



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

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# Report on Fourth Assessment Visit – *Executive Summary*

Anti-Money Laundering and Combating the  
Financing of Terrorism

# SAN MARINO

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### **LIST OF ACRONYMS USED**

ABS	Banks Association of San Marino
AML/CFT Law	Law no. 92 of 17 June 2008 on “ Provisions on preventing and combating money laundering and terrorist financing” as amended
CBSM	Central Bank of the Republic of San Marino
CC	Criminal Code
CCP	Code of Criminal Procedure
CDA	Central Depository Agency
CDD	Customer Due Diligence
CETS	Council of Europe Treaty Series
CFT	Combating the financing of terrorism
CPC	Criminal Procedure Code
CRC	Collegio Ragionieri Commercialisti (Association of Accountants of San Marino)
CTR	Cash transaction report
DNFBPS	Designated Non-Financial Businesses and Professions
EC	European Commission
ETS	European Treaty Series [since 1.1.2004: CETS = Council of Europe Treaty Series]
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FCA	Financial Companies Association
FFC	Financial and Fiduciary Companies
FIA	Agenzia d’Informazione Finanziaria (Financial Intelligence Agency of San Marino)
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
GRECO	Group of States against Corruption
LEA	Law Enforcement Agency
IN	Interpretative note
ISS	Inspection Supervision Service of the CBSM
IT	Information technologies
KYC	Know your customer
LISF	Law N° 165/2005 on companies and banking, financial and insurance

	services.
ML	Money Laundering
MLA	Mutual legal assistance
MoU	Memorandum of Understanding
MVT	Money Value Transfer
NCCT	Non-cooperative countries and territories
NPO	Non-Profit Organisation
OBS	Office of Banking Supervision
ODC	Ordine Dottori Commercialisti (Association of accountants)
OECD	Organisation for Economic Co-operation and Development
OFAC	Office of Foreign Assets Control (US Department of the Treasury)
PEP	Politically Exposed Persons
RIS	Rete Interbancaria Sammarinese
SAR	Suspicious Activity Report
SCSM	State Congress San Marino
SR	Special recommendation
SRO	Self-Regulatory Organisation
STRs	Suspicious transaction reports
SWIFT	Society for Worldwide Interbank Financial Telecommunication
TCSP	Trust and company service providers
UCITS	Undertakings for Collective Investment in Transferable Securities
UN	United Nations
UNSCR	United Nations Security Council resolution
UTR	Unusual Transaction Report

## EXECUTIVE SUMMARY

### Background Information

1. This report summarises the major anti-money laundering and counter-terrorist financing measures (AML/CFT) that were in place in San Marino at the time of the 4<sup>th</sup> on-site visit (6 to 11 September 2010) and immediately thereafter. It describes and analyses these measures and offers recommendations on how to strengthen certain aspects of the system. The MONEYVAL 4<sup>th</sup> cycle of assessments is a follow-up round, in which Core and Key (and some other important) FATF Recommendations have been re-assessed, as well as all those for which San Marino received non-compliant (NC) or partially compliant (PC) ratings in its 3<sup>rd</sup> round MER. This report is not, therefore, a full assessment against the FATF 40 Recommendations and 9 Special Recommendations but is intended to update readers on major issues in the AML/CFT system of San Marino.

### Key findings

- San Marino has a low crime environment. No specific money laundering (ML)/financing of terrorism (FT) risk assessment has been undertaken. The money laundering risks, according to the authorities continue to derive from the foreign predicate offenses (primarily offences of fraud, usury and bankruptcy), with proceeds being invested or transferred through San Marino, with the banking and fiduciary sectors being the areas with the greatest vulnerability. Money laundering is often committed by making use of fictitious business operations to justify movements of capital. Indicators suggest that San Marino is susceptible to ML, such as cross linked investments to launder in San Marino proceeds from tax evasion and from the Italian criminal organisations, possibly exploiting the vulnerabilities of San Marino's financial system. The TF risks are deemed to be low.
- Money laundering is criminalised largely in line with the FATF standard and the legal framework provides an ability to freeze and confiscate assets in appropriate circumstances. There remain a number of deficiencies to ensure that FT offence is fully in line with the international requirements. Since the previous evaluation, there has been an increase in the number of money laundering investigations, with annual numbers rising from 4 in 2007 to 13 in 2008, and with the development of jurisprudence on money laundering, with convictions reached in 4 judgements. There has also been an increase of international co-operation with foreign authorities on money laundering cases, with predicate offences identified being inter alia fraud, usury, bankruptcy, international trafficking in narcotics, which have led to a number of seizure orders of important amounts. As of the assessment date, there have been no prosecutions or convictions for terrorism financing. Additional measures are required to ensure a comprehensive system for freezing terrorist assets in application of the United Nations Security Council Resolutions (UNSCR).
- San Marino has made substantial progress to establish an operational financial intelligence unit (FIA), which is now at the centre of the overall AML/CFT effort. However, the additional functions entrusted to FIA and the over reliance by other authorities on FIA to carry out a number of non-FIU tasks impact on the workload of its staff and thus affect its effectiveness. Additional measures are required to ensure that the San Marino police officials start playing an active role in AML/CFT efforts.

- Considering the large number of legislative, regulatory and institutional measures adopted by San Marino since March 2008, the authorities have demonstrated a clear commitment to implement AML/CFT standards. The preventive regime has undoubtedly been strengthened and while the legal framework is comprehensive for both financial and non financial institutions, it falls short of the international standards in some areas such as simplified due diligence and risk management procedures and raises certain concerns about the quality of the implementation.
- The competence for supervision of compliance with AML/CFT requirements lies now with the Financial Intelligence Agency, which has a comprehensive supervisory mandate and powers, though the limited resources allocated to that effect appear to impact negatively on the implementation of its supervisory function. These resources need to be increased and supervisory action be strengthened to ensure that both financial and non financial institutions are adequately implementing the AML/CFT requirements.
- The effectiveness of the operational co-operation and of the coordination mechanisms led by the Technical Commission of National Coordination gathering all domestic competent authorities has improved. The Commission's role should be enhanced by providing for a fora where trends and emerging money laundering risks could be examined and regular reviews undertaken of the AML/CFT strategic direction on the basis of risks identified, so as to make necessary adjustments to relevant policies and measures.
- The legal framework for mutual legal assistance is sound and San Marino responds to requests for assistance generally in an efficient and effective manner. Further efforts appear necessary to ensure that the legal framework regarding non-MLA related assistance, in particular international cooperation with foreign supervisory authorities, is adequate and cooperation mechanisms in this area are effective.

