

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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

MONEYVAL47(2015)31

# Bosnia and Herzegovina

## 11th Compliance report

18 September 2015

Bosnia and Herzegovina is a member of MONEYVAL. This compliance report was adopted at MONEYVAL's 48<sup>th</sup> Plenary Meeting (Strasbourg, 14-18 September 2015). For further information, please refer to MONEYVAL website: <http://www.coe.int/moneyval>.

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**SECRETARIAT ANALYSIS**  
**ELEVENTH 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 31<sup>st</sup> 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<sup>1</sup>, including on several core and key FATF Recommendations, as indicated in the table below:

<b>Partially compliant (PC)</b>	<b>Non-compliant (NC)</b>
<b>Core Recommendations<sup>2</sup></b> R.1 - Money laundering offence SR.II - Criminalisation of terrorist financing	<b>Core Recommendations</b> R.5 - Customer due diligence
<b>Key Recommendations<sup>3</sup></b> 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	<b>Key Recommendations</b> SR.III - Freezing and confiscating terrorist assets
<b>Other Recommendations</b> 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	<b>Other Recommendations</b> 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 on the Compliance Enhancing Procedures (CEPs)*

2. The purpose of this paper is to introduce BiH's Eleventh Compliance Report back to the Plenary concerning the progress that it has made since the adoption of the last compliance report at MONEYVAL's 47<sup>th</sup> Plenary in April 2015<sup>4</sup>.

<sup>1</sup> 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.

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

<sup>3</sup> 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

<sup>4</sup> An overview of BiH's CEPs process and the progress achieved until the 47<sup>th</sup> Plenary (September 2014) may be found in the Ninth and Tenth Compliance Reports at the following links: [https://www.coe.int/t/dghl/monitoring/moneyval/restricted/members/docscommittee/Plenary%2045/MONEYVAL\(2013\)32\\_BiH\\_CEP\\_ANALYSIS\(9th\).pdf](https://www.coe.int/t/dghl/monitoring/moneyval/restricted/members/docscommittee/Plenary%2045/MONEYVAL(2013)32_BiH_CEP_ANALYSIS(9th).pdf)

3. At the 45<sup>th</sup> Plenary, it was decided that since an on-site visit to BiH was scheduled to take place from 19 to 29 November 2014 under MONEYVAL's 4<sup>th</sup> Round of Evaluations, the Plenary would defer taking a decision on moving BiH to step 4 of the Compliance Enhancing Procedures (referral to the FATF's International Co-operation Review Group (ICRG)) until after the initial results of the on-site visit had been considered. It was agreed that the initial results would be communicated to the 46<sup>th</sup> Plenary in December 2014. The Plenary also decided that the public statement, which had been issued on 1 June 2014, would be retained and revised to reflect the adoption and entry into force of the anti-money laundering/counter-financing of terrorism (AML/CFT) law on 25 June 2014<sup>5</sup>.
4. At the 46<sup>th</sup> Plenary, the Secretariat provided an overview of the outcomes of the on-site visit, referring to some areas, such as confiscation of criminal proceeds, where the FATF Recommendations had been implemented effectively by BiH. Nevertheless, it was pointed out that significant technical deficiencies on a number of core issues still needed to be addressed. A decision was taken to maintain BiH under step 3 of the CEPs process, revise the public statement and, in the absence of meaningful progress by the 47<sup>th</sup> Plenary in April 2015 on amendments to the Criminal Code, in particular with respect to financing of terrorism (FT), refer BiH to the ICRG under step 4 of the CEPs process.
5. On 23 February 2015, during the ICRG meeting at the FATF February Plenary, a number of FATF members jointly nominated BiH for immediate referral to the ICRG process for failing to address serious and long-standing deficiencies in its AML/CFT regime. Following representations made by MONEYVAL's Chairman and Executive Secretary, the ICRG agreed that no action would be taken by the FATF until further decisions were taken by the MONEYVAL Plenary in April 2015. The ICRG decided that in the absence of sufficient progress by BiH before the MONEYVAL April plenary, it would proceed to a targeted review by June 2015. The BiH authorities were informed of these developments and urged to adopt all the amendments to the Criminal Code, particularly those concerning FT.
6. At the 47<sup>th</sup> Plenary, it was noted that BiH had taken steps to bring the FT offence in line with the FATF Standards, albeit some deficiencies still appeared to persist. The authorities were commended for taking measures to strengthen the FT law enforcement framework and the supervisory arm of the Financial Intelligence Department and for raising awareness on preventive measures among reporting entities. Nevertheless, since certain proposed amendments, particularly those intended to address outstanding deficiencies concerning Recommendations 1 and 3, had not been brought into force, the Plenary decided to move BiH to step 4 of the Compliance Enhancing procedures and refer BiH to the FATF's ICRG process<sup>6</sup>. The public statement, which had been issued on 1 June 2014, was revised.
7. On 16 July 2015, the BiH authorities submitted the Eleventh Compliance Report, together with a note on the latest significant developments since the 47<sup>th</sup> MONEYVAL plenary, to the MONEYVAL Secretariat, which are enclosed to this report in Annex I<sup>7</sup>. A brief secretariat analysis of the measures undertaken by the authorities is provided in Section 2 of this report. The conclusions of the analysis and the recommendations to the Plenary are set out in Section 3.

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[http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/Compliance/MONEYVAL\(2015\)14\\_BiH\\_10CEPreport.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/Compliance/MONEYVAL(2015)14_BiH_10CEPreport.pdf)

<sup>5</sup> A copy of the law may be found in the Ninth Compliance Report in the link provided above.

<sup>6</sup> The Europe/Eurasia Review Group (ERRG) of the ICRG has since conducted a targeted review of BiH. In June 2015, at the FATF's XXVI Plenary Meeting in Brisbane - Australia, the FATF Plenary adopted a concise, targeted action plan for BiH to address its strategic AML/CFT deficiencies. BiH made a high-level political commitment to work with the FATF and MONEYVAL to implement the action plan and was placed in the FATF list of monitored jurisdictions under the compliance document, 'Improving Global AML/CFT Compliance: on-going process'. BiH is expected to implement the action plan by January 2017.

<sup>7</sup> Progress achieved since the Tenth Compliance Report is marked in blue.

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

8. Since the adoption of the Tenth Compliance Report, BiH has addressed some of the major outstanding shortcomings identified in the Third Round MER. Notably, amendments to the Criminal Code were brought into force on 27 May 2015 to rectify the deficiencies concerning Recommendations 1 and 3. In order to enhance the CFT framework, a national strategy was adopted, which aims at suppressing extremist and terrorist activity and establishes a supervisory body<sup>8</sup> to monitor the implementation of the strategy. Additionally, a memorandum of understanding was signed on 8 July 2015 by the Minister of Interior of the Republic of Srpska, the Minister of Interior of the BH Federation and the Director of the Federal Police Administration to reinforce police cooperation in Banja Luka, particularly in combatting terrorism, extremism and organised crime. On 23 April a rulebook on the implementation of the AML/CFT Law and guidance on the manner of reporting were adopted by the Council of Ministers, which address various shortcomings identified in relation to the preventive measures that were still outstanding.

### 2.1 Legal Issues

#### Recommendation 1

9. Article 209 of the Criminal Code of BiH, which provides for the offence of ML, was amended on 27 May 2015. The new offence reads as follows:

*(1) Whoever accepts, exchanges, keeps, disposes of, uses in commercial or other activity, converts or transfers, otherwise conceals or tries to conceal money or proceeds, their nature, source, location, use of, movement, ownership or any other right, when such money or proceeds is gained by the perpetration of a criminal offence:*

*a) abroad or on the territory of the entire Bosnia and Herzegovina or on the territory of the two entities or on the territory of one entity and Brčko District of Bosnia and Herzegovina; or*

*b) prescribed by the Criminal Code of Bosnia and Herzegovina or by other law at the state level,*

*shall be punished by the imprisonment for a term between one and eight years.*

*(2) If the perpetrator of the act referred to in paragraph (1) is also a perpetrator of or an accomplice to the criminal offence whose perpetration resulted in the money or proceeds referred to in the previous paragraph, the perpetrator shall be punished by imprisonment for a term between one and ten years.*

*(3) If the money or property gain referred to in paragraph (1) of this Article exceeds the amount of 200,000 KM, the perpetrator shall be punished by imprisonment for a term between one and ten years not less than three years.*

*(4) If the perpetrator, during the perpetration of the criminal offences referred to in paragraphs 1 and 2 of this Article, acted negligently with respect to the fact that the money or property gain has been acquired through perpetration of criminal offence, he shall be punished by a fine or imprisonment for a term not exceeding three years.*

*(5) Money, proceeds and income or other benefits derived from the proceeds acquired through a criminal offence referred to in the paragraphs (1) to (4) of this Article shall be confiscated.*

*(6) Knowledge, intent or purpose as an element of a criminal offence set forth in the paragraph (1) of this Article may be inferred from objective, factual circumstances.*

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<sup>8</sup> The body comprises representatives from all levels of government involved in CFT.

10. Furthermore, definitions of “proceeds” and “property” were added under Article 1 of the Criminal Code, which mirror the language used in international standards and remove any remaining uncertainty as to the type of property that may be subject to laundering. These definitions read as follows:

*“Proceeds” means any economic advantage derived directly or indirectly from criminal offences and consists of any property;*

*“Property” includes property of any description, whether corporeal or incorporeal, material or immaterial, movable or immovable, and legal documents or instruments evidencing title to or interest in such property;*

11. The amended ML offence now clearly covers the “transfer of property”, which, according to the Third Round Evaluation, was the only material element of the ML offence that had not been criminalised. The new Article 209 also addresses the issue of concurrent jurisdiction between the authorities at state level, at Entity Level (the Federation of Bosnia and Herzegovina (FBiH) and the Republic of Srpska (RS)) and Brčko District. This was one of the major deficiencies concerning Recommendation 1 in the Third Round MER. This issue was addressed by specifying that the laundering offence at state level arises when the illicit property derives from a criminal offence committed (1) anywhere in BiH or (2) on the territory of the two entities, or (3) on the territory of one entity and Brčko District. As a result, irrespective of where the offence is committed within BiH, the authorities at state level will have the competence to investigate and prosecute ML. The ML offence now also stipulates that the laundering offence applies to money or proceeds deriving from a criminal offence committed outside of BiH.
12. The conditions under the previous version of Article 209(1), which were deemed by the Third Round evaluation team to be ambiguous (e.g. the laundering offence arises when it endangers the common economic space of BiH), were removed. A new provision (sub-article 6) was introduced to clarify that knowledge, intent or purpose as an element of the criminal offence may be inferred from objective factual circumstances, since the Third Round evaluation team had noted that there was uncertainty among practitioners regarding this issue, absent clear legal provisions.
13. In terms of effective implementation, the authorities referred to three final ML convictions, which have been secured since the 47<sup>th</sup> Plenary. All three convictions were prosecuted together with the predicate offence.

#### Conclusion

14. The recent amendments to the ML offence appear to have addressed the major outstanding points in the action plan concerning Recommendation 1. The authorities should now ensure that the ML offences at Entity level and the level of Brčko District are harmonised with the offence at state level, particularly as far as self-laundering is concerned, which is still not criminalised in FBiH and Brčko District.

#### Recommendation 3

15. Paragraphs (1) and (2) of Article 74 of the Criminal Code of BiH were amended in May 2015 with a view to implementing the recommendation made in relation to the confiscation of instrumentalities in the Third Round Evaluation. The new paragraphs read as follows:

*(1) Objects which are used or intended to be used, in any manner, wholly or in part, for the perpetration of a criminal offence, or which resulted from the perpetration of a criminal offence, shall be forfeited if they are owned by the perpetrator.*

*(2) The objects referred to in paragraph (1) of this Article shall be forfeited even if not owned by the perpetrator, but such forfeiture does not affect the rights of third parties to obtain damage compensation from the perpetrator.*

16. The confiscation of instrumentalities in the previous version of Article 74(1) was only possible provided that at least one or other of two conditions was met, which was considered as a shortcoming. The first condition required that there was a danger that the objects would be used

again for the perpetration of a criminal offence, and the second required that confiscation seemed necessary for the purpose of protecting the public safety or moral reasons. These conditions no longer feature in the amended version of either Article 74(1). However, the same conditions, which apply in the criminal codes of the FBiH and Brčko District, have not yet been removed. The confiscation of instrumentalities under the previous version of Article 74(2) was also conditional upon the existence of considerations of public safety or moral reasons. This is no longer the case at the state level. Amendments to similar provisions in the criminal codes of FBiK and Brčko District should be carried out to bring them in line with Article 74(2).

17. The provisions on confiscation in the Criminal Code of RS have not been amended yet to provide for the confiscation of income or other benefits and of proceeds which have been comingled with legitimate assets. However, it is worth mentioning that Article 209(5) of the Criminal Code of BiH was amended to clarify that the laundered property and the income or other benefits derived from such property, are subject to mandatory confiscation, although no recommendations had been made in this respect in the Third Round. Similarly, Article 110 of the Criminal Code of BiH, which provides for the confiscation of proceeds of crime, was amended to specify that indirect proceeds (income, profit or other benefits derived from proceeds) are also included. Article 110(1) now reads as follows:

*The Basis of the Confiscation of Proceeds*  
*Article 110*

*(1) Nobody is allowed to retain proceeds and income, profit or other benefits derived from proceeds, acquired by the perpetration of a criminal offence.*

*(2) The proceeds, income, profit or other benefits derived from 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.*

18. The authorities referred to four training seminars which were held in 2014 focussing on the application of provisional measures in the course of investigations to identify, trace and seize property which may be subject to confiscation. Ten prosecutors from the Brčko District attended these seminars. These seminars were organised as part of an effort to address the point in the Action Plan which requires the authorities to provide training on the application of provisional measures intended to prevent the dissipation of proceeds.

