

**Italy: Financial Sector Assessment Program—Detailed Assessment Report on
Anti–Money Laundering and Combating the Financing of Terrorism**

This Detailed Assessment Report on Anti–Money Laundering and Combating the Financing of Terrorism for **Italy** was prepared by a staff team of the International Monetary Fund as background documentation to the Financial Sector Assessment Program with the member country. It is based on the information available at the time it was completed in February 2006. The views expressed in this document are those of the staff team and do not necessarily reflect the views of the government of Italy or the Executive Board of the IMF.

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FINANCIAL SECTOR ASSESSMENT PROGRAM

DETAILED ASSESSMENT OF REPORT ON ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

ITALY

FEBRUARY 2006

INTERNATIONAL MONETARY FUND
MONETARY AND FINANCIAL SYSTEMS DEPARTMENT

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GLOSSARY

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
AML Law	Decree Law 143 of May 3, 1991 “Urgent provisions to limit the use of cash and bearer instruments in transactions and prevent the use of the financial system for purposes of money laundering law,” as amended and ratified by the Law 197 of July 5, 1991.
AUI	Data base to be set up by financial intermediaries (<i>Archivio Unico Informatico</i>)
Consolidated Law	Legislative Decree # 58 of February 24, 1998, on financial intermediation
BoI	Bank of Italy
BL	Banking Law (Legislative Decree 385 of 1 September 1993)
CDD	Customer Due Diligence
Consob	Stock Exchange Commission (<i>Commissione nazionale per le società e la borsa</i>)
CSM	<i>Consiglio Superiore della Magistratura</i>
DDA	District Anti-Mafia Directorate (<i>Direzione Distrettuale Antimafia</i>)
DIA	Anti-Mafia Investigative Directorate (<i>Direzione Investigativa Antimafia</i>)
DNA	National Anti-Mafia Directorate (<i>Direzione Nazionale Anti-Mafia</i>)
DNFBP	Designated Non Financial Businesses and Professions
EC	European Commission
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FSC	Financial Security Committee
FT	Financing of Terrorism
GdF	Financial and Economic Police (<i>Guardia di Finanza</i>)
ISVAP	<i>Istituto per la vigilanza sulle assicurazioni private e di interesse collettivo</i>
MEF	Ministry of Economy and Finance
MER	FATF Mutual Evaluation Report
MHA	Ministry of Home Affairs

MoJ	Ministry of Justice
NPO	Nonprofit Organization
NSPV	<i>Nucleo Speciale di Polizia Valutaria</i> of the <i>Guardia di Finanza</i>
ONLUS	Nonprofit organization (<i>Organizzazioni nonlucratve di utilità sociale</i>)
Palermo Convention	United Nations Convention Against Transnational Organized Crime (2000)
Spa	Joint stock company (<i>società per azioni</i>)
Srl	Limited company (<i>società a responsabilità limitata</i>)
STR	Suspicious Transaction Report
UIC	Italian Exchange Office and Financial Intelligence Unit (<i>Ufficio Italiano dei Cambi</i>)
UN	United Nations
UNSCR	United Nations Security Council Resolution
Vienna Convention	United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)

PREFACE

1. An assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Italy was conducted based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF) and prepared using the AML/CFT Methodology 2004. The assessment considered the laws, regulations and other materials supplied by the authorities, and information obtained by the assessment team during its mission April 4–20, 2005, and subsequently. During the mission, the assessment team met with officials and representatives of all relevant government agencies and the private sector. A list of the bodies met is set out in Annex 2 to the detailed assessment report.
2. The assessment was conducted by a team of assessors composed of staff of the International Monetary Fund (IMF) and experts acting under the supervision of the IMF. The evaluation team consisted of: Jean-François Thony, Assistant General Counsel, Team Leader, Richard Lalonde, Senior Financial Sector Expert, MFD, Nadine Schwarz, Counsel, LEG, Maud Bökkerink, Financial Sector Expert, MFD, Michael DeFeo, Consultant. The assessors reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP), as well as examining the capacity, the implementation and the effectiveness of all these systems.
3. This report provides a summary of the AML/CFT measures in place in Italy as of the date of the mission or immediately thereafter. It describes and analyses those measures, and provides recommendations on how certain aspects of the system could be strengthened (see Table 3). It also sets out Italy's levels of compliance with the FATF 40+9 Recommendations (see Table 2).

EXECUTIVE SUMMARY

Overall, the current AML/CFT framework in Italy is extensive and mature, and achieves a high degree of compliance with most of the FATF 40+9. The law enforcement efforts against money laundering have been quite successful. The AML/CFT preventive system is quite sophisticated, but needs to be updated to incorporate the new features of the revised FATF standard with respect to financial institutions and nonfinancial businesses and professions. Equally important, more effort needs to be devoted by supervisory authorities to ensure the legal framework is effectively implemented by reporting entities. The Table below summarizes recommended actions in areas related to the FATF 40+9 Recommendations.

General

4. **Italy has a comprehensive AML/CFT system initially set up in 1991 and later updated a number of times.** The justice and law enforcement aspects of the law are based on a long-standing enforcement machinery designed to cut down on the economic power of mafia-type criminal organizations. The design and implementation of AML/CFT policies are placed under the Ministry of Economy and Finance while the financial intelligence unit and the AML/CFT compliance functions are exercised by the *Ufficio Italiano dei Cambi* (UIC), in collaboration with prudential and market conduct supervisors as well as the *Guardia di Finanza* (GdF).

5. **The law enforcement efforts against money laundering have been quite successful,** and almost 600 cases of money laundering lead to conviction every year, which is one of the highest rates of successful prosecutions in Europe. Based on three different systems of confiscations of criminal assets law enforcement authorities confiscated more than 130 million Euros worth of criminal proceeds in 2004.

6. **While quite sophisticated, the AML/CFT preventive system has generally not been updated to reflect the new provisions of the revised FATF standard** and of the 2001 European Directive on Money Laundering. There is a high degree of awareness and broad implementation of AML/CFT preventive measures within the financial sector, as well as good cooperation between supervisory authorities. Nevertheless, **the most pressing challenges concern:**

- Implementation of the significantly more detailed risk-based customer due diligence (CDD) requirements of the revised standard
- Need to increase levels of suspicious transaction reporting of nonbank financial intermediaries and to introduce a clear obligation in the law to report transactions suspected of being related to terrorist financing

- Need to increase on-site inspection efforts and resources with respect to the securities and insurance sectors, Bancoposta and non-prudentially supervised financial institutions; and
- Need to ensure the application of a more effective sanctions regime.

7. The legal framework for designated non financial businesses and professions (DNFBPs), which was adopted in 1999 and 2004, urgently needs to be implemented. The Financial Intelligence Unit has developed a state of the art analysis capacity based on an harmonized system of computerized data collection but some limitations in the processing of suspicious transactions limits its efficiency. The existing AML/CFT legal framework is very complex and would gain in clarity and effectiveness if it were consolidated in a single instrument, streamlining and updating the numerous existing laws and regulations.

8. **The authorities are paying due attention to implementing the revised standard** and to further strengthening the AML/CFT regime. Draft regulations on DNFBPs are being finalized, a law to ratify the Palermo Convention is under consideration by parliament, provisions to strengthen the terrorist asset freezing regime are to be adopted soon, according to the authorities, and supervisory resources are being increased with respect to the securities sector.

General Situation of Money Laundering and Financing of Terrorism

9. **Italy has historically suffered from a high rate of criminality, organized violence and penetration of political and economic life by organized crime groups** like the camorra in Naples and the mafia in Sicily. The organized crime problem has become less visible in recent years but diversion of funds from public contracts by groups like the Sicilian Mafia is still a law enforcement concern and extortion and loan sharking continue to be sources of organized crime income. On the mainland drug trafficking and distribution, loan-sharking, extortion and trafficking in smuggled cigarettes are lucrative activities for criminal groups. Because of more developed economic activity in the north and central portions of Italy, laundered funds from criminal activity elsewhere are often invested in properties and enterprises in those areas, which also experience drug trafficking and loan-sharking. The country has one of the highest cash payment ratios in Europe, and tax evasion that exists in sectors such as real estate provide a favorable environment to money laundering.

10. **Terrorist financing has been the subject of highly publicized prosecution** and is considered by Italian authorities to be a risk among large communities of legal and illegal immigrants. Italy has been under specific terrorist threats since the war in Iraq. As a tourist destination, Italy has a number of human and cultural targets which create possible temptation for potential terrorists in Italy to finance an attempt on targets within easy reach.

Overview of the Financial Sector and DNFBP

11. **Italy's financial sector is characterized by a wide range of service providers.** The banking sector remains a core source of funding for the domestic economy. **The UIC has primary responsibility for AML/CFT supervision** of prudentially regulated financial institutions. It exercises this responsibility in collaboration with the following authorities: the Bank of Italy (BoI), the prudential supervisor for banks, Bancoposta, and securities and asset management firms; the *Commissione Nazionale per le Società e la Borsa* (Consob), the market conduct supervisor for securities and asset management firms; and the *Istituto per la Vigilanza sulle Assicurazioni Private e di Interesse Collettivo* (ISVAP), the supervisor of insurance companies and brokers. The *Guardia di Finanza* (GdF), the financial police force, is responsible for monitoring certain financial companies that are not prudentially supervised for compliance with AML/CFT, including bureaux de change and money transmitters.

12. The most important DNFbps that Italy will include within the AML/CFT framework are lawyers, notaries, accountants, real estate agents, dealers in gold, and casinos. Although legislation has been adopted bringing these professions within the scope of the AML Law, further regulations are required to implement it. The UIC will be the competent authority to receive, analyse and disseminate STRs, Gdf, and DIA the law enforcement authorities competent to carry out investigations. AML/CFT supervisory authorities have not been designated for these businesses and professions.

Legal Systems and Related Institutional Measures

13. **The offence of money laundering is defined by Article 648bis of the Penal Code, in line with the definition of existing conventions,** and extends to the proceeds from any crime committed intentionally. It is complemented by two other offences which punish the possession or acquisition of proceeds from crime, or its use for economic or financial purposes. The offence does not extend to the author of the predicate offence (“self laundering”). Money laundering is punished by four to twelve years of imprisonment, and by fines of a maximum of €15,240. While the imprisonment penalty provided by law is in line with normal standards, fines seem extremely low for a financial crime, which can generate considerable amounts of proceeds. There is no penal liability for legal persons but a system of administrative liability in the case of the commission of some penal offences committed by legal persons, which include financing of terrorism but not money laundering at present.

14. **The definition of terrorism financing under Article 270bis of the Penal Code is not fully consistent with the existing standards,** as some key elements of the offence, like terrorism or “financing”, are not defined and it does not extend to individual acts of terrorism. In accordance with international standards, the definition of the offence does not require that a terrorist act has actually been committed. Despite the efforts of the authorities to crack down on terrorism the number of prosecutions for this broad offence of Article 270bis have been limited in the last years. A law adopted on July 31, 2005 extended the range of terrorist actions criminalized by introducing two new offences; enlisting (Article 270-quarter) and training (270-quinquies) for ends of terrorism. Such law also includes the

definition of “actions with ends of terrorism” (Article 270-sexies) and strengthens investigative powers in terrorism matters, with a view to improve the rate of prosecutions and convictions in this field.

15. **Italian law provides for a very comprehensive and far-reaching confiscation framework** that is based on a threefold approach: a traditional conviction-based confiscation of assets derived from the offence, a system of confiscation based on the alleviation of the burden of proof for convicted persons who cannot justify the origin of their assets and a preventive system of confiscation for assets in possession of persons belonging to mafia-type organizations, the latter being in force since the 1960’s. Law enforcement agencies are provided with more than adequate legal means to identify, trace and seize criminal and terrorist assets and the statistics illustrate the efficiency of the system in place.

16. Italy implements the decisions of the UN Security Council on the freezing of terrorist assets through the measures instituted by the European Union under EU Regulations 2580/2001 and 881/2002, as well as through national mechanisms. In particular, the preventive system of seizure and confiscation of mafia-type assets has been extended to national and foreign suspected terrorists. The implementation of these measures are coordinated by the Financial Security Committee (FSC). The FSC, established immediately after September 11, 2001, also decides about the submission to the relevant organs of the UN of names of suspected terrorists; to date 67 individuals and 15 entities have been submitted by Italy to the UN list. Although there is no limitation as to the scope of freezing of terrorist assets, the process of freezing of nonfinancial assets should be improved.

17. **The financial intelligence unit functions are carried out since 1997 by the UIC**, an autonomous body under the BoI. One of the functions of the AML department of the UIC, composed of 109 personnel, is to collect, analyze and disseminate the suspicious transaction reports (STRs) sent by entities subject to the AML Law. **The reporting system benefits from a very elaborate computerized system** to analyze aggregate data sent by banks. All banks are subject to a standardized system, the *archivio unico informatico (AUI)*, to collect information related to transactions over €12,500. The STRs are checked against the information available to the UIC, which does not include law enforcement information other than criminal records. For these reasons, the UIC is able to set aside only a limited number of STRs received and sends almost all of them to law enforcement agencies, namely the Anti-mafia Investigative Directorate and the GdF for further consideration. Insufficient filtering at the level of the UIC limits the effectiveness of the system and does not allow for an immediate feedback to the reporting entities. Also, guidance to reporting entities and general information through public annual reports is limited.

18. **The authorities are to be commended for the efficiency of AML/CFT Law enforcement and prosecution efforts**, which benefit from years of fight against organized crime and terrorism phenomena. Three main police bodies, the State Police, the GdF and the *Carabinieri*, collaborate under the coordination of the Ministry of Interior. A National Anti-mafia Directorate, at the prosecutorial level, as well as an Anti-mafia Investigative Directorate, at the investigation level, provide specific expertise and coordination for anti-

mafia efforts. These bodies are adequately staffed and empowered with advanced legal powers to address all forms of organized crime and terrorism activities. As a result, Italy has a record of prosecutions in money laundering cases (around 600 per year) which scores among the best in the region. With regards to terrorism financing, the results in terms of convictions do not reflect the efforts accomplished, with some 29 convictions for promoting, managing or financing terrorism in the period of 2000-20004. The new legislation passed at the end of July 2005 is expected to improve the rate of prosecutions and convictions in this field.

19. **Italy has implemented measures to prevent the laundering of criminal assets through cross-border cash couriers before most FATF countries**, by establishing a system of declaration of cross-border transportation of funds, even by mail. The Customs Agency and GdF have the necessary law enforcement powers to implement these measures. They forward all declarations as well as information on suspicious, non- or falsely declared currency and other bearer negotiable instruments to the UIC for analysis. Agencies seize more than €25 million on average per year as a result of violations or suspicions.

Preventive Measures—Financial Institutions

20. **Sectoral coverage under AML/CFT requirements is comprehensive** and the authorities have not exempted any sector on the basis of risk. In some instances the sectoral coverage has gone beyond the standard (e.g., tax collection agencies).

21. Any person who a) opens/changes/closes a business relationship, or b) carries out a single transaction, or several transactions which appear to be linked, involving amounts of €12,500 or more, must be identified and the complete identifying details of the person, if any, on whose behalf the transaction is carried out must be recorded. A transaction cannot be executed if the financial institution cannot satisfactorily complete CDD. However, CDD is not required for occasional transactions below a €12,500 threshold that are wire transfers.

22. **Financial institutions are required to collect and record a wide range of customer identification data.** In February 1993 the BoI issued “Operating Instructions for identifying suspicious transactions,” the so-called “Decalogo”, which is legally-binding on all reporting entities. The Decalogo, which was updated in November 1994 and in January 2001, instructs financial intermediaries to acquire a “thorough knowledge of the customer” to enable them to establish a risk profile of customer relationships and how the accounts will be operated. However, with respect to customers that are legal persons there are no specific requirements in law or regulation to verify that the person purporting to act on behalf of the legal person is so authorized or to verify the legal status of the legal person, such as obtaining proof of incorporation and provisions regulating the power to bind the customer.

23. While the AML Law requires financial institutions to identify any person on whose behalf the transaction is carried out, **there is no specific requirement in law or regulation to take reasonable measures to understand the ownership and control structure of a**

customer that is a legal person or to determine who are the natural persons that ultimately own or control the customer. While financial institutions may accept as customers trusts that have been established abroad (or in Italy) under a foreign legislation, there is no specific requirement in respect to the identification of the settlor, trustee and beneficiaries. Banks are also not required to include originator information on wire transfers nor to have procedures in place to address incoming transfers with incomplete originator information.

24. Other than for telephone, internet banking and electronic money there are neither specific provisions requiring enhanced due diligence for higher risk categories of customers, operations or transactions nor are there provisions allowing discretion to apply simplified due diligence. However, the legislation provides for exemptions from CDD requirements, including for inter-bank transactions, regardless of whether the customer bank is located in a country that effectively implements the FATF Recommendations.

25. **Anonymous accounts are not permitted. Credit institutions and Bancoposta provide bearer passbook accounts**, provided the balance is €12,500 or less. These accounts are not anonymous since CDD must be carried out on the customer upon issuance and on the bearer upon closure of such passbooks, and identification is carried out for any transaction at lower thresholds according to industry guidance and civil law principles. However, they can be transferred anonymously between these events without limitation. They may provide a more convenient and portable store of value for criminal proceeds that can facilitate the movement of criminal proceeds within and across borders. The mission is not aware of any evidence of secondary market trading of such passbooks for criminal purposes and the authorities note that neither STRs nor border controls have so far detected such trading. However, their anonymous transferability poses a significant challenge for financial institutions to conduct ongoing due diligence throughout the life of the business relationship with the “customer”.

26. While the Decalogo calls for precautionary measures to be taken with respect to electronic money and “distance banking”, **there is no additional specific CDD requirement in respect of the identification of, and account-opening procedures for politically-exposed persons (PEPs)**, nor are there additional specific CDD requirements regarding steps to be taken by banks with respect to establishment of cross-border correspondent banking relationships.

27. Notwithstanding the strengths and weaknesses in the legislative framework noted above, **the financial institutions met by the mission appear to implement the requirements under Italian law and, in particular, the Decalogo**. That said, the organizational and internal controls provisions of the Decalogo are difficult to enforce beyond the prudentially supervised sectors.

28. **Financial institutions may rely on third parties to conduct CDD**, although financial institutions retain ultimate responsibility for fulfilling this obligation. Financial institutions must collect identification data from the third party and must ascertain that the third party has its head office located in a FATF member country or that the head office of

the third party certifies that its foreign branch complies with the FATF standard. However, this does not fully satisfy specific FATF requirements that financial institutions take adequate steps to satisfy themselves that copies of identification data can be readily obtained from the third party or that the third party be regulated and supervised in accordance with FATF Recommendations 23, 24 and 29.

29. **One unique feature of the Italian AML/CFT regime is that all the entities subject to the CDD requirements must file in a single and easily accessible computerized database** all the information pertaining to the opening of an account, to transactions above €12,500 (including transaction information that would permit the detection of structured transactions above the threshold of €12,500) and to the closing of an account in a centralized database (i.e., the AUI) and to maintain this data for a period of ten years.

30. The Decalogo requires financial institutions to develop detailed customer profiles, to review the operation of accounts against these profiles and to pay special attention to anomalous transactions. It also requires that findings concerning anomalous transactions be recorded even if no suspicious transaction was filed with the UIC. Special attention must also be paid to transactions involving persons located in countries listed as NCCTs by the FATF, tax havens published by the OECD and countries where drug trafficking is a notable problem. However, beyond the list of NCCTs, there is little guidance on how financial institutions should go about identifying countries that lack appropriate AML/CFT measures.

31. **Every transaction which leads to believe that the money, assets or benefits involved might be derived from an intentional crime of money laundering must be reported** to the head of the business who must then transmit the report, without delay and where possible before carrying out the transaction, to the UIC. Banks make extensive use of computer systems to screen transactions. Banks are the main reporting institutions and cash withdrawals and deposits are the predominant transactions being reported to the UIC. However, the frequency of reporting by nonbank financial intermediaries is disproportionately low.

32. **While the mandate of the UIC extends to combating the financing of terrorism, including the analysis of STRs, the reporting obligation does not formally extend to terrorism financing.** Authorities have issued circulars that require such a reporting. However, the reporting obligation should be based on an explicit legal provision set in a law, not a circular, as is the case for money laundering. Since 2001, some 2000 STRs have been filed with the UIC in respect to CFT.

33. **The AML Law requires financial institutions to establish adequate internal controls** and to provide training for their staff. The Decalogo provides more detailed guidance. Internal control requirements are generally well-developed for and implemented by prudentially supervised financial institutions. They are far less well-developed and implemented in other sectors.

34. **The Banking Law effectively precludes the establishment of a shell bank in Italy.** However, there are no specific provisions that would prohibit financial institutions from entering into or continuing correspondent banking relationships with shell banks. Moreover, there are no specific provisions that would prohibit financial institutions from establishing relations with respondent foreign financial institutions that permit their accounts to be used by shell banks.

35. **UIC has overall responsibility for supervising AML/CFT compliance for prudentially supervised intermediaries** (“*intermediari abilitati*”) pursuant to Article 5.10 of the AML Law. The same law states that this activity should be carried out in collaboration with other supervisory authorities (BoI, Consob, ISVAP) that pursue broader goals, respectively, for prudential supervision, market conduct control and insurance supervision. The AML/CFT compliance of non prudentially supervised entities (“*intermediari non abilitati*”) is carried out by the *Nucleo Speciale* of the GdF. The supervisory regime places a high premium on effective coordination and cooperation between the various supervisors with a view to avoiding overlap and duplication and to ensure that financial intermediaries are effectively supervised and in a consistent manner. Coordination and cooperation is effected through MOUs between the UIC and each of the supervisors and in practice there is extensive cooperation. Although there are different supervisory goals and approaches among the supervisory authorities, taken together AML/CFT supervision of *prudentially supervised financial intermediaries* is consistent. However, this is not the case with respect to nonprudentially supervised intermediaries overseen by the GdF.

36. **The supervisory authorities of prudentially supervised financial institutions are appropriately structured and have appropriate powers to ensure compliance** with prudential and market conduct requirements. However, the supervisory approach with respect to nonprudentially supervised financial intermediaries is not on par with that of the prudentially supervised ones. The resources and efforts directed to AML/CFT supervision and on-site inspections with respect to the securities and insurance sectors, Bancoposta and nonprudentially supervised financial intermediaries are insufficient, although Consob has recently been given approval for a significant increase in resources, some of which will be earmarked for on-site inspections.

37. **The sanctions regime does not appear to be as effective, proportionate and dissuasive as it should be and is relatively complex.** The application of sanctions appears to be heavily skewed toward violations in record-keeping requirements and requirements that are not covered specifically by the FATF Recommendations (e.g., controls on cash transfers). Indeed, there have been few sanctions imposed on failures to report suspicious transactions and deficiencies in internal controls. There are no sanctions for deficiencies in internal controls and training, notably for nonprudentially supervised financial institutions.

38. **Measures in place for ensuring the integrity of financial institutions are generally appropriate.** Enforceable guidelines have been issued by nearly all supervisory authorities and in the case of the Decalogo and UIC guidance, apply to all reporting entities.

However, little guidance is provided for identifying suspicious transactions possibly linked to terrorist financing.

39. **Money transfer providers are registered by the UIC and, depending on type of authorization, are supervised for AML/CFT compliance by either the UIC or the GdF.** The UIC only inspects money transfer providers that are authorized to execute cash transactions at or above €12,500 and the GdF focuses mainly on illegal providers. This results in a large contingent of agents and sub-agents that are not actually supervised for AML/CFT compliance. Inspection policies should be reviewed to ensure that money transfer agents and sub-agents are adequately monitored for compliance with the AML/CFT requirements.

Preventive Measures—Designated Non-Financial Businesses and Professions

40. **Although Italy has brought a long list of DNFBPs within the remit of the AML Law, the required implementing regulations have not yet been fully promulgated.** As such, the DNFBPs are not obliged to comply with the AML/CFT requirements. The authorities expect these implementing regulations to come into force before the end of 2005. However, the AML Law does not extend to the full range of independent legal professionals, internet casinos, dealers in precious stones and dealers in (other) precious metals.

41. **The authorities have not yet designated a supervisor for the DNFBPs,** nor have they arranged additional supervisory capacity and resources that will be required. The UIC will be the competent authority to receive, analyse and disseminate STRs and GdF and DIA the law enforcement authorities competent to carry out investigations. Lawyers, notaries and accountants have national and regional professional orders that have a general supervisory role. These national orders have been consulted with respect to the implementing regulations. It is however not clear if these orders will have a role in the supervision of compliance with AML/CFT requirements.

Legal Persons and Arrangements and Non-Profit Organizations

42. In accordance with the civil code, legal personality is acquired by registering in the Public Register of Undertakings of the Chamber of Commerce as *associazioni riconosciute*, *fondazioni* or *società di capitali*. The latter has three forms: *società per azioni-Spa* (joint stock company), *società a responsabilità limitata-Srl* (limited company), and *società in accomandita per azioni*, (limited partnership company). At the time of the assessment, the Chamber of Commerce maintained the registrations of 1.8 million companies and 3.5 million personal enterprises.

43. Joint stock companies are required to publish lists of their shareholders and lists of persons who hold rights on securities. This information is available to the authorities and the public at large upon request, including online. Listed joint stock companies may issue both nominative and bearer shares. However, the use of bearer shares is limited to specific circumstances and, according to the authorities, the shares are subject to dematerialization.

They are therefore *de facto* no longer anonymous and do not appear to create a risk in terms of knowledge of the beneficial ownership and control of legal entities.

44. **Italian legislation does not specifically provide for legal arrangements such as trusts.** Italy has ratified the Hague Convention on the law applicable to trusts and their recognition. Foreign trusts may also be handled by financial intermediaries in Italy. The law does not, however, set specific requirements in respect of foreign trusts and the application, by analogy, of the CDD provisions of the AML Law would not be sufficient to meet the standard.

45. **Italy has taken various measures in relation to nonprofit organizations.** The BoI has issued operating guidelines that require financial intermediaries to pay special attention to relationships with NPOs and report suspicions to the UIC. A special fiscal category, ONLUS, has been introduced to extend tax benefits to NPOs, and in 2000 the ONLUS Agency was created to oversee all NPOs irrespective of their ONLUS status. The Tax Revenue Agency carries out inspections of all NPOs as well as inspections regarding the qualifications of being an ONLUS. In addition to measures in place, the authorities should consider further measures, such as integrity checks, to ensure that criminals and terrorists cannot establish or use NPOs to divert funds.

National and International Co-operation

46. **The Ministry of Economy and Finance (MEF) is statutorily responsible for coordinating national AML/CFT policies** and international relations. The Ministry of Home Affairs (MHA) appears to effectively coordinate, through the Department of Public Security and his General Director, the law enforcement efforts of the five national police forces belonging to the different ministries. A national anti-Mafia prosecutorial office, the *Direzione Nazionale Anti-Mafia* (DNA), coordinates and supports the efforts of the regional organized crime prosecutors.

47. **The FSC has legal responsibility for coordinating operational CFT activities,** including proposed designations on UN/EU lists. Chaired by the MEF, it includes representatives of key departments and agencies. A group created within the MEF is chaired by an MEF representative, and includes the UIC, GdF, and BoI, and has issued approximately 100 legal opinions and guidelines on AML legislation. Authorities are considering how to improve AML coordination, particularly with regard to DNFBPs, and taking into account the successful experience of the FSC.

48. **Italy is a party to most international relevant AML/CFT instruments** except for the Palermo Convention, which has been pending in parliament since 2003. An extensive network of bilateral and multilateral international cooperation agreements exist, including participation in the Schengen System. The European Arrest Warrant was implemented during the assessment. Italy seems to be an active and cooperative international criminal justice partner, as demonstrated by favorable comments in the FATF. The UIC has adequate powers

for international cooperation and can legally provide spontaneous information to other countries. The UIC belongs to the Egmont Group and the FIU.NET.

Other Issues

The legal framework is scattered in more than 60 relevant laws and regulations, in addition to the circulars and other guidance. **The mission strongly recommended the consolidation and streamlining of all pertinent legislation in an unified text, to improve its clarity and effectiveness.**

I. GENERAL

General information on Italy

Italy covers an area of 301,401 square kilometers with a population of more than 58 million inhabitants. The country is divided into 20 administrative regions, four of which enjoy full autonomy in all that is connected with local legislation. In the interior of its territory, Italy has common boundaries with two independent states, Holy See (Vatican City) and San Marino. The natural population growth in 2004 was about 9 percent, including immigrants. Italy is a member of the European Union.

Italy is a republic and has a written constitution that was adopted December 11, 1947 and became effective January 1, 1948. As head of the executive branch of government, the President of the Republic appoints a Prime Minister, who in turn appoints the Council of Ministers (cabinet), subject to the President's approval. The legislative branch consists of a democratically elected bicameral parliament divided in *Senato* (315 seats) and *Camera dei Deputati* (630 seats).

Italy's judiciary is comprised of judges and public prosecutors, all considered magistrates. The constitution guarantees the independence of magistrates from the executive branch of government by assigning to the *Consiglio Superiore della Magistratura* (CSM) – which is an independent, self-governing judicial body – the exclusive competence to appoint, assign, move, promote and discipline judges and public prosecutors. The judiciary is subdivided geographically on an administrative basis. Prosecutors are responsible for directing the police to conduct investigations.

The *Corte Costituzionale* is entrusted with the review of the constitutionality of laws and is composed of 15 judges (one-third appointed by the president, one-third elected by parliament, one-third elected by the ordinary and administrative Supreme Courts).

Italy's diversified industrial economy is the sixth largest in the world, with a per capita GDP just behind that of France and the United Kingdom. There are still economic disparities between the highly-developed industrial north and the less-developed agricultural south. Similar to most other advanced OECD economies, Italy has a small and diminishing primary sector, with services contributing close to two-thirds of gross value added.

General Situation of Money Laundering and Financing of Terrorism

Organized crime and money laundering

Italy has historically had a high rate of criminality, organized violence and penetration of political and economic life by groups like the Camorra in Naples and the Mafia in Sicily. By the 1970s the active role of the Sicilian Mafia in refining and providing heroin to the North American market was producing immense concentrations of wealth associated with the principal Mafia families, invested in Palermo real estate development and

other visible displays. These organized crime groups historically exercised strong community and political influence.

By the 1970s, authorities and observers of the organized crime phenomenon in the law enforcement, judicial, political and academic communities had recognized the importance of the introduction of these organized crime proceeds into the domestic economy. The accumulations of wealth were perceived both as a threat to distort markets and diminish competition, and as an opportunity for the forces of order to strike at a vulnerable aspect of the criminal gangs. This vulnerability resulted from the fact that by introducing criminal proceeds into the lawful economy, they became visible and could be reached by preventive and repressive legal action. Legal tools were developed to allow preventive seizures and forfeitures of property which could circumstantially be proved to be associated with or intended for use in criminal activities and whose possession was not compatible with the person's lawful resources. Punitive forfeitures allowed the proceeds and instrumentalities of crime or substitute assets to be forfeited as a supplemental or alternative punishment after conviction.

After reaching perhaps the greatest extension of its power based on drug dealing in the late 1980s and 1990s, the Sicilian Mafia has been less visible in recent years. But diversion of funds from public contracts is still a law enforcement concern, while extortion and loan-sharking are continuing sources of illegal income. On the mainland, drug trafficking and distribution, loan-sharking, extortion, and trafficking in smuggled cigarettes are lucrative enterprises of the criminal groups. Foreign criminal groups are also present in Italy, in particular from the Balkan region and Eastern and Southern Europe.

Because of the more developed economic activity in the North and Central portions of Italy, laundered funds from criminal activity elsewhere are often invested in properties and enterprises in those areas which also experience drug trafficking and loan-sharking. Tax evasion seems to be relatively common in Italy. Although it is not directly related with money laundering, this situation is an aggravating risk for money laundering.

In its annual report for 2003, the *Guardia di Finanza* (GdF) reported €11.1 million in money laundering ascertained as a result of STRs, in contrast to €16.9 million in 2002. Illegal assets seized for all types of criminal activity, including money laundering, were over €44 million in preventive seizures, plus 229 vehicles and 82 commercial enterprises. Confiscations for all offences were €97.4 million, plus 49 vehicles and 30 commercial enterprises. The GdF reported 228 investigations for money laundering in 2003, 495 persons reported to the judicial authorities, 128 persons subjected to precautionary measures and €108 million found to have been laundered, in comparison with €491 million in 2002.

The cash payment ratio in Italy is one of the highest compared to other European countries despite the wide availability of noncash payment means and the sophisticated banking system. Tax evasion that exists in sectors such as real estate provides a favorable environment to money laundering. The notary profession drew in particular the attention of the mission on the large side cash payment practices in real estate transactions. This situation

carries a high risk that real estate transactions are used for the purpose of laundering criminal cash proceeds. In addition, according to some interlocutors, it attracts foreign individuals willing to launder criminal proceeds or to evade tax and to use this channel for integrating cash money in the licit economy. According to the notary profession, the real estate sector of the Adriatic coast seems to be particularly attractive to criminal organizations.

Terrorism financing

Terrorism has a history in Italy, particularly in the 70's and 80's, with the development of leftist terrorist groups which now seem to be dismantled. Terrorist financing is considered by the intelligence and law enforcement services to be a risk in the large communities of legal and illegal immigrants from Islamic countries, particularly North Africa. Italy estimates that there are over 1,200,000 such legal immigrants and a large number of illegal visitors, estimated at 700,000 by public authorities. Charitable contributions are often collected at places of worship and prosecutions have documented intended terrorist financing in connection with such locations. The relatively low level funds related to charitable contributions that move through the banking system leads the authorities to think that informal transfer systems may be in place.

Since the latest war in Iraq, Italy has been under specific terrorist threats. Italian civilians have been the targets of kidnappings and murder and the Madrid train bombing is taken by the intelligence and law enforcement agencies as a demonstration of the constant danger that a terrorist attack may be financed, organized and carried out in Italy. As a tourist destination, Italy presents a myriad of human and cultural targets which are extremely difficult to defend, creating great temptation for potential terrorists in Italy to finance and organize an attempt on targets within their easy reach.

Overview of the Financial Sector and DNFBCs

The financial sector

Italy's financial sector is characterized by a wide-range of service providers. The banking sector remains a core source of funding for the domestic economy. Since 1990, the banking sector has undergone a rapid process of privatization and consolidation. The number of banks fell by 28 percent from 1,100 in 1990 to 788 in 2002. In 2003, there were 244 commercial banks (representing 80 percent of total bank assets), 445 mutual banks (5 percent of total bank assets); 38 cooperative banks (11 percent of total bank assets) and 61 branches of foreign banks (4 percent of total bank assets). There were some 30,500 branches nationwide. The top five banking groups together accounted for 51 percent of total sector assets and the top three for close to 40 percent. Banks provide a range of deposit-taking and credit services as well as a broad range of other financial services (i.e., financing, investment, foreign exchange and insurance) either directly, on behalf of third parties, or indirectly through subsidiaries.

In 2003, the financial sector also included 132 registered securities firms engaged principally in intermediation (i.e., trading for customer account, reception of orders) and placement services. Many of them are controlled by insurance groups or individual investors. It also included 153 asset management companies divided almost evenly between those specializing in open-ended funds and those in closed-end and hedge funds.

In 2003, the insurance sector consisted of 198 undertakings, of which 79 were life insurance companies and 88 were nonlife insurance companies.

In 2003, there were 1494 financial companies registered pursuant to Article 106 of the Banking Law (BL) engaged in financing activities (i.e., leasing, factoring and consumer credit, most of which largely controlled by banks), equity investment, money transmission services including credit cards, foreign exchange intermediation and securitization. Of these, there were 359 prudentially supervised financial companies registered additionally pursuant to Article 107, based on having attained a certain volume of business and ratio of debt/equity.

A postal savings institution—Bancoposta—provides a wide range of competitive financial services in 13,267 branches nationwide. It provides current accounts (the fourth largest provider in Italy), money orders, payment cards, wire transfers, as well as a range of investment products including its own mutual funds, insurance products (through Poste Vita), bonds and savings passbooks. In December 2004, Bancoposta accounted for 24.3 percent of household deposits.