### **Legal Systems and Related Institutional Measures**

2. Since the third evaluation, San Marino has ratified on 20 July 2010 the United Nations Convention against Transnational Organised Crime (Palermo Convention) and its two protocols (Trafficking in Persons and Migrants Protocols).
3. The money laundering offence, as set out in article 199 bis of the Criminal Code Law is generally compliant with the requirements established under the Vienna and Palermo Conventions. Predicate offences include a range of offences in each of the designated categories of offences based on the FATF Methodology, however there are a few deficiencies noted, such as gaps in the criminalisation of piracy in respect of some conducts, as well as for terrorism offences, in respect of several acts set out under the treaties annexed to the TF convention. The sanctions applicable to natural persons for ML have been increased while sanctions for the administrative liability of legal persons have been introduced in January 2010. The effectiveness of sanctions could not be fully established, given the small number of convictions, though it is noted that the evaluation was conducted only shortly after the third round evaluation. Since the previous evaluation round, San Marino courts have successfully obtained convictions for money laundering in 3 cases against 4 persons. The authorities should ensure that the effectiveness of on-going investigations and prosecutions is enhanced and that magistrates strive to develop the case law to establish money laundering as a stand-alone offence which can be prosecuted independently from prosecutions relating to the predicate offence.

4. San Marino has amended the Criminal Code by introducing a new article 337 ter – Financing of terrorism, by defining relevant terms and ensuring that the legislation includes also sanctions for the administrative liability of legal persons for terrorism offences. Unfortunately, the legislation does not appear to cover a large majority of acts that should be encompassed within the definition of terrorist act for the purpose of SR.II, this impacting on the definition of a terrorist organisation as far as it is correlated with the definition of a terrorist act. Sanctions set out have the potential to be dissuasive. The FT offense has never been tested in practice, however the authorities indicated their vigilance and readiness to undertake the investigations and prosecutions if such cases were to be identified.
5. The legal framework for the confiscation regime, as amended in the past three years, provides for a wide range of confiscation, seizure and provisional measures with regard to property laundered, proceeds from and instrumentalities used in ML or predicate offences. There are only minor deficiencies relating to the scope of criminalisation of the predicate offences for ML and of the FT which may impact if such cases were to appear in practice. The system has started to produce concrete results as far as seizures and confiscation in ML are concerned and as regards property frozen, seized and confiscated in criminal cases related to predicate offences, statistics show on average a constant increase.
6. The legal framework for implementing the UNSCR has substantively changed, with some technical deficiencies having been identified in respect of the implementation of UNSCR 1373, such as clarifications required as regards the designating authority for the purposes of UNSCR 1373, the need for effective and publicly known procedures for considering delisting requests and for unfreezing funds and other assets of delisted persons or entities in a timely manner, including for persons inadvertently affected by the freezing mechanism. The FIA instructions and guidance were issued a few months before the visit, and while banks showed awareness of the need to conduct checks, the awareness of the other parts of the financial sector and of DNFBPs varied greatly. At the time of the assessment, no freezing had occurred under SR. III.
7. Following serious concerns expressed under the third round evaluation, San Marino has undertaken the necessary changes in order to establish an operational financial intelligence unit. The Financial Intelligence Unit (FIA), which became operational in November 2008, is the central national authority in charge of receiving, requesting, analyzing and disseminating to the competent authorities all information relative to preventing and combating money laundering and terrorist financing. The FIA is established as an independent authority, at the Central Bank. The assessment welcomed the determination and commitment shown by FIA in the performance of its numerous functions, and considering the positive feedback received during the visit noted that FIA enjoys the trust and cooperation of the other authorities and reporting entities. Yet, concerns emerged as regards its effectiveness, in the light of the numerous additional (non –core FIU) functions of the FIA and current practice of overreliance by the judicial authority for financial investigations and implementation of MLA requests may impact on the performance of its core functions and impose additional burden on the staff's workload. This may also be reflected by the limited number of disseminated cases to the judicial authority, though the volume of disseminations has clearly increased when compared with the previous evaluation, and all cases disseminated have led to the opening of a criminal investigation.
8. San Marino has also taken several measures aimed at strengthening the legal framework with respect to the law enforcement authorities' competencies and roles. The statistics received show an increase of ML investigations and prosecutions, which appear to be the result of a

determined policy within the Single Court to devote efforts to such cases. While in 2006, there had been only 4 proceedings initiated for ML offences, the number of ML investigations started by the Investigating Judge has initially remained stable in 2007 and then increased in 2008 (2008: 13; 2009: 10; October 2010: 9), involving an increasing number of persons. While there have been no prosecutions at all in the period from 2006-2008, there have been 2 prosecutions in 2009 and 6 in 2010. These results are very encouraging. All convictions achieved involved laundering of proceeds derived from foreign predicates. The role played by the FIA in assisting the law enforcement agencies and the Investigating Judge with respect to the financial aspects of the investigation is crucial and the law enforcement authorities rely on this agency for undertaking the financial investigations. It is however recommended that additional measures are taken to ensure that in the medium and long term, the law enforcement agencies' skills and expertise are developed so as to enable them to pursue complex financial crime investigations, rather than to have to rely on another agency for a key aspect of the investigation.

9. Delegated Decree no. 62 of May 2009 as amended by Delegated Decree no. 74 of 19 June 2009 on Cross border transportation of cash and similar instruments and subsequently in November 2010 established a declaration system. The introduction of the declaration requirements is relatively recent, and the authorities have already introduced several amendments to extend the scope of the obligation, clarify the requirements, increase sanctions and ensure that the FIA has access to all relevant information. Additional measures were put in place to ensure that the law enforcement authorities properly understand the new requirements and enforce them and statistics show an increasing involvement of the law enforcement authorities in carrying out controls from 2008 onwards, with sanctions applied and enforced as of 2009 only. The effectiveness of the implementation of the declaration obligation needs however to be further enhanced.

