

INTERNATIONAL MONETARY FUND



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**DETAILED ASSESSMENT QUESTIONNAIRE  
ANTI-MONEY LAUNDERING AND COMBATING THE  
FINANCING OF TERRORISM**

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[Name of Country]

[Date]

## **Introduction**

- i. This questionnaire is the means by which the authorities in the country<sup>1</sup> being assessed by the International Monetary Fund (IMF) can provide all the detailed input to the assessment process prior to the on-site mission. This input should primarily describe the measures that are currently in place, including the implementation measures and the results obtained. Countries should also describe measures or changes which are not yet in place, but which they plan to implement—these measures should be clearly delineated from those that are in place at the time of the on-site visit. Finally, authorities may also set out any additional analysis or commentary that they believe would assist the assessors in carrying out the evaluation e.g. their analysis of the effectiveness of the measures in place.
- ii. This IMF questionnaire is based on the standard Financial Action Task Force (FATF) questionnaire that was agreed at the FATF Plenary meeting in June 2004 (and amended in June 2005 and February 2006). The substance of this questionnaire is the same as that of the FATF questionnaire and the differences are largely presentational<sup>2</sup>. If a country does not have the questionnaire for IMF assessments, it should be sent to the country for completion as soon as possible, and in any event, at least five (5) months prior to the on-site mission (where this is possible).
- iii. The questionnaire should be comprehensively completed and returned at least two (2) months prior to the commencement of the on-site mission. It is essential that the material be provided by this date if the necessary preparatory work is to be

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<sup>1</sup> All references to “country” also include territories or jurisdictions.

<sup>2</sup> The differences between the questionnaires are the following: the IMF questionnaire sets out a list of questions based on the criteria, whilst the FATF questionnaire duplicates the criteria; the IMF additionally requests (in paragraphs 3 and 4) a profiling of the financial institutions and DNFBPs; the format of the boxes is horizontal in the IMF questionnaire and vertical in the FATF questionnaire.

done. The questionnaire response should be accompanied by copies of all relevant laws, regulations, guidelines and other material referenced in the response (both in the language of the country and the language of the evaluation). All documents should be supplied in the agreed language of the assessment.

## **QUESTIONNAIRE FOR ASSESSMENTS**

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The country being assessed should provide responses for each section of the questionnaire in the manner set out below.

### **1. SECTION 1**

#### **1.1 General information on the country and its economy**

1. In section 1.1, countries should provide general information on the country and the economy. Other information that could be relevant would be a short summary addressing the six structural elements referred to in paragraph 7 of the AML/CFT Methodology 2004, or notable deficiencies in pre-conditions for an effective AML/CFT framework. In certain countries it may also be relevant to include summarised information on the level of development of the jurisdiction and other factors that affect the development and implementation of an AML/CFT framework.

#### **1.2 General Situation of Money Laundering and Financing of Terrorism**

2. This section provides background information on the types of predicate offences that are generating illegal proceeds that are laundered (whether those offences are domestic or foreign), any estimates of the amount of money being laundered, and the methods, techniques and trends that have been observed regarding the laundering. Information should also be provided on any terrorist activity that has occurred within the country, and on the sources and methods used to finance terrorist activity. Any specific matters of concern or vulnerability should be highlighted. The following questions should be answered:

(a) What crimes or types of crime are considered to be the major sources of illegal proceeds in your jurisdiction? Please describe briefly the current situation and trends regarding such crimes e.g. how serious a money laundering problem they represent; any order of magnitude estimate you can provide of the scale of proceeds generated; whether the incidence of such crimes is increasing or declining, and whether the proceeds come from domestic or foreign predicate offences.

Please provide, if possible, available statistical data on the numbers of prosecutions and convictions for serious offences, by offence type, for the last four (4) years. This will help the assessors to have an overview of your crime situation generally. For offences that result in economic loss or damage please indicate (if figures are available) the total economic loss or damage resulting from these offences.

(b) Describe the present money laundering situation in your jurisdiction, and how it has changed (if at all) in the last four (4) years? What do you consider your most important money laundering problem? Do you anticipate any changes in the money laundering threat in the foreseeable future? In your description, please provide the following types of information:

- a. the number of cases of money laundering or suspected money laundering;
- b. the most common ways in which the money is laundered;
- c. the types of financial institutions, DNFBP or other businesses used;
- d. the types of groups involved in laundering operations;
- e. whether the pattern of money laundering has changed following the introduction of anti-money laundering measures.

(c) Describe the present terrorist financing situation in your country and how it has changed (if at all) in the last four (4) years? Do you anticipate any changes in the methods or techniques that will be used in the foreseeable future? In your description, cover any cases of actual or suspected terrorist financing which have come to light; the source of the funds (including whether legal or illegal), the ways in which the funds were provided to the terrorists and how they were used, the types of institutions used, and the groups involved). Advise whether the terrorist financing techniques and trends have changed following the introduction of counter-terrorist financing measures in your jurisdiction.

### **1.3 Overview of the Financial Sector and DNFBP**

3. Section 1.3 should contain a description of the types of financial institutions operating in the country, and listing the financial activities (see the definition of “financial institution” in the Methodology) that they engage in or are authorised to engage in. It is very useful if a table is prepared that compares the types of financial institutions operating in a country with the list of financial activities set out in the definition. For the purposes of the FATF Recommendations, it is not necessary that a business or institution requires authorisation to be classified as a “financial institution”. Rather, this section should describe any natural or legal person that engages in a financial activity and meets the definition of “financial institution”. The section should also set out in tabular form for each type of financial institution, (i) the number of institutions; (ii) where applicable, the number of branches, both domestic and abroad; (iii) size (e.g., assets or premiums); (iv) competent authority responsible for authorization or registration; (v) where applicable, competent authority responsible for prudential or market conduct supervision; (vi) competent authority responsible for AML/CFT supervision. The section should also highlight any recent changes of significance e.g. consolidation in a particular sector.

4. There should be similar information on each of the six categories of designated non-financial businesses and professions (DNFBP) as defined in the Forty Recommendations, namely: casinos (including internet casinos); real estate agents; dealers in precious metals;

dealers in precious stones; lawyers, notaries, other independent legal professionals and accountants; and trust and company service providers. The section should describe the types of activities or business that they typically engage in, or are permitted to engage in, as well as information on the number and size of these various businesses and professionals (as defined), and any recent changes of significance.

5. This section should also include an overview of the Non-Profit Organization (NPO) sector in your country, including: number of entities (with breakdowns by size, if possible), forms of NPOs (with numbers of entities in each category, if possible), estimated financial flows through the sector (and sub-sectors, if possible), fundraising practices, and international ties.

#### **1.4 Overview of commercial laws and mechanisms governing legal persons and arrangements**

6. This section should contain a description of the types of legal persons and legal arrangements that can be established or created, or can own property, in the country. This may extend to types of legal persons and arrangements that cannot be created within the country but which are recognised for purposes such as holding bank accounts or real estate, owning shares or conducting financial transactions. The country should provide basic information on:

- (a) how such legal persons or arrangements are created or established or are otherwise recognised e.g. what formal documents are required;
- (b) the basic characteristics of such entities e.g. who has ownership (for example shareholders, which could be legal or natural persons) and control (e.g. directors), do they require a registered office or agent etc.;
- (c) whether they are registered, what types of information must be provided for the register (in particular, information on ownership and control), and whether this is public information; and
- (d) what types of information concerning its ownership and control must be maintained by the entity itself, who has access to this information and must it be retained in the country where it is created or established or owns property.

It is very useful if this section also contains a description of any laws, systems and mechanisms that exist for identifying natural persons, which could be through national identity registration systems, use of identity cards or in other ways.

#### **1.5 Overview of strategy to prevent money laundering and terrorist financing**

7. This section should provide a high-level overview of the country's AML/CFT efforts, and in particular the policy objectives and any progress that has been made since the last

evaluation. It is not necessary to give an overview of the whole system, as all the legislative and other components are described in detail below, and the executive summary of the MER will provide this overview. It should include identification of the authorities, bodies and institutions with AML/CFT responsibilities within the country and a summary of historical developments. The responses to the questions below will help to provide a substantial basis for completing this section.

***a. AML/CFT Strategies and Priorities***

- i. What are the current control policies and objectives of your government for combating money laundering or terrorist financing? Describe which aspects of the anti-money laundering policies and/or programmes have the highest priority? Why?
- ii. Have you measured the effectiveness of your policies and programmes? If so, describe how this was done, and what the results are.
- iii. Describe any new initiatives that your government is planning for combating money laundering or terrorist financing?

***b. The institutional framework for combating money laundering and terrorist financing***

Describe briefly the roles and responsibilities of the various governmental and non-governmental authorities or organisations in detecting, preventing, and taking repressive action in relation to money laundering and terrorist financing, both at the national level and sub-national levels (e.g. state or provincial) if applicable, highlighting any recent changes. This also includes Ministries or bodies involved in setting AML/CFT policy. For example:

**Ministries**

- Ministry of Finance.
- Ministry of Justice, including central authorities for international co-operation.
- Ministry of Interior.
- Ministry of Foreign Affairs.
- Ministry responsible for the law relating to legal persons and arrangements.
- Committees or other bodies to co-ordinate AML/CFT action.

**Criminal justice and operational agencies**

- The financial intelligence unit (FIU).
- Law enforcement agencies including police and other relevant investigative bodies.
- Prosecution authorities including specialised confiscation agencies.
- Customs service.
- If relevant - specialised drug agencies, intelligence or security services, tax authorities.

- Task forces or commissions on ML, FT or organised crime.

Financial sector bodies

- Ministries or agencies responsible for licensing, registering or otherwise authorising financial institutions.
- Supervisors of financial institutions, including the supervisors for banking and other credit institutions, insurance, and securities and investment.
- Supervisors or authorities responsible for monitoring and ensuring AML/CFT compliance by other types of financial institutions, in particular bureaux de change and money remittance businesses.
- Exchanges for securities, futures and other traded instruments.
- Central Bank.

DNFBP and other matters

- Casino supervisory body.
- Supervisor or other competent authority, or SRO, for DNFBP.
- Self-regulatory organisations (SRO) for professionals such as lawyers and accountants.
- Registry for companies and other legal persons, and for legal arrangements (if applicable).
- Mechanisms relating to non-profit organisations (e.g., registration requirements, tax privileges, supervisory bodies, controls on fundraising, SROs).
- Any other agencies or bodies that may be relevant.

*c. Overview of policies and procedures*

Please provide an overview of any policies and procedures that your authorities have adopted in applying a risk-based approach to combating money laundering and terrorist financing. The overview should describe the authorities' overall philosophy towards a risk-based approach (e.g. does it form an integral part of its regulatory framework?), and should indicate how the relevant risk assessments are undertaken to help determine the policy and its practical application. Finally, there should be a description of the mechanism by which any permitted variations from the generally applicable standards are promulgated, and what arrangements, if any, are in place to monitor the continuing suitability of the exceptions.

*d. Progress since the last mutual evaluation or assessment*

Where a country has undergone a previous mutual evaluation or detailed assessment, the country should summarise the key findings and/or recommendations that were made in the previous report (a copy of which should be made available to assessors), and set out the measures that the country had taken to address the recommendations in the period up to the date of the on-site visit or immediately thereafter.

## 2. SECTIONS 2 – 7

In each part of the sections below there is a table setting out all the criteria under the 2004 Methodology. Countries should complete the descriptive component as set out in the table. They may also provide any additional analysis or commentary that they believe would assist the assessors in carrying out the evaluation.

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| Description and Analysis | <p>A detailed description of the laws, regulations and other measures currently in place that are relevant to the section and to the Recommendation, including the implementation measures and the results obtained. Countries should also describe measures or changes which are not yet in place, but which are planned - these measures should be clearly delineated from those that are in place at the time of the on-site visit.</p> <p>The description must fully cover all essential criteria set out in the Methodology. Countries should also respond to the questions posed in the additional elements, though the level of detail may vary depending on the issue and the approach that a country has taken. For example, if a country has implemented one of the optional measures set out as an additional element, they should provide an adequate description of the measures taken. Any other relevant measures should also be adequately described. Descriptions should provide citations, quotes or summaries sufficient to describe the relevant elements of the law or other measures. To assist countries ensure that the description of their AML/CFT system covers all the essential criteria and additional elements, the criteria are set out in the questionnaire next to the relevant section of the report.</p> <p>Additional elements (which are not mandatory and which will not be taken into account in the ratings) appear in shaded boxes, as do the example boxes that are contained within the essential criteria.</p> <p>Where statistics are referred to in various parts of the questionnaire (R.32) countries should indicate not only whether they keep such statistics, but should provide the relevant statistics. Countries could also provide any other statistics or data that they consider to be relevant to the effectiveness and efficiency of their system for combating money laundering and terrorist financing.</p> <p>Authorities may (if they wish) indicate the extent to which they believe they have met the FATF Recommendations and may provide other comments or other supplementary information, such as their analysis of the effectiveness of the measures in place.</p> |
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## 2      **LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES**

### **Laws and Regulations**

#### **2.1      Criminalisation of Money Laundering (R.1 & 2)**

##### **A. 2.1.1      Description and Analysis<sup>3</sup>**

| <b><i>Recommendations 1 &amp; 2</i></b>   |
|---|
| General description of laws or other measures, the situation, or context.   |
| 1.1 Is money laundering criminalized in your jurisdiction? If it is, please indicate the specific legal provision(s) that criminalize money laundering, as well as any further information in order to assist us in determining whether money laundering has been criminalized on the basis of the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) and the 2000 UN Convention against Transnational Organized Crime (the Palermo Convention) For the physical and material elements of the offence see Article 3(1)(b)&(c) Vienna Convention and Article 6(1) Palermo Convention). |
| 1.2 Does the offence of ML extend to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime? Please indicate the specific provisions that apply.   |
| 1.2.1 When proving that property is the proceeds of crime, is it necessary that a person be convicted of a predicate offence? If yes, is it necessary at any stages of the proceedings (including when a decision is being made whether to initiate proceedings)?   |
| 1.3 Please list the predicate offences for money laundering.<br><br>Note to the assessed country: the predicate offences for money laundering should cover all serious offences, and countries should seek to extend this to the widest range of predicate offences. At a minimum, predicate offences should include a range of offences in each of the designated categories of offences. Where the designated category is limited to a specific offence, then that offence must be covered.   |
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<sup>3</sup> Note to the assessed country: for all Recommendations, the description and analysis section should include an analysis of effectiveness, and should contain any relevant statistical data.

1.4 Does your country determine the underlying offences to money laundering by reference to (a) all offences, (b) to a threshold linked either to a category of serious offences or to a penalty of imprisonment applicable to the predicate offence (threshold approach), (c) to a list of predicate offences, or (d) to a combination of these approaches? Please indicate the specific provisions that apply.

Please note that where countries apply a threshold approach or a combined approach that includes a threshold approach, predicate offences should at a minimum comprise all offences:

- a) which fall within the category of serious offences under their national law; or
- b) which are punishable by a maximum penalty of more than one year's imprisonment; or
- c) which are punished by a minimum penalty of more than six months imprisonment (for countries that have a minimum threshold for offences in their legal system).

Examples of categories of serious offences include: "indictable offences" (as opposed to summary offences), "felonies" (as opposed to misdemeanours); "crimes" (as opposed to "délits").

1.5 Do the predicate offences for money laundering extend to conduct that occurred in another country, which constitutes an offence in that country, and which would have constituted a predicate offence had it occurred domestically? Please indicate the specific provisions that apply.

1.6 Does the offence of money laundering apply to persons who commit the predicate offence? If it does not apply, is it because it is required by fundamental principles of domestic law in your jurisdiction? Please explain those fundamental principles and indicate the specific provisions that apply.

1.7 What are the ancillary offences to the offence of money laundering under your legislation? Do they include conspiracy to commit, attempt, aiding and abetting, facilitating, and counselling the commission? If they do, please indicate the specific provisions that apply. If they don't, please indicate whether there are fundamental principles of your domestic law that would oppose this inclusion.

Please note that there should be appropriate ancillary offences to the offence of money laundering, including conspiracy to commit, attempt, aiding and abetting, facilitating, and counselling the commission, unless this is not permitted by fundamental principles of domestic law.

#### **Additional elements**

1.8 Where the proceeds of crime are derived from conduct that occurred in another country, which is not an offence in that other country but which would have constituted a predicate offence had it occurred domestically, does this constitute a money laundering offence? Please indicate the specific provisions that apply.

2.1 Does the offence of ML apply at least to natural persons that knowingly engage in ML activity?

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| 2.2 Can the intentional element of the offence of ML be inferred from objective factual circumstances? If so, please describe and, if relevant, indicate the specific provisions that apply.   |
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| 2.3 Does criminal liability for ML extend to legal persons? If it does, please indicate the specific provisions that apply. If such an extension is not possible (i.e. due to fundamental principles of domestic law), do civil or administrative liability apply? If so, please indicate the specific provisions that apply.  |
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| 2.4 Where legal persons are subject to criminal liability for ML: does this preclude the possibility of parallel criminal, civil or administrative proceedings (if your jurisdiction provides for more than one form of liability)?  |
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| 2.5 What are the type and range of sanctions that apply to legal and natural persons convicted of ML offences? If there is corporate criminal liability, does it prejudice the criminal liability of natural persons? Please indicate the specific provisions that apply and provide any information helpful to determine whether natural and legal persons are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions for ML. |
|  |
| <b><i>Recommendation 32 (money laundering investigation/prosecution data)</i></b>  |
| 32.2 Please advise whether and demonstrate how competent authorities maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing. Do authorities keep annual statistics on ML investigations, prosecutions, and convictions?<br><b>If maintained, please provide the statistics for the last four years.</b>   |
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| <b><u>Additional elements:</u></b>   |
| 32.3: Do competent authorities maintain comprehensive statistics on any criminal sanctions applied to persons convicted of ML offences? If they do, please provide the statistics for the last 4 years.  |
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| Please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.   |

## 2.2 Criminalisation of Terrorist Financing (SR.II)

### 2.2.1 Description and Analysis

| <b><i>Special Recommendation II</i></b>   |
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| General description of laws or other measures, the situation, or context.   |
| II.1 Is terrorist financing criminalized? If it is, please indicate the specific legal provision(s) that criminalize(s) the financing of terrorism as well as any further information relevant to determine whether the criminalization is consistent with Article 2 of the Terrorist Financing Convention. <sup>4</sup><br><br>(a) Do terrorist financing offences extend to any person who wilfully provides or collects funds by any means, directly or indirectly, with the unlawful intention that they should be used or in the knowledge that they are to be used, in full or in part:<br><br>(i) to carry out a terrorist act(s);<br>(ii) by a terrorist organisation; or<br>(iii) by an individual terrorist.<br><br>(b) Do terrorist financing offences extend to any <i>funds</i> as that term is defined in the TF Convention? This includes funds whether from a legitimate or illegitimate source.<br><br>The Terrorist Financing Convention defines <i>funds</i> as:<br><br>“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.”<br><br>(c) Does the terrorist financing offence require that the funds: (i) were actually used to carry out or attempt a terrorist act(s); or (ii) be linked to a specific terrorist act(s)?<br><br>(d) Is it an offence to attempt to commit the offence of terrorist financing?<br><br>(e) Is it an offence to engage in any of the types of conduct set out in Article 2(5) of the Terrorist Financing Convention? |
| II.2 Are terrorist financing offences predicate offences for money laundering? Please indicate the specific provisions that apply.  |
| II.3 Do the terrorist financing offences apply, regardless of whether the person alleged to have committed the offence(s) is in the same country or a different country from the one in which the terrorist(s)/ terrorist organisation(s) is located or the terrorist act(s) occurred/will occur? Please indicate the specific provisions that apply.   |

<sup>4</sup> Note to assessors: the criminalisation of terrorist financing solely on the basis of aiding and abetting, attempt, or conspiracy does not comply with SRII.

