The deficiency is addressed.

Deficiency (5): Lack of legislatively defined licensing requirements and procedures for business entities engaged in factoring activities.

52. As indicated by the authorities already in 2014, the Factoring Law ("Official Gazette" no. 94/14) was adopted, governing among other things the establishment, operation and termination of factoring companies. However, the secretariat has not yet been provided with the full translation of that law to verify this.

Effectiveness of implementation.

53. According to statistics provided by Croatia, the number of inspections on AML/CFT matters was low in 2015, with a positive further trend on the next two years. Croatia reported that there is a supervisory plan adopted for the on-site and off-site supervision of the implementation of the AML/FT Law in credit institutions, credit unions, and electronic money institutions.

Conclusion:

54. Although steps were made to rectify technical deficiencies, concerns remain with regard to the addressing the deficiencies related to requirements to obtain information on ultimate beneficial owners and, respectively, their criminal background for insurance companies, credit institutions and other financial institutions. Deficiencies in the Insurance Law, as described above, remain unaddressed. Progress made with the adoption of amendments to the Voluntary Pension Funds Law and the Pension Insurance Companies Law, and the adoption of the Law on Factoring can be confirmed after the translation of relevant provisions is available. Consequently, the rating is not yet up to a level equivalent to "largely compliant".

Recommendation 35 (Conventions)

55. According to the 4th round MER there are in total 17 deficiencies indicated in relation to the implementation of the relevant Conventions which are covered by the analysis of the measures adopted and implemented to ensure compliance of Croatia with R.1, R.3 and SR.II.

Conclusion:

56. Considering that, according to the secretariat analysis, it appears that R.1 and R.3 are not yet implemented up to a level equivalent to "largely compliant", the rating given to R.35 in the 4th round MER should remain unchanged for the time being.

Special Recommendation I (Implementation of United Nations instruments)

Deficiency (1): The scope of the terms "terrorist" and "terrorist organisation", derived from logical and systemic interpretation of different articles of the CC, is narrower than envisaged by the FATF standards (SR II).

57. According to the 4th round MER, the implementation of SR.II by Croatia was considered to be at a level equivalent to "largely compliant". There is no progress reported by Croatia on the steps taken to address the identified deficiency.

Deficiency (2): Ambiguities regarding the scope of provisional measures related to "funds" used or intended to be used in TF offense.

58. Please see the analysis under R.3.

Deficiency (3): Deficiencies under SR.III.

59. Please see the analysis on measures adopted by Croatia for the implementation of the UNSCRs relating to the prevention and suppression of FT under SR.III.

Conclusion:

60. Considering that, according to the secretariat analysis, it appears that R.3 and SR.III are not yet implemented up to a level equivalent to largely compliant, the rating given to SR.I in the 4th round MER should remain unchanged.

Special Recommendation III (Freeze and confiscate terrorist assets)

61. With respect to implementation of the SR.III, on a general note Croatia informed that in 2018 the Ministry of Foreign and European Affairs started consultations on drafting respective amendments to the International Restrictive Measures Law aimed at addressing deficiencies reflected in the 4th round MER of Croatia.

Deficiencies: (1) The scope of "assets", subject matter of the freezing mechanism in Croatia is narrower than the scope of "funds or other assets" as it is provided by the FATF standards. Parallel references to the subject matter of the freezing mechanism in different pieces of legislation should be avoided. (2) The freezing actions referred to under Art. 11 of the IRM Law extend only to assets owned, held or belonging in any way to the subject to whom restricted measures are being applied to, and to assets controlled or supervised by that subject. Assets controlled jointly or indirectly are not explicitly covered. (3) The situation envisaged by the UNSCRs in terms of control or possession of funds by persons acting on behalf of the subject or acting at their direction does not appear to be explicitly covered. (4) Funds derived or generated from assets owned or controlled directly by the designated persons, terrorist, those who finance terrorism or terrorist organisations, are only partially covered (art. 3 para 2 (c), (e), (f) of the IRM Act). (10) Unclear provisions for funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly, wholly or jointly, by designated persons, terrorists, those who finance terrorism or terrorist organisations (mix of III.1 and III.4(b)).