#### **Preventive Measures – financial institutions**

10. The scope of preventive measures in the area of AML/CFT for the financial sector now covers all institutions/professions working in a financial activity as defined by the FATF.
11. The legislative framework is now based on a new AML/CFT Law - Law no. 92 of 17 June 2008 on “Provisions on preventing and combating money laundering and terrorist financing” which entered into force in September 2008. Further amendments to this act were introduced by Law no. 73 of 19 June 2009 on “Adjustment of national legislation to international conventions and standards on preventing and combating money laundering and terrorist financing”, Decree Law no. 134 of 26 July 2010 and Decree Law no. 181 of 11 November 2010 on “Urgent provisions modifying the legislation on the prevention and combating of ML and TF” (ratified by Decree Law no. 187 of 26 November 2010).
12. Since the third round evaluation in 2008, important CDD elements, including the identification and verification of the beneficial owner requirement, the obligation to use reliable source documents and information as well as the requirement to conduct ongoing due diligence have been introduced by the new AML/CFT Law. The obligations set out by law are further specified by an extensive set of instructions issued by the authorities. Rather few gaps remain within this overall solid framework.
13. However, the effective implementation of those CDD requirements has not fully kept up with the comprehensive broadening of the legal framework. Given that the new obligations had to



be implemented in a rather short period of time and in particular the rather inadequate supervision of compliance with those requirements has led to a situation that raises concerns about the quality of the implementation. A particular cause for concern was the risk classification applied by some financial institutions. The institutions met by the evaluation team only classified a marginal portion of their customers as “high risk” and accordingly applied enhanced due diligence to a very limited number of customers. Where enhanced due diligence is being applied, it remained unclear to what extent such measures include additional and independent verification of the ownership and source of funds.

14. As far as the requirements regarding politically exposed persons, correspondent banking relationships, non-face to face business and third party reliance are concerned only few deficiencies could be identified, coupled with concerns as regards their effective implementation. For example, as for many other countries who have implemented the Third EU AML Directive, the PEP definition contained in the AML/CFT Law is not fully in line with the FATF Standard. The requirements regarding correspondent banking relationships have to be applied only to respondent institutions located in jurisdictions that are not considered to have equivalent AML/CFT obligations.
15. The new AML/CFT Law has introduced provisions related to third parties and introduced businesses, which was complemented by templates issued by the FIA to ensure that all the information required is obtained immediately by the financial institution relying on third parties. Additional requirements are necessary so that financial institutions are obliged to take adequate steps to satisfy themselves that copies of identification data and other relevant documentation will be made available from the third party upon request without delay and that the third party has measures in place to comply with CDD requirements.
16. Financial institution secrecy laws do not appear to inhibit the implementation of the FATF Recommendations. As regards secrecy laws, the wording of the banking secrecy provisions contained in the Banking Act have caused legal uncertainties amongst financial institutions in the past. Doubts have arisen as to whether the sharing of information covered by the banking secrecy with financial institutions is permissible in all instances required by the FATF recommendations. Banking secrecy ultimately does not appear to inhibit the exchange of information, the legal framework has however created some legal uncertainties, which raises concerns with regard to its effectiveness. It was however recommended that clarifications should be brought to the law with regard to the information that can be exchanged with other financial institutions and with a parent company for legal certainty.
17. Record keeping requirements are appropriately set out under the AML/CFT Law and relevant FIA Instructions and meetings with the representatives of banks revealed a rather adequate understanding of these requirements. At the time of the on-site visit, the respective implementing regulation for financial/ fiduciary companies had been introduced only recently (July, 2010) and was to be implemented starting from January 1, 2011.
18. The AML/CFT Law and relevant FIA instructions provide for requirements on obtaining and maintaining full originator information and define rules for domestic and cross-border wire transfers in compliance with the criteria of SR VII. These rules are lifted in respect of transfers where the payee is a public administration, and the transfer is made for the payment of duties, taxes, financial penalties or other charges in the country, as prescribed by the respective EU regulation. Meetings with the representatives of banks revealed adequate comprehension of the wire transfer requirements under the law and implementing regulations. San Marino complies with Special Recommendation VII.

19. Relevant FIA Instructions implement largely the requirements of FATF recommendations 11 and 21 with minor deficiencies such as the lack of requirements for financial promoters and parties providing professional credit recovery services to pay special attention to complex and unusually large transactions, as well as to unusual patterns of transactions or respectively the lack of appropriate countermeasures in respect of countries which continue not to apply or insufficiently apply the FATF Recommendations.
20. The AML/CFT Law and relevant FIA Instructions extend the reporting requirement to all cases, when the reporting entities suspect or are led (have reasonable grounds) to believe that the funds “came directly or indirectly from criminal activity”, i.e. they are proceeds of crime. The reporting performance of financial institutions over the last four years has significantly improved, though financial institutions still remain the main generators of STR-s accounting for an average 95% of total reporting, in which banks account for an average 86% of total reporting, and the reporting pattern raises effectiveness issues as regards the defensive reporting by the banking sector, the low level or no reporting by other parts of the financial sector (i.e. insurance, collective investment companies), questions on the quality of reporting and the fact that the implementation of the TF reporting requirement is not demonstrated. Further general feedback should be provided to obliged entities, in particular on ML/TF methods, techniques and trends as well as sanitised examples of ML cases, which focus on specific vulnerabilities and are sector tailored. San Marino complies with Recommendation 14 and 19.
21. Several deficiencies remain as regards the implementation of the requirements on internal control, compliance, audit and foreign branches, and shell banks, which will require further legislative provisions.
22. The competence for supervision of compliance with AML/CFT requirements by all obliged persons in San Marino lies now with the FIA, which has a comprehensive supervisory mandate encompassing adequate powers for general regulation and supervision through off-site surveillance and on-site inspections, unhindered access to all records, documents, and information relevant to monitor compliance of supervised entities with applicable legislation. In the absence of a risk assessment, the implementation of an adequate risk based supervision could not be demonstrated. Market entry rules, including those on “fit and proper” criteria for the management of financial institutions subject to the Core Principles have improved since the last evaluation and seem to be applied in a consistent manner and so is the legal framework regarding sanctions. However, there is definitely scope for strengthening the supervisory action and methodology applied, as the inspection cycles appear too long for some financial institutions. It is also noted that the capacity of the FIA, particularly its human resources, do not appear to appear to provide for a full-scale functioning of the FIA to ensure an adequate supervision of compliance by relevant obliged parties with the requirements of the AML/CFT legislation. The small number of identified irregularities and the low level of applied sanctions are also indicative of the need for enhanced supervisory practices.

#### **Preventive Measures – Designated Non-Financial Businesses and Professions (DNFBP)**

23. The new AML/CFT Law applies to all DNFBPs mentioned in the FATF glossary, with the exception of casinos whose operation is prohibited in San Marino. The preventive measures for Designated Non-Financial Businesses and Professions mirror those for financial institutions, therefore the same gaps as identified for financial institutions apply, with some

sector specific differences. There appeared to be little outreach to real estate brokers and dealers in precious metals and stones.