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| II.4 Do the answers provided for criteria 2.2 to 2.5 (in R. 2) also apply to in relation to the offence of FT? in other words:<br><br>a) Can the intentional element of the terrorist financing offences be inferred from objective factual circumstances? If so, please describe.<br><br>b) Does criminal liability for terrorist financing extend to legal persons? If it does, please indicate the specific provisions that apply. If it does not possible for some reason (i.e. due to fundamental principles of domestic law) please indicate the reason, advise whether civil or administrative liability apply and indicate the specific provisions that apply.<br><br>c) Where legal persons are subject to criminal liability for terrorist financing: does this preclude the possibility of parallel criminal, civil or administrative proceedings (if more than one form of liability are available)? Please indicate the specific provisions that apply. |
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| <b><i>Recommendation 32 (terrorist financing investigation/prosecution data)</i></b>   |
| 32.2 Do competent authorities maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing? If so, do they include keeping annual statistics on terrorist financing investigations, prosecutions, and convictions?<br><br><b>If maintained, please provide the statistics for the last 4 years</b>  |
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| <b><u>Additional elements:</u></b><br><br>32.3: Do competent authorities maintain comprehensive statistics on any criminal sanctions applied to persons convicted of terrorist financing offences?<br><br><b>If maintained, please provide the statistics for the last 4 years</b>   |
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| If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.   |
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## 2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)

### 2.3.1 Description and Analysis

| <b><i>Recommendation 3</i></b>   |
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| General description of laws or other measures, the situation, or context.  |
| <p>3.1 Do laws in your jurisdiction provide for the confiscation of property that has been laundered or which constitutes:</p> <ul style="list-style-type: none"><li>a) proceeds from;</li><li>b) instrumentalities used in; and</li><li>c) instrumentalities intended for use in</li></ul> <p>the commission of any money laundering, terrorist financing or other predicate offences, and property of corresponding value? Please indicate the specific provisions that apply in each case.</p>  |
| <p>3.1.1 Do the provisions under 3.1. above equally apply:</p> <ul style="list-style-type: none"><li>(a) to property that is derived directly or indirectly from proceeds of crime; including income, profits or other benefits from the proceeds of crime; and</li><li>(b) subject to criterion 3.5, to all the property referred to above, regardless of whether it is held or owned by a criminal defendant or by a third party?</li></ul> <p>Please indicate the specific provisions that apply.</p> <p>Please note that all the property referred to in 3.1 and 3.1.1 above is hereafter referred to as “property subject to confiscation”.</p> |
| <p>3.2 Do laws and other measures provide for provisional measures, including the freezing and/or seizing of property, to prevent any dealing, transfer or disposal of property subject to confiscation? If so, please indicate the specific provisions that apply.</p>  |
| <p>3.3 Do laws or other measures allow the initial application to freeze or seize property subject to confiscation to be made ex-parte or without prior notice, or would this be inconsistent with fundamental principles of your domestic law? Please indicate the specific provisions that apply.</p>  |
| <p>3.4 Have the law enforcement agencies, the FIU or other competent authorities been given adequate powers to identify and trace property that is, or may become subject to confiscation or is suspected of being the proceeds of crime? If so, please indicate the powers, and the specific provisions that provide for such powers.</p>   |

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| 3.5 Do laws and other measures provide protection for the rights of <i>bona fide</i> third parties? If so, please indicate the specific provisions that provide this protection and any further information that is relevant in order to determine to what extent this protection is consistent with the standards provided in the Palermo Convention.                                   |
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| 3.6 Is there authority to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation? If so, please indicate the specific provisions that apply.                                   |
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| <b><u>Additional elements</u></b>  |
| 3.7 Do laws provide for the confiscation of:   |
| a) The property of organisations that are found to be primarily criminal in nature (i.e. organisations whose principal function is to perform or assist in the performance of illegal activities)?   |
| b) Property subject to confiscation, but without a conviction of any person ( <i>civil forfeiture</i> ), in addition to the system of confiscation triggered by a criminal conviction?   |
| c) Property subject to confiscation, and which require an offender to demonstrate the lawful origin of the property?   |
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| <b><i>Recommendation 32 (confiscation/freezing data)</i></b>   |
| 32.2 Do competent authorities maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing? If so, do they include keeping annual statistics on the number of cases and the amounts of property frozen, seized, and confiscated relating to (i) ML, (ii) FT, and (iii) criminal proceeds? |
| <b>If maintained, please provide the statistics for the last 4 years</b>   |
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| <b><u>Additional elements:</u></b>   |
| 32.3: Do competent authorities maintain comprehensive statistics on:   |
| (d) the number of cases and the amounts of property frozen, seized, and confiscated relating to underlying predicate offences where applicable?  |
| <b>If maintained, please provide the statistics for the last 4 years</b>   |
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| If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.   |
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## 2.4 Freezing of funds used for terrorist financing (SR.III)

### 2.4.1 Description and Analysis

| <b><i>Special Recommendation III</i></b>   |
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| General description of laws or other measures, the situation, or context.  |
| <p>III.1 Are there effective laws and procedures to freeze terrorist funds or other assets of persons designated by the United Nations Al-Qaeda and Taliban Sanctions Committee in accordance with S/RES/1267(1999)? If so, does such freezing take place without delay? Is prior notice given to the designated persons involved?</p> <p>Please indicate the specific provisions that apply and describe the freezing procedures.</p> <p>S/RES/1267(1999) and its successor resolutions oblige countries to freeze without delay the funds or other assets owned or controlled by Al-Qaeda, the Taliban, Usama bin Laden, or persons and entities associated with them as designated by the United Nations Al-Qaeda and Taliban Sanctions Committee established pursuant to United Nations Security Council Resolution 1267(1999), including funds derived from funds or other assets owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds or other assets are made available, directly or indirectly, for such persons' benefit, by their nationals or by any person within their territory. The Al-Qaeda and Taliban Sanctions Committee is the authority responsible for designating the persons and entities that should have their funds or other assets frozen under S/RES/1267(1999) and its successor resolutions. All countries that are members of the United Nations are obligated by S/RES/1267(1999) and its successor resolutions to freeze the assets of persons and entities so designated by the Al-Qaeda and Taliban Sanctions Committee.</p>   |
| <p>III.2 Are there any laws and procedures that give competent authorities the power to freeze terrorist funds or other assets of persons designated in the context of S/RES/1373(2001)? If so, does such freezing take place without delay? Is prior notice given to the designated persons involved?</p> <p>Please indicate the specific provisions that apply and describe the freezing procedures.</p> <p>S/RES/1373(2001) obligates countries to freeze without delay the funds or other assets of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds or other assets derived or generated from property owned or controlled, directly or indirectly, by such persons and associated persons and entities. Each individual country has the authority to designate the persons and entities that should have their funds or other assets frozen. Additionally, to ensure that effective co-operation is developed among countries, countries should examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other countries. When (i) a specific notification or communication is sent and (ii) the country receiving the request is satisfied, according to applicable legal principles, that a requested designation is supported by reasonable grounds, or a reasonable basis, to suspect or believe that the proposed designee is a terrorist, one who finances terrorism or a terrorist organisation, the country receiving the request must ensure that the funds or other assets of the designated person are frozen without delay.</p> |
| <p>III.3 Are there effective laws and procedures to examine and give effect to, if appropriate, the actions initiated under the</p>  |

freezing mechanisms of other jurisdictions? Do such procedures ensure the prompt determination, according to applicable national legal principles, whether reasonable grounds or a reasonable basis exists to initiate a freezing action and the subsequent freezing of funds or other assets without delay?

Please indicate the specific provisions that apply.

III.4 Do the freezing actions referred to in III.1 – III.3 extend to:

- a) funds or other assets wholly or jointly<sup>5</sup> owned or controlled, directly or indirectly, by designated persons, terrorists, those who finance terrorism or terrorist organisations; and
- b) funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons, terrorists, those who finance terrorism or terrorist organisations?

III.5 Are there effective systems for communicating actions taken under the freezing mechanisms referred to in Questions III.1 – III.3 to the financial sector<sup>6</sup> immediately upon taking such action? If so, please indicate the specific provisions that apply and explain the basis for your conclusion that the systems are effective. Please also provide a sample of communications made.

III.6 Is guidance provided to financial institutions and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms? If so, please indicate the specific provisions that apply and attach the relevant guidance provided.

III.7 Are there effective and publicly-known procedures for considering de-listing requests and for unfreezing the funds or other assets of de-listed persons or entities in a timely manner consistent with international obligations? Please indicate the specific provisions that apply and explain the basis for your conclusion that they are effective.

III.8 Are there publicly-known procedures for unfreezing, in a timely manner, the funds or other assets of persons or entities inadvertently affected by a freezing mechanism upon verification that the person or entity is not a designated person? Please indicate the specific provisions that apply and explain the basis for your conclusion the procedures are effective. Please also indicate whether such procedures have been used.

III.9 Are there appropriate procedures for authorising access to funds or other assets that were frozen pursuant to S/RES/1267(1999) and that have been determined to be necessary for basic expenses, the payment of certain types of

<sup>5</sup> *Jointly* refers to those assets held jointly between or among designated persons, terrorists, those who finance terrorism or terrorist organisations on the one hand, and a third party or parties on the other hand.

<sup>6</sup> For examples of possible mechanisms to communicate actions taken or to be taken to the financial sector and/or the general public, see the FATF Best Practices paper entitled “Freezing of Terrorist Assets—International Best Practices”.

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| fees, expenses and service charges or for extraordinary expenses? If there are, please indicate the specific provisions that apply and provide any further information relevant to determine whether these procedures are in accordance with S/RES/1452(2002).   |
|  |
| III.10 Are there any procedures through which a person or entity whose funds or other assets have been frozen can challenge that measure with a view to having it reviewed by a court? If so, please indicate the specific provisions that apply and describe the procedures.  |
|  |
| <i>Freezing, Seizing and Confiscation in other circumstances</i>   |
| III.11 Do the answers to Questions 3.1 – 3.4 and Question 3.6 (in R.3) also apply in relation to the freezing, seizing and confiscation of terrorist-related funds or other assets in contexts other than those described in Questions III.1 – III.10? Please specify.   |
|  |
| <i>General provisions</i>  |
| III.12 Do laws and other measures provide protection for the rights of <i>bona fide</i> third parties? If so, please indicate the specific provisions that apply and any other information relevant to determine whether such protection is consistent with the standards provided in Article 8 of the Terrorist Financing Convention, where applicable.   |
|  |
| III.13 Are there appropriate measures in place to monitor effectively the compliance with relevant legislation, rules or regulations governing the obligations under SR III and to impose civil, administrative or criminal sanctions for failure to comply with such legislation, rules or regulations? If there are, please indicate what these measures are and indicate the specific provisions that apply.      |
|  |
| <b><u>Additional elements</u></b>  |
| III.14 Have the measures set out in the Best Practices Paper for SR.III been implemented? If so, please specify.   |
| III.15 Have the procedures to authorise access to funds or other assets that were frozen pursuant to S/RES/1373(2001) and that have been determined to be necessary for basic expenses, the payment of certain types of fees, expenses and service charges or for extraordinary expenses been implemented? Are these procedures consistent with S/RES/1373(2001) and the spirit of S/RES/1452(2003)? Please specify. |
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| <b><i>Recommendation 32 (terrorist financing freezing data)</i></b>   |
| 32.2 Do the competent authorities maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing? If so, do these statistics include keeping annual statistics number of persons or entities and the amounts of property frozen pursuant to or under U.N. Resolutions relating to terrorist financing? |
| <b>If maintained, please provide the statistics for the last 4 years</b>  |
|   |
| <b>Additional material</b>  |
| If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.  |
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### **Authorities**

#### **2.5 The Financial Intelligence Unit and its functions (R.26, 30 & 32)**

##### **2.5.1 Description and Analysis**

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| <b><i>Recommendation 26</i></b>  |
| General description of laws or other measures, the situation, or context.  |
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| 26.1 Has your country established an FIU that serves as a national centre for receiving (and if permitted, requesting), analysing, and disseminating disclosures of STR and other relevant information concerning suspected ML or FT activities? If so, please indicate the specific provisions that provide the basis for the establishment of the FIU and that determine its powers.<br><br>Note to the assessed country: The FIU can be established either as an independent governmental authority or within an existing authority or authorities. |
|  |
| 26.2 Does the FIU or another competent authority provide financial institutions and other reporting parties with guidance regarding the manner of reporting, including the specification of reporting forms, and the procedures that should be followed when reporting? If so, please indicate the specific provisions that apply and provide the guidance given.  |
|  |
| 26.3 Does the FIU have access to the financial, administrative and law enforcement information that it requires to properly undertake its functions, including the analysis of STR? If so, is this access direct or indirect? Can it occur on a timely basis? Where relevant, please indicate the specific provisions that apply.  |
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| 26.4 Is the FIU, either directly or through another competent authority, authorised to obtain from reporting parties additional information needed to properly undertake its functions? If so, does it obtain the information directly or through another competent authority? Where relevant, please indicate the specific provisions that apply. |
|  |
| 26.5 Is the FIU authorised to disseminate financial information to domestic authorities for investigation or action when there are grounds to suspect ML or FT? If so, please indicate the specific provisions that apply.   |
|  |
| 26.6 Does the FIU have sufficient operational independence and autonomy to ensure that it is free from undue influence or interference? Please indicate the specific provisions that apply.  |
|  |
| 26.7 Is the information held by the FIU securely protected? Please indicate the specific provisions that apply and any relevant information relevant to determine whether the information is disseminated only in accordance with the law.   |
|  |
| 26.8 Does the FIU publicly release periodic reports? If so, do these reports include statistics, typologies and trends as well as information regarding its activities? Where relevant, please indicate the specific provisions that enable the FIU to publish reports and provide a sample of these reports.                                      |
|  |
| 26.9 If your country has created an FIU, has it applied or considered applying for membership in the Egmont Group? If yes, please indicate whether the request was successful.   |
|  |
| 26.10 Does your countries have regard to the Egmont Group Statement of Purpose and its Principles for Information Exchange Between Financial Intelligence Units for Money Laundering Cases (these documents set out important guidance concerning the role and functions of FIUs, and the mechanisms for exchanging information between FIU)?      |
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| <p><b>Recommendation 30 (FIU):</b></p>   |
| <p>30.1 <b>FIU only:</b> Please describe the FIU's structure and the financial, human , technical and other resources that the FIU has been granted in order to make it possible to determine whether , the FIU is adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform their functions. Please note that adequate structuring includes the need for sufficient operational independence and autonomy to ensure freedom from undue influence or interference.<sup>7</sup></p>   |
|  |
| <p>30.2 <b>FIU only:</b> Please indicate the standards that apply when hiring new staff. Is the staff of competent authorities required to maintain high professional standards, including standards concerning confidentiality, and should staff be of high integrity and appropriately skilled?</p>  |
|  |
| <p>30.3 <b>FIU only:</b> Are the staff of the FIU provided with training for combating ML and FT? If so, please indicate the frequency of this training and provide samples in order to make it possible to determine whether such training is adequate and relevant.</p> <p>Examples of issues to be covered under adequate and relevant training include: the scope of predicate offences, ML and FT typologies, techniques to investigate and prosecute these offences, techniques for tracing property that is the proceeds of crime or is to be used to finance terrorism, and ensuring that such property is seized, frozen and confiscated, and the techniques to be used by supervisors to ensure that financial institutions are complying with their obligations; the use of information technology and other resources relevant to the execution of their functions. Countries could also provide special training and/or certification for financial investigators for, <i>inter alia</i>, investigations of ML, FT, and the predicate offences.</p> |
|  |
| <p><b>Recommendation 32 (FIU):</b></p>   |
| <p>32.2 Does the FIU maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing? If so, do these statistics include keeping annual statistics on:</p> <p>(a) suspicious transaction reports, and other reports where appropriate under domestic law, received and disseminated –</p> <p>(i) STR received by the FIU, including a breakdown of the type of financial institution, DNFBP, or other business or person making the STR;</p> <p>(ii) Breakdown of STR analysed and disseminated?</p> <p>(iii) international wire transfers ? (Note to the assessed country: it is acceptable if these statistics are kept by another agency).</p> <p><b>If maintained, please provide the statistics for the last 4 years</b></p>  |
|  |
| <p><b><u>Additional elements:</u></b></p>  |

<sup>7</sup> If a country's FIU does not comply with the requirement to have sufficient operational independence and autonomy (Criterion 26.6), the country should only be rated down in Recommendation 26.

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| <p><b>32.3 FIU only (it is acceptable if this information is kept by other agencies):</b> Does the FIU maintain comprehensive statistics on STR resulting in investigation, prosecution, or convictions for ML, FT or an underlying predicate offence?</p> |
| <p>If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.</p>  |

## **2.6 Law enforcement, prosecution and other competent authorities – the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27, 28, 30 & 32)**

### **2.6.1 Description and Analysis**

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| <p><b><i>Recommendation 27</i></b></p>  |
| <p>General description of laws or other measures, the situation, or context.</p>  |
|   |
| <p>27.1 Are there designated law enforcement<sup>8</sup> authorities that have responsibility for ensuring that ML and FT offences are properly investigated? If yes, please indicate the authorities and their powers and indicate the specific provisions that apply.</p>   |
|   |
| <p>27.2 Has your country considered taking measures, whether legislative or otherwise, that allow competent authorities investigating ML cases to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering?</p> |
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<sup>8</sup> In certain countries, this responsibility also rests with prosecution authorities.

**Additional elements:**

27.3 Are measures in place, whether legislative or otherwise, that provide law enforcement or prosecution authorities with an adequate legal basis for the use of a wide range of special investigative techniques when conducting investigations of ML or FT (e.g. controlled delivery of the proceeds of crime or funds intended for use in terrorism, undercover operations, etc)? Where relevant, please specify.

27.4 Where special investigative techniques are permitted, are such techniques used when conducting investigations of ML, FT, and underlying predicate offences, and to what extent? Where relevant, please specify.

27.5 In addition to special investigative techniques, are the following effective mechanisms used?

(a) Permanent or temporary groups specialised in investigating the proceeds of crime (financial investigators)? An important component of the work of such groups or bodies would be focused on the investigation, seizure, freezing and confiscation of the proceeds of crime.

(b) Co-operative investigations with appropriate competent authorities in other countries, including the use of special investigative techniques, provided that adequate safeguards are in place?

Where relevant, please specify.

27.6 Are ML and FT methods, techniques and trends reviewed by law enforcement authorities, the FIU and other competent authorities (as appropriate) on a regular, interagency basis? Are the resulting information, analyses or studies disseminated to law enforcement and FIU staff, as well as staff of other competent authorities? Where relevant, please specify.

***Recommendation 28***

28.1 Do the competent authorities responsible for conducting investigations of ML, FT and other underlying predicate offences have the powers to be able to:

- (a) compel production of,
- (b) search persons or premises for, and
- (c) seize and obtain

transaction records, identification data obtained through the CDD process, account files and business correspondence, and other records, documents or information, held or maintained by financial institutions and other businesses or persons?