#### Conclusion

19. Most of the action points under the action plan have been addressed. The authorities should now ensure that the provisions dealing with confiscation at Entity level and the level of Brčko District are harmonised with the provisions at state level. The authorities should also continue training practitioners on financial investigations and the identification, tracing and seizure of proceeds of crime.

#### Other Recommendations

20. No further progress was achieved in relation to SR I, III and VIII. As stated in the Tenth Compliance Report, the FT offence was subject to a number of significant amendments in September 2014, although some minor deficiencies remain. This review noted positively that the BiH authorities have instituted criminal proceedings against a number of persons for the offences of terrorism and for joining “foreign paramilitary of para-police formations”.

#### 2.2 Financial Issues

21. Most of the outstanding deficiencies which applied to preventive measures were rectified with the coming into force of amendments to the AML/CFT Law on 25 June 2014. Following the 47<sup>th</sup> MONEYVAL Plenary, a rulebook on the implementation of the AML/CFT Law and guidance on the manner of reporting were adopted by the Council of Ministers were adopted on 23 April 2015, which address a number of remaining deficiencies concerning preventive measures. Turning to supervision, while the authorities have addressed some issues through the promulgation of the

AML/CFT Law, no further progress has been made. Additionally, no developments were reported in relation to Recommendation 33.

### **2.3 Law enforcement Issues**

22. There were only two outstanding issues in the Action Plan concerning law enforcement issues. These relate to SR IX and have not yet been addressed.

### **3. Overall conclusion and next steps (*Decision to be taken by Bureau*)**

23. BiH has made some important progress since the adoption of the Tenth Compliance Report adopted at the 47<sup>th</sup> MONEYVAL Plenary in April 2015, particularly as a result of the adoption of the amendments to the Criminal Code, which are intended to address deficiencies concerning Recommendations 1 and 3. Nevertheless, no significant progress has been made in relation to Recommendations 11, 16, 17, 21, 23, 24 and 33 and Special Recommendations I, III, VIII, and XI, since the adoption of the Ninth Compliance Report in September 2014. The outstanding action points referred to in that report still apply. These action points have in the meantime been subject to review in the context of BiH's Fourth Round Evaluation, which took place in November 2014.
24. In light of the progress made and the fact that BiH will be subject to the Fourth Round Follow-up Process after the adoption of the Mutual Evaluation Report at the 48<sup>th</sup> Plenary, the Plenary decided to remove BiH from the Compliance Enhancing Procedures. It was agreed that the outstanding action points referred to in the Ninth Compliance Report would be followed-up together with the deficiencies identified in the Fourth Round Mutual Evaluation Report. The Plenary also decided that the public statement, which was issued on 1 June 2014, would be withdrawn, since the remaining deficiencies on the basis of which the statement was revised, particularly those relating to Recommendations 1, 3 and SR II, had been largely addressed.

MONEYVAL Secretariat  
September 2015



## **Annex I**

Moneyval Delegation of Bosnia and Herzegovina  
State Investigation and Protection Agency  
Financial Intelligence Department  
Nikole Tesle 59  
71123 Istočno Sarajevo  
Bosnia and Herzegovina

Mr. Anton Bartolo,  
Chairman of MONEYVAL  
SECRETARIAT GENERAL  
DIRECTORATE GENERAL  
HUMAN RIGHTS AND RULE OF LAW

Sarajevo, 16 July 2015

Dear Mr. Bartolo,

I would like to inform you about the latest significant changes that have occurred since the time frame upon which they can be taken into consideration for the Fourth Round MER, in line with your letter 21 May 2015.

As we have already informed you, a new Council of Ministers of Bosnia and Herzegovina was appointed on 31 March 2015, and up to now it has initiated and adopted all relevant by-laws and initiated the development of important documents on anti money laundering and financing of terrorist activities.

Therefore, I would like to inform you that the Council of Ministers, in its fourth session held on 23 April 2015, adopted the Rulebook on the implementation of the Law on prevention of money laundering and financing of terrorist activities, further regulating this area and facilitating the implementation of the Law on prevention of money laundering and financing of terrorist activities, as well as the Guidelines on the method of filling in the form and electronic entry of data for reporting cash transactions by obliged entities, setting out the method for filling in the form and electronic entry of data in the process of reporting cash transactions to the Financial Intelligence Department of the State Investigation and Protection Agency, which was developed in line with international standards on anti money laundering and terrorism financing (published in the Official Gazette of BH, no. 41/15).

At its 7th session, held on 14 May 2015, the Council of Ministers BH adopted the Decision on the Appointment of the Delegation of Bosnia and Herzegovina in the Committee of Experts of the Council of Europe for Evaluation of Anti Money Laundering and Combating Terrorism Financing (Moneyval Committee). The BH Moneyval Delegation has eight members, the Head is the representative of the Financial Intelligence Department, and other members are representatives from the state level Ministries of Justice and Security, Ministries of Interior of the Republic of Srpska and Federation BH and Entity level and Brčko District BH Banking Agencies (published in the Official Gazette of BH, no. 45/15).

On 18 May 2015, the House of Peoples of Bosnia and Herzegovina adopted a set of required amendments to the Criminal Code of BH, which among other things resolved the issue of perpetration and division of competence for the criminal offences of money laundering and financing of terrorist activities contained in the Criminal Codes of BH, entities and Brčko District BH, for the elimination of potential conflict of competence between their police and

judicial authorities, in line with the FATF Recommendations. These amendments to the Law also define the obligation of confiscation of property gain acquired by a criminal offence and from individuals to whom it was transferred (published in the Official Gazette of BH, no. 40/15 dated 19 May 2015).

At 14th session of the Council of Ministers BH held on 8 July 2015, the Strategy of Bosnia and Herzegovina for the prevention and combating of terrorism 2015-2020 was adopted with the aim to continue prevention of terrorism and terrorism related events in BH and meet international obligations. The purpose of the Strategy is to suppress all types of extremist and terrorist activity in compliance with the values of democracy, rule of law and human rights and freedoms, in order to make Bosnia and Herzegovina a territory safe for life and work of its citizens and persons residing there. This Strategy provides for the establishment of the supervisory body that would include representatives from relevant institutions from all levels of government for monitoring its application and implementing all activities in the fulfilment of the set strategic objectives.

The Strategy is based on the approach by the European Union in preventing and combating terrorism, in line with the documents by the United Nations and NATO.

On 08 July 2015, the Minister of Interior of the Republic of Srpska, Minister of Interior of the Federation BH and Director of the Federal Police Administration signed the Memorandum on reinforcement of police cooperation between MoI RS and MoI FBH in Banja Luka. The Memorandum implies improvement of cooperation in combating terrorism and extremism, exchange of information and experiences in police cooperation, protection of individuals under the special protection in BH, combating organised crime and all other types of crime.

It is important to emphasise that a regional conference on suppression of terrorism through non-profit organisations, "Supporting the Prevention of Abuse of Non-profit Organizations for Financing of Terrorism", was held in Sarajevo 14-16 July 2015, organised by the OSCE and Ministry of Security BH, where in addition to relevant representatives from the national institutions and agencies covering this issue, representatives from the private sector, including some representatives from the non-governmental sector, and representatives from the countries in the region and international organisations also took part. Experiences and positive practices in the prevention of terrorism financing by abuse of non-profit organisations in the OSCE member countries in South-East Europe were exchanged in the workshop.

In this period, three (3) final judgements were pronounced for the criminal offence of money laundering in the Court of Bosnia and Herzegovina, out of which I would particularly like to emphasise the judgement no. S1 2 K 006087 14 Kžk, because the accused individuals were finally convicted to long term prison sentences, including confiscation of finances, real estate, shares etc. proved to originate from the perpetration of criminal offences (please find attached brief excerpts from the mentioned judgements).

In addition, on 15 July 2015, the Court of Bosnia and Herzegovina pronounced the final judgement for the criminal offence of terrorism, whereby one physical person, a national of Bosnia and Herzegovina, was convicted to a long term prison sentence of 35 years.

We would also like to inform you that the Prosecutor's Office BH issued three (3) indictments against the total of 14 physical persons, nationals of Bosnia and Herzegovina, for the criminal offences of terrorism and one (1) indictment against four individuals, nationals of Bosnia and

Herzegovina, for the criminal offence of “unlawful establishment and joining foreign paramilitary or parapolice formations” stipulated by the Criminal Code BH.

It is our opinion that the above mentioned changes are an indicator of important progress of Bosnia and Herzegovina in the prevention of money laundering and financing of terrorist activities, that they will be taken into account in the process of making a decision on the upcoming procedures in the framework of the fourth round to be applied to Bosnia and Herzegovina and that they will also reflect positively on a revised public statement, including all other activities and events with reference to the status of Bosnia and Herzegovina.

I would like to thank you for your understanding and cooperation, and if any additional clarifications are required, please contact me.

Respectfully,

Damirka Mioč

Head of BH MONEYVAL Delegation

**BOSNIA AND HERZEGOVINA**  
**PROGRESS AGAINST SHORT, MEDIUM AND LONG TERM OBJECTIVES IN THE ACTION PLAN**

[Version: 16 July 2015](#)

**Note:**

**Short term** refers to a time period up to six months

**Medium term** refers to a time period up to one year

**Long term** refers to a time period up to two years

**\*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: <b>short/medium term</b>	Owner of activity	<b>Corrective measure(s) taken by the authorities to address the identified concern</b>
<b>R.1</b>				
Ensure full compliance with Article 3 of the Vienna Convention and Article 6 of the Palermo Convention by clearly incriminating the “transfer of property” in all Criminal Codes;*	Annual agenda of the Ministry of Justice of BiH has provided drafting of the Law on amendments to the Criminal Code of BiH, where will be made also amendments to Article 209 hereof governing money laundering in compliance with Article 3 of the Vienna Convention and Article 6 of the Palermo Convention Abovementioned law shall contain a provision under which the competent authorities of the Federation of Bosnia and Herzegovina, Republic of Srpska and the Brcko District of Bosnia and Herzegovina shall harmonize criminal laws with this law within a specified period from the date of enactment of this law.	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	

**Please provide details of when the Law on amendments to the Criminal Code of BiH was adopted and came into effect.  
 Amendments to the Criminal Code of Bosnia and Herzegovina come into force on 27th May, 2015. (Official Guzzetti of BiH, 40/15 from 19th May 2015)  
 Please provide an English translation of the amended text of Article 209 of the Criminal Code as adopted and in force.**

**Money Laundering  
 Article 209**

- (1) Whoever accepts, exchanges, keeps, disposes of, uses in commercial or other activity, otherwise conceals or tries to conceal money or property he knows was acquired through perpetration of criminal offence, when such a money or property is of larger value or when such an act endangers the common economic space of Bosnia and Herzegovina or has detrimental consequences to the operations or financing of institutions of Bosnia and Herzegovina, shall be punished by imprisonment for a term between six months and five years one and eight years.
- (2) If the perpetrator of the act referred to in Paragraph (1) is also a perpetrator of or an accomplice to the criminal offense whose perpetration resulted in the money or property gain referred to in the previous Paragraph, the perpetrator shall be punished by imprisonment for a term between one and ten years.
- (3) If the money or property gain referred to in paragraphs 1 of this Article exceeds the amount of 200,000 KM, the perpetrator shall be punished by imprisonment for a term between one and ten years not less than three years.
- (4) If the perpetrator, during the perpetration of the criminal offences referred to in paragraphs 1 and 2 of this Article, acted negligently with respect to the fact that the money or property gain has been acquired through perpetration of criminal offence, he shall be punished by a fine or imprisonment for a term not exceeding three years.
- (5) The money and property gain referred to in paragraph 1 through 3 4 shall be forfeited.

**Article 209 is amended to read:**

In the Article 209, paragraph (1) is amended to read:

Whoever accepts, exchanges, keeps, disposes of, uses in commercial or other activity, converts or transfers, otherwise conceals or tries to conceal money or property, their nature, source, location, use of, movement, ownership or any other right, when such money or proceeds is gained by the perpetration of a criminal offence:

- a) abroad or on the territory of the entire Bosnia and Herzegovina or on the territory of the two entities or on the territory of one entity and Brčko District of Bosnia and Herzegovina; or
- b) prescribed by the Criminal Code of Bosnia and Herzegovina or by other law at the state level,
- shall be punished by the imprisonment for a term between one and eight years. “

In the paragraph (2), the words “property gain” is replaced by the word “proceeds”.

Paragraph (5) is hereby amended and it reads: „ (5) Money, proceeds and income or other benefits derived from the proceeds acquired through a criminal offence referred to in the paragraphs (1) to (4) of this Article shall be confiscated.

After the paragraph (5) a new paragraph (6) is added and it reads: „(6) Knowledge, intent or purpose as an element of a criminal offence set forth in the paragraph (1) of this Article may be inferred from objective, factual circumstances.”

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	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	Adoption of Criminal Codes - medium term)	Ministry Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and	
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<p>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>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. Abovementioned law shall contain a provision under which the competent authorities of the Federation of Bosnia and Herzegovina, Republic of Srpska and the Brcko District of Bosnia and Herzegovina shall harmonize criminal laws with this law within a specified period from the date of enactment of this law.</p>		<p>Brcko District</p>	
<p><b>Please set out the conclusions of the discussions on the possibility of criminalization of money laundering only at the state level.</b>  <b>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.</b>  <b>Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</b>  <b>We consider that this requirement was met by adoption of amendments to Article 209 that we have presented in the previous question.</b></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</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>	

merely by the application of value limitations.				
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**Please provide information on whether Article 209 has been reviewed if money laundering is not criminalized exclusively at state level. We consider that this requirement was filed by adoption of amendments to Article 209 that we have presented in the previous question. Article 209 is amended to read:**  
 In the Article 209, paragraph (1) is amended to read:  
 Whoever accepts, exchanges, keeps, disposes of, uses in commercial or other activity, converts or transfers, otherwise conceals or tries to conceal money or property, their nature, source, location, use of, movement, ownership or any other right, when such money or proceeds is gained by the perpetration of a criminal offence:  
 a) abroad or on the territory of the entire Bosnia and Herzegovina or on the territory of the two entities or on the territory of one entity and Brčko District of Bosnia and Herzegovina; or  
 b) prescribed by the Criminal Code of Bosnia and Herzegovina or by other law at the state level,  
 shall be punished by the imprisonment for a term between one and eight years. “  
**Please provide an English translation of the amended text of Article 209 of the Criminal Code as adopted and in force.**

25.