62. Croatia indicated that since the accession to the EU in 2013, UN resolutions concerning the freezing of funds and assets of terrorists are implemented through EU legislation. Hence, for UNSCRs 1267/1989 and 1988, the EU legal framework ensures that the freezing obligation extends to all funds/other assets that belong to, are owned, held or controlled by a designated person/entity, including assets of a third party acting on their behalf or at their direction (Art. 2(1) Reg. 881/2002 as amended by the successors Reg-s). As for UNSCR 1373, the EU freezing obligations do not explicitly cover funds controlled by or indirectly owned by, or derived from assets owned by a person acting at the direction of designated persons/entities (Art. 2(1)(a) Reg. 2580/2001). However, Art. 2(3) (iii) and (iv) of the Regulation empower the Council to designate any legal person, group or entity controlled by a designated subject, or a natural person acting on behalf of a designated subject, which largely addresses the gaps. Under Reg. 2580/2001 asset freezing measures may apply to EU persons or entities insofar as they threaten international peace and security. "EU internal terrorists" can only be subject to enhanced measures related to police and judicial cooperation in criminal matters. The deficiency is largely addressed.

Deficiency (5): The obligation to not make funds available, directly or indirectly, to designated persons is limited to the scope of funds as they are defined by the IRM Act.

63. Currently, prohibition for making funds and other assets available to designated persons and entities is regulated under Regulation 881/2002 (article 2 (2)), 1286/2009 (article 1(2)), 753/2011 (article 4) and 754/2011 (article 1). As for the scope of the assets covered by this prohibition, please see the previous paragraph. The deficiency is partly addressed.

Deficiency (6): The condition which is reaffirmed in c.III.1 (freezing to take place without prior notification) is approached only at the level of guidelines and freezing assets with prior notice to the designated persons involved is not punishable. Safeguards are not strong enough to maintain the surprise effect intended by the UN Resolution.

64. Delay that arises between the date of a designation under the UNSCRs 1267/1989 and 1988 by the UN Committees and the date of its transposition into EU law which can further result in *de facto* prior notice to the persons or entities concerned. As for the UNSCR 1373, the obligation to freeze all funds/assets of designated persons/entities applies immediately and without notice in all EU member states (Art. 2(1)(a) Reg. 2580/2001). The deficiency is partly addressed.

Deficiency (7): There is no effective mechanism in place to designate persons in the context of UNSCR 1373(2001).

65. Croatia indicated that, since the accession to the EU in 2013, it implements UNSCR 1373 via the EU framework under Council Common Position 2001/931/CFSP and EC Regulation 2580/2001. The Council of the EU is the competent authority for making designations, per EU Council Regulation 2580/2001 and CP 931/2001/CFSP. At the national level Croatia has not established a formal mechanism for identifying targets pursuant to UNSCR 1373. The deficiency is partly addressed.

Deficiency (8): There is no legal procedure to examine and give effect to, if appropriate, the actions initiated under the freezing mechanism of other jurisdictions.

66. Croatia indicated that since the accession to the EU in 2013, it implements provisions of FATF Recommendation III (Criterion III.3) via the EU framework under EU Common Position 2001/931/CFSP. When requests from other jurisdiction to the EU are received, the CP 931 Working Party examines whether the designation criteria of CP 2001/931/CFSP, which are compliant with UNSCR 1373, are met. At the national level, Croatia has not established a formal mechanism to examine and give effect to, if appropriate, the actions initiated under the freezing mechanism of other jurisdictions. The deficiency is partly addressed.

Deficiency (9): There is no procedure for the consolidated list to be sent to the reporting entities.

67. All EU regulations are published in the Official Journal of the EU, and the EU maintains a consolidated list of designated individuals. The EU also provides for the possibility to subscribe to an RSS feed in order to be informed automatically of all changes. At the national level, Croatia has not established procedures for communicating designations to the reporting entities. The deficiency is partly addressed.

Recommended action: Conduct an appropriate training and awareness raising for all reporting entities needs to be. Establish an effective system of communication with the DNFBP sector in respect of the obligation under SR.III.

68. Croatia has informed the in December 2017, in the margins of the Annual Conference on AML/CFT matters a special part was dedicated to international restrictive measures and freezing of terrorist assets. The deficiency is partly addressed.