Structure of Financial Sector, 2003

	Number of Institutions	Branches Italy/Abroad	Total Assets (as percent of total)	Authorization/Registration	Supervision: Prudential & market conduct	Supervision: AML/CFT
<i>Banking sector</i>	788	30,502/75	100.0	BI	BI 2/	UIC, BI 3/
Banks (limited companies) 1/	244	23,617/71	[80.1]	BI	BI 2/	UIC, BI 3/
Cooperative banks	38	3,471/4	[10.8]	BI	BI 2/	UIC, BI 3/
Mutual banks	445	3,323/-	[4.9]	BI	BI 2/	UIC, BI 3/
Branches of foreign banks	61	91/-	[4.1]	BI	BI 2/	UIC, BI 3/
<i>Bancoposta</i>	-	13,267	-	-	BI 2/	UIC, BI 3/
<i>Securities firms</i>	132	-/-	-	Consob	BI, Consob 4/	UIC, Consob, BI
<i>Asset management companies</i>	153	-/-	-	BI	BI, Consob 4/	UIC, Consob, BI
<i>Financial companies (Article 106 of the Banking Law)</i>	1494	-	-	UIC	N/A	GdF
<i>Of which:</i>						
<i>Bureaux de</i>	575	-	-	UIC	N/A	GdF

<i>change(Article 155 BL)</i>			-		N/A	GdF
<i>Money transmission</i>	25	6077 5/	-	UIC		
<i>Of which (Article 107 of the BL)</i>	359			BI	BI	BI, GdF
<i>Of which: Foreign exchange trading, Securitization Issuance of credit and payment cards Provision of guarantees</i>						
<i>Insurance sector</i>	198	51		ISVAP	ISVAP	UIC, ISVAP
<i>Of which:</i>						
<i>Life insurance cos.</i>	79	15		ISVAP	ISVAP	UIC, ISVAP
<i>Insurance broker & independent agents</i>	25,4136/			ISVAP	ISVAP	UIC, ISVAP

1/ Includes three State-owned institutions accounting for 10 percent of total bank assets.

2/ Consob is the exclusive supervisory authority for investment services in matters regarding transparency and market conduct. UIC is the supervisory authority for AML/CFT measures.

3/ UIC has overall responsibility for AML/CFT supervision. As part of its responsibility for prudential supervision, BI also examines for AML/CFT compliance.

4/ BI is responsible for prudential supervision, whereas Consob is responsible for matters regarding transparency and market conduct.

5/ Sub-agents.

6/ The number includes 22,395 agents with brief issued by the insurance company and 3,018 natural persons. Registered brokers account for less than 2 percent of life insurance premiums.

The nonfinancial businesses and professions (DNFBPs)

Pursuant to Legislative Decrees 374/99 and 56/2004, the following nonfinancial businesses and professions fall within the scope of the AML Law:

- custody and transport of cash, securities or other assets with and without the use of security guards
- real estate brokering
- dealing in antiques
- operation of auction houses or art galleries
- dealing in gold, including export and import, for industrial or investment purposes;
- manufacturing, brokering and dealing in valuables, including export and import
- operation of casinos
- manufacturing of valuables by craft undertakings
- accountants
- labor advisers
- notaries and lawyers when involved in certain transactions..

However, because the required implementing regulations had not all been issued at the time of the mission, these Legislative Decrees have not been fully implemented and DNFBPs do not yet have to comply with the AML/CFT requirements of the AML Law.

Although the authorities have some information on the numbers of lawyers, notaries, accountants and dealers in precious metals and stones, data concerning the numbers of the other businesses and professions is lacking. Moreover, the requisite AML/CFT supervisory structure for DNFBPs has not been decided.

The professional activities of lawyers, accountants and notaries are regulated by law. The law organizes these professions in national orders, which are then organized regionally. The Ministry of Justice has a supervisory role regarding the observance of laws of the professions; in particular, it oversees the observance of laws by professional associations. The regional orders for the professions supervise all the activities of their members.

Notaries

There are in total 4,766 notaries. They are public officials that authenticate transactions and documents which can then serve as proof before the courts. Notaries, in light of their public function of authenticating transactions, are inspected every two years by a local authority under the responsibility of the primary courts.

In addition, the regional orders also have a supervisory task. The regional orders will only act on the basis of a complaint (in general from a colleague notary). After interviewing the notary, they can report the case to the public prosecutor if necessary. The civil court will then issue a sanction.

Lawyers

There are 162,000 lawyers of which 95,000 are practicing. A majority of lawyers not only represent their clients in criminal proceedings but will also be involved in financial and real estate transactions.

The national order for lawyers, the *Consiglio Nazionale Forense*, has issued a code of conduct with customary (binding) rules. The regional orders can make autonomous decisions on sanctions for professional violations. Sanctions, which include a suspension or cancellation of membership, are issued by the regional orders. A lawyer can appeal such a decision to the national order that functions as a judge in those cases and the judgment of the national order can be appealed to the Supreme Court.

Accountants and labor advisers

Accountants, including chartered accountants, number in total close to 100,000. External auditing firms are separately registered by Consob, the securities regulator; there are 20 registered auditing firms. Labor advisers assist companies regarding social security, salary issues, and relationships between employers and employees.

Accountants and chartered accountants are currently divided in two orders but those orders will be united into one order in 2005. The regional orders supervise their members for

all their activities and are in charge of disciplinary actions against their members. The orders will in general only inspect an accountant on the basis of a complaint. The orders can issue three types of sanctions: a written notice, suspension and cancellation of membership.

Casinos

Italian law generally forbids gambling and the establishment of gambling-houses. Nevertheless, the opening of four casinos in SanRemo, Campione d'Italia, Venezia and Saint Vincent has been allowed, owing to a particular historical situation when the four localities were the Italian places most linked to international tourism (Royal Decree 2448/1927 (SanRemo); Royal Decree 201/1933 (Campione); Royal Decree 1404/1936 (Venezia); Laws 1065/1971 and 690/1981 (Saint Vincent). Over the last decades, the *Corte Costituzionale* asserted several times the need for legislation to harmonize the sector.

The competent public office for authorization of casinos is the branch of the Ministry of Home Affairs denominated *Direzione Generale dell'Amministrazione Civile—Divisione Enti Locali—Sezione 3*. This department does not supervise the four casinos for AML/CFT compliance.

Number and supervision of selected nonfinancial businesses and professions in Italy

	Number of Institutions	Authorization/Registration	General Supervision:	AML/CFT Supervision
Wholesalers in precious metals and stones	3,125	Registered at the Chamber of Commerce's Register of Entreprises	None	Not yet decided
Dealers in precious metals	17,231	Registered at the Chamber of Commerce's Register of Entreprises	None	Not yet decided
Precious metals agents	2,730	Registered at the Chamber of Commerce's Register of Entreprises	None	Not yet decided
Real estate agents	65,452	Special register of Chamber of Commerce	None	Not yet decided
Lawyers	95,000	National/regional orders	Regional orders	Not yet decided
Notaries	4,766	National/regional orders	Civil courts	Not yet decided
Accountants	57,423	National/regional orders	Regional orders	Not yet decided
Chartered accountants	39,993	National/regional orders	Regional orders	Not yet decided
Casinos	4	Ministry of Interior, Direzione Generale dell'Amministrazione Civile – Divisione Enti Locali – Sezione 3	None	Not yet decided

Overview of commercial laws and mechanisms governing legal persons and arrangements

There are three types of private legal persons, *associazioni riconosciute*, *fondazioni* and *società di capitali*, and three forms of the latter:

- *società per azioni-Spa* (joint stock company), regulated by articles 2325 to 2451 of the Civil code. Special provisions apply to companies listed on regulated markets or to those whose financial instruments are spread among the public (Legislative Decree no. 58/1998 as subsequently amended)
- *società a responsabilità limitata-Srl* (limited company), regulated by articles 2472 to 2483 of the Civil code;
- *società in accomandita per azioni*, (limited partnership company) regulated by articles 2452 to 2471 of the Civil code.

Incorporated associations and foundations are part of the nonprofit sector, which counts around 250,000 entities, most of them (150,000) being nonincorporated associations which therefore do not have a legal personality. They are under the supervision of an agency which was created for this purpose in 2000, the *Agenzia dell'ONLUS*.

The acquisition of legal personality for companies is based on the registration of the entity in the Public Register of Undertakings (*registro delle imprese*), which takes place when the constitutive process of the company is completed. 1.8 million companies are registered with the Chamber of Commerce in addition to 3.5 million personal enterprises.

The legal form of companies (Spa, Srl and limited partnership companies) depends on the governance structure chosen for the company. Only Spas may be listed, whereas small undertakings are usually registered as Srls.

The total share capital of an Srl is divided into quotas. No certificates are issued to represent these quotas and the quotas are freely transferable if not otherwise agreed in the Articles of Association.

Spas and *società in accomandita per azioni* can issue nominative shares or bearer shares according to the Civil Code. However, Decree no.700 of 29 September 1973 prohibits Italian companies from issuing bearer shares except for saving shares which do not confer any voting rights. According to the authorities, bearer shares are dematerialized. Moreover, shareholders who hold more than 2% in a listed company must disclose their ownership to the Consob and to the market. Shareholders agreements must also be disclosed.

The Italian legislation does not provide for the creation of legal arrangements such as trusts or fiduciaries. However, Italy is a party to the Hague Convention of 1 July 1985 on the law applicable to trusts and their recognition. It therefore recognizes that a trust which is

subject to a foreign governing law has legal effect within the Italian legal system. In practice, foreign trusts may be handled in Italy. Trusts may even be created in Italy under a foreign law and the trust deeds and their signatures may be authenticated by Italian notaries. But there is no CDD provision in respect of foreign trusts that are handled in Italy.

Overview of strategy to prevent money laundering and terrorist financing

a. AML/CFT strategies and priorities

As explained in the description of the General Situation, Italy recognized decades ago that illicit proceeds were a harmful influence in the legitimate economy. It adopted a legal strategy of both preventive and punitive seizures and confiscations aimed at weakening the economic, political and social power of organized crime and of diminishing the economic incentive to form criminal enterprises by placing accumulated profits and assets at risk of governmental confiscation. Roughly contemporaneously, and in part based upon Italy's experience with a capital flight problem in the 1980s, a corresponding and supporting financial strategy was adopted. This strategy was to deter ML by channeling cash transactions through regulated entities subject to defined responsibilities. Those responsibilities were designed to make anomalous transactions visible by means largely conforming to FATF safeguards such as transparency, customer due diligence (CDD), recoverability of transaction information and suspicious transaction reporting.

The AML political strategies are defined by the Ministry of Economy and Finance (MEF) while operational strategies and actions are carried out by the UIC with the support of the BoI and the cooperation of other regulators. The most prominent output of the AML strategy are the STRs submitted by reporting entities, which then form the basis of administrative action by police authorities empowered to investigate organized crime and fiscal offences. When the elements of a criminal offence are established, judicial action follows under laws specifically designed and refined to deal with money laundering and, since 2001, with the financing of terrorism.

Italy's overall strategic approach combines both legal and financial defensive and offensive measures against ML and FT. The legal strategy is based upon legislation criminalizing ML offences and permitting both preventive and punitive seizures and confiscation to be investigated primarily by the existing financial police, the GdF, and by a special anti-Mafia investigative force, the DIA. Judicial AML action was placed in the hands of the normal institutions, as modified by the specialization of anti-organized crime units (the *Direzione Distrettuale Antimafia*, DDA) in territorial prosecutors' office, and a national coordinating office for organized crime prosecution, the *Direzione Nazionale Antimafia* (DNA). More recent responses to FT have utilized the existing GdF and traditional prosecutorial structures with specialization in the police by legislative provision and in the prosecution offices by creation of informal specialized groups. In addition, the legislator conferred to law enforcement and prosecutors extensive investigative powers, including undercover operations, controlled deliveries, advanced investigative techniques, use of

repentants, and witness protection programs. This extraordinary effort proved to bear successful results but safeguards are in place to avoid abuse of power.

In a manner consistent with this strategy, authorities reported to have developed a work program which aims to put in due time the main focus on the following activities:

- Issuing the regulations to give effect to the Second AML Directive 2001/97/EC, notably in relation to the implementation of the extension of the AML obligations to nonfinancial businesses and professions. Draft regulations being developed will include a risk based approach as well as a requirement to consolidate and share all customer-related information in the intermediary's possession within the same group, including foreign branches.
- Implementing the Third EC AML/CFT Directive.
- Drafting and issuing the Consolidated Anti-Money Laundering Legislation (*Testo Unico Anti-riciclaggio*) which should include all the AML legislative provisions in force, as well as improvements in the institutional framework with regard to the extension of AML measures to DNFBPs.
- Issuing a specific law to amend the legal framework on the freezing of terrorist assets;
- Strengthening financial intelligence and law enforcement instruments to combat ML/FT;
- Updating by the Bank of Italy (BoI), in cooperation with the UIC, of the “*Operating Instructions for Identifying suspicious transactions*” (the “Decalogo”);

In terms of operational priorities, the authorities are focusing on the following:

- Developing financial behavioral patterns (operational schemes) to be disseminated throughout the reporting entities in order to facilitate the detection of anomalous transactions;
- Updating the format used for suspicious transaction reports.

The institutional framework for combating money laundering and terrorist financing

The Ministry of Economy and Finance (MEF)

Within the AML/CFT sector, the Ministry of Economy and Finance (MEF) is in charge of the following activities:

- 1) Legislative drafting at national and international levels:
 - Co-operation with standards setting international authorities;

- Contribution to the European Commission (EC) legislative procedure;
 - Implementation of international standards and EC legislation through national laws and regulations.
- 2) Policy-making and development of general guidelines.
 - 3) Representation of Italy in all relevant international fora (G-7, G-20, European Union, OECD, FATF, etc.)
 - 4) Coordination of the Italian authorities involved in the prevention of money laundering and the financing of terrorism by means of two interagency committees: the AML Committee, chaired by the MEF, and the Financial Security Committee (FSC), chaired by the Director General of the Treasury.
 - 5) Sanctions

The MEF is responsible for issuing administrative sanctions for violations of the AML/CFT preventive measures. In particular, it is responsible for charging infringers in collaboration with the GdF, the UIC and supervisory authorities, for inquiries, for issuing sanction decrees as well as for litigation.

The Ufficio Italiano dei Cambi (UIC)

The UIC is, from the organizational point of view, an instrumental entity of the BoI. Among other functions the UIC, which enjoys a wide operational independence, is responsible for the collection, analysis and dissemination of suspicious transaction reports and therefore serves as the Italian Financial Intelligence Unit. Within the UIC, the *Servizio anti-riciclaggio* (AML Department) comprises 109 personnel, 16 of which being in charge of analyzing suspicious transactions related to ML. The analysis of reports in relations to terrorism financing are dealt with the International Division of the *Servizio Anti-Riciclaggio*.

The *Servizio Ispettorato* (Inspectorate Department) carries out on-going supervision concerning AML/CFT compliance on prudentially supervised institutions (*Intermediari abilitati*) in cooperation with other supervisory authorities pursuant to Article 5, Subsection 10, AML Law.

The role and functions of the UIC are described in greater detail under the relevant section of the DAR.

The AML Committee

The AML Committee, chaired by the MEF and consisting of representatives of the BoI, UIC and GdF, has a role of interpretation of AML Laws and regulations. To date the AML Committee has issued approximately one hundred documents, including legal opinions and general guidelines, on the application of AML legislation by individuals and entities.

The Financial Security Committee (FSC)

The Financial Security Committee (FSC) is the lead authority in the fight against terrorist financing. This body was established under Law 431 of 2001. The Committee, chaired by the Director General of the Treasury, includes representatives of the following ministries, agencies and law-enforcement bodies: the MEF, the Ministry of Foreign Affairs, the Ministry of Home Affairs, the Ministry of Justice, the BoI, the UIC, Consob, the GdF, *Carabinieri*, the Direzione Nazionale Antimafia (DNA) and the Anti-Mafia Investigative Directorate (DIA).

The FSC has the following remit:

- to prevent the Italian financial system from being used by international terrorists to finance their criminal operations; and
- to ensure international coordination of measures taken by other countries, in particular the G7 and the EU.

One of the FSC's most sensitive activities concerns the freezing of terrorists' assets. The FSC fosters dialogue and cooperation between different government departments, agencies and law-enforcement bodies with a view to maximizing information sharing. The FSC has also created channels of communication with courts of law and the intelligence service. The FSC maintains close contacts with its foreign counterparts.

ISVAP

The *Istituto per la Vigilanza sulle Assicurazioni Private e di Interesse collettivo* (ISVAP) is the body authorized under Law 576 of 12 August 1982 to supervise insurance and reinsurance undertakings as well as all the other bodies subject to the regulations on private insurance, insurance agents and brokers included. It is responsible for ensuring the stability of the insurance market and undertakings as well as the solvency and efficiency of market participants in the interests of policyholders and consumers.

ISVAP's primary function is to carry out supervision on insurance undertakings and intermediaries by monitoring their technical, financial and accounting management and by verifying that they actually comply with the laws, regulations and administrative rules in force. Article 5.10 of the AML Law entrusts the UIC, in cooperation with ISVAP, with the task of monitoring financial intermediaries in order to assess the degree of compliance with anti-money laundering provisions. As part of its responsibility for prudential supervision of financial intermediaries and on the basis of a MOU with the UIC, ISVAP also supervises for compliance with AML/CFT requirements.

Banca d'Italia (BoI)

The BoI is responsible for prudential regulation and supervision of credit institutions and nonbank financial intermediaries and is the competition authority in the banking sector. In this regard, it pursues the following objectives: the sound and prudent management of financial intermediaries; the overall stability and good functioning of the financial system; and the promotion of competition in the financial sector. It is responsible for strengthening the systemic soundness of the financial industry by promoting competition and enhancing efficiency of financial intermediaries.

The BoI discharges its supervisory responsibilities through:

- The drafting and enacting of prudential rules for sound and prudent management of financial intermediaries;
- The authorization of the establishment of financial intermediaries;
- The monitoring of the sound and prudent management of financial intermediaries through off-site analysis and on-site inspections; and
- The management of crises.

Article 5.10 of the AML Law entrusts the UIC, in co-operation with the BoI, with the task of monitoring financial intermediaries in order to assess the degree of compliance with AML provisions. As part of its responsibility for prudential supervision of financial intermediaries and on the basis of a MOU with the UIC, the BoI also supervises compliance with AML/CFT requirements.

In its oversight role for the payment system, the BoI monitors the payment system and its development with a view to ensuring its reliability and to preventing its use for illicit purposes. In this regard it cooperates with other authorities in the design of the AML/CFT legal framework as it relates to payment systems issues, both domestically and internationally.

Consob

The *Commissione Nazionale per le Società e la Borsa* (Consob) is responsible for ensuring (i) transparency and correct behavior of securities market participants; (ii) disclosure of complete and accurate information to the investing public by listed companies including major holdings; (iii) accuracy of the facts represented in the prospectuses to offerings of transferable securities to the investing public; and (iv) compliance with regulations by auditors entered in the special register. Moreover, it conducts investigations regarding potential infringements of insider dealing and market manipulation laws.

The aim of Consob's supervision of financial markets and issuers of financial securities is to ensure investor protection, the efficiency and transparency of the market in corporate control and the capital market and the orderly functioning of regulated markets.

Market operators must establish rules for the participation in the regulated markets managed by them. In particular, pursuant to Article 62 of the Consolidated Law, the market rules must establish:

- a. the conditions and procedures for the admission, exclusion and suspension of market participants and financial instruments to and from trading;
- b. the conditions and procedures for the conduct of trading and any obligations of market participants and issuers;
- c. the procedures for ascertaining, publishing and distributing prices; and
- d. the types of contracts admissible and the methods for determining the minimum amount which may be traded.

The rules issued by the market operator must be approved by Consob before becoming effective, as must any amendment thereto.

Market operators supervise the conduct of traders and can apply sanctions (under contractual arrangements and not as administrative penalties) for misbehavior. Pursuant to Article 64(1)(d) of the Consolidated Law, market operators must report to Consob any misbehavior detected within the sphere of their competence. Consob adopts appropriate enforcement measures.

In case of wholesale markets in government securities, pursuant to Article 4 of Legislative Decree no. 219/1999, the market operator must notify the MEF, the BoI and Consob of the violations to the market rules and the measures adopted. The BoI and Consob must inform the MEF about irregularities and violations which come to their knowledge in the performance of their respective functions (see Articles 4 to 7 of Decree no. 219/1999).

Law enforcement agencies including police and other relevant investigative bodies.

The Ministry of Home Affairs (MHA)

The Ministry of Home Affairs (MHA) is responsible for the public order and general security policies. It coordinates the five national police forces to this effect. Preventive activities against money laundering and terrorist financing by the *Polizia di Stato* are conducted under the authority of the MHA through two of its branches: the Central Anticrime Directorate and the Central Directorate for Prevention Police, which is the central service responsible for the fight against terrorism and which carries out its activities together with its local branches, the *Digos*.

Although located administratively in the MHA, the *Direzione Investigativa Antimafia* (DIA) is an interdepartmental law enforcement agency set up in 1991 within the Department of Public Security to carry out preventive and judicial investigations targeting organized crime activity. The DIA is responsible for following up on STRs when there is a suspicion or evidence of connections with organized crime associations. In addition, the MHA is also in charge of the four casinos permitted to operate in Italy.

***Il Consiglio Generale per la Lotta alla criminalità organizzata* (The General Council for the Fight against Organized Crime)**

Il Consiglio Generale per la Lotta alla criminalità organizzata was set up by Law Decree no. 345 (Article 1) on October 29, 1991. This body, established within the MHA, is chaired by the Minister. Its members are the Chief of the Police, the Commander General of the *Guardia di Finanza* and of the *Carabinieri*, the Director of the DIA, as well as the Directors of the civil and military intelligence services—SISDE and SISMI.

With regard to organized crime, the *Consiglio Generale* has the responsibility of developing anticrime strategies and investigative activity, distributing duties among the various police forces based on areas, fields of activity and criminal phenomena types; identifying the resources and means necessary for the fight against organized crime as well as verifying results on a regular basis.

The *Guardia Di Finanza* (GdF)

Protection of government revenues is assigned to the GdF or Financial and Economic Police, subordinated to the MEF. With specific reference to the fight against money laundering and financing of terrorism, the *Nucleo Special di Polizia Valutaria* is the focal point although judicial investigations may be assigned to any of the GdF judicial police units by a magistrate.

The main activities of the NSPV Unit are the prevention and repression of the introduction of “dirty money” into economic legal circuits. This unit is able to examine all aspects emerging during investigations through a two-way intervention, based on both administrative controls and investigative police inquiries.

The most important administrative activities are inspections aimed at verifying compliance with anti-money laundering requirements and the in-depth analysis and investigations of STRs received from the UIC. This analysis and resulting inspections may be delegated to Regional and Provincial Tax Police Units;

Operational AML and CFT activities may include carrying out Judicial Police investigations by the “Anti-money laundering Investigation Team” in Rome and the related sections in Milan and Palermo, which serve as the usual reference point for prosecutors when they decide to open a judicial investigation.

The *Carabinieri* Corps is one of Italy's major law enforcement bodies which also deals with counter terrorism activities and investigations on organized crime and therefore with detection, prevention, and repressive actions in relation to money laundering and terrorism financing

The *Carabinieri* Corps, which counts 112.000 personnel, is a military organized Police Force with an overall competence on law enforcement activities all over the country. The Corps is at the same time a law enforcement body and an Armed Force.

Within the *Carabinieri*, the Special Investigative Department (ROS) is specialized on complex high level investigations on organized crime and terrorism. ROS was instituted in 1990 and has specific competence on:

- counter terrorism against internal and international extremist organizations;
- qualified investigations on organized crime, drug - arms trafficking, kidnappings;
- search and capture of mafia and terrorism wanted persons;
- analysis of organized crime and terrorism phenomenon.

L'Agenzia dell'Entrate (Italian Revenue Agency)

The Italian Revenue Agency is a public body acting under the supervision of the MEF. Constituted in 1999 by Legislative Decree No. 300, it has been operating since January 1, 2001. It carries out all functions regarding the administration, assessment and collection of taxes. The Agency is organized into Central and Regional Departments, having mainly planning, direction, coordination and control functions and local offices with general operating functions.

In performing its assessment control, the Agency has also specific powers of vigilance and inspection of all nonprofit organizations, including noncommercial bodies and ONLUS. The Agency is responsible for the registration of ONLUS. Tax concessions are subject to the fulfillment of such tasks.

Customs Agency (also located within the MEF).

The Customs Agency is responsible for all the tasks and functions provided for by the European Union (EU) and Italian law in the sector of customs, movement of goods, internal taxation concerning international trade, excise duties on production and consumption and the related environment and energy taxation.

The Customs Agency monitors cash entering and leaving Italy on the basis of the declarations of travelers carrying an amount of money exceeding € 12,500, as well as for nondeclared movements of cash.

Prosecutorial authorities

The Italian judiciary is constitutionally an independent and self-governing body with selection, promotion, transfer and disciplinary decisions made by it *Consiglio Superiore della Magistratura* (CSM). Both prosecutors and judges are part of this branch. Jurisdiction over an offence is based upon territoriality. There is an administrative hierarchy within offices but each prosecutor enjoys complete professional independence in assigned matters.

Within the office responsibility for areas with major criminality, specialized units called *Direzione Distrettuale Anti-Mafia (DDA)* have been created to deal with organized crime cases. These offices are supported but not supervised by the *Direzione Nazionale Anti-Mafia (DNA)*, a national body with statutory powers to receive information from both investigators and prosecutors and to exercise a coordinating role. However, in case of inaction, the DNA can assign the case to another DDA.

Intelligence services

The Italian intelligence Community is composed of the General Secretariat of CESIS (Executive Committee for Intelligence and Security Service), SISMI (Military Intelligence and Security Service) and SISDE (Democratic Intelligence and Security Service). The General Secretariat of CESIS – which is not a third Service – plays a coordination role with the main tasks of channelling to the Prime Minister information provided by SISMI and SISDE and coordinating and directing personnel. Moreover, it acts as an interface between the intelligence sector and the other Public Administrations. The political Authority exercises, through the Office of the Secretary General of CESIS, the power to direct uniformly the activities of the two Services. In this framework, the General Secretariat of CESIS is the body whereby the Prime Minister carries out his peculiar functions in the security and intelligence sector. SISMI and SISDE do not directly participate in the AML/CFT coordination mechanisms of the FSC and the AML Committee. They maintain dedicated AML or CFT units and pass any relevant collected information through police liaison or directly to concerned Ministries.

c. Approach concerning risk

The Italian system provides strict and detailed provisions on the anti-money laundering and terrorist financing requirements; in general, there is no possibility to graduate these obligations on the basis of risk. That said, the legislature is also preparing to issue some provisions regarding the risk based approach in applying the requirements of Legislative Decree no.56/04 to DNBFP.

Special provisions apply to transfers of cash and bearer instruments and only “authorized” intermediaries can deal in amounts at or above Euro 12 500. Moreover, certain exceptions to full CDD are provided under the AML Law. However, the framework does not call for enhanced measures in higher risk situations, such as for private banking, or for the

circumstances covered by Recommendation 6 and 7. Nor is there any tailoring of internal control requirements according to risk.

Supervisory authorities in general focus their inspection activities on a risk basis, though owing to differences in priorities (e.g. BoI/GdF) the results differ.

d. Progress since the last IMF/WB assessment or mutual evaluation

Since the last FATF mutual evaluation, which took place in October 1997, a lot of changes have occurred not only in the development of the AML system but also in the evolution of national and international policies (including the revision of the FATF Recommendations and the inclusion of financing of terrorism standards), which in turn have resulted in changes in the legal and institutional framework. This section reports only on the changes made with respect to the suggestions for improvements of the 1997 FATF report.

- The money laundering offence

Self laundering is still not covered in the definition of money laundering because it is not seen as consistent with the general principles of penal law. A draft law was presented to parliament to this effect but failed to be adopted. No step was taken also with regard to the alleviation of the burden of proof as to the *mens rea* of the offence, as knowledge of the illicit origin of the assets cannot be presumed. Legal persons are not criminally liable for the offence although a draft law is being considered in order to extend the administrative liability of legal entities in the case of the commission of a money laundering offence (see *infra*).

- Confiscation and provisional measures

A draft law is being considered, as part of the ratification process of the Palermo Convention, in order to consolidate confiscation provisions under Article 240 of the Penal Code, as suggested by the report. This draft has been pending before parliament since June 2003.

- The FIU and the reporting mechanisms

Since the 1997, when the UIC had just been established as the authority to receive suspicious transactions, a lot of progress has been made in setting up reporting mechanisms. The UIC has been formally established as the FIU by Law 388 of 23 December 2000. In January 2001, the BoI issued the Operating Instructions for Identifying Suspicious Transactions (the “Decalogo”), which sets out the reporting procedure. The UIC is now fully operational as an FIU and it processed more than 6.500 STRs in 2004 and issued several guidance notes. It is now a member of the Egmont Group and of the FIUNET network of the EU FIUs. However, the suggestion made by the report that the FIU should have access to law enforcement information has not been implemented and the UIC cannot access law enforcement information except on the basis of a request by a foreign FIU. The UIC considers that such access is not necessary since almost all STRs transmitted by reporting

institutions are forwarded after analysis to the law enforcement agencies and the checks against the databases are carried out at that stage by the law enforcement agencies themselves.

- Feedback

A mechanism was instituted in Decree Law 143/91 to require law enforcement agencies to report to the FIU on cases where STRs are not followed up by the investigative authorities (Article 3.5. of the AML Law). The UIC is then required to forward the feedback to reporting entities. The UIC also uses the information to provide more accurate guidance to them. However, financial institutions continue to complain about the limited feedback they receive following their filing of an STR.

- Inter-agency coordination and policy commission

The Guidance Committee instituted by Law 143 of May 3, 1991 has never met. Instead, an AML Committee, composed of the MEF, the BoI, the UIC and the GdF, has been setup as a policy body and meets regularly. In addition, since October 2001, a Financial Security Committee (FSC) was established to deal with financing of terrorism issues. Authorities are now considering how to improve AML coordination, in particular in view of the effective extension of AML/CFT measures to DNFBPs, building on the successful experience of the FSC. The UIC has asserted its role as the main body to monitor compliance of financial institutions and financial intermediaries with AML requirements, and coordination with the BoI is not an issue, considering that the UIC is an instrumental entity of the BoI.

- Financial and nonfinancial businesses and professions

The 1997 report called for better supervision of financial intermediaries which were just subject to registration with the UIC and of nonfinancial businesses like casinos which were not required to identify their customers.

Financial intermediaries registered with the UIC pursuant to Article 106 of the BL are inspected by the GdF for compliance with AML requirements. As indicated further in this report, the on-site inspection efforts and resources of the GdF still need to be increased.

Legislative Decree no. 374/99 extends the list of businesses subject to the AML Law to include those performing the following activities: credit recovery; custody and transportation of cash and valuable items; real estate agencies; antiques dealers; auction agencies or art galleries; gold trade; manufacturing, wholesale and retail trade of valuable items; casinos; credit mediation. As soon as the Decree is fully implemented, all the above-mentioned businesses will be required to implement AML requirements. In addition, Legislative Decree 56/2004 extends the same requirements to notaries, lawyers and accountants. However, as it is the case for the Legislative Decree 374/1999, the

implementing legislation has not been yet enacted. Neither of these Decrees is therefore fully applicable.

The issue of who will supervise these businesses and professions remains to be decided. Some of them have some sort of supervisory mechanism (e.g. professional order, chamber, etc) and some do not, but the AML compliance monitoring role would be either exercised in part by the professional regulatory body, by the UIC or by the GdF.

- Consolidation of guidance instruments and texts

The need for consolidated guidelines is obvious as new requirements are implemented. Given the complexity of some of the requirements and the lack of awareness with regard to these requirements in some of the businesses and professions concerned, authorities will have an important role to play in reaching out with them and in spelling out the obligations and the procedures to be followed

- Bearer instruments

Legislative Decree 56/2004 (Article 6.2) has introduced a partial phase-out of bearer passbooks. As of 31 January 2005¹, bearer passbooks cannot hold balances in excess of €12,500. In addition, according to the authorities, all transactions on these bearer passbooks would entail the identification of the person effecting the transaction. All passbooks are based on the existence of a bank or postal account for which normal CDD measures are applied upon account opening and closing. Measures are being taken to ensure that accounts with outstanding balances above the €12,500 threshold are brought into line with the law.

- Enforcement

The report emphasized the need for rapid and vigorous investigations and prosecutions, and for a number of convictions for money laundering consistent with the significance of the problem. The assessment team could witness the commitment of the law enforcement authorities to address the money laundering problem and, in particular, the efficiency with which financing of terrorism investigations were carried out. The successes in the investigation of the Italian component of the Madrid bombings demonstrates that prosecutors and law enforcement agencies are making an efficient use of the proactive legal tools that were conferred to them in the framework of anti-mafia and anti-terrorism legislation.

¹ The applicability of sanctions for infringements of such measure by individuals was postponed to the end of July 2005.

II. DETAILED ASSESSMENT

Table 1. Detailed Assessment

Legal System and Related Institutional Measures

<i>Criminalization of Money Laundering (R.1 & 2)</i>
Description and analysis
<p>Articles 648 <i>bis</i> of the Penal Code defines money laundering (“<i>riciclaggio</i>”) as the fact, for anyone, to replace or substitute money, goods or other property deriving from any kind of intentional crime, or to carry out any other operation to prevent the identification of the illicit origin of the asset.</p> <p>It is complemented by two other provisions dealing with other aspects of the offence:</p> <ul style="list-style-type: none">- Article 648 (receiving) which punishes anyone who, for the purpose of procuring a benefit for himself or others, acquires, receives or conceals money or property derived from any crime whatsoever, or in any way participates in causing it to be acquired, received or concealed.- Article 648 <i>ter</i> which punishes anyone who uses in economic or financial activities money, goods or other property derived from a crime. <p>This definition, although it does not strictly follow the definition of the Vienna and the Palermo conventions, is broad enough to cover all the situations referred to in these treaties.</p> <p>The offence of money laundering is extended to any type of property, regardless of its value, that represents the proceeds of crime (Article 648 <i>bis</i> and <i>ter</i> Penal Code). The law does not specify whether it extends to assets which are not the direct proceeds of crime, like for example income derived from investments, but jurisprudence gives a broad scope to the notion of proceeds.</p> <p>The concept of predicate offence extends to any crime committed intentionally (it therefore excludes crimes by negligence). The scope of predicate offences is therefore consistent with the standards. There is no need for a prior conviction for the predicate offence. Courts will satisfy themselves that the proceeds are derived from a predicate offence, based on the evidence brought by prosecution.</p> <p>The money laundering offence is applicable when the predicate offence has been committed abroad and is also an offence under Italian law. As a general principle applicable to all offences by virtue of Article 6 of the Penal Code, the offence is considered as being committed in the territory of the State when the action or the omission which constitutes the offence took place in part or in all on the territory, or when the consequences of the offence have taken place in the territory of the State. There is therefore a very wide notion of territorial jurisdiction, which makes money laundering an offence in Italy even though the predicate offence may have been committed abroad.</p> <p>The offence of money laundering does not apply to persons who committed the predicate offence because the articles on money laundering (Article 648 <i>bis</i> e <i>ter</i> Penal Code) are based on the general principle of the Italian legislation that a person cannot be prosecuted twice for the same facts. Courts consistently confirmed that self-laundering is contrary to fundamental principles of domestic law. In particular, under the Italian legal framework, use and concealing of crime proceeds by the person who committed the crime generating such proceeds are not considered as punishable <i>post-factum</i>. In practice, such activities - which are naturally and directly the consequence to profit-producing crimes - are considered as part of the predicate offence. This is an usual feature of romano-germanic law tradition. The general principle that self-laundering is not punishable is constantly re-affirmed by Italian Courts (see for instance Corte di Cassazione, sentenza n.3390/1994 and sentenza n.873/1996)</p> <p>For such specific reasons a recent draft law establishing self-laundering as an offence was rejected by Parliament.</p>

However, it is worthy noting that the activities carried out by the author of the predicate offence are deemed punishable under certain circumstances, i.e. when such activities are not directly consequential to the predicate offence. For instance, the Italian Supreme Court of Appeal has recently affirmed that a person responsible for criminal conspiracy (Art. 416 bis of Criminal Code) can be prosecuted and convicted also for laundering the proceeds of the crimes committed through the criminal organization to which he belonged (see Corte di Cassazione, sentenza n. 10582/2003).

Conspiracy to commit, attempt, aiding and abetting, facilitating, and counseling the commission are criminalized under a general provision, Article 110 of the Penal Code, which punishes those who participated in the commission of the offence with the same penalties as the principal authors. Although there is no definition of participation, the jurisprudential interpretation is very large and covers the above situations. Attempt to commit the offence is defined and sanctioned in Article 56 of the Penal Code by penalty reduced by a third to two-thirds of the maximum provided for the offence.

The offence is applicable to persons who knowingly engage in money laundering. There is no legal mechanism to alleviate the burden of proof as to the knowledge element, which can be inferred from factual circumstances as per the general principles of evidence in civil law countries. However, it is worth noting that Article 12 *quinquies* of Law 365/92 establishes as a criminal offence the possession of resources not commensurate with the economic situation of the offender, when he has been indicted for money laundering or some of the predicate offences. This specific offence institute a *de facto* alleviation of the burden of proof.

Legal persons are not subject to penal liability under Italian law. A system of administrative liability exists per Legislative Decree 231/01 as modified in August 2003. Administrative liability for penal offences is applicable only for certain offences, including corruption and bribery and terrorism financing (Article 25 quarter) but does not include money laundering. Authorities have submitted to the parliament, as part of the draft ratification law of the Palermo Convention, provisions to extend the administrative liability of legal persons in the case of money laundering. According to the authorities, the draft law is expected to be adopted very soon.