If so, please indicate the specific provisions that apply and any further information relevant to make it possible to determine whether such powers are exercised through lawful process (for example, subpoenas, summonses, search and seizure warrants, or court orders) and be available for use in investigations and prosecutions of ML, FT, and other underlying predicate offences, or in related actions e.g. actions to freeze and confiscate the proceeds of crime.

28.2 Do the competent authorities referred to above have the powers to be able to take witnesses' statements for use in investigations and prosecutions of ML, FT, and other underlying predicate offences, or in related actions? If so, please indicate the specific provisions that apply.

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| <p><b>Recommendation 30 (Law enforcement and prosecution authorities only)</b></p>  |
| <p><b>30.1 Law enforcement and prosecution authorities only:</b> Please describe how the law enforcement and prosecution agencies are structured and indicate what financial, human and technical resources they have been granted in order to make it possible to determine whether they are adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform their functions. Please note that adequate structuring includes the need for sufficient operational independence and autonomy to ensure freedom from undue influence or interference.</p>   |
|   |
| <p><b>30.2 Law enforcement and prosecution authorities only:</b> Please indicate the standards that apply when hiring new staff. Is the staff of the law enforcement and prosecution authorities required to maintain high professional standards, including standards concerning confidentiality, and should staff be of high integrity and appropriately skilled?</p>   |
|   |
| <p><b>30.3 Law enforcement and prosecution authorities only:</b> Is the staff of the law enforcement and prosecution authorities provided with training for combating ML and FT? If so, please indicate the frequency of this training and provide samples in order to make it possible to determine whether such training is adequate and relevant.</p> <p>Examples of issues to be covered under adequate and relevant training include: the scope of predicate offences, ML and FT typologies, techniques to investigate and prosecute these offences, techniques for tracing property that is the proceeds of crime or is to be used to finance terrorism, and ensuring that such property is seized, frozen and confiscated, and the techniques to be used by supervisors to ensure that financial institutions are complying with their obligations; the use of information technology and other resources relevant to the execution of their functions. Countries could also provide special training and/or certification for financial investigators for, <i>inter alia</i>, investigations of ML, FT, and the predicate offences.</p> |
|   |
| <p><b>Additional elements</b></p>   |
| <p>30.4 Are special training or educational programmes provided for judges and courts concerning ML and FT offences, and the seizure, freezing and confiscation of property that is the proceeds of crime or is to be used to finance terrorism?</p>  |
|   |
| <p><b>Additional material</b></p>   |
| <p>If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.</p>   |
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## 2.7 Cross Border Declaration or Disclosure (SR.IX)

### 2.7.1 Description and Analysis<sup>9</sup>

| <b><i>Special Recommendation IX</i></b>  |
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| General description of laws or other measures, the situation, or context.  |
|  |
| IX.1 Has your country implemented one of the following two systems on incoming and outgoing <sup>10</sup> cross-border transports of currency or bearer negotiable instruments in order to detect the physical cross-border transportation of currency and bearer negotiable instruments that are related to money laundering or terrorist financing:<br><br>(a) A declaration system that has the following characteristics:<br>(i) All persons making a physical cross-border transportation of currency or bearer negotiable instruments that are of a value exceeding a prescribed threshold should be required to submit a truthful declaration to the designated competent authorities; and<br>(ii) The prescribed threshold cannot exceed EUR/USD 15,000 <sup>11</sup><br><br>OR<br><br>(b) A disclosure system that has the following characteristics:<br>(i) All persons making a physical cross-border transportation of currency or bearer negotiable instruments are required to make a truthful disclosure to the designated competent authorities upon request; and<br>(ii) The designated competent authorities have the authority to make their inquiries on a targeted basis, based on intelligence or suspicion, or on a random basis.<br><br>Where relevant, please indicate which system has been implemented and indicate the specific provisions that apply. |
| IX.2 Upon discovery of a false declaration/disclosure of currency or bearer negotiable instruments or a failure to declare/disclose them, do the designated competent authorities have the authority to request and obtain further information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use? If they do, please indicate the specific provisions that apply.   |

<sup>9</sup> The description of the system for reporting suspicious transactions in s.3.7 is integrally linked with the description of the FIU in s.2.5, and the two texts need to be complementary and not duplicative.

<sup>10</sup> Countries do not have to use the same type of system for incoming and outgoing cross-border transportation of currency or bearer negotiable instruments.

<sup>11</sup> Countries that implement a declaration system should ensure that the prescribed threshold is sufficiently low to meet the objectives of Special Recommendation IX. In any event, the threshold cannot exceed EUR/USD 15,000.

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| <p>IX.3 Are the designated competent authorities able to stop or restrain currency or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of money laundering or terrorist financing may be found:</p> <p>(a) Where there is a suspicion of money laundering or terrorist financing; or</p> <p>(b) Where there is a false declaration/disclosure?</p> <p>If they are, please indicate the specific provisions that apply.</p>   |
|  |
| <p>IX.4 Are the amount of currency or bearer negotiable instruments declared/disclosed or otherwise detected, and the identification data of the bearer(s) retained for use by the appropriate authorities in instances when:</p> <p>(a) A declaration which exceeds the prescribed threshold is made; or</p> <p>(b) Where there is a false declaration/disclosure; or</p> <p>(c) Where there is a suspicion of money laundering or terrorist financing?</p> <p>Please indicate the specific provisions that apply.</p> <p>Are any other measures imposed in the cases described above? If so, please indicate what measure(s) may be imposed and in what circumstances.</p> |
|  |
| <p>IX.5 Is the information obtained through the processes implemented in IX.1 above available to the financial intelligence unit (FIU) either through:</p> <p>(a) A system whereby the FIU is notified about suspicious cross-border transportation incidents; or</p> <p>(b) By making the declaration/disclosure information directly available to the FIU in some other way?</p> <p>Please indicate, as and where relevant, the specific provisions that apply.</p>  |
|  |
| <p>IX.6 Is there, at the domestic level, adequate co-ordination among customs, immigration and other related authorities on issues related to the implementation of Special Recommendation IX? If co-ordination is possible, please describe the co-ordination mechanism and indicate the specific provisions that apply.</p>  |
|  |

**IX.7 At the international level**, what forms of cooperation and assistance are customs, immigration and other related authorities allowed to provide their foreign counterpart? Please provide the specific legal provision(s) that apply in order to make it possible to determine whether the legislation allows for the greatest possible measure of co-operation and assistance amongst customs, immigration and other related authorities, consistent with the obligations under Recommendations 35 to 40 and Special Recommendation V.

Examples of possible measures (drawn from the Best Practices Paper to Special Recommendation IX) include:

- Having co-operation arrangements with other countries which would allow for bilateral customs-to-customs information exchanges between customs and other relevant agencies on cross-border transportation reports and cash seizures.
- Ensuring that the information recorded pursuant to criterion IX.1.c can be shared internationally with foreign counterparts, including customs, immigration and other related authorities, in appropriate cases.

IX.8

- a) Do the criteria 17.1 – 17.4 (in R. 17) also apply to persons who make a false declaration or disclosure contrary to the obligations under SR IX? What sanctions apply to persons who make a false declaration or disclosure contrary to the obligations under SR IX? Please indicate the specific provisions that apply. Please also indicate the type (criminal, civil or administrative) and range of the sanctions so it is possible to determine whether these sanctions are effective, proportionate and dissuasive.
- b) Are all sanctions available for natural and legal persons ? If so, please indicate the specific provisions that apply. If they do not apply to both, please explain further.
- c) Please indicate which authority is empowered to apply these sanctions as well as the specific provisions that apply.
- d) If the sanctions are available for legal persons, are they also available for their directors and senior management? Please indicate the specific provisions that apply.

IX.9

- a) Do the answers provided for criteria 17.1 – 17.4 (in R. 17) also apply to persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments that are related to terrorist financing or money laundering contrary to the obligations under SR IX? What sanctions apply to persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments that are related to terrorist financing or money laundering contrary to the obligations under SR IX? Please indicate the specific provisions that apply. Please also indicate the type (criminal, civil or administrative) and range of the sanctions so it is possible to determine whether these sanctions are effective, proportionate and dissuasive.
- b) Are all sanctions available for natural and legal persons ? If so, please indicate the specific provisions that apply. If they do not apply to both, please explain further.
- c) Please indicate which authority is empowered to apply these sanctions as well as the specific provisions that apply.
- d) If the sanctions are available for legal persons, are they also available for their directors and senior management? Please indicate the specific provisions that apply.

IX.10 Do the answers provided for criteria 3.1 to 3.6 (in R.3 above) also apply in relation to persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments that are related to terrorist financing or money laundering?

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|   |
| IX.11 Do the answers provided for criteria III.1 to III.10 (in SR.III above) also apply in relation to persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments that are related to terrorist financing?  |
| IX.12 If your country discovers an unusual cross-border movement of gold, precious metals or precious stones, does it notify, as appropriate, the Customs Service or other competent authorities of the countries from which these items originated and/or to which they are destined, and co-operate with a view toward establishing the source, destination, and purpose of the movement of such items and toward the taking of appropriate action? If so, please describe the notification and co-operation mechanisms and indicate the specific provisions that apply.    |
| IX.13 Are the systems for reporting cross-border transportations subject to strict safeguards to ensure proper use of the information or data that is reported or recorded? If so, please describe the notification and co-operation mechanisms and indicate the specific provisions that apply.  |
| <b><u>Additional elements</u></b><br>IX.14 Has your country implemented the measures in the Best Practice Paper for SR IX? If so, please describe.<br>IX.15 Where systems for reporting the cross border transportation of currency are in place, are the reports maintained in a computerised data base, available to competent authorities for AML/CFT purposes? If they are, please indicate the specific provisions that apply.   |
| <b><i>Recommendation 30 (Customs authorities)</i></b>   |
| 30.1 <b>Customs authorities only:</b> Please describe how the customs authorities are structured, funded, staffed and indicate what technical and other resources they have been granted in order to make it possible to determine whether they are adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform their functions. Please note that adequate structuring includes the need for sufficient operational independence and autonomy to ensure freedom from undue influence or interference. |
| 30.2 <b>Customs authorities only:</b> Please indicate the standards that apply when hiring new staff. Is the staff of competent authorities required to maintain high professional standards, including standards concerning confidentiality, and should staff be of high integrity and appropriately skilled?  |
| 30.3: <b>Customs authorities only</b> Is the staff of the customs authorities provided with training for combating ML and FT? If so, please indicate the frequency of this training and provide samples in order to make it possible to determine whether such training is adequate and relevant.<br>Examples of issues to be covered under adequate and relevant training include: the scope of predicate offences, ML and   |

FT typologies, techniques to investigate and prosecute these offences, techniques for tracing property that is the proceeds of crime or is to be used to finance terrorism, and ensuring that such property is seized, frozen and confiscated, and the techniques to be used by supervisors to ensure that financial institutions are complying with their obligations; the use of information technology and other resources relevant to the execution of their functions. Countries could also provide special training and/or certification for financial investigators for, *inter alia*, investigations of ML, FT, and the predicate offences

**Recommendation 32**

32.2: Do the customs authorities maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing in respect to the measures described above? If so, do these statistics include keeping annual statistics on suspicious transaction reports, and other reports where appropriate under domestic law, received and disseminated, as well as reports filed on cross border transportation of currency and bearer negotiable instruments?

**If maintained, please provide the statistics for the last 4 years**

**Additional material**

If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.

### 3. PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS

Please give a concise overview of the scope of coverage of AML/CFT preventive measures as they apply to the financial sector i.e. what sectors are covered and to what extent.

Note to the assessed country: The Interpretative Notes require that “the basic obligations under Recommendations 5, 10 and 13 should be set out in law or regulation”. Other obligations may be implemented through other enforceable means. According to the Methodology (paragraph 21), “*law and regulation* refers to primary and secondary legislation, such as laws, decrees, implementing regulation or other similar requirements, issued or authorized by a legislative body, and which impose mandatory requirements with sanction for non-compliance. *Other enforceable means* refers to guidelines, instructions or other documents or mechanisms that set out enforceable requirements with sanctions for non-compliance, and which are issued by a competent authority (e. g. a financial supervisory authority) or an SRO. In both cases, the sanctions for non-compliance should be effective, proportionate and dissuasive (see R. 17)”. Following the Methodology, this questionnaire highlights with an asterisk (\*) the questions that refer to the basic obligations under Recommendations 5, 10 and 13.

Description:

#### **Customer Due Diligence & Record Keeping**

##### **3.1 Risk of money laundering or terrorist financing**

*A country may decide not to apply certain AML/CFT requirements, or to reduce or simplify the measures being taken, on the basis that there is a low or little risk of money laundering or terrorist financing. Similarly, as set out in R.5, financial institutions may, in certain circumstances determine the degree of risk attached to particular types of customers, business relationships, transactions or products. In section 3.1 countries should set out the basis upon which they have taken a decision not to apply certain required AML/CFT measures to a particular financial sector. Where there are specific references to risk in individual Recommendations (see Instructions to Assessors) the issue of risk for those Recommendations should be described in the relevant section of the DAQ i.e. sections 3.2, 3.8, 3.13 and 4.1, 4.4 and 4.5. See AML/CFT Methodology 2004, paragraphs 17-18.*

Description:

## 3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)

### 3.2.1 Description and Analysis

| <b><i>Recommendation 5</i></b>  |
|---|
| General description of laws or other measures, the situation, or context.   |
| 5.1* Are financial institutions permitted to keep anonymous accounts or accounts in fictitious names? If yes, please indicate the approximate number of financial institutions that keep anonymous accounts.<br><br>Are numbered accounts permitted? If so, are there any specific requirements that apply? Are the financial institutions required to maintain them in such a way that full compliance can be achieved with the FATF Recommendations? For example, the financial institution should properly identify the customer in accordance with these criteria, and the customer identification records should be available to the AML/CFT compliance officer, other appropriate staff and competent authorities.  |
| <i>When CDD is required<sup>12</sup></i><br><br>5.2* Are financial institutions required to undertake customer due diligence (CDD) measures when:<br><br>(a) establishing business relations;<br>(b) carrying out occasional transactions above the applicable designated threshold (USD/€ 15,000). This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked;<br>(c) carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII;<br>(d) there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to elsewhere under the FATF Recommendations; or<br>(e) the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data?<br><br>Please indicate, for each letter above, the specific provisions in law or regulation that apply. |
| <i>Required CDD measures<sup>13</sup></i><br><br>5.3* Are financial institutions required to identify the customer (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and verify that customer's identity using reliable, independent source documents, data or information (identification data) <sup>14</sup> ? If so, please indicate the specific provisions in law or regulation that apply.  |

<sup>12</sup> Financial institutions do not have to repeatedly perform identification and verification every time that a customer conducts a transaction.

<sup>13</sup> The general rule is that customers should be subject to the full range of CDD measures. However, there are circumstances in which it would be reasonable for a country to allow its financial institutions to apply the extent of the CDD measures on a risk sensitive basis.

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| 5.4 For customers that are legal persons or legal arrangements, are the financial institution required to:<br>(a) * verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person; and<br>(b) verify the legal status of the legal person or legal arrangement, e.g. by obtaining proof of incorporation or similar evidence of establishment or existence, and obtain information concerning the customer's name, the names of trustees (for trusts), legal form, address, directors (for legal persons), and provisions regulating the power to bind the legal person or arrangement?<br>Please indicate, in each case, the specific provisions that apply. |
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| 5.5* Are financial institutions required to identify the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner <sup>15</sup> using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is? If they are, please indicate the specific provisions in law or regulation that apply.  |
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| 5.5.1* Do the financial institutions determine for all customers whether the customer is acting on behalf of another person, and do they then take reasonable steps to obtain sufficient identification data to verify the identity of that other person? Where relevant, please indicate the specific provisions in law or regulation that apply.   |
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<sup>14</sup> Examples of the types of customer information that could be obtained, and the identification data that could be used to verify that information is set out in the paper entitled General Guide to Account Opening and Customer Identification issued by the Basel Committee's Working Group on Cross Border Banking.

<sup>15</sup> For life and other investment linked insurance, the beneficiary under the policy must also be identified and verified. See criteria 5.14 concerning the timing of such measures.

5.5.2 For customers that are legal persons or legal arrangements, are the financial institutions required to take reasonable measures to:

(a) understand the ownership and control structure of the customer;

(b) \* determine who are the natural persons that ultimately own or control the customer. This includes those persons who exercise ultimate effective control over a legal person or arrangement?

Where relevant, please indicate the specific provisions that apply.

Examples of the types of measures that would be normally needed to satisfactorily perform this function include:

- For companies - identifying the natural persons with a controlling interest and the natural persons who comprise the mind and management of company.

- For trusts - identifying the settlor, the trustee or person exercising effective control over the trust, and the beneficiaries.

Note to the assessed country: where the customer or the owner of the controlling interest is a public company that is subject to regulatory disclosure requirements i.e. a public company listed on a recognised stock exchange, it is not necessary to seek to identify and verify the identity of the shareholders of that public company.

5.6 Are financial institutions required to obtain information on the purpose and intended nature of the business relationship? If they are, please indicate the specific provisions that apply.

5.7\* Are financial institutions required to conduct ongoing due diligence on the business relationship? If they are, please indicate the specific legal provisions in law or regulation that apply.

5.7.1 Does ongoing due diligence include scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, and where necessary, the source of funds? If it does, please indicate the specific provisions that apply.

5.7.2 Are financial institutions required to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships? If they are, please indicate the specific provisions that apply.

Risk

5.8 Are financial institutions required to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction (such as those listed in the box below)? If they are, please indicate the specific provisions that apply.

Examples of higher risk categories (which are derived from the Basel CDD Paper) may include<sup>16</sup>

<sup>16</sup> Other examples of higher risk are included in Recommendations 6 and 7.

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| <ul style="list-style-type: none"><li>a) Non-resident customers;</li><li>b) Private banking,</li><li>c) Legal persons or arrangements such as trusts that are personal assets holding vehicles,</li><li>d) Companies that have nominee shareholders or shares in bearer form.</li></ul> |
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Types of enhanced due diligence measures may include those set out in Recommendation 6

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| 5.9 Where there are low risks, has your country decided that financial institutions can apply reduced or simplified measures? If so, please specify. |
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Note to the assessed country: the general rule is that customers must be subject to the full range of CDD measures, including the requirement to identify the beneficial owner. Nevertheless there are circumstances where the risk of money laundering or terrorist financing is lower, where information on the identity of the customer and the beneficial owner of a customer is publicly available, or where adequate checks and controls exist elsewhere in national systems. In such circumstances it could be reasonable for a country to allow its financial institutions to apply simplified or reduced CDD measures when identifying and verifying the identity of the customer and the beneficial owner.

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| Examples of customers, transactions or products where the risk may be lower <sup>17</sup> could include: |
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- a) Financial institutions – provided that they are subject to requirements to combat money laundering and terrorist financing consistent with the FATF Recommendations and are supervised for compliance with those requirements.
- b) Public companies that are subject to regulatory disclosure requirements. This refers to companies that are listed on a stock exchange or similar situations.
- c) Government administrations or enterprises.
- d) Life insurance policies where the annual premium is no more than USD/€1000 or a single premium of no more than USD/€2500.
- e) Insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral.
- f) A pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme.
- g) Beneficial owners of pooled accounts held by DNFBP provided that they are subject to requirements to combat money laundering and terrorist financing consistent with the FATF Recommendations and are subject to effective systems for monitoring and ensuring compliance with those requirements

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| 5.10 If financial institutions are permitted to apply simplified or reduced CDD measures to customers resident in another country, is this limited to countries that the original country is satisfied are in compliance with and have effectively implemented the FATF Recommendations? Please indicate the specific provisions that apply. |
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| 5.11 Are simplified CDD measures still permitted when there is suspicion of money laundering or terrorist financing or |
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<sup>17</sup> Assessors should determine in each case whether the risks are lower having regard to the type of customer, product or transaction, or the location of the customer.

specific higher risk scenarios apply?