Recommended action: Adopt a detailed procedure (guidance) with regard to all steps needed to be taken after the freezing in order to ensure the un-freezing and clarifying their obligations according to the freezing mechanism.

69. There is no progress reported by Croatia on the steps taken to address the identified deficiency.

Conclusion:

70. The authorities have indicated that, following Croatia's accession to the EU on 1 July 2013, the freezing mechanisms are applied through EU legislation. While some deficiencies identified under the 4th round MER are addressed to a certain extent through the application of EU mechanisms, concerns still remain as to whether Croatia is in a position to freeze the funds controlled indirectly by designated persons. Croatia has not also adopted any respective measures under the domestic framework. No further information was provided on additional guidance to the reporting entities, as recommended under the 4th round MER. Hence, the rating for SR.III is not yet up to a level equivalent to largely compliant.

Review of measures taken in relation to other Recommendations

Recommendation 6 (Politically exposed persons)

Deficiency (1): The definition of foreign politically exposed person is not in line with the FATF Recommendations; (2) The provisions do not apply to foreign PEPs who are temporarily or permanently resident in Croatia; (3) No specific requirement to obtain senior management approval to establish or continue a business relationship where the customer is found to be or becomes a PEP; (4) There is no clear provision that reporting entities are obliged to determine whether a customer's beneficial owner is a politically exposed person; (5) There are no requirements to identify situations when the customer or beneficiary owner subsequently becomes a PEP in the course of a business relationship; (6) Other than in the Financial Inspectorate's Guidelines, there is no requirement to identify the source of wealth of PEPs.

71. (1) The definition of PEP provided in Article 46 of the AML/FT Law is not in line with the FATF Recommendations, as it sets a timeframe of 12 months, and does not appear to broadly cover the definitions of family members and close associates of PEP in line with those provided in the FATF guidance. Domestic PEPs are not covered by the requirements relating to PEPs under the AML/FT Law (2) The provisions apply to any natural person who acts or has acted at a prominent function in member state or a third country, hence the deficiency seems to be rectified. (3) The requirement to obtain a senior management approval is stipulated in Article 47(1) of the AML/FT Law. (4), (5) Reporting entities are obliged to conduct a monitoring of information on customers, scrutinising the data indicating whether the customer or the beneficial owner of the customer has become or ceased to be a politically exposed person (Articles 37(2) and 46(1) of the AML/FT Law). (6) Requirement to identify the source of wealth of PEPs is set out in Article 47(1) of the AML/FT Law.

Conclusion:

72. Overall, the majority of technical deficiencies identified in the 4th Round MER are addressed. Minor concerns remain with respect to the definition of the PEP, hat is not fully in line with the FATF Recommendations. Hence, the rating of R.6 now is up to a level equivalent to "largely compliant".

Recommendation 7 (Correspondent banking)

Deficiency: (1) No clear requirement to document the respective AML/CFT responsibilities of each institution; (2) The requirements regarding correspondent banking relationships only apply to third countries; (3) No requirement to ascertain that the AML/CFT measures implemented by the respondent institution are adequate and effective; (4) No clear requirement to obtain approval from senior management before establishing new correspondent relationships.

73. The correspondent banking requirements are stipulated by the Article 45 of the AML/FT Law. (1) The requirement to document the respective AML/CFT responsibilities of each institution is addressed by Article 45 (1, 3) of the AML/FT Law. (2) The deficiency remains unaddressed since Article 45 (1) of the AML/FT Law refers to establishment of the relationship with bank or credit

institution having headquarters in a third country. This provision of the AML/FT Law falls short of meeting the requirements under R.7 which refers to all types of cross-border relationships not just to third countries. (3) The deficiency is addressed based on provisions of Article 45 (1) of the AML/FT Law. (4) The deficiency is addressed according to Article 45 (2) of the AML/FT Law requiring the prior written consent of the senior management for establishing the correspondent relationship.

Conclusion:

74. Overall, the majority of technical deficiencies identified in the 4th Round MER are addressed. Concerns remain with respect to the scope of the respondents for application of the measures. Hence, the rating of R.7 now is up to a level equivalent to "largely compliant".