24. While the representatives of the DNFBP sectors overall demonstrated a good knowledge and awareness of the preventive measures under the new AML/CFT framework, there are still concerns regarding the effective implementation, which vary across the different DNFBP sectors. Professionals, including accountants, auditors and notaries appear to be more advanced amongst DNFBPs in implementing the preventive measures. Implementation appears to be strengthened by the proactive role taken by the professional associations and their close dialogue with FIA. Other DNFBPs, including in particular real estate brokers and dealers in precious metals and stones appear to represent the most critical sector as regards efficient implementation. Doubts remain whether beneficial ownership verification and the clarification of the source of funds are adequately carried out in more complex situations by all DNFBPs.
25. The concerns previously expressed in respect of the supervisory arrangements and the effectiveness of supervision equally apply in the context of DNFBPs. There has been a very low level of supervisory activities in respect of DNFBPs, and the coverage of the supervision was very limited, as mentioned above in particular due to the lack of sufficient human resources.

#### **Legal arrangements and Non-Profit Organisations**

26. San Marino has made important changes to its legal framework to ensure the transparency of information on beneficial ownership and control of companies and to prevent the misuse of bearer shares. Nine cases of incompliance with the bearer shares legislation were detected and sanctions were applied in respect of eight legal entities. However, given that some of the requirements were still subject to transitional periods which expired either shortly before the visit or at end November 2010, the evaluation team was not able to fully assess the effectiveness of implementation of the new requirements. San Marino should pursue efforts to ensure that the relevant information on legal persons is adequately and on a timely basis included in the Register and that adequate sanctioning measures are applied in cases of non compliance with the legal requirements.
27. The legislation governing trusts has been largely revised in 2010, in particular by the introduction of a new Trust Act and the Delegated Decrees on the Office of Professional Trustee and the Trust Register. Few deficiencies were noted such as the fact that the obligation of a resident agent to periodically ask the non-resident trustee about possible amendments relating to registered information is not clearly stipulated, which could affect the up to datedness of information regarding trusts with non-resident trustees. Also, it is questionable whether the sanctions for failure of resident trustees to fulfill their obligations and duties with respect to the registration and notification of amendments relating to registered information, which involve an administrative penalty of 2000 Euros, can be considered as sufficiently dissuasive.
28. As regards the legal framework covering non - profit organisations (NPO), a number of measures were adopted since 2008, which include provisions of the Law no. 129 (2010) the Congress of State (Decisions no. 34 and 55 of February 2009), by the Council of Twelve (Decision 30 of 27 May 2009), by the FIA (review of the sector and FIA Instruction no. 2010-05 of 8 July 2010), the conclusion of a Memorandum of Understanding between the

Council of Twelve, the Judge of Supervision of NPOs and the FIA (2009, as renewed in 2010). Various outreach measures and steps have also been taken to promote supervision and monitoring of the sector. The effective implementation of the newly adopted requirements by the NPO sector and of administrative penalties by the authorities could not be assessed given their recent adoption and the fact that the transitional period envisaged for the NPO sector to comply with the requirements under Law no. 129 was still ongoing at the time of the on-site visit. This raised questions also as regards the up to datedness of the Registries and of the data kept by the non profit sector entities, given that technically speaking, the transitional period had not elapsed.

### **National and International Co-operation**

29. The San Marino authorities have reviewed the legal and institutional framework in order to address the concerns expressed during the last evaluation and foster co-operation and coordination at national level. This is reflected by the new provisions adopted since 2008 and which govern various aspects of national co-operation and coordination, including the ability of specific agencies and institutions to make disclosures to enhance the ability of other agencies to fulfil their functions. The effectiveness of the operational co-operation and of the coordination mechanisms set out at policy level has improved.
30. San Marino has signed and ratified the United Nations Convention against Transnational Organised Crime (Palermo Convention), the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and the United Nations Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention). There remain some implementation issues in respect of the Palermo, Vienna and FT Conventions. As noted above, there are also shortcomings in respect of the implementation of the S/RES/1373 as well as of the scope of assets as regards UNSCR 1267.
31. San Marino can provide a wide range of mutual legal assistance in investigations, prosecutions and related proceedings concerning money laundering and the financing of terrorism, in application of the multilateral and bilateral agreements to which it is a Party or otherwise based on the national legal framework provisions. The international instruments ratified have strengthened the legal basis upon which co-operation in criminal matters and extradition can be provided. The internal legal framework has also been improved and clarified, which is a very positive step, and now there are clear processes for the receipt and execution of mutual legal assistance requests. The total number of requests sent and received, and in particular requests regarding ML cases and other banking and financial crimes, has notably increased, with instances involving very complex requests and detailed assistance measures, and sensitive cases involving organised crime. Measures taken appear to result in an efficient process for executing mutual legal assistance requests and extradition requests.
32. While the FIU to FIU co-operation levels in 2008 was close to nonexistent, following the establishment and operation of the FIA, the situation has clearly improved and the statistics on international cooperation demonstrate an expanding and intensifying patterns of cooperation, both in terms of geographical coverage and intensity of activities, and information points to a satisfactory performance of the FIA both in terms of timing and quality of responses. Further amendments appear necessary to ensure that the legal framework sets out an adequate basis for cooperation between FIA and foreign supervisory authorities which are not financial intelligence units and to enable the CBSM to exchange information spontaneously. The adequacy of cooperation mechanisms and effectiveness of cooperation by Police and the CBSM remains to be demonstrated.

### **Resources and statistics**

33. The human, financial and technical resources allocated to competent authorities regarding AML/CFT matters are not satisfactory on the whole, and in particular this appears to be a major hindrance for the FIA to adequately perform its supervisory functions. The skills of law enforcement and judiciary need further enhancement through training, in particular on financial investigation, handling of complex criminal investigations of financial and banking offences, techniques for tracing proceeds and evidence gathering etc.
34. San Marino should also continue to review on a regular basis the resources of the Court and the judges' workload, also taking into consideration the specific case workload and complexity of pending cases, as well as the respective workload derived from mutual legal assistance requests, and take remedying measures as appropriate to ensure an efficient treatment of cases.
35. As regards statistics, San Marino maintains comprehensive statistics on matters relevant to the effectiveness and efficiency of the AML/CFT system. Further efforts by the CBSM are required to keep track of formal requests for assistance made or received from foreign supervisory authorities relating to or including AML/CFT, including whether the request was granted or refused.

**Table 1. Ratings of Compliance with FATF Recommendations**

The rating of compliance vis-à-vis the FATF 40+ 9 Recommendations is made according to the four levels of compliance mentioned in the AML/CFT assessment Methodology 2004 (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (N/A).