5.12 Where financial institutions are permitted to determine the extent of the CDD measures on a risk sensitive basis, have the competent authorities issued guidance in this respect? If so, must the financial intermediaries' determination be consistent with guidelines issued by the competent authorities? Where appropriate, please indicate the specific provisions that apply and provide the guidance issued.

Timing of verification

5.13 Do the laws or regulations determine when the verification must take place? If so, are financial institutions required to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers? Please indicate the specific provisions that apply.

5.14 Note to the assessed country: Countries may permit financial institutions to complete the verification of the identity of the customer and beneficial owner following the establishment of the business relationship, provided that:

- This occurs as soon as reasonably practicable.
- This is essential not to interrupt the normal conduct of business.
- The money laundering risks are effectively managed.

Is this the case in your country? If it is, please indicate the specific provisions that apply.

Examples of situations where it may be essential not to interrupt the normal conduct of business are:

- Non face-to-face business.
- Securities transactions. In the securities industry, companies and intermediaries may be required to perform transactions very rapidly, according to the market conditions at the time the customer is contacting them, and the performance of the transaction may be required before verification of identity is completed.

Life insurance business – in relation to identification and verification of the beneficiary under the policy. This may take place after the business relationship with the policyholder is established, but in all such cases, identification and verification should occur at or before the time of payout or the time when the beneficiary intends to exercise vested rights under the policy.

5.14.1 Where a customer is permitted to utilise the business relationship prior to verification, are financial institutions required to adopt risk management procedures concerning the conditions under which this may occur? If this is the case, do these procedures include a set of measures such as a limitation of the number, types and/or amount of transactions that can be performed and the monitoring of large or complex transactions being carried out outside of expected norms for that type of relationship? Where appropriate, please indicate the specific provisions that apply.

Failure to satisfactorily complete CDD

5.15 What are the consequences of failure to comply with the CDD requirements set out in the laws and regulations?

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| Where the financial institution is unable to comply with the CDD requirements under Questions 5.3 to 5.5 above:<br>a) is it permitted to open the account, commence business relations or perform the transaction?<br>b) must it consider making a suspicious transaction report?<br>Please indicate where appropriate the specific provisions that apply.   |
| 5.16 Where the financial institution has already commenced the business relationship e.g. when Criteria 5.2(e), 5.14 or 5.17 apply, and the financial institution is unable to comply with Criteria 5.3 to 5.5 above, is it required to terminate the business relationship and to consider making a suspicious transaction report? If it is, please indicate the specific provisions that apply.  |
| <b><i>Existing customers</i></b><br>5.17 Are financial institutions required to apply CDD requirements to existing customers <sup>18</sup> on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times? If they are, please indicate the specific provisions that apply.<br>Note to the assessed country: for financial institutions engaged in banking business (and for other financial institutions where relevant) - examples of when it may otherwise be an appropriate time to do so is when: (a) a transaction of significance takes place, (b) customer documentation standards change substantially, (c) there is a material change in the way that the account is operated, (d) the institution becomes aware that it lacks sufficient information about an existing customer. |
| 5.18 Are financial institutions required to perform CDD measures on existing customers if they are customers to whom Criterion 5.1 applies? If they are, please indicate the specific provisions that apply.   |
| <b><i>Recommendation 6</i></b><br>General description of laws or other measures, the situation, or context.  |
| 6.1 Are financial institutions required, in addition to performing the CDD measures required under R.5, to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person? If they are, please indicate the specific provisions that apply.<br>Examples of measures that could form part of such a risk management system include seeking relevant information from the customer, referring to publicly available information or having access to commercial electronic databases of PEPS.   |

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<sup>18</sup> Existing customers as at the date that the national requirements are brought into force.

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| 6.2 Are financial institutions required to obtain senior management approval for establishing business relationships with a PEP? If they are, please indicate the specific provisions that apply.   |
| 6.2.1 When a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP, are financial institutions required to obtain senior management approval continue the business relationship? If they are, please indicate the specific provisions that apply.  |
| 6.3. Are financial institutions required to take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs? If they are, please indicate the specific provisions that apply.  |
| 6.4. Where financial institutions are in a business relationship with a PEP, are they required to conduct enhanced ongoing monitoring on that relationship? If they are, please indicate the specific provisions that apply.  |
| <b><u>Additional elements</u></b><br>6.5 Are the requirements of R.6 extended to PEPs who hold prominent public functions domestically? If this is the case, please indicate the specific provisions that apply.<br>6.6 Has the 2003 United Nations Convention against Corruption been signed, ratified, and fully implemented?   |
| <b><i>Recommendation 7</i></b>  |
| General description of laws or other measures, the situation, or context.   |
| 7.1 In relation to cross-border correspondent banking, are financial institutions required to gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action? If they are, please indicate the specific provisions that apply. |
| 7.2 In relation to cross-border correspondent banking, are financial institutions required to assess the respondent institution's AML/CFT controls, and ascertain that they are adequate and effective? If they are, please indicate the specific provisions that apply.  |

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| 7.3 In relation to cross-border correspondent banking, are financial institutions required to obtain approval from senior management before establishing new correspondent relationships? If they are, please indicate the specific provisions that apply.   |
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| 7.4 In relation to cross-border correspondent banking, are financial institutions required to document <sup>19</sup> the respective AML/CFT responsibilities of each institution? If they are, please indicate the specific provisions that apply.   |
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| 7.5 Where a correspondent relationship involves the maintenance of “payable-through accounts”, are financial institutions required to be satisfied that:<br><br>(a) their customer (the respondent financial institution) has performed all the normal CDD obligations set out in R.5 on those of its customers that have direct access to the accounts of the correspondent financial institution; and<br><br>(b) the respondent financial institution is able to provide relevant customer identification data upon request to the correspondent financial institution?<br><br>If they are, please indicate the specific provisions that apply.  |
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| <b><i>Recommendation 8</i></b>   |
| General description of laws or other measures, the situation, or context.  |
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| 8.1 Are financial institutions required to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes? If they are, please indicate the specific provisions that apply.  |
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| 8.2 Are financial institutions required to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions. These policies and procedures should apply when establishing customer relationships and when conducting ongoing due diligence? If they are, please indicate the specific provisions that apply.<br><br>Examples of non-face to face operations include: business relationships concluded over the Internet or by other means such as through the post; services and transactions over the Internet including trading in securities by retail investors over the Internet or other interactive computer services; use of ATM machines; telephone banking; transmission of instructions or applications via facsimile or similar means and making payments and receiving cash withdrawals as part of electronic point of sale transaction using prepaid or re loadable or account-linked value cards |

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<sup>19</sup> It is not necessary that the two financial institutions always have to reduce the respective responsibilities into a written form provided there is a clear understanding as to which institution will perform the required measures.

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| 8.2.1 Do measures for managing the risks include specific and effective CDD procedures that apply to non-face to face customers such as listed in the box below?   |
| Examples of such procedures include: the certification of documents presented; the requisition of additional documents to complement those which are required for face-to-face customers; develop independent contact with the customer; rely on third party introduction (see criteria 9.1 to 9.5) and require the first payment to be carried out through an account in the customer's name with another bank subject to similar customer due diligence standards. |
| Financial institutions should refer to the CDD Paper, Section 2.2.6.   |
| For electronic services, financial institutions could refer to the "Risk Management Principles for Electronic Banking" issued by the Basel Committee in July 2003.   |
| <b>Additional Material</b><br>If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.   |

### 3.3 Third parties and introduced business (R.9)

#### 3.3.1 Description and Analysis

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| <b><i>Recommendation 9</i></b>  |
| Note: This Recommendation does not apply to:<br>(a) outsourcing or agency relationships, i.e. where the agent is acting under a contractual arrangement with the financial institution to carry out its CDD functions <sup>20</sup> ;<br>(b) business relationships, accounts or transactions between financial institutions for their clients. These are addressed by R.5 and R.7. |
| General description of laws or other measures, the situation, or context.<br>If financial institutions are permitted to rely on intermediaries or other third parties to perform some of the elements of the CDD process (Criteria 5.3 to 5.6) <sup>21</sup> or to introduce business, then the following criteria should be met.   |

<sup>20</sup> Where there is a contract to outsource CDD, R.9 does not apply because the outsource or agent is to be regarded as synonymous with the financial institution i.e. the processes and documentation are those of the financial institution itself.

<sup>21</sup> In practice, this reliance on third parties often occurs through introductions made by another member of the same financial services group, or in some jurisdictions from another financial institution or third party. It may

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| 9.1 Are financial institutions that rely upon a third party required to immediately obtain from the third party the necessary information <sup>22</sup> concerning certain elements of the CDD process (Criteria 5.3 to 5.6). If they are, please indicate the specific provisions that apply.                                 |
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| 9.2 Are financial institutions required to take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay? If they are, please indicate the specific provisions that apply. |
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| 9.3 Are financial institutions required to satisfy themselves that the third party is regulated and supervised (in accordance with Recommendation 23, 24 and 29), and has measures in place to comply with, the CDD requirements set out in R.5 and R.10? If they are, please indicate the specific provisions that apply.     |
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| 9.4 In determining in which countries the third party that meets the conditions can be based, do the competent authorities take into account information available on whether those countries adequately apply the FATF Recommendations <sup>23</sup> ?  |
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| 9.5 Does the ultimate responsibility for customer identification and verification remain with the financial institution relying on the third party?  |
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| <b>Additional Material</b><br>If you wish please indicate any other material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.   |
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### **3.4 Financial institution secrecy or confidentiality (R.4)**

#### **3.4.1 Description and Analysis**

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also occur in business relationships between insurance companies and insurance brokers/agents, or between mortgage providers and brokers.

<sup>22</sup> It is not necessary to obtain copies of documentation.

<sup>23</sup> Countries could refer to reports, assessments or reviews concerning AML/CFT that are published by the FATF, FSRBs, the IMF or World Bank.

| <b>Recommendation 4</b>   |
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| <p>4.1 Do any financial institution secrecy laws apply? If so, please describe and provide the specific provisions that apply.</p> <p>Note to the assessed country: countries should ensure that no financial institution secrecy law will inhibit the implementation of the FATF Recommendations. Areas where this may be of particular concern are the ability of competent authorities to access information they require to properly perform their functions in combating ML or FT; the sharing of information between competent authorities, either domestically or internationally; and the sharing of information between financial institutions where this is required by R.7, R.9 or SR.VII.</p> |
| <b>Additional Material</b><br>If you wish please indicate any other material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.  |
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### **3.5 Record keeping and wire transfer rules (R.10 & SR.VII)**

#### **3.5.1 Description and Analysis**

| <b>Recommendation 10</b>   |
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| <p>10.1* Are financial institutions required to maintain all necessary records on transactions, both domestic and international and, if so, for how long following completion of the transaction? Can this be extended at the request of a competent authority in specific cases and upon proper authority? If so, does this requirement apply regardless of whether the account or business relationship is ongoing or has been terminated?</p> <p>Please indicate the specific provisions in law or regulation that apply.</p>   |
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| <p>10.1.1* Are transaction records sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity? Please specify.</p> <p>Examples of the necessary components of transaction records include: customer's (and beneficiary's) name, address (or other identifying information normally recorded by the intermediary), the nature and date of the transaction, the type and amount of currency involved, and the type and identifying number of any account involved in the transaction</p> |
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| <p>10.2* Are financial institutions required to maintain records of the identification data, account files and business correspondence and, if so, for how long following the termination of an account or business relationship? Can this be extended at the request of a competent authority in specific cases upon proper authority? Please indicate the specific provisions in law or regulation that apply.</p>   |
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| <p>10.3* Are financial institutions required to ensure that all customer and transaction records and information are available</p>   |

on a timely basis to domestic competent authorities upon appropriate authority?

If they are, please indicate the specific provisions in law or regulation that apply.

***Special Recommendation VII***

Note to the assessed country: SR VII applies to cross-border and domestic transfers between financial institutions. However, SR VII is not intended to cover the following types of payments:

- a. Any transfer that flows from a transaction carried out using a credit or debit card so long as the credit or debit card number accompanies all transfers flowing from the transaction, such as withdrawals from a bank account through an ATM machine, cash advances from a credit card, or payments for goods or services. However, when credit or debit cards are used as a payment system to effect a money transfer, they are covered by SR VII, and the necessary information should be included in the message.
- b. Financial institution-to-financial institution transfers and settlements where both the originator person and the beneficiary person are financial institutions acting on their own behalf.

VII.1 For all wire transfers of EUR/USD 1,000 or more, are ordering financial institutions required to obtain and maintain <sup>24</sup> the following information relating to the originator of the wire transfer:

- the name of the originator;
- the originator's account number (or a unique reference number if no account number exists); and
- the originator's address (countries may permit financial institutions to substitute the address with a national identity number, customer identification number, or date and place of birth)?

(This set of information is referred to as full originator information).

For all wire transfers of EUR/USD 1,000 or more, are ordering financial institutions required to verify the identity of the originator in accordance with Recommendation 5?

If they are, please indicate the specific provisions that apply.

VII.2 For cross-border wire transfers EUR/USD 1,000 or more, is the ordering financial institution required to include full originator information in the message or payment form accompanying the wire transfer? If it is, please indicate the specific provisions that apply.

Do different requirements apply to batched files? Note to the assessed country: If several individual cross-border wire transfers (of EUR/USD 1,000 or more) from a single originator are bundled in a batch file for transmission to

<sup>24</sup> Financial institutions do not have to repeatedly obtain and verify originator information every time a customer makes a wire transfer. Financial institutions could rely on the information already available if, as part of the customer due diligence process, they have obtained:

- (i) the originator's name;
- (ii) account number (or unique reference number if no account number exists); and
- (iii) address (or national identity number, customer identification number, or date and place of birth if the country permits one of these pieces of information to substitute for the address)

and verified the originator's identity in accordance with Recommendation 5 (see, in particular, criterion 5.3). This does not apply to occasional customers.

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| beneficiaries in another country, the ordering financial institution only needs to include the originator's account number or unique identifier on each individual cross-border wire transfer, provided that the batch files (in which the individual transfers are batched) contains full originator information that is fully traceable within the recipient country.  |
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| VII.3 For <u>domestic wire transfers</u> , is the ordering financial institution required to either: (a) comply with VII.2 above or (b) include only the originator's account number or a unique identifier, within the message or payment form?   |
| Note to the assessed country: The second option should be permitted only if full originator information can be made available to the beneficiary financial institution and to competent authorities within three business days of receiving a request, and domestic law enforcement authorities can compel immediate production of it.   |
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| VII.4 Are each intermediary and beneficiary financial institutions in the payment chain required to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer?  |
| If they are, please indicate the specific provisions that apply.   |
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| VII.4.1 Where technical limitations prevent the full originator information accompanying a cross-border wire transfer from being transmitted with a related domestic wire transfer (during the necessary time to adapt payment systems), are the receiving intermediary financial institutions required to keep for five years a record of all information received from the ordering financial institution?   |
| If they are, please indicate the specific provisions that apply.   |
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| VII.5 Are beneficiary financial institutions required to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information?  |
| If they are, please indicate the specific provisions that apply.   |
| Note to the assessed country: the lack of complete originator information may be considered as a factor in assessing whether a wire transfer or related transactions are suspicious and, as appropriate, whether they are thus required to be reported to the financial intelligence unit or other competent authorities. In some cases, the beneficiary financial institution should consider restricting its business relationship with financial institutions that fail to meet SR VII standards. Please describe, as appropriate, the situation in your country in this respect. |
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| VII.6 Does your country have measures in place to effectively monitor the compliance of financial institutions with the rules and regulations implementing SR VII? If it does, please describe the measures in place and indicate the specific provisions that apply.  |
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| VII.7 Do the answers provided for criteria 17.1 – 17.4 (in R. 17) also apply in relation to obligations under SR VII?  |
| Please describe and indicate the specific provisions that apply.   |
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| <p><b>Additional elements:</b></p> <p>VII.8 Does your country require that all incoming cross-border transfers (including those below EUR/USD 1,000) contain full and accurate originator information? If it does, please describe and indicate the specific provisions that apply.</p> <p>VII.9 Does your country require that all outgoing cross-border transfers (including those below EUR/USD 1,000) contain full and accurate originator information? If it does, please describe and indicate the specific provisions that apply.</p> |
| <p><b>Additional Material</b></p> <p>If you wish please indicate any other material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.</p>  |

### **Unusual, Suspicious and other Transactions**

#### **3.6 Monitoring of transactions and relationships (R.11 & 21)**

##### **3.6.1 Description and Analysis**

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| <p><b>Recommendation 11</b></p> <p>General description of laws or other measures, the situation, or context.</p>   |
| <p>11.1 Are financial institutions required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose? If they are, please indicate the specific provisions that apply.</p> <p>Examples of such transactions or patterns of transactions include: significant transactions relative to a relationship, transactions that exceed certain limits, very high account turnover inconsistent with the size of the balance, or transactions which fall out of the regular pattern of the account's activity.</p> |
| <p>11.2 Are financial institutions required to examine as far as possible the background and purpose of such transactions and to set forth their findings in writing? If they are, please indicate the specific provisions that apply.</p>   |
| <p>11.3 Are financial institutions required to keep such findings available for competent authorities and auditors for at least five years? If they are, please indicate the specific provisions that apply.</p>   |

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| <b><i>Recommendation 21</i></b>   |
| General description of laws or other measures, the situation, or context.   |
|   |
| 21.1 Are financial institutions required to give special attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF Recommendations? If they are, please indicate the specific provisions that apply.  |
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| 21.1.1 Are there measures in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries? If there are, please describe these measures.  |
|   |
| 21.2 If those transactions have no apparent economic or visible lawful purpose, the background and purpose of such transactions should, as far as possible, be examined, and written findings should be available to assist competent authorities (e.g. supervisors, law enforcement agencies and the FIU) and auditors. Is this the case in your country? Where relevant, please indicate the specific provisions that apply.  |
|   |
| 21.3 Where a country continues not to apply or insufficiently applies the FATF Recommendations, does your country have the authority to apply counter-measures (such as those listed in the box below)? If it is, please indicate the specific provisions that apply and list the type of measures that may be applied as well as the circumstances under which they may be applied.  |
| <p>Examples of possible counter-measures include:</p> <ul style="list-style-type: none"><li>- Stringent requirements for identifying clients and enhancement of advisories, including jurisdiction-specific financial advisories, to financial institutions for identification of the beneficial owners before business relationships are established with individuals or companies from these countries;</li><li>- Enhanced relevant reporting mechanisms or systematic reporting of financial transactions on the basis that financial transactions with such countries are more likely to be suspicious;</li><li>- In considering requests for approving the establishment in countries applying the countermeasure of subsidiaries or branches or representative offices of financial institutions, taking into account the fact that the relevant financial institution is from a country that does not have adequate AML/CFT systems;</li><li>- Warning non-financial sector businesses that transactions with natural or legal persons within that country might run the risk of money laundering; and</li><li>- Limiting business relationships or financial transactions with the identified country or persons in that country.</li></ul> |
|   |

### **Additional Material**

If you wish, please indicate any other material you consider to be relevant to the effectiveness and efficiency of this part the AML/CFT system.