Recommendation 12 (DNFBPs – R.5, 6, 8-11)

Deficiency: (1) Deficiencies identified in Recommendations 5, 6, 10 and 11 equally apply to the DNFBPs; (2) There is no obligation in the AML/TF Law requiring DNFBPs to have in place or take measures to prevent the misuse of technological developments in AML/CFT schemes and to address the specific risks associated with non-face to face business relationships or transactions; (3) Lack of adequate guidance on identifying complex, unusual large transactions, or unusual patterns of transactions that have no apparent or visible economic or lawful purpose could have an impact on the effectiveness of application.

75. (1) Remaining deficiencies of R 5 and 6 as explained above are applicable to the DNFBPs. Recommendations 10 and 11 were rated LC, and therefore no further update is provided. (2) Article 12(5) of the AML/FT Law provides for certain requirements on application of the risk assessment and mitigation measures in case of introducing new technologies, but these do not seem to explicitly address the non-face to face business relationships or transactions. (3) No further update is made by Croatia on providing adequate guidance on identifying complex, unusual large transactions, or unusual patterns of transactions that have no apparent or visible economic or lawful purpose could have an impact on the effectiveness of application.

Conclusion:

76. Overall, the majority of technical deficiencies identified in the 4th Round MER are addressed. Concerns expressed under the description of compliance with R.5 and R.6 above are equally applicable to the DNFBPs. In addition, doubts are in place with respect to explicitly addressing the deficiencies of regulation of matters on non-face to face business relationships or transactions, and providing an appropriate guidance. Hence, the rating for R.12 is not yet up to a level equivalent to "largely compliant".

Recommendation 16 (DNFBPs – R.13-15 and 21)

Deficiency: (1) Technical deficiencies identified in Recommendations 13, 14, 15 and 21 equally apply to the DNFBPs; (2) Effectiveness of implementation of the Recommendations 13 and 14; (3) The lack of guidance and training for DNFBPs relating to doing business with countries not sufficiently applying the FATF Recommendations could have an impact on the effectiveness of implementation.

77. (1) Recommendations 13-15 and 21 were rated LC, and therefore no further update is provided. (2) There is no information also provided on the progress made with respect to effective implementation of Recommendations 13 and 14. (3) While there is no written guidance provided, Croatia has indicated that there were number of trainings for the DNFBPs including on measures to take with respect to higher risk countries.

Conclusion:

78. Since the R.13-15 and 21 were rated "largely compliant" in the 4th Round MER the rating "partially compliant" for the Recommendation 16 was based on the effectiveness of implementation of respective provisions. However, except for information on trainings, the Secretariat has not yet been provided with other information on any progress made. Hence, the rating for R.16 is not yet up to a level equivalent to "largely compliant".

Recommendation 17 (Sanctions)

Deficiencies: (1) No specific sanctions for the failure to comply with some requirements of the AML/TF Law; (2) The range of sanctions for AML/CFT non-compliance is not commensurate with those applicable for different violations of relevant laws in the financial sector; (3) Low number of sanctions applied raises concerns about the effectiveness of the AML/CFT sanctions regime.

79. (1) Requirements to pay special attention to all complex and unusually large transactions are stipulated by Article 53 of the AML/FT Law. Respective sanctions are now set out in Article 150 of the AML/FT Law. As concerts requirements related to non-disclosure ("tipping off") of submission of STR's and suspension of transactions, these are stipulated by Article 74 of the AML/FT Law, however, there are no corresponding sanctions set out in the legislation. (2) Concerning the range of sanctions, that were considered to be not dissuasive enough, it shall be noted, that according to the AML/FT Law these are revised and the range of sanctions was increased. (4) Number of inspections, applied sanctions and the size of the fine have considerably increased over the recent 2 years reaching around 400 inspections, 200-240 sanctions and 250.000 - 300.000 EUR of fines applied in total per year.

Conclusion:

80. Overall, the majority of technical deficiencies identified in the 4th Round MER are addressed. Croatia has demonstrated considerable increase in application of sanctions regime. Concerns remain with regard to setting up sanctions for breach of requirements on non-disclosure ("tipping off") of submission of STRs and suspension of transactions. Hence, the rating of R.17 now is up to a level equivalent to "largely compliant".