The following table sets out the ratings of Compliance with FATF Recommendations which apply to San Marino. *It includes ratings for FATF Recommendations from the 3<sup>rd</sup> round evaluation report that were not considered during the 4<sup>th</sup> round assessment visit. These ratings are set out in italics and shaded.*

<b>Forty Recommendations</b>	<b>Rating</b>	<b>Summary of factors underlying rating<sup>1</sup></b>
<b>Legal systems</b>		
1. Money laundering offence	<b>LC</b>	<ul style="list-style-type: none"> <li>The categories of offences of terrorism, including the financing of terrorism and piracy are not fully covered as a predicate offence to ML</li> <li>Self laundering is not criminalised in the case of conduct under Article 199bis, though it is not demonstrated that there are fundamental principles of domestic law preventing such criminalisation ;</li> <li>Effectiveness issues: effectiveness of implementation of the ML offence cannot be demonstrated considering the small number of convictions achieved to date; disproportion between the number of investigations and prosecutions as well as low number of convictions and indictments for ML compared to the number of criminal investigations and convictions for serious offenses that generate proceeds .</li> </ul>
2. Money laundering offence Mental element and corporate liability	<b>LC</b>	<ul style="list-style-type: none"> <li>Corporate criminal liability is not extended to legal persons;</li> <li>Effectiveness of sanctions for ML applied in respect of natural persons cannot be fully established, while legislation covering the administrative liability of legal persons for ML was recently introduced and never applied in practice.</li> </ul>
3. Confiscation and provisional measures	<b>LC</b>	<ul style="list-style-type: none"> <li>Deficiencies in criminalisation of predicate offences to ML (TF and piracy, noted in R.1) and of the FT offence (noted in SR.II) limit the ability to seize and confiscate</li> </ul>

<sup>1</sup> These factors are only required to be set out when the rating is less than Compliant.

		<ul style="list-style-type: none"> <li>• The list of offences in Article 147 does not encompass all offences listed as predicate offences to ML or TF</li> <li>• Effectiveness is not fully established as there were limited number of ML cases where these measures were applied</li> </ul>
<b>Preventive measures</b>		
4. Secrecy laws consistent with the Recommendations	<b>LC</b>	<ul style="list-style-type: none"> <li>• Uncertainties resulting from FIA Instruction no. 2009-02 regarding the exchange of information with foreign institutions which are not mentioned in the Congress of State Decision no. 9 of 26 January 2009</li> <li>• Effectiveness and efficiency concerns resulting from an unclear wording contained in Art. 36 (6) (a) and (c) LISF with regard to information that can be exchanged with other financial institutions and with a parent company.</li> </ul>
5. Customer due diligence	<b>PC</b>	<ul style="list-style-type: none"> <li>• No domestic ML/TF risk assessment that allows for a proper verification of the adequacy of the risk based approach in place.</li> <li>• Rather than providing for minimum CDD (i.e. less detailed CDD), the AML/CFT Law creates blanket exemptions from the CDD requirements.</li> <li>• The AML/CFT Law allows for the application of simplified due diligence for cases where there is suspicion of ML or TF.</li> <li>• No requirement to adopt risk management procedures concerning the conditions under which a customer may utilize the business relationship prior to verification.</li> <li>• The risk classification required by FIA Instruction 2009-03 appears not to be adequate as enhanced CDD is only required for customers to whom <u>four or more</u> higher potential risks have been assigned.</li> <li>• Risk classification undertaken and the measures allocated accordingly by some financial institutions appear not to be appropriate.</li> <li>• FIA Instruction 2009-03 is not in line with the requirement to conduct <u>ongoing</u> due diligence.</li> </ul>



		<ul style="list-style-type: none"> <li>• No adequate IT systems supporting CDD procedures among financial institutions outside the banking sector.</li> <li>• Effectiveness and efficiency of implementation not fully demonstrated.</li> </ul>
6. Politically exposed persons	<b>LC</b>	<ul style="list-style-type: none"> <li>• PEP definition is not fully in line with the FATF standard.</li> <li>• Effectiveness and efficiency outside the banking sector not fully demonstrated.</li> </ul>
7. Correspondent banking	<b>LC</b>	<ul style="list-style-type: none"> <li>• The requirements regarding correspondent banking relationships are limited to respondent institutions located in a State not imposing equivalent AML/CFT obligations.</li> </ul>
8. New technologies and non face-to-face business	<b>LC</b>	<ul style="list-style-type: none"> <li>• It is not specified which supplementary measures are considered to be adequate to verify the identity of a customer who is not physically present.</li> </ul>
9. Third parties and introducers	<b>LC</b>	<ul style="list-style-type: none"> <li>• No requirement for financial institutions to take adequate steps to satisfy themselves that copies of identification data and other relevant documentation will be made available from the third party upon request without delay.</li> <li>• No requirement for financial institutions to satisfy themselves that the third party has measures in place to comply with CDD requirements.</li> </ul>
10. Record keeping	<b>LC</b>	<ul style="list-style-type: none"> <li>• No implementing regulations introduced for financial promoters and parties providing professional credit recovery services</li> <li>• The very recent<sup>2</sup> introduction of the relevant instruction for financial/ fiduciary companies does not allow to assess the effectiveness and efficiency of implementation of the respective measures</li> </ul>
11. Unusual transactions	<b>LC</b>	<ul style="list-style-type: none"> <li>• Lack of requirements for financial promoters and parties providing professional credit recovery services to pay special attention to complex and unusually large transactions, as well as to unusual patterns of transactions</li> </ul>
12. DNFBPS – R.5, 6, 8-11	<b>PC</b>	<p><b>Recommendation 5</b></p> <ul style="list-style-type: none"> <li>• The deficiencies identified in the framework of Recommendation 5 are applicable to</li> </ul>