## **3.7 Suspicious transaction and other reporting (R.13-14, 19, 25 & SR.IV)**

### **3.7.1 Description and Analysis<sup>25</sup>**

| <b><i>Recommendation 13&amp; Special Recommendation IV</i></b>   |
|--|
| General description of laws or other measures, the situation, or context.  |
| 13.1* Are financial institutions required by law or regulation to report to the FIU (a suspicious transaction report – STR) when they suspect or have reasonable grounds to suspect <sup>26</sup> that funds are the proceeds of a criminal activity? Does the obligation to make a STR apply to funds that are the proceeds of all offences that are required to be included as predicate offences under Recommendation 1? Is this requirement a direct mandatory obligation? (Note to the assessed country: any indirect or implicit obligation to report suspicious transactions, whether by reason of possible prosecution for a ML offence or otherwise (so called “indirect reporting”), is not acceptable to achieve full compliance with Rec. 13)<br>Where appropriate, please indicate the specific provisions in law or regulation that apply. |
| 13.2* Does the obligation to make a STR also apply where financial intermediaries suspect or have reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism? If it does, please indicate the specific provisions in law or regulation that apply.  |
| 13.3* Must all suspicious transactions, including attempted transactions, be reported regardless of the amount of the transaction? In case a threshold applies, please indicate its amount and the specific provisions in law or regulation that apply.  |

<sup>25</sup> The description of the system for reporting suspicious transactions in s.3.7 is integrally linked with the description of the FIU in s.2.5, and the two texts need to be complementary and not duplicative.

<sup>26</sup> The requirement to report when the individual “suspects” is a subjective test of suspicion i.e. the person actually suspected that a transaction involved a criminal activity. A requirement to report when there are “reasonable grounds to suspect” is an objective test of suspicion and can be satisfied if the circumstances surrounding the transaction would lead a reasonable person to suspect that the transaction involved a criminal activity. This requirement implies that countries may choose either the two alternatives, but need not have both.

13.4\* Does the requirement to report suspicious transactions apply regardless of whether they are thought, among other things, to involve tax matters? If not, please indicate the limitations that apply and the specific provisions in law or regulation that apply.

**Additional elements**

13.5 Are financial institutions required to report to the FIU when they suspect or have reasonable grounds to suspect that funds are the proceeds of all criminal acts that would constitute a predicate offence for money laundering domestically? If they are, please indicate the specific provisions that apply.

IV.1 Are financial institutions required by law or regulation to report to the FIU (a suspicious<sup>27</sup> transaction report – STR) when they suspect or have reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism? If they are, please indicate the specific provisions that apply. Note to the assessed country: This requirement should be a direct mandatory obligation, and any indirect or implicit obligation to report suspicious transactions, whether by reason of possible prosecution for a FT offence or otherwise (so called “indirect reporting”), is not acceptable.<sup>28</sup>

IV.2

- a) In the cases described under IV.1 above, must all suspicious transactions, including attempted transactions, be reported regardless of the amount of the transaction? In case a threshold applies, please indicate its amount and the specific provisions that apply.
- b) Does the requirement to report the suspicious transactions described under IV.1 above apply regardless of whether they are thought, among other things, to involve tax matters? If not, please indicate the limitations that apply and the specific provisions that apply.

***Recommendation 14***

General description of laws or other measures, the situation, or context.

14.1. Are financial institutions and their directors, officers and employees (permanent and temporary) protected by law from both criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the FIU? Is this protection available even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred? Please indicate the specific provisions that apply.

<sup>27</sup> Systems based on the reporting of unusual transactions (rather than suspicious transactions) are equally satisfactory.

<sup>28</sup> Note to country being assessed: Do not duplicate text that is already set out under R.13 above. If need be cross-refer to the relevant text.

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|  |
| 14.2. Are financial institutions and their directors, officers and employees (permanent and temporary) prohibited by law from disclosing ("tipping off") the fact that a STR or related information is being reported or provided to the FIU? If they are, please indicate the specific provisions that apply.   |
| <b><u>Additional elements</u></b>  |
| 14.3 Do laws or regulations or any other measures ensure that the names and personal details of staff of financial institutions that make a STR are kept confidential by the FIU? If they are, please indicate the specific provisions that apply.   |
| <b><i>Recommendation 25 (only feedback and guidance related to STRs)</i></b>   |
| General description of laws or other measures, the situation, or context.  |
| 25.2 Do competent authorities, and particularly the FIU, provide financial institutions and DNFBP that are required to report suspicious transactions, with adequate and appropriate feedback having regard to the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons? If they do, please indicate the specific provisions that apply, describe the feedback mechanisms and provide samples of feedback.  |
| Examples of appropriate feedback mechanisms (drawn from the Best Practices Paper) may include:<br><br>(i) general feedback - (a) statistics on the number of disclosures, with appropriate breakdowns, and on the results of the disclosures; (b) information on current techniques, methods and trends (typologies); and (c) sanitised examples of actual money laundering cases.<br><br>(ii) specific or case by case feedback - (a) acknowledgement of the receipt of the report; (b) subject to domestic legal principles, if a case is closed or completed, whether because of a concluded prosecution, because the report was found to relate to a legitimate transaction or for other reasons, and if the information is available, then the institution should receive information on that decision or result. |
| <b><i>Recommendation 19</i></b>  |
| General description of laws or other measures, the situation, or context.  |
| 19.1 Has your country considered the feasibility and utility of implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national central agency with a computerised data base? If so, please specify.  |
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| <b><u>Additional elements</u></b>  |
| 19.2 Where systems for reporting large currency transactions are in place, are the reports maintained in a computerised data base, available to competent authorities for AML/CFT purposes? If they are, please indicate the specific provisions that apply.   |
| 19.3 Are the systems for reporting large currency transactions subject to strict safeguards to ensure proper use of the information or data that is reported or recorded? If they are, please indicate the specific provisions that apply.   |
| <b><i>Recommendation 32</i></b>  |
|  |
| 32.2: Do competent authorities maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing? If so, do these statistics include keeping annual statistics on suspicious transaction reports, and other reports where appropriate under domestic law, received and disseminated, as well as on reports filed on domestic or foreign currency transactions above a certain threshold? |
| <b>If maintained, please provide the statistics for the last 4 years</b>   |
|  |
| <b>Additional Material</b>   |
| If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.   |

### **Internal controls and other measures**

#### **3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)**

##### **3.8.1 Description and Analysis**

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| <b><i>Recommendation 15</i></b>  |
| Note to the assessed country: The type and extent of measures to be taken for each of the requirements set out below should be appropriate having regard to the risk of money laundering and terrorist financing and the size of the business. |
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| General description of laws or other measures, the situation, or context.  |
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| 15.1 Are financial institutions required to establish and maintain internal procedures, policies and controls to prevent ML and FT, and to communicate these to their employees? Do these procedures, policies and controls should cover, <i>inter alia</i> , CDD, record retention, the detection of unusual and suspicious transactions and the reporting obligation? Where appropriate, please indicate the specific provisions that apply.                        |
|   |
| 15.1.1 Are financial institutions required to develop appropriate compliance management arrangements e.g. for financial institutions at a minimum the designation of an AML/CFT compliance officer at the management level? If they are, please indicate the specific provisions that apply.  |
|   |
| 15.1.2 Do the AML/CFT compliance officer and other appropriate staff have timely access to customer identification data and other CDD information, transaction records, and other relevant information?   |
|   |
| 15.2 Are financial institutions required to maintain an adequately resourced and independent audit function to test compliance (including sample testing) with these procedures, policies and controls? If they are, please indicate the specific provisions that apply.  |
|   |
| 15.3 Are financial institutions required to establish ongoing employee training to ensure that employees are kept informed of new developments, including information on current ML and FT techniques, methods and trends and that there is a clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD and suspicious transaction reporting? If they are, please indicate the specific provisions that apply. |
|   |
| 15.4. Are financial institutions required to put in place screening procedures to ensure high standards when hiring employees? If they are, please indicate the specific provisions that apply.   |
|   |
| <b><u>Additional elements</u></b>   |
| 15.5 Is the AML/CFT compliance officer able to act independently and to report to senior management above the compliance officer's next reporting level or the board of directors? If so, please describe   |
|   |
| <b><i>Recommendation 22</i></b>   |
| General description of laws or other measures, the situation, or context.   |
|   |
| 22.1 Are financial institutions required to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that local (i.e. host country) laws and regulations permit? If they are, please indicate the specific provisions that apply.   |

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| 22.1.1 Are financial institutions required to pay particular attention that this principle is observed with respect to their branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations? If they are, please indicate the specific provisions that apply.                                  |
|  |
| 22.1.2 Where the minimum AML/CFT requirements of the home and host countries differ, are branches and subsidiaries in host countries required to apply the higher standard, to the extent that local (i.e. host country) laws and regulations permit? If they are, please indicate the specific provisions that apply.               |
|  |
| 22.2 Are financial institutions required to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local (i.e. host country) laws, regulations or other measures? If they are, please indicate the specific provisions that apply. |
|  |
| <b><u>Additional elements</u></b>  |
| 22.3 Are financial institutions subject to the Core Principles required to apply consistent CDD measures at the group level, taking into account the activity of the customer with the various branches and majority owned subsidiaries worldwide? If they are, please indicate the specific provisions that apply.                  |
|  |
| <b>Additional Material</b>   |
| If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.   |

### 3.9 Shell banks (R.18)

#### 3.9.1 Description and Analysis

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| <b><i>Recommendation 18</i></b>   |
| General description of laws or other measures, the situation, or context.   |
|   |
| 18.1 Does your country approve the establishment or accept the continued operation of shell banks? (If it does, please provide information on the number of shell banks established in your country.) |
|   |
| 18.2 Are financial institutions permitted to enter into, or continue, correspondent banking relationships with shell banks?   |

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|   |
| 18.3 Are financial institutions required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks? If they are, please indicate the specific provisions that apply. |
|   |
| <b>Additional Material</b><br>If you wish please indicate any other material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.  |
|   |

### **Regulation, supervision, guidance, monitoring and sanctions**

#### **3.10 Supervision and oversight**

Note to countries — in completing this section of the questionnaire, countries should seek to address the various elements of the regulatory system and the relevant Recommendations, in the following sequence:

1. Describe all the competent authorities and SROs, and their roles, functions and duties in regulating the application of AML/CFT measures in the financial system, as well as describing their organisational structures and resources (R.23, R.30 - in particular criteria 23.1, 23.2, 30.1-30.3).
2. Set out the relevant powers (including sanction powers) of each authority and any other sanctions that are applicable for breaches of AML/CFT requirements (R.29, R.17 - all criteria).
3. Describe how market entry is regulated and how the authorities check the ownership/control of financial institutions regarding criminal records and where appropriate, fitness and properness (R.23 - in particular criteria 23.3, 23.3.1, 23.5 & 23.7 (licensing/registration elements only)).
4. Describe the process of ongoing supervision and monitoring, and include any available statistics regarding on-site or off-site inspections (R.23, R.32 - in particular criteria 23.4, 23.6, 23.7 (supervision/oversight elements only), 32.2d)
5. Explain any AML/CFT guidance/guidelines that have been provided by competent authorities to financial institutions (R.25 - criteria 25.1 only).

### 3.10.1 Description and Analysis

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| <b><i>Recommendation 23, 30, 29, 17, 32, &amp; 25</i></b>   |
| Note to the assessed country: Assessors shall use criterion 23.1 to assess the overall adequacy of the regulatory and supervisory system, and to note any deficiencies that are not dealt with in other criteria. Assessors may also have regard to matters raised in assessments made with respect to the Core Principles.   |
|   |
| <b><i>Authorities/SROs roles and duties &amp; Structure and resources - R.23, 30</i></b>  |
| General description of laws or other measures, the situation, or context.   |
|   |
| 23.1 Has your country taken measure to ensure that financial institutions are subject to adequate AML/CFT regulation and supervision and are effectively implementing the FATF Recommendations? If so, please describe the measures taken and indicate the specific provisions that apply.  |
|   |
| 23.2 Has your country taken measures to ensure that a designated competent authority or authorities has/have responsibility for ensuring that financial institutions adequately comply with the requirements to combat money laundering and terrorist financing? If it has, please describe the measures taken and indicate the specific provisions that apply.   |
|   |
| <b><i>Recommendation 30: Resources (Supervisors)</i></b>  |
| General description of laws or other measures, the situation, or context.   |
|   |
| 30.1 <b>Supervisors only:</b> Please describe how the supervisory authorities are structured, funded, staffed and indicate what technical and other resources they have been granted in order to make it possible to determine whether they are adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform their functions. Please note that adequate structuring includes the need for sufficient operational independence and autonomy to ensure freedom from undue influence or interference. |
|   |
| 30.2 <b>Supervisors only:</b> Please indicate the standards that apply when hiring new staff. Is the staff of competent authorities required to maintain high professional standards, including standards concerning confidentiality, and should staff be of high integrity and appropriately skilled?  |
|   |
| 30.3 <b>Supervisors only:</b> Is the staff of the supervisory authorities provided with training for combating money laundering and terrorist financing? If so, please indicate the frequency of this training and provide samples in order to  |

make it possible to determine whether such training is adequate and relevant.

Examples of issues to be covered under adequate and relevant training include: the scope of predicate offences, ML and FT typologies, techniques to investigate and prosecute these offences, techniques for tracing property that is the proceeds of crime or is to be used to finance terrorism, and ensuring that such property is seized, frozen and confiscated, and the techniques to be used by supervisors to ensure that financial institutions are complying with their obligations; the use of information technology and other resources relevant to the execution of their functions. Countries could also provide special training and/or certification for financial investigators for, *inter alia*, investigations of ML, FT, and the predicate offences

***Authorities' Powers and Sanctions – R.29 & 17***

General description of laws or other measures, the situation, or context.

29.1 What powers do supervisors have to monitor and ensure compliance by financial institutions<sup>29</sup>, with requirements to combat money laundering and terrorist financing? Please describe these powers and indicate the specific provisions that apply.

29.2 Do supervisors have the authority to conduct inspections of financial institutions, including on-site inspections, to ensure compliance? If so, do such inspections include the review of policies, procedures, books and records, and extend to sample testing. Please describe and indicate all the specific provisions that apply.

29.3 Do supervisors have the power to compel production of or to obtain access to all records, documents or information relevant to monitoring compliance? If so, does this include all documents or information related to accounts or other business relationships, or transactions, including any analysis the financial institution has made to detect unusual or suspicious transactions? Please describe and indicate all specific provisions that apply.

29.3.1 Is the supervisor's power to compel production of or to obtain access for supervisory purposes predicated on the need to require a court order? Please describe and indicate all specific provisions that apply.

29.4 What powers of enforcement and sanction do supervisor have against financial institutions, and their directors or senior management for failure to comply with or properly implement requirements to combat money laundering and terrorist financing? Please indicate the type and range of these powers and indicate the specific provisions that apply.

<sup>29</sup> Note to the assessed country: With respect to foreign branches and subsidiaries, the requirement for financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures will be assessed only against R.22. However, under R.29, supervisors should have adequate powers to establish that financial institutions require their foreign branches and majority owned subsidiaries to apply R.22 effectively.

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| <b><i>Recommendation 17</i></b>   |
| General description of laws or other measures, the situation, or context.   |
| 17.1 What criminal, civil or administrative sanctions are available to deal with natural or legal persons covered by the FATF Recommendations that fail to comply with national AML/CFT requirements? Please indicate the type and range of sanctions as well as the circumstances under which they may apply and the specific provisions that apply.<br>Note to the assessed country: these sanctions should be effective, proportionate and dissuasive.   |
| 17.2 Which authority (e.g. supervisors or the FIU) has been empowered to apply these sanctions? Please indicate the specific provisions that apply.<br>Note to the assessed country: Different authorities may be responsible for applying sanctions depending on the nature of the requirement that was not complied with.   |
| 17.3 Are sanctions available in relation not only to the legal persons that are financial institutions or businesses but also to their directors and senior management? If so, please indicate the specific provisions that apply.  |
| 17.4 Is the range of sanctions available broad and proportionate to the severity of a situation? Do they include the power to impose disciplinary and financial sanctions and the power to withdraw, restrict or suspend the financial institution's license, where applicable? Please indicate the specific provisions that apply.<br>Examples of types of sanctions include: written warnings (separate letter or within an audit report), orders to comply with specific instructions (possibly accompanied with daily fines for non-compliance), ordering regular reports from the institution on the measures it is taking, fines for non compliance, barring individuals from employment within that sector, replacing or restricting the powers of managers, directors, or controlling owners, imposing conservatorship or a suspension or withdrawal of the license, or criminal penalties where permitted. |
| <b><i>Market entry – R.23</i></b>   |
| General description of laws or other measures, the situation, or context.   |
| 23.3 Have the supervisors or other competent authorities taken the necessary legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function, including in the executive or supervisory boards, councils, etc in a financial institution? If they have, please describe the measures taken.  |
| 23.3.1 Are directors and senior management of financial institutions subject to the Core Principles evaluated on the basis  |

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| of “fit and proper” criteria including those relating to expertise and integrity? If they are, please indicate the specific provisions that apply.  |
|   |
| 23.5 Are natural and legal persons providing a money or value transfer service, or a money or currency changing service required to be licensed or registered? If they are, please indicate the specific provisions that apply and specify which authority issues the licence/holds the register.   |
|   |
| 23.7 Are financial institutions (other than those mentioned in Question 23.4 below) required to be licensed or registered and appropriately regulated, and are they subject to supervision or oversight for AML/CFT purposes, having regard to the risk of money laundering or terrorist financing in that sector i.e. if there is a proven low risk then the required measures may be less? If they are, please indicate the specific provisions that apply and specify which is/are the relevant authority (ies). |
| [Note to the assessed country: Focus only on the licensing/registration components of this question]  |
|   |
| <b><i>Ongoing supervision and monitoring – R.23 &amp; 32</i></b>  |
| 23.4 For financial institutions that are subject to the Core Principles <sup>30</sup> , do the regulatory and supervisory measures that apply for prudential purposes and which are also relevant to money laundering, apply in a similar manner for anti-money laundering and terrorist financing purposes (except where specific criteria of the Methodology and questions of this questionnaire address the same issue)? Please specify.   |
| Examples of regulatory and supervisory measures that apply for prudential purposes and which are also relevant to money laundering, include requirements for: (i) licensing and structure; (ii) risk management processes to identify, measure, monitor and control material risks; (iii) ongoing supervision and (iv) global consolidated supervision where required by the Core Principles.   |
|   |
| 23.6 Are natural and legal persons providing a money or value transfer service, or a money or currency changing service subject to effective systems for monitoring and ensuring compliance with national requirements to combat money laundering and terrorist financing? If they are, please indicate the specific provisions that apply.   |
|   |
| 23.7 Are financial institutions (other than those mentioned in Criterion 23.4) required to be licensed or registered and are they appropriately regulated, and subject to supervision or oversight for AML/CFT purposes, having regard to the risk of money laundering or terrorist financing in that sector i.e. if there is a proven low risk then the required measures may be less? If they are, please indicate the specific provisions that apply.  |
| [Note to the assessed country: Focus only on the supervision/oversight components of this question]   |

<sup>30</sup> Note to the assessed country: the assessors shall refer to the Core Principles for a precise description of the financial institutions that are covered, but broadly speaking it refers to: (1) banking and other deposit-taking business, (2) insurers and insurance intermediaries, and (3) collective investment schemes and market intermediaries.