Money laundering offences are punished by imprisonment from four to 12 years and a fine from €1.032 to €15.493. Although the maximum of the imprisonment penalty is consistent with normal standards, fines do not seem to be proportionate and dissuasive, in comparison of the potential gains that money laundering and financing of terrorism offences can generate. Penalties can be increased when the offence is committed in the discharge of professional duties up to a third of the legal maximum and can be reduced when the predicate offence is punished by less than five years' imprisonment.

Effectiveness of enforcement

Statistics, as they are analyzed in the section "law enforcement, prosecution and other competent authorities", show that there is a very efficient prosecution of money laundering offences in comparison to neighboring countries. The relatively high level of convictions compared to the number of prosecutions also show that there are limited problems of implementation or interpretation of the money laundering offence as defined in the law (see infra, "effectiveness of enforcement of money laundering offences").

Recommendations and comments

<ul style="list-style-type: none"> • Penal liability of legal persons should be provided by law, or if it is not possible, money laundering should be added to the list of offences for which administrative liability can be sought, as proposed in the draft law of ratification of the UN Convention on Transnational Organized Crime. However, more deterrent sanctions should be provided; • Fines established for money laundering (maximum of €15,493) are far too limited. To strengthen the deterrent effect of imprisonment penalties and for an effective financial retribution, it is suggested to increase the maximum amount of fines; • Although it is not a requirement under FATF rec. 1 for countries which consider that it is contrary to general principles of penal law, it is recommended to criminalize self laundering. Countries with similar legal systems are progressively moving to including self laundering as a punishable offence. Law enforcement agencies pointed out the difficulties resulting from this situation; • Authorities may wish to consider clarifying the language of the law and to provide for a definition of assets which includes indirect proceeds of crime. 		
Compliance with FATF Recommendations		
R.1	Compliant	The recommendation is fully observed.
R.2	Partially compliant	No penal, administrative or civil liability of legal persons; penalties (in particular for fines and for legal persons) should be more proportionate and dissuasive.

Criminalization of terrorist financing (SR.II)

Description and analysis

Definition of the offence

Article 270 *bis* entitled “Associations with terrorist aims including international or for the subversion of the democratic order” punishes by 7 to 15 years of imprisonment anyone who “promotes, sets up, organizes, manages or finances associations which objective it is to commit violence acts for the purpose of terrorism or subversion of the democratic order”. However, there is no definition of the offence of terrorism and of subversion of the democratic order. It is left to the judicial authorities to determine on a case-by-case basis whether the context of the offence can be qualified as being perpetrated for the purpose of terrorism or subversion. Participation in an association aiming at committing terrorist acts is provided by Article 270 *bis* but not the participation in the commission of the offence of financing of terrorism. However, a similar concept, applying to all offences, can be found in Article 110 of the Penal Code.

The definition of the offence does not require that the funds have actually been used for the purpose of carrying out a terrorist act.

This definition of the offence under Article 270 *bis* is not fully consistent with the definition of the SFT Convention:

- the concept of “financing associations” is not defined, and, given the language used, it is far from being certain that it could include the fact of collecting funds or the transfer or concealment of assets for example.
- it does not extend to the financing of terrorist acts by individual terrorists. Authorities report that Article 270 *ter* punishes the assistance provided to members of the above-mentioned associations by aiding or abetting, providing shelter or food, hospitality, means of transport or instruments for communication. Although this could indirectly enable prosecution of those who finance terrorists through the concept of “aiding or abetting”, this is not compliant with the standard for which there should be an offence to punish the financing of terrorism, terrorist acts and terrorist organizations, including individual terrorists. The FATF interpretative note to SR II states that “criminalizing terrorist financing solely on the basis of aiding and abetting, attempt or conspiracy does not comply with this recommendation”.

Scope of the offence

Terrorist financing is a predicate offence for money laundering. The offence extends to cases where the terrorism aim is directed against a foreign country. However, the law is not explicit as to whether the offence applies to persons located outside the country who are financing terrorist organizations located inside the country or aiming at committing terrorist acts inside the country.

Terrorist financing is an offence which implies a knowledge element, which can be inferred from factual circumstances.

Liability of legal persons

Legal persons may be liable of the terrorist financing offence under Legislative Decree 231/01 but only administrative sanctions can be applied because liability of legal persons is not possible under Italian law. Administrative sanctions for legal persons under Article 9 range from fines to interdiction of exercise of the activity and/or removal of the licenses or authorizations. Interdiction sanctions are limited to a maximum of two years and fines are calculated by a complex system of quota. Upon conviction, an administrative entity could be sentenced up to 200 to 1,000 quotas. The judge establishes the amount of a quota, depending on the resources of the entity, between a minimum of € 258 and € 1,549. The total amount of fines for financing of terrorism can therefore be a minimum of € 5,260 and a maximum of € 1,549,000. This administrative liability system does not exclude the possibility to sue legal persons on the basis of their civil liability but it cannot be applied in concurrence with supervisory sanctions. No prosecution against a legal person has been carried out since the

<p>inclusion of terrorism financing in the ambit of the law on administrative liability of legal persons. Sanctions include the possibility of definitive interdiction, when legal entities have been created for the only purpose of financing terrorism (Article 16.3 of Legislative Decree 231/01).</p> <p><i>Effectiveness of enforcement</i></p> <p>Statistics on the prosecution of offences under Article 270 <i>bis</i> (which includes, but has a broader scope than, terrorism financing itself) show a limited enforcement of the offence. Between 2000 and 2004, 29 convictions for this offence were pronounced by courts. There is no indication as to the number of successful prosecutions for terrorism financing only within these figures. A law adopted on July 31, 2005 extended the range of terrorist actions criminalized by introducing two new offences; enlisting (Article 270-quarter) and training (270-quinquies) for ends of terrorism. Such law also includes the definition of “actions with ends of terrorism” (Article 270-sexies) and strengthens investigative powers in terrorism matters with a view to improve the rate of prosecutions and convictions in this field.</p>		
<p>Recommendations and comments</p> <p>The definition of the offence should be made consistent with that provided by the 1999 convention. Alternatively, there should be a definition of the concept of “financing”, including with regard to the type of funds and assets which can serve the purpose of financing terrorism; This definition should include the financing of “individual” terrorists and not be limited to the financing of terrorist associations; More deterrent sanctions should be provided in the framework of administrative liability of legal persons.</p>		
<p>Compliance with FATF Recommendations</p>		
<p>SR.II</p>	<p>Largely compliant</p>	<p>Terrorism financing should extend to individual acts; financing should be defined in the penal code.</p>
<p><i>Confiscation, freezing and seizing of proceeds of crime (R.3)</i></p>		
<p>Description and analysis</p> <p><i>Confiscation</i></p> <p>Italian Law provides for a very comprehensive and far-reaching confiscation framework which is based on a threefold approach:</p> <ol style="list-style-type: none"> 1) a traditional conviction based confiscation of assets derived from the offence; 2) a system of confiscation based on the alleviation of the burden of proof for convicted persons who cannot justify the origin of their assets; and 3) a preventive system of confiscation for assets in possession of persons belonging to mafia-type organizations. <ol style="list-style-type: none"> 1) Article 240 of the Penal Code provides for the confiscation of assets used or intended for use for the commission of an offence, or which constitute the proceeds or the profit of the crime. This confiscation is at the discretion of the judge who convicts the offender but it is mandatory when the assets are the “price” of the offence (meaning the price paid by a third party to commit the offence), or the production, the use, the transport, the possession or the transfer of which constitute an offence. In the latter case, confiscation is possible even in the absence of a conviction. Under Article 240, only assets directly derived from the offence may be subject to confiscation but according to the authorities, despite the wording, the confiscation of assets which would be the indirect proceeds of crime would be possible. Confiscation cannot be ordered if the assets belong to persons who are not involved in the commission of the offence. 2) Article 12 <i>sexties</i> of Law 356/92 of August 7, 1992 (Legislative Decree of June 8, 1992) provides for another type of confiscation, which alleviates the burden of proof with respect to certain offences (drug offences, organized crime, money laundering). Article 12 <i>sexties</i> states that when a person is convicted of any of these offences, the confiscation of money, properties or other assets held by the person is mandatory if the offender cannot explain the source of these assets and the assets are not commensurate with his income or economic activity. In this case, it is not necessary to prove that the assets are 		

derived, directly or indirectly from an offence; assets indirectly derived from such illicit proceeds or even other kinds of assets (except when they belong to third parties) could be forfeited if the convicted person cannot justify their origin. Assets seized and confiscated are managed in accordance with Law 109/96 modifying Law No. 575 of May 31, 1965.

- 3) Outside the specific case of criminal proceedings, two laws of 27 December 1956 (1423/56) and 31 May 1965 (575/65) provide for the preventive seizure and confiscation of assets in possession of persons suspected of belonging to a mafia-type organization. The confiscation is authorized by the President of the Court, at the request of the Prosecutor, the *Questore*, or the Director of the DIA, who have the possibility to order a temporary preventive seizure for five days before getting Court authorization. The legal basis for such a measure does not relate to a conviction or other investigation but to the mere threat that this person or the assets may pose to public security when the amount of assets are not commensurate with the income or the economic activity of the person. The measure may be reversed if evidence is brought that the assets have a licit origin.

It is worth noting that the draft law of ratification of the Palermo Convention proposes to streamline the legal framework in relation to confiscation. In particular, a new version of Article 240 of the Penal Code would make mandatory the confiscation of assets which are the proceeds, the profit or the “price” of the offence, and would allow for the confiscation in equivalent nature. Another provision (Article 10 of the draft law) would allow the prosecutor to continue to investigate to trace and identify criminal assets until the date of the conviction before the judge.

Freezing and seizing of assets; management of seized asset.

The seizure of assets prior to confiscation can be ordered at any moment during the investigation process in two cases, according to Article 253, 254, and 255 of the Penal Procedure Code: 1) when it is necessary to prevent the commission of an offence – or its continuation- or when they are subject to confiscation (preventive seizure); 2) when the assets can serve as evidence in the investigation (probatory seizure). Such seizure can be executed without prior notice to the party concerned. There is no central agency in charge of the management of seized assets. According to some officials met during the mission, such an agency was created in 1999 to deal with the management of seized assets under the anti-mafia legislation, but was discontinued in 2002 for budgetary reasons. The mission could not find further information about this Office of Management of Seized and Confiscated Assets. A draft law is currently being considered to establish the *Agenzia del Demanio* as the body for the management of terrorist assets only. At present, the judge who orders the seizure can appoint an administrator to manage the assets. When confiscated, assets are devolved to the *Agenzia del Demanio*.

Adequacy of legal powers to identify and seize assets

The Code of Penal Procedure gives sufficient powers to the Police and the Prosecutors to trace and identify assets in the course of criminal investigations. In particular, Law 172/92 allows for the controlled delivery of funds suspected to be linked with a money laundering operation. With regard to the FIU, the identification powers are exercised within the framework of the analysis of an STR. The UIC, on reception of an STR, can access financial institutions’ databases as well as the Tax Register. It does not have access to law enforcement information, except when the basis for action is a request by a foreign FIU.

In the case of financing of terrorism investigations, Decree Law No. 374 of October 18, 2001 provides for a number of powers for law enforcement agencies to identify and trace assets, including the possibility to conduct undercover investigations (Article 4) and wire-tapping (Article 5).

Provisions to counter disposal of assets subject to confiscation

Provisions to render void dealings, transfer or disposal of assets are provided for but only in the context of financing of terrorism by Article 2.1 of Decree Law No.369/2001 of October 12, 2001, enacted as Law No.431/2001 (Decree Law 369/2001). Such provision has not been extended to AML.

<p><i>Effectiveness of enforcement</i></p> <p>Statistics on confiscation of assets in relation to money laundering provided for by the authorities show a high level of enforcement of confiscation measures:</p> <p>Money laundering—Forfeited Assets</p> <table border="1"> <thead> <tr> <th>1999</th> <th>2000</th> <th>2001</th> <th>2002</th> <th>2003</th> <th>2004(*)</th> </tr> </thead> <tbody> <tr> <td>32,955,728.48</td> <td>235,611,435.55</td> <td>88,451,268.63</td> <td>56,408,977</td> <td>112,030,844</td> <td>134,594,923</td> </tr> </tbody> </table> <p>* last update: October 2004</p>			1999	2000	2001	2002	2003	2004(*)	32,955,728.48	235,611,435.55	88,451,268.63	56,408,977	112,030,844	134,594,923
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32,955,728.48	235,611,435.55	88,451,268.63	56,408,977	112,030,844	134,594,923									
<p>Recommendations and comments</p> <p>It is recommended to give a broad definition of assets subject to confiscation that would include proceeds indirectly derived from the offence or assets intermingled with criminal proceeds. A system of confiscation of assets of equivalent value should be considered (as currently proposed in the draft law on the ratification of the Palermo Convention). The law should allow for the confiscation of assets, regardless of whether it is held or owned by a criminal defendant or by a third party;</p> <p>Authorities could consider extending the power to manage seized assets proposed by the draft law on terrorism financing to cases of assets seized in the course of an AML investigation. An agency to manage and dispose seized and confiscated assets for AML as well as for CFT would strengthen the efficiency of the seizure and confiscation measures, as it is the case in a number of other countries;</p> <p>The power to void transactions or dealings on assets belonging to persons listed on terrorism financing lists should be extended to persons against whom an AML investigation is conducted.</p>														
<p>Compliance with FATF Recommendations</p> <table border="1"> <tr> <td>R.3</td> <td>Largely compliant</td> <td>Voiding transactions should be extended to AML cases; the definition of assets should be broadened. No system of confiscation of assets of corresponding value. Confiscation of assets held by third parties is not possible.</td> </tr> </table>			R.3	Largely compliant	Voiding transactions should be extended to AML cases; the definition of assets should be broadened. No system of confiscation of assets of corresponding value. Confiscation of assets held by third parties is not possible.									
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<p><i>Freezing of funds used for terrorist financing (SR.III)</i></p>														
<p>Description and analysis</p> <p><i>Financial Security Committee</i></p> <p>Following September 11, 2001, Italy established a Financial Security Committee (FSC) by Decree Law No. 369/2001. The FSC:</p> <ul style="list-style-type: none"> – co-ordinates the action of the authorities involved in the fight against terrorism financing; – decides of the names of suspected terrorists to be submitted to the EU and the UN, collecting also all necessary information to update the lists; – acts upon requests by owners of frozen assets to use frozen funds “for fundamental human needs” (basic expenses, payment of certain types of fees, expenses and service charges or for extraordinary expenses); and – sets up relationships with foreign correspondent units, in order also to co-ordinate the freezing mechanisms with other jurisdictions. <p>The FSC is chaired by the Director General of the Treasury and includes representatives of the following ministries, agencies and law-enforcement bodies: the MEF, the MFA, the MHA, the Ministry of Justice (MoJ), the BoI, the UIC, the Consob, the GdF, the <i>Carabinieri</i>, the National Anti-Mafia Directorate (DNA) as well as the Anti-Mafia Investigative Directorate (DIA).</p> <p>The FSC does not have the power to defreeze or delist persons concerned by any of these decisions, which is incumbent with the UN relevant Committee. However, the FSC can, at the request of a person concerned, decide to release some of the frozen funds for humanitarian reasons or for the purpose of day-to-day management</p>														

reasons and basic expenses. It can also propose to the UN Security Council the delisting when appropriate.

Implementation of UN resolutions

Italy being a member of the European Union the framework for implementation of the UN resolutions on the financing of terrorism has been devised by EC regulation 881/2002 of May 27, 2002 with regard to the implementation of United Nations Security Council Resolutions 1267 (1999), 1333 (2000), 1390 (2002) and 1455(2003) by the position 931/2001 and EC regulation 2580/2001 or the implementation of UN Security Council resolution 1373.

EC regulation 881 states that all funds and economic resources belonging to, or owned or held by a natural or legal person, group or entity designated by the Sanctions Committee and listed in annex of the regulation shall be frozen. According to general European law principles, European regulations are immediately effective in European national systems without the need for domestic implementing legislation. Controlled institutions are therefore required to directly implement this regulation and, as new names are published on the subsequent lists, financial institutions which identify a customer whose name is on the list should immediately freeze the account. Funds can be notified without prior notification to the persons concerned. Upon freezing, financial institutions should notify the UIC through a simple communication and not through an STR.² On November 9, 2001, the UIC issued an instruction for the implementation of Decree Law No. 369 requiring banks and financial institutions:

- 1) to notify any measure adopted to freeze funds;
- 2) to report any operation or relation which, according to information available, is traceable to listed individuals or entities; and
- 3) to promptly notify the UIC of any operation and relation connected to the financing of terrorism, in order to be able to suspend those activities if necessary.

There is no direct notification procedure for banks and financial institutions to receive updates to the lists but the updated lists are made available on UIC's website. Guidance has been provided to banks on freezing procedures by an internal regulation of the FSC dated February 14, 2002, which gives comprehensive instructions as to the procedures to request exceptions to freezing rules for humanitarian reasons. It also details the procedure to add names of suspected terrorists and to communicate this list to the United Nations. The UIC also provided guidance to the industry in 2001 on procedures to identify subjects to whom to apply freezing and reporting measures in implementation of Decree Law No. 369. Decisions on the freezing of assets taken on the basis of the EC Regulations can be challenged before the European Courts. Decisions taken by the FSC can be appealed before an administrative Court. There is no procedure for protecting the rights of bona fide third parties, apart from the case where assets would have been frozen which belong to an homonym of the person listed.

UNSCR 1373 is implemented through EU common position 2001/391/CSFP and EC Regulation 2580/2001. However, the provisions of EC Regulation 2580 apply only for non-EU citizens. For listed persons/entities from within the EU ("domestic terrorists"), the EC regulation for freezing is not applicable. However, Law No. 152 of 22 May 1975 (Article 18) extended the power of preventive seizure and confiscation of mafia assets established by Law 575/65 of 31 May 1965 to persons suspected of terrorism and therefore allows for confiscation to be ordered outside criminal proceedings. This legal provisions were extended to international terrorists by Law No. 374 of 18 October 2001. Under this mechanism, all assets in possession of a person suspected of terrorism or nominees or family members can be seized by order of the Prosecutor or the Questore. Assets are not released as long as evidence is not provided that they have a licit origin and are definitively forfeited within one year (see no.3, box on confiscation, freezing and seizing of proceeds of crime). The existing framework as well as the

² There is no requirement under the law for reporting entities to report transactions suspected of being related to the financing of terrorism, but instructions have been given to banks by the way of circulars of the BoI to report such cases.

internal judicial cooperation within the European Union provide a sufficient framework to give effect to Resolution 1373, as UNSCR 1267 (and subsequent Resolutions). Relevant European Regulations do not provide for a national autonomous decision of de-listing and unfreezing as a whole. The release of frozen funds can be granted only if specific requirements are met, such as the fulfillment of humanitarian needs or the payments of legal expenses. For such decisions the FSC is the competent authority.

In the application of the above-mentioned measures, according to the latest data updated on 20 December 2004, 57 accounts have been frozen belonging to 55 persons, totaling €440.548,79 under UN Resolutions/EU Regulations relating to terrorist financing. A number of lawsuits have been filed by owners of frozen assets before civil courts. All the cases submitted have been dismissed because civil courts consider they have no jurisdiction. Authorities report that several cases were filed and are pending before the European Courts.

In case of violation of the obligations set out as mentioned above, administrative sanctions can be applied in accordance with Article 2 of Law Decree 369/2001. There is no follow up mechanism to turn freezing measures into confiscation or to repeal freezing measures, absent a separate criminal prosecution, because of the lack of such follow up measures in the framework of the UN resolutions.

Scope of freezing decisions and measures to prevent the disposition of assets

The freezing system as established by the EU regulations is *de facto* only implemented with regard to financial assets although one case was reported of the freezing of a hotel. Italy is considering additional measures to enable the identification and freezing and the management of other type of assets. It is also considering the adoption of a new law which would confer on the *Agenzia del Demanio*, the public institution in charge of public property, the power to manage frozen assets other than bank or financial accounts. Under this new law which would also redefine the powers of the Financial Security Committee, anybody who holds any property belonging to a person listed should freeze the asset and immediately report it to the UIC. The *Agenzia Del Demanio* would be in charge of the management and conservation of the assets until they are released and would designate an administrator to manage the property.

Article 2 of Decree Law No. 369 renders void any act taken in violation of the freezing of assets resulting from the addition of a person on a EC regulation list to transfer or dispose of the property or assets frozen.

Pre-notification system

A pre-notification system has been agreed among G7 and recently G20 countries and the European Union to guarantee that simultaneous actions can be taken by States in order to freeze terrorists' assets. Names are confidentially circulated among States and notified by the UIC to banks and other financial institutions. If needed, the UIC orders the bank to temporarily suspend the transactions. Extension of this measure can be granted by judicial order to block the transaction for a longer period. When the names are placed in the UN consolidated list and subsequently in Regulation 881, banks freeze the accounts in application of the EC regulation.

Italy has notified to the UN "1267 Committee", on 6 occasions, up to 67 names of suspected terrorists and 15 entities which were subsequently listed by the United Nations.

Recommendations and comments

Authorities should institute a notification system to inform banks of list updates, enhance the monitoring mechanism to check the even implementation of freezing measures and effectively apply sanctions to financial and nonfinancial sectors in case of violation of the EC regulations and guidelines;

Procedures should be instituted to protect the rights of *bona fide* third parties;

Authorities are encouraged to adopt the measures detailed in the draft law addressing the issue of freezing assets other than bank accounts. This draft could also include some provisions to institute the procedures mentioned above.

Compliance with FATF Recommendations		
SR.III	Largely compliant	Rights of <i>bona fide</i> parties should be protected; mechanisms to freeze assets other than bank accounts should be improved.
<i>The Financial Intelligence Unit and its functions (R.26, 30 & 32)</i>		
Description and analysis		
<p><i>Structure and functions</i></p> <p>Article 151, para. 1, of Law 388 of 23 December 2000 expressly established the FIU for Italy within the <i>Ufficio Italiano dei Cambi</i> (UIC). The UIC is an instrumental entity of the BoI, chaired by the Governor of the BoI and governed by a five- person board of Bank officials appointed by the Governor. The UIC had been charged with anti-money laundering compliance responsibilities since at least 1991 but only in 1997 did it receive exclusive responsibility for receiving, analyzing and disseminating STR disclosures. Decree Law 369 of 2001, amended by Decree Law No. 12/2002, has extended the mandate of the UIC to terrorism financing offences. However, financial institutions are not required by law to report suspicious transactions in relation to the financing of terrorism. Article 3.1. of the AML Law limits the disclosure obligation to “money, assets and benefits [which] may derive from one of the crimes indicated in Article 648 <i>bis</i> and 648 <i>ter</i> [money laundering]” The UIC, as a unit of the BoI, has career staff selected by examination of qualified candidates, with promotion based on examinations and performance evaluations. By law, it enjoys substantial independence as a unit of the BoI, which has considerable political autonomy. The UIC is subject to only general policy guidance from the MEF.</p> <p>The UIC has approximately 500 personnel. The AML Department (<i>Servizio Anti-Riciclaggio</i>), with 109 personnel, is divided into seven divisions: Suspicious Transactions, International Cooperation, Regulatory, Money Laundering and Usury Statistics, Loan Brokers and Non-Financial Operators, Financial Intermediaries, and Litigation. It is supported by the Information Technology Department for computer resources and the Legal Department. It receives, analyzes and disseminates all STRs. The Suspicious Transactions Division has a staff of 23 of whom 16 are analysts. STRs in relation to terrorism financing are analyzed and disseminated by the International Cooperation Division of seven persons, five of whom are analysts. It also handles matters relating to UN sanctions lists and is in contact with other FIUs and with prosecutors, seeking information preparatory to an international rogatory letter. Since 2002, a separate Inspectorate Department of 35 persons examines financial intermediaries for AML compliance, including CFT measures. The Office’s structure seems adequate but could be further strengthened by placing more human resources in the analysis function, to allow the most effective performance of its functions. The work product appears to be and was uniformly described as being of high professional quality, as was that of the personnel.</p> <p><i>Analysis of STRs and trends</i></p> <p>The UIC has access to public and commercial databases such as the Companies’ Register held by Union Camere and Dun & Bradstreet.</p> <p>The UIC devotes considerable attention and resources to elaborate statistics and analyses on the basis of STR disclosures as well as aggregate data reported by reporting entities. Detailed information was provided on the total number of STRs, the number referring to financing of terrorism, the number forwarded to law enforcement, the distribution by region, by reporting entities and by type of transaction, the number of natural and legal persons involved and the types of transactions reported. The UIC also provided statistics and analyses about the hypothetical unlawful activity assigned to a sampling of STRs forwarded to law enforcement with the most common hypothesis being tax evasion (14.4 percent) followed by loan sharking, fraud and money laundering, all around 5 to 6 percent.</p> <p>The UIC feels that it does not have access to sufficient judicial information to determine the actual percentage of STRs that actually exposed a criminal activity, or the respective percentages of types of crime. The UIC hypotheses of criminal activity are based only upon information from the STRs and initial feedback from the law enforcement agencies to which the UIC disseminates almost the entire universe of STRs received. These two police agencies, the <i>Direzione Investigativa Anti-Mafia</i> (DIA) and the <i>Nucleo Speciale di Polizia Valutaria</i></p>		

(NSPV) of the GdF provide negative feedback when an STR is not of investigative interest, which is communicated by the UIC to the reporting entity, and the police agencies also provide some general information about the types of offences identified in the STRs investigated.

By law, all financial intermediaries are required to maintain a single computerized and standardized database (*Archivio Unico Informatico*, AUI) which contains substantial information on all transactions over €12,500 or its equivalent. A code is provided for each type of transaction and data is captured about the maker of the transaction, any representative or principal involved, the counterpart for wire transfers, the institution and branch involved, and other transaction details. Authorized financial institutions, including banks, insurance companies and investment firms, as well as other categories of intermediaries entitled to perform transactions over a €12,500 threshold in cash or bearer securities, are required to aggregate this information monthly and report it in a uniform format to the UIC. The aggregated data, averaging three million records for 27 million transactions monthly, is analyzed on a quantitative basis to identify money-flow patterns. Authority to request data on the underlying transactions for analytical purposes, even without an STR having been filed, has existed for ML since the 1997 AML Law and was extended to CFT by Decree Law 56 of 2004.

Dissemination of STRs

The number of STRs varies between 5000 to 6500 yearly since 2001. Nearly all of them are forwarded to both law enforcement agencies (DIA and NSVP) for investigative follow-up. For example, in 2001, 5936 STRs were sent to the UIC, 545 of which appeared to be related to terrorism financing and 5784 were forwarded to law enforcement, including some backlogged reports. Since, according to Article 3.4.f of the AML Law as amended by Article 151.2a of Law 388 of 2000, the UIC can close an STR as irrelevant but is still required to inform the reporting entity and both law enforcement agencies for information purposes, which has been done in about 270 cases since the effective date of the law. The UIC estimates that only about 5 percent of STRs disseminated do not result in some further investigation. If this is factually true, it actually appears that the law enforcement agencies carry out a second screening of the STR against their own databases but do not open a criminal investigation.

Statistics for 2004: follow up to STRs

Year	STR received	Linked to terrorism financing	Linked to money laundering	Forwarded to DIA and GdF	Number of criminal investig. opened	Number of prosecutions based on STRs
2004	6,816	288	6,528	7,133	328	103

The existing practice of forwarding essentially all STRs received by the UIC for review by law enforcement agencies, namely the DIA and the GdF, should be reconsidered by the authorities. Unlike in most other countries³, the Italian FIU is required by law to forward all STRs to law enforcement agencies after the analysis activity. It adds information to the report before sending it to the law enforcement agency, but does not sort out between those STRs for which suspicion can be substantiated, to be forwarded for investigation, and those which reflect more a mere financial anomaly and which could be filed after analysis without further action. Such authority is conferred to the UIC by Law No 3888 of 23 December 2000, allowing the UIC to file nonrelevant reports, but is rarely used in practice. This filtering would allow focused feedback to the reporting institutions, might reduce the number of nonrelevant reports submitted and improve their quality. It would also allow the law enforcement agencies to focus their attention on really suspicious cases. The *Servizio anti-riciclaggio* could make use of its impressive analytical capability and its technological base to serve this filtering function, in particular by broadening its sources of information and intelligence. Failing to do so, the effectiveness of the FIU

³ Except when the FIU is a police-type FIU, in which case there is no filtering function.

function may be hampered.

Access to law enforcement information

The UIC has no access to law enforcement information except with regard to criminal records and in the case of foreign FIU requests for information, in which event the UIC is the contact point to assemble and transmit all appropriate information to the requesting counterpart. The UIC cooperates on an ongoing basis with law enforcement counterparts (DIA and the NSPV of the GdF). However, this cooperation does not help the UIC in undertaking substantial screening, until an analysis by the law enforcement agencies. The UIC does not consider this access as necessary since almost all STRs will eventually be analyzed by the law enforcement agencies which will check them against their own database and can file them in cases where the investigative outcome is not relevant. Also, it was suggested that a financial analysis could be more objective if it did not take into account subjective information about the criminal history or associations of a person involved in a transaction. Nevertheless, the existence of the two levels of analysis and the associated costs seems evident under present practice and is consequence of the legal framework since law enforcement agencies, on reception of STRs, proceed to a second analysis based on their own databases and intelligence before opening an investigation.

Guidance and reports

The UIC does not currently issue a published report on its activities on a periodic basis. Instead, it provides a yearly report to the MEF which is often incorporated into the Minister's annual public report. The UIC has statutory power to make reports to the MEF, to Parliamentary Committees and to the National Anti-Mafia Prosecutor on measures it deems appropriate. Confidentiality provisions apply to the content and to the identity of the person originating an STR.

Guidance is provided to reporting entities but in a rather limited manner (see below, "Suspicious transactions Reporting and Other Reporting").

Operational independence

Since the early 1990s Italy has had a number of highly publicized prosecutions for political corruption offences which involved money laundering, but UIC officials indicated that since receiving responsibility for money laundering matters, the office has never been subject to political interference. The place of the UIC within the historically independent BoI along with its governance structure served to insulate from undue influence. In fact, as a measure of the UIC's effectiveness, the *Ufficio* indicates that its personnel are increasingly being called upon by judicial authorities to lend expertise in financial inquiries.

The UIC has done no specific analysis on the money laundering aspect of politically exposed persons, foreign or domestic. However, a study has been made of aggregate financial flows to so-called off-shore institutions. When significant anomalies are identified, the UIC has authority under Article 8, Paragraph 6 of Decree Law 56 of 2004 to request detailed individual transaction information for analytical purposes from an institution's database (AUI), and has done so.

Review of effectiveness

Financial institutions with which the evaluation team met indicated they had excellent cooperation with the UIC. The statistical databases collected and maintained by UIC appear to be useful and sophisticated. However, at the time of the mission, no statistics existed about the ultimate prosecutorial output of the STRs. It seems to be a very small percentage of reports submitted. An evaluation and ideally an ongoing evaluation process that would identify the ultimate prosecutorial utility of the STR process and the value added by the UIC financial analysis would appear to be a desirable measure of STR quality and source of useful feedback to submitters, although the UIC would require the assistance of others to assemble that information.

Authorities reported that statistics of STRs increased by 32 percent from 2003 to 2004, described as signaling a remarkable commitment of Italian financial intermediaries in the fight against money laundering. It was also noted that the feedback to the UIC resulted in the estimate that over 10 percent of STRs related to cases under investigation by law enforcement and judicial authorities.

Recommendations and comments		
<p>The <i>Servizio anti-riciclaggio</i> of the UIC should improve its filtering function and send to police authorities only those STRs where suspicion can be substantiated;</p> <p>To achieve this objective, it is recommended that the UIC be granted access to law enforcement information during the analysis process so that it can perform a more effective screening function. Furthermore, it is recommended that more human resources be placed for the analysis function of STRs;</p> <p>It would appear that a system-wide evaluation of the quality of STRs, which would require the cooperation of the UIC, of the recipient police services, and possibly of the judiciary and Ministry of Justice, would be appropriate. Similarly, it would be useful to undertake a further evaluation of the effectiveness of the analysis work done by the UIC.</p>		
Compliance with FATF Recommendations		
R.26	Largely Compliant	The effectiveness of the FIU system may be hampered by insufficient filtering of STRs; access to law enforcement information should be enabled; guidance and positive feed back is not provided to financial institutions; public reports are not made available to provide guidance on trends and typologies.
R.30	Largely Compliant	While the FIU is adequately staffed, a greater share of its human resources should be placed in the analysis function
R.32	Largely Compliant	Review the effectiveness of the reporting mechanism
<i>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)</i>		
Description and analysis		
<p><i>Structure of law enforcement bodies</i></p> <p>While all municipal districts maintain local police for traffic and other minor public order functions, competence to investigate crimes is referred primarily to members of three <i>national police agencies, the Polizia di Stato, the military Carabinieri and the Guardia di Finanza (GdF)</i>. These three agencies exercise both public security and investigative functions. The <i>Polizia di Stato</i> concentrates its public security activities primarily in major metropolitan areas. The <i>Carabinieri</i> Corps, which is a military organized Police Force with an overall competence on law enforcement activities all over the national territory, is at the same time a law enforcement body and an Armed Force. The GdF is a law enforcement body with general competences, specialized in the prevention and repression of economic and financial crimes, also cooperating to public order and security services. The Anti-Mafia Investigative Directorate (DIA) is a specific branch of the Department of Public Security within the MHA whose members are drawn from all three services and whose leadership rotates among them. The police authorities are career services with long traditions of independence and operate under judicial direction when carrying out investigations of specific ML and FT offences. All of the law enforcement agencies exhibit professional standards of selection, training and skills.</p> <p>Judicial investigations focused on specific criminal conduct are distinguished from preventive investigations intended to discover possible criminal activity. Preventive investigations are conducted under the authority of the MHA (<i>Polizia di Stato</i>), the Ministry of Defense (<i>Carabinieri</i>), and the MEF (GdF). In the performance of their preventive investigative functions any of the three police agencies and the DIA may encounter information relating to money laundering and financing of terrorism offences.</p> <p>Once having received information that appears to reveal the elements of a criminal offence and not merely the suspicion of a crime, the police agencies are required by law to report that information to the prosecutor competent for that geographic area. After entering the notice of this criminal offence in a register, prosecutors, in their capacity as magistrates within the judiciary, can begin a judicial investigative proceeding. They have the legal power to direct any of the police agencies to serve as judicial police in the conduct of investigations within</p>		

their respective legal competences.

Under Law No. 197 of 5 July 1991, as amended, the UIC forwards STRs to two police units, the inter-force DIA and the NSPV of the GdF. The DIA has a total complement of approximately 1500 personnel, with a staff of 21 performing initial screening of STRs, almost all of whom are experienced officers in financial and economic crimes. The NSPV has a total staff of approximately 400 personnel, 40 of whom are dedicated to the initial analysis of STRs. By a protocol between the two entities, the DIA has primary responsibility for processing STRs involving persons already in its organized crime database but it informs the NSPV of the closing of any such inquiry. The NSPV has responsibility for the remaining reports not involving persons known to the DIA and for inspection of special credit institutions and brokers. The NSPV's powers were extended to the financing of terrorism by Law 431 of 14 December 2001 and by Decree Law No. 12 of 22 February 2002, converted into law with modifications by Law No 73 of 23 April 2002.

After receipt of an STR, the agencies check their own and various national databases, such as criminal history, residence, passport, tax and property ownership records, and determine whether further investigation is required. If such investigation is conducted, and if it results in evidence of criminal conduct, referral to a prosecutor is required. If the report is not considered worthy of further inquiry, the law requires that the UIC be notified and that it inform the reporting source. If an investigative agency finds information indicating a possible connection with criminal organizations, the National Anti-Mafia Directorate is notified.

This prosecutorial office coordinates the work of the District Anti-Mafia Directorates (DDA), which are specialized units operating as part of the various independent prosecutorial offices throughout the country. The prosecution authorities are constitutionally independent magistrates forming a branch of the judiciary, although there is current controversy over proposed legislation to require a separation between the careers of prosecutors and judges. The UIC has provided training to prosecutors on its tools for downloading and analyzing data pertinent to a judicial inquiry from financial institutions. The *Consiglio Superiore della Magistratura* and the Ministry of Justice provide training on evidence in financial crimes for both prosecutors and judges.

The DIA, NSPV and the prosecution authorities have clearly defined roles and legal competences for ML and FT offences. The law of 15 December 2001, No. 438 confirming the Decree Law of 18 October 2001, No. 374, created the offence of association for the purpose of terrorism and extended the authorization for use of undercover operations, controlled deliveries and false identities both by members of the judicial police and by persons assisting them. Notice to judicial authorities is required as well as authorization at the command level of the respective police agency. Electronic surveillance was also authorized by law for these offences. Interceptions in a judicial inquiry for evidentiary purposes require authorization by a judge. Preventive interceptions can be authorized by a prosecutor but may not be used as evidence. The authorization by law in 1990 of undercover operations and controlled deliveries also included the power to continue an investigation and postpone overt action for purposes of evidence gathering and identification of additional participants.