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.	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.	Adoption of Criminal Codes - medium term)	Ministry of Justice of Bosnia and Herzegovina	1.
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**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.**

**According to the amended Article 209, the threshold is not a requirement any more. There is a clear territorial jurisdiction within the country regarding criminal offence of money laundering.**

<p><b>Article 209 is amended to read:</b>  In the Article 209, paragraph (1) is amended to read:  Whoever accepts, exchanges, keeps, disposes of, uses in commercial or other activity, converts or transfers, otherwise conceals or tries to conceal money or property, their nature, source, location, use of, movement, ownership or any other right, when such money or proceeds is gained by the perpetration of a criminal offence:  a) abroad or on the territory of the entire Bosnia and Herzegovina or on the territory of the two entities or on the territory of one entity and Brčko District of Bosnia and Herzegovina; or  b) prescribed by the Criminal Code of Bosnia and Herzegovina or by other law at the state level,  shall be punished by the imprisonment for a term between one and eight years. “  In the paragraph (2), the words “property gain” is replaced by the word “proceeds”.  Paragraph (5) is hereby amended and it reads: „ (5) Money, proceeds and income or other benefits derived from the proceeds acquired through a criminal offence referred to in the paragraphs (1) to (4) of this Article shall be confiscated.  After the paragraph (5) a new paragraph (6) is added and it reads: „(6) Knowledge, intent or purpose as an element of a criminal offence set forth in the paragraph (1) of this Article may be inferred from objective, factual circumstances.”</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 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>				
Amendments to the Criminal Codes of Federation and Brcko District will provide including “own proceeds” laundering	Medium term	Ministry of Justice of Federation of Bosnia and Herzegovina and Brcko District.		
<p><b>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.</b></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.	



<b>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.</b>				
The uncertainty over whether the intentional element of ML may be inferred from objective factual circumstances should be addressed by appropriate guidance from the judiciary at the level of the Entities and Brcko District.	Proper guidance from the judiciary at the level of entities and Brcko District will remove the uncertainty whether the intent element of money laundering may be inferred from objective factual circumstances	Medium term	Competent courts at levels of entities and Brcko District level	
<b>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.</b>				
Legislation should be introduced at all levels to allow the prosecuting and convicting of defendants in absentia	BiH Authorities shall consider the possibility of prosecuting and convicting of defendants in absentia	Medium term	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District.	
<b>Please provide details of any legislation introduced to allow the prosecuting and convicting of defendants in absentia</b>				
<b>Please provide details of any prosecutions and convictions of defendants in absentia.</b>				
<b>Please provide an English translation of any appropriate legislation as adopted and in force.</b>				
<b>R.3</b>				
The provisions on confiscation in the Criminal Code of Republic Srpska should be amended to enable the	Amend the provisions in the Criminal Code of the Republic of Srpska to enable confiscation of	Medium term	Ministry of Justice of RS	

confiscation of income or other benefits. Equally, confiscation of proceeds commingled with legitimate assets should also be provided for.	proceeds or other benefits. Also, confiscation of proceeds commingled with legitimate assets shall be prescribed.			
<p><b>Please provide details of amendments to the Criminal Code of Republic Srpska to enable the confiscation of income or other benefits.</b>  <b>Please provide details of any steps taken to allow confiscation of proceeds commingled with legitimate assets.</b>  <b>Please provide an English translation of any appropriate legislation as adopted and in force.</b></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 based on public safety or moral reasons etc.) so that the confiscation of such objects can actually be mandatory	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 based on public safety or moral reasons etc.) so that the confiscation of such objects can actually be mandatory	Medium term	Ministry of Justice of BiH and Ministry of Justice at Entity level and District Brcko.	
<p><b>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.</b>  <b>Amendments to the Criminal Code of Bosnia and Herzegovina come into force on 19<sup>th</sup> May, 2015. (Official Gazzetti of BiH, 40/15)</b>  <b>Please provide an English translation of the amended text of relevant Articles of the Criminal Codes as adopted and in force.</b></p> <p>In Article 1, the definitions of proceeds and property <b>are added</b>:</p> <p>(26) "proceeds" means any economic advantage, derived, directly or indirectly, from criminal offences and it consists of any property.</p>				

(27) "property" includes property of any description, whether corporeal or incorporeal, material or immaterial, movable or immovable, and legal documents or instruments evidencing title to or interest in such property

**Article 74 is amended to read:**

**Forfeiture**

**Article 74**

(1) Objects which are used or intended to be used, in any manner, wholly or in part, for perpetration of a criminal offence, or which resulted from the perpetration of a criminal offence, shall be forfeited if they are owned by the perpetrator.

(2) Objects referred to in paragraph 1 of this Article shall be forfeited even if not owned by the perpetrator, but such forfeiture does not affect the rights of third parties to obtain damage compensation from the perpetrator.

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.	
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**Please provide details of steps taken to remove overly insubstantial preconditions of *in rem* confiscation of instrumentalities and other objects at all levels.**  
 We consider that this requirement was fulfilled by adoption of Amendments to the Criminal Code of Bosnia and Herzegovina come into force on 19<sup>th</sup> May, 2015. (Official Gazzetti of BiH, 40/15)

We would specially like to like to draw your attention to Article 110a is amended as follows:

In the Article 110a, paragraph (1), after the word "proceeds" the words "income, profit or other benefits derived from proceeds" are added, and after the word "proceeds", the words "income, profit or other benefits derived from proceeds" are added.

After the paragraph (1), the paragraph (2) is added:

"In cases when the conditions for the forfeiture of proceeds, income, profit or other benefits from proceeds, laid down by law, , are not met in the criminal procedure, the request for the forfeiture **may be filed in a civil procedure**".

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

### **The Basis of the Confiscation of Proceeds**

#### **Article 110**

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

(2) 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.

#### **Article 110 is amended as follows**

In the Article 110, after the word “proceeds”, the words “income, profit or other benefits derived from proceeds” are added.

In paragraph (2) the word “proceeds” is replaced by the words: “proceeds, income, profit or other benefits derived from proceeds”.

### **Expanded Confiscation of Material Gain Acquired Through Perpetration of a Criminal Offence**

#### **Article 110a**

In cases of criminal proceedings for criminal offences referred to in chapters XVII, XVIII, XIX, XXI, XXI A and XXII of this Law, the court can also decide, on basis of Article 11 paragraph (2), to order confiscation material gain for which the prosecutor provides sufficient evidence that there is reasonable suspicion that it was acquired through execution of these criminal offences, and the accused person did not provide evidence to prove that the material gain was acquired legally.

#### **Article 110a is amended as follows**

In the Article 110a, paragraph (1), after the word “proceeds” the words “income, profit or other benefits derived from proceeds” are added, and after the word “proceeds”, the words “income, profit or other benefits derived from proceeds” are added.

After the paragraph (1), the paragraph (2) is added:

“In cases when the conditions for the forfeiture of proceeds, income, profit or other benefits from proceeds, laid down by law, , are not met in the criminal procedure, , the request for the forfeiture may be filed in a civil procedure”.

## Ways of Confiscating Material Gain

### Article 111

(1) All the money, valuable objects and every other material gain acquired by the perpetration of a criminal offence may be confiscated from the perpetrator, and in case the confiscation is not feasible - the perpetrator shall be obliged to pay an amount of money which corresponds to the acquired material gain. Material gain acquired by perpetration of a criminal offence may be confiscated from persons to whom it has been transferred without compensation or with a compensation which does not correspond to the real value, if the persons knew or should have known that the material gain had been acquired by the perpetration of a criminal offence.

(2) If proceeds of a criminal offence have been intermingled with property acquired from legitimate sources, such property may be liable to confiscation not exceeding the assessed value of the intermingled proceeds.

(3) Income or other benefits derived from the proceeds of a criminal offence, from property into which proceeds of criminal offence have been converted, or from property with which proceeds of criminal offence have been intermingled may also be liable to the measures referred to in this Article, in the same manner and extent as the proceeds of the criminal offence.

### Article 111 is amended as follows

In the Article 111, paragraph (1), the words “may be confiscated” are replaced by the words “shall be confiscated”.

In the paragraph (2), the words “may be” are replaced by the words “shall be”.

In the paragraph (3), the words “may be” are replaced by the words “shall be”.

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	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.	Medium term	Ministry of Justice of BiH, and Ministry of Justice at Entity level and District Brcko	
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from criminal offences.				
<p><b>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.</b></p> <p><b>Please provide an English translation of any appropriate legislation as adopted and in force.</b></p>				
Domestic authorities should review the practical functioning of provisions on confiscation and provisional measures to assess their overall effectiveness to ensure that they are fully operational and to satisfy themselves that the necessary tools are really in place for a complete and effective system. Such a review should primarily be supported by compiling and maintaining of comprehensive and precise statistics on the volume and effectiveness of confiscation and the provisional measures.	Revise the practical functioning of provisions on confiscation and provisional measures to assess their overall effectiveness to ensure that they are fully operational and to satisfy themselves that the necessary tools are really in place for a complete and effective system. Provide maintaining of comprehensive and precise statistics on the volume and effectiveness of confiscation and the provisional measures.	Medium term	Ministry of Justice of BiH, and Ministry of Justice at Entity level and District Brcko	
<p><b>Please set out the steps taken to review the practical functioning of provisions on confiscation and provisional measures to assess their overall effectiveness.</b></p> <p><b>Please provide supporting statistics as an annex to the report.</b></p>				
Domestic authorities should review the	Revise the specific confiscation rule in CC-BiH Article 209(4)	Medium term	Ministry of Justice of BiH, and Ministry of	

<p>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.</p>	<p>and identical non-state rules either in themselves or in combination with Article 74</p>		<p>Justice at Entity level and District Brcko</p>	
<p><b>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.</b>  We consider that this requirement was fulfilled by adoption of Amendments to the Criminal Code of Bosnia and Herzegovina come into force on 19<sup>th</sup> May, 2015. (Official Guzzetti of BiH, 40/15)  <b>Please provide an English translation of the amended text of relevant articles of the Criminal Code of BiH as adopted and in force.</b></p> <p><b>Article 74 is amended to read:</b></p> <p>Forfeiture</p> <p>Article 74</p> <p>(1) Objects which are used or intended to be used, in any manner, wholly or in part, for perpetration of a criminal offence, or which resulted from the perpetration of a criminal offence, shall be forfeited if they are owned by the perpetrator.</p> <p>(2) Objects referred to in paragraph 1 of this Article shall be forfeited even if not owned by the perpetrator, but such forfeiture does not affect the rights of third parties to obtain damage compensation from the perpetrator.</p> <p style="text-align: center;"><b>Money Laundering (FORMER VERSION)</b>  <b>Article 209</b></p> <p>(1) Whoever accepts, exchanges, keeps, disposes of, uses in commercial or other activity, otherwise conceals or tries to conceal money or property he knows was acquired through perpetration of criminal offence, when such a money or property is of larger value or when such an act endangers the common economic space of</p>				

Bosnia and Herzegovina or has detrimental consequences to the operations or financing of institutions of Bosnia and Herzegovina, shall be punished by imprisonment for a term between six months and five years one and eight years.

(2) If the perpetrator of the act referred to in Paragraph (1) is also a perpetrator of or an accomplice to the criminal offense whose perpetration resulted in the money or property gain referred to in the previous Paragraph, the perpetrator shall be punished by imprisonment for a term between one and ten years.

(3) If the money or property gain referred to in paragraphs 1 of this Article exceeds the amount of 200,000 KM, the perpetrator shall be punished by imprisonment for a term between one and ten years not less than three years.

(4) If the perpetrator, during the perpetration of the criminal offences referred to in paragraphs 1 and 2 of this Article, acted negligently with respect to the fact that the money or property gain has been acquired through perpetration of criminal offence, he shall be punished by a fine or imprisonment for a term not exceeding three years.

(5) The money and property gain referred to in paragraph 1 through 3 4 shall be forfeited.

**Article 209 is amended to read:**

In the Article 209, paragraph (1) is amended to read:

Whoever accepts, exchanges, keeps, disposes of, uses in commercial or other activity, converts or transfers, otherwise conceals or tries to conceal money or property, their nature, source, location, use of, movement, ownership or any other right, when such money or proceeds is gained by the perpetration of a criminal offence:

a) abroad or on the territory of the entire Bosnia and Herzegovina or on the territory of the two entities or on the territory of one entity and Brčko District of Bosnia and Herzegovina; or

b) prescribed by the Criminal Code of Bosnia and Herzegovina or by other law at the state level, shall be punished by the imprisonment for a term between one and eight years. “

In the paragraph (2), the words “property gain” is replaced by the word “proceeds”.

Paragraph (5) is hereby amended and it reads: „ (5) Money, proceeds and income or other benefits derived from the proceeds acquired through a criminal offence referred to in the paragraphs (1) to (4) of this Article shall be confiscated.

After the paragraph (5) a new paragraph (6) is added and it reads: „(6) Knowledge, intent or purpose as an element of a criminal offence set forth in the paragraph (1) of this Article may be inferred from objective, factual circumstances.”