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| <b>Recommendation .32</b>   |
| 32.2 Do the competent authorities maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing? If so, do these statistics include keeping annual statistics on other action and on-site examinations conducted by supervisors relating to or including AML/CFT and any sanctions applied? |
| <b>If maintained, please provide the statistics for the last 4 years</b>  |
|   |
| <b>Recommendation 25: Guidelines (Guidance for financial institutions other than on STRs)</b>   |
| General description of laws or other measures, the situation, or context.   |
|   |
| 25.1 Do the competent authorities establish guidelines with a view to assist financial institutions and DNFBP implement and comply with their respective AML/CFT requirements? If they do, please indicate the specific provisions that apply and provide the guidelines that have been issued.   |
| Note to the assessed country: For DNFBP, such guidelines may be established by SROs.  |
| At a minimum, the guidelines should give assistance on issues covered under the relevant FATF Recommendations, including: (i) a description of ML and FT techniques and methods; and (ii) any additional measures that these institutions and DNFBP could take to ensure that their AML/CFT measures are effective.   |
|   |
| <b>Additional material</b>  |
| If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.  |
|   |

### 3.11 Money or value transfer services (SR.VI)

This section should very briefly summarise and cross-reference the description and any comments that have been made elsewhere in section 3 on money or value transfer services.

#### 3.11.1 Description and Analysis (summary)

| <b><i>Special Recommendation VI</i></b>  |
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| General description of laws or other measures, the situation, or context.  |
| VI.1 Has your country designated one or more competent authorities to register and/or licence natural and legal persons that perform money or value transfer services (MVT service operators), maintain a current list of the names and addresses of licensed and/or registered MVT service operators, and be responsible for ensuring compliance with licensing and/or registration requirements <sup>31</sup> ? If so, please indicate the relevant designated authorities and the specific provisions that apply.   |
| VI.2 Have measures been taken to ensure that all MVT service operators are subject to the applicable FATF Forty Recommendations (in particular Recommendations 4-11, 13-15 and 21-23) and FATF Nine Special Recommendations (in particular SR.VII)? If so, please describe the measures that have been taken and indicate the specific provisions that apply.  |
| VI.3 Does your country have systems in place for monitoring MVT service operators and ensuring that they comply with the FATF Recommendations? If so, please indicate the specific provisions that apply.  |
| VI.4 Are all licensed or registered MVT service operator required to maintain a current list of their agents which must be made available to the designated competent authority? If so, please indicate the specific provisions that apply.  |
| VI.5 Do the answers provided for criteria 17.1 – 17.4 (in R. 17) also apply in relation to the obligations under SR VI?<br>a) What sanctions apply to MVT service operators that do not comply with the obligations described above? Please indicate the specific provisions that apply. Please also indicate the type (criminal, civil or administrative) and range of the sanctions so it is possible to determine whether these sanctions are effective, proportionate and dissuasive.<br>b) Are all sanctions available for natural and legal persons? If so, please indicate the specific provisions that apply. If |

<sup>31</sup> SR.VI does not require countries to establish a separate licensing/registration system or designate another competent authority in respect of money remitters which are already licensed/registered as financial institutions within the country, permitted to perform MVT services under the terms of their license/registration, and already subject to the full range of applicable obligations under the FATF Forty Recommendations and Nine Special Recommendations.

they do not apply to both, please explain further.

c) Please indicate which authority is empowered to apply these sanctions as well as the specific provisions that apply.  
d) If the sanctions are available for legal persons, are they also available for their directors and senior management? Please indicate the specific provisions that apply.

**Additional elements**

VI.6 Have the measures set out in the Best Practices Paper for SR.VI been implemented? Please describe the measure that have been taken and indicate the specific provisions that apply.

**Additional material**

If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.

**4. PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS**

Please give a concise overview of the scope of coverage of AML/CFT preventive measures as they apply to DNFBPs i.e. what sectors are covered and to what extent.

Description:

**4.1 Customer due diligence and record-keeping (R.12)**

(applying R.5, 6, 8-11 & 17 (only sanctions for these Recommendations))

Note to countries - in completing this section of the questionnaire, countries should seek to address the various elements of customer due diligence, record-keeping and monitoring and the relevant Recommendations, in the following sequence:

1. Describe the customer due diligence requirements and measures for DNFBP (applying R.5, 6, 8 & 9). Where requirements have already been described in Section 3 of the MEQ, it is only necessary to cross reference that material and to note any changes or differences of approach that may apply to DNFBP.
2. Set out the record-keeping requirements for DNFBP (applying R.10). Again this may be done in whole or part by cross-referencing.
3. Indicate if there are any differences for DNFBP regarding monitoring (applying R.11).
4. Set out the relevant sanctions that are applicable for breaches of the AML/CFT requirements under R.5, 6, & 8-11 (applying R.17). These should be sanctions applicable to all entities subject to the CDD and other requirements as opposed to sanction powers that are specific to the competent authorities or SROs which should be described in section 4.3 below. Again, it may be sufficient to cross-reference the material in Section 3 above.

#### 4.1.1 Description and Analysis

| <b><i>Recommendation 12</i></b>  |
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| General description of laws or other measures, the situation, or context.  |
|  |
| 12.1 Are DNFBPs required to comply with the requirements set out in Recommendation 5 (Criteria 5.1 – 5.18) in the following circumstances <sup>32</sup> :  |
| <p>a) Casinos (including internet casinos<sup>33</sup>) – when their customers engage in financial transactions equal to or above USD/€ 3,000<sup>34</sup>.</p> <p>Examples of financial transactions in casinos include: the purchase or cashing in of casino chips or tokens, the opening of accounts, wire transfers and currency exchanges. Financial transactions do not refer to gambling transactions that involve only casino chips or tokens.</p> <p>b) Real estate agents – when they are involved in transactions for a client concerning the buying and selling of real estate<sup>35</sup>.</p> <p>c) Dealers in precious metals and dealers in precious stones – when they engage in any cash transaction with a customer equal to or above USD/€ 15,000<sup>33</sup>.</p> <p>d) Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for a client in relation to the following activities:</p> <ul style="list-style-type: none"><li>• buying and selling of real estate;</li><li>• managing of client money, securities or other assets<sup>36</sup>;</li><li>• management of bank, savings or securities accounts<sup>30</sup>;</li><li>• organisation of contributions for the creation, operation or management of companies;</li><li>• creation, operation or management of legal persons or arrangements, and buying and selling of business entities.</li></ul> <p>e) Trust and Company Service Providers when they prepare for and when they carry out transactions for a client in relation to the following activities:</p> <ul style="list-style-type: none"><li>• acting as a formation agent of legal persons;</li><li>• acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;</li></ul> |

<sup>32</sup> The designated thresholds applied in these criteria are referred to in the IN of R. 5, 12 and 16.

<sup>33</sup> Countries should establish rules to determine the basis upon which internet casinos are subject to national AML/CFT requirements. This will require the country to determine the basis or set of factors upon which it will decide whether there is a sufficient nexus or connection between the internet casino and the country. Examples of such factors include incorporation or organisation under the laws of the country, or place of effective management within the country. Assessors should examine the basis for the nexus or connection, with respect to R. 12, 16 and 24.

<sup>34</sup> The designated thresholds of USD/€ 3,000 and USD/€ 15,000 include situations where the transaction is carried out in a single operation or in several operations that appear to be linked.

<sup>35</sup> This means that real estate agents should comply with R.5 with respect to both the purchasers and the vendors of the property.

<sup>36</sup> Where the lawyer, notary, other independent legal professional or accountant is conducting financial activity as a business and meets the definition of “financial institution” then that person or firm should comply with the requirements applicable to financial institutions.

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| <ul style="list-style-type: none"><li>• providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;</li><li>• acting as (or arranging for another person to act as) a trustee of an express trust;</li><li>• acting as (or arranging for another person to act as) a nominee shareholder for another person.</li></ul> |
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If they are, please indicate in each case what the CDD measures are and the specific provisions that apply.

DNFBP should especially comply with the CDD measures set out in Criteria 5.3 to 5.7 but may determine the extent of such measures on a risk sensitive basis depending on the type of customer, business relationship or transaction.

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| 12.2 In the circumstances set out in Question 12.1, are DNFBPs required to comply with the criteria set out under Recommendations 6 and 8-11? If they are, please indicate how this is accomplished and the specific provisions that apply. |
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#### **Additional material**

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| If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system. |
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### **4.2 Monitoring transactions and other issues (R.16)** (applying R.13-15, 17 & 21)

Note to countries - in completing this section of the questionnaire, countries should seek to address the various elements of monitoring and reporting system and the relevant Recommendations, in the following sequence:

1. Describe the suspicious transaction reporting system for DNFBP (applying R.13-14). Where the reporting obligations have already been fully described in Section 3 of the MEQ, it is only necessary to cross reference that material and to note any changes or differences of approach that may apply to DNFBP.
2. Set out the internal control requirements for DNFBP (applying R.15). Again this may be done in whole or part by cross-referencing.
3. Indicate if there are any differences for DNFBP regarding the application of R.21.
4. Set out the relevant sanctions that are applicable for breaches of the AML/CFT requirements under R.13-15 & 21 (applying R.17). These should be sanctions applicable to all entities subject to reporting requirements as opposed to specific sanction powers of competent authorities or SROs which should be described in section 4.3 below. As such it may be sufficient to cross-reference the material in Section 3 above.

#### 4.2.1 Description and Analysis

| <b><i>Recommendation 16</i></b>   |
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| General description of laws or other measures, the situation, or context.   |
| <p>16.1 Are DNFBPs required to comply with the requirements set out in Recommendation 13 (Criteria 13.1 – 13. 4)<sup>37</sup> in the following circumstances:</p> <p>a) Casinos (which includes internet casinos) and real estate agents – in the circumstances set out in R.13.</p> <p>b) Dealers in precious metals or stones - when they engage in any cash transaction equal to or above USD/€ 15,000<sup>38</sup>.</p> <p>c) Lawyers, notaries, other independent legal professionals and accountants - when, on behalf of or for a client, they engage in a financial transaction in relation to the following activities:</p> <ul style="list-style-type: none"><li>• buying and selling of real estate;</li><li>• managing of client money, securities or other assets;</li><li>• management of bank, savings or securities accounts;</li><li>• organisation of contributions for the creation, operation or management of companies;</li><li>• creation, operation or management of legal persons or arrangements, and buying and selling of business entities.</li></ul> <p>Note on legal professional privilege or legal professional secrecy.</p> <p>Lawyers, notaries, other independent legal professionals, and accountants acting as independent legal professionals, are not required to report suspicious transactions if the relevant information was obtained in circumstances where they are subject to legal professional privilege or legal professional secrecy.</p> <p>It is for each jurisdiction to determine the matters that would fall under legal professional privilege or legal professional secrecy. This would normally cover information lawyers, notaries or other independent legal professionals receive from or obtain through one of their clients: (a) in the course of ascertaining the legal position of their client, or (b) in performing their task of defending or representing that client in, or concerning judicial, administrative, arbitration or mediation proceedings. Where accountants are subject to the same obligations of secrecy or privilege, then they are also not required to report suspicious transactions.</p> <p>d) Trust and Company Service Providers - when they prepare for or carry out a transaction on behalf of a client, in relation to the following activities:</p> <ul style="list-style-type: none"><li>• acting as a formation agent of legal persons;</li><li>• acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;</li><li>• providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;</li><li>• acting as (or arranging for another person to act as) a trustee of an express trust;</li></ul> |
| <hr/> <p><sup>37</sup> DNFBP should comply with all the criteria in Recommendation 13 with two exceptions. First, dealers in precious metals and stones must comply with criteria 13.3, but would only be required to report transactions (or attempted transactions) above the cash threshold of USD/€ 15,000. Second, as detailed in criteria 16.1, countries may allow lawyers, notaries, other independent legal professionals, and accountants acting as independent legal professionals to send their STR to self-regulatory organizations, and they do not always need to send STR to the FIU.</p> <p><sup>38</sup> The designated threshold includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked (cases of “smurfing”/“structuring”).</p>   |

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| <ul style="list-style-type: none"><li>• acting as (or arranging for another person to act as) a nominee shareholder for another person.</li></ul> <p>If they are, please indicate in each case what the STR reporting mechanism is and the specific provisions that apply.</p>   |
| 16.2 If lawyers, notaries, other independent legal professionals and accountants are allowed to send their STR to their appropriate self-regulatory organisations (SRO), describe how the co-operation between the SRO and the FIU is arranged and indicate the specific provisions that apply.  |
| 16.3 In the circumstances set out in Question 16.1, the criteria set out under Recommendations 14, 15 and 21 should apply in relation to DNFBP.  |
| <b><u>Additional elements</u></b> <p>16.5 Is the reporting requirement extended to the rest of the professional activities of accountants, including auditing? If it is, please indicate how this is accomplished and the specific provisions that apply.</p> <p>16.6 Are DNFBP required to report to the FIU when they suspect or have reasonable grounds to suspect that funds are the proceeds of all criminal acts that would constitute a predicate offence for money laundering domestically? If they are, please indicate the specific provisions that apply.</p> |
| <b><u>Additional material</u></b> <p>If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.</p>  |

### **4.3 Regulation, supervision and monitoring (R. 24-25)**

#### **4.3.1 Description and Analysis**

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| <b><i>Recommendation 24</i></b>  |
| General description of laws or other measures, the situation, or context.  |
| 24.1 Are casinos (including Internet casinos) subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF Recommendations? If they are, please describe the regime and indicate the specific provisions that apply. |

24.1.1 Does a designated competent authority have responsibility for the AML/CFT regulatory and supervisory regime? Does it have adequate powers to perform its functions, including powers to monitor and sanction? Please state the name of the designated competent authority, describe its powers to monitor and sanction and indicate the specific provisions that apply.

Note to the assessed country: countries should ensure that criteria 17.1 – 17.4 apply to the obligations under R. 12 and R. 16.

24.1.2 Are casinos required to be licensed by a designated competent authority? If they are, please indicate the specific provisions that apply as well as the designated authority and the circumstances under which the license may be issued.

24.1.3 Have legal or regulatory measures been taken to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a casino? If so, please describe these measures and indicate the specific provisions that apply.

24.2 Are the other categories of DNFBP subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements?

Note to the assessed country: In determining whether the system for monitoring and ensuring compliance is appropriate, regard may be had to the risk of money laundering or terrorist financing in that sector i.e. if there is a proven low risk then the extent of the required measures may be less.

24.2.1 Is there a designated competent authority or SRO responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements? If so, does this authority or SRO:

- have adequate powers to perform its functions, including powers to monitor and sanction? (Note to the assessed country: countries should ensure that criteria 17.1 – 17.4 apply to the obligations under R. 12 and R. 16);
- have sufficient technical and other resources to perform its functions<sup>39</sup> ?

Please name the designated competent authority for each DNFBP, describe its powers to monitor and sanction, and the resources that it/they has/have been provided with, and indicate the specific provisions that apply.

<sup>39</sup> Note to the assessed country: In assessing compliance with this criterion, assessors shall have regard to Criteria 30.1 to 30.4 where it is appropriate to do so (i.e. depending on the type of the designated competent authority or SRO, its size, its responsibilities, etc).

| <b><i>Recommendation 25 (Guidance for DNFBPs other than guidance on STRs)</i></b>   |
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| General description of laws or other measures, the situation, or context.   |
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| 25.1 Do competent authorities establish guidelines with a view to assisting financial institutions and DNFBP to implement and comply with their respective AML/CFT requirements? If they do, please indicate the provisions that apply, and provide the guidance issued.<br><br>Note to the assessed country: For DNFBPs, such guidelines may be established by SROs. |
| At a minimum, the guidelines should give assistance on issues covered under the relevant FATF Recommendations, including: (i) a description of ML and FT techniques and methods; and (ii) any additional measures that these institutions and DNFBP could take to ensure that their AML/CFT measures are effective.   |
|   |
| <b>Additional material</b><br><br>If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.  |
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#### **4.4 Other non-financial businesses and professions Modern secure transaction techniques (R.20)**

##### **4.4.1 Description and Analysis**

| <b><i>Recommendation 20</i></b>  |
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| General description of laws or other measures, the situation, or context.  |
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| 20.1 Has your country applied or considered applying Recommendations 5, 6, 8-11, 13-15, 17 and 21 to non-financial businesses and professions (other than DNFBPs) that are at risk of being misused for money laundering or terrorist financing? If so, please indicate the specific provisions that apply.<br><br>Examples of businesses or professions that may be at risk include: dealers in high value and luxury goods, pawnshops, gambling, auction houses and investment advisers. |
|  |
| 20.2 Have measures been taken to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering? If so, please describe and indicate the specific provisions that apply.   |

Examples of techniques or measures that may be less vulnerable to money laundering include:

- Reducing reliance on cash;
- Not issuing very large denomination banknotes;
- Secured automated transfer systems.

**Additional material**

If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.

**5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANISATIONS**

**5.1 Legal Persons — Access to beneficial ownership and control information (R.33)**

**5.1.1 Description and Analysis**

***Recommendation 33***

General description of laws or other measures, the situation, or context.

Please provide statistics on legal persons (number of legal persons per type of legal entity).

33.1 Has your country taken measures to prevent the unlawful use of legal persons in relation to money laundering and terrorist financing by ensuring that their commercial, corporate and other laws require adequate transparency concerning the beneficial ownership and control of legal persons? If it has, please indicate what measures have been taken and indicate the specific provisions that apply.

Examples<sup>40</sup> of mechanisms that countries could use in seeking to ensure that there is adequate transparency may include:

1. A system of central registration (or up front disclosure system) where a national registry records the required ownership and control details for all companies and other legal persons registered in that country. The relevant information could be either publicly available or only available to competent authorities. Changes in ownership and control information would need to be kept up to date.
2. Requiring company service providers to obtain, verify and retain records of the beneficial ownership and control of legal persons.
3. Relying on the investigative and other powers of law enforcement, regulatory, supervisory, or other competent authorities in a jurisdiction to obtain or have access to the information.

These mechanisms are, to a large degree, complementary and countries may find it highly desirable and beneficial to use a combination of them.

To the extent that countries rely on the investigative powers of their competent authorities, these authorities should have sufficiently strong compulsory powers for the purpose of obtaining the relevant information.

Whatever mechanism is used it is essential that: (a) competent authorities are able to obtain or have access in a timely fashion to the beneficial ownership and control information, (b) the information is adequate, accurate and timely (see Criterion 33.2) and (c) competent authorities are able to share such information with other competent authorities domestically or internationally.

33.2 Are competent authorities able to obtain or have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control of legal persons? If they are, please describe and indicate the specific provisions that apply.

33.3 Can legal persons issue bearer shares? If they can, have measures been taken to ensure that they are not misused for money laundering, and that the principles set out in criteria 33.1 and 33.2 apply equally to legal persons that use bearer shares? If so, please indicate the specific provisions that allow the issuance of bearer shares and the type of companies that may issue bearer shares. Please also indicate the measures that have been taken.

If bearer shares may be issued, please also indicate the approximate number of (existing) legal persons that have issued bearer shares, the approximate number of bearer shares in circulation and their outstanding value.