Investigative powers

(R. 28). The DIA (in organized crime cases) and the NSPV have the power to require production without judicial process of CDD and transaction records from registered financial institutions. All law enforcement agencies have the power as judicial police to execute court orders for search of persons and premises and to seize evidence and proceeds of crime. Under the Italian evidentiary system, statements made by a witness are generally only admissible as evidence in preliminary and trial proceedings if made or confirmed to a judicial authority, but statements to police and prosecutors can be used for investigative purposes. Italy has two national security agencies, one service which protects against external threats and one dealing with internal threats. These gather and analyze AML and CFT intelligence and share it with the police agencies, which are their liaison to Ministries and the judiciary.

Even prior to creation of the DIA in 1991, Italy's anti-Mafia strategy had focused on the proceeds of organized criminality. The NSPV also represents a specialized unit dealing primarily with ML and FT and concentrating heavily on the investigation, seizure, freezing and confiscation of the proceeds of crime. Among prosecutors, the DDA and DNA are dedicated to the repression of organized crime activity and pay a great deal of attention to

identifying, seizing and confiscating the proceeds of crime as well as to preventive seizures and forfeitures. No other investigative or prosecutorial units specifically dedicated to dealing with the proceeds of offences that do not involve organized crime or terrorism were reported. Successful investigations have been carried out with other countries involving the use of special investigative techniques, under appropriate safeguards and subject to *ex parte* judicial review during the covert phase of the investigation and to being contested in an adversary process at the trial phase. Legislation on repentants and witness protection programs complete the investigative framework available to law enforcement. This anti-mafia machinery has made the Italian law enforcement one of the most efficient and successful against organized crime phenomena.

Review of effectiveness; statistics

The UIC provides the MEF with periodic reports on its activity in order to permit it to carry out its responsibility of evaluating progress and results achieved, as well as to formulate proposals aimed at enhancing the effectiveness of AML/CFT controls. The Financial Security Committee and the Anti-Money Laundering Committee also contribute to this process. The legislative and regulatory need to respond to terrorist incidents, changing EU regulations, evolving international financial standards and developments under UN resolutions have also had the effect of requiring continuous updating since at least September 2001 and of providing *de facto* continuing education to the relevant authorities.

The GdF maintains statistics on the number of STRs received, on those that were classified as terrorism-related, on the number of persons reported to judicial authorities for terrorist offences and on the proposals to the Financial Security Committee for inclusion in UN and EU asset freezing lists. As of December 2004, the total amount of assets frozen in relation to the UN or EU lists was €440,549. The amount of assets seized by GdF in connection with investigations related to the financing of terrorism were €1,954,665, US\$6,883 dollars and £7,640. The MoJ and the investigative agencies appear to adequately compile all the data relating to prosecutions and convictions as well as to mutual legal assistance and extradition.

The GdF has received between 2000 and 2004 28,121 STRs for analysis. 12.5% of them were immediately filed, and 87.5% were further analyzed. In 2004, out of 7,118 STRs received, 880 (12%) cases of breach of the law were uncovered. 648 (9%) were related to administrative breaches of the AML Law, 145 (2%) to penal breaches of the AML Law and 37 cases (0.5%) were related to money laundering.

The DIA maintains statistics on the numbers of STRs received, those resulting in further development, and those referred to judicial authorities. Those statistics indicated that the DIA investigates about 3 to 5 percent of the STRs referred to it. Over a four year period 1 percent of those reports were transmitted to judicial authorities, but it is unknown how many of those referrals resulted in judicial inquiries or prosecutions. The DNA reports that during 2004 the DDA initiated proceedings, in this context meaning investigations, concerning 103 STRs out of a yearly range of 5,000 to 6,500 forwarded by the UIC.

The DIA conducted checks concerning 1225 reports out of 24,857 STRs received during a four-year period and 1943 checks out of 35,082 STRs over the period 1997 to 2004.

It is unknown what percentage of the total number of reports was examined or referred to prosecution authorities, unless the 2 percent corresponds approximately to prosecutorial referrals. If only 2 percent or less of STRs examined were considered worthy of forwarding to prosecutorial authorities, presumably some smaller number actually resulted in a criminal offence being charged. This is suggested by the DIA report of 243 STRs resulting in judicial proceedings, in context apparently referring to judicial investigations rather than charges, out of between 1225 reviewed. In fact, prosecutors in a major office indicated that in their experience with organized crime and terrorism cases, STRs did not constitute an important source of investigative leads and that most reports related to cases already under investigation. The statistics provided by the MoJ show that 1635 STRs, which in context appears to relate to a total of 35,608 for the period 1997-2004, or almost 5 percent, related to cases for which there were ongoing investigations prior to the filing of the STRs. It is also reported that 60-70 percent of the judicial proceedings on money laundering and associated crimes initiated as a result of investigations by the GdF resulted from STRs, which certainly would appear to be a pertinent indicator of value.

Effectiveness of enforcement of money laundering offences

It is fair to say that there is an effective enforcement of the money laundering offence in Italy, in comparison with other European countries. Between 2000 and 2004, a total of 13,697 judicial investigations for money laundering have been registered. Out of the total number of investigations closed, 3,445 were filed without trial, and 4,923 led to requests by the Prosecution office for submission to the Court, i.e. 59 percent of the cases. During the same period, 2903 cases led to conviction (an average of 580 per year) in addition to 74 convictions for violation of Article 648 *ter* (re-investment of criminal assets). These numbers must take into account the broad definition of the offence, which allows for example for the conviction for money laundering of car thieves who would change the identification numbers of the car. Authorities, during discussions with the mission, did not report any difficulty of interpretation of the definition of the offence by Courts but only evidence problems, which is common in money laundering prosecutions. Authorities should be commended for such a successful outcome in the fight against money laundering.

Effectiveness of enforcement of terrorism offences

Statistics on prosecution for violation of Article 270 *bis* show that 620 prosecutions have been initiated between 2000 and 2004; 243 cases were archived and 33 submitted to Court, which led to 29 convictions. These statistics refer to the broader offence of participation in a terrorist association, which includes, but is not limited to, the financing of terrorism.

Recommendations and comments

Authorities should review the effectiveness of law enforcement and prosecution strategies and action

Compliance with FATF Recommendations

R.27	Compliant	The recommendation is fully observed.
R.28	Compliant	The recommendation is fully observed.
R.30	Compliant	The recommendation is fully observed.
R.32	Largely compliant	Law enforcement and prosecution authorities should review periodically the effectiveness of AML/CFT systems

Cash couriers (SR.IX)

Description and analysis

Legislative Decree 125 of 30 April 1997 establishes a declaration obligation to the UIC for the physical transportation of cash, securities and other monetary instruments above €12,500 (or equivalent) from or to Italy, by residents or nonresidents. Transfers by means of postal parcels should also be declared.

The declaration must indicate: a) the complete identifying particulars and details of the identity document of the declarant as well as his tax number in the case of a resident; b) the complete identifying particulars of the person, if any, on whose behalf the transfer is carried out and his tax number in the case of a resident; c) the amount of cash, instruments or securities involved in the transfer; d) if the transfer is from or to a foreign country; e) for residents, the details of the notification sent to the UIC for informational and statistical purposes; and f) the date.

Furthermore, Law 7/2000 (Article 1.2) has introduced an obligation to declare cross-border transfers of gold when the value is over €12,500.

Both the Customs Agency and the GdF are present on the borders. They both have law enforcement powers described below. Furthermore, the Polizia di Stato is also present and acts as the immigration police. All three have computer access to the UN, EU, and Schengen lists.

Customs Agency

The Customs Agency is among others responsible for controlling the transportation of cash and other instruments within the customs area. The Customs Agency has approximately 9600 staff. The staff has law enforcement powers and serves as tax and criminal police officers. These law enforcement powers include the power to request information and to restrain suspected evidence of illegal cross-border transportation when there is a suspicion of money laundering, terrorism financing or a false declaration. On authorization of the public prosecutor they will carry out criminal investigations.

Travelers carrying more than €12,500 have to submit a declaration form to the Customs Agency upon entering or leaving Italy; travelers that are residents of the EU can submit a report within 48 hours after arriving in or before leaving Italy with customs or the GdF. As for cash, securities and other instruments that are sent from and to another country by postal parcel, the declaration has to be submitted at a post office at the time of delivery or within 48 hours after receiving it. The Customs Agency forwards the declaration electronically to the UIC that is in charge of monitoring and analyzing these transactions. These forwarded reports are kept by the UIC.

The Agency focuses its investigations and controls mainly on nondeclared cash, and less on under-declared cash (although it will check if the declared amount is correct).

Data on seizures of currency by customs officials in the customs areas

Year	Number of omitted declarations	Seized amounts (€)
2001	509	13,762,249,319.16 *
2002	514	22,323,797.86
2003	497	25,409,504.55
2004	870	27,868,264.53

* this includes one report of €13,670,738,017.14 of securities, bonds and cash.

The Agency's anti-fraud office carries out risk analysis at local and central level to target actions. If Customs find a nondeclared amount over €12,500, they will seize 40 percent of the excess amount. After the report has been sent to the UIC, Customs will issue an administrative sanction of up to 40 percent of the nondeclared amount in excess of €12,500.

Customs uses its own information sources and that information shared with other law-enforcement bodies.

GdF

The GdF also has a role in detecting movements of cash and other values across the borders, mainly with the aim of preventing the use of this channel by criminal or terrorist organizations. The GdF focuses on illegal exports of currency. It has the same law enforcement powers as the Customs Agency (see above) and can exercise them outside the customs zone.

Data on illicit exports of currency and seizures by GdF

Year	Individuals / Violations	Seized amounts (€)
2001	195/195	9,228,953,644
2002	223/217	2,188,145
2003	202/200	169,528,626
2004	282/277	3,443,413

International cooperation is carried out by the Customs Agency, the GdF and the UIC (which receives the declarations) on the basis on international instruments and bilateral agreements (EU Regulation no. 515 of 13 March 1997 on mutual assistance between the administrative authorities of the Members States and cooperation between the latter and the Commission to ensure the application of the law on Customs; European Convention of 26 July 1995 on Customs Information System; WCO recommendation on mutual assistance in Customs Fields of 5 December 1953).

Recommendations and comments

Compliance with FATF Recommendations		
SR.IX	Compliant	The recommendation is fully observed.

Preventive Measures—Financial Institutions

<i>Risk of money laundering or terrorist financing</i>	
Description and analysis	
<p>Coverage under AML/CFT requirements is comprehensive (except for the DNFBP) and the authorities have not exempted any on the basis of risk. In some instances the sectoral coverage has gone beyond the standard (e.g., tax collection agencies) and forthcoming regulation will extend the requirements to the manufacturing, brokering and dealing in valuables, including export and import, custody and transport of cash, securities or other assets by means of security guards, dealing in antiques and the operation of auction houses or art galleries. The implementation of the EU Third Directive on Money Laundering will provide an opportunity to introduce the risk based approach.</p>	
<i>Customer due diligence, including enhanced or reduced measures (R.5 to 8)</i>	
Description and analysis	
<p><i>Intermediaries subject to CDD requirements:</i></p> <p>The basic AML/CFT framework is set out in the Decree Law 143 of 3 May 1991 “Urgent provisions to limit the use of cash and bearer instruments in transactions and prevent the use of the financial system for purposes of money laundering law”, generally referred to as Law 197/1991 (as a reference to the Law 197 of 5 July 1991 which ratified and amended the Law 143) or the AML Law.</p> <p>The identification (along with the record-keeping and suspicious transaction reporting) requirements as well as the intermediaries to which they apply are set out in the AML Law such as modified by the Ministerial Decree of 19 December 1991, the Legislative Decree 153 of 26 May 1997, Legislative Decree 374 of 1999⁴ and , in particular, Legislative Decree 56 of 20 February 2004 (Legislative Decree 56/2004).⁵ Article 2 of the AML Law (such as modified by Article 2 of Legislative Decree 56/2004) submits a wide range of intermediaries to the identification and record-keeping requirements but because further implementing regulation was still outstanding in respect to DNFBPs in both Legislative Decrees 374/1999 and 56/2004, these requirements were not mandatory at the time of the assessment for DNFBPs.</p> <p>At the time of the evaluation, the identification requirements applied to the following institutions:</p> <ul style="list-style-type: none"> • banks; • Poste Italiane S.p.a.; • E-Money Institutions; • investment firms (società di intermediazione mobiliare) -SIM; 	

⁴ “Extending the provisions on money laundering to financial activities especially susceptible to use for money laundering purposes”

⁵ “Implementation of Directive 2001/97/EC on the prevention of the use of the financial system for purposes of money laundering”

- individual and collective asset management firms (società di gestione del risparmio)- SGR;
- collective asset management firms (società di investimento a capitale variabile) -SICAV;
- insurance companies;
- stockbrokers;
- trust companies;
- tax collection companies;
- financial intermediaries entered in the register referred to in Article 107 of the banking law;
- financial intermediaries entered in the register referred to in Article 1066 of the banking law;
- persons operating in the financial sector entered in the sections of the register referred to in Articles 113 and 155, Paragraphs 4 and 5, of the banking law;
- external audit firms entered in the special register referred to in Article 161 of the consolidated law on finance;and
- the Italian branches of the persons referred to above whose head offices are inside a foreign country and the Italian branches of harmonized security investment fund management

Two legislative decrees should, when implemented, further extend the list of persons and entities that are subject to the AML/CFT measures:

1) Legislative Decree 374/1999 will extend the list to:

- credit collection on behalf of third parties;
- custody and transport of cash, securities or other assets by means of security guards;
- transport of cash, securities or other assets without the use of security guards;
- real estate brokering;
- dealing in antiques;
- operation of auction houses or art galleries;
- dealing in gold, including export and import, for industrial or investment purposes;
- manufacturing, brokering and dealing in valuables, including export and import;
- operation of casinos;
- manufacture of valuables by craft undertakings;
- loan brokering; and
- financial agencies referred to in Article 106 of Legislative Decree 385 of September 1, 1993 (hereinafter “1993 Banking Law”).

2) With the Legislative Decree 56/2004, it is intended to extend the list to accountants, auditors and labor advisers as well as to notaries and lawyers when, on behalf of and for their clients, they execute any financial or real estate transactions and when they assist in the planning or execution of transactions for their clients concerning the:

- transfer, with any title, of real property or business entities;
- managing of money, securities or other assets;
- opening and management of bank, saving or security accounts;
- organization of contributions necessary for the creation, operation or management of companies;
- creation, operation or management of trusts, companies or similar structures.

⁶ The three regulations deal with the implementation of the EU Directive 2001/97/CE in respect to the identification and registration requirements for AML purposes and will apply, respectively, the intermediaries listed under Article 3.2 of Legislative Decree 56/2004, the financial operators (*operatori finanziari*) listed under the same article and the lawyers, notaries, experts in commercial law (*commercialisti*), auditors (*revisori contabili*), labor consultants (*consulenti del lavoro*), accountants (*ragionieri*) and “commercial experts” (*periti commerciali*).

It is important to note that neither of these Legislative Decrees was in force at the time of the assessment because the necessary implementing measures called for in both decrees (Article 7, Paragraph 4, Legislative Decree 374/1999 and Article 8, Paragraphs 4 and 5 of Legislative Decree 56/2004) still had not been adopted. The implementation process was ongoing and the Ministry of Economy and Finance has drafted three regulations, which it hoped would be adopted later during 2005⁶.

Required CDD

Pursuant to Article 2.1 of the AML Law and the Ministerial Decree of December 19, 1991, any person who a) opens/changes/closes an account or saving deposit or another “continuing relationship”, or b) carries out a single transaction, or several transactions which appear to be linked, involving the transmission, handling or the transfer of means of payment or bearer instruments in an amount of €12,500 or more, whether the transaction is carried out in a single operation or in several operations that appear to be linked within an unspecified period of time (in practice, within five working days according to the Italian Banking Association’s guidelines) must be identified and must indicate in writing the complete identifying details of the person, if any, on whose behalf the transaction is carried out. However, there are no specific identification requirements with respect to occasional transactions that are wire transfers, such that the €12,500 identification threshold applies in these circumstances. There are no specific requirements to identify customers for whom exemptions from CDD exist or for occasional transactions below the €12,500 identification threshold, where there is a suspicion of money laundering or terrorist financing. The authorities stressed however that such a requirement nevertheless ensues from the obligation to file a suspicious transaction report where there is a suspicion of money laundering or terrorist financing. Other than the general obligation to identify customers, there are no specific requirements to identify customers where the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.

Identification must take place each time a transaction is executed, although exceptions exist as in the case of transactions carried out via an ATM. With respect to the opening of accounts, identification must take place in the physical presence of the customer or proxy, if the customer does not already hold another account with the financial institution or with another financial institution where the latter certifies this. Accounts may also be opened from abroad and identification conducted without the physical presence of the customer, provided that identification is conducted in one of three ways: (1) by a bank whose head office or branch is located in an FATF member country; (2) a branch of an Italian or FATF member country bank located in a country that is not a member of the FATF, provided that the head office certifies that the branch complies with the FATF standard; and (3) via consular authorities.

There are no specific provisions in the AML Law requiring that the identification and verification of identity be carried out on the basis of a reliable document. The AML Law only refers to the “identity document”. However, it does require the financial intermediaries to obtain and record in the AUI the fiscal code which is a tax identification number unique to each person and the Decree of the Ministry of the Treasury dated 7 July 1992 requires the financial intermediaries to indicate, in the AUI, on the basis of which document the identity of the customer was established. Some guidance has also been provided by the AML Committee: the latter issued an opinion available of the MEF’s website according to which, for natural persons, the identification should rely on government-issued photo identification documents such as the identity card, drivers license or other similar documents (*Parere* of the AML Committee No 65, of 11 November 1997 and *Comunicato* of MEF dated June 1997). But this is merely guidance, not a legal requirement. Another piece of legislation, the Presidential Decree 445/2000, sets out general provisions on administrative documentation. However, it is not directly applicable to the persons and entities covered by the AML Law and the AML Law does not impose a direct requirement to rely on the documents listed in the decree for the identification of customers. According to the authorities, financial intermediaries do rely in practice on official documents.

Similarly, there are no specific documentary requirements with respect to legal persons.

With respect to occasional transactions at or above €12,500 or the opening of an account or other

continuing relationship, intermediaries are required to collect and record the following identification data (Article 3 of the Ministerial Decree of 19 December 1991):

- the name, surname, place and date of birth, address and the details of an identification document shown by those who perform the transaction for themselves or third parties;
- in the case of a legal person, the name and registered office of the person on whose account the transaction is carried out or the account or other continuing relationship to be opened;
- the fiscal code of the person executing the transaction or opening the account or other continuing relationship and the fiscal code of the person for whose account the transaction is to be executed or account or other continuing relationship opened; and
- in the case of credit or payment orders, the above information regarding the person originating the order, the beneficiary and the intermediaries who carry out the operation.

With respect to the opening of an account or continuing relationship for legal persons, intermediaries are required to collect and record the same identification data with respect to at least one person authorized to conduct transactions on the account. However, there are no specific requirements in law or regulation to verify that the person purporting to act on behalf of the customer, that is a legal person, is so authorized. Moreover, there are no specific requirements to verify the legal status of the customer that is a legal person, such as obtaining proof of incorporation and provisions regulating the power to bind the customer.

In February 1993, the BoI issued “Operating Instructions for identifying suspicious transactions”, the so-called “Decalogo”, which is legally-binding on all reporting entities pursuant to Article -bis, p.4 of the AML Law. The Decalogo, which was updated in November 1994 and January 2001, instructs financial intermediaries to acquire a “thorough knowledge of the customer” to enable them to establish a risk profile of customer relationships and of how the accounts will be operated. It also calls on such entities to take account of the information on significant links among customers and between customers and other persons, including corporate group relations and links of a contractual, financial, commercial or other nature revealing the justification of transactions. Although not set out in law or regulation, the Decalogo also requires ongoing customer due diligence to ensure that transactions being conducted are consistent with the entities’ knowledge of the customer. Other than for transactions conducted at a distance (e.g., telephone and internet banking) and electronic money, there is no specific discretion allowed to or requirement for entities to adjust the level of customer due diligence to the level of risk associated with a particular type of customer, business relationship or transaction. Although not set out in law or regulation, the Decalogo requires financial institutions to obtain information on the purpose and intended nature of business relationships with their customers, to conduct ongoing due diligence and to establish and maintain customer profiles throughout the life of the relationship.

Article 2.1 of the AML Law sets out the requirement to identify, as well, any person on whose behalf the transaction is carried out. Moreover, the law requires that the person requesting execution of a transaction disclose if he/she is acting on behalf of another person. However, there are no specific requirements in law or regulation to take reasonable measures to understand the ownership and control structure of a customer that is a legal person or to determine who are the natural persons who ultimately own or control the customer. The authorities have indicated that this will be addressed in the future in an implementing regulation intended for the “*operatori finanziari*” and to the intermediaries listed under the Legislative Decree 56/2004. The regulation will provide that when the client is a company or entity (“*societa o un ente*”) or when the customer acts on behalf of a company or an entity, sufficient information must be collected in order to verify the existence of the power to represent and to single out the “*amministratori*” and the effective owners of the company or entity.

Although the Italian legislation does not specifically regulate legal arrangements such as trusts, in practice foreign trusts are handled by financial intermediaries in Italy. For example, trusts may be created in Italy under a foreign law, trust deeds and their signatures may be authenticated by Italian notaries, and Italian bank accounts may hold trust funds. There are however no specific requirements in respect of the identification of the settlor, trustee and beneficiaries of a foreign trust. The only reference made to trusts is in a circular issued by the Italian Banking Association, which provides that the banks should ask for the trust deed (but only the part concerning

the trustee's appointment and powers) and indicates that the name of the account must be either that of the trustee or that of the trust. But this does not constitute a legally binding identification requirement. The circular merely offers guidance to the members of the Association. Furthermore, this guidance is incomplete in respect of the standard, notably because it does not address the identification of the beneficiaries. The application by analogy of Article 2.1 of the AML Law would also prove insufficient in respect of the standard for the reasons mentioned in the previous paragraph.

Risk

Other than for telephone and internet banking, there are no specific provisions requiring enhanced due diligence for higher risk categories of customers, operations or transactions, nor are there provisions allowing simplified due diligence.

The legislation does, however, provide for exemptions from CDD requirements. Under Article 2 of the Ministerial Decree of 19 December 1991 CDD is not required in the following cases: (1) transactions and account relationships between financial institutions set out under Article 4 of the AML Law; (2) the transfer of funds within the state treasury and payments arranged by the public administration, through the State Treasury, with the exception of payment operations linked to the national debt; (3) the accounts, deposits and other continuing relationships between provincial sectors of State treasuries, the Bank of Italy and the UIC; and (4) account relationships and transactions between banks, other licensed intermediaries that have their head office or branch in Italy and banks or branches located abroad. In the case of the latter, the exemption applies regardless of whether the country where the banks and branches abroad are located effectively implement the FATF Recommendations.

Timing of identification and verification

Article 13.1, as amended by Article 2.1 of the AML Law, requires staff of reporting institutions to identify the customer but it does not set out a specific requirement with respect to the timing of the identification and verification of identity. The authorities have indicated that the AML Law should be interpreted as requiring identification and verification of identity prior to any transaction taking place. Moreover, the record-keeping obligation set out under Article 13.4, such as amended by Article 2.1 of the AML Law, suggests that identification and verification of identity need to be done within 30 days of the opening of an account or execution of a transaction since "the complete identifying particulars and the identity document of the person effecting the transaction, as well as complete identifying particulars of any person on whose behalf the transaction is carried out must be easily retrievable and always filed within thirty days in a single data bank". The three draft implementing regulations mentioned above specifically address the timing of the identification and verification of identity.

The above mentioned requirements are supplemented with detailed provisions applicable when opening a securities account with an investment firm. In particular, Article 28 of Consob's regulation no. 11522/1998 requires investment firms (and banks performing investment services) to have an in depth knowledge of the client in order to ensure the suitability of the service performed.

Failure to satisfactorily complete CDD

As a consequence of the requirement to maintain a single data base, the Archivio Unico Informatico (AUI), which itself requires obtaining and recording specific identification data, failure to obtain such data should preclude the execution of transactions (Art. 3 of Ministerial Decree 19 December 1991).

Unless it constitutes a more serious crime, the failure to identify and collect the necessary information is punished by a criminal sanction (a fine between €2,500 and €12,500; Article 13.7 as amended by Article 2.1 of the AML Law). The law also provides a criminal sanction (imprisonment of between six to 12 months and a fine of an amount between €500 and €5,000) for the customer who fails to indicate the person on whose behalf the transaction is made or who gives false information to the intermediaries (Article 13.8 such as amended by Article 2.1 of the AML Law).

The failure to set up the data bank is punished by criminal sanction of imprisonment for a period between 6 months and one year and a fine between €5,200 and €25,800 (Article 5.4 of the Decree Law 143/1991).

Existing customers

Pursuant to Article 13.4 such as modified under Article 2.1 of the AML Law, the identification data for accounts in existence prior to January 1, 1992 had to be duly filed in the single data base by December 31, 1992. The CDD requirements have changed little since then but further decrees have extended the deadline to complete CDD on existing customers.

Anonymous accounts/ accounts in fictitious names

Given the CDD requirements described above, anonymous and numbered accounts are not permitted. However, the legislation allows credit institutions and the post office to issue bearer passbook accounts, provided the balance is Euro 12 500 or less. These passbook accounts are not anonymous since CDD must be carried out on the customer upon issuance and on the bearer upon closure of such passbooks. According to banking association guidance, it is recommended that banks identify bearer account holders for each transaction carried out above €3,100 to enable them to detect structuring. The authorities also assert that according to a civil law principle of “professional due diligence”, financial institutions must identify their client regardless of threshold. However, the mission is aware that identification of bearer account holders is not systematically carried out under this principle. Such passbooks can also be transferred anonymously between these events without limitation. The authorities have indicated that all customers that have been issued bearer passbooks have either been identified or their accounts have been closed. Pursuant to Article 1 section 2 bis of the AML Law, such as modified by Article 6 section 2 of Legislative Decree 56/2004, bearer passbooks may not hold a balance of more than €12,500. Those that do should have the balances reduced to the threshold by January 31, 2005 (Article 6, Section 2 of Legislative Decree 56/2004), although the applicability of sanctions for infringements of such measure by individuals was postponed to the end of July 2005.

As of April, 2005, the number of bearer passbooks in circulation and outstanding balances are as follows:

	Number of passbooks in circulation	Outstanding balances below Euro 12 500	Outstanding balances above Euro 12 500	Total outstanding balances Euro
Bank issued	6,000,000	7,939,000,000	112,000,000	8,051,000,000
Post Office issued	600,000	547,830,834	5,592,871	553,423,705
Total	6,600,000	8,486,830,834	117,592,871	8,604,423,705

The authorities have indicated that the policy underlying bearer passbooks is no different than that for cash and should not be treated differently. However, the number and outstanding balances of such passbooks in circulation pose significant additional AML/CFT risks over cash. They may provide a convenient and portable store of value for criminal proceeds that can facilitate the movement of criminal proceeds within and across borders. The mission is not aware of any evidence of secondary market trading of such passbooks for criminal purposes and the authorities note that neither STRs nor border controls have so far detected such trading. However, their anonymous transferability poses a significant challenge for financial institutions to conduct ongoing due diligence throughout the life of the business relationship with the “customer”.

Politically exposed persons (PEPs)

There are no additional specific CDD requirements in respect of the identification of PEPs or procedures for account opening. Moreover, the financial intermediaries met did not appear to have addressed the issue of PEPs of their own volition.

Cross-border correspondent banking

There are no additional specific CDD requirements regarding measures to be taken by banks with respect to cross-border correspondent banking. In practice, some banks nevertheless appear to do more thorough checks on their correspondent banks.

Non face-to-face relationships and new technologies

The Decalogo of the Bank of Italy addresses in paragraph 3.4 the possibility of electronic money being used for money-laundering purposes and calls for specific precautions to be adopted both in defining the characteristics of the payment instrument and with regard to the procedures for its use.

The Decalogo requires financial intermediaries to adopt special precautions for transactions relating to telephone or electronic accounts and to take steps to ensure adequate knowledge of the customer and his business in case of relationships with customers in non face-to-face situations.

Payment cards

Non-rechargeable cards are typically anonymous and have a maximum value. Rechargeable cards, on the other hand, require an account relationships. The holder of a rechargeable card should therefore be subject to the full CDD process.

Notwithstanding the strengths and weaknesses in the legislative framework noted above, the financial institutions met by the mission appear to implement the requirements under Italian law and, in particular, the Decalogo. That said, while the Decalogo applies to all financial intermediaries, in practice and given its emphasis on systems and controls, its provisions are difficult to enforce beyond the prudentially supervised sectors. As such, the provisions of the Decalogo are difficult to enforce with respect to financial institutions that are not prudentially supervised. Moreover, the shortcomings in supervisory efforts and resources and in the sanctions regime (see “The supervisory and oversight system”), undermine the effective implementation of existing requirements.

Recommendations and comments

The authorities should expand CDD requirements in line with the revised FATF Recommendations in the following areas:

- Need to expand in law or regulation the circumstances where CDD must be carried out, in particular for: the identification of occasional transactions that are wire transfers below the Euro 12 500 threshold. For greater clarity, should also consider making explicit the requirement to identify and verify the identity of any customer when there is a suspicion of money laundering or terrorist financing.
- Need to establish in law or regulation a requirement to verify that the person purporting to act on behalf of the customer is so authorized. Financial institutions should also be required to verify the legal status of a customer that is a legal person;
- Specific requirements should be introduced in law or regulation for financial institutions to take reasonable measures to understand the ownership and control structure that is a legal person and to determine who are the natural persons that ultimately own or control the customer;
- The requirement in the Decalogo for conducting ongoing due diligence should be set out in law or regulation.
- The exemption from CDD in the case of customers that are banks or branches abroad should be limited to those that are located in jurisdictions that effectively implement the FATF recommendations.
- Specific requirements should also be extended to the identification and verification of the identity of the settlor, trustee or person exercising effective control over trusts and the beneficiaries;
- The need for enhanced due diligence in higher risk situations, for example , for nonresident customers, private banking, legal persons and arrangements such as trusts, or for companies that have nominee shareholders or shares in bearer form.;
- The timing of verification of identity should be clarified;
- Full identification and recording of persons to whom a bearer passbook is transferred.
- Additional specific requirements should be introduced for the identification of PEPs and senior management approval for establishing a business relationship with a PEP;

<ul style="list-style-type: none"> • Additional specific requirements should be introduced regarding procedures for the opening and operation of cross-border correspondent banking relationships, notably with respect to gathering information on the respondent, assessing its AML/CFT controls, obtaining senior management approval before establishing new correspondent relationships, documenting respective responsibilities, and with respect to payable-through accounts, ensuring that the respondent has verified the identity of and performs ongoing due diligence on sub-account holders and is able to provide customer identification upon request of the correspondent. • Need to enshrine the documentary evidence required for verification of identity in law or regulation; 		
Compliance with FATF Recommendations		
R.5	Partially compliant	<p>No requirement in either law and regulation for: the identification of customers with respect to occasional transactions that are wire transfers below the Euro 12 500 threshold;</p> <p>No requirement in either law or regulation to verify that the person purporting to act on behalf of the customer is so authorized. No requirements to verify the legal status of a customer that is a legal person;</p> <p>No requirement in law or regulation for financial institutions to take reasonable measures to understand the ownership and control structure that is a legal person and to determine who are the natural persons that ultimately own or control the customer; no requirement to identify and verify the identity of the settlor, trustee or person exercising effective control over trusts and the beneficiaries;</p> <p>The exemption from CDD with respect to banks and branches abroad are not contingent upon whether they are located in jurisdictions that effectively implement the FATF recommendations;</p> <p>Other than for telephone and internet banking and electronic money, there is no requirement for enhanced due diligence in higher risk situations, for example, for nonresident customers, private banking, legal persons and arrangements such as trusts or for companies that have nominee shareholders or shares in bearer form;</p> <p>The possibility to transfer anonymously passbooks with a balance up to € 12 500 poses a significant challenge for financial institutions to conduct ongoing due diligence throughout the life of the business relationship with the “customer”;</p> <p>Effective implementation of CDD requirements is undermined by shortcomings in supervisory efforts and resources and in sanctions regime (see “The supervisory and oversight system”);</p> <p>It should be made clear in the law that the identification for AML purposes should be based on a reliable document</p>
R.6	Non compliant	Absence of specific requirements for the identification of PEPs and senior management approval for establishing a business relationship with a PEP.
R.7	Non compliant	Absence of specific requirements regarding procedures for the opening and operation of cross-border correspondent banking relationships, notably with respect to gathering information on the respondent, assessing its AML/CFT

		controls, obtaining senior management approval before establishing new correspondent relationships, documenting respective responsibilities, and with respect to payable-through accounts, ensuring that the respondent has verified the identity and performs ongoing due diligence sub-account holders and is able to provide customer identification upon request of the correspondent.
R.8	Compliant	The recommendation is fully observed.
<i>Third parties and introduced business (R.9)</i>		
Description and analysis		
<p>Financial institutions may rely on third parties to conduct CDD pursuant to conditions set out in Ministerial Decree 19 December 1991 (as amended by Ministerial Decree 29 October 1993). With respect to the opening of accounts, identification may take place without the physical presence of the customer if the customer holds another account with another financial institution and the latter certifies this. Bank accounts may also be opened from abroad and identification conducted without the physical presence of the customer, provided that identification is conducted in one of three ways: (1) by a bank whose head office or branch is located in an FATF member country; (2) a branch of an Italian or FATF member country bank located in a country that is not a member of the FATF, provided that the head office certifies that the branch complies with the FATF standard; and (3) via consular authorities.</p> <p>Financial institutions may rely on the CDD carried out by third parties, provided that the requisite identification data are collected by the financial institution. However, given that Italy does not fully comply with FATF Recommendation 5, notably with respect to criteria 5.4 and 5.5, there is no requirement to obtain such information.</p> <p>There are no additional specific requirements for financial institutions to take adequate steps to satisfy themselves that <i>copies</i> of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay. Nor are there any additional specific requirements for financial institutions to satisfy themselves that the third party is regulated and supervised in accordance with FATF Recommendations 23, 24 and 29 and has measures in place to comply with CDD requirements set out in FATF Recommendations 5 and 10. Simply ascertaining the fact that the third party has its head office located in a FATF member country or that the head office of the third party certifies that its foreign branch complies with the FATF standard does not satisfy these requirements. While there are no limitations on the range of countries in which the third party can be based, third parties must be banks located in FATF member countries or foreign branches of such banks. Financial institutions nonetheless retain ultimate responsibility for customer identification and verification.</p>		
Recommendations and comments		
<p>The authorities should introduce the following additional requirements:</p> <ul style="list-style-type: none"> • Financial institutions should satisfy themselves that copies of identification data and other relevant information relating to CDD requirements will be made available from the third party upon request without delay; • Beyond obtaining head office certification, financial institutions should be required to obtain from the third party located abroad a copy of its customer acceptance and ongoing CDD policies and satisfy themselves that the third party is regulated and supervised in accordance with FATF Recommendations 23, 24 and 29. 		
Compliance with FATF Recommendations		

R.9	Partially compliant	<p>Absence of a specific requirement that financial institutions should satisfy themselves that copies of identification data and other relevant information relating to CDD requirements will be made available from the third party upon request without delay;</p> <p>Insufficient requirement with respect to ensuring that a third party that is located abroad complies with methodology criteria 5.4 and 5.5 and is regulated and supervised in accordance with FATF Recommendations 23, 24 and 29.</p>
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Financial institution secrecy or confidentiality (R.4)

Description and analysis

Banking secrecy is not provided for in the Italian legislation. According to the Italian authorities, it is a contractual obligation, which cannot be invoked in criminal proceedings, nor can it be invoked before the Bank of Italy, the UIC or the Consob when acting as supervisory authorities or the NSPV (*Nucleo Speciale di Polizia Valutaria*) of the *Guardia di Finanza* when conducting investigations.

Similarly, other forms of professional secrecy cannot be invoked in criminal proceedings except by specific individuals listed in the code of criminal procedure: these include lawyers, technical consultants, notaries and accountants to the extent of the acts related to their professional activity. Furthermore, Article 14 of the Law No 675 of 31 December 1996 on privacy (“*Tutela delle persone e di altri soggetti rispetto al trattamento dei dati personali*”) expressly limits the exercise of the rights laid out in the law in respect to information collected on the basis of the AML Law (and its subsequent amendments).

There are no restrictions on the sharing of information between financial institutions where this is required by R.7, R.9 and SR VII.