<p>A much greater emphasis needs to be given to the taking of provisional measures at early stages of investigations to support more confiscation requests upon conviction. A clear understanding is required of how early in criminal investigations the preliminary measures could be taken and the practitioners should be orientated, either by adequate guidance or training, to apply these measures as early as possible to prevent dissipation of proceeds.</p>	<p>There have been continuous trainings for judges and prosecutors dealing with these types of cases which include trainings – seminars organised by the Centre for Education of Judges and Prosecutors FB&amp;H, RS and BD B&amp;H,</p>	<p>Short term</p>	<p>Centre for Education of Judges and Prosecutors FB&amp;H, RS and BD B&amp;H.</p>	
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<b>Please provide details of training and other initiatives undertaken.</b>				
In 2014, in the organisation of CEFT, there were four seminars that also covered the mentioned topics, and they were attended by 10 Prosecutors from Brčko District.				
<b>Training on Current Legislation Date: XX</b>				
	<b>BiH</b>	<b>FBiH</b>	<b>Republic Srpska</b>	<b>Brcko District</b>
<b>Judges</b>				
<b>Prosecutors</b>				
<b>Other</b>				
In most of the cases, the prosecution is still mainly targeted at proving the predicate crime and thus no further investigation takes place to follow the trail of the proceeds. As far as this is result of inadequate staffing and lack of necessary trainings these shortcomings must urgently be remedied by competent authorities at all levels. Equally, the authorities should seek for a solution to the problem underlying this trend, that is, the overly high standard of proof applied by the trial courts with regard to the confiscation of the proceeds of crime.	There have been continuous trainings for judges and prosecutors dealing with these types of cases which include trainings – seminars organised by the Centre for Education of Judges and Prosecutors FB&H, RS and BD B&H.	Short term	Centre for Education of Judges and Prosecutors of FB&H, RS and BD of B&H	
<b>Please provide details of training and other initiatives undertaken.</b>				
In 2014, in the organisation of CEFT, there were four seminars that also covered the mentioned topics, and they were attended by 10 Prosecutors from Brčko				
<b>Training on Current Legislation Date: XX</b>				
	<b>BiH</b>	<b>FBiH</b>	<b>Republic Srpska</b>	<b>Brcko District</b>
<b>Judges</b>				
<b>Prosecutors</b>				
<b>Other</b>				
<b>R.5</b>				
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	26. New Articles 31-34 of the AML/CFT Law address remaining deficiencies..

<p><b>Please provide an English translation of those clauses of the revised Article 26 of the AML/CFT Law as adopted and in force.</b>  <a href="#">Please see in the Law AML/CFT attached.</a></p>				
<p>Review the definition of “transactions” in the new AML/CFT Law</p>	<p>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.</p>	<p>Adoption of amendments on AML Law - medium term)</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>27. New Articles 3 point a of the AML/CFT Law address remaining deficiency.  <i>Transaction</i> means any type of receiving, giving, keeping, exchanging, transferring, using or other way of handling money or property by liable persons, including cash transactions</p>
<p><b>Please provide details of revision of the definition of “transactions” in the new AML/CFT Law.</b>  <b>Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</b>  <a href="#">Please see in the Law AML/CFT attached ,</a></p>				
<p>Article 15 of the new AML Law should be considered*</p>		<p>Short term</p>	<p>Regulatory agencies at all levels in BiH and FIU</p>	
<p><b>Please provide an English translation of those clauses of the revised Article 15 of the AML/CFT Law as adopted and in force.</b>  <a href="#">Please see in the Law AML/CFT attached.</a></p>				
<p>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;</p>	<p>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.</p>	<p>Adoption of amendments on AML Law - medium term)</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>28. New Articles 23 paragraph 2 of the AML/CFT Law address remaining deficiency  The liable person may apply intensified identification and supervision measures in some other cases when, due to the nature of a business relationship or the manner of</p>

				transaction, the client's business profile or other circumstances related to the client, on the basis of the risk assessment referred to in Article 5 hereof, there is or there may be a great risk of money laundering or financing terrorist activities
<p><b>Please provide details of the legal obligations to apply CDD measures to existing customers.</b>  <b>Please provide an English translation of the relevant articles of the AML/CFT Law as adopted and in force.</b>  <a href="#">Please see in the Law AML/CFT attached.</a></p>				
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	New Article 16 of the AML CFT Law addressees this deficiency.
<p><b>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.</b>  <b>Please provide an English translation of relevant articles of the AML/CFT Law as adopted and in force.</b>  <a href="#">Please see in the Law AML/CFT attached.</a></p>				
Establish clear requirements for financial institutions to conduct on-going 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	29. New Articles 7 and 21 of the AML/CFT Law address remaining deficiencies..
<p><b>Please details of any clear requirements for financial institutions to conduct on-going due diligence on the business relationship.</b>  <b>Please provide an English translation of relevant articles of the AML/CFT Law as adopted and in force.</b></p>				

<b>Please see in the Law AML/CFT attached.</b>				
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	30. New Article 8 of the AML/CFT Law address remaining deficiencies.. Article 8 (Declining a business relationship and a transaction) (1) A liable person unable to implement measures referred to in Article 7 paragraph (1) Items a), b) and c) hereof shall not establish a business relationship or make a transaction, or shall discontinue a business relationship already established. (2) In case of a situation referred to in paragraph (1) hereof, the liable person shall inform the FID on declining or discontinuing a business relationship and on the refusal to make a transaction, and shall submit to the FID all the previously collected data on the client or transaction under Articles 38 and 39 hereof.
<b>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.</b> <b>Please see in the Law AML/CFT attached.</b>				

<p>Require obliged entities to consider the termination of business where a business relationship is established but the identification process cannot be completed</p>	<p>The new amendments to AML/CFT Law will be amended. After Article 7, new 7a is added which will include this objection.</p>	<p>Adoption of amendments on AML Law - medium term)</p>	<p>Council of Ministers of BiH</p>	<p>31. New Articles 8 of the AML/CFT Law address remaining deficiencies..  Article 8  (Declining a business relationship and a transaction)  (1) A liable person unable to implement measures referred to in Article 7 paragraph (1) Items a), b) and c) hereof shall not establish a business relationship or make a transaction, or shall discontinue a business relationship already established.  (2) In case of a situation referred to in paragraph (1) hereof, the liable person shall inform the FID on declining or discontinuing a business relationship and on the refusal to make a transaction, and shall submit to the FID all the previously collected data on the client or transaction under Articles 38 and 39 hereof.</p>
<p><b>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.</b>  <b>Please provide an English translation of those clauses of the revised Article 7 of the AML/CFT Law as adopted and in force.</b>  <a href="#">Please see in the Law AML/CFT attached.</a></p>				

R.6				
<p>At the time of the on-site visit PEPs were only partially and limitedly addressed and only for the banking sector. However even these provisions did not entirely cover the requirements for Recommendation 6. There did not appear to be any similar provisions for the whole financial sector. Although the new law now provides for the treatment of PEPs, still there is a need to create awareness and provide guidance on the identification process, including where the beneficial owner is a PEP.*</p>	<p>Make amendments to the AML/CFT Law and harmonize it with the essential criteria of Recommendation 6.</p>	<p>Adoption of amendments on AML Law - medium term.</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>32. New Article 27 and Article 3. Paragraph 1. Subparagraphs t), u) v), z) and aa) of the AML/CFT Law address remaining deficiencies.. It is necessary in the coming period after the adoption of law to bring:</p>
	<p>Amend a guidebook in order to introduce a requirement for financial institutions to obtain senior management approval to continue the business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.</p>	<p>Short term</p>	<p>Regulatory agencies at state and entities levels</p>	<p>Guidebook in order to introduce a requirement for financial institutions to obtain senior management approval to continue the business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.</p>
	<p>Create a training plan for all participants from the financial sector in order to raise awareness</p>	<p>Short term</p>	<p>Regulatory agencies at state and entities levels</p>	<p>Create a training plan for all participants from the financial sector in order to raise awareness  As of October 2014, within Financial Intelligence Department there are budgeted two positions for training and supervision – two persons employed –</p>

				<p>description given below.</p> <p>Two trainings – as described below.</p>
<p><b>Please provide information on amendments to the AML/CFT Law in order to harmonize it with the essential criteria of Recommendation 6.</b></p> <p><b>Please provide an English translation of relevant articles of the AML/CFT Law as adopted and in force.</b></p> <p><b><u>Please see in the Law AML/CFT attached.</u></b></p>				
<p>Excerpt from Rulebook of internal organization and job classification of the State Investigation and Protection Agency – Financial Intelligence Department:</p> <p><b>SENIOR ADVISOR FOR TRAINING AND SUPERVISION</b></p> <p>Job description: Organises and actively takes part in professional training of authorised persons and employees with obligors, directly or indirectly responsible for work related to the implementation of regulation on prevention of money laundering and/or financing of terrorist activities, directly takes part in the adoption of supervision procedures and performs supervision of the work of obligors in terms of the implementation of regulation on the prevention of money laundering and financing of terrorist activities, takes action on elimination of detected irregularities in the work of obligors and their employees, as well as their supervisory bodies, keeps records on authorised persons and their deputies and records on performed trainings and supervision, performs other work in accordance with the law and as assigned by the Head of Section. For his/her work, he/she is directly responsible to the Head of Section.</p> <p>Special requirements for the job: University Degree – Faculty of Law or Economics or other faculty of social studies, or equivalent of the Bologna education system with minimally 240 ECTS points, not less than three years of experience in the same or similar work, professional administrative exam passed, knowledge of regulation on the protection of secret data, computer literacy.</p> <p>Status and category: Civil servant – Senior Advisor</p> <p>Number of employees: 2</p>				
<p><b>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.</b></p>				
<p><b>Please provide details of awareness raising seminars and trainings conducted since June 2012.</b></p> <p>Since 46<sup>th</sup> Plenary, there were two major seminars:</p> <p>1. On 24<sup>th</sup> February - half day long seminar for DNFBPs from Brcko District BiH with more than 40 participants – accountants, auditors, real estate, games of chance and car dealers, which was general awareness rising of the provisions of the new AML/CFT Law and DNFBPs responsibilities.</p> <p>The same day there was haf day long seminar for 17 representatives of the Tax authority of Brcko District who are now responsible for supervision of DNFBPs.</p>				

2. VII. Seminar organized by the Consulting Company "Revicon LTD" – for 116 representatives of different obliged entities – mostly financial institutions, with different topics, including relevant provisions of the new AML/CFT Law.

**Seminars conducted since June 2012**

	<b>BiH</b>	<b>FBiH</b>	<b>Republic Srpska</b>	<b>Breko District</b>
<b>Financial institutions:</b> <b>Banks</b> <b>Securities</b> <b>Insurance</b> <b>Other</b>			Insurance Agency of Republic of Srpska (hereinafter: Agency) since June 2012 took part in 6 seminars. <u>2012:</u> 31.08.2012. Working Group to fulfill obligations under the Moneyval (1 participant) <u>2013</u> 26.03.2013. In organization Revicon Sarajevo, 5 forum on the prevention of money laundering and financing of terrorist activities (1 participant) <u>2014</u> 1. 26.03.2014. In organization Revicon Sarajevo, 6 forum on the prevention of money laundering and financing of terrorist activities (1 participant) 2. Organized by the Insurance Supervision Agency of FBiH, seminar - Prevention of money laundering and terrorist financing (three	



			<p>participants)  <u>2015</u>  1. Date 26<sup>th</sup> March 2015 in organization Revicon Sarajevo, 7 forum on the prevention of money laundering and financing of terrorist activities (2 participant)</p> <p>2. In organization Center for Corporate Governance: Topics current problems in the prevention of money laundering (1 participant)</p>		
<b>R.7</b>					
<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:  In Article 21 after paragraph (4) add new paragraph (5) that shall read:    (Correspondent Relationship with Foreign Loan Institutions)    (5) The obligor cannot establish a loan correspondent relationship with a foreign bank or any other</p>	<p>Adoption of amendments on AML Law - medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>33. The revised Article 24 address this deficiencies regarding correspondent banking</p>	

	similar institution based on which such foreign institution may use the account with the obligor to operate directly with its clients. Introduce a requirement that banks shall document the AML/CFT responsibility of correspondent banks.			
<p><b>Please provide an English translation of those clauses of the revised Article 21 of the AML/CFT Law as adopted and in force.</b>  <b>Please see in the Law AML/CFT attached.</b>  <b>Please provide an English translation of any requirements that banks shall document the AML/CFT responsibility of correspondent banks.</b></p>				
<b>R.8</b>				
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	34. New Articles 25 of the AML/CFT Law address remaining deficiencies.. Article 25 (New technological advances) (1) A liable person shall pay particular attention to the risk of money laundering and financing terrorist activities resulting from the application of new technological advances enabling client anonymity (e.g. electronic banking, cash machines, phone banking, etc.). (2) A liable person shall introduce procedures and undertake additional measures for eliminating the risks of and preventing abuse of new technological advances for the purpose of

				money laundering and financing terrorist activities.
<p><b>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.</b></p> <p><b>Please provide an English translation of relevant articles of the AML/CFT Law as adopted and in force.</b></p> <p><b><a href="#">Please see in the Law AML/CFT attached.</a></b></p>				
<p>Following the introduction of the new AML Law, a revised Book of Rules, providing guidance on its implementation and more awareness on the part of 'persons' under obligation', albeit to different degrees, on the concepts and the philosophy of the law and their obligations, needs to be adopted.</p>				
<p>New rulebook which will address <del>is</del> in the process of the adoption-</p> <p>Adopted new <b>Ordinance</b> on the implementation of the Law on the Prevention on Money Laundering and Financing of Terrorist activities was published into <b>Official Gazette no: 45/15 from 25<sup>th</sup> May 2015 and come into force 2nd June 2015</b></p>				
<p><b>Will Please provide details of any guidance issued on implementation and more awareness of the Book of Rules on the part of 'persons' under obligation.</b></p> <p><b><a href="#">"ORDINANCE ON THE IMPLEMENTATION OF THE LAW ON THE PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORIST ACTIVITIES"</a> was published in the Official Gazette no: 45/15 from 25<sup>th</sup> May 2015 and come into force 2nd June 2015</b></p> <p><b>Please provide an English translation of amendments to the Book of Rules.</b></p> <p><b><a href="#">The Ordinance is attached to this report.</a></b></p>				
<p><b>R.9</b></p>				
Although the old LPML does not	2. Articles 10, 11 and 12	Adoption of amendments to the AML Law -	Working Group and Council of Ministers of	35. Articles 17, 18 and 19 of the AML/CFT Law