<sup>2</sup> As of the time of the on-site visit, i.e. September 2010



		<p>DNFBPs</p> <ul style="list-style-type: none"> <li>• Concerns whether the requirements on identification and verification of beneficial ownership and the clarification of the source of funds (if necessary) are appropriately applied by all DNFBPs.</li> <li>• No effective outreach to real estate brokers and dealers in precious metals and stones .</li> <li>• Awareness for the prohibition to accept cash payments above EUR 15 000 not evenly established.</li> </ul> <p><b>Recommendation 6</b></p> <ul style="list-style-type: none"> <li>• The concerns expressed under R. 6 regarding financial institutions apply equally to DNFBPs (i.e. PEP definition is not fully in line with the FATF standard).</li> <li>• Concerns remain in respect of the adequate and effective implementation of the PEP related requirements, and whether PEP-checks are adequately carried out by all non-financial parties</li> </ul> <p><b>Recommendation 8</b></p> <ul style="list-style-type: none"> <li>• The concerns expressed under R. 8 regarding financial institutions apply equally to DNFBPs (i.e. it is not specified which supplementary measures are considered to be adequate to verify the identity of a customer who is not physically present).</li> </ul> <p><b>Recommendation 9</b></p> <ul style="list-style-type: none"> <li>• The concerns expressed under R. 9 regarding financial institutions apply equally to DNFBPs (i.e. no requirement for financial institutions to take adequate steps to satisfy themselves that copies of identification data or other relevant documentation will be made available from the third party upon request without delay).</li> </ul> <p><b>Recommendation 10</b></p> <ul style="list-style-type: none"> <li>• Concerns remain in respect of the adequate and effective implementation of the record keeping requirements by DNFBPs, in particular real estate agents, auction houses,</li> </ul>
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		<p>dealers in precious metals and stones.</p> <p><b>Recommendation 11</b></p> <ul style="list-style-type: none"> <li>• Lack of requirement to pay special attention to complex and unusually large transactions, as well as to unusual patterns of transactions, which have no apparent or visible economic or lawful purpose.</li> <li>• Concerns remain in respect of the adequate and effective implementation of the requirements by DNFBPs.</li> </ul>
13. Suspicious transaction reporting	<b>LC</b>	<ul style="list-style-type: none"> <li>• Effectiveness issues: (1) “defensive” reporting patterns seem to prevail in the banking sector (2) low level or no reporting by other parts of the financial sector (i.e. insurance, collective investment companies) raises questions on the quality of reporting and the effective implementation of the reporting requirement</li> </ul>
14. Protection and no tipping off	<b>C</b>	
15. Internal controls, compliance and audit	<b>PC</b>	<ul style="list-style-type: none"> <li>• Definition of the requirement on internal procedures, policies and controls needs improvement</li> <li>• Lack of requirement to designate compliance officers at management level</li> <li>• Lack of requirement that financial parties, which are not incorporated businesses, assume the responsibilities and perform the duties of the compliance officer</li> <li>• Lack of requirement for financial institutions (other than banks, management companies and insurance undertakings) to have an adequately resourced and independent audit function</li> <li>• Lack of terms of reference specifying the focus, coverage, and topics of employee training</li> </ul>
16. DNFBPS – R.13-15 & 21	<b>PC</b>	<p><i>Applying Recommendation 13</i></p> <ul style="list-style-type: none"> <li>• Effectiveness issues: (1) “defensive” reporting patterns seem to prevail in the banking sector (2) low level or no reporting by DNFBPs raises questions on the quality of reporting and the effective implementation of the reporting requirement</li> </ul>

		<p><i>Applying Recommendation 14</i> This Recommendation is fully observed.</p> <p><i>Applying Recommendation 15</i></p> <ul style="list-style-type: none"> <li>• The requirement on internal procedures, policies and controls needs improvement</li> <li>• Lack of requirement that DNFBPs which are not incorporated businesses assume the responsibilities and perform the duties of the compliance officer</li> <li>• Lack of requirement to develop appropriate compliance management arrangements (i.e. designate duly empowered compliance officers)</li> <li>• Lack of requirement to have an adequately resourced and independent audit function</li> <li>• Lack of requirement to put in place screening procedures to ensure high standards when hiring employees</li> </ul> <p><i>Applying Recommendation 21</i></p> <ul style="list-style-type: none"> <li>• Lack of requirement to pay special attention to transactions with persons from or in countries covered by Recommendation 21</li> <li>• Lack of requirement to examine the background and purpose of transactions with persons from or in countries covered by Recommendation 21, if such transactions have no apparent economic or visible lawful purpose</li> <li>• Lack of appropriate countermeasures in respect of countries covered by Recommendation 21</li> </ul>
17. Sanctions	<b>LC</b>	<ul style="list-style-type: none"> <li>• Lack of consistent and system-wide application of punitive measures.</li> </ul>
18. Shell banks	<b>PC</b>	<ul style="list-style-type: none"> <li>• The definition of “shell bank” does not comprise the element of “be subject to effective consolidated supervision”</li> <li>• Lack of direct requirement on prohibiting approval of establishment or acceptance of continued operations of shell banks</li> <li>• The notion of terminating relationships with entities that are found to be shell banks “at the earliest convenience” lacks</li> </ul>

		<p>explicitness and provides space for different interpretations and implementation</p> <ul style="list-style-type: none"> <li>• Exceptions from the rule for financial institutions “to satisfy themselves” that their respondent institutions comply with the requirement not to permit the use of their accounts by shell banks.</li> </ul>
19. Other forms of reporting	<b>C</b>	
20. Other DNFBPS and secure transaction techniques	<i>Largely Compliant</i>	<ul style="list-style-type: none"> <li>• <i>While consideration has been given to this area, the relevant legislation adopted has not been implemented.</i></li> </ul>
21. Special attention for higher risk countries	<b>LC</b>	<ul style="list-style-type: none"> <li>• Lack of appropriate countermeasures in respect of countries which continue not to apply or insufficiently apply the FATF Recommendations</li> </ul>
22. Foreign branches and subsidiaries	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no requirement to pay particular attention that AML/CFT measures consistent with home country requirements and the FATF Recommendations are observed with respect to branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations.</li> <li>• No specific requirement for financial institutions apply the higher AML/CFT standard when the AML/CFT requirements of the home and host country differ.</li> </ul>
23. Regulation, supervision and monitoring	<b>PC</b>	<ul style="list-style-type: none"> <li>• In the absence of a risk assessment, the implementation of an adequate risk based supervision is not demonstrated</li> <li>• Implementing measures (e.g. the FIA Inspections Manual) do not incorporate all key elements of risk profiling and do not cover off-site surveillance</li> <li>• Lack of programmatic approach in off-site surveillance, consistency in the planning and sufficiency in the coverage of on-site inspections</li> <li>• Supervisory arrangements and performance fail to provide for efficient implementation of the supervision function</li> </ul>
24. DNFBPS - Regulation, supervision and monitoring	<b>PC</b>	<ul style="list-style-type: none"> <li>• FIA lacks adequate resources to perform its supervisory functions in addition to its numerous further functions</li> </ul>