Recommendation 22 (Foreign branches and subsidiaries)

Deficiencies: (1) There is no clear requirement that financial institutions should pay special attention in case of jurisdictions which do not or insufficiently apply the FATF Recommendations; (2) There is no clear requirement that the financial institutions should apply the higher standards in branches and subsidiaries in host countries in the event that local requirements are not fully in line with international standards or the host countries standards are higher; (3) Although there is a requirement to advise AMLO, there is no requirement to notify CNB, FI or HANFA as primary supervisory authorities.

81. (1) The provisions of the AML/FT Law are addressing the requirement to pay special attention in case of jurisdictions which do not or insufficiently apply the FATF Recommendations. (2) There are certain provisions on application of the AML/FT Law in branches and subsidiaries abroad, which however do not envisage possibility of application of the host country (third country) standards in case these are higher than in Croatia. (3) According to Article 64 (3) of the AML/FT Law should the acts of the third country not allow the implementation of policies and procedures reporting entities shall be obliged to report on that to the competent supervisory authority referred to in Article 82 of the AML/FT Law. The latter provides the list of supervisor authorities over each reporting entity.

Conclusion:

82. Overall, the majority of technical deficiencies identified in the 4th Round MER are addressed. Concerns still remain with regard to application of higher AML/CFT standards of third countries. Hence, the rating of R.22 now is up to a level equivalent to "largely compliant".

Recommendation 32 (Statistics)

Deficiencies: (1) Lack of statistics on additional requests made by AMLO for supplementary information broken down by reporting entities and authorities; (2) Lack of detailed statistics to assist in systematic review of effectiveness of the whole AML/CFT system relating to domestic cooperation; (3) Lack of detailed analysis on reasons for the low number of convictions for stand-alone money laundering given the level of economic crime in Croatia; (4) There are no comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating ML/TF relating to mutual legal assistance (MLA); (5) Lack of statistics on other forms of international cooperation by supervisory authorities on AML/CFT issues; (6) Lack of statistics on other forms of international cooperation by law enforcement agencies on AML/CFT issues.

83. (1) According to the 4th Round MER it was recommended that the AMLO should maintain statistics on additional requests made by the latter for supplementary information broken down by reporting entities and authorities according to Articles 59 and 63 of the AML/FT Law. Requesting information from reporting entities and state authorities are now reflected in Articles 113 and 115 of the new AML/FT Law. Croatia has provided a respective statistics for 2017. (2) There is no update provided by Croatia with respect to overcoming the lack of detailed statistics to assist in systematic review of effectiveness of the whole AML/CFT system relating to domestic cooperation. (3) In the 4th Round MER there were concerns raised about the reasons for the low number of money laundering convictions being achieved needs serious analysis and that the coordinating bodies should undertake this task in the context of the forthcoming national risk assessment. Croatia has indicated that the analysis was carried out and the respective Action Plan included the following measures aimed at enhancing the number of ML convictions: (a) enhancing financial investigations, (b) hiring financial investigators, (c) enhancing capabilities of investigation bodies and the FIU. However, the Secretariat has not yet been provided with translation of the NRA on the reasons of for the low number of money laundering convictions being achieved. (4)-(6) With regard to maintaining a comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating ML/FT relating to MLA, based on the Report of Croatia, it can be concluded that currently there is a very limited statistics kept by the authorities on the incoming and outgoing MLA requests with a main focus on ML. There is no data on MLA concerning other predicate offences, and international cooperation by law enforcement agencies. Nevertheless Article 148 of the AML/FT Law now contains respective requirements on collecting statistics. Croatia also informed the Secretariat that Rulebooks is drafted to ensure the practical implementation of the aforementioned legislative provisions. A comprehensive statistics on FIU-to-FIU cooperation and international cooperation conducted by the respective supervisory authorities is in place.

Conclusion:

84. Overall, some of the technical deficiencies identified in the 4th Round MER are addressed. Concerns remain with respect to deficiencies on certain type of statistics on domestic and international cooperation. Hence, the rating of R.22 now is up to a level equivalent to "largely compliant".