<p>specifically prohibit or allow third party reliance or introduced business, likewise it does not specifically allow it. However there are provisions that appear to indirectly allow such procedures. This is particularly so in relation to the use of companies specialised in customer due diligence. The absence of such companies, though recognised, impacts on procedures to licence and regulate them. This creates an uncertainty as to whether third party reliance is allowed or not. Notwithstanding the fact that the new AML Law has now clarified this doubt in that it specifically allows 'persons' under obligation' to rely on third parties, as defined by the new AML Law, yet the 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>of the draft of amendments to the AML/CFT Law address remaining deficiencies when enacted as they currently stand.</p>	<p>medium term</p>	<p>BiH</p>	<p>address remaining deficiencies..</p>
<p><b>Please provide information on the revised legislative and other relevant provisions so that the obligations and requirements be harmonised with Recommendation 9.</b>  <b>Please provide an English translation of Articles 10, 11 and 12 of amendments to the AML/CFT Law as adopted and in force.</b>  <a href="#">Please see in the Law AML/CFT attached.</a></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.</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>AML/CFT Law in the Article 26 eliminate objection of 3rd round of evaluation relating to the supervision of large and unusual transactions</p> <p><b>Article 26</b> <b>(Unusual transactions)</b></p> <p>(1) A liable person shall pay particular attention to transactions characterised by complexity and unusually high amounts, unusual manner, value or connection among transactions that have no economic or legal grounds and purpose, or are not in compliance with or are disproportionate to the usual or expected operation of the client, as well as to other circumstances related to the status or other characteristics of the client.</p> <p>(2) A liable person shall identify the basis and purpose of transactions referred to in paragraph (1) hereof and, if establishing that the transaction is not suspicious, make an official written report to be kept in accordance with the law.</p>
	<p>In accordance with the new legal</p>		<p>Regulatory Banking Agencies of FBiH and</p>	

	solutions perform eventual consequent revision of the Banking Decisions for Minimum Standards		RS	
<p>Please provide information on whether the AML/CFT Law and the Banking Decisions for Minimum Standards were reviewed in order to meet requirements of Rec.11.  Please provide an English translation of amendments to the AML/CFT Law and the Banking Decisions for Minimum Standards as adopted and in force.</p>				
<p><b>R.12</b></p>				
<p>There is a need for increased awareness of threats from new or developing technologies among DNFBBs, 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>36. New Articles 25 of the AML/CFT Law address remaining deficiencies..  <b>Article 25</b>  <b>(New technological advances)</b>  As of October 2014, within Financial Intelligence Department there are budgeted two positions for training and supervision – two persons employed – description given under R. 6.   Two trainings – as described under R. 6.</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.  Seminars conducted for DNFBBs</p>				

Please provide details of :

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

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

<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>AML/CFT Law in the Article 26 eliminate objection of 3rd round of evaluation relating to the supervision of large and unusual transactions</p>
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**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.**

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	
<b>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.</b>				
<b>Please provide an English translation of relevant text of amendments to the AML/CFT Law as adopted and in force.</b>				
<b>R.15</b>				
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.	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	Article 40 of the AML/CFT Law.
<b>Please provide an English translation of those clauses of the revised Article 32 of the AML/CFT Law as adopted and in force.</b>				
Adequate screening procedures need to be in place and effectively applied when hiring people, if need be through mandatory obligations.	By bylaw provide adequate procedures for new employment	Medium term	Relevant ministries of entities, regulatory agencies of financial sector, FIU	Article 41 of the AML/CFT Law.
<b>Please provide details of steps taken to introduce requirements for adequate screening procedures when hiring people.</b>				



Please provide an English translation of any appropriate legislation, including bylaws, adopted in respect of screening procedures.				
<b>R.16</b>				
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	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	Medium term	FIU	Article 80 of the new AML/CFT Law prescribes supervisory body for any obliged entity - what is important step of wide approach to this activitie. <i>As of October 2014, within Financial Intelligence Department there are budgeted two positions for training and supervision – two persons employed – description given under R. 6.  Two trainings – as described under R. 6.</i>
<p><b>Please provide details on awareness raising seminars and trainings conducted since June 2012.</b></p> <p><b>Please provide details of :</b></p> <ul style="list-style-type: none"> <li>• <b>Dates</b></li> <li>• <b>Topics covered</b></li> <li>• <b>Number of delegates from each DNFBP sector</b></li> </ul>				
	<b>BiH</b>	<b>FBiH</b>	<b>Republic Srpska</b>	<b>Brcko District</b>
<b>DNFBPs:</b> 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 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.	Working Group of the Council of Ministers prepared a draft amendment Law AML/CFT that includes this remark i.e. will introduce a specific obligation to terminate or reject a business relationship or the execution of transactions with companies and individuals from countries that insufficiently apply AML/CFT measures.	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH		
<p><b>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.</b></p> <p><b>Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</b></p>					
Competent authorities, and in particular the FID, need to be more receptive to request for training by the industry.	Strengthen trainings in the industry.	Medium term	FIU	<p>As of October 2014, within Financial Intelligence Department there are budgeted two positions for training and supervision – two persons employed – description given under R. 6.</p> <p>Two trainings – as described under R. 6.</p>	
<p><b>Please provide details on awareness raising seminars and trainings conducted since June 2012.</b></p>					

<b>Please provide details of :</b> <ul style="list-style-type: none"> <li>• Dates</li> <li>• Topics covered</li> <li>• Number of delegates from each sector</li> </ul>				
	<b>BiH</b>	<b>FBiH</b>	<b>Republic Srpska</b>	<b>Brcko District</b>
<b>Financial institutions:</b> <b>Banks</b> <b>Securities</b> <b>Insurance</b> <b>Other financial institutions</b>				
<b>DNFBPs:</b> <b>Casinos</b> <b>Real estate agents</b> <b>Dealers in precious metals and stoned</b> <b>Lawyers, notaries, other independent legal professionals</b> <b>Accountants and auditors</b>				
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	Article 44 of the new AML/CFT Law.
<b>Please provide details of any steps taken to introduce adequate screening procedures when hiring people in the DNFBPs sector. Please provide an English translation of any appropriate legislation or guidance adopted in respect of screening procedures.</b>				
<b>R.17</b>				
Legislation to provide for the	Insurance Agency of Bosnia and	Medium term	Ministry of Finance of	Articles 80 - 82 of the new

sanctioning powers of the respective supervisory bodies in the insurance market should be introduced	Herzegovina and Ministry of finance FBiH and RS will prepare a draft of amendments to the Law on intermediaries in insurance in order to ensure harmonization of the regimes of the applicable sanctions that are now different according to the laws on insurance intermediaries in Federation Bosnia and Herzegovina and in Republic of Srpska.		FBiH and RS, and Insurance Agency of Bosnia and Herzegovina	AML/CFT Law.
<p><b>Please provide details of amendments to the Law on intermediaries in insurance in order to provide sanctioning powers for the respective supervisory bodies in the insurance market.</b></p> <p><b>Please provide an English translation of amendments to this Law as adopted and in force.</b></p>				
Proportionate and comparable sanctions for non-compliance with AML/CFT requirements need to be introduced throughout the applicable legislation (harmonise the sanctions stipulated by different entity level laws) and all ambiguities on the applicability of sanctions under the new AML Law should be removed.	Harmonise sanctions imposed by various laws at the entity level and adapt them to the AML/CFL Law	Long term	Relevant Ministries of Justice B&H, FB&H, RS, BD and regulatory agencies of financial sector B&H, FB&H, RS, BD and FIU	Articles 83 and 84 of the new AML/CFT Law.
<p><b>Please provide details of amendments to various laws at the entity level to harmonise sanctions.</b></p> <p><b>Please provide details of amendments to the AML/CFT Law on the applicability of sanctions under this Law.</b></p> <p><b>Please provide an English translation of any appropriate legislation as adopted and in force.</b></p>				
Steps need to be taken to ensure that all	Working Group of the Council of	Adoption of amendments	Working Group and	Articles 83 and 84 of the new

requirements of the new AML Law are enforceable (that is; sanctions are stipulated for non-compliance).	Ministers will prepare a draft of amendments to the AML/CFT Law that will include this remark i.e. establish sanctions for non-compliance	on AML Law - medium term)	Council of Ministers of BiH	AML/CFT Law.
<p><b>Please provide details of amendments to the AML/CFT Law to establish sanctions for non-compliance.</b></p> <p><b>Please set out the scope of sanctions for non-compliance with the AML Law.</b></p> <p><b>Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</b></p>				
Administrative sanctions to be applied to the participants of the insurance market for non-compliance with AML/CFT requirements need to be introduced.	Insurance Agency of Bosnia and Herzegovina and Ministry of finance FBiH and RS will prepare a draft of amendments to the Law on intermediaries in insurance in order to ensure harmonization of the regimes of the applicable sanctions	Medium term	Ministry of Finance of FBiH and RS, and Insurance Agency of Bosnia and Herzegovina.	Articles 83 and 84 of the new AML/CFT Law.
<p><b>Please provide details of administrative sanctions that could be applied to the participants of the insurance market for non-compliance with AML/CFT.</b></p> <p><b>Please provide an English translation of the relevant amendments to the Law on Intermediaries as adopted and in force.</b></p>				
<b>R.21</b>				
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	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	Adoption of amendments on AML Law - medium term)	Working Group and Council of Ministers of BiH	Article 23 paragraph 1a) and article 85 paragraph (4) of the new AML/CFT Law. <del>New Book of Rules for implementation of the new AML/CFT Law prepared as Draft and waiting for adoption by the Council of Ministers.</del> <b>Ordinance</b> on the

<p>should go beyond the on-going monitoring of accounts.</p>	<p>AML/CFT measures and preservation of written statements on such findings and enabling access of authorities to those statements for all sectors.</p>			<p>implementation of the Law on the Prevention on Money Laundering and Financing of Terrorist activities  <b>and</b>  <b>Annex to the Ordinance on the Implementation of the Law on the Prevention of Money published in the Official Gazette no: 45/15 from 25<sup>th</sup> May 2015 and come into force 2nd June 2015</b></p>
<p><b>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.</b>  <b>Article 23 paragraph 1a) and article 85 paragraph (4) of the Ordinance on the implementation of the Law on the Prevention on Money Laundering and Financing of Terrorist activities.</b>  <b>Please provide an English translation of amendments to the AML/CFT Law as adopted and in force.</b>  <b>The Ordinance and Annex are attached to this report.</b></p>				
<p><b>R.22</b></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</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>	

relevant competent authorities.				
<b>Please provide details of measures taken to meet the requirements of Rec.22.</b> <b>Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</b>				
<b>R.23</b>				
Legislation should be amended to introduce:  a. a prohibition for criminals and their associates from holding a significant or controlling share in securities market intermediaries in FB&H and in BD;  b. a requirement for a clean criminal record of the managers of market intermediaries in BD;  c. requirements for professional qualifications and expertise of directors and senior management of investment funds in FBiH, in RS, and in BD.	Amend the Law on Securities Market	Short term	Authorities of FBiH, RS, District Brcko	<a href="#">Republic of Srpska</a> In relation to recommendation 23.c) the Securities Commission of the Republic Srpska provides the following information: Conditions for licensing of directors and higher management of investment funds management companies has already been regulated by articles 26 and 27 of the Investment Funds Act (the Act entered into force in 2009) and by articles 3 and 4 of the Ordinance on conditions for performing duties of board members for the investment funds management companies. <b>Article 26.</b> The following persons may not be members of management companies or members of their management board or supervisory board: a) persons who, in the period of three years