		<ul style="list-style-type: none"> <li>• Very low level and limited coverage of onsite inspections. No comprehensive analysis of the quality of the CDD measures applied by DNFBPs</li> <li>• No measures taken to identify whether there are any San Marino residents/citizens who own or operate: (1) an internet casino; (2) a company that runs an internet casino; or (3) a server that is located in the Republic of San Marino and which hosts an internet casino.</li> </ul>
25. Guidelines and Feedback	<b>LC</b> (composite rating)	<ul style="list-style-type: none"> <li>• Indication of the need to provide further general feedback tailored to particular types of financial institutions and sectoral risks</li> <li>• Reported need of clear terms of reference (case-specific interpretations) to implement the laws and regulations</li> <li>• [DNFBPs] Insufficient sector specific guidelines on sectoral ML/TF risks, techniques and methods</li> </ul>
<b>Institutional and other measures</b>		
26. The FIU	<b>LC</b>	<ul style="list-style-type: none"> <li>• Effectiveness issues: the numerous additional functions of FIA and current practice of overreliance on FIA by the judicial authority for financial investigations and implementation of MLA requests may impact on the performance of its core functions; such as the dissemination function, and on the adequacy of resources; this may also be reflected in the limited number of disseminated cases to the judicial authority</li> </ul>
27. Law enforcement authorities	<b>PC</b>	<ul style="list-style-type: none"> <li>• Though the number of ML investigations is increasing, there are very few police generated ML investigations</li> <li>• Effectiveness: (1) the effectiveness and efficiency of the role of the Police in the investigation phase is not demonstrated; (2) it was not demonstrated that the Police has the ability to carry out autonomously (complex) financial investigations without the support of other authorities.</li> </ul>
28. Powers of competent authorities	<i>Largely Compliant</i>	<ul style="list-style-type: none"> <li>• <i>The investigating judge and the three law enforcement units have the powers required to carry out investigations and take statements concerning any crime with the</i></li> </ul>

		<i>exception of certain tax related cases and self money laundering cases which are not deemed to be predicate underlying offences</i>
29. Supervisors	<b>C</b>	
30. Resources, integrity and training	<b>PC (composite rating)</b>	<p><u>Financial intelligence unit</u></p> <ul style="list-style-type: none"> <li>• It was not demonstrated that FIA has adequate capacities and resources to undertake its core functions, considering its workload and numerous functions</li> <li>• Training of FIA staff on operational and strategic analysis, financial investigations, economic crime, etc appears to be rather limited</li> <li>• No policy or requirement to update the fit and proper checks during the period of employment to ensure high integrity of staff</li> </ul> <p><u>Law enforcement authorities (including the Court)</u></p> <ul style="list-style-type: none"> <li>• The skills of law enforcement and judiciary need further enhancement as the training of the judiciary and law enforcement on ML and financial crimes investigations appears to be insufficient</li> <li>• law enforcement authorities do not have the necessary equipment to be able to make use of special investigative techniques</li> <li>• The adequacy of the resources of the Court remains to be demonstrated</li> <li>• Limited information to assess whether there are adequate requirements in place to ensure that the Fortress Guard is required to maintain high professional standards and that there are adequate measure covering integrity aspects;</li> <li>• It was not demonstrated that Fortress Guard officials have received adequate training to develop technical expertise and capacity to detect cash movements</li> </ul> <p><u>Supervisory authority</u><sup>3</sup></p> <ul style="list-style-type: none"> <li>• The lack of adequate human resources</li> </ul>

<sup>3</sup> As regards the resources of the CBSM, the IMF FSAP report published in October 2010 concluded that “The assessment of the observance of Basel Committee Core Principles (BCP) showed that the Central Bank of San Marino (CBSM) will need substantially strengthened independence and resources [...]”. The Central Bank has informed the evaluation team after the visit that it had recruited 4 additional staff members for the Supervision units (2 junior staff, 1 insurance expert and 1 senior staff member).

		<p>appears to be a major hindrance for the FIA to properly perform its functions, particularly its supervisory function.</p> <p>Resources of policy makers</p> <ul style="list-style-type: none"> <li>• The Recommendation is fully observed</li> </ul> <p>Central authority</p> <ul style="list-style-type: none"> <li>• Competent authorities for sending/receiving and executing mutual legal assistance/extradition requests are not sufficiently staffed, resourced – including with necessary technical resources – and trained to effectively perform their functions.</li> </ul>
31. National co-operation	<b>LC</b>	<ul style="list-style-type: none"> <li>• Effectiveness issues: given that the TCNC was established only recently, full effectiveness of the co-operation and coordination mechanism could not be fully established; examination of trends and emerging money laundering risk does not appear to be jointly examined within this mechanism, and policies and strategic directions reviewed on the basis of the risk assessment when developed.</li> </ul>
32. Statistics <sup>4</sup>	<b>LC (composite rating)</b>	<ul style="list-style-type: none"> <li>• The review of the effectiveness of the AML/CFT system appears to have been conducted partially by the TCNC and does not cover comprehensively the overall AML/CFT system.</li> <li>• There were no statistics available on formal requests for assistance made or received by the CBSM relating to or including AML/CFT.</li> </ul>
33. Legal persons – beneficial owners	<b>LC</b>	<ul style="list-style-type: none"> <li>• At the time of the on-site visit, effectiveness could not be fully demonstrated, given the recent adoption of the requirements as well as the transitional period for the implementation of the legislation, and thus information accessible by authorities may not be up to date in all cases.</li> </ul>
34. Legal arrangements – beneficial owners	<b>LC</b>	<ul style="list-style-type: none"> <li>• The sanctions for failure of a resident trustee or a resident agent to fulfil their obligations and duties (registration and cancellation of the trust as well as notification of amendments relating to the elements specified in the trust certificate)</li> </ul>

<sup>4</sup> The review of Recommendation 32 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendation 38.