Recommendations and comments

Compliance with FATF Recommendations

R.4	Compliant	The recommendation is fully observed.
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Record keeping and wire transfer rules (R.10 & SR.VII)

Description and analysis

One characteristic feature of the Italian AML/CFT regime is that all the entities subject to the CDD requirements must file all the information pertaining to the opening of an account or other continuous relation, transactions above €12,500 (including transaction information that would permit the detection of structured transactions above the threshold of €12,500) and the closing of an account in a centralized database (*Archivio Unico Informatico*) within 30 days and retain this information for a period of ten years (Article 13.4 and 13.6 such as modified in Article 2.1 of the AML Law). The database must be set up and managed on a computerized basis and must be updated and structured in a way that will facilitate searches. The information to be filed is:

- the date and the reason for the operation;
- the amount of the single means of payment or bearer bond;
- the name, surname, place and date of birth, address and the details of an identification document shown by those who perform the transaction for themselves or third parties;
- in the case of legal person, the name and registered office of the person on whose account the transaction is carried out or the account or other continuing relationship to be opened;
- the fiscal code of the person of the person executing the transaction or opening the account or other continuing relationship and the fiscal code of the person for whose account the transaction is to be executed

or account or other continuing relationship opened;

- in the case of credit or payment orders, the above information regarding the person originating the order, the beneficiary and the intermediaries who carry out the operation.

The amount of the payment must be shown distinguishing, by means of the assigned code, the part in cash of the total amount of the means of payment, the fiscal code, when attributable, both of the subject who carries out the operation and the subject for who the operation is done.

According to Article 4 of the AML Law, transaction details and identification data must be “easily retrievable”. Also, competent authorities have access to such information. Each financial intermediary is further required to transmit monthly the information pertaining to transactions carried out for an amount above €12,500, on an aggregated basis, to the *Ufficio Italiano dei Cambi* (Article 1 of Legislative Decree 125/1997).

All financial intermediaries interviewed by the mission indicated that they maintain an AUI in compliance with the law and that supervisors routinely check for the completeness of the database.

The AML Law does not specifically require that records be kept with respect to transactions conducted on accounts or other continuing relationships that are below the €12,500 threshold, unless they appear to be linked and, together, show a total amount equivalent to or above the threshold. Article 2214 of the Civil Code, however, requires all businesses to maintain records on all transactions, irrespective of their amount, in chronological order for a period of ten years. Moreover, pursuant to Article 119 of the Banking Law, the documentation on any bank transaction, regardless of its amount, has to be kept for ten years in order to enable the financial institutions to provide account/transaction information within 90 days upon a customer’s request. Authorized intermediaries, financial salesmen, asset management companies and market management companies are subject to additional and detailed record-keeping under securities regulation that complement AML/CFT specific requirements. These requirements apply irrespective of any threshold under the AML Law. However, none of this information is required to be recorded in the AUI and although the Italian Banking Association’s guidelines recommend that all transactions at or above a threshold of €3,100 be recorded in the AUI in order to comply with the AML Law requirement that financial institutions organize themselves to detect structuring, such data is kept for only one week. The practical effect of this is that banks and other intermediaries that now rely on the GIANOS software to detect anomalous transactions to assist them in detecting suspicious transactions are largely focusing on transactions at or above a threshold of €3,100, irrespective of the AML/CFT risk.

Wire transfers

In the case of credit or payment orders, financial institutions are required to obtain and record the following information:

- For remitting bank: identification data on the beneficiary (i.e., name of physical person or of legal person and, if known, the address), as well as name and location of intermediary; and
- For beneficiary bank: identification data on the remitter (i.e., name of physical or legal person and, if known, address), as well as name and location of intermediary;

However, there are no additional provisions that would require a financial institution to include complete originator information on outgoing transfers or to detect missing information on incoming transfers (i.e., the name of the originator, the originator’s account number and address), nor are there provisions to detect missing account number and address information on incoming transfers. In addition, while in practice some financial intermediaries identify their occasional customers at a threshold of €3,100 in order to detect structured transactions, there is no requirement to identify customers for occasional transactions below the threshold of €12,500. If the proposed EU regulation on payment systems is adopted, transfers from Italy to a non-EU country will need to carry full and accurate originator information, regardless of their amount.

Recommendations and comments		
It is recommended that the authorities:		
<ul style="list-style-type: none"> • Consider removing the €12,500 threshold for the recording in the AUI transactions conducted on an account; • Introduce requirements to ensure that complete originator information is included in outgoing wire transfers and that beneficiary financial institutions adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by account number and address information. Moreover, the threshold of €12,500 at or above which customer identification and record keeping is required should be lowered to € 1,000 or eliminated altogether as is envisaged in the forthcoming EU regulation. 		
Compliance with FATF Recommendations		
R.10	Compliant	The recommendation is fully observed.
SR.VII	Non compliant	Absence of requirements to ensure that complete originator is included in outgoing wire transfer messages and that financial institutions adopt effective risk-based procedures to identify and handle incoming wire transfers that are not accompanied by account number and address information.
<i>Monitoring of transactions and relationships (R.11 & 21)</i>		
Description and analysis		
<p><i>Monitoring of transactions</i></p> <p>The Decalogo provides broad procedural guidance in order to comply with the suspicious transaction reporting requirement. In particular, the Decalogo requires financial institutions to develop detailed customer profiles, to review the operation of accounts against these profiles and to pay special attention to anomalous transactions. It also requires that findings concerning anomalous transactions be recorded even when the decision was not to report a suspicious transaction to the UIC. In the Decalogo, the BoI identified the types of situations where the financial intermediaries to which they apply have to pay special attention in order to comply with the reporting requirements:</p> <ul style="list-style-type: none"> • Paragraph 1 mentions that specific importance is to be attached to cash transfers involving unusual amounts. • It also mentions that special attention is necessary in evaluating anomalous operations attributable to persons regarding whom there have been requests for information in connection with criminal investigations or for the application of preventive measures; • Paragraph 2.1 calls for special attention where it is found that has no economically significant activity. It also stresses that special precaution must be adopted in telephone or electronic accounts for transactions that appear particularly unusual or involve significant transfers. It also provides that in such cases, specific disclosure requirements will be imposed on customers. • The Decalogo also includes a list of indicators to help financial intermediaries to identify suspicious transactions (second part of the Operating instructions of 12 January 2001). • While the Decalogo applies to all financial intermediaries, in practice and given its emphasis on systems and controls, its provisions are difficult to enforce with respect to financial institutions that are not prudentially supervised. As such, there is no effective mechanism to enforce the provisions of the Decalogo with respect to financial institutions that are not prudentially supervised. • Banks make extensive use of computer systems to screen transactions. The banking sector developed specific software (GIANOS) to assist the financial intermediaries in identifying and following up on anomalous transactions. It uses as a basis for its analysis the transactions in the bank's AUI. However, the focus is on transactions at or above the €12,500 threshold (and €3100 in practice to detect structuring). The software is gradually being adapted to intermediaries beyond banks. The Decalogo cautions financial institutions that use of systems such as GIANOS is an aid and not a substitute for fulfilling their obligations to detect and report suspicious transactions. 		

<p><i>Relationship with noncooperative countries</i></p> <p>The Decalogo requires financial intermediaries to pay special attention to transactions involving persons located in countries listed as NCCTs by the FATF or tax havens published by the OECD, in furtherance of their reporting obligations. While there is also mention of extending such vigilance to countries where drug trafficking is an issue there is little guidance on how financial institutions should go about this. There are no other legal provisions that would require financial intermediaries to pay special attention to business relationships and transactions with persons from countries beyond the list of NCCTs or tax havens, which do not or insufficiently apply the FATF recommendations.</p> <p>While the Decalogo applies to all financial intermediaries, in practice and given its emphasis on systems and controls, its provisions can only be enforced by core principles supervisors on the basis of their broad authority to ensure safety and soundness for prudentially supervised institutions. As such, there is no effective mechanism to enforce the provisions of the Decalogo with respect to financial institutions that are not prudentially supervised.</p> <p>The BoI, in its Circular of July 13 and 20, 2000, informs financial intermediaries under its supervision of the list of NCCTs published by the FATF and of the need to pay “maximum attention” to transactions having links with the countries identified by the FATF as NCCTs. It recommends that they examine these transactions with special care. The circular has been updated periodically. In Circular 415/D/2000, the ISVAP also provides similar advice, though the advisory appears to have been updated only once in 2002.</p> <p>The MEF and UIC have also published updates of the FATF list of NCCTs, though this does not appear to have always been done in a systematic or timely manner.</p> <p>While not specifically addressed in inspection manuals made available to the mission, the authorities indicated that internal bank inspectors receive regularly updated versions of above circulars. In their inspections of banks and other supervised intermediaries for compliance with AML/CFT requirements, they check whether transactions having links with the countries identified by the FATF as NCCTs have been “red-flagged”. A compliance manual of a large bank reviewed by the mission did not go beyond the list of NCCTs and tax havens prepared by the FATF and the OECD, respectively.</p>		
<p>Recommendations and comments</p>		
<p>It is recommended that the authorities:</p> <ul style="list-style-type: none"> • Ensure that there are effective means to enforce the provisions of the Decalogo with respect to financial intermediaries that are not subject to prudential supervision; • Extend requirements to pay special attention to business relationships and transactions with persons from any country which does not or insufficiently apply the FATF recommendations. 		
<p>Compliance with FATF Recommendations</p>		
R.11	Largely compliant	Absence of effective enforceable requirements with respect to financial intermediaries that are not prudentially supervised.
R.21	Largely compliant	Absence of effective enforceable requirements with respect to financial intermediaries that are not prudentially supervised; Absence of requirements to pay special attention to business relationships and transactions with persons from countries beyond the list of NCCTs and tax havens which do not or insufficiently apply the FATF recommendations.
<p><i>Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)</i></p>		
<p>Description and analysis</p>		
<p>Article 3 of the AML Law sets out the basis of the reporting requirements. It was modified by a number of subsequent laws and decrees:</p>		

- The Law 328/1993 extended the list of predicate offences to all intentional criminal offences;
- Law 153/1997 introduced provisions aimed at ensuring a better management of STRs and the confidentiality of the reporting entities ;
- Law 388/2000 designated the UIC as the Italian FIU;
- Legislative Decrees 374/1999 and 56/2004, when implemented, will extend the reporting obligations to a broader range of entities.

Every transaction which leads to believe that the money, assets or benefits involved might be derived from an intentional crime must be reported to the head of the business who must then transmit the report, without delay, and where possible before carrying out the transaction, to the UIC (Article 3 of the AML Law such as amended by Law 328/1993). The head of the business has to form his belief on the basis of the characteristics, size nature or any other circumstance of the transaction, also taking into account the income-earning capacity and the activity of the person involved in the transaction. In accordance with the Decalogo the reporting entity must send the report to the UIC even where transactions have been rejected or otherwise have not been concluded.

All reports are submitted on formatted and encrypted diskettes by mail within a few days up to a month after the transaction(s). STRs are submitted by fax when the intermediary seeks to suspend a transaction. The Decalogo of the Bank of Italy mentions that the lack of an explicit time limit within which reports are to be sent may not be interpreted as permission to inform the UIC beyond any reasonable lapse of time. In practice, the reporting entities send their STRs within a few days up to a month after the transaction is executed. The sending of STRs by mail, especially when the STR is filed long after the transaction date, can influence the effectiveness of the UIC.

The UIC can suspend the execution of a transaction for 48 hours (Article 3.6 of the AML Law). There have been 47 cases of suspension between 1997-2004. Article 3.7 states that this suspension shall not involve any liability. The practice of sending the STR by mail does not allow the UIC to take expeditious action to suspend the transaction, unless the financial institution decided by itself to transmit it by fax. As technology allows for an immediate electronic transmission of data, the interaction with the reporting institutions should be done in real time as far as possible.

Once received at the UIC the STRs are decrypted within the AML Department, reviewed at a senior level and assigned for analysis to the STR Division (or International Cooperation Division if financing of terrorism is suspected). The analyst determines if the UIC should exercise its authority to request additional information from the reporting institution. Appropriate databases, including property ownership and the BoI Central Credit Register can be reviewed before a decision is made as to whether to disseminate the report to law enforcement.

Since 1997, STRs no longer go directly to the police agencies, although a general obligation applies to all citizens and government agencies to report facts to the competent prosecutorial authority that are so obvious as to reveal an apparent crime. The AML Law, as revised in 1997, following upon a recommendation of the Second FATF Mutual Evaluation Report (MER) of 1998, channeled all STRs to the UIC, which determines whether to disseminate them to two law enforcement agencies (that is the DIA and NSPV) as well as to a prosecutor when a crime is apparent.

Banks make extensive use of computer systems to screen transactions. The banking sector developed specific software (GIANOS) to assist the financial intermediaries in identifying and following up on anomalous transactions GIANOS captures the profile of customer activity over the preceding 12 months. It uses as a basis for its analysis the transactions in the bank's AIU. However, the focus is on transactions at or above the €12,500 threshold (and Euro 3100 to detect structuring). The software is gradually being adapted to intermediaries beyond banks. While the Decalogo indicates clearly that such software is to be used as a complement rather than a substitute for ongoing vigilance, there is a risk that financial intermediaries will rely on GIANOS as a substitute. Indeed, the software developers and some banks acknowledge that a majority of STRs owe their origin to GIANOS. Moreover, some bankers acknowledge that the software may be overly relied upon.

SR.IV

Reporting entities are obliged to file a suspicious transaction report when the transaction leads the institution to believe that the funds “may derive from one of the offences provided by articles 648*bis* and 648*ter* of the Penal Code” (money laundering, Article 3.1 of the AML Law). This obligation does therefore not extend to terrorism financing which is provided by Article 270 *bis* of the Penal Code. Authorities consider, however, that since financing of terrorism is one of the predicate offences of money laundering, it indirectly covers also this offence. The authorities highlighted that Article 1, par. 4-*bis* of Decree Law n.369/2001 converted into Law n.431/2001 established that “*all the powers of the UIC and the Special Currency Police Unit of the Guardia di Finanza, provided by the Italian legislation to prevent the use of the financial system for the purposes of money-laundering, shall also be exercised by the same entities to combat international terrorism through financial means.*” The authorities consider that such provision establishes the general extension of all the anti-money laundering preventive measures involving the powers of UIC and GdF (including the measures of the AML Law, Article 3, of course) to the fight against the financing of terrorism. Therefore, the authorities consider that the power of the UIC to receive, analyse and disseminate ML STRs was extended to the fight against the financing of terrorism and, consequently, the obligation for financial intermediaries to report ML suspicious transactions to the FIU was extended to report also TF suspicious transaction to the FIU. To ensure that contractual confidentiality requirements cannot override the reporting duty, the obligation to disclose transactions suspected of being related to, or to be used for terrorism, terrorist acts or by terrorist organizations, or those who finance terrorism should be specifically provided by a law (by opposition to a circular). This could be done for example by adding a reference to Article 270 *bis* in the AML Law.

The Italian legislator has extended the UIC’s functions to the fight against the financing of terrorism (Article 4 *bis* of Legislative Decree 369 of October 12, 2001). In addition, the UIC has issued instructions on terrorist financing requiring reporting entities to communicate to the UIC freezing measures applied; report operations, relationships, as well as any other information available and traceable to subjects in the lists distributed by the UIC; report all operations and relationships that, on the basis of available information, are directly or indirectly traceable to activities of financing terrorist associations, provided for and punished by Article 270*bis* of the Penal Code (Provision of November 9, 2001 published in the *Gazzetta Ufficiale* of November 15, 2001, General Series, 266).

As a result of the circulars set out by the Bank of Italy and despite the weak legal basis, reporting entities have filed with the UIC since 2001 approximately 2000 transactions in relation to the financing of terrorism.

Waiver from civil and criminal liability

Article 3.7 of the AML Law provides that the suspicious transactions reports transmitted to the UIC “should not constitute infringements of obligations of secrecy”. But there is no mention of a “good faith” prerequisite associated with the reporting requirement. The waiver may therefore be broader than the standard set out in Recommendation 14. Furthermore, although the criminal code makes false declarations punishable which would include reports not made in “good faith”, this does not relate to the reporting duty to the FIU nor does it provide for the protection required by Recommendation 14. That said, the authorities indicated that the waiver is being interpreted in the narrow manner as set out in Recommendation 14.

Confidentiality

The current legislation prohibits any disclosure of suspicious transaction reports other than the cases provided for in the law (Article 3.8 AML Law). The internal management of the reporting procedures set out in Article 3 of the AML Law channels the reporting through the head of business, the legal representative or his delegates. The employee making the (internal) report can only inform the persons specified in the internal procedures of the financial institutions of the fact that a suspicious report has been filed (usually only the manager and the compliance officer). If the employee informs other employees it is unclear whether this would be sanctioned under Article 5.6 of the AML Law such as amended by Article 6.6 c) of Legislative Decree 56/2004. In practice there have been no such cases.

The Law specifically mentions that the report should be forwarded to the UIC without the indication of the name

of the person making the report. Article 3bis of the AML Law provides that the identity of the reporting person should not be mentioned unless a judicial authority deems it indispensable and that, in the event of seizing of documents, the necessary precautions should be taken in order to protect the identity of the reporting person. In compliance with this, the UIC developed a standard format that enables financial intermediaries to file an STR in an encrypted diskette. Although the protection is already high, the private sector would prefer a further improvement by treating the person making the report as an “informant” with all the associated protections afforded to informants under the law.

Tippling -off

Article 3.8 of the AML Law explicitly prohibits the reporting person and whoever has knowledge of a report from disclosing the report. But there does not appear to be an explicit prohibition to disclose the *fact* that a report has been made to the UIC or the fact that the UIC has requested additional information. The authorities, however, have indicated that the law can be interpreted to cover this circumstance.

Rec 19 Computerized database

The law requires all the “authorized” intermediaries (banks, insurance companies, investment firms are the most relevant categories) to enter in their database (*Archivio Unico Informatico*) all the relevant information concerning transactions above €12,500 or its equivalent and a specific reference is made to the obligation to record the so-called “fragmented or structured transactions”, that is, all those operations whose individual amount is below the threshold of €12,500 and over €3,098 and that, because of their nature or operational characteristics, are deemed to be part of one single transaction exceeding the threshold. The information gathered is divided into four categories for analytical purposes:

- The data on the transaction (sub-divided into one of the 112 analytical codes)
- The data on the individual who performed the transaction or whose behalf the transaction was conducted
- The data on the individual who made the transaction on another person’s behalf
- In the case of wire transfers, the data on the counterpart.

The financial intermediaries also have the obligation to provide the UIC with monthly aggregate data on all the transactions above the €12,500 and €3,098 thresholds mentioned above. Article 5 of the AML Law entrusts the UIC with the task of quantitative analyses of this aggregate data and the management of the central Financial Flow Database (*Archivio Aggregato*). It is useful to note that the information is forwarded to the UIC solely for statistical purposes and that it does not provide the name of the customers. The UIC does however have direct access the financial intermediaries’ database and all the relevant information if need be.

Guidelines and Feedback

The BoI, in agreement with ISVAP and Consob, issued Operational Guidelines for the identification of suspicious transactions on 12 January 2001 (the Decalogo). The UIC also provided further guidance, dated December 10, 2003. While the Decalogo applies to all financial intermediaries, in practice and given its emphasis on systems and controls, its provisions can only be enforced by core principles supervisors on the basis of their broad authority to ensure safety and soundness. As such, there is no mechanism to enforce the provisions of the Decalogo with respect to financial institutions that are not prudentially supervised. See also below under AML/CFT Guidelines (R.25).

The UIC does not provide general feedback, i.e. statistics on number of disclosures, information on typologies and sanitized examples of actual money laundering and terrorist financing cases.

In respect of a case by case feedback, the UIC does not provide an acknowledgement of receipt of the report. The only type of feedback UIC provides to the reporting entities is information that a report has not been followed up by the investigative authorities (Article 3.5 of the AML Law). There is no feedback on the outcome of the result of suspicious transactions that are disseminated to the GdF.

Recommendations and comments		
<p>The authorities should introduce a specific requirement for the reporting of transactions suspected of being related to, or to be used for terrorism, terrorist acts or by terrorist organizations, or those who finance terrorism. Under the Italian legislation, terrorist financing is a predicate offence to money laundering and is therefore technically included in the reporting requirements set out in the law. Special Recommendation IV nevertheless calls for a direct mandatory obligation to report suspicions of terrorist financing.</p> <p>The reporting requirement is not effectively being implemented by bureaux de change, the postal bank, stockbrokers, investment companies, trust companies and insurance companies. The respective supervisory authorities should review this more closely as part of their on-site inspections and additional outreach and guidance should be considered.</p> <p>While the suspicious transaction reporting requirement applies to all transactions, regardless of threshold, the usage of GIANOS in the banking and other sectors (including the application of transactions thresholds) should be reviewed to ensure it is used as a complement rather than a substitute for ongoing vigilance. Moreover, they should ensure that there are effective means to enforce the provisions of the Decalogo with respect to financial intermediaries not prudentially supervised.</p> <p>The authorities should review the scope of the legal protection from criminal and civil liability associated with the reporting of suspicious transactions and clarify in law that it is restricted to only those persons who report in good faith.</p> <p>The authorities should introduce an explicit prohibition to disclose the <i>fact</i> that a report has been made to the UIC or the fact that the UIC has requested additional information.</p> <p>The UIC should provide reporting entities with systematic feedback in the form of statistics and typologies, for instance by means of a periodic newsletter or an annual report. Feedback should be provided also on the outcome of the result of suspicious transactions that are disseminated to the GdF.</p>		
Compliance with FATF Recommendations		
R.13	Partially Compliant	The reporting of suspicious transactions related to terrorism financing is not explicitly required in the law; The reporting requirement for money laundering is not effectively being implemented by bureaux de change, the postal bank, stockbrokers, investment companies, trust companies and insurance companies.
R.14	Compliant	The recommendation is fully observed.
R.19	Compliant	The recommendation is fully observed.
R.25	Partially compliant	Systematic feedback is not provided in the form of statistics and typologies, for instance by means of a periodic newsletter or an annual report; No guidance has been issued for DNFBBPs; No positive feedback to financial institutions.
SR.IV	Partially compliant	The reporting of suspicious transactions on funds suspected to be linked to or related to or to be used for the terrorism, terrorist acts or by terrorist organizations or those who finance terrorism is not explicitly required in the law.
Internal controls, compliance, audit and foreign branches (R.15 & 22)		
Description and analysis		
<p><i>General</i></p> <p>All financial intermediaries listed in the AML Law such as modified by the Legislative Decree 56/2004 are required to establish adequate procedures in order to forestall and prevent operations related to money laundering, in particular by adopting internal controls and ensuring adequate training for their staff and</p>		

collaborators (Article 8 section 1 of the Legislative Decree 56/2004). The Decalogo provides more detailed guidance. In particular, it emphasizes the importance of line controls to ensure the proper execution of transactions and reliability of data flows and periodic controls entrusted to the board of auditors and, where they are present, independent auditors.

Financial intermediaries are also required to have systems in place to prevent or promptly detect breaches of trust by employees or collaborators, notably with respect to financial salespersons, insurance agents and other nonpayroll collaborators.

The Decalogo also calls on financial intermediaries to provide ongoing AML/CFT training to their staff on the reporting requirements. The Decalogo itself is to be disseminated and explained to all staff, regardless of the legal basis of their employment or collaboration. Staff are to be made aware of the intermediary's obligations and of the liabilities associated with noncompliance.

Both the AML Law and the Decalogo STRs are to be forwarded to the "company anti-money laundering officer", defined as the "head of the activity, his legal representative or his delegate". In practice, this role is normally assumed by a manager. The AML officer serves as the final vetting point for submitting STRs and the contact point with the UIC. The AML officer is also responsible for following up on internal and external audit findings concerning anomalous transactions that may not have been reported. Neither the law nor the Decalogo attribute any further compliance-related responsibilities to the AML officer, which fall to other line controls. There are no specific requirements for screening procedures for the hiring of employees.

While the Decalogo applies to all financial intermediaries, in practice and given its emphasis on systems and controls, its provisions are more easily enforced by prudential supervisors on the basis of their broad authority to ensure safety and soundness. The provisions of the Decalogo are difficult to enforce with respect to financial institutions that are not prudentially supervised

Internal control requirements are generally well-developed for and implemented by prudentially supervised financial intermediaries, as described below. They are far less well-developed and implemented beyond these intermediaries.

Prudentially supervised financial intermediaries

The BoI and the Consob have issued supervisory instructions to ensure that functional governance and risk control arrangements essential for sound and prudent management are in place in banks, and in securities and asset management firms. The risk of money laundering is one of the risks that must be managed by financial intermediaries. The rules on internal controls adapt the general principles and best practices identified by the Basle Committee to the specific features of the Italian financial system. Supervisory instructions provide guidance on the control procedures to be implemented.

The instructions establish three levels of controls:

- *line controls*, to ensure that transactions are carried out correctly;
- *risk management controls*, to contribute to the definition of risk measurement, verify compliance with the limits assigned to the various operating functions and check the consistency of individual business lines' transactions with their assigned risk-return targets. These controls are carried out by units not involved in production;
- *internal auditing*, to identify anomalous developments and violations of procedures and rules, and to assess the functionality of internal controls as a whole. Internal auditing is carried out by units independent from those engaged in production that have free access to the various activities of the bank with on-the-spot inspections as well as by other means.

The board of directors, as the body responsible for policymaking, guidance and monitoring of the company's strategy, must:

- approve risk management strategies and policies, specifying the levels deemed acceptable;

- approve the company's organizational structure;
- check that management adopts adequate control procedures and measurement systems, and see that the overall system remains efficient over time.

The board of auditors, which is responsible for checking the regular functioning of each main organizational area, conducts its own assessments of internal controls, possibly availing itself of the internal audit function.

The BoI and the Consob evaluate the adequacy of internal controls. This assessment is performed through off-site monitoring, periodic meetings with the banks and on-site inspections.

Less detailed internal control requirements have been issued by the ISVAP in a Circular 366/D/99. ISVAP is however currently drafting a new circular to replace Circular 366, which will require insurers to perform an annual self-assessment of internal controls and report the results of this assessment to ISVAP.

Application of AML/CFT requirements to branches and majority-owned subsidiaries located abroad

BoI Circular 229 of April 21, 1999 (*Istruzioni di vigilanza per le banche*) instructs banks to adopt appropriate internal controls for the purposes of avoiding involvement, unwittingly or otherwise, in money laundering and to implement the guidance provided in the Decalogo. The Circular also requires foreign branches of Italian banks to implement the same internal controls as the bank. As part of the authorization to establish a foreign bank branch, the BoI assesses the strength of the bank's internal controls vis-à-vis its foreign branch. However, there are no other specific provisions that require the application of AML/CFT principles to foreign branches of other financial institutions (such as insurance companies and securities firms) or to majority-owned subsidiaries of financial institutions located abroad. Nor are there any requirements for foreign establishments of Italian financial institutions to notify competent authorities when they cannot do so. The authorities have indicated that they last conducted an inspection of a foreign bank branch in 2000, in which AML/CFT deficiencies were identified. According to the authorities, two onsite inspections of foreign subsidiaries of Italian parent companies were conducted at the end of 2003, more specifically two asset management companies, one in Ireland and the other in the United States.

According to the Decalogo, financial institutions are required to exchange of customer-related information within the corporate group or falling into the scope of consolidated supervision and with those performing outsourcing functions, including their foreign establishments, in order to obtain and record a consolidated picture of a customer's transactions.

Recommendations and comments

There is a need to introduce requirements for adequate screening procedures for hiring employees. In addition, more detailed guidance should be developed on how financial intermediaries, other than prudentially supervised financial institutions, should organize themselves to comply with AML/CFT requirements;

Additional requirements should also be introduced to further ensure that AML/CFT principles are implemented by branches and majority-owned subsidiaries located abroad. In particular, the requirements should extend to foreign branches of other financial institutions (such as insurance companies and securities firms) and to majority-owned subsidiaries of financial institutions located abroad. Moreover, foreign establishments of Italian financial institutions should be required to notify competent authorities when they cannot do so.

Compliance with FATF Recommendations

R.15	Largely compliant	No explicit requirements for screening procedures for hiring employees. Absence of detailed guidance on how financial institutions, other than those that are prudentially supervised, should organize themselves to comply with AML/CFT requirements; Less effective means of enforcing internal control and training provisions of Decalogo with respect to financial institutions other than those that are prudentially supervised.
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R.22	Partially compliant	There are no specific provisions that require the application of AML/CFT principles to foreign branches of financial institutions other than of banks or to majority-owned foreign subsidiaries of Italian financial institutions; Absence of requirements for foreign establishments of Italian financial institutions to notify competent authorities that they are unable to implement AML/CFT principles, when this is prohibited by the laws or regulations of the host country.
Shell banks (R.18)		
Description and analysis		
<p>Articles 14 and 15 of the Banking Law effectively preclude the establishment of a shell bank in Italy. In particular, among other conditions for authorization, a bank must have its registered office and head office in Italy, paid-up capital, a suitable business plan and fit and proper management. The establishment of a first non-EU branch in Italy is subject to the latter three conditions, as well as the existence of an adequate regulatory and supervisory system.</p> <p>The BoI has issued instructions (e.g., calling on banks to pay particular attention to relationships with nonresidents and to ensure that the counterparty is not prohibited by law or regulation to carry out the relevant transaction). However, there are no specific provisions that would prohibit financial institutions from entering into or continuing correspondent banking relationships with shell banks. Moreover there are no specific provisions that would prohibit financial institutions from establishing relations with respondent foreign financial institutions that permit their accounts to be used by shell banks. Such requirements will be introduced when the Third EU AML Directive is transposed into Italian legislation.</p>		
Recommendations and comments		
<p>The authorities should prohibit financial institutions from entering into or continuing correspondent banking relationships with shell banks and from establishing relations with respondent foreign financial institutions that permit their accounts to be used by shell banks.</p> <p>A clearer prohibition on the establishment of shell banks should be considered.</p>		
Compliance with FATF Recommendations		
R.18	Partially compliant	Financial institutions not prohibited from entering into or continuing correspondent banking relationships with shell banks; Financial institutions not prohibited from establishing relations with respondent foreign financial institutions that permit their accounts to be used by shell banks.

The supervisory and oversight system—competent authorities and SROs: Role, functions, duties and powers (including sanctions) (R.17, 23, 29 & 30)

Description and analysis

Authorization/registration and supervisory responsibilities are divided between the BoI, Consob, ISVAP and the GdF.

Division of Regulatory and Supervisory Responsibility

	Authorization/Registration	Supervision: Prudential & market conduct	Supervision: AML/CFT
Banks	BoI	BoI 1/	UIC, BoI 2/
<i>Bancoposta</i>	N/A	BoI 1/	UIC, BoI 2/
<i>Securities firms</i>	Consob	BoI, Consob 3/	UIC, Consob, BI
<i>Asset management companies</i>	BI	BoI, Consob 3/	UIC, Consob, BI
<i>Financial companies (Article 106 of the Banking Law):</i> <i>Of which:</i> <i>Bureaux de change (Article 155 BL)</i> <i>Money transmission</i> <i>Leasing, factoring, merchant banking</i>	UIC	N/A	GdF
<i>Financial intermediaries (Article 107 of BL):</i> <i>Of which:</i> <i>Granting loans</i> <i>Foreign exchange trading,</i> <i>Securitization</i> <i>Issuance of credit and payment cards</i> <i>Provision of guarantees</i>	BoI	BoI	BoI, GdF
<i>Insurance sector</i> <i>Of which:</i> <i>Life insurance cos.</i> <i>Insurance broker &, independent agents</i>	ISVAP	ISVAP	UIC, ISVAP

1/ Consob is the exclusive supervisory authority for investment services in matters regarding transparency and market conduct. UIC is the supervisory authority for AML/CFT measures.

2/ UIC has overall responsibility for AML/CFT supervision. As part of its responsibility for prudential supervision, BI also examines for AML/CFT compliance.

3/ BI is responsible for prudential supervision, whereas Consob is responsible for matters regarding transparency and market conduct.

UIC has overall responsibility for supervising AML/CFT compliance for prudentially supervised intermediaries (“*intermediari abilitati*”) pursuant to Article 5.10 of the AML Law. The same law states that this activity should be carried out in collaboration with other supervisory authorities (BoI, Consob, ISVAP) which pursue broader goals, respectively, for prudential supervision, market conduct control and insurance supervision. The AML/CFT compliance of non prudentially supervised entities (“*intermediari non abilitati*”) is carried out by the Nucleo Speciale of the GdF. The supervisory regime places a high premium on effective coordination and cooperation between the various supervisors with a view to avoiding overlap and duplication and to ensure that financial intermediaries are effectively supervised and in a consistent manner. Coordination and cooperation is effected through MOUs between the UIC and each of the supervisors. The MOUs cover coordination of inspection plans and reciprocal communication of inspection results. Joint inspections between the UIC and the other supervisors can be and have also been conducted.

The BoI, ISVAP, Consob and UIC inspections take a “top-down” approach that basically focuses on the evaluation of the adequacy of the organizational structure, all levels of internal controls and the procedures concerning suspicious transactions detection and reporting. As far as requirements associated with Articles

1 and 2 of AML Law (i.e., controls on transfers of cash and bearer instruments, and the nonnegotiability/transferability of payment instruments such as checks above the €12,500 threshold, identification and record-keeping requirements) are concerned, the UIC adopts a bottom-up approach through the analysis of specific transactions like the check of the terrorist asset freezing measures established by EU regulations. The *Nucleo Speciale* of the GDF takes a similar bottom-up approach.

There is extensive coordination and cooperation between the competent supervisory authorities. The systematic exchange of information and results concerning on-site visits carried out by each of the authorities and periodic meetings between UIC and these authorities is aimed at avoiding uneven supervision of AML/CFT compliance.

As such, although there are different supervisory goals and approaches (i.e., UIC – overall check of AML/CFT compliance, BoI – prudential, Consob – market conduct, ISVAP – insurance activity), taken together AML/CFT supervision of *prudentially supervised financial intermediaries* is consistent. However, this is not the case with respect to nonprudentially supervised intermediaries overseen by the GdF.

Following is a description of the supervisory authorities, their powers and activities.

UIC

The 1991 AML Law, Article 5.10, empowers the UIC to carry out supervision for AML compliance of core financial institutions mentioned in Article 2.1 a) to l) of Legislative Decree 56/2004 (banks; Poste Italiane S.p.a.; E-Money Institutions; Italian investment firms (*società di intermediazione mobiliare* -SIM); security investment fund management companies (*società di gestione del risparmio*- SGR; *società di investimento a capitale variabile* -SICAV; insurance companies; stockbrokers; trust companies; companies for collection of taxes).

The UIC has a supervisory department of about 35 persons of which 30 are inspectors. The inspectors dedicate 80 percent of their time to AML compliance and spend 20 percent on currency exchange, statistical issues and the registration conditions of the general register for financial intermediaries under Article 106 of the Banking Law. There is no formal training program for inspectors; nor is there cooperation with other supervisors on training. Inspectors receive an “on-the-job” training for one year before they can carry out inspections by themselves. In addition, inspectors attend seminars with academia, experts and other supervisory agencies (particularly the BoI) to exchange experiences and supervisory techniques. The UIC has an inspection manual.

The annual inspection program is based on data acquired from the UIC’s AML and statistics departments and other information collected in the supervision department. The program is coordinated with the other financial supervisors and results of the inspections are exchanged. Financial institutions are inspected by the UIC once every five-six years. While overall, the on-site inspection efforts of the UIC are significant, they are heavily skewed toward banks (over 75 percent) and when looked at in conjunction with the more limited on-site inspection efforts of the Consob and ISVAP, some rebalancing may be warranted – see “*Ongoing supervision and monitoring*”

Based on the results of its inspection, the UIC proposes sanctions for noncompliance with Article 1 of the AML Law (cash transfers and transfers of bearer instruments over €12,500, checks without a nontransferable clause, and omitted reports of transactions) to the MEF. The UIC can also inform the judicial authorities if penal sanctions are required, for instance for omitted records and reports, for not setting up a data bank or for tipping off. There are only few cases resulting in penal fines because of the fact that legal persons have no criminal liability and it is difficult to prove the mental element of the employee.

As part of their responsibility for prudential or market conduct supervision, the BoI, Consob and ISVAP also verify compliance with AML/CFT requirements through a combination of on-site inspections and off-site monitoring or follow-up. Each have a memorandum of understanding with the UIC that sets out the parameters of their cooperation and coordination and there is also a statutory obligation (Article 11 of the AML Law) for the supervisory authorities to exchange information and cooperate with each other, including notification of compliance irregularities encountered in the course of inspections of financial institutions.

BoI

The BoI is an independent public body responsible for prudential regulation and supervision of credit institutions, Bancoposta and nonbank financial intermediaries (i.e., securities firms, asset management companies and financial intermediaries registered under Article 107 of the Banking Law (i.e., for granting loans, foreign exchange trading, securitization, issuers of credit and payment cards and guarantees) and the competition authority in the banking sector. In this regard, it pursues the following objectives: the sound and prudent management of financial intermediaries; the overall stability and good functioning of the financial system; and the promotion of competition in the financial sector. In pursuit of its objective to ensure the stability of the financial system, the BoI also seeks to safeguard the integrity of the financial sector by ensuring that directors, senior management and principal shareholders of the above-mentioned financial institutions are fit and proper. It ensures that financial institutions not only comply with quantitative limits on their operations but are appropriately structured with effective corporate governance and internal controls.