				<p>prior to acquiring membership interest in the management company, had at least 10% interest in the registered capital of the management company, bank authorized for carrying on tasks of a depositary bank, closed-ended investment fund, brokerage company or a bank authorized for purchasing and selling securities, investment company or privately - owned pension fund, at the time when the authorization to pursue business was withdrawn from them,</p> <p>b) persons who no longer hold membership in a professional association on grounds of infringement of association rules, or against whom the Securities Commission, or another competent authority, has imposed a measure of withdrawing the authorization for carrying on securities - related activities</p>
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				<p>v) persons punished for a criminal offence of causing bankruptcy, violation of liability to keep business books, causing damage to a creditor, providing benefits to a creditor, abuse in bankruptcy proceedings, unauthorized disclosure and gaining knowledge of business or manufacturing secrets, as well as for a criminal offence of fraud, in the period of five years following the date the sentence has become final, where the time of serving the sentence is not calculated in this period,</p> <p>g) persons against whom the safety measure has been imposed of prohibiting the pursuit of business which is completely or partially included in the objects of the management company's operations in the period the prohibition is in effect,</p> <p>d) persons punished for a criminal offence under the Securities Act and</p>
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				<p>persons who have been punished for several times for the offences prescribed by the relevant laws ,</p> <p>đ) persons who have been declared incapacitated,</p> <p>e) persons holding a valid authorization by the Securities Commission, i.e. the appropriate approval of the competent authority, for a broker or investment advisor, and who effectively perform these tasks as employees of a brokerage company or a bank authorized for securities transactions,</p> <p>ž) persons currently holding a public service office and who are currently central government employees or employees of the local and regional self-government or of the authorities responsible to the Government of the Republic of Srpska or to the Parliament of the Republic of Srpska.</p> <p><b>Article 27.</b></p> <p>(1) At least two management board members of the management company shall</p>
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				<p>have professional knowledge and experience required for managing the management company's operations.</p> <p>(2) The Securities Commission is authorized to adopt the ordinance regulating in more detail the terms and conditions for carrying on activities of the management company management board members, including the criteria for the compulsory professional knowledge and method of its determination.</p> <p>In addition, draft amendments to the Act have been in procedure (bill to be adopted by the National Assembly) which in detail regulates criteria for management of the investment funds management companies (including director who is member of the management) and executive directors. Some of amendments to the Article 27 of the Investment Funds Act are the following:</p> <p><b>Article 27a.</b></p> <p><b>(1)</b> The member of the management board of the management company may be a person:</p>
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				<p>a) that has the appropriate expertise, experience and personal attributes that make him worthy to perform duties of a member of the management board of the management company and</p> <p>b) for whom there are no obstacles from Article 26 of this Act.</p> <p><b>(2)</b> Minimum requirements of expertise and experience referred to in paragraph 1, item a) of this article have been met if the person has a university degree and at least three years of experience in management positions in the management company or five years experience in performing the tasks that can be compared with the activities the management company.</p> <p><b>(3)</b> It is considered that the person has personal attributes that make him worthy to perform the duties of a member of the management board if, on the basis of his previous behaviour, may be reasonably concluded that he will honestly and conscientiously perform duties of a member of the management board of the</p>
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				<p>management company.</p> <p>(4) The data referred to in paragraph 1, item b) of this Article, the Commission shall obtain from the candidates for member of the management board or from the criminal record.</p> <p>(5) The Commission shall adopt an act that stipulates conditions for performing duties of a member of the management board of the management company, and the contents of the application and the procedure of issuing license for the performance of duties of a member of the management board of the management company.</p> <p><u>Brčko District B&amp;H</u> LAW ON AMENDMENTS TO THE LAW ON SECURITIES (Official Gazette of Brčko District BH“ no. 14/12)</p> <p><b>Article 36a</b> The majority owner and member of the Management Board and Supervisory Board in companies for operation with securities cannot be a person:</p> <p>1. against whom an</p>
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				<p>indictment was issued in BH or any other country and who was finally convicted in BH or some other country:</p> <ol style="list-style-type: none"> <li>1) for criminal offences against economy, business operations and security of payment transactions;</li> <li>2) for criminal offences against property,</li> <li>3) for criminal offences against judiciary,</li> <li>4) for criminal offences against abuse of official or other responsible duty,</li> <li>5) for criminal offences stipulated by this Law;</li> </ol> <p>2. against whom a security measure of prohibition of performing operations with securities was pronounced.</p> <p>A member of the Management and Supervisory Board in companies for operations with securities cannot be a person who does not have required professional qualifications and experience in performing operations with securities.</p> <p>Requirements for a particular professional qualifications and experience in performing operations with securities shall be determined in detailed by a by-law of the</p>
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				Committee.“
<p><b>Please advise whether any additional measures have been taken by the authorities to address these deficiencies. Please provide an English translation of any appropriate legislation as adopted and in force in this respect. Please note that the following articles will be delivered as soon as they are translated:</b></p> <ul style="list-style-type: none"> <li>• LAW ON AMENDMENTS TO THE LAW ON SECURITIES (Official Gazette of Brčko District BH“ no. 14/12)</li> <li>• LAW ON INVESTMENT FUNDS (Official Gazette of Brčko District BH no. 73/07)</li> </ul> <p>Section C. Requirements and method for founding a management company (Article 25, Article 26, Article27)</p> <ul style="list-style-type: none"> <li>• RULEBOOK ON CONTENTS OF REQUEST FOR ISSUANCE OF LICENCE FOR FOUNDATION OF COMPANY FOR THE MANAGEMENT OF INVESTMENT FUNDS AND DOCUMENTS ATTACHED TO THE REQUEST (Official Gazette of Brčko District BH no. 9/08) – Article 1, Article 2, Article 3</li> <li>• RULEBOOK ON REQUIREMENTS FOR PERFORMING THE WORK OF MEMBERS OF THE MANAGEMENT OF THE INVESTMENT FUND MANAGEMENT COMPANY (Official Gazette of Brčko District BH no. 9/08) – Article 1, Article 2, Article 3, Article 4, Article 5)</li> <li>• Rulebook on obtainment of title and issuance of licence for performing the work of broker, investment manager and investment advisor (Official Gazette of Brčko District BH no: 3/08); I - GENERAL REQUIREMENTS (Article 1, Article 2); II - STICANJE ZVANJA (Articles 3 – 17); III – LICENCE FOR PERFORMING OPERATIONS WITH SECURITIES (Article 18)</li> <li>• Rulebook on requirements and procedure for issuance of licence for work to a company for operations with securities (Official Gazette of Brčko District BH no: 13/08); II – REQUIREMENT FOR ISSUANCE OF LICENCE FOR WORK a) General requirements (Article 2)</li> <li>• Rulebook on requirements, method of obtainment and acceptance of authorisations for the sale of stock or shares in investment funds with public offer (Official Gazette of Brčko District BH no: 44/08) Section B. Requirements, method of obtainment and acceptance of authorisations for the sale of stock or shares (Article 2)</li> </ul> <p><b><u>Note: Note: Laws are translated into English and will be delivered when they available.</u></b></p>				
Steps need to be taken to harmonise	Agency for Supervision of the	Short term	Banking Agencies and	Articles 4 and 80 of the new

the efficiency of monitoring activities in respect of persons involved in money transfer and exchange activities.	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.		Agency for Supervision of the Post Office Operation	AML/CFT Law.
<p><b>Please advise when to 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.</b></p> <p><b>Please provide details of steps taken to recognise the Agency for Supervision of the Post Office Operation under the AML Law.</b></p>				
Efficient, sufficiently frequent, risk-based supervision of financial institutions needs to be developed and implemented.	Establish guidelines for securities sector and insurance sector for effective, often and risk based supervision on financial institution	Medium term	Ministry of Finance of FBiH and RS, and Regulatory bodies of insurance and security sector	Articles 80 - 82 of the new AML/CFT Law.
<p><b>Please provide details of the steps taken to develop and implement efficient, sufficiently frequent, risk-based supervision of financial institutions.</b></p> <p><b>Please provide details of Guidelines for the securities and insurance sectors.</b></p> <p>The Administrative Board of the Insurance Agency of Bosnia and Herzegovina at the seventh session held on 30 January 2015, adopted <a href="#">GUIDELINES FOR RISK ASSESSMENT AND ENFORCEMENT OF THE LAW ON MONEY LAUNDERING AND FINANCING OF TERRORIST ACTIVITIES FOR INSURANCE SUPERVISORY AGENCIES IN BOSNIA AND HERZEGOVINA.</a></p> <p><a href="#">Guidelines on the implementation of the law on prevention of money laundering and financing terrorist activities for obligors in responsibilities of Insurance agency of Republic of Srpska (MB-20/13 of 23.08.2013.).</a></p> <p><a href="#">Based on Article 5 and 80 of the Low on prevention of money laundering and financing of terrorist activities ("Official Gazette" No. 47/14 - hereinafter:</a></p>				



AML / CFT law) and the Rulebook on the implementation of the law on prevention of money laundering and financing of terrorist activities ("Official Gazette of BiH, No. 41/15 – hereinafter: Rulebook), the Agency has prepared new Guidelines for risk assessment and implementation of the Law on prevention of money laundering and financing terrorist activities in the insurance sector.

R.24				
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	Execute amendments to The Law draft on Gambling in the FBiH and RS, in the way as it has been done in Brcko District.	Medium term	Ministry of Finance of FBiH and RS	Pursuant to Article 15(1) of the Law on Games of Chance (Official Gazette of the Republic of Srpska, No. 111/12), organisation of the games of chance may be performed by legal entities seated on the territory of the Republic of Srpska, the founders of which, that is, the responsible person has not been convicted for the criminal offences, other than those in the field of traffic, and if they meet the requirements as stipulated in this Law. Also, when applying for concession for the games of chance in casinos, through the Public Invitation, the legal entity shall be obliged to attach evidence that the criminal proceedings have

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				<p>not been in progress against the authorised persons and the founders (Article 56(1)(i) of the Law on Games of Chance).</p> <p>Along with the application for a license for the organisation of the internet games of chance, apart from evidence as referred to in Article 15 of the Law on Games of Chance, the legal entities must also attach evidence –declaration that the one organising them has not been previously deprived of the licence in the country or abroad and that they have not been convicted for a criminal offence of tax and contribution evasion (Article 89(2)(j) of the Law on Games of Chance).</p> <p>The quoted provisions of the Law on Games of Chance undoubtedly serve for prevention of individuals with criminal history from acquiring or becoming actual owners of a considerable</p>
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				interest or interest in control, to assume the managerial positions in casinos
<p><b>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.</b></p> <p><b>Please provide an English Translation of the amendments to the Law on Gambling in the FBiH and the RS as adopted and in force.</b></p> <p><b><u><a href="#">Law on Games of Chance (Official Gazette of the Republic of Srpska, No. 111/12) ATTACHED.</a></u></b></p>				
Define the powers of the Chambers of Lawyers, the Chambers of Notaries, and the Associations of Accountants and Auditors at entity level to supervise implementation of the obligations set forth in the new AML Law; establish systems and mechanisms for them to ensure compliance of the respective obligors with the national AML/CFT requirements.	As stated earlier, the formation of a special department to monitor DNFBPs will create the preconditions for effective supervision of persons under obligation in order to provide a mechanism for effective implementation of obligations under the AML/CFT Laws	Medium term	FIU, Council of Ministers of BiH	
<p><b>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.</b></p> <p><b>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</b></p> <p><b>Please provide an English translation of any appropriate legislation as adopted and in force.</b></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	As stated earlier, the formation of a special department to monitor DNFBP will create the preconditions for effective supervision of persons under	Medium term	FIU, Council of Ministers of BiH	Article 80 of the new AML/CFT Law.

AML/CFT requirements.	obligation in order to provide a mechanism for effective implementation of obligations under the AML/CFT Laws			
<p><b>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.</b></p> <p><b>Please provide an English translation of any appropriate legislation as adopted and in force.</b></p>				
<p><b>R.25</b></p> <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>As of October 2014, within Financial Intelligence Department there are budgeted two positions for training and supervision – two persons employed</p> <p>Now, they work on identifying urgent training needs and finding best possible way of education of the obliged entities.</p> <p><b>Excerpt from Rulebook of internal organization and job clasification of the State Investigation and Protection Agency – Financial Intelligence Department:</b></p> <p><b>SENIOR ADVISOR FOR TRAINING AND SUPERVISION</b></p> <p><b>Job description:</b> Organises</p>

				<p>and actively takes part in professional training of authorised persons and employees with obligors, directly or indirectly responsible for work related to the implementation of regulation on prevention of money laundering and/or financing of terrorist activities, directly takes part in the adoption of supervision procedures and performs supervision of the work of obligors in terms of the implementation of regulation on the prevention of money laundering and financing of terrorist activities, takes action on elimination of detected irregularities in the work of obligors and their employees, as well as their supervisory bodies, keeps records on authorised persons and their deputies and records on performed trainings and supervision, performs other work in accordance with the law and as assigned by the Head of Section. For his/her work, he/she is directly responsible to the Head of Section.</p> <p><b>Special requirements for the job:</b> University Degree –</p>
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				<p>Faculty of Law or Economics or other faculty of social studies, or equivalent of the Bologna education system with minimally 240 ECTS points, not less than three years of experience in the same or similar work, professional administrative exam passed, knowledge of regulation on the protection of secret data, computer literacy.</p> <p><b>Status and category:</b> Civil servant – Senior Advisor</p> <p><b>Number of employees:</b> 2</p>
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**Please provide details on awareness raising seminars and trainings conducted since June 2012.**  
**Please provide details of :**

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

Since 46<sup>th</sup> Plenary, there were two major seminars:

1. On 24<sup>th</sup> February - half day long seminar for DNFBPs from Brcko District BiH with more than 40 participants – accountants, auditors, real estate, games of chance and car dealers, which was general awareness rising of the provisions of the new AML/CFT Law and DNFBPs responsibilities. The same day there was half day long seminar for 17 representatives of the Tax authority of Brcko District who are now responsible for supervision of DNFBPs.

2. VII. Seminar organized by the Consulting Company "Revicon LTD" – for 116 representatives of different obliged entities – mostly financial institutions, with different topics, including relevant provisions of the new AML/CFT Law.

Additionally, representatives of the FID are present on the number of occasions as presenter on different sectorial educations – trainings or meetings. For example for association of notaries.

**3. Regional conference on suppression of terrorism through non-profit organisations, "Supporting the Prevention of Abuse of Non-profit**

Organizations for Financing of Terrorism”, was held in Sarajevo 14-16 July 2015, organised by the OSCE and Ministry of Security BH, where in addition to relevant representatives from the national institutions and agencies covering this issue, representatives from the private sector, including some representatives from the non-governmental sector, and representatives from the countries in the region and international organisations also took part.

	BiH	FBiH	Republic Srpska	Brcko District
<b>DNFBPs:</b> <b>Casinos</b> <b>Real estate agents</b> <b>Dealers in precious metals and stoned</b> <b>Lawyers, notaries, other independent legal professionals</b> <b>Accountants and auditors</b>				
FID should provide general and specific feedback to DNFBPs incorporating, <i>inter alia</i> , statistics on the number of STR-s, information on current ML techniques and trends, as well as information on the decisions and results of the analysis of STR-carried out by the FID.	Strengthen cooperation between FIU and DNFBPs to create feedback and statistics on the number of STR-s, information on current ML techniques and trends, as well as information on the decisions and results of the analysis of STR-carried out by the FID.	Medium term	FIU	Article 63 of new AML/CFT Law.
<b>Please provide details of any general and specific feedback provided to DNFBP 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.</b>				
Whilst the provision of comprehensive and exhaustive lists of indicators for identifying suspicious transactions and	Insist that the DNFBPs in recognition of suspicious transactions be managed by risk-	Medium term	FIU	Article 80 of new AML/CFT Law are one of steps for this.