Note to the country: the measures to be taken may vary from country to country, but each country should be able to demonstrate the adequacy and effectiveness of the measures that are applied.

#### **Additional elements**

33.4 Are measures in place to facilitate access by financial institutions to beneficial ownership and control

<sup>40</sup> Note to the assessed country: These examples are summaries of mechanisms set out in the OECD Report "Behind the Corporate Veil. Using Corporate Entities for Illicit Purposes" 2001. An explanation of these mechanisms and their suitability is contained in the report itself.

information, so as to allow them to more easily verify the customer identification data? If so, please describe and indicate the specific provisions that apply.

**Additional material**

If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.

**5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)**

**5.2.1 Description and Analysis**

General description of laws or other measures, the situation, or context.

Please indicate the type of legal arrangements that may be created under your legislation, indicate the specific provisions that apply and provide the statistics (numbers per type of legal arrangements).

If legal arrangements such as trusts, may not be created under your legislation, please indicate whether financial intermediaries in your country deal with foreign trusts and to what extent.

34.1 What measures have been taken to prevent the unlawful use of legal arrangements in relation to money laundering and terrorist financing by ensuring that its commercial, trust and other laws require adequate transparency concerning the beneficial ownership and control of trusts and other legal arrangements?

Examples<sup>41</sup> of mechanisms that countries could use in seeking to ensure that there is adequate transparency may include:

1. A system of central registration (or up front disclosure system) where a national registry records details on trusts (i.e. settlors, trustees, beneficiaries and protectors) and other legal arrangements registered in that country. The relevant information could be either publicly available or only available to competent authorities. Changes in ownership and control information would need to be kept up to date.
2. Requiring trust service providers to obtain, verify and retain records of the details of the trust or other similar legal arrangements.
3. Relying on the investigative and other powers of law enforcement, regulatory, supervisory, or other competent authorities in a jurisdiction to obtain or have access to the information.

These mechanisms are, to a large degree, complementary and countries may find it highly desirable and beneficial to use a combination of them.

To the extent that countries rely on the investigative powers of their competent authorities, these authorities should have sufficiently strong compulsory powers for the purpose of obtaining the relevant information.

<sup>41</sup> Note to assessors: These examples are summaries of mechanisms set out in the OECD Report “Behind the Corporate Veil. Using Corporate Entities for Illicit Purposes” 2001. An explanation of these mechanisms and their suitability is contained in the report itself.

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| Whatever mechanism is used it is essential that: (a) competent authorities are able to obtain or have access in a timely fashion to the beneficial ownership and control information, (b) the information is adequate, accurate and timely (see Criterion 34.2) and (c) competent authorities are able to share such information with other competent authorities domestically or internationally. |
|  |
| 34.2 Are the competent authorities able to obtain or have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control of legal arrangements, and in particular the settlor, the trustee, and the beneficiaries of express trusts? If they are, please indicate the specific provisions that apply.  |
|  |
| <b><u>Additional elements</u></b>  |
| 34.3 Are measures in place to facilitate access by financial institutions to beneficial ownership and control information, so as to allow them to more easily verify the customer identification data? If so, please specify.  |
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| <b>Additional material</b>   |
| If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.   |
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### **5.3 Non-profit organisations (SR.VIII)**

#### **5.3.1 Description and Analysis**

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| <b><i>Special Recommendation VIII</i></b>   |
| Note to the assessed country: in implementing the criteria below, countries may take a risk based approach taking into account, for example, the size of the organisation, the amount of funds it handles, and its specific objectives.   |
|   |
| General description of laws or other measures applicable to NPOs, the situation, or context (number and size of NPOs, types of NPOs).   |
|   |
| <b><i>Review of the domestic non-profit sector:</i></b>   |
| VIII.1 Has your country:  |
| (i) undertaken a review of the adequacy of laws and regulations that relate to non-profit organizations?;   |
| (ii) used all available sources of information to undertake domestic reviews of or have the capacity to obtain timely information on the activities, size and other relevant features of your non-profit sectors for the purposes of identifying the features and types of non-profit organizations (NPOs) that are at risk of being misused for terrorist financing by |

virtue of their activities or characteristics?; and,

(iii) conducted periodic reassessments by reviewing new information on the sector's potential vulnerabilities to terrorist activities?

If it has, please provide the evidence that these reviews and reassessments have taken place and their conclusions.

Some examples of possible sources of information that could be used to undertake a domestic review or provide timely information on the activities, size and other relevant features of the domestic non-profit sector are: regulators, statistical institutions, tax authorities, FIUs, donor organizations, self-regulatory organizations or accreditation institutions, or law enforcement and intelligence authorities.

*Protecting the NPO sector from terrorist financing through outreach and effective oversight:*

VIII.2. Has your country undertaken outreach to the NPO sector with a view to protecting the sector from terrorist financing abuse and does/did this outreach include:

- (i) raising awareness in the NPO sector about the risks of terrorist abuse and the available measures protect against such abuse;
- (ii) promoting transparency, accountability, integrity, and public confidence in the administration and management of all NPOs?

Note to the assessed country: An effective outreach program with the NPO sector may include the development of best practices to address the terrorist financing risks, regular outreach events with the sector to discuss scope and methods of abuse of NPOs, emerging trends in terrorist financing and new protective measures, and the issuance of advisory papers and other useful information.

VII.3 Have the following steps been taken to promote effective supervision or monitoring of those NPOs which account for:

- (i) a significant portion of the financial resources under control of the sector; and
- (ii) a substantial share of the sector's international activities?

If so, please provide all the relevant information to demonstrate that these steps have been taken.

VIII.3.1 Do NPOs maintain information on:

- (i) the purpose and objectives of their stated activities; and,
- (ii) the identity of person(s) who own, control or direct their activities, including senior officers, board members and trustees?

Note to the assessed country this information should be publicly available either directly from the NPO or through appropriate authorities.

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| <p>VIII.3.2 Are their appropriate measures in place to sanction violations of oversight measures or rules by NPOs or persons acting on behalf of NPO?</p> <p>Does the application of such rules preclude parallel civil, administrative, or criminal proceedings with respect to NPOs or persons acting on their behalf where appropriate?</p> <p>Please indicate the relevant legal provisions.</p> <p>Sanctions may include freezing of accounts, removal of trustees, fines, de-certification, de-licensing or de-registration.</p> |
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| <p>VIII.3.3 Are NPOs licensed or registered? Is this information available to competent authorities?<sup>42</sup></p>  |
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| <p>VIII.3.4. Are NPOs required to maintain, for a period of at least five years, and make available to appropriate authorities, records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purposes and objectives of the organization? Do these requirements also apply to information mentioned in paragraphs (i) and (ii) of the Interpretative Note to SR VII? Please indicate the specific provisions that apply.</p>                 |
|  |
| <p><i>Targeting and attacking terrorist abuse of NPOs through effective information gathering, investigation:</i></p> <p>VII.4 Has your country implemented measures to ensure that it can effectively investigate and gather information on NPOs? If it has, please describe these measures and indicate the specific provisions that apply.</p>  |
|  |
| <p>VIII.4.1 Has your country taken measures to ensure that effective domestic cooperation, coordination and information sharing to the extent possible among all levels of appropriate authorities or organizations that hold relevant information on NPOs of potential terrorist financing concern? If it has, please describe these measures and indicate the specific provisions that apply.</p>  |
|  |
| <p>VIII.4.2 Has your country taken measures to ensure that full access to information on the administration and management of a particular NPO (including financial and programmatic information) may be obtained during the course of an investigation? If it has, please describe these measures and indicate the specific provisions that apply.</p>  |
|  |
| <p>VIII.4.3 Has your country developed and implemented mechanisms for the prompt sharing of information among all relevant competent authorities in order to take preventive or investigative action when there is a suspicion or reasonable grounds to suspect that a particular NPO is being exploited for terrorist financing purposes or is a front organization for</p>   |

<sup>42</sup> Specific licensing or registration requirements for counter terrorist financing purposes are not necessary. For example, in some countries, NPOs are already registered with tax authorities and monitored in the context of qualifying for favorable tax treatment (such as tax credits or tax exemptions).

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| <p>terrorist fundraising?</p> <p>Does your country have investigative expertise and capability to examine those NPOs that are suspected of either being exploited by or actively supporting terrorist activity or terrorist organizations?</p> <p>Does your country have mechanisms in place that allow for prompt investigative or preventative action against such NPOs?</p> <p>Please describe the mechanisms in place and indicate the specific provisions that apply.</p> |
| <p><i>Responding to international requests for information about an NPO of concern:</i></p> <p>VIII.5 Has your country identified appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs that are suspected of terrorist financing or other forms of terrorist support? If it has, please describe and indicate the specific provisions that apply.</p>   |
| <p><b>Additional material</b></p> <p>If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.</p>  |

## 6. NATIONAL AND INTERNATIONAL CO-OPERATION

### 6.1 National co-operation and coordination (R.31 & 32)

#### 6.1.1 Description and Analysis

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| <p><b><i>Recommendation 31</i></b></p> <p>General description of laws or other measures, the situation, or context.</p>   |
| <p>31.1 Are mechanisms in place to enable policy makers, the FIU, law enforcement and supervisors and other competent authorities to co-operate, and where appropriate, co-ordinate domestically with each other concerning the development and implementation of policies and activities to combat money laundering and terrorist financing? Please describe these mechanisms and, where relevant, indicate the specific provisions that apply.</p> <p>Do such mechanisms normally address:</p> <p>(a) operational co-operation and, where appropriate, co-ordination between authorities at the law enforcement/FIU level (including customs authorities where appropriate); and between the FIU, law enforcement and supervisors;</p> <p>(b) policy co-operation and, where appropriate, co-ordination across all relevant competent authorities?</p> <p>Please specify.</p> |

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| <p><b><u>Additional elements</u></b></p> <p>31.2 Are mechanisms in place for consultation between competent authorities, the financial sector and other sectors (including DNFBP) that are subject to AML/CFT laws, regulations, guidelines or other measures? If so, which are they? Please describe and indicate the specific provisions that apply.</p>   |
|  |
| <p><b><i>Recommendation 32</i></b></p>   |
| <p>32.1: Does your country review the effectiveness of its system for combating money laundering and terrorist financing on a regular basis? Please specify.</p>   |
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| <p><b><i>Recommendation 30: Resources (Policy makers)</i></b></p>  |
| <p>General description of laws or other measures, the situation, or context.</p>   |
| <p>30.1 <b>Policy makers only:</b> Please describe how the competent authorities are structured, funded, staffed and indicate what technical and other resources they have been granted in order to make it possible to determine whether they are adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform their functions. Please note that adequate structuring includes the need for sufficient operational independence and autonomy to ensure freedom from undue influence or interference.</p>   |
|  |
| <p>30.2 <b>Policy makers only:</b> Please indicate the standards that apply when hiring new staff. Is the staff of competent authorities required to maintain high professional standards, including standards concerning confidentiality, and should staff be of high integrity and appropriately skilled?</p>  |
|  |
| <p>30.3 <b>Policy makers only:</b> Is staff provided with training for combating money laundering and terrorist financing? If so, please indicate the frequency of this training and provide samples in order to make it possible to determine whether such training is adequate and relevant.</p> <p>Examples of issues to be covered under adequate and relevant training include: the scope of predicate offences, ML and FT typologies, techniques to investigate and prosecute these offences, techniques for tracing property that is the proceeds of crime or is to be used to finance terrorism, and ensuring that such property is seized, frozen and confiscated, and the techniques to be used by supervisors to ensure that financial institutions are complying with their obligations; the use of information technology and other resources relevant to the execution of their functions. Countries could also provide special training and/or certification for financial investigators for, inter alia, investigations of ML, FT, and the predicate offences.</p> |
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| <p><b><u>Additional material</u></b></p> <p>If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.</p>   |

## 6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)

### 6.2.1 Description and Analysis

| <b><i>Recommendation 35 &amp; Special Recommendation I</i></b>   |
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| General description of laws or other measures, the situation, or context.  |
| 35.1 Has your country signed and ratified, or otherwise become a party to, and fully implemented, the Vienna Convention, the Palermo Convention and the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism (the Terrorist Financing Convention) <sup>43</sup> ? If so, please indicate the date of signature, ratification and indicate all relevant measures taken to implement them.   |
| I.1 Has your country signed and ratified, or otherwise become a party to, and fully implemented, the Terrorist Financing Convention <sup>44</sup> ? If so, please indicate the date of signature, ratification and indicate the specific provisions that apply.  |
| I.2 Has your country fully implemented the United Nations Security Council Resolutions relating to the prevention and suppression of FT? Note to the country: These comprise S/RES/1267(1999) and its successor resolutions and S/RES/1373(2001). This requires any necessary laws, regulations or other measures to be in place and for these provisions to cover the requirements contained in those resolutions.<br>If it has, please indicate all relevant measures that have been taken to implement the resolutions and indicate the specific provisions that apply. |
| <b><u>Additional elements</u></b>  |
| 35.2 Have other relevant international conventions such as the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the 2002 Inter-American Convention against Terrorism been signed, ratified and fully implemented? Where relevant, please indicate the date of signature, ratification and indicate all relevant measures taken to implement them.  |

<sup>43</sup> Note to the assessed country: Assessors shall have to be satisfied that the following relevant articles of the Vienna Convention (Articles 3-11, 15, 17 and 19), the Palermo Convention (Articles 5-7, 10-16, 18-20, 24-27, 29-31, & 34), and the Terrorist Financing Convention (Articles 2-18) are fully implemented.

<sup>44</sup> Note to the assessed country: Assessors shall have to be satisfied that all relevant articles of the Terrorist Financing Convention are fully implemented (Articles 2-6 and 17-18 which relate to SR.II; Article 8 which relates to SR.III; and Articles 7 and 9-18 which relate to SR.V.)

### **Additional material**

If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.

## **6.3 Mutual Legal Assistance (R.36-38, SR.V, R.32)**

Note to the assessed country: In relation to SR.V, where the relevant information has already been fully described under R.36-38, it is only necessary to cross reference that material under the SR.V and to note any changes or differences of approach that may apply to terrorist financing.

### **6.3.1 Description and Analysis**

#### ***Recommendation 36***

General description of laws or other measures, the situation, or context.

36.1 Please indicate the range of mutual legal assistance that your country may provide.

Note to the assessed country: Countries should be able to provide the widest possible range of mutual legal assistance in AML/CFT investigations, prosecutions and related proceedings. Mutual legal assistance should include assistance of the following nature: (a) the production, search and seizure of information, documents, or evidence (including financial records) from financial institutions, or other natural or legal persons; (b) the taking of evidence or statements from persons; (c) providing originals or copies of relevant documents and records as well as any other information and evidentiary items, (d) effecting service of judicial documents; (e) facilitating the voluntary appearance of persons for the purpose of providing information or testimony to the requesting country and (f) identification, freezing, seizure, or confiscation of assets laundered or intended to be laundered, the proceeds of ML and assets used for or intended to be used for FT, as well as the instrumentalities of such offences, and assets of corresponding value<sup>45</sup>

36.1.1 Is your country able to provide such assistance in a timely, constructive and effective manner? Please describe and indicate the specific provisions that apply.

36.2 Are there circumstances under which mutual legal assistance is prohibited or restricted? If yes, please specify and indicate the specific provisions that apply in order to establish whether mutual legal assistance is prohibited or made subject to unreasonable, disproportionate or unduly restrictive conditions.

Possible examples of such conditions (for which an assessment as to reasonableness, proportionality or restrictiveness

<sup>45</sup> Elements (a) to (f) are drawn from the Palermo Convention.

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| should be made) could include: generally refusing to provide assistance on the grounds that judicial proceedings have not commenced in the requesting country; requiring a conviction before providing assistance; overly strict interpretations of the principles of reciprocity and dual criminality.   |
| 36.3 Please describe the execution of mutual legal assistance requests to allow us to determine whether there are clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delays. Please also indicate the specific provisions that apply.  |
| 36.4 Can a request for mutual legal assistance be refused on the sole ground that the offence is also considered to involve fiscal matters? Please specify and indicate the specific provisions that apply.   |
| 36.5 Can a request for mutual legal assistance be refused on the grounds of laws that impose secrecy or confidentiality requirements on financial institutions or DNFBP, except where the relevant information was obtained in circumstances where legal professional privilege or legal professional secrecy applies <sup>46</sup> ? Please indicate the specific provisions that apply. |
| 36.6 Are the powers of competent authorities required under R.28 also available for use in response to requests for mutual legal assistance? Please indicate the specific provisions that apply.  |
| 36.7 To avoid conflicts of jurisdiction, has your country considered devising and applying mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country? Please specify and indicate the specific provisions that apply.   |
| <b><u>Additional elements</u></b>   |
| 36.8 Are the powers of competent authorities required under R.28 available for use when there is a direct request from foreign judicial or law enforcement authorities to domestic counterparts?  |
| <b><i>Recommendation 37 (dual criminality relating to mutual legal assistance)</i></b>  |
| General description of laws or other measures, the situation, or context.   |

<sup>46</sup> See also Criteria 16.2.

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| 37.1 Can mutual legal assistance be rendered in the absence of dual criminality, in particular, for less intrusive and non compulsory measures? If so, please describe to what extent and indicate the specific provisions that apply.   |
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| 37.2 Extradition and mutual legal assistance should be possible where both countries criminalise the conduct underlying the offence, Does your country, when requested to render the assistance, have any legal or practical impediment to extradite or to render mutual legal assistance? If so, please describe and indicate the specific provisions that apply.<br>Note to the assessed country: Technical differences between the laws in the requesting and requested states, such as differences in the manner in which each country categorises or denominates the offence should not pose an impediment to the provision of mutual legal assistance. |
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| <b><i>Recommendation 38</i></b>  |
| General description of laws or other measures, the situation, or context.  |
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| 38.1 Are there laws and procedures to provide an effective and timely response to mutual legal assistance requests by foreign countries related to the identification, freezing, seizure, or confiscation of:<br>(a) laundered property from,<br>(b) proceeds from,<br>(c) instrumentalities used in, or<br>(d) instrumentalities intended for use in, the commission of any ML or any predicate offences?<br>If there are, please describe and indicate the specific provisions that apply.   |
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| 38.2 Are the requirements in 38.1 also to be met where the request relates to property of corresponding value? If there are, please describe and indicate the specific provisions that apply.  |
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| 38.3 Does your country have arrangements for co-ordinating seizure and confiscation actions with other countries? If so, please describe these arrangements indicate the specific provisions that apply.   |
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| 38.4 Has your country established or considered establishing an asset forfeiture fund into which all or a portion of confiscated property will be deposited and will be used for law enforcement, health, education or other appropriate purposes? If it has, please describe and indicate the specific provisions that apply.   |
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| 38.5 Has your country authorised or considered to authorise the sharing of confiscated assets with other countries when confiscation is directly or indirectly a result of co-ordinated law enforcement actions? If it has, please describe and indicate the specific provisions that apply.   |

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| <p><b><u>Additional elements</u></b></p> <p>38.6 Are foreign non criminal confiscation orders (as described in criterion 3.7) recognised and enforced? If they are, please specify which orders are recognised.</p>  |
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| <p><b><i>Special Recommendation V</i></b></p>  |
| <p>V.1 Do the answers provided for criteria 36.1 – 36.6 (in R. 36) also apply to the obligations under SR V? In connection with criminal, civil enforcement, and administrative investigations, inquiries and proceedings relating to the financing of terrorism, terrorist acts, and terrorist organisations:</p> <p>1. Please indicate the range of mutual legal assistance that your country may provide.</p> <p>Note to the assessed country: Countries should be able to provide the widest possible range of mutual legal assistance in AML/CFT investigations, prosecutions and related proceedings. Mutual legal assistance should include assistance of the following nature: (a) the production, search and seizure of information, documents, or evidence (including financial records) from financial institutions, or other natural or legal persons; (b) the taking of evidence or statements from persons; (c) providing originals or copies of relevant documents and records as well as any other information and evidentiary items, (d) effecting service of judicial documents; (e) facilitating the voluntary appearance of persons for the purpose of providing information or testimony to the requesting country and (f) identification, freezing, seizure, or confiscation of assets laundered or intended to be laundered, the proceeds of ML and assets used for or intended to be used for FT, as well as the instrumentalities of such offences, and assets of corresponding value<sup>47</sup></p> <p>2. Are there circumstances under which mutual legal assistance is prohibited or restricted? If yes, please specify and indicate the specific provisions that apply in order to establish whether mutual legal assistance is prohibited or made subject to unreasonable, disproportionate or unduly restrictive conditions.</p> <p>Possible examples of such conditions (for which an assessment as to reasonableness, proportionality or restrictiveness should be made) could include: generally refusing to provide assistance on the grounds that judicial proceedings have not commenced in the requesting country; requiring a conviction before providing assistance; overly strict interpretations of the principles of reciprocity and dual criminality.</p> <p>3. Please describe the execution of mutual legal assistance requests to allow us to determine whether there are clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delays.</p> <p>4. Can a request for mutual legal assistance be refused on the sole ground that the offence is also considered to involve fiscal matters? Please specify and indicate the specific provisions that apply.</p> <p>5. Can a request for mutual legal assistance be refused on the grounds of laws that impose secrecy or confidentiality requirements on financial institutions or DNFBP, except where the relevant information was obtained in circumstances where legal professional privilege or legal professional secrecy applies<sup>48</sup>? Please indicate the specific provisions that apply.</p> <p>6. Are the powers of competent authorities required under R.28 also available for use in response to requests for mutual legal assistance? Please indicate the specific provisions that apply.</p> |

<sup>47</sup> Elements (a) to (f) are drawn from the Palermo Convention.