Offsite monitoring is carried out by two offsite supervision departments, respectively for banks and for financial intermediaries. The Inspectorate Department is responsible for assessing - during onsite inspections - the quality of the information provided in periodic supervision statistical reports to the offsite supervision departments by banks and other supervised intermediaries (*segnalazioni statistiche di vigilanza*) and the quality of the management, the organization and the internal controls. The Inspectorate Department consists of four sections: Research and Coordination, Planning and Research, Inspections, and Administration. The Inspections section consists of 138 inspectors and inspections may also include staff from the BoI's regional branches. Overall, the on-site inspection efforts of the BoI appear appropriate—see “*Ongoing supervision and monitoring*”.

Inspectors have right of access to all necessary documents to accomplish their mission and institutions that are being inspected are required to cooperate with inspectors. Failure to cooperate is punished by a penal sanction (Article 2638 of the Civil Code). Inspectors have the duty to report all relevant infractions found in the course of an examination.

Banking and Financial Supervision's staff is hired on a permanent basis by means of screening procedures based on qualifications and examinations aimed at selecting qualified personnel. Typically, the Bank of Italy recruits entry-level personnel with undergraduate and often graduate degrees and/or professional qualifications, particularly in accounting, economics, law and finance.

The conduct of staff is regulated by the BoI's enabling statute and by an internal regulation (Regolamento del Personale), which deal with such matters as avoidance of conflicts of interest and prevention of personal gain from knowledge of the activities performed by the BoI and professional secrecy. Formal disciplinary proceedings may be instituted for any violations of the statute or regulation.

The legislation provides the BoI a range of instruments to achieve remedial action at individual institutions, its choice depending on its assessment of the gravity of the situation. When, in the BoI's judgment, a bank has breached applicable laws, regulations and supervisory instructions or its management practices are unsound and imprudent, the 1993 BL provides the BoI the means to take or require a bank to take prompt remedial action. A range of sanctions is available culminating—with the approval of the MEF—with the revocation of the bank's authorization to conduct business. All administrative sanctions are imposed by the MEF acting on a proposal of the BoI.

The BoI has authority to issue guidelines and legally-binding instructions as well as specific measures regarding financial institutions.

With respect to money laundering and terrorist financing, pursuant to Article 5.10 of the AML Law, the BoI verifies compliance of financial institutions in cooperation with the UIC. It has the direct authority to sanction financial institutions for deficiencies in internal organization and control. It can recommend to the MEF the imposition of administrative sanctions for failure to report suspicious transactions and forward violations of the AML Law punishable by criminal sanctions to the judicial authorities.

Consob

Pursuant to Legislative Decree 58 of 1998 (“the Consolidated Law”), Consob is an independent public body that is responsible for ensuring transparency and proper conduct of business by intermediaries (Article 5(3)), the orderly functioning of regulated markets (Article 73 and 74) and “*the protection of investors and the efficiency and transparency of the market in corporate control and the capital market*” (Article 91). More specifically, Consob is responsible for authorizing investment firms and registering financial salespersons⁷. (The BoI is responsible for authorizing asset management firms). It is also responsible for regulating and supervising investment firms (including financial salespersons) as well as the securities-related activities of banks with respect to transparency and proper conduct. Moreover, it has regulatory and supervisory powers with regard to asset management companies, auditing firms, issuers of financial instruments, secondary markets and Alternative Trading Systems. The responsibility for supervision of investment firms and asset management companies is shared with the BoI which bears primary responsibility for prudential matters.

Supervision is carried out through a combination of off-site monitoring and on-site inspection. Consob’s off site supervision consists of analyzing information reported by intermediaries as well as from other sources. It also holds regular meetings with corporate officers and senior managers of intermediaries. On-site inspections carried out by Consob (and the BoI) focus on the organizational and financial situation of the intermediary, analyze in depth the most important weaknesses and verify compliance with the conduct of business rules. Intermediaries are required to provide information necessary to conduct an inspection. According to the Consolidated Law, Consob may request intermediaries to provide data and information and to transmit documents and records in the manner and within the time limits it establishes. Refusal to do so constitutes a criminal offence. The results of inspections are fed into off-site monitoring and may give rise to follow-up action. External auditors are required to inform Consob and the BoI of serious breaches of which they acquire evidence in the performance of their functions.

On-site inspections are carried out with a staff of 24 inspectors belonging to the Inspection Division, and accompanied by staff belonging to the supervisory departments primarily responsible for the supervision of authorized intermediaries and asset management companies. The authorities had indicated that they are severely under-resourced and were awaiting for some 150 additional staff. Law No 62/2005 of April 18, 2005 has approved the increase of staff for Consob by 150. The authorities have indicated that this substantial increase in resources will be directed where it is most needed, including reinforcing the supervisory and inspectorate departments. However, there is no clear indication as to how precisely this will impact on the level of on-site inspections for AML/CFT. Overall, on-site inspection efforts need to be increased. (*See also “Ongoing supervision and monitoring.”*)

Consob (and the BoI) in performing their supervisory functions can order the convening (or proceed directly to the convening) of the governing bodies of investment firms and set the agenda for the meetings (Article 7 of the Consolidated Law) and more broadly inspect authorized persons and order them to adopt all the measures deemed necessary (Article 10 of the Consolidated Law). Apart from these general provisions, the following special measures/sanctions can be levied on financial intermediaries by the supervisory authorities:

- Cease and desist orders – prohibition or limitation of the scope of the activities
- Disqualification
- Suspension of administrative bodies
- Suspension from the activity
- Special administration and compulsory liquidation
- Fines.

All fines except those provided for in Article 196 (sanctions applicable to financial salespersons) are imposed by

the MEF acting on a proposal of Consob or the BoI. With the entry in force, in May 2005, of the new Law 62/2005, the administrative sanctions in respect to the securities sector will be imposed directly by Consob.

With respect to financial salespersons, depending on the seriousness of the violation, Consob can directly impose the following sanctions:

- A reprimand in writing
- A pecuniary administrative sanction
- suspension from the register
- deletion from the register.

Consob can issue binding regulations and communications

With respect to money laundering and terrorist financing, pursuant to Article 5.10 of the AML Law, Consob verifies compliance of financial institutions in cooperation with the UIC. It has the direct authority to sanction financial institutions for deficiencies in internal organization and control. It can impose administrative sanctions for failure to report suspicious transactions and forward cases of deficient record-keeping and CDD to the GdF for further investigation.

General training of staff is formalized (some 40 and 67 hours of training per capita in 2003 and 2004, respectively) though the mission was unable to determine how much of this is devoted to AML/CFT. The authorities indicated that “on-the-job training” is ultimately the best way to train staff.

Consob’s employees are hired through public competitions, having regard to professional and experience requirements that are specific to Consob’s mission. Among other things and according to its own internal regulation, Consob can only hire persons that have never acted in a manner incompatible with the tasks that they are going to perform. The conduct of staff is regulated by an internal regulation, which deals with such matters as avoidance of conflicts of interest and prevention of personal gain from knowledge of the activities performed by Consob, and professional secrecy. Formal disciplinary proceedings may be instituted for any violations of the regulation.

ISVAP

ISVAP is an independent public body authorized under Law 576/1982 to supervise insurance and reinsurance undertakings, as well as other bodies subject to the regulations on private insurance, insurance agents and brokers included. It carries out its functions with a view to ensuring the stability of the market and of undertakings as well as the solvency and efficiency of market participants in the interest of policyholders/consumers and the public in general. It is also responsible for the sound development of the insurance sector and transparency and fairness in market conduct.

ISVAP is responsible for authorizing insurance undertakings and registering brokers and independent agents. Canvassers, working largely on behalf of agencies and typically dealing with customers at their premises, are not required to be registered, though there are plans to introduce a registration requirement in the future.

ISVAP carries out supervision of insurance undertakings and intermediaries by monitoring their technical, financial and accounting management and by verifying that they actually comply with the laws, regulations and administrative rules in force. ISVAP conducts both off-site (based on annual accounts and market data) and on-site examinations. In the case of violations, ISVAP has the power to propose sanctions to the Ministry of Production Activities and to impose them. In the performance of its duties, ISVAP can require supervised undertakings to provide information and documents. As with the BoI and Consob, a range of sanctions is available for noncompliance, culminating—with the approval of the MEF—with the revocation of the authorization to conduct business. ISVAP can also propose to the Minister of Productive Activities the imposition of administrative pecuniary sanctions.

ISVAP also has the authority to issue binding circulars.

ISVAP takes account of AML/CFT internal controls in authorizing insurance undertakings. In the context of its supervisory responsibilities for insurance undertakings, brokers and agents, and on the basis of a –MOU, pursuant to Article 5.10 of Law 197/1991 with the UIC, ISVAP also examines compliance with anti-money laundering requirements. In particular, it checks the adequacy of an undertaking’s organization and internal controls, as well as the observance of AML/CFT laws and regulations, focusing on internal organization, customer identification and record-keeping and reporting of suspicious transactions. Cases of noncompliance are forwarded to either the MEF for administrative fines or judicial authorities for penal sanctions, depending on the nature of the infringement.

The Inspectorate Department is staffed with 30 inspectors. Training on AML/CFT is provided to staff of the on- and off-site supervision departments, as well as staff of other departments. However, given the lengthy inspection cycles of insurance undertakings and the absence of inspections of independent financial salesmen, sub-agents and brokers on-site inspection resources do not seem sufficient (*see “Ongoing supervision and monitoring”*). Training is delivered through a combination of formal courses, on-the-job training and circulation of AML/CFT legislation and regulations.

GdF

The Special Currency Police Unit of the GdF is responsible for AML compliance of institutions not prudentially supervised (Article 5.10 of the AML Law), which includes entities that are registered ex art 106, 113 and 155 of the Banking Law (i.e., companies that are involved in merchant banking, leasing, factoring, consumer credit, payments services, including money transmission and money exchange) and, once the Legislative Decrees 374/1999 and 56/2004 are implemented, will also encompass the DNFBPs (although it is not yet clear which DNFBPs will fall under the GdF’s competence).

This supervisory task is part of this unit’s larger responsibility on AML which includes also the investigation of STRs, financial crimes and loan sharking, the fight against illegal banking and financial activities, currency counterfeiting, and activities in the field of fiscal monitoring. The unit consists in total of about 400 persons.

In performing their inspections, the GdF uses the powers entrusted to the Special Unit for the accurate examination of suspicious transaction reports and for anti-money laundering inspections (Currency Police powers of Presidential Decree 148/88) but it can also use the general powers entrusted to the GdF: the Tax Police powers, Economic and Financial Police powers and the Judicial Police powers.

Overall, the on-site inspection efforts of the GdF are relatively low in relation to the number of intermediaries it oversees —*see “Ongoing supervision and monitoring”*.

On detection of violations, the Special Unit will decide whether the violation constitutes an administrative violation or a criminal violation. Administrative violations are referred to the MEF for sanctioning, criminal violations are referred to the public prosecutor for further investigation.

Market entry

Overall, market entry requirements for financial intermediaries are sound and implemented effectively—*see “Financial institutions market entry and ownership/control”*.

Sanctions

The AML Law and the other relevant pieces of legislation provide for both criminal and administrative sanctions for the violations of the AML/CFT preventive measures. Although Article 5.8 of the AML Law sets out that “the sanctions are imposed by a decree issued by the Minister of the Treasury” (i.e. MEF) only the administrative

ones are issued by MEF, while the criminal sanctions are pronounced by the criminal courts.

Criminal sanctions:

- Unless it constitutes a more serious crime, the failure to identify and collect the necessary information is punished by a fine (Article 13.7 under 2.1 of the AML Law). However, according to the law, this sanction only applies to the staff responsible for the transaction. The financial institution itself is not liable.
- The customer who fails to provide the identifying details of the person on whose behalf a transaction is effected or who provides false information is liable to imprisonment for a period of six to twelve months and a fine (Article 13.8 such as amended by Article 2.1 of the AML Law), unless his or her failure constitutes a more serious crime (i.e. unless he or she has played a role in the money laundering process).

The Italian legislation also places a particular emphasis on the single data base (*Archivio Unico Informatico*) and on “tipping off”;

- It punishes the failure to set up the single data bank by a criminal sanction of imprisonment for a period between 6 months and one year and a fine (Article 5.4 of the Decree Law 143/1991); and,
- the “tipping off” by imprisonment for six months to one year and a fine (between €5,165 and €51,650 Article 5.6 of the AML Law such as amended by Article 6.6 lit. c of Legislative Decree 56/2004).

The UIC reported 63 violations to the judicial authorities between 2000 and 2004: 62 were related to the failure to identify and collect the necessary information, one was related to the failure to set-up the database. One sanction was issued (payment of a fine). According to the GDF, between 2000 and the end of 2004, 58 violations of the obligation to set up the database have been investigated and brought to Courts, involving 142 individuals.

Administrative sanctions:

- The infringement of the prohibition laid down in Article 1.1 of the AML Law to transfer amounts superior to €12,500 through the authorized financial intermediaries is sanctioned by a pecuniary administrative sanction between 1 to 40 percent of the amount transferred (Article 5.1 of the AML Law such as modified by Article 6. 6 lit. a of Legislative Decree 56/2004).
- The infringement of the obligation set out in Article 1.2 of the AML Law to mention the name of the beneficiary of checks as well as the infringement of the obligation to sign the “non negotiable” clause on checks for an amount exceeding €12,500 are sanctioned by a pecuniary administrative sanction between 1 percent and 40 percent of the amount transferred (Article 5.1 of the AML Law as amended by Article 6.6 lit. a of Legislative Decree 56/2004).
- The failure to report a suspicious transaction is sanctioned by an administrative pecuniary sanction between 5 percent and one half of the value of the transaction, unless it constitutes a crime (Article 5.5 of the AML Law, such as modified by Article 6.6 of Legislative Decree 56/2004).
- The breaches of the obligation, for the authorized intermediaries, to report the infringements to the prohibition to transfer funds above the thresholds set out in Article 1 of the AML Law entails an administrative sanction between 3 percent and 30 percent of the transaction (Article 7.2 of Legislative Decree 56/2004).
- The breach of the obligation to reduce the balance of bearer passbooks to €12,500 is sanctioned by a fine of up to 20 percent of the balance, in the case of a bearer passbook that does not exceed €250,000, and by a pecuniary administrative sanction between 20 and 40 percent of the balance, when the bearer

passbook has a balance that exceeds €250,000 (Article 5.6bis of the AML Law as amended by Article 6.6 lit. d of Legislative Decree 56/2004).

- The breach of the obligation to provide the UIC with the necessary data and information is sanctioned by a pecuniary administrative sanction between €500 and €25,000 (Article 7.4 of Legislative Decree 56/2004).
- The failure to observe the suspending measure ordered by UIC in application of Article 3.6 of the AML Law is sanctioned by a pecuniary administrative sanction between €500 and €25,000 (Article 7.5 of Legislative Decree 56/2004).

The MEF is in charge of sanctioning these violations of the preventive measures in collaboration with the GdF, UIC and the supervisory authorities (Article 5. 8 of the AML Law). It is informed on infringements either by the GdF, the UIC or the supervisory authorities. With the entry in force, in May 2005, of a new law, Consob will be entitled to directly impose administrative sanctions on the entities that it supervises.

The number of sanctions issued by the MEF are the following:

SANCTIONARY DECREES ISSUED IN 2003				
INFRINGEMENT TYPOLOGIES				
CHEQUES lacking of the clause "non-negotiable" and/or the name of the beneficiary art.1 para 2 law 197/1991	CASH PAYMENTS art.1 para 1 law 197/1991	BEARER PASSBOOKS art. 1 para 1 law 197/1991	ART.5 law 197/1991 violation of reporting to MEF	ART.3 law 197/1991 violation of reporting suspicious transactions
Total Decrees n. 68	Total Decrees n. 358	Total Decrees n. 225	Total Decrees n. 1	Total Decrees n. 1
average € 754	average € 4,002.43	average € 1,455.79	average	average
total sanctions € 51,272.00	total sanctions € 1,432,869	total sanctions € 327,552.00	total sanctions € 233,769.00	total sanctions € 85,194.00
min. sanction € 60,00	min. sanction € 125,00	min. sanction € 60,00	min. sanction €	min. sanction €
max. sanction € 12.000,00	max. sanction € 182.177,00	max. sanction € 108.468,00	max. sanction € 233.769,00	max. sanction € 85.194,00

SANCTIONARY DECREES ISSUED IN 2004				
INFRINGEMENT TYPOLOGIES				
CHEQUES lacking of the clause "non-negotiable" and/or the name of the beneficiary art. 1 para 2 law 197/1991	CASH PAYMENTS art.1 para 1 law 197/1991	BEARER PASSBOOKS art. 1 para 1 law 197/1991	ART.5 Law 197/1991 violation of reporting to MEF	ART.3 Law 197/1991 violation of reporting suspicious transactions
Total Decrees n. 10	Total Decrees n. 104	Total Decrees n. 102	Total Decrees n. 1	Total Decrees n. 0
average € 272.50	average € 18,542.12	average € 360.65	average	average
total sanctions € 2,725.00	total sanctions € 1,928,380.00	total sanctions € 36,786.00	total sanctions € 500.00	total sanctions -
min. sanction € 100,00	min. sanction € 165,00	min. sanction € 125,00	min. sanction €	min. sanction €
max. sanction € 375,00	max. sanction € 301.727,00	max. sanction € 1.651,00	max. sanction € 500,00	max. sanction €

SANCTIONARY DECREES ISSUED IN 2005				
INFRINGEMENT TYPOLOGIES				
CHEQUES lacking of the clause "non-negotiable" and/or the name of the beneficiary art. 1 para 2 law 197/1991	CASH PAYMENTS art.1 para 1 law 197/1991	BEARER PASSBOOKS art. 1 para 1 law 197/1991	ART. 7 comma 1 Legislative Decree 56/2004 (former Art.5 Law 197/1991) - violation of reporting to MEF	ART.3 Law 197/1991 violation of reporting suspicious transactions
Total Decrees n. 135	Total Decrees n. 211	Total Decrees n.11	Total Decrees n. 4	Total Decrees n. 1
average € 2,321.09	average € 6,701.32	average € 681.94	average € 1,287.43	average € 10,845.00
total sanctions € 313,346.53	total sanctions € 1,413,979.12	total sanctions € 7,501.33	total sanctions € 5,149.72	total sanctions € 10,845.00
min. sanction € 246,12	min. sanction € 209,00	min. sanction € 253,23	min. sanction € 249,06	min. sanction €
max. sanction € 228.969,00	max. sanction € 90.270,00	max. sanction € 1.619,00	max. sanction € 2.546,91	max. sanction € 10.845,00

Sanctionary Decrees issued until 5 May 2005, in accordance with art. 3 of the law 197/1991:

Total Decrees n. 76
 Total Sanctions € 28.731.222,92
 Average € 373.132,77
 Min. sanction € 51,65 - Max. sanction € 7.044.930,20

There are no particular provisions that provide any type of sanction for the lack of AML/CFT internal controls and training, and indeed for failures to implement many elements of the Decalogo with respect to CDD. Supervisors of prudentially supervised financial institutions (such as the BoI and ISVAP) can and do use their broad authority for ensuring safety and soundness to regulate and enforce these requirements. However, this is not the case for other supervisors and as such effective enforcement of these requirements is difficult.

On the basis of the legislation, on the one hand, and the statistics provided by the authorities, on the other hand, the sanctioning system does not appear to be as effective, proportionate or dissuasive as it should be:

- Financial institutions (i.e., legal persons) may not be held responsible at all for their employees' failures to comply with the customer identification and record keeping requirements (where criminal sanctions apply) and may not be separately held responsible for their employees' failure to report suspicious transactions (where administrative sanctions apply).
- The application of sanctions appears to be heavily skewed toward violations in requirements that are not covered specifically by the FATF Recommendations (e.g., controls on cash transfers). Indeed, there have been very few sanctions imposed on failures to report suspicious transactions (with an average of one sanction per year).
- The lack of internal controls and training are not sanctioned beyond the prudentially supervised financial institutions.
- The average amount of the fine imposed by the MEF is approximately 2 percent of the value of the transaction involved. This seems rather low and does not reflect the importance of the preventive measures.

More broadly, the sanctions framework is unnecessarily complex for the following reasons:

- The legal provisions are drafted in such a way that it is not always clear what sanction applies to a specific failure (e.g., for insufficient CDD, internal controls, training). The absence of a consolidated text on AML/CFT adds further confusion.
- It is unclear what logic is behind the division of sanctions into criminal or administrative and the amounts of the pecuniary sanctions (some are expressed in percentage whilst others are expressed in absolute amounts). This may be a minor issue but nevertheless contributes to render the sanctioning regime complex.

Recommendations and comments

The supervisory authorities of prudentially regulated financial institutions are appropriately structured and have appropriate powers to ensure compliance with prudential and market conduct requirements. However, the authorities should assess the effectiveness of its AML/CFT supervision of nonprudentially supervised financial intermediaries with a view to ensuring more comprehensive, systematic and uniform inspections for all financial intermediaries;

The resources and efforts directed to AML/CFT supervision and on-site inspections with respect to the securities and insurance sectors as well as financial intermediaries registered under Article 106 of the BL should be increased. Where it is possible, the authorities should increase the frequency of on-site inspections of foreign branches and subsidiaries of Italian financial intermediaries;

Given its considerable importance as a provider of financial services, considerably more attention should be paid to Bancoposta, particularly following its introduction of new procedures and internal controls and now that the BoI has recently been granted supervisory authority over it;

There are also some gaps in supervision, notably with respect to independent distributors working with or on behalf of insurance undertakings (i.e., financial salespersons, sub-agents and brokers) and supervisory efforts should be increased, albeit on a risk basis. The authorities should continue with their plans to expand registration requirements and ensure they have requisite professional qualifications and integrity;

The authorities should amend the law in order to clarify the sanctions framework and ensure that it is effective, proportionate and dissuasive. They should render the financial institutions (i.e. legal persons) separately liable for all violations of the AML/CFT requirements. They should also extend the range of sanctions in order to include sanctions for deficiencies in internal controls and training, particularly for financial intermediaries that are not prudentially supervised.

Compliance with FATF Recommendations		
R.17	Partially compliant	Sanctions regime is not fully effective, proportionate and dissuasive. Legal entities are not separately subject to all the sanctions for failure to comply with the AML/CFT requirements. The number of sanctions applied every year for infringement of key FATF recommendations is quite low in proportion of the number of entities subject to these requirements.
R.23	Partially compliant	Inadequate supervision/inspection cycles too long with respect to securities and insurance sectors as well as financial intermediaries registered under Article 106 of the BL. Few inspections (i.e., only one) with respect to Bancoposta. Gaps in supervision with respect to downstream distributors in the insurance sector.
R.29	Largely compliant	Nonprudential supervisors lack power to enforce certain requirements (e.g., internal controls and training). No power to sanction financial institutions (i.e., legal persons) for violations of requirements.
R.30	Largely compliant	Supervisory/on-site inspection resources, notably with respect to Consob, ISVAP and the GdF are not sufficient.
Financial institutions–market entry and ownership/control (R.23)		
Description and analysis		
<p>Banks</p> <p>Pursuant to Art. 108 and 109 of the B.L. —Ministerial Decree no.516/1998 sets out the integrity and experience requirements of the persons performing administrative, managerial or control functions, while Ministerial Decree no.517/1998 sets out the integrity requirements of the major shareholders. In authorizing banks, the shareholders must satisfy the integrity requirements established by statutory and regulatory provisions (Credit Committee Resolution dated 19 April 1993, Article 25 of the 1993 Banking Law and Ministerial Decree 144/1998) and the requirements for authorization to hold shares of banks must be satisfied. In particular, the applicant must submit the following:</p> <ul style="list-style-type: none"> • the list of the persons who directly or indirectly participate in the capital of the bank, with an indication of the shares held; for indirect holdings, the person by means of which the capital is held must be specified; • information on the provenance of the funds with which the capital of the bank is subscribed; • documentation showing that persons directly or indirectly holding more than 5 percent of the capital or control of the bank satisfy the integrity requirements and attesting to their quality; <p>The persons performing administrative, managerial or control functions must satisfy the experience and integrity requirements (Article 26 of the 1993 Banking Law and Ministerial Decree 161/1998). In particular, corporate office may not be held by persons who, for example, have been subjected to preventive measures by the judicial authorities or sentenced definitively to a term of imprisonment of at least one year or two years for the crimes indicated in Ministerial Decree 161/1998.</p> <p>Banking authorization will be denied where examination of the application brings to light shortcomings precluding the conditions for sound and prudent management. The most frequent causes of authorization being denied are:</p> <ul style="list-style-type: none"> • inadequate capital base; • deficiencies in the program of operations; • record of criminal conviction or investigation of major shareholders; • results of inspections of financial companies applying to become banks. 		

The suitability of major shareholders is evaluated primarily on the basis of the documentation attached to the application for banking authorization. The Bank of Italy also uses other information in its possession and may avail itself of confidential information obtained from cooperation with other public authorities or with the competent supervisory authorities in the foreign countries concerned. Importance is also attached to links of whatever nature, including family or associational ties between shareholders and other persons whose situation is likely to jeopardize the sound and prudent management of the bank.

The shareholders may be required to offer specific commitments intended to safeguard the sound and prudent management of the bank. Given the importance of the quality of shareholders in considering an application for authorization attention is paid to any record of criminal conviction or investigation of shareholders, even where holdings are below the first threshold (5 percent) established by the provisions on the ownership structures of banks.

A request for authorization to acquire the significant holding must be sent to the BoI before the transaction is concluded. The BoI thereupon verifies that:

- the shareholder satisfies the integrity requirements. Where the shareholder is a company or institution, the integrity requirements must be satisfied by all the members of the board of directors and by the chief executive officer;
- conditions are likely to ensure the sound and prudent management of the bank or holding company.
- the proposed acquisition complies with the “principle of separation” laid down by law, according to which companies with significant business activity in nonfinancial sectors may not acquire holdings of more than 15 percent of the capital, or control, of a bank or bank holding company.

Prior authorization is required for the acquisition of control of a company that holds an interest exceeding 5 percent of the capital of a bank (or banking group holding company) or involving control of the bank or the holding company. Prior authorization is also required for the acquisition of control of a company that holds an interest exceeding 5 percent of the capital of a bank (or banking group holding company) or involving control of the bank or the holding company.

Compliance with the integrity and experience requirements is verified in the first place by the bank’s board of directors, which transmits to the BoI a copy of the minutes of the meeting in which the verification took place along with the relevant documentation. The quality of corporate officers, like that of shareholders, is evaluated by the BoI not only on the basis of the information provided by banks but also in the light of the information it gathers in the course of supervision or deriving from data in its possession. The BoI can request changes in the governance system, corporate structure or internal control system or adjustments to the business development plan where conditions of sound and prudent management are not ensured.

The BoI consults the home-country authority before authorizing a branch or subsidiary of a foreign bank to engage in banking in Italy. In the case of a branch or subsidiary of a non-EU bank, the BoI evaluates the existence of adequate regulation from the point of view of supervisory controls on a solo and consolidated basis in the bank’s home country and of agreements for the exchange of information. The BoI obtains the home-country supervisor’s prior consent to the establishment abroad and statements attesting to the soundness of the capital base and adequacy of the organizational, administrative and accounting procedures of the parent company or banking group to which the branch or subsidiary belongs.

In the case of the establishment of branches or subsidiaries of foreign banks, the BoI obtains the prior consent of the home-country supervisory authority and evaluates the existence of conditions for effective supervision.

Investment firms

General rules about the authorization of market intermediaries are set out in Articles 18, 19 and 26 to 29 of Legislative Decree 58/1998 (hereinafter, Consolidated Law) and Articles 7 to 23 of Consob Regulation 11522/98 and the BoI’s supervisory instructions.

The provision of one or more investment services (securities business) to the public on a professional basis is restricted to authorized intermediaries (banks and investment firms). Consob and the BoI authorize the provision of investment services in Italy by, respectively, investment firms and banks whose registered offices and head offices are located in Italy.

The licensing conditions and criteria assessment include a comprehensive assessment of the applicant and all those in a position to control or materially influence the applicant that addresses “ethical attitude” including past conduct and appropriate proficiency requirements, such as industry knowledge, skill and experience (persons performing administrative, managerial or control functions must fulfill experience, integrity and independence requirements; shareholders must fulfill integrity requirements).

Furthermore, Italian investment firms (SIMs) are authorized where, among others, the persons performing administrative, managerial or control functions fulfill experience, integrity and independence requirements and the shareholders fulfill integrity requirements.

The experience, integrity and independence requirements of persons performing administrative, managerial or control functions are established by the MEF in a regulation adopted after consulting the BoI and Consob (Decree 468/1998 issued by the Minister of the Treasury, the Budget and Economic Planning, published in *Gazzetta Ufficiale* no. 7 of 11.1.1999), while the integrity requirements for relevant shareholders of Italian investments firms are established by the MEF in another regulation adopted after consulting the BoI and Consob (Decree 469/1998 issued by the Minister of the Treasury, the Budget and Economic Planning, also published in *Gazzetta Ufficiale* no. 7 of 11.1.1999”).

Intermediaries are required to give notice to Consob and the BoI of any material change in the licensing conditions and on the occurrence of specified events. Among others, the following notification requirements are specifically provided for by the relevant regulations:

Any person, in whatever capacity, who intends, directly or indirectly, to acquire or dispose of a qualifying shareholding (5 percent or more of the capital) in an Italian investment firm where this would result in one of the established thresholds (10 percent, 20 percent, 33 percent and 50 percent) being crossed or in the acquisition or loss of control of the company.

- Any agreement governing the exercise in an intermediary of votes attaching to shares that, considered as a whole, exceed the significant thresholds for the purposes of these provisions must be notified by the participants to the BoI within 5 days of the date of its conclusion.

The BoI then verifies that:

- the shareholder satisfies the integrity requirements. Where the shareholder is a company or institution, the integrity requirements must be satisfied by all the members of the board of directors and by the chief executive officer; and
- conditions are likely to ensure the sound and prudent management of the intermediary or holding company.

ISVAP

Insurance undertakings are subject to similar requirements with respect to ownership/control and management. In particular, persons charged with administration, management and internal control functions must meet integrity and professional qualification standards. Similarly, natural or legal persons who directly or indirectly have controlling interests or qualifying holdings in the undertaking must also meet integrity standards. As with banks and investment firms, significant changes in individual shareholding are subject to the integrity standards.

Insurance brokers are required to register on a professional association registry. This register is kept by ISVAP. As a condition of registration, ISVAP reviews integrity and professional capability of brokers. With respect to

<p>agents, they must also be registered with ISVAP, subject to the identical review of integrity and professional capability.</p> <p><i>UIC</i></p> <p>UIC is in charge of the general register under Article 106 of the Banking Law of 1993. Entities that are required to register are those that pursue on a public basis of the activities of acquiring holdings, granting loans in whatever form, provide money transmission services and trade in foreign exchange.</p> <p>The UIC will enter an entity in the register after checking a) the legal form (which has to be a <i>società per azioni</i>, <i>società in accomandita per azioni</i>, <i>società a responsabilità limitata</i> or <i>società cooperative</i>); b) the corporate purpose, i.e., the intermediary can only engage in financial activities; c) the paid-up share capital (currently €600,000) which should be no less than five times the minimum capital required for the formation of a <i>società per azioni</i>; and d) the experience and integrity of the members and corporate officers. Approximately 1,500 intermediaries are registered in this general register.</p> <p>In addition to being registered under Article 106, some intermediaries that perform certain activities also have to be registered in the special register kept by the BoI in accordance with Article 107 Banking Law. The activities which present more systemic risks are special purpose vehicles, securitization, issuance of credit cards, issuing guarantees, foreign exchange (whereby a position is taken in the market). The supervision of these entities is comparable to banking supervision and includes prudential and corporate governance topics. Of the 1,500 intermediaries registered under Article 106, 370 intermediaries are also registered in this special register.</p> <p>In addition, in accordance with Article 155 of the Banking Law, persons who engage on a professional basis in money changing are entered in a special section of the “Article 106 register”. Because of the lower (prudential) risk that these bureau de change pose the paid-up capital is only the capital required to set up a company, i.e., €120,000. According to Article 155.5 and Article 106.6 the UIC can request figures, information, records and documents or carry out on-the-spot verifications of these intermediaries. The UIC will also check the integrity of members of these financial intermediaries or of persons performing administrative, managerial and control functions in these financial intermediaries, but it cannot delete an intermediary from the register based on integrity issues.</p> <p>Under Article 108 of the Banking Law, the UIC checks the integrity of members of these financial intermediaries. Under Article 109 it checks the experience and integrity of persons performing administrative, managerial and control functions in these financial intermediaries. This experience and integrity of Article 109 is checked in accordance with the Ministerial Decree 516 of 30 December 1998. Among others, the UIC looks at selective criminal records and whether the person has been in charge of a company that has been liquidated.</p> <p>The MEF, on proposal of the UIC, can order deletion from the general register for noncompliance with the declared financial activities; when the intermediary does not comply with the required legal form, the corporate purpose or the paid-up capital; in the event of serious violations of laws or of regulations. The UIC cannot delete an intermediary from the register based on integrity issues. Nonintegrity of members of financial intermediaries will affect the voting rights and corporate officers will be suspended. In addition, the BoI can remove these persons from their positions (Articles 25, 26 Banking law).</p> <p>Overall, market entry requirements for financial intermediaries are sound and appear to be effectively implemented.</p>		
<p>Recommendations and comments</p>		
<p>Compliance with FATF Recommendations</p>		
<p>R.23</p>	<p>Compliant</p>	<p>The recommendation is fully observed.</p>

AML/CFT Guidelines (R.25)
Description and analysis
<p>The UIC issues guidelines based on Article 150.2 of the Law 388/2000 and the Bank of Italy can issue guidelines on the basis of the AML Law, Article 3 bis Paragraph 4.</p> <p>It has issued the following guidelines: circular of 1997 on STRs; guideline of November 9, 2001 extending the reporting requirements to terrorism financing; guideline of the UIC of December 10, 2003 for money transfer operators, guideline of the BoI of July 2003 regarding relationships and transactions with NPOs; letter on loan-sharking and how to deal with NCCT countries; guideline on freezing. The guidelines December 10, 2003 that apply to money transfer companies provide organizational and procedural rules for reporting to the UIC and give a nonexhaustive list of indicators for possible suspicious transactions. However, little guidance is provided for identifying suspicious transactions possibly linked to terrorist financing.</p> <p>The UIC is currently developing indicators for the DNFBPs that should enable the latter to identify suspicious transactions more easily.</p> <p>The BoI, in agreement with ISVAP and Consob and in consultation with the UIC, issued Operational Instructions for the identification of suspicious transactions on January 12, 2001 (the Decalogo) that applies to all financial intermediaries. The Decalogo provides guidance on policies, procedures, systems and controls which financial intermediaries should implement to ensure compliance with suspicious transactions reporting requirements. It also provides a (nonexhaustive) list of indicators in order to help financial institutions identify suspicious transactions.</p> <p>The Decalogo, which was drafted also with input from the Banking Association and the banking industry, is quoted by the Banking Association as a solid reference parameter for institutions subject to the reporting requirement. Other financial institutions also use the Decalogo as their (only) tool for identifying suspicious transactions and some sector-specific indicators are provided.</p> <p>In the wake of the events of September 11, 2001, the BoI issued several circulars applicable to financial intermediaries reminding them of the need to review and report to the UIC account relationships and transactions with persons connected with the attacks, listed in EC regulations and listed by the Basel Committee. Pursuant to relevant AML instructions, they also remind financial intermediaries to follow up on transactions that have “suspicious elements”. However, the Decalogo does not provide any specific indicators that would assist in identifying suspicious transactions possibly linked to terrorist financing. In addition to the Decalogo, the BoI issued in July 2000 an instruction on how to deal with NCCT countries.</p> <p>ISVAP has also issued a number of circulars. Consob has provided guidelines for identification in case of on-line transactions.</p> <p>The UIC provides feedback to financial institutions only when the reports do not result in police investigations. However, no positive feedback is provided on other STRs. The UIC does not issue periodic public reports on trends and typologies.</p>
Recommendations and comments
<ul style="list-style-type: none">• Additional specific guidance should be developed to assist in identifying suspicious transactions possibly linked to terrorist financing;• Guidance to DNFBPs should be developed to assist them in identifying suspicious transactions;• Positive feedback should be provided to financial institutions on their STRs; and• Periodic reports should be published on trends and typologies.