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.	based approach			
<b>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.</b>				
<b>R.26</b>				
Article 51.5 of the new AML Law needs to be amended to allow FID to disseminate information on its own initiative to domestic authorities for investigation or action when there are grounds to suspect money laundering and/or terrorist financing.	As instructed by the Minister of Security, in June 2010, the group of experts in money laundering and terrorism 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	Adoption of amendments on AML Law - medium term	Working Group and Council of Ministers of BiH	Articles 57 and 62 of new AML/CFT Law. Especially important for addressing this deficiency is Par. (5 ) of Art. 62.
<b>Please provide an English translation of those clauses of the revised Article 51 of the AML/CFT Law as adopted and in force.</b>				



Remove the limitations to and unacceptable constraints of the power of the FID to disseminate information to domestic authorities, and demonstrate the effectiveness of dissemination of information to domestic authorities	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	<b>Articles 57 and 62 of new AML/CFT Law. Especially important for addressing this deficiency is Par. (5) of Art. 62.</b>
<p><b>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.</b></p> <p><b>Please provide statistics as an annex to the report in order to demonstrate the effectiveness of dissemination of information to domestic authorities</b></p> <p><b>Please provide an English translation of any appropriate legislation as adopted and in force.</b></p>				
<b>R.29</b>	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	<b>Articles 80 - 82 of the new AML/CFT Law.</b>
<p><b>Please provide details of the special department of the FID established to monitor DNFBPs.</b></p> <p><b>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.</b></p> <p><b>Please provide an English translation of any appropriate legislation as adopted and in force.</b></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><b>Articles 80 - 82 of the new AML/CFT Law.</b></p>
<p><b>Please provide details of the powers granted to supervisors in the insurance market to monitor and ensure compliance with AML/CFT requirements.</b></p> <p>Agency in accordance with Article 81 and 82 of the AML / CFT law, and article 6, paragraph 3rd indent 4 and article 7, paragraph 2 indent 10 Law on Insurance companies ("Official Gazette of the Republic of Srpska", No. 17/05, 01/06, 64/06 and 74/10) and the Guidelines supervise payers regarding with the concerning the application of the AML / CFT law and secondary legislation adopted under the AML / CFT law.</p> <p>Agency, in accordance with its powers and regulatory objectives prescribed by the Law on Insurance companies, requires payers to correct the identified illegalities and irregularities, as well as all the additional measures in order to eliminate illegalities and irregularities.</p> <p>After on site supervision, Agency in accordance with the the obligatory prescribed in Article 81 of the AML / CFT law, informs the FIU and delivers acts arising after conducting on-site supervision.</p> <p><b>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.</b></p> <p><b>Please provide an English translation of any appropriate legislation as adopted and in force.</b></p> <p><b>GUIDELINES FOR RISK ASSESSMENT AND ENFORCEMENT OF THE LAW ON MONEY LAUNDERING AND FINANCING OF TERRORIST ACTIVITIES FOR INSURANCE SUPERVISORY AGENCIES IN BOSNIA AND HERZEGOVINA ATTACHED.</b></p>				
<p><b>R.30</b></p>				
<p>An adequate structure, funding, staffing, and technical resources should be made available for supervision of implementation of the national</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</p>	<p>Medium term</p>	<p>FIU, and Council of Ministers of BiH</p>	<p><b>Articles 80 - 82 of the new AML/CFT Law.</b></p>

AML/CFT requirements by DNFBPs.	(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><b>Please provide details of the new FI agency including</b></p> <ul style="list-style-type: none"> <li>• <b>Level of staff</b></li> <li>• <b>Technical resources</b></li> <li>• <b>Budget</b></li> <li>• <b>Scope of responsibilities</b></li> <li>• <b>Date of establishment</b></li> <li>• <b>Legislation setting out powers and responsibilities</b></li> </ul> <p><b>Please provide an English translation of any appropriate legislation as adopted and in force.</b></p>				
There is a need to define professional standards (including confidentiality and integrity requirements), and required expertise/skills of the staff of bodies implementing supervision of DNFBPs.	Establish the Team for training and supervision of DNFBPs	Medium term	FIU	<b>Articles 80 - 82 of the new AML/CFT Law.</b>
<p><b>Please provide details of professional standards (including confidentiality and integrity requirements), and required expertise/skills of the staff of bodies implementing supervision of DNFBPs.</b></p> <p><b>Please provide an English translation of any appropriate legislation as adopted and in force.</b></p>				

<b>R.33</b>				
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	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	Medium term	FIU	<b>Articles 11 and 16 of the New AML/CFT Law</b>
<p><b>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.</b></p> <p><b>Please provide an English translation of any appropriate legislation as adopted and in force.</b></p>				
It is only in the new AML Law that the BiH legal framework attempts to provide a definition of beneficial ownership. However there is no express requirement for the registration courts, while registering a business entity, to identify and keep data on the beneficial ownership and control of legal persons. Thus, it is recommended that such provisions should be in place in order to ensure direct access to updated and accurate data which reflects the real situation, as ensured by Article 15 of the new AML Law	Given that there is no explicit requirement that the registration courts, while registering a business entity, identify and preserve information about the real ownership and control of legal persons. Such provisions should be made to allow direct access to updated and accurate data that reflect the real situation, as defined in Article 15 of the new AML Law	Long term	Ministry of Justice of B&H and Ministry of Justice of Entity level and District Brcko	
<p><b>Please provide details of amendments to relevant legislation to explicitly require the registration courts to identify and preserve information about the real ownership and control of legal persons.</b></p> <p><b>Please provide information on provisions that allow direct access to updated and accurate data of legal persons.</b></p>				

<b>Please provide an English translation of any appropriate legislation as adopted and in force.</b>				
It is recommended that the updating of the Main Book of Registration at the Courts is done in a timely manner for all legal persons including shareholding companies with effective, proportionate and dissuasive sanctions for late filing	Ensure that the updating of the Main Book of Registration at the courts is done in a timely manner for all legal persons including shareholding companies with effective and proportional sanctions for late filing	Long term	Ministry of Justice of B&H and Ministry of Justice of Entity level and District Brcko	
<b>Please provide details of the measures taken to ensure that the updating of the Main Book of Registration at the courts is done in a timely manner for all legal persons including shareholding companies with effective and proportionate sanctions for late filing. Please provide an English translation of any appropriate legislation as adopted and in force.</b>				
There are concerns regarding the viability of the inter-linked electronic database of the Main Book of Register as the data started to be uploaded only in January 2008 and there are still legislative initiatives concerning the electronic signature, business, etc. Thus it is recommended that all necessary measures be undertaken in order for the inter-linked (single) electronic registry to become fully operational	Undertake all necessary measures in order that the inter-linked (single) electronic registry becomes fully operational	Long term	Ministry of Justice of B&H and Ministry of Justice of Entity level and District Brcko	
<b>Please provide information on the measures taken in order that the inter-linked (single) electronic registry becomes fully operational.</b>				
<b>R.35 and SR.I</b>				
The same comments as are made on R. 31 in relation to implementation of the respective Conventions (especially the	Remove deficiencies for the efficient implementation of the Convention relating to the	Medium term	Ministry of Justice of BiH and Ministry of Justice at Entity level	

Terrorist Financing Convention) and the UN Security Council Resolutions apply here.*	criminalization of crimes of money laundering and terrorism financing (especially the Convention on the Financing of terrorism) and UN Security Council Resolution		and District Brcko	
<p><b>Please provide details of steps taken to apply UN Conventions.</b>  <b>Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</b></p>				
<b>SR.II</b>				
The terrorist financing (“funding of terrorist activities”) offences need to be incriminated in all four Criminal Codes so as to clearly provide criminal sanctions concerning the 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.*	By annual agenda of the Ministry of Justice of BiH for 2011, it is envisaged the creation of the proposal of the Law on Amendments to the Criminal Code of BiH, where will be made the amendments of Article 202 of the same, which regulates the financing of terrorist activities. 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.	Adoption of Criminal Codes - medium term)	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District	
<p><b>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.</b>  <b>We are providing you the English translation of amendments to the Criminal Code, art. 202 as adopted and in force: Published in the Official Gazette of BH, nr. 22/05 of 16.03.2015.</b></p>				

“Funding of Terrorist Activities”  
Article 202

(1) Whoever by any means, directly or indirectly, gives, collects or in any other way provides funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the criminal offences referred to in Article 191 (Taking of Hostages), 192 (Endangering Internationally Protected Persons), 194 (Illicit Procurement and Disposal of Nuclear Material), 194a (Endangering Nuclear Facilities), 196 (Piracy), 197 (Hijacking an Aircraft or Ship or Seizing Fixed Platforms), 198 (Endangering the Safety of Air Traffic or Maritime Navigation or of Fixed Platforms), 199 (Destruction and Removal of Signal Devices Utilized for Safety of the Air Traffic), 200 (Misuse of Telecommunication Signs), 201 (Terrorism), 202a (Public Incitement to Terrorist Activities), 202b (Recruiting for Terrorist Activities), 202c of this Law (Training for Carrying out Terrorist Activities) or any other criminal offense intended to cause death or serious bodily injuries to a civilian or to any other person not taking active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population or to compel the authorities of Bosnia and Herzegovina or any other authorities or international organisations to do or to abstain from doing any act, regardless whether the terrorist activities were carried out and whether the funds were used for carrying out terrorist activities, shall be punished by imprisonment for a term not less than three years.

(2) Whoever by any means, directly or indirectly, gives or collects or in any other way provides funds:  
a) with the intention that they are to be used, in full or in part for any purpose by the terrorist organisations or individual terrorists or  
b) in the knowledge that they are to be used, in full or in part, in order to carry out the criminal offences from paragraph 1, by terrorist organisations or individual terrorists.  
shall be punished by the sentence from paragraph (1) of this Article.

(3) The funds collected for the perpetration or obtained as a result of the perpetration of the criminal offence under paragraph (1) of this Article shall be confiscated.

(4) Funds referred to in paragraph (1) and (2) mean assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.

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.	By annual agenda of the Ministry of Justice of BiH for 2011, it is envisaged the creation of the proposal of the Law on Amendments to the Criminal Code of BiH, where will be made the amendments of Article 202 of the same, which regulates the financing of terrorist activities. Abovementioned Law shall contain a provision under which the competent authorities of the	Adoption of Criminal Codes - medium term)	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District.	
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	<p>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><b>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.</b></p> <p><b>We are providing you the English translation of amendments to the Criminal Code, art. 202 as adopted and in force: Published in the Official Gazette of BH, nr. 22/05 of 16.03.2015.</b></p> <p style="text-align: center;">“Funding of Terrorist Activities” Article 202</p> <p>(1) Whoever by any means, directly or indirectly, gives, collects or in any other way provides funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the criminal offences referred to in Article 191 (Taking of Hostages), 192 (Endangering Internationally Protected Persons), 194 (Illicit Procurement and Disposal of Nuclear Material), 194a (Endangering Nuclear Facilities), 196 (Piracy), 197 (Hijacking an Aircraft or Ship or Seizing Fixed Platforms), 198 (Endangering the Safety of Air Traffic or Maritime Navigation or of Fixed Platforms), 199 (Destruction and Removal of Signal Devices Utilized for Safety of the Air Traffic ), 200 (Misuse of Telecommunication Signs), 201 (Terrorism), 202a (Public Incitement to Terrorist Activities), 202b (Recruiting for Terrorist Activities), 202c of this Law (Training for Carrying out Terrorist Activities) or any other criminal offense intended to cause death or serious bodily injuries to a civilian or to any other person not taking active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population or to compel the authorities of Bosnia and Herzegovina or any other authorities or international organisations to do or to abstain from doing any act, regardless whether the terrorist activities were carried out and whether the funds were used for carrying out terrorist activities, shall be punished by imprisonment for a term not less than three years.</p> <p>(2) Whoever by any means, directly or indirectly, gives or collects or in any other way provides funds:</p> <p>a) with the intention that they are to be used, in full or in part for any purpose by the terrorist organisations or individual terrorists or</p> <p>b) in the knowledge that they are to be used, in full or in part, in order to carry out the criminal offences from paragraph 1, by terrorist organisations or individual terrorists.</p> <p>shall be punished by the sentence from paragraph (1) of this Article.</p> <p>(3) The funds collected for the perpetration or obtained as a result of the perpetration of the criminal offence under paragraph (1) of this Article shall be confiscated.</p> <p>(4) Funds referred to in paragraph (1) and (2) mean assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.</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.	Amendments to the Criminal Codes in BiH will provide a complete definition of funds in accordance with the criterion II.1b.	Medium term	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District	
<p><b>Please provide details of measures taken to properly cover the definition of "funds" as required by Criterion II.1b.</b>  <b>Please provide an English translation of amendments to the Criminal Code as adopted and in force.</b>  <b>We are providing you the English translation of amendments to the Criminal Code, art. 202 as adopted and in force: Published in the Official Gazette of BH, nr. 22/05 of 16.03.2015.</b></p> <p style="text-align: center;">"Funding of Terrorist Activities" Article 202</p> <p>(1) Whoever by any means, directly or indirectly, gives, collects or in any other way provides funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the criminal offences referred to in Article 191 (Taking of Hostages), 192 (Endangering Internationally Protected Persons), 194 (Illicit Procurement and Disposal of Nuclear Material), 194a (Endangering Nuclear Facilities), 196 (Piracy), 197 (Hijacking an Aircraft or Ship or Seizing Fixed Platforms), 198 (Endangering the Safety of Air Traffic or Maritime Navigation or of Fixed Platforms), 199 (Destruction and Removal of Signal Devices Utilized for Safety of the Air Traffic ), 200 (Misuse of Telecommunication Signs), 201 (Terrorism), 202a (Public Incitement to Terrorist Activities), 202b (Recruiting for Terrorist Activities), 202c of this Law (Training for Carrying out Terrorist Activities) or any other criminal offense intended to cause death or serious bodily injuries to a civilian or to any other person not taking active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population or to compel the authorities of Bosnia and Herzegovina or any other authorities or international organisations to do or to abstain from doing any act, regardless whether the terrorist activities were carried out and whether the funds were used for carrying out terrorist activities, shall be punished by imprisonment for a term not less than three years.</p> <p>(2) Whoever by any means, directly or indirectly, gives or collects or in any other way provides funds:</p> <p>a) with the intention that they are to be used, in full or in part for any purpose by the terrorist organisations or individual terrorists or</p> <p>b) in the knowledge that they are to be used, in full or in part, in order to carry out the criminal offences from paragraph 1, by terrorist organisations or individual terrorists.</p> <p>shall be punished by the sentence from paragraph (1) of this Article.</p> <p>(3) The funds collected for the perpetration or obtained as a result of the perpetration of the criminal offence under paragraph (1) of this Article shall be confiscated.</p> <p>(4) Funds referred to in paragraph (1) and (2) mean assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.</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	
<p><b>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.</b></p> <p><b>Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</b></p> <p><b>After the adoption of the amendments at the state level ( above mentioned), the Entities, and Brcko District are expected to harmonise their CC.</b></p>				
Consideration should be given to abandoning the use of “double definitions” of legal terms pertaining to criminal substantive law in multiple legal sources.	Consideration will be given to abandoning the use of “double definitions” of legal terms pertaining to criminal substantive law in multiple legal sources	Medium term	Ministry of Justice of BiH, Ministry of Justice of Federation Bosnia and Herzegovina, Ministry of Justice of RS and Brcko District	
<p><b>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.</b></p> <p><b>Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</b></p> <p><b>After the adoption of the amendments at the state level ( above mentioned), the Entities, and Brcko District are expected to harmonise their CC.</b></p>				
<b>SR.VI</b>				
The Bosnia and Herzegovina authorities should examine the operations of Tenfore d.o.o within the context of the obligations of the obliged entities under Article 3 of the old LPML– now Article 4 under the new AML Law. Indeed, through the ‘Agent Compliance Manual’, the company already seems to be	Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include TENFORE as obligor.	Medium term	Working Group and Council of Ministers of BiH	Articles 4 and 80 of new AML/CFT Law.