		<p>within the time-limits established in the Law cannot be considered dissuasive</p> <ul style="list-style-type: none"> <li>• No clear obligation for the resident agent to ask the non-resident trustee in appropriate intervals about amendments relating to the elements specified in the trust certificate.</li> </ul>
<b>International Co-operation</b>		
35. Conventions	<b>LC</b>	<ul style="list-style-type: none"> <li>○ A few shortcomings remain in the implementation of the Palermo and Vienna Conventions as outlined in the respective sections of this report</li> </ul>
36. Mutual legal assistance (MLA) <sup>5</sup>	<b>LC</b>	<ul style="list-style-type: none"> <li>• The money laundering offence still does not cover self-laundering, which could have a negative effect on the execution of mutual legal assistance requests and granting of extradition, in the context of the application of the dual criminality requirement.</li> <li>• Effectiveness concerns (until shortly before the visit, the procedure of double exequatur impacted on the effectiveness of execution of requests).</li> </ul>
37. Dual criminality	<i>Largely Compliant</i>	<ul style="list-style-type: none"> <li>• <i>Due to gaps in the incrimination of offences in article 199bis and 337bis</i></li> </ul>
38. MLA on confiscation and freezing	<i>Largely Compliant</i>	<ul style="list-style-type: none"> <li>• <i>Concerns related to requests for confiscation of laundered property and proceeds (not only instrumentalities)</i></li> <li>• <i>No consideration given to establishing an asset forfeiture fund.</i></li> </ul>
39. Extradition	<b>LC</b>	<ul style="list-style-type: none"> <li>• The money laundering offence does not cover self-laundering, which could have a negative effect on granting the extradition requests, in the context of the application of the dual criminality requirement.</li> <li>• San Marino may, though such circumstances would be limited, refuse to extradite its nationals without undertaking to prosecute the offence for which extradition is sought;</li> <li>• Effectiveness cannot be assessed given the limited number of extradition requests received</li> </ul>
40. Other forms of co-operation	<b>PC</b>	<ul style="list-style-type: none"> <li>• The basis for co-operation between FIA and foreign supervisory authorities which are not financial intelligence units is not clearly established in the legislation and the scope of information appears to be limited to</li> </ul>

<sup>5</sup> The review of Recommendation 36 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendation 28.



		<p>information related to FIU investigations.</p> <ul style="list-style-type: none"> <li>• The legal framework in place does not clearly authorize the CBSM to exchange information spontaneously</li> <li>• The adequacy of co-operation mechanisms and effectiveness of the co-operation with foreign authorities was not demonstrated by the CBSM and the Police forces</li> </ul>
<b>Nine Special Recommendations</b>		
SR. I Implement UN instruments	<b>PC</b>	<ul style="list-style-type: none"> <li>• Shortcomings remain in the implementation of the FT Convention as outlined in the respective sections of this report (i.e. criminalisation of a large majority of terrorist acts, lack of corporate criminal liability, limitations for confiscation, related gaps in the context of MLA and extradition).</li> <li>• Shortcomings remain in respect of the implementation of S/RES/1373 as outlined in the respective section of this report as well as in respect of the scope of assets as regards UNSCR 1267</li> </ul>
SR. II Criminalise terrorist financing	<b>PC</b>	<ul style="list-style-type: none"> <li>• FT criminalisation does not comply with the standard in that: <ul style="list-style-type: none"> <li>- the legislation does not criminalise a large majority of acts, as set out under the treaties that are annexed to the FT Convention and this impacts also on the definitions of a terrorist and of a terrorist organisation</li> <li>- the FT offence does not constitute a complete predicate offence to ML.</li> </ul> </li> <li>• Criminal liability has not been extended to legal persons.</li> <li>• Effectiveness cannot be tested in the absence of FT investigations and prosecutions.</li> </ul>
SR. III Freeze and confiscate terrorist assets	<b>PC</b>	<ul style="list-style-type: none"> <li>• The designating authority for the purpose of UNSCR 1373 and relevant procedures for designation, de-listing, unfreezing, etc in respect of the persons designated under UNSCR 1373 are not clearly set out in legislation;</li> <li>• The scope of the freezing mechanism is more limited than the wider scope under UNSCR 1373 and the shortcomings identified in respect to SR II requirements impact negatively;</li> </ul>

		<ul style="list-style-type: none"> <li>• The freezing mechanism does not extend to funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons, terrorist, those who finance terrorism or terrorist organisations;</li> <li>• Effectiveness issues: limited awareness of the obligations by obliged entities, given the recent adoption of the acts, and the efficiency of implementation is thus not fully demonstrated</li> </ul>
SR.IV Suspicious transaction reporting	<b>LC</b>	<ul style="list-style-type: none"> <li>• Effectiveness issues: the implementation of the FT reporting requirement is not demonstrated</li> </ul>
SR. V International co-operation <sup>6</sup>	<b>LC</b>	<ul style="list-style-type: none"> <li>• In TF cases , the shortcomings identified under SR.II may limit San Marino’s ability to provide mutual legal assistance.</li> <li>• The shortcomings identified under SR II may limit San Marino’s ability to extradite in certain TF cases;</li> <li>• San Marino may, though such circumstances would be limited, refuse to extradite its nationals without undertaking to prosecute the offence for which extradition is sought;</li> <li>• Effectiveness cannot be assessed in the absence of FT related extradition requests.</li> <li>• Shortcomings identified under R.40 are also valid for SR.V</li> </ul>
SR. VI AML requirements for money/value transfer services	<b>PC</b>	<ul style="list-style-type: none"> <li>• No licensing/ registration requirements for post offices in relation to money and value transfer services provided by them.</li> <li>• Lack of implementing regulations (the FIA Instructions) for post offices.</li> <li>• Effectiveness concerns (also in relation to only recent appointment of a formal compliance officer)</li> </ul>
SR. VII Wire transfer rules	<b>C</b>	
SR. VIII Non-profit organisations	<b>LC</b>	<ul style="list-style-type: none"> <li>• Effectiveness issues: the effective implementation of the newly adopted requirements by the NPO sector and of administrative penalties could not be</li> </ul>

<sup>6</sup> The review of Special Recommendation V has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 37 and 38.

		<p>assessed given the recent adoption of those requirements and the fact that the transitional period under the new legislation was still on-going. This could have impacted on the up to datedness of the information kept by the NPOs and by the Registries. It was also not demonstrated that the supervisory action has been fully effective.</p>
<p>SR. IX Cross Border declaration and disclosure</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• Though the administrative sanctions applicable have been increased and may appear substantial, the voluntary settlement rule substantially reduces the level of sanctions and may undermine the deterring scope of the sanction.</li> <li>• Effectiveness issues: (1) the declaration system has been recently introduced, while it was not demonstrated that the authorities responsible for overseeing its implementation were provided with sufficient training to effectively perform their functions, (2) the implementation of the declaration requirement at the time of the on-site visit was not very effective, considering that the declaration could be (and was) submitted to financial institutions<sup>7</sup> (3) no indication of undertaking risk assessment exercises at the border specifically targeting cash movements.</li> </ul>

<sup>7</sup> This possibility has been abrogated by the amendments introduced after the visit through Ratifying Decree Law no. 181 of 11 November 2010 (subsequently Decree Law no. 187 of 26 November 2010).