Compliance with FATF Recommendations						
R.25	Partially compliant	<ul style="list-style-type: none"> • No specific guidance to assist in identifying suspicious transactions possibly linked to terrorist financing, other than for money transfer businesses and NPOs; • No guidelines have been issued for the DNFBPs; • Positive feed back is not provided to financial institutions; and • Systematic feedback is not provided in the form of statistics and typologies, for instance by means of a periodic newsletter or an annual report 				
<i>Ongoing supervision and monitoring (R.23, 29 & 32)</i>						
Description and analysis						
Overall, the competent authorities maintain statistics on on-site inspections though not systematically for requests for assistance.						
<i>UIC</i>						
Per year, the supervisory department of the UIC performs approximately 40 inspections (75 percent of which are banks, 25 percent of which are insurance companies, stockbrokers, trust companies, etc.). An inspection team consists of two persons and, depending on the size of the financial institution, an inspection will take one to two months. Inspectors in general will go through all financial activity. The UIC has access to the premises of the intermediaries and documents on the basis of Article 5.10 of the AML Law.						
When preparing for its inspection the supervision department of the UIC uses information from the Statistical and AML Departments. The inspections focus on issues like the non reporting of suspicious transactions, cash transactions over €12,500 and other possible administrative violations of the AML Law.						
The UIC's supervision department carried out its inspections over the past years as follows:						
Financial entity		Number of on-site inspections				
		2000	2001	2002	2003	2004
Banks or branches of foreign banks		25	35	32	34	31
Securities firms (SIMs)		2	3	2	3	3
Fiduciary/trust companies		2	3	6	2	4
Insurance companies		4	3	4	3	3
Fund management companies		1	0	1	1	1
Stockbrokers		1	1	1	1	1
Total		35	45 1/	46	44	43
1/ Includes an on-site inspection of BancoPosta (formerly Poste Italiane S.p.A.)						
While overall the on-site inspection efforts of the UIC are significant, they are heavily skewed toward banks (more than 75 percent) and when looked at in conjunction with the more limited on-site inspection efforts of the Consob and ISVAP some rebalancing may be warranted.						
On average, about 15 institutions were reported yearly to the judicial authorities for omitted records in their financial database. Furthermore, in the period 2000-2004 the UIC sent 23 reports to the MEF for disciplinary procedure concerning bearer checks over threshold amount of €12,500 without “ <i>non transfer</i> ” clause (17 cases); bearer saving books with a balance over the legal threshold limit (one case); certificate to bearer over € 12,500 transferred between private individuals (two cases); and omitted reports of suspicious transactions (three cases). There were also cases in which the UIC placed the intermediaries under continuous monitoring in order to verify the execution of the corrective actions. In addition, 63 cases of criminal violations were reported to the judicial						

authorities (62 for omitted identification or record in the financial data bank, and one case for not setting up the financial databank).

BoI

The BoI has a sophisticated system for monitoring the stability of Italy's financial system. It has established a highly comprehensive reporting system that requires banks to submit very detailed data on the activity performed domestically and at foreign branches, both on an individual and consolidated basis. This data allows the BoI to monitor the evolution of a wide range of financial indicators. At the micro-prudential level, the monitoring system focuses on banks' risk areas and their organizational structure. A rating methodology focuses on five components: capital adequacy, asset quality, organization, profitability, and liquidity. An overall rating for each bank is derived based on the five components and additional available qualitative information.

On-site inspections are planned annually. The selection is determined on the basis of time passed since the last inspection and intermediaries where off-site analysis suggests general or specific on-site follow-up is warranted. Inspections can be of a general or sectoral/thematic nature. It is also informed by the Board of statutory auditors of undertakings who are required, inter alia, to report to BoI any anomalies associated with AML/CFT prevention. The top ten groups are inspected every three years while the others are inspected every three to five years. The average duration of an inspection ranges from five/six weeks to four/six months. As far as Article 107-registered companies as concerned, not all have been inspected. In 2003, the BoI conducted 184 inspections of banks (mostly general), 10 of securities firms, 4 of asset-management firms and 19 of other financial sector intermediaries. There appear to have been few inspections of foreign branches and subsidiaries of Italian banks in the last five years.

AML/CFT violations detected by BoI

	2002	2003	2004
Limitation of use of cash and bearer instruments (art 1 AML Law)	3	2	1
Customer identification and record keeping (art 2 AML Law)	13	12	7
Reporting of suspicious transactions (art 3 AML Law)	11	5	9
TOTAL	27	19	17

Overall, the on-site inspection efforts of the BoI appear to be appropriate.

In 2004, the BoI became the supervisor of Bancoposta and issued AML/CFT instructions concerning structural and organizational requirements for and the applicability of certain provisions of the Banking Law to Bancoposta. Bancoposta is currently introducing new procedures and internal controls and the mission understands that once completed, an inspection will take place. Prior to 2004, the post office was inspected for AML/CFT by the UIC in 2001 and, as such, the authorities have effectively relied on the post office's self-supervision. As such, little supervisory attention has been paid to the post office, which, given its importance in the Italian financial sector, is unjustifiably low.

Consob

General on-site inspections of investment firms, banks (that provide investment services), asset management firms and financial salespersons, are carried out on the basis of an annual inspection plan. Planning takes into account the average frequency of on-site inspections and is also informed by the Board of statutory auditors of intermediaries who are required, inter alia, to report to Consob any anomalies associated with AML/CFT prevention, as well as complaints from the public. The plan is based on the principle that each bank is given an on-site inspection at least once every 5 years and problematic banks more frequently. Intermediaries located in certain geographic locations where there is higher criminality and risk of money laundering are given higher priority. Moreover, methods of selection are usually explicitly linked to some other criteria or factors like

belonging to multifunctional groups or the size of the intermediary in order to select entities more significantly exposed to AML compliance risks.

High priority has been given to inspecting banks, investment firms and asset management firms over the past several years. Few inspections of financial salespersons have taken place.

Inspections at Intermediaries

Inspections	Started in the year	Concluded in the year
2001		
Banks	2	1 1/
Investment firms	2	4 2/
Asset management firms	2	2
Financial salespersons	--	--
Total	6	7
2002		
Banks	2	3
Investment firms	5	4
Asset management firms	3	4
Financial salespersons	--	--
Total	10	11
2003		
Banks	9	8
Investment firms	1	5
Asset management firms	--	1
Financial salespersons	--	--
Total	10	14

1/ Suspended.

2/ One of which suspended.

Given that Consob oversees over one-thousand banks, investment firms and asset management firms, even taking into account that AML/CFT supervision is shared with the BoI, the average inspection cycle appears to be extremely long. On-site inspections of the more than 65,000 financial salespersons (of which 40,000 effectively provide service) are carried out when the authorized intermediaries to which they are associated are inspected.

The number of AML violations for the provision of financial services as detected by Consob and reported to UIC in 2004 is 31. Regarding financial salespersons, however, the violations detected by Consob and sanctioned directly since January 1, 2004 are 89 for misuse of cash and/or clients' assets and 1 for failure to properly identify clients.

ISVAP

ISVAP plans on-site inspections annually. The selection is determined on the basis of time passed since the last inspection and undertakings where off-site analysis suggests general or specific on-site follow-up is warranted. It is also informed by the Board of statutory auditors of undertakings who are required, inter alia, to report to ISVAP any anomalies associated with AML/CFT prevention, reports from other supervisory authorities and complaints from the public. Inspections can be of a general or sectoral/thematic nature, including AML/CFT-specific. Between, 1993 and 2004, ISVAP conducted the following number of inspections:

Type of undertaking	Number of inspections
Life	38
Nonlife	60
Life and nonlife	33
EU branches	3
Companies wound up	4
Total	138

Of the total of 138 undertakings that were inspected during this period, 73 inspections focused on AML/CFT compliance and 65 were of a general nature that included a AML/CFT component. With an average annual number of inspections of ten undertakings, the average inspection cycle is about 14 years, which appears to be rather long. Even with the UIC's average of three inspections per year of insurance companies the inspection cycle remains relatively long. Sub-agents and financial salespersons are not inspected. The mission understands that there have been few inspections of brokers to date.

Over the past three years, ISVAP has notified competent authorities of twelve AML violations.

GdF

The UIC is responsible for the registration of intermediaries pursuant to Article 106 of the BL whereas the GdF is responsible for checking compliance of these intermediaries with AML/CFT requirements.

The Special Currency Police Unit of the GdF, being a law enforcement unit and not an inspection authority, focuses more on nonregistered entities and illicit financial activities. Similar as with the UIC, the inspections of the unit are not focused on the adequacy of the internal controls of the institution but on compliance with the separate requirements of the AML Law.

The GdF has performed 29 inspections in 2003 and 25 in 2004. The selection of entities to inspect is done on the basis of police information, criminal records, turnover, irregular transfers or other anomalies. The GdF also uses the STRs they receive from the UIC to check for noncompliance with the AML Law. However, given the number of intermediaries registered under Art. 106 of the BL (including 575 bureaux de change and 25 money transmission businesses and their over 6,000 sub-agents), the efforts and resources devoted to inspections are disproportionately low.

Depending on the situation they find, a team of two or three inspectors will work on the inspection for two weeks to a month. In 2003, the GdF found 10 administrative violations and 22 criminal. In 2004, the administrative violation found amounted to 246 and 34 criminal violations; cases of 56 persons were referred to the judicial authorities.

Besides those inspections carried out in the specific anti-money laundering field, GdF carries out more generic investigations on financial and economic operators (from the fiscal point of view), checking also compliance with anti-money laundering obligations. According to the authorities, GdF has planned, for the current year, 121 investigations in the specific sector of money-transfer

Recommendations and comments		
<p>The authorities should assess the effectiveness of its AML/CFT supervision of nonprudentially supervised financial intermediaries with a view to ensuring more comprehensive, systematic and uniform inspections for all financial intermediaries;</p> <p>The resources and efforts directed to AML/CFT supervision and on-site inspections with respect to the securities and insurance sectors, as well as financial intermediaries registered under Article 106 of the BL should be increased. Where possible, the authorities should increase the frequency of on-site inspections of foreign branches and subsidiaries of Italian financial intermediaries;</p> <p>Given its considerable importance as a provider of financial services, considerably more attention should be paid to Bancoposta, particularly following its introduction of new procedures and internal controls and now that the BoI has recently been granted supervisory authority over it;</p> <p>There are also some gaps in supervision, notably with respect to independent distributors working with or on behalf of insurance undertakings (i.e., financial salespersons, sub-agents and brokers) and supervisory efforts should be increased, albeit on a risk basis. The authorities should continue with their plans to expand registration requirements and ensure they have requisite professional qualifications and integrity;</p> <p>Authorities should maintain more systematically statistics regarding requests for assistance made or received by supervisors including whether the request was granted or refused.</p>		
Compliance with FATF Recommendations		
R.23	Partially compliant	Inadequate supervision/inspection cycles too long with respect to securities and insurance sectors, as well as financial intermediaries registered under Article 106 of the BL. Few inspections (i.e., only one) with respect to Bancoposta. Gaps in supervision with respect to downstream distributors in the insurance sector.
R.29	Largely compliant	Nonprudential supervisors lack power to enforce certain requirements (e.g., internal controls and training). No power to sanction financial institutions (i.e., legal persons) for violations of requirements.
R.32	Largely compliant	No systematic recording for requests for assistance and how requests were dealt with.
Money or value transfer services (SR.VI)		
Description and analysis		
<p>Money transfer operators are registered by the UIC in the general register in accordance with Article 106 of the Banking Law. These operators are required to be a <i>società per azioni</i>, <i>società in accomandita per azioni</i>, <i>società a responsabilità limitata</i> or <i>società cooperative</i>; can only be engaged in financial activities; and have to have a paid-up share capital of €600.000. In addition, the experience and integrity of the members and corporate officers is checked. There are currently 25 main money transfer operators which include the large international providers and providers that serve only one or a few countries.</p> <p>The sub-agents of these operators are registered in a separate list by the UIC. Article 3 of Legislative Decree 374/1999 states the registration requirements for these financial agencies while the Ministerial Decree 485/2001 and the <i>Provvedimento</i> issued by the UIC on 11 July 2002 implement this disposition and clarify the requirements to register in the separate UIC list. The UIC enters persons in the register where the following conditions are met:</p> <p>a) for natural persons:</p> <ul style="list-style-type: none"> • citizenship of Italy or of a State of the European Union or of a different State according to the provisions of Article 2 of Legislative Decree 286 of 25 July 1998; 		

- domicile in Italy;
- high-school diploma or its equivalent in all legal respects; and
- satisfaction of the integrity requirements established in the regulation issued pursuant to Article 109 of the 1993 Banking Law;

b) for persons other than natural persons:

- corporate purpose specifying performance of the activity of financial agency;
- shareholders and persons performing administrative, managerial or control functions satisfying the integrity requirements established in the regulations issued respectively pursuant to Articles 108 and 109 of the 1993 Banking Law;
- registered office and head office situated in Italy; and
- satisfaction of the requirements as to capital and legal form established by the MEF with a regulation adopted acting on a proposal from the UIC.

Because these sub-agents do not take a position vis-à-vis the customer, there are no requirements for paid-up capital. The 25 registered money transfer operators have more than 6,000 sub-agents.

The AML Law imposes the same identification, record keeping and reporting requirements on the money transfer operators as on the other financial institutions. This means that only customers that perform transactions over €12,500 have to be identified. Some operators will have an internal identification threshold of zero, which also allows them to send the originator information with the transaction. Other operators take the identification for transactions over €3,100 which is the threshold for monitoring split transactions, however, since these transactions are only kept for one week in the *Archivio Unico Informatico*, it is not certain that the money transfer operators will keep records of these identification data.

Article 2.1q of the Legislative Decree 56/2004 and Article 1.1n of Legislative Decree 374/1999 impose the identification, record keeping and reporting requirements on the financial agencies (the sub-agents) and these sub-agents report to the UIC through the main money transfer operator. However since Legislative Decree 374/1999 is not yet fully implemented, it is not clear if the AML requirements apply to the sub-agents directly by way of Article 2.1q of Legislative Decree 56/2004 or indirectly because of their contractual relationship with the main operator.

The money transfer agents provide training related to operational activities and the AML requirements to their sub-agents.

The UIC has issued a guideline for reporting of suspicious transactions, dated December 10, 2003, that focuses on the business of funds transfers outside the traditional banking sector. The guideline provides for some organizational and procedural rules for reporting suspicions to the UIC and includes a list of indicators.

The UIC checks compliance with the registration requirements unless the money transfer operator is also an authorized entity that can handle cash transactions over €12,500. In those cases the UIC will also be responsible for checking AML compliance. For money transfer operators that do not deal with cash transactions over €12,500 and the sub-agents the GdF is responsible for checking compliance with the AML/CFT requirements. It seems, however, that the GdF only has contact with at least the money transfer operators that mission met on criminal investigations.

The enforcement of nonregistered money transfer operators is a task of the GdF. In the period 1999–2004, 45 individuals were reported to the judicial authorities for carrying out illegal remittance systems. The GdF has investigated five illegal operators and seized almost €2 million in assets.

<p>The sanction for performing unauthorized financial activities referred to in Article 106 Banking Law is imprisonment between six months and four years and a fine of between four million and twenty million lire / €2066–€10,329.</p> <p>In light of the fact that the UIC only inspects those money remitters that can deal with cash transactions over €12,500 and the GdF focuses on illegal remitters, it seems that a large contingent of money transfer agents and sub-agents are not actually supervised for AML/CFT compliance.</p>		
<p>Recommendations and comments</p> <p>Authorities should review their inspection policies with regard to money transfer agents and sub-agents and ensure that the whole sector is adequately monitored and complies with the AML/CFT requirements.</p>		
<p>Compliance with FATF Recommendations</p>		
<p>SR.VI</p>	<p>Largely compliant</p>	<p>There is no ongoing monitoring for compliance with the AML requirements, including internal procedures and training, by the relevant supervisor. The identification threshold of €12,500 does not allow money transfer operators to comply with SR VII.</p>

Preventive Measures–Designated Non-Financial Businesses and Professions

<p><i>Customer due diligence and record-keeping (R.12)</i></p>		
<p>Description and analysis</p> <p>The requirements on identification, record keeping and suspicious transaction reporting as set out in the AML Law will be extended to nonfinancial businesses and professions by the Legislative Decrees 374/1999 and 56/2004 once the required implementing regulations for these Legislative Decrees have entered into force. At the time of the onsite visit, the implementing regulations called for in these decrees had been drafted by the Ministry of Economy and Finance, but still had not been adopted. The reason provided for this, is that after Legislative Decree 374/1999 was issued, the EU and the FATF embarked on a revision of their standards and the Italian authorities decided to postpone the implementation of the Legislative Decree until the outcome of the EU Directive and the FATF Recommendations was clear. The Decrees have therefore not been implemented by the various sectors. However, the implementing regulations have received on May 12, 2005, the positive legal advice by <i>Autorità Garante per la protezione dei dati personali</i> (Authority Guarantor of Privacy) and the authorities expect the regulations to be approved before the end of 2005.</p> <p>The Legislative Decree 374/1999, when implemented, would extend the original list of financial intermediaries to a new range of professions and activities:</p> <ul style="list-style-type: none"> • credit collection on behalf of third parties; • custody and transport of cash, securities or other assets by means of security guards; • transport of cash, securities or other assets without the use of security guards; • real estate brokering; • dealing in antiques; • operating auction houses or art galleries; • dealing in gold, including export and import, for industrial or investment purposes; • manufacturing, brokering and dealing in valuables, including export and import; • operating casinos; • manufacturing of valuables by craft undertakings; • loan brokering; and • financial agencies referred to in Article 106 of the Banking Law. 		

Financial agencies referred to in Article 106 of the Banking Law cover the pursuit on a public basis of the activities of acquiring holdings, granting loans in whatever form, providing money transmission services and trading in foreign exchange, which have been authorized and registered by the UIC.

Although dealers in gold are covered, dealers in other precious metals and dealers in precious stones are not specifically covered. While in principle these dealers could be covered by the professions “manufacturing, brokering and dealing in valuables, including export and import” and those “manufacturing of valuables by craft undertakings”, the authorities could not specify which entities that deal with valuables (*oggetti preziosi*) were intended to fall under the AML/CFT requirements.

However, Legislative Decree 374/1999 has not yet been implemented. Article 7.4 of this Legislative Decree mentions that the measures implementing the decree shall be issued within 120 days after the entry into force of the decree, yet to date no implementing measures have been taken.

The Legislative Decree 56/2004 (Article 2 Section 1 Lit. s and t), once implemented, will extend the identification and registration requirements to accountants, auditors and labor advisers for all their activities, as well as to notaries and lawyers when, on behalf of and for their clients, they execute any financial or real estate transactions and when they assist in the planning or execution of transactions for their clients concerning the:

- transfer, with any title, of real property or business entities;
- managing of money, securities or other assets;
- opening and management of bank, saving or security accounts;
- organization of contributions necessary for the creation, operation or management of companies; and
- creation, operation or management of trusts, companies or similar structures.

In accordance with Article 3.2 of Legislative Decree 56/2004 the MEF will have to issue a regulation establishing the details of the identification and registration requirements, taking into account the peculiarities of all the persons and entities that have to comply with the AML Law. Articles 8.4 and 8.5 of Legislative Decree 56/2004 state that the requirements of the decree shall not be applied to accountants, auditors and labor advisers, lawyers and notaries until separate regulations have been issued. As these regulations have not been issued to date, the professions have not been implementing the requirements.

The Legislative Decree only applies to lawyers and not to other independent legal professions as required under the FATF Recommendations. Since there is no restriction in Italy on who can provide legal advice, the AML provisions will cover only a limited number of persons that can provide the services covered by the Legislative Decree 56/2004, Article 2.1(t).

Although the individual auditors do not yet have to comply with the law, the external audit firms are covered by the law (Article 2.1(p) of Legislative Decree 56/2004). Judging from the information provided by the authorities and the private sector, the audit firms have not started to implement the AML/CFT requirements.

The AML Law of 1991 applies to “trust companies” which are fiduciary companies that act on their name but on behalf of clients. Besides these companies, there are no trust and company service providers in Italy, at least the authorities have not given the mission any information on this.

Article 6.11(b) of Legislative Decree 56/2004 makes the overall identification, registration and reporting requirements of the AML Law applicable. There is no identification threshold foreseen for dealers in precious metals and dealers in precious stones. For casinos the identification and registration requirements shall apply “even for buying and changing chips or other playing entities whose amount is equal or more than €1.500” (Article 6.9 of Legislative Decree 56/2004 amending Article 4.4 of Legislative Decree 374/1999).

Recommendations and comments		
<p>Since the EU and the FATF have changed their requirements for the DNFBPs some time ago, the authorities are urged to implement these requirements without delay and to ensure that all the DNFBPs are informed of their obligations to identify their customers and keep records;</p> <p>The authorities should clarify which dealers and manufacturing of “valuables” are to be covered by the AML Law and ensure that the relevant sectors are informed of their upcoming duties;</p> <p>The authorities should ensure that the identification requirements for DNFBPs are in line with the FATF Recommendations. The regulations specifying the identification and registration requirements should also include issues like specific measures for the identification of PEPs and ongoing due diligence in accordance with the FATF Recommendations;</p> <p>The authorities should ensure that also other independent legal professionals are covered by the AML Law.</p>		
Compliance with FATF Recommendations		
R.12	Noncompliant	Although the legislative basis is in place, the implementing regulations are not in force. This accounts for major shortcomings, especially since there is no implementation of the identification requirements by the sectors. The identification requirements should be based on the FATF Recommendation and include specific measures for PEPs and ongoing due diligence.
<i>Monitoring of transactions and relationships (R.12 & 16)</i>		
Description and analysis		
<p>The AML Law in general does not require the obliged entities to monitor transactions or to pay special attention to relationships with clients from countries that do not or insufficiently apply the FATF Recommendations nor to business relationships with a PEP. Neither is there any other regulation or guideline applicable to the DNFBPs that addresses these issues.</p> <p>Moreover, since the AML Law does not yet apply to the DNFBPs, these businesses and professions do not monitor their transactions and relationships for possible money laundering or financing of terrorism.</p>		
Recommendations and comments		
<p>The authorities should ensure that either by law, regulation or other enforceable means, the DNFBPs are required to pay special attention to all complex, unusual large transactions and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing and be available to help competent authorities and auditors;</p> <p>The authorities should ensure that the DNFBPs are required either by law, regulation or other enforceable means to give special attention to business relationships and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply the FATF Recommendations. Whenever these transactions have no apparent economic or visible lawful purpose, their background and purpose should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities;</p> <p>The authorities should require DNFBPs to conduct enhanced ongoing monitoring on business relationships with a PEP.</p>		
Compliance with FATF Recommendations		
R.12	Noncompliant	Although the law is in place, there is no implementation regulation yet, and there is no compliance with the essential criteria.
R.16	Noncompliant	Although the law is in place, there is no implementation regulation yet, and there is no compliance with the essential criteria.

<i>Suspicious transaction reporting (R.16)</i>		
Description and analysis		
<p>The reporting requirement set out in the AML Law will fully apply to the nonfinancial intermediaries listed in Article 1 of Legislative Decree 374/1999. The authorities have not provided for a cash threshold for dealers in precious metals or stones.</p> <p>Since the Legislative Decree has not been implemented yet, the UIC has not received any suspicious transactions from these entities. Pursuant to the Legislative Decree 56/2004, accountants, auditors, labor advisers, notaries and lawyers will also be required to submit suspicious transaction reports. These professions do not have to report the information they receive from or obtain on one of their clients in the course of ascertaining the legal position for their clients or performing their task of defending or representing that client in or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings.</p> <p>As with all the other reporting entities, once the Legislative Decree is implemented, DNFBPs will be prohibited from disclosing to others than the UIC the suspicious transactions reports (Article 3.8 AML Law). This prohibition of “tipping off” only applies to the reports made and seems not to apply to the further data and information that the UIC may acquire from the reporting entities in accordance with Article 3.4(c). Violation of the tipping off prohibition is sanctioned by Article 5.6 of the AML Law by imprisonment for a term of between six months and one year and by a fine of between ten million and one hundred million lire / €5165 –€51,645.</p> <p>The DNFBPs are not protected by law from civil or criminal liability for breach of any restriction on disclosure. It is intended to provide an explicit protection for accountants, auditors and labor advisers, as well as to notaries and lawyers under the draft regulation which was issued by the Ministry of Economy and Finance in order to implement the Legislative Decree 56/2004. However this will not provide sufficient legal protection such as recommended under the Essential Criteria 14.1.</p> <p>Articles 3 bis.1 and 2 of the AML Law ensure that the identity of the employee cannot be made known unless by decree of the judicial authority. The professionals are of the opinion that this safeguard is sufficient.</p>		
Recommendations and comments		
<p>The authorities are advised to implement expeditiously the Legislative Decree that foresees the reporting of suspicious transactions by the DNFBPs; and</p> <p>They should also issue the necessary legal provision in order to grant legal protection from criminal and civil liability to the DNFBPs who report in good faith their suspicions to the UIC.</p>		
Compliance with FATF Recommendations		
R.16	Non compliant	Although the law is in place, there is no implementation regulation yet, and there is no compliance with the essential criteria.
<i>Internal controls, compliance & audit (R.16)</i>		
Description and analysis		
<p>The draft regulations of the MEF to implement the Legislative Decree 374/1999 for the nonfinancial businesses address (to some extent) internal control procedures. However, the draft regulation for the Legislative Decree 56/2004 for the professionals does not address these issues.</p> <p>Since the AML requirements do not yet apply to the DNFBPs, the respective businesses and professions have not set up any internal procedures, policies and controls for complying with the AML Law.</p> <p>As for those profession that have national and regional orders that at the moment already provide training and</p>		

seminars, the requirements of the AML Law will most likely become part of these training and seminars.		
Recommendations and comments		
The authorities should make sure that all DNFBPs are required to set up internal procedures, policies and controls to prevent ML and FT. The DNFBPs should also be required to either have a program for employee training or have some other access to (compulsory) training either provided by the orders and associations or by the authorities.		
Compliance with FATF Recommendations		
R.16	Noncompliant	Although the law is in place, there is no implementation regulation yet, and there is no compliance with the essential criteria.
<i>Regulation, supervision and monitoring (R.17, 24-25)</i>		
Description and analysis		
<p>The MEF has not yet any details on how and to which agency they will assign the supervision of all DNFBPs.</p> <p>Although the MEF has not decided who will be the supervisors for the DNFBPs, in accordance with Article 5.10 of the AML Law, the GdF will be the competent authority to inspect compliance with the AML requirements. The GdF expects that with the implementation of Legislative Decrees 374/1999 and 56/2004 the scope of their supervisory remit will be expanded by many entities, the total number is not yet known. They are currently preparing for this challenge. Because most of these entities are already under their control for other laws, they are envisaging that the approximately 20,000 staff that is devoted to tax inspections will include the inspections for AML in their work.</p> <p>The GdF plans to focus their inspections based on the number of STRs they will receive, through the UIC, from these new reporting entities. At the moment, the GdF needs the authorization of the public prosecutor to enter the premises of lawyers, accountants and notaries. However, once the Legislative Decrees 374/1999 and 56/2004 are implemented the GdF will not need such an authorization to enter the premises of these professionals.</p> <p>Accountants, notaries and lawyers</p> <p>Accountants, notaries and lawyers all have a national and regional/local professional orders. The regional orders fall under the national orders. The Ministry of Justice has a supervisory role with respect to the functioning of the national orders.</p> <p>These professional orders have a supervisory role with respect to all activities of the professionals. The regional orders for the professions supervise all the activities of their members, which according to some orders in the future would include AML/CFT. In general, the regional orders only inspect a professional when they receive a complaint from the public or colleagues. Because these orders are public bodies they will have to report any violations of legal requirement to the judicial authorities. The orders are in charge of disciplinary actions against their members.</p> <p>For the accountants, there are three types of sanctions that can be issued by the regional order: a written notice, suspension, cancellation of membership.</p> <p>During the drafting of Legislative Decree 56/2004, the local orders and the national order for lawyers have refused to carry out any supervisory function in this respect. However, the national order for lawyers expects that AML will be included in their code of conduct, which are customary (binding) rules. In that case, the order can make autonomous decisions on sanctions for professional violations with respect to violation of the AML rules. Sanctions, which can be a suspension or cancellation of membership, are issued by the local orders. The lawyer can appeal to the national order and the judgment of the national order can be appealed to the Supreme Court.</p> <p>The order for the notaries, after interviewing the notary, will report the case to the public prosecutor if necessary. The civil court will then issue a sanction. There are some doubts as to whether this system is effective.</p>		

<p>Casinos Italian law generally forbids gambling and the opening of the gambling-houses, breaches being punishable by Articles 718–722 of the Criminal Code. Nevertheless, the opening of four casinos by means of Royal Decree n. 2448/1927 (SanRemo); R.D.L. 201/1933 (Campione); R.D.L. 1404/1936 (Venezia); Laws 1065/1971 and 690/1981 (Saint Vincent) has been allowed in the past. The competent public office for authorization of casinos is the Ministry of Home Affairs, <i>Direzione Generale dell’Amministrazione Civile—Divisione Enti Local—Sezione 3</i>. This division, however, does not perform any inspections for compliance with AML requirement.</p> <p>Casinos fall under the AML requirements by way of Legislative Decree 374/1999, Article 1.1(i). However, since this Legislative Decree, has not been implemented, the four casinos do not have to identify their customer, keep records, or report their suspicions to the UIC.</p> <p>Guidelines The UIC is currently developing indicators for the DNFBPs that should enable them to identify suspicious transactions more easily.</p> <p>Sanctions Besides the sanctions that the professional orders can apply, the overall sanctions of the AML Law will apply to all DNFBPs (such as described above, under the supervisory and oversight system of financial institutions).</p>		
<p>Recommendations and comments</p> <p>The authorities are urged to designate AML/CFT supervisors for all the DNFBP and ensure that these supervisors have adequate powers to inspect for compliance with AML/CFT requirements, including internal procedures.</p>		
<p>Compliance with FATF Recommendations</p>		
R.17	Noncompliant	The sanction regime for DNFBPs has not been implemented.
R.24	Noncompliant	Casinos and other DNFBPs are not monitored for AML
R.25	Noncompliant	Guidelines have not been issued to the DNFBPs
<p><i>Other non-financial businesses and professions—Modern secure transaction techniques (R.20)</i></p>		
<p>Description and analysis</p> <p>The Legislative Decree 374/1999 extends the AML requirements to other professions and activities than required under the FATF Recommendations, specifically transportation of cash, dealing in antiques, operation of auction houses and art galleries, manufacturing, brokering and dealing in valuables (including import and export), manufacturing of valuables by craft undertakings and labor advisers. There is no further information to which dealers in valuables this Legislative Decree is supposed to apply.</p> <p>Regardless of the fact that the Legislative Decree has not been implemented, the authorities seem to have paid attention to applying the FATF Recommendations beyond the recommended set of DNFBPs. It is, however, not clear if this has been done on the basis of any analysis of risk for ML/FT in these sectors. For instance, it does not seem that there is any specific risk for ML/FT in the case of labor advisers, which in general advise on personnel matters.</p> <p>Article 1 of the AML Law limits the use of cash and bearer instruments above €12,500. Transactions over this amount can only be carried out by authorized dealers such as post offices, credit institutions, securities firms and other institutions referred to in Article 4 of this law.</p>		
<p>Recommendations and comments</p>		
<p>Compliance with FATF Recommendations</p>		
R.20	Compliant	The recommendation is fully observed.

Legal Persons and Arrangements & Nonprofit Organizations

<i>Legal Persons–Access to beneficial ownership and control information (R.33)</i>
Description and analysis
<p>There are three types of private legal persons under Italian legislation: associations (<i>associazioni riconosciute</i>, i.e., those that are “recognized” as having the legal personality), foundations (<i>fondazioni</i>), and joint stock companies (<i>società di capitali</i>). The associations and foundations are active in the nonprofit sector whilst the joint stock companies are usually involved in commercial activities.</p>
<p><i>Nonprofit sector</i></p> <p>Associations are part of the broader category of nonprofit organizations. They may acquire legal personality by being incorporated (thus becoming <i>associazioni riconosciute</i>). Some associations undergo a specific registration and supervision system, depending on the activities carried out by them (see below, nonprofit organizations, SR VIII).</p> <p>Foundations are organizations that allocate funds for social aims. A public act must be issued for foundations to be set up and, unlike associations, the Italian Civil Code requires them to be incorporated.</p> <p>On order to be recognized as legal persons, both the association and the foundation must obtain their inscription in the register of legal persons held by the local offices of the Ministry of Home Affairs. The register contains all the relevant information on associations and foundations, including the articles of incorporation and identification data on founders, administrators and liquidators.</p>
<p><i>Profit sector</i></p> <p>There are three kinds of joint stock companies under Italian law:</p> <ul style="list-style-type: none">• <i>società per azioni-Spa</i> (joint stock company), regulated by articles from 2325 to 2451 of Civil code.• <i>società a responsabilità limitata-Srl</i> (limited company), regulated by articles from 2472 to 2483 of Civil code; and• <i>società in accomandita per azioni</i>, (limited partnership company with a share capital) regulated by articles from 2452 to 2471 of Civil code. <p>The first category is intended to be more suitable for companies which have—or plan to have—access to equity capital markets while the Srl aims at fulfilling the needs of closely held companies. Though the choice between these three different corporate forms is left to the founders of companies (no quantitative parameters, such as a maximum number of shareholders, have been introduced to mark the distinction between Srl. and Spa), there are some mandatory provisions for Srl mainly but not exclusively to discourage the adoption of the Srl legal form by firms with a widely-distributed ownership structure or with no fiduciary relationship among shareholders. These provisions enable Srl to enjoy substantial freedom in choosing their internal organization and decision-making procedures. Fiduciary relationships among shareholders have become pivotal in Srl: by laws may specify under which circumstances a shareholder can be removed from the company or, vice versa, has the right to withdraw.</p> <p>The total share capital of an Srl is divided into quotas. No certificates are issued to represent these quotas and the quotas are freely transferable, if not otherwise agreed in the Articles of Association.</p> <p>To incorporate an Srl, a deed of incorporation containing the articles of association that is drawn up by a notary is required. The articles nominate the total share capital of the company and the board of directors. The Companies Act does not permit the appointment of a corporation on the board of directors of a limited liability company. The share capital of the company must be at least €10,000. The company must be registered with the local Chamber of Commerce. It usually takes at least one week to incorporate a limited liability company, to</p>

obtain its registration with the Chamber of Commerce and to capitalize it with the required share capital.

The Spa is characterized by a more rigid structure compared with that of Srl. Within this legal form the importance of mandatory rules increases with the use of equity capital markets. For companies that have access to equity capital markets (so called “open Spa” as opposed to “closed” one), specific mandatory rules are intended to deal with dispersed ownership structures in order to ensure an effective internal governance system as well as to protect minority shareholders (*e.g.*, lower thresholds for the exercise of minority’ rights, mandatory disclosure of shareholders’ agreements, stricter rules for proxy voting, restrictions on certain limitations of voting rights such as “voting caps”, and so on).

Shareholder companies, whatever their form, are constituted by public act, established by a Public Notary, and have to be registered on the register of enterprises (*registro delle imprese*). There is not an additional check by the authorities regarding the integrity of the persons forming the company or the accuracy of the provided information. The Register, following a reform of company incorporation in 1993 (Law 580/93), is maintained by the local Chambers of Commerce under the supervision of a Judge. This register is available online at national level via the InfoCamere Network and includes relevant information on companies and undertakings: legal status, date of establishment, company capital, tax code, sector of activity, corporate bodies and powers of representation, number of employees, etc.). It also includes details about changes in the status of the company (changes in Board membership, bankruptcy, address, etc.). Full details of the company’s managers are mentioned, including name, date and place of birth, private address, date and duration of appointment as well as those of other persons holding specific functions in the corporate structure.

Any change in shareholders will have to be declared in the shareholders meeting and entered in the register of the company. The company will have to declare the list of shareholders every May to the Chamber of Commerce.

The Chamber of Commerce has 1.8 million companies and 3.5 million personal enterprises registered. Companies have to submit their balance sheet once per year and if the balance sheet is not submitted for three years, the Chamber can strike a company from the register.

Article 2355 of the Civil Code allows for bearer shares for joint stock companies as well as for limited partnership companies (Article 2464). However, pursuant to Decree Law No. 1148/1941, converted into the Law 96/1942, and to Presidential Decree 600/1973, Italian companies are prohibited from issuing bearer shares, with the exception of “*azioni di risparmio*” (savings shares), which do not carry voting rights and which can only be issued by listed companies, up to a maximum of 50% of the company’s capital. All entities performing economic activities must be registered with the Company Register established according to Article 2188 of the Civil Code. In the case of joint stock companies Article 2493 of the Civil Code requires the publication of the list of shareholders as well as the publication of the list of persons who hold a right on the securities. These data are available to the public upon request, including on-line.

Moreover, in the case of listed companies, Article 120 of the Consolidated Law requires persons who directly or indirectly, including through a shareholders’ agreement, hold more than 2 percent of a listed company to declare it to the company and to Consob.

All relevant information on the control is therefore available. All information on the beneficial ownership is also available, with the possible exception of the saving shares issued in bearer form that represent less than 2 percent of the company’s capital. According to the authorities, all saving shares are dematerialized in Monte Titoli and can only be transferred by the relevant entry in the books kept by the authorized intermediaries (investment firms and banks) who, in turn, are required to identify the owner of the shares.

Authorities, such as the UIC, have access to the database, either online, or for large queries, through the national Chamber of Commerce. The Chamber receives per year on average 20 million queries for information from the authorities.