Recommendation 33 (Legal persons – beneficial owners)

Deficiencies: (1) Lack of information on the number of bearer shares still in circulation raises concerns over the effectiveness of appropriate measures to ensure that they are not misused for money laundering; (2) No measures in place to guard against abuse of companies by the use of bearer shares.

85. (1) Croatia has provided no data to meet the concerns raised in the 4th Round MER on a lack of information on the number or value of bearer shares still in circulation. (2) There are certain mitigating measures set out in Articles 32 and 50 of the AML/FT Law, requiring application of enhanced due diligence measures by the reporting entities should a customer be a legal person that has issued bearer shares, or a natural or a legal person who carries out a transaction in relation to the bearer shares. Croatia has also informed the secretariat that companies that have issued bearer shares shall also enter that fact into the Register, on the basis of the Rulebook on the Register of Beneficial Owners. However the Secretariat has not been provided with the Rulebook on the Register of Beneficial Owners to verify this.

Conclusion:

86. Overall, the majority of technical deficiencies identified in the 4th Round MER are addressed. Concerns remain with respect to the number or value of bearer shares still in circulation. Hence, the rating of R.33 now is up to a level equivalent to "largely compliant".

Special Recommandation VIII (Non-profit organisations)

Deficiencies: (1) Lack of the comprehensive review as well as regular update in relation to the vulnerability of NPOs to terrorist financing risks; (2) No requirement to maintain, for a period of at least five years, records of domestic and international transactions; (3) Apart from the issuance of typology reports, there has been insufficient outreach to the NPO sector and little awareness raising on risks for NPOs to be misused for TF.

87. (1) According to the 2015 NRA of Croatia, the FT risk of the NPO sector was rated as "low". Croatia has provided some additional data on the analysis of the activities, size, and other relevant features of the NPO sector. While as a result of a desk-based review it seems that the country has made considerable steps to address the deficiency, considering the nature of the issue it shall be further assessed on the upcoming evaluation of Croatia. (2) According to Article 12 and 16 of the Law on Financial Operations and Accountancy of NPOs adopted in 2015, NPOs are required to maintain business records of general ledger (record of transactions occurred on asset, liabilities, own resources and revenues and expenses) for at least 11 years. (3) As concerns the outreach to NPOs, Croatia has informed that the representatives of the NPO sector participated in the Annual Conference on AML/CFT (December 2017). The agenda of the conference included an introduction of the new AML/FT Law and relevant novelties and new obligations of reporting entities and state authorities, the National and Supranational Risk Assessment, ML/FT trends and typologies.

Conclusion:

88. Overall, the technical deficiencies identified in the 4th Round MER seem to be addressed. The comprehensiveness of analysis of the vulnerability of the NPO sector subject to the risk of FT abuse shall further be confirmed on the upcoming 5th round assessment of Croatia. Hence, the rating of R.33 now is up to a level equivalent to "largely compliant".

Overall conclusions:

89. In light of Croatia's second compliance report, the country has undertaken a number measures since the application of CEPs at the 54th MONEYVAL Plenary in September 2017. In particular, the country has adopted a new AML/FT Law which largely addressed deficiencies under R.6, R.7, R.17, R.22, R.32, R.33 and SR.VIII.

90. At the same time, the country has still a large number of outstanding deficiencies which relate to a number of core and key recommendations, and overall to R.1, R.3, R.5, R.23, R.35, SR.I, SR.III, R.12, and R.16. Amendments to the Criminal Code, necessary in order to address deficiencies with regard to R.1 and 3, are still pending the legislative procedure. Croatia should be urged to use the occasion to address all outstanding deficiencies which fall into the scope of the Criminal Code (in particular those which have not yet been included in the draft amendments to the Criminal Code, as

outlined in the present analysis). It is also suggested that Croatia reviews its AML/FT Law with regard to outstanding deficiencies in a number of relevant core recommendations (as likewise outlined in the present analysis). Croatia should be invited to report about progress made in this respect with a further compliance report for consideration at the 57th Plenary in December 2018.

91. In order to sufficiently accelerate this process and ensure that Croatia receives sufficient high-level support to undergo these necessary legislative changes as speedily as possible, and mindful of the fact that the deficiencies were already identified in the MER of 2013, the secretariat proposes that the Plenary also considers whether it is necessary to revert to any additional steps under CEPs.