<p>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><b>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.</b></p>				
<p><b>R.VII</b></p> <p>Although wire transfers are covered by the Law on Payment Transactions of both Entities and Brcko District yet most of the criteria for SR VII are not met as the Law only covers the technical operational aspects. The new AML Law now addresses some of the missing aspects identified at the on-site visit. The new law however does not differentiate between domestic and cross-border payments and hence it is difficult to identify compliance with the respective criteria. Notwithstanding, it is recommended that specific legal</p>	<p>Working Group of the Council of Ministers will prepare a draft of amendments to the AML/CFT Law that will include the specific provisions:</p> <ul style="list-style-type: none"> <li>• to ensure that full originator information accompanies cross-border transfers;</li> <li>• to establish what information should accompany domestic transfers;</li> <li>• to ensure that the Post</li> </ul>	<p>Medium term</p>	<p>Working Group and Council of Ministers of BiH</p>	<p>37. Articles 31,32,33 and 34 of the AML/CFT Law address remaining deficiencies..</p>

<p>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 regulations as may be established;</p> <p>to ensure that appropriate sanctions can be and are applied for non-compliance.</p>	<p>Office is monitored on its compliance with such regulations as may be established;</p> <ul style="list-style-type: none"> <li>to ensure that appropriate sanctions can be and are applied for non-compliance.</li> </ul>			
<p><b>Please provide details of measures taken to ensure:</b></p> <p><b>that full originator information accompanies cross-border transfers;</b></p> <p><b>what information should accompany domestic transfers;</b></p> <p><b>that the Post Office is monitored on its compliance with such regulations as may be established;</b></p> <p><b>that appropriate sanctions can be and are applied for non-compliance.</b></p> <p><b>Please provide an English translation of relevant amendments to the AML/CFT Law as adopted and in force.</b></p>				
<b>SR.VIII</b>				
<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</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</p>	<p>Adoption of Framework Law - medium term</p>	<p>Ministry of Justice of Bosnia and Herzegovina</p>	

<p>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 double/triple registration and counting of NPOs and improving the mechanism of reciprocal recognition of associations and foundation.</p>	<p>in Bosnia and Herzegovina, and Amendments on <u>Law on Associations and Foundations of BiH</u>, the further procedure is in the course.</p>			
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**Please provide details of steps taken to ensure that all NPOs are clearly identified and registered.**

The Ministry of Justice of Bosnia and Herzegovina is responsible for the implementation of the Law on Associations and Foundations of Bosnia and Herzegovina (“Official Gazette of BH”, no. 32/01, 42/03, 63/08 and 76/11) the provisions of which stipulate foundation, registration, internal organisation and termination of associations and foundations opting to be registered as an association and foundation at the state level of Bosnia and Herzegovina. It terms of this Law, an association is any form of voluntary association of three or more physical or legal persons, in all combinations, for improvement and realisation of a joint or common interest or objective, pursuant to the Constitution and the Law, and whose basic purpose is not acquiring profit.

Article 28 Paragraph (1) of the Law on Associations and Foundations of Bosnia and Herzegovina (hereinafter: the Law) stipulates that a submission of a registration application is voluntary and that an association and foundation obtain the status of a legal person on the date of the registration.

Article 10 of the Law stipulates for an association to meet requirements for registration, the founding assembly of the association is required to adopt the founding document and statute of the association and to appoint management bodies of the association.

The founding document of the association, pursuant to Article 11 of the Law contains:

- a) first names, last names and addresses, or name and abbreviated name and main office of the founder,
- b) name, main office and address of the association,
- c) objective and activities of the association,
- d) name and last name of a person authorised for performing entries into the registry,
- e) signatures of founders or persons authorised for representation and personal ID number, if the founders are citizens of Bosnia and Herzegovina.

- Statute of the association, pursuant to Article 12 of the Law contains:

- a) name of association, abbreviated name if there is and address of the association;
- b) objectives and activities;
- c) procedure for acceptance and exclusion of members;
- d) bodies of association, method for their selection, authorities they have, quorum and rules of voting, duration of mandate, person authorised to convene the assembly, conditions and method of dissolution and termination;
- e) rules for obtainment, use and disposal of funds of the associations, as well as a body responsible for supervision over the use of these funds;
- e1) method of submission of financial reports and work reports;

- f) public nature of work;
- g) procedure for amendments to the statute, authorisation and method for adopting other general documents;
- h) description of shape and contents of stamp;
- i) representation of association;
- j) requirements and procedure for merger, division or termination of the association, including any particular quorum or rules for obtaining qualified majority in the voting procedure, and
- k) procedure for disposal of remaining property or other assets in case of dissolution or termination of the association.

Request for entry into the registry of companies is submitted by a person authorised for submission of requests for entry into the registry appointed by a founding document of the association and contains:

- a) minutes from the founding assembly of the association,
- b) founding document,
- c) list of founders,
- d) certified copies of ID Cards or passports of the founders or excerpt from the registry for the founding legal persons,
- e) statute of the association, two copies,
- f) decision on appointment of bodies of the association,
- g) name and address of a person authorised for representation of the association or foundation
- h) copy of the logo of the association, if there is one,
- i) proof of administrative fee payment.

Pursuant to Article 32 Paragraph 1 of the Law, the Ministry is required to issue the decision within 30 days after the date of the application submission.

The decision issued by the Ministry of Justice of Bosnia and Herzegovina on the entry of the association into the Registry contains:

- a) number and date,
- b) registration number,
- c) name of association, abbreviated name and name in foreign language, if there is one,

- d) main office address,
- e) description of the association's logo, if there is one,
- f) objectives and activities,
- g) placement of the association in legal transactions, first and last names of authorised persons
- h) obtainment of the status of a legal person.

**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>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 <u>Law on Associations and Foundations of BiH.</u> 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>	
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**Please provide details of steps taken to establish a centralised register for the Register of non-profit organisations.  
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.  
Please provide details of the Amendments on Law on Associations and Foundations of BiH as adopted and in force.  
Please provide an English translation of amendments to the Framework Law on the Establishment of Joint Registry of Non-Governmental Organizations, if**

<b>enacted, and the Amendments on <u>Law on Associations and Foundations of BiH as adopted and in force.</u></b>				
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.	BiH authorities shall pass bylaws that will regulate supervision over non-profit organization financial operations in order to prevent their abuse for financing of terrorism	Medium term	Ministry of Justice of Bosnia and Herzegovina and Ministry of Security of BiH	
<b>Please provide details of steps taken to introduce bylaws that will regulate supervision over non-profit organization financial operations. Please provide an English translation of any appropriate legislation as adopted and in force in this respect.</b>				
There should be express legal provisions requiring that the business records of the NPOs are kept for at least five years.				<b>Article 77 of new AML/CFT Law</b>
<b>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.</b>				
No review of the adequacy of the relevant laws and no outreach has been undertaken by the authorities in order to identify the risks and prevent the misuse of NPOs for terrorism financing purposes. However, considering the existing risk, based on the concrete cases where NPOs have been involved in financing of terrorism activities and current on-going investigations of suspicious NPOs, the authorities should undertake a comprehensive review to assess the adequacy of the national legal framework related to NPOs, identifying the features and types of NPOs	B&H authorities shall undertake a comprehensive review to assess the adequacy of the national legal framework related to NPOs, identifying the features and types of NPOs (activities, size) that are at risk of being misused for terrorist financing and implement measures to raise awareness of the NPOs about the risks and measures available to protect them against such abuse	Long term	Ministry of Justice of B&H and Ministry of Justice at Entity level and District Brcko	



(activities, size) that are at risk of being misused for terrorist financing and implement measures to raise awareness of the NPOs about the risks and measures available to protect them against such abuse				
<p><b>Please provide information on the measures taken to comprehensively review the national legal framework in order to identify the risks and prevent the misuse of NPOs for terrorism financing purposes.</b></p> <p><b>Please provide information on the outreach to the NPO sector.</b></p> <p><b>Please provide information on the measures taken to raise awareness of the NPOs about the risks and measures available to protect them from being misused for terrorist financing.</b></p>				
<b>SR.IX</b>				
The Indirect Tax Authority of Bosnia and Herzegovina does not appear to be fully involved in implementing the current partial regime existing on the entity level in the context of AML CFT according to SR IX efficiently and effectively. In particular it lacks the appropriate powers and tools to do so. A significant number of essential criteria do not appear to be met and there is therefore a need to review the whole framework of cross border declarations and disclosures against the essential criteria for SR IX.	Review the whole framework of cross border declarations and disclosures against the essential criteria for SR IX.	Medium term	The Indirect Tax Authority of Bosnia and Herzegovina, Ministry of Finance of BiH	<p><b>Currently there is process of establishment of the Domestic Working Group for assessment of compliance of Bosnia and Herzegovina with SR IX and for giving proposals for making whole system efficient.</b></p> <p><b>Additionally, Article 71 of new AML/CFT Law extends obligations of the Indirect Taxation Authorities.</b></p>
<p><b>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.</b></p> <p><b>Please provide an English translation of any appropriate legislation or regulations adopted and in force as a consequence of this review.</b></p>				
Adopt a legislative regime on the state level of B&H for full implementation of	Working Group of the Council of Ministers will prepare a draft of	Adoption of the draft of the Law on Foreign	Ministry of Finance and Treasury of B&H,	

SR.IX to include domestic cash and negotiable instruments	The Law on Foreign Exchange Operations on the state level and that will include recommendation of evaluators remark	Exchange Operations on the state level - long term)	Working Group and Council of Ministers of B&H	
<p><b>Please provide details of amendments to the Law on Foreign Exchange Operations to include domestic cash and negotiable instruments.</b>  <b>LAW ON FOREIGN EXCHANGE OPERATIONS OF FEDERATION OF BOSNIA AND HERZEGOVINA - “Official Gazette of Federation Bosnia and Herzegovina “ NO. 47/10</b>  <b>LAW ON FOREIGN EXCHANGE OPERATIONS OF REPUBLIKA SRPSKA -“Official Gazette of the Republic of Srpska”, No. 96/03, 123/06, 92/09 and 20/14)</b>  <b>Please provide an English translation of the amendments to this Law.</b>  <b>LAWS ATTACHED</b></p>				
Ensure ITA retains the information required by SR.IX.4 and makes such information available to State Investigation and Protection Agency (SIPA) in accordance with SR.IX.	Working Group of the Council of Ministers will prepare a draft of The Law on Foreign Exchange Operations on the state level that will include recommendation of evaluators’ remark.	Adoption of draft of the Law on Foreign Exchange Operations on the state level - long term)	Ministry of Finance and Treasury of B&H, Working Group and Council of Ministers of B&H.	
<p><b>Please provide information on the measures taken to ensure that ITA retains the information required by SR.IX.4 and makes such information available to State Investigation and Protection Agency (SIPA) in accordance with SR.IX.</b>  <b>Please provide an English translation of the amendments to the Law on Foreign Exchange Operations.</b>  <b>LAWS ATTACHED</b></p>				
Give power to ITA to apply sanctions or seize funds as required by SR.IX.8-11	Working Group of the Council of Ministers will prepare a draft of The Law on Foreign Exchange Operations on the state level that will include recommendation of evaluators remark	Adoption of draft The Law on Foreign Exchange Operations on the state level - long term)	Ministry of Finance and Treasury of B&H, Working Group and Council of Ministers of B&H	
<p><b>Please provide details of amendments to the Law on Foreign Exchange Operations that allow ITA to apply sanctions or seize funds as required by SR.IX.8-11.</b>  <b>Please provide an English translation of the amendments to the Law on Foreign Exchange Operations.</b>  <b>LAWS ATTACHED</b></p>				