<sup>48</sup> See also Criteria 16.2.

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| <p>V.2 Do the answers provided for criteria 37.1 – 37.2 (in R. 37) also apply to the obligations under SR V? In connection with criminal, civil enforcement, and administrative investigations, inquiries and proceedings relating to the financing of terrorism, terrorist acts, and terrorist organisations:</p> <ol style="list-style-type: none"><li>1. Can mutual legal assistance be rendered in the absence of dual criminality, in particular, for less intrusive and non compulsory measures? If so, please describe to what extent and indicate the specific provisions that apply.</li><li>2. Extradition and mutual legal assistance should be possible where both countries criminalise the conduct underlying the offence, Does your country, when requested to render the assistance, have any legal or practical impediment to extradite or to render mutual legal assistance? If so, please describe and indicate the specific provisions that apply.</li></ol> <p>Note to the assessed country: Technical differences between the laws in the requesting and requested states, such as differences in the manner in which each country categorises or denominates the offence should not pose an impediment to the provision of mutual legal assistance.</p> |
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| <p>V.3 Do the answers provided for criteria 38.1 – 38.3 (in R. 38) also apply to the obligations under SR V? In connection with criminal, civil enforcement, and administrative investigations, inquiries and proceedings relating to the financing of terrorism, terrorist acts, and terrorist organisations:</p> <ol style="list-style-type: none"><li>1. Are there laws and procedures to provide an effective and timely response to mutual legal assistance requests by foreign countries related to the identification, freezing, seizure, or confiscation of:<ol style="list-style-type: none"><li>(a) laundered property from,</li><li>(b) instrumentalities used in, or</li><li>(c) instrumentalities intended for use in terrorist financing ?</li></ol></li><li>If there are, please describe and indicate the specific provisions that apply.</li><li>2. Are the requirements under 1 above also to be met where the request relates to property of corresponding value? If there are, please describe and indicate the specific provisions that apply.</li><li>3. Does your country have arrangements for co-ordinating seizure and confiscation actions with other countries in case of terrorist financing? If so, please list these arrangements.</li></ol>    |
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| <p><b><i>Recommendation 30: Resources (Central authority for sending/receiving mutual legal assistance/extradition requests)</i></b></p>   |
| <p>General description of laws or other measures, the situation, or context.</p>   |
| <p><b>30.1 Central authority for sending/receiving mutual legal assistance/extradition requests only:</b> Please describe how the authorities are structured, funded, staffed and indicate what technical and other resources they have been granted in order to make it possible to determine whether they are adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform their functions. Please note that adequate structuring includes the need for sufficient operational independence and autonomy to ensure freedom from undue influence or interference.</p>  |
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| <p><b>30.2 Central authority for sending/receiving mutual legal assistance/extradition requests only:</b> Please indicate the standards that apply when hiring new staff. Is the staff of the competent authorities required to maintain high</p>  |

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| professional standards, including standards concerning confidentiality, and should staff be of high integrity and appropriately skilled?   |
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| <b>30.3 Central authority for sending/receiving mutual legal assistance/extradition requests only:</b> Is the staff of the competent authorities provided with training for combating money laundering and terrorist financing? If so, please indicate the frequency of this training and provide samples in order to make it possible to determine whether such training is adequate and relevant.  |
| Examples of issues to be covered under adequate and relevant training include: the scope of predicate offences, ML and FT typologies, techniques to investigate and prosecute these offences, techniques for tracing property that is the proceeds of crime or is to be used to finance terrorism, and ensuring that such property is seized, frozen and confiscated, and the techniques to be used by supervisors to ensure that financial institutions are complying with their obligations; the use of information technology and other resources relevant to the execution of their functions. Countries could also provide special training and/or certification for financial investigators for, inter alia, investigations of ML, FT, and the predicate offences. |
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| <b><i>Recommendation 32</i></b>  |
| 32.2 Are competent authorities required to maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing? If so, do these statistics include keeping annual statistics on mutual legal assistance or other international requests for co-operation; and all mutual legal assistance and extradition requests (including requests relating to freezing, seizing and confiscation) that are made or received, relating to ML, the predicate offences and FT, including the nature of the request, whether it was granted or refused, and the time required to respond?   |
| <b>If maintained, please provide the statistics for the last 4 years</b>   |
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| <b><u>Additional elements</u></b>  |
| 32.3 Do competent authorities maintain comprehensive statistics on:<br>c) other formal requests for assistance made or received by law enforcement authorities relating to ML or FT, including whether the request was granted or refused?   |
| <b>If maintained, please provide the statistics for the last 4 years</b>   |
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| V.6 Do the answers provided for the additional elements 36.7 – 36.8 in the methodology (in R.36) apply in relation to the obligations under SR.V?  |
| V.7 Do the answers provided for the additional elements 38.4 – 38.6 in the methodology (in R.38) apply in relation to the obligations under SR.V?  |
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| <b><u>Additional material</u></b>  |
| If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of  |

this part of the AML/CFT system.

## 6.4 Extradition (R.39, 37 & SR.V)

### 6.4.1 Description and Analysis

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| <b><i>Recommendation 39</i></b>   |
| General description of laws or other measures, the situation, or context.   |
| 39.1 Is money laundering an extraditable offence? Are there laws and procedures to extradite individuals charged with a money laundering offence? Please specify and indicate the specific provisions that apply.   |
| 39.2 Can your country either:<br>a) extradite their own nationals or,<br>b) where a country does not extradite its own nationals solely on the grounds of nationality, that country should, at the request of the country seeking extradition, submit the case without undue delay to its competent authorities for the purpose of prosecution of the offences set forth in the request. In such cases, the competent authorities should take their decision and conduct their proceedings in the same manner as in the case of any other offence of a serious nature under the domestic law of that country?<br>If your country can either extradite or prosecute, please indicate the specific provisions that apply. |
| 39.3 In the case referred to in 39.2(b) above, can your country cooperate with another country, in particular on procedural and evidentiary aspects, to ensure the efficiency of the prosecution? Please specify and indicate the specific provisions that apply.   |
| 39.4 Consistent with the principles of domestic law, has your country adopted measures or procedures that will allow extradition requests and proceedings relating to ML to be handled without undue delay? Please indicate the specific provisions that apply.   |
| <b><u>Additional elements</u></b>   |
| 39.5 Are simplified procedures of extradition in place by allowing direct transmission of extradition requests between appropriate ministries? Can persons be extradited based only on warrants of arrests or judgements? Is there a simplified   |

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| procedure of extradition of consenting persons who waive formal extradition proceedings in place? Please specify and indicate the specific provisions that apply.   |
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| <b><i>Recommendation 37 (dual criminality relating to extradition)</i></b>  |
| 37.1 Can mutual legal assistance be rendered in the absence of dual criminality, in particular, for less intrusive and non compulsory measures? If so, please describe to what extent mutual legal assistance may be rendered and indicate the specific provisions that apply.  |
|   |
| 37.2 Extradition and mutual legal assistance should be possible where both countries criminalise the conduct underlying the offence, Does your country, when requested to render the assistance, have any legal or practical impediment to extradite or to render mutual legal assistance? If so, please describe and indicate the specific provisions that apply.<br><br>Note to the assessed country: Technical differences between the laws in the requesting and requested states, such as differences in the manner in which each country categorises or denominates the offence should not pose an impediment to the provision of mutual legal assistance.  |
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| <b><i>Special Recommendation V</i></b>  |
| V.4 Do the answers provided for criteria 39.1 – 39.4 (in R. 39) also apply to extradition proceedings related to terrorist acts and FT? In connection with extradition proceedings related to terrorist acts and FT:<br><br>1. Is terrorist financing an extraditable offence? Are there laws and procedures to extradite individuals charged with a money laundering offence? Please specify and indicate the specific provisions that apply.<br><br>2. Can your country either:<br><br>a) extradite their own nationals or,<br><br>b) where a country does not extradite its own nationals solely on the grounds of nationality, that country should, at the request of the country seeking extradition, submit the case without undue delay to its competent authorities for the purpose of prosecution of the offences set forth in the request. In such cases, the competent authorities should take their decision and conduct their proceedings in the same manner as in the case of any other offence of a serious nature under the domestic law of that country?<br><br>If your country can either extradite or prosecute, please indicate the specific provisions that apply.<br><br>3. In the case referred to in 39.2(b) above, can your country cooperate with another country, in particular on procedural and evidentiary aspects, to ensure the efficiency of the prosecution? Please specify and indicate the specific provisions that apply.<br><br>4. Consistent with the principles of domestic law, has your country adopted measures or procedures that will allow extradition requests and proceedings relating to ML to be handled without undue delay? Please indicate the specific provisions that apply. |
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| <b><u>Additional elements</u></b>   |
| V.8 Does the answers provided for the additional element 39.5 (in R.39) also apply to extradition proceedings related to  |

terrorist acts or FT? Please indicate the specific provisions that apply.

**Additional material**

If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.

## 6.5 Other Forms of International Co-operation (R.40, SR.V & R.32)

### 6.5.1 Description and Analysis

| <b><i>Recommendation 40</i></b>   |
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| General description of laws or other measures, the situation, or context.   |
| 40.1 Are competent authorities able to provide the widest range of international cooperation to their foreign counterparts? Please specify and indicate the specific provisions that apply.   |
| 40.1.1 Please describe the mechanisms to provide assistance in order to make it possible to determine whether your country is able to provide such assistance in a rapid, constructive and effective manner, and indicate the specific provisions that apply.   |
| 40.2 Are there clear and effective gateways, mechanisms or channels that will facilitate and allow for prompt and constructive exchanges of information directly between counterparts <sup>49</sup> ? Please describe and indicate the specific provisions that apply.<br><br>Examples of gateways, mechanisms or channels used in international cooperation and exchanges of information (other than MLA or extradition) include laws allowing exchanges of information on a reciprocal basis; bilateral or multilateral agreements or arrangements such as Memorandum of Understanding (MOU); and exchanges through appropriate international or regional organisations or bodies such as Interpol or the Egmont Group of FIUs. |
| 40.3. Are such exchanges of information possible: (a) both spontaneously and upon request, and (b) in relation to both  |

<sup>49</sup> Obstacles to a prompt and constructive exchange of information include failing to respond or take the appropriate measures in a timely way, and unreasonable delays in responding.

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| money laundering and the underlying predicate offences? Please describe and indicate the specific provisions that apply.   |
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| 40.4 Are all competent authorities authorised to conduct inquiries on behalf of foreign counterparts? Please describe and indicate the specific provisions that apply.   |
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| 40.4.1 In particular, is the FIU authorised to make the following types of inquiries on behalf of foreign counterparts: (a) searching its own databases, including with respect to information related to suspicious transaction reports; (b) searching other databases to which it may have direct or indirect access, including law enforcement databases, public databases, administrative databases and commercially available databases? Please describe and indicate the specific provisions that apply. |
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| 40.5 Are the law enforcement authorities authorised to conduct investigations on behalf of foreign counterparts; other competent authorities should be authorised to conduct investigations on behalf of foreign counterparts, where permitted by domestic law? Please specify and indicate the specific provisions that apply.  |
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| 40.6 Are exchanges of information subject to conditions? If so, please specify in order to make it possible to determine whether the conditions are disproportionate or unduly restrictive.  |
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| 40.7 Can a request for cooperation be refused on the sole ground that the request is also considered to involve fiscal matters? Please describe and indicate the specific provisions that apply.   |
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| 40.8 Can a request for cooperation be refused on the grounds of laws that impose secrecy or confidentiality requirements on financial institutions or DNFBP (except where the relevant information that is sought is held in circumstances where legal professional privilege or legal professional secrecy applies <sup>50</sup> ) Please describe and indicate the specific provisions that apply.   |
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| 40.9 Have controls and safeguards been established to ensure that information received by competent authorities is used only in an authorised manner? Please describe and indicate the specific provisions that apply.<br>Note to the assessed country: These controls and safeguards should be consistent with national provisions on privacy and data protection <sup>51</sup> .   |

<sup>50</sup> See also criteria 16.2 in the methodology

<sup>51</sup> This implies that, at a minimum, exchanged information must be treated as protected by the same confidentiality provisions as apply to similar information from domestic sources obtained by the receiving competent authority.

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| <p><b><u>Additional elements</u></b></p> <p>40.10 Are mechanisms in place to permit a prompt and constructive exchange of information with non-counterparts? Does it take place directly or indirectly<sup>52</sup>? Please describe and indicate the specific provisions that apply.</p> <p>40.10.1 Does the requesting authority as a matter of practice disclose to the requested authority the purpose of the request and on whose behalf the request is made? Please describe and indicate the specific provisions that apply.</p> <p>40.11 Can the FIU obtain from other competent authorities or other persons relevant information requested by a foreign counterpart FIU? Please describe and indicate the specific provisions that apply.</p>  |
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| <p><b><i>Special Recommendation V:</i></b></p>   |
| <p>V.5 Do the answers provided for criteria 40.1 – 40.9 (in R. 40) also apply to the obligations under SR V? In connection with extradition proceedings related to terrorist acts and FT:</p> <p>1. Are competent authorities able to provide the widest range of international cooperation to their foreign counterparts? Please specify and indicate the specific provisions that apply.</p> <p>1.1 Please describe the mechanisms to provide assistance in order to make it possible to determine whether your country is able to provide such assistance in a rapid, constructive and effective manner.</p> <p>2. Are there clear and effective gateways, mechanisms or channels that will facilitate and allow for prompt and constructive exchanges of information directly between counterparts<sup>53</sup>? Please describe and indicate the specific provisions that apply.</p> <p>Examples of gateways, mechanisms or channels used in international cooperation and exchanges of information (other than MLA or extradition) include laws allowing exchanges of information on a reciprocal basis; bilateral or multilateral agreements or arrangements such as Memorandum of Understanding (MOU); and exchanges through appropriate international or regional organisations or bodies such as Interpol or the Egmont Group of FIUs.</p> <p>3 Are such exchanges of information possible: (a) both spontaneously and upon request, and (b) in relation to both money laundering and the underlying predicate offences? Please describe and indicate the specific provisions that apply.</p> <p>4. Are all competent authorities authorised to conduct inquiries on behalf of foreign counterparts? Please describe and indicate the specific provisions that apply.</p> <p>4.1 In particular, is the FIU authorised to make the following types of inquiries on behalf of foreign counterparts: (a) searching its own databases, including with respect to information related to suspicious transaction reports; (b) searching other databases to which it may have direct or indirect access, including law enforcement databases, public databases, administrative databases and commercially available databases? Please describe and indicate the specific provisions that apply.</p> <p>5. Are the law enforcement authorities authorised to conduct investigations on behalf of foreign counterparts; other competent authorities should be authorised to conduct investigations on behalf of foreign counterparts, where permitted</p> |

<sup>52</sup> The reference to indirect exchange of information with foreign authorities other than counterparts covers the situation where the requested information passes from the foreign authority through one or more domestic or foreign authorities before being received by the requesting authority.

<sup>53</sup> Obstacles to a prompt and constructive exchange of information include failing to respond or take the appropriate measures in a timely way, and unreasonable delays in responding.

by domestic law? Please specify and indicate the specific provisions that apply.

6. Are exchanges of information subject to conditions? If so, please specify in order to make it possible to determine whether the conditions are disproportionate or unduly restrictive.

7. Can a request for cooperation be refused on the sole ground that the request is also considered to involve fiscal matters? Please describe and indicate the specific provisions that apply.

8. Can a request for cooperation be refused on the grounds of laws that impose secrecy or confidentiality requirements on financial institutions or DNFBP (except where the relevant information that is sought is held in circumstances where legal professional privilege or legal professional secrecy applies<sup>54</sup>) Please describe and indicate the specific provisions that apply.

9. Have controls and safeguards been established to ensure that information received by competent authorities is used only in an authorised manner? Please describe and indicate the specific provisions that apply.

Note to the assessed country: These controls and safeguards should be consistent with national provisions on privacy and data protection<sup>55</sup>.

#### **Additional elements**

V.9 Do the answers provided for the additional elements 40.10 – 40.11 in the methodology (in R.40) apply in relation to the obligations under SR.V?

#### ***Recommendation 32:***

32.2 Do competent authorities maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing? If so, do these statistics include keeping annual statistics on: (i) mutual legal assistance or other international requests for co-operation and other formal requests for assistance made or received by the FIU, including whether the request was granted or refused and spontaneous referrals made by the FIU to foreign authorities; (ii) Other action: Formal requests for assistance made or received by supervisors relating to or including AML/CFT, including whether the request was granted or refused?

**If maintained, please provide the statistics for the last 4 years**

#### **Additional elements**

32.3 Do competent authorities maintain comprehensive statistics on other formal requests for assistance made or received by law enforcement authorities relating to ML or FT, including whether the request was granted or refused?

If maintained, please provide the statistics for the last 4 years.

<sup>54</sup> See also criteria 16.2 in the methodology.

<sup>55</sup> This implies that, at a minimum, exchanged information must be treated as protected by the same confidentiality provisions as apply to similar information from domestic sources obtained by the receiving competent authority.

**Additional material**

If you wish please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.

**7. *Other Issues***

Countries may use this section to set out information on any additional measures or issues that are relevant to the AML/CFT system, and which are not covered elsewhere in this report.