Recommendations and comments		
The authorities could consider measures to ensure that criminals cannot establish legal entities, for instance by performing an integrity check on person setting up a company..		
Compliance with FATF Recommendations		
R.33	Compliant	The recommendation is fully observed.
<i>Legal Arrangements–Access to beneficial ownership and control information (R.34)</i>		
Description and analysis		
<p>Italian legislation does not specifically provide for the constitution of legal arrangements such as <i>trusts</i>.</p> <p>However, in respect of trusts, Italy has ratified (through Law 364 of 16 October 1989) the Hague Convention of 1 July 1985 on the law applicable to trusts and their recognition. It therefore recognizes that a trust that is subject to a foreign governing law, has legal effect within the Italian legal system. Trusts may be created in Italy under a foreign law, the trust deeds and their signatures may be authenticated by Italian notaries and trust funds may be held and/or administered by Italian financial intermediaries. In practice, Italian financial intermediaries do handle trusts constituted abroad.</p> <p>However, the Italian legislation does not provide any requirement in respect of the information that the financial intermediaries who deal with foreign trusts must collect, nor does it provide alternative means to ensure timely access to adequate, accurate and current information on the beneficial ownership and control of foreign trusts handled in Italy. In particular, Article 2.1 of the law, which requires the identification of persons on behalf of which a transaction is carried out, may allow for the identification of the trust or the trustee but does not ensure the identification of the settlor or persons exercising effective control over the trust and the ultimate beneficiaries. In the absence of such a requirement, authorities do not have access to adequate, accurate and timely information on the beneficial ownership and control of trusts handled in Italy.</p> <p>The only reference made to trusts is in a 1996 circular issued by the Italian Banking Association. The circular gives some indication on the procedure by which a member should open a current account for a trust. It is recommended that the bank should ask for the deed creating the trust but only as to the part concerning the trustees' appointment and their powers. It is indicated that the name of the account should be either that of the trustees or that of the trust. The circular also mentions that it is not obligatory to state that the account concerns a trustee. This circular may by no means be regarded as the basis for any legal requirement. It merely offers guidance (which, moreover, is insufficient, as mentioned under Recommendation 5).</p>		
Recommendations and comments		
The authorities should take measures to prevent the misuse of foreign trusts handled in Italy by ensuring that there is adequate, accurate and timely information on the beneficial ownership and control of (express) trusts and that this information can be obtained in a timely fashion by the competent authorities. In particular, to allow transparency and timely access to information in relation to foreign trusts handled by Italian financial intermediaries, the latter should be required, when dealing with trust funds, to identify the settlor, the trustees or persons exercising effective control over the trust, and the ultimate beneficiaries.		
Compliance with FATF Recommendations		
R.34	Partially compliant	Measures should be taken to ensure transparency of foreign trusts handled in Italy and access to adequate, accurate and timely information on the beneficial ownership and control of these trusts.
<i>Nonprofit organizations (SR.VIII)</i>		
Description and analysis		
Article 18 of the Constitution recognizes the right of free associations. Associations are not required to be registered. However, if they want to acquire legal status, receive grants or other benefits, they need to register.		

The possible legal structures for nonprofit entities are associations, foundations and committees. Of the estimated number of 230,000 nonprofit entities, 156,000 are nonincorporated associations, 62,000 are registered as incorporated associations, 5,700 are in the form of social cooperatives and 3,000 are foundations. The other types of associations include committees.

	Form	Legal status	Number of entities
Nonprofit sector Total 235,232	Non incorporated Associations	No	156,133
	Incorporated Associations	Yes	62,231
	Foundations	Yes	3,077
	Social cooperatives	Yes*	5,674
	Other forms, incl. committees	If incorporated	8,117

Source: ISTAT, 2001

* Social cooperatives are in the form of associations or foundations. It is not a legal status in itself.

Associations are required to maintain accounting records. Some of the entities with legal status are subject to specific controlled measures, depending of the type of activities that they carry out or the administrative or fiscal status that they wish to acquire. General oversight of the nonprofit sector is ensured by the agency for ONLUS (see below). Furthermore, specific measures have been taken to prevent the possible misuse of the nonprofit sector for the purpose of financing of terrorism. The BoI has issued operating guidelines regarding nonprofit organizations in July 2003 which require all financial intermediaries to pay special attention to the quality of associates, the beneficiaries and country of destination of donations as well as to possible inconsistencies between transactions and the subjective profile of the client. It also recalls the obligation to immediately declare all suspicious transactions to the UIC. In addition, NPOs are subject to the general obligation to transfer funds through authorized financial intermediaries for all transfers of €12,500 and more and to the obligation to declare cross-border transfers.

The various types of nonprofit organizations are:

a. Voluntary organizations

Voluntary organizations are regulated by Law No. 266/1991. Any organization that primarily and expressly avails itself of the personal, voluntary and free-of-charge services of its members is considered a voluntary organization. Voluntary organizations must perform their activities on a nonprofit basis (including indirect profits) and exclusively for solidarity purposes. Voluntary organizations can adopt the legal form they regard as the best suited to the pursuit of their aims, compatibly with their solidarity purposes. Voluntary activities cannot be rewarded and only expenses agreed in advance can be reimbursed.

Regions and provinces can regulate such institutions and keep registers of voluntary organizations. Registration is a prerequisite for accessing public donations and for stipulating conventions and being granted tax benefits.

Law No. 266/1991 also established the National Overseeing Body (*Osservatorio nazionale*) for the voluntary sector. The Overseeing Body, presided over by the Ministry of Labor and Social Policies and composed of representatives from voluntary organizations, performs research and supervises the voluntary sector.

b. Social co-operatives

Law No. 381/1991 resulted in the creation of social co-operatives, its purpose being to pursue the social interests of the community, including the promotion of individuals and their social integration by means of:

- the management of socio-medical and education services; and
- the pursuit of various activities - agricultural, industrial, commercial or services - aimed at facilitating the entry of disadvantaged individuals into the labor market.

Subject to the general co-operative regulations, social co-operatives are to be listed in the Prefectoral Register of Co-operatives, following examination by the Provincial Commission for the Monitoring of Co-operatives (Government Territorial Office).

c. Nongovernmental organizations

Nongovernmental organizations (NGOs) working with developing countries are recognized by the Ministry of Foreign Affairs (Law No. 49/1987), enabling them to obtain subsidies for their co-operative activities. Their activities include short and medium-term projects in developing countries; the selection, training, and employment of volunteers involved in social services; and the training of citizens of developing countries in their local environments. NGOs can assume the legal status of incorporated or not-incorporated associations, foundations or committees. NGOs are subject to periodic checks by the Ministry for Foreign Affairs and are obliged to supply the Ministry with detailed accounts of the last three years in order to prove proper fund management.

d. Social utility nonprofit organization (ONLUS)

In order to enjoy tax benefits, nonprofit organizations must fulfill the requirements of the so-called social utility nonprofit organizations (*Organizzazioni non-lucrativa di utilità sociale*, ONLUS), a fiscal category introduced by Legislative Decree 460/1997. ONLUS do not represent a new type of legal entity but, instead, are a type of fiscal entity to which nonprofit operators can belong provided they meet specific legal requirements. ONLUS enjoy lower income tax and VAT regimes. They must pursue exclusively social aims and their activities must be performed within sectors such as social and socio-medical assistance, healthcare assistance, charity, education, etc. There are currently 19,000 registered ONLUS. At present, ONLUS registers have been created at regional level by way of Article 11 of Legislative Decree No. 460/1997. The Tax Revenue Agency (*Agenzia dell'Entrate*) is responsible for the registration of ONLUS which is performed at regional level and for fiscal controls. Due to their structure and aims, voluntary organizations, social co-operatives, and nongovernmental organizations are all ONLUS by default and do not need to make any formal application, according to the Article 10.8 of Legislative Decree No. 460/1997.

Italian authorities, for the purpose of the implementation of Special Recommendation VIII, have performed in October 2004 a review of the adequacy of laws and regulations of nonprofit organizations. This review demonstrated that despite the various forms, legal status and supervisory mechanisms for nonprofit organizations, there was an adequate set of measures, depending in particular on the capacity of the NPO to receive and handle funds, and that control mechanisms are in place to ensure that such entities cannot be misused for the purpose of financing of terrorism. In particular, the authorities feel that based on the analysis of the UIC and the investigations of the GdF there is a low risk of terrorism financing in the Italian nonprofit sector.

Banca d'Italia

As part of the efforts to implement Special Recommendation VIII, the Governor of the BoI issued in July 2003 operating guidelines in relation to non profit organizations.

Financial institutions and intermediaries are in particular required to examine carefully and promptly every contractual relationship and operation which can be connected, directly or indirectly, with organizations that state to carry out non profit, charitable or socially useful activities, without being able to prove such character. In case of detection of suspicious transactions, they shall be immediately reported to UIC.

ONLUS Agency

“L’*Agenzia dell’ONLUS*”, established in 2000, is the agency responsible for exercising control over all NPOs, irrespective of their ONLUS status or not. It has the power to issue guidelines and to draft legislation for the nonprofit sector, to maintain data and statistics, to alert other authorities in case of violations of existing

obligations, and to confirm the de-listing from the ONLUS registry. The ONLUS Agency cooperates with the Revenue Authority in reviewing the conditions for being an ONLUS. The ONLUS Agency has recently launched a €200.000,00 project for the creation of a centralized database, gathering mandatory information related to all non profit organizations established in Italy. ONLUS Agency has until now checked 1,500 agencies on whether they qualified for ONLUS status and recommended the dissolution of several NPOs which were not in compliance with the Italian Law.

Ufficio Italiano dei Cambi

Financial intermediaries must promptly report every transaction carried out by NPOs suspected of involving illegal money, assets or objects. STRs in relations to NPOs are processed as for individuals and sent to the Guardia di Finanza for investigation. Upon request, the UIC may have access to the tax authority's databases which gathers income tax reports and balance sheets of registered NPOs.

UIC has recently initiated a collaboration with the ONLUS Agency and co-operates with Guardia di Finanza, as regards the obligations of financial intermediaries. Between April 2004 and April 2005, of 350 transactions that the UIC identified as possible related to terrorism financing, 26 involved associations and 4 involved ONLUS.

Tax Revenue Agency

L'Agenzia dell'Entrate carries out all functions regarding the administration, assessment and collection of taxes. It carries out inspections of all nonprofit organizations, including non-commercial bodies and ONLUS as well as inspections regarding the qualifications of being an ONLUS. The Agency is responsible for the registration of ONLUS; per December 31, 2004 19,000 ONLUS were registered. In the event of noncompliance, consequences can include recovery of taxes, interests and sanctions, as well as the removal of the organization from the ONLUS register after consultation with the ONLUS Agency. In the case of a criminal offence they are required to report to judicial authorities. In 2004 around 1,700 NPOs underwent a substantive fiscal control by the Agency and the GdF while approximately 10,000 ONLUS underwent formal controls.

Guardia di Finanza

Having jurisdiction in economic and financial matters and being specifically involved in the fight against the illegal economy, *Guardia di Finanza's* investigating activities have revealed that nonprofit organizations are frequently used to carry out entrepreneurial activities even though they are granted ONLUS tax benefits. In exceptional cases they hide criminal activities of a much more serious nature.

In 2003, 266 checks were carried out into various entities operating in the nonprofit sector and in 2004, 64 of these checks resulted in cases of fraud, misappropriation, gambling, loan sharking, and falsity of documents.

Recommendations and comments

Compliance with FATF Recommendations

SR.VIII	Compliant	The recommendation is fully observed.
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National and international cooperation

<i>National cooperation and coordination (R.31)</i>
Description and analysis
<p>The MEF is statutorily responsible for coordinating the government's AML/CFT policies and international relations.</p> <p><i>Law enforcement coordination in general</i></p> <p>The MHA (Department of Public Security) is responsible for the coordination of the law enforcement efforts of the five national police forces: State Police (MHA), <i>Carabinieri</i> (Ministry of Defense, and MHA for law enforcement functions), <i>Guardia di Finanza</i> (MEF), Penitentiary Police (MoJ), and Forest Corps (Ministry of Agriculture). This coordination is ensured by the Office for planning and coordination of Police Forces. The various police forces continue to report to their home ministry for the discharge of nonlaw enforcement duties and to the competent Prosecutor in criminal investigations cases. This coordination seems to function well.</p> <p><i>Organized crime</i></p> <p>The General Council for the Fight against Organized Crime (<i>Consiglio Generale per la Lotta alla criminalità organizzata</i>) was set up by Law-Decree No. 345 (Article 1) on October 29, 1991. This body, established within the MHA, is chaired by the Minister. Its members are the Chief of the Police, the Commander General of the <i>Guardia di Finanza</i> and of the <i>Carabinieri</i>, the Director of the DIA, as well as the Directors of the civil and military intelligence services - SISDE and SISMI. The <i>Consiglio Generale</i> has the responsibility of developing anticrime strategies and investigative activity, distributing duties among the various police forces based on areas, fields of activity and criminal phenomena types; identifying the resources and means necessary for the fight against organized crime as well as verifying results on a regular basis.</p> <p><i>Financing of terrorism</i></p> <p>The Financial Security Committee, chaired by the Director General of the Treasury (MEF) and including representatives of the MEF, MFA, MHA, MOJ, BI, UIC, Consob, GdF, <i>Carabinieri</i>, DIA and the DNA, coordinates operational CFT activities including proposed designations on UN/EC lists. This body has the legal ability to receive information from judicial authorities useful to protect the financial system from abuse in connection with the financing of terrorism. The intelligence services do not participate directly in this Committee but utilize the police authorities as their channel of communication or deal directly with the concerned Ministries.</p> <p><i>Money laundering</i></p> <p>A counterpart committee was created by law to coordinate AML efforts but has never been formally constituted. Instead, a committee established by Ministerial decree (the "AML Committee") meets at the operational level, chaired by the Director General of Monetary Crime and comprising representatives of the MEF, the IUC, GdF and BoI. It has issued approximately 100 legal opinions and guidelines on application of AML legislation.</p> <p>However, there is no coordinating mechanism with other law enforcement bodies and other supervisory authorities and with the private sector, either at the policy level or at the operational level. Bearing in mind that the creation of committees or commissions is a matter which requires caution because they can turn into purely bureaucratic or formal exercises, the experience in other countries has shown that the creation of national bodies comprising all agencies involved in AML/CFT as well as representatives of the financial sector and DNFBPs helped to build consensus and buy-in around the development of a national strategy and the establishment of control measures, and provides a forum to discuss the difficulties of implementation and to share experiences among professionals and agencies concerned. The success of the FSC in terrorism financing matters is an example to follow for AML matters. The assessment team was made aware that consideration was being given to improve coordination in AML matters, taking into account the success of the FSC. This would be a very positive</p>

development. It should be kept in mind that the private sector should be associated in one form or another, may be through the creation of a working group on the private sector.		
Recommendations and comments		
Although informal coordination mechanisms exist in AML/CFT matters and seem to work relatively well, it is recommended to improve coordination in AML matters, on the basis of the successful experience of the FSC and to include as part of the FSC consultative process as well as in the AML coordination representatives of the businesses and professions concerned to ensure their involvement at various degrees in the design and implementation of preventive and coercive measures.		
Compliance with FATF Recommendations		
R.31	Largely Compliant	A national coordination mechanism for AML matters should be instituted among policy making bodies, supervisory and law enforcement agencies, and should involve the private sector.
<i>The Conventions and UN Special Resolutions (R.35 & SR.I)</i>		
Description and analysis		
<p>A law for ratification of the Palermo Convention has been pending before parliament since 2003. Italy is a party to all of the other pertinent international AML and anti-terrorism instruments. As noted in connection with Criminalization of terrorist financing (SR. II), the Italian terrorism offences do not exactly correspond to the offence defined in the Terrorism Financing Convention and SR. II because they require association with a terrorist organization. This could result in a lack of double criminality in some cases with a resulting inability to extradite or render mutual legal assistance.</p> <p>The Security Council list under Resolution 1267 and its successor resolutions are automatically incorporated into domestic law and are binding on regulated entities, in the view of Italian authorities, by EU Common Position 2002/4502 and Regulation 881/2002. UN Resolution 1373 is made effective by Common Position 2001/931CFSP and EC Regulation 2580/2001. Legislation has been drafted to make the legal authority for regulated institutions to implement such lists more explicit. Italy has submitted six proposals for the inclusion of 67 individuals in the Resolution 1267 list and proposed designations to the EU list under SC Resolution 1373 in 2002 and 2004</p>		
Recommendations and comments		
Legislative action, as discussed under Criminalization of the financing of terrorism, may be necessary to fully implement the financing convention, and adoption of the Palermo Convention is overdue.		
Compliance with FATF Recommendations		
R.35	Partially Compliant	Palermo Convention not yet ratified.
SR.I	Largely compliant	International Convention for the Suppression of the Financing of Terrorism (1999) not fully implemented on the definition of the offence
<i>Mutual Legal Assistance (R.32, 36-38, SR.V)</i>		
Description and analysis		
Italian law allows international assistance based on comity in the absence of express agreements or provisions. A number of international cooperation agreements exist, as reported by Italy in its reports to the UN Security Council, although they are not necessarily specific to AML or CFT. Italy participates in numerous Council of Europe agreements, including those on the Proceeds of Crime and for the Suppression of Terrorism. Italy is a member of the Schengen Group but during the assessment it adopted a law implementing the European Arrest Warrant procedure. Statistical data provided by the MoJ indicates that Italy is an active and cooperative practitioner in the field of mutual legal assistance. The time for processing of an incoming mutual assistance request is normally a matter of months from receipt to transmittal of the requested information and approximately a year for extradition requests. Between January 2000 and November 2005, Italy has received		

<p>251 requests for mutual legal assistance in AML matters and 117 in terrorism matters. In the same period, Italy requested assistance from foreign jurisdictions in 197 and 84 cases respectively, according to the authorities.</p> <p>Italy places few conditions on the granting of mutual assistance, as indicated by the fact that no requests were denied during the years 2001 through 2003. Dual criminality is not required unless provided for under a specific agreement. Domestic laws allow effective and timely response to foreign requests for the identification, freezing, seizure and confiscation of property, proceeds and instrumentalities from ML, FT and other predicate offences. Asset sharing is provided in some international agreements but a trust fund as suggested in the Palermo Convention has not yet been established.</p> <p>Italy has an extensive network of international agreements for mutual assistance and information exchange, including with other FIUs as described previously (21 such agreements and membership in the Egmont and FIUNET Groups). Its execution of mutual assistance requests demonstrates that it does not impose unreasonable restrictions and it is able to offer a broad range of assistance, including judicial compulsion, for investigation, evidentiary purposes, and property seizure and forfeiture. Fiscal secrecy is not a statutory basis for refusal of a request and professional secrecy applies only in limited circumstances for disclosure necessary to provide a legal defense to a client.</p>		
<p>Recommendations and comments</p>		
<p>None</p>		
<p>Compliance with FATF Recommendations</p>		
R.32	Compliant	The recommendation is fully observed.
R.36	Compliant	The recommendation is fully observed.
R.37	Compliant	The recommendation is fully observed.
R.38	Compliant	The recommendation is fully observed.
SR.V	Compliant	The recommendation is fully observed.
<p><i>Extradition (R.32, 37 & 39, & SR.V)</i></p>		
<p>Description and analysis</p>		
<p>Money laundering and terrorist financing are both extraditable offences. 15 outgoing requests in 2002 for extradition were related to the proceeds of crime but relatively few requests for extradition for ML were received for the years 2001 through 2004 and none for FT were reported as either received or requested. Of seven incoming ML requests, three were refused. Italy does not seem to have extensive or unreasonable grounds for refusal of extradition. Between January 2000 and November 2005, Italy has received 8 requests for extradition in AML matters and two in terrorism matters. In the same period, Italy requested assistance from foreign jurisdictions in 22 and five cases respectively, according to the authorities.</p> <p>Both nationals and non-nationals can be prosecuted in Italian courts. The nationality principle permits prosecution of citizens for crime committed in another country. Under the principle of <i>aut dedere aut judicare</i>, a non-national can also be prosecuted if proceedings are requested by the Minister of Justice, if the person is on Italian territory, and if extradition has not been granted.</p> <p>Italy's report of December 20, 2002 to the UN Counter-Terrorism Committee explains that while the Italian Constitution forbids extradition for political offences case law establishes that serious acts of terrorism do not constitute political crimes. This same result is expressly provided for in the Terrorist Bombing Convention of 1997, the Terrorist Financing Convention of 1999 and other international agreements to which Italy is a party.</p>		
<p>Recommendations and comments</p>		
<p>Although it only adopted the European Arrest Warrant during the assessment, in many other respects Italy has been a leader in achieving flexible international cooperation.</p>		

Compliance with FATF Recommendations																				
R.32	Compliant	The recommendation is fully observed.																		
R.37	Compliant	The recommendation is fully observed.																		
R.39	Compliant	The recommendation is fully observed.																		
SR.V	Compliant	The recommendation is fully observed.																		
<i>Other Forms of International Cooperation (R.32 & 40, & SR.V)</i>																				
Description and analysis																				
<p>International cooperation by the FIU</p> <p>In accordance with Article 3.10 of Law 197/1991 the UIC can exchange information concerning suspicious transactions with similar authorities of foreign States that pursue the same objectives, subject to reciprocity also with regard to the confidentiality of the information. This is reinforced by Article 5.2 of Legislative Decree 56/2004 which states that the UIC may exchange information and cooperate with the competent authorities of foreign states which pursue the same purposes, also further to memoranda of understanding.</p> <p>Although the FIU does not need a memorandum of understanding for international cooperation, the Italian FIU has 21 MOUs with foreign counterparts in order to facilitate the exchange of information. When dealing with a request from a foreign FIU, the UIC can request information from the GdF and the DIA to complement the request. The UIC is actively exchanging information with other FIUs and in general has a very good record in providing answers according to information provided to the FATF by other member countries.</p> <p>The UIC is member of the Egmont Group and since 1999 takes part in the FIU.NET project (FIU.NET is a network where the exchange of information occurs on a multilateral basis within the European Union framework).</p> <p>Number of requests sent and received and subject involved:</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Sent number of requests/number of subjects</th> <th>Received number of requests/number of subjects</th> </tr> </thead> <tbody> <tr> <td>2001</td> <td>8 / 12</td> <td>102 / 431</td> </tr> <tr> <td>2002</td> <td>4 / 28</td> <td>198 / 727</td> </tr> <tr> <td>2003</td> <td>44 / 91</td> <td>265 / 813</td> </tr> <tr> <td>2004</td> <td>23 / 89</td> <td>176 / 700</td> </tr> <tr> <td>Total</td> <td>79 / 220</td> <td>884 / 3323</td> </tr> </tbody> </table>			Year	Sent number of requests/number of subjects	Received number of requests/number of subjects	2001	8 / 12	102 / 431	2002	4 / 28	198 / 727	2003	44 / 91	265 / 813	2004	23 / 89	176 / 700	Total	79 / 220	884 / 3323
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<p>International cooperation by supervisory authorities</p> <p>According to Article 7 of the Banking Law and Article 4 of the Consolidated Law on Financial Intermediation Legislative Decree 58/1998, the BoI and Consob shall cooperate with the competent authorities of (EU) member states by exchanging information and otherwise for the purpose of facilitating the performance of their respective functions. Information received by the BoI or Consob may not be transmitted to other Italian authorities without the consent of the authority that provided the information.</p> <p>BoI and Consob can also exchange information with non-EU member states. The BoI and Consob can enter into cooperation agreements. The Consob has entered into 31 bilateral MOUs and has two multilateral MOUs. The BoI has formal agreements with 14 EU countries and four non-EU countries. ISVAP mainly cooperates at the EU level and has one MOU.</p> <p>Consob has indicated that it does not have as a primary mission the investigation of anti-money laundering issues and, therefore, in recent years has not made or received direct request for information concerning this specific matter. However, routine requests for information could include matters such as integrity and professional requirements of directors and managers, integrity of relevant shareholders of financial intermediaries and ownership of listed companies. In these areas, in 2004, eight requests were made and 44 received by Consob; in 2003, there were 24 and 71 respectively</p>																				

<p>The law does not specify if the supervisory authorities can furnish information spontaneously. However, unsolicited assistance is clearly mentioned in most of the multilateral and bilateral MOUs and cooperation agreements signed by the supervisory authorities, including the IOSCO MOU and the CESR MOU. Moreover, Consob has provided (and received) unsolicited assistance to other supervisory authorities in several cases of insider dealing and unauthorized provision of services.</p> <p>There is no statistical data available with respect of the number of requests sent or received regarding AML or CFT. The fact that requests for cooperation involve fiscal matters is not considered as a ground for refusal.</p> <p>No coordinating committee or mechanism in the Foreign Ministry exists to track what agreements may exist or to review the content of agreements made by various Ministries with foreign counterparts. However, the coordinating authority of the MEF and the CSF should ensure a focused approach for AML/CFT matters. Italy is involved in various areas in international cooperation. In addition, Italy's Report of 2 January 2002 to the UN Counter-Terrorism Committee lists over 20 working agreements with foreign governments on exchange of information on terrorism, organized crime and drug trafficking.</p>		
<p>Recommendations and comments</p>		
<p>Compliance with FATF Recommendations</p>		
R.32	Compliant	The recommendation is fully observed.
R.40	Compliant	The recommendation is fully observed.
SR.V	Compliant	The recommendation is fully observed.

Other Issues

After almost 15 years of legislative and regulatory developments in the area of AML/CFT, the legislation applicable to the matter has become spread in a variety of texts, codes, and implementing regulations, in addition to the existing guidelines. The mission estimates the number of laws and regulations addressing various aspects of the existing AML/CFT regime at around 60 to 70 legislative texts, in addition to the draft laws and regulations being considered for adoption and the various guidelines and instructions. This is the ransom of the willingness of the authorities to adapt constantly the legal framework to the new developments in the area of AML/CFT, organized crime and terrorism matters, and to acquire as they become necessary the new tools to strengthen the AML/CFT machinery. In order to give to the entities and persons required to comply with the AML/CFT legal framework a clearer legal environment as well as to provide professionals involved in the fight against money laundering and terrorist financing with a sharp and condensed legal tool, it is strongly suggested to streamline this framework by an in-depth revision of the legal instruments and the drafting of a consolidated law on AML/CFT. The mission understands that this is the objective of the authorities and that a draft "Testo Unico" is presently designed. It welcomes such development and hopes that such consolidated law will be presented soon for parliamentary adoption.

Table 2. Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations are made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (na). Some of the recommendations have been rated differently in the DAR depending on the aspect of the AML regime being rated. For example, Rec. 23 is rated differently in the supervision section and in the “market entry” section. The following section provides with a rating which takes into account the various ratings applied under the relevant sections of the assessment.

Forty Recommendations	Rating	Summary of factors underlying rating
Legal systems		
1. ML offence	Compliant	The recommendation is fully observed.
2. ML offence—mental element and corporate liability	Partially compliant	No penal, administrative or civil liability of legal persons; penalties (in particular for fines and for legal persons) should be more proportionate and dissuasive.
3. Confiscation and provisional measures	Largely compliant	Voiding transactions should be extended to AML cases; the definition of assets should be broadened. No system of confiscation of assets of corresponding value. Confiscation of assets held by third parties is not possible.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	Compliant	The recommendation is fully observed.
5. Customer due diligence	Partially compliant	<ul style="list-style-type: none"> • No requirement in either law and regulation for: the identification of customers with respect to occasional transactions that are wire transfers below the Euro 12 500 threshold; • No requirement in either law or regulation to verify that the person purporting to act on behalf of the customer is so authorized. No requirements to verify the legal status of a customer that is a legal person; • No requirement in law or regulation for financial institutions to take reasonable measures to understand the ownership and control structure that is a legal person and to determine who are the natural persons that ultimately own or control the customer; no requirement to identify and verify the identity of the settlor, trustee or person exercising effective control over trusts and the beneficiaries; • The exemption from CDD with respect to banks and branches abroad are not contingent upon

		<p>whether they are located in jurisdictions that effectively implement the FATF recommendations;</p> <ul style="list-style-type: none"> • Other than for telephone and internet banking, and electronic money, no requirement for enhanced due diligence in higher risk situations, e.g., for nonresident customers, private banking, legal persons and arrangements such as trusts or for companies that have nominee shareholders or shares in bearer form; • The possibility to transfer anonymously passbooks with a balance up to € 12 500 poses a significant challenge for financial institutions to conduct ongoing due diligence throughout the life of the business relationship with the “customer”; • Effective implementation of CDD requirements is undermined by shortcomings in supervisory efforts and resources and in sanctions regime (see “The supervisory and oversight system”); • It should be made clear in the law that the identification for AML purposes should be based on a reliable document.
6. Politically exposed persons	Non compliant	<ul style="list-style-type: none"> • Absence of specific requirements for the identification of PEPs and senior management approval for establishing a business relationship with a PEP.
7. Correspondent banking	Non compliant	<ul style="list-style-type: none"> • Absence of specific requirements regarding procedures for the opening and operation of cross-border correspondent banking relationships, notably with respect to gathering information on the respondent, assessing its AML/CFT controls, obtaining senior management approval before establishing new correspondent relationships, documenting respective responsibilities, and with respect to payable-through accounts, ensuring that the respondent has verified the identity of and performs ongoing due diligence on sub-account holders and is able to provide customer identification upon request of the correspondent.
8. New technologies & non face-to-face business	Compliant	<ul style="list-style-type: none"> • The recommendation is fully observed.
9. Third parties and introducers	Partially compliant	<ul style="list-style-type: none"> • Absence of a specific requirement that financial institutions should satisfy themselves that copies of identification data and other relevant information relating to CDD requirements will be made available from the third party upon request without delay; • Insufficient requirement with respect to ensuring

		that a third party that is located abroad complies with methodology criteria 5.4 and 5.5 and is regulated and supervised in accordance with FATF Recommendations 23, 24, and 29.
10. Record keeping	Compliant	<ul style="list-style-type: none"> The recommendation is fully observed.
11. Unusual transactions	Largely compliant	<ul style="list-style-type: none"> Absence of effective enforceable requirements with respect to financial intermediaries that are not prudentially supervised..
12. DNFBP–R.5, 6, 8-11	Noncompliant	<ul style="list-style-type: none"> Although the legislative basis is in place, the implementing regulations are not in force. This accounts for major shortcomings, especially since there is no implementation of the identification requirements by the sectors. The identification requirements should be based on the FATF Recommendation and include specific measures for PEPs and ongoing due diligence. Although the law is in place, there is no implementation regulation yet, and there is no compliance with the essential criteria
13. Suspicious transaction reporting	Partially Compliant	<ul style="list-style-type: none"> The reporting of suspicious transactions related to terrorism financing is not explicitly required in the law. The reporting requirement for money laundering is not effectively being implemented by bureaux de change, the postal bank, stockbrokers, investment companies, trust companies and insurance companies.
14. Protection & no tipping-off	Compliant	<ul style="list-style-type: none"> The recommendation is fully observed.
15. Internal controls, compliance & audit	Largely compliant	<ul style="list-style-type: none"> No explicit requirements for screening procedures for hiring employees. Absence of detailed guidance on how financial institutions, other than those that are prudentially supervised, should organize themselves to comply with AML/CFT requirements. Less effective means of enforcing internal control and training provisions of Decalogo with respect to financial institutions other than those that are prudentially supervised.
16. DNFBP–R.13-15 & 21	Noncompliant	<ul style="list-style-type: none"> Although the law is in place, there is no implementation regulation yet, there is no compliance with the essential criteria.
17. Sanctions	Partially compliant	<ul style="list-style-type: none"> Sanctions regime is not fully effective, proportionate and dissuasive. Legal entities are not separately subject to all the sanctions for failure to comply with the AML/CFT requirements. The number of sanctions applied every year for infringement of key FATF recommendations is quite low in proportion of the number of entities subject to these requirements. The sanction regime for DNFBPs has not been implemented.

18. Shell banks	Partially compliant	<ul style="list-style-type: none"> Financial institutions not prohibited from entering into or continuing correspondent banking relationships with shell banks. Financial institutions not prohibited from establishing relations with respondent foreign financial institutions that permit their accounts to be used by shell banks.
19. Other forms of reporting	Compliant	<ul style="list-style-type: none"> The recommendation is fully observed.
20. Other NFBP & secure transaction techniques	Compliant	<ul style="list-style-type: none"> The recommendation is fully observed.
21. Special attention for higher risk countries	Largely compliant	<ul style="list-style-type: none"> Absence of effective enforceable requirements with respect to financial intermediaries that are not subject to core principles. Absence of requirements to pay special attention to business relationships and transactions with persons from countries beyond the list of NCCTs, which do not or insufficiently apply the FATF recommendations.
22. Foreign branches & subsidiaries	Partially compliant	<ul style="list-style-type: none"> There are no specific provisions that require the application of AML/CFT principles to foreign branches of financial institutions other than of banks or to majority-owned foreign subsidiaries of Italian financial institutions. Absence of requirements for foreign establishments of Italian financial institutions to notify competent authorities that they are unable to implement AML/CFT principles, when this is prohibited by the laws or regulations of the host country.
23. Regulation, supervision and monitoring	Partially compliant	<ul style="list-style-type: none"> Inadequate supervision/on-site inspection cycles too long with respect to securities and insurance sectors, as well as financial intermediaries registered under Article 106 of the BL. Few inspections (i.e., only one) with respect to Bancoposta. Gaps in supervision with respect to downstream distributors in the insurance sector. With regard to market entry and ownership control, the recommendation is fully observed..
24. DNFBP - regulation, supervision and monitoring	Noncompliant	<ul style="list-style-type: none"> Casinos and other DNFBPs are not monitored for AML.
25. Guidelines & Feedback	Partially compliant	<ul style="list-style-type: none"> Systematic feedback is not provided in the form of statistics and typologies, for instance by means of a periodic newsletter or an annual report No specific guidance to assist in identifying suspicious transactions possibly linked to terrorist financing, other than for money transfer businesses and NPOs. No guidelines have been issued for the DNFBPs Positive feed back is not provided to financial institutions.
Institutional and other measures		
26. The FIU	Largely Compliant	<ul style="list-style-type: none"> The effectiveness of the FIU system may be

		hampered by insufficient filtering of STRs; access to law enforcement information should be enabled; guidance and positive feed back is not provided to financial institutions; public reports are not made available to provide guidance on trends and typologies.
27. Law enforcement authorities	Compliant	<ul style="list-style-type: none"> The recommendation is fully observed.
28. Powers of competent authorities	Compliant	<ul style="list-style-type: none"> The recommendation is fully observed.
29. Supervisors	Largely compliant	<ul style="list-style-type: none"> Nonprudential supervisors lack power to enforce certain requirements (e.g., internal controls and training). No power to sanction financial institutions (i.e., legal persons) for violations of requirements.
30. Resources, integrity and training	Largely compliant	<ul style="list-style-type: none"> While the FIU is adequately staffed, a greater share of its human resources should be placed in the analysis function. With regard to law enforcement, the recommendation is fully observed. Supervisory/on-site inspection resources, notably with respect to Consob, ISVAP and the GdF are not sufficient.
31. National co-operation	Largely Compliant	<ul style="list-style-type: none"> A national coordination mechanism for AML matters should be instituted among policy making bodies, supervisory and law enforcement agencies, and should involve the private sector.
32. Statistics	Largely Compliant	<ul style="list-style-type: none"> With regard to the FIU, review the effectiveness of the reporting mechanism. With regard to supervisory authorities, no systematic recording for requests for assistance and how requests were dealt with. Law enforcement and prosecution authorities should review periodically the effectiveness of AML/CFT systems.
33. Legal persons–beneficial owners	Compliant	<ul style="list-style-type: none">
34. Legal arrangements – beneficial owners	Partially compliant	<ul style="list-style-type: none"> Measures should be taken to ensure both transparency of foreign trusts handled in Italy and access to adequate, accurate and timely information on the beneficial ownership and control of these trusts.
International Cooperation		
35. Conventions	Partially Compliant	<ul style="list-style-type: none"> Palermo Convention not yet ratified.
36. Mutual legal assistance (MLA)	Compliant	The recommendation is fully observed.
37. Dual criminality	Compliant	The recommendation is fully observed.
38. MLA on confiscation and freezing	Compliant	The recommendation is fully observed.
39. Extradition	Compliant	The recommendation is fully observed.
40. Other forms of co-operation	Compliant	The recommendation is fully observed.
Nine Special Recommendations		Rating
SR.I	Implement UN instruments	Largely compliant
		<ul style="list-style-type: none"> International Convention for the Suppression of

			the Financing of Terrorism (1999) not fully implemented on the definition of the offence.
SR.II	Criminalize terrorist financing	Largely compliant	<ul style="list-style-type: none"> • Terrorism financing should extend to individual acts; financing should be defined in the penal code.
SR.III	Freeze and confiscate terrorist assets	Largely compliant	<ul style="list-style-type: none"> • Rights of <i>bona fide</i> parties should be protected; mechanisms to freeze of assets other than bank accounts should be improved.
SR.IV	Suspicious transaction reporting	Partially compliant	<ul style="list-style-type: none"> • The reporting of suspicious transactions on funds suspected to be linked to or related to or to be used for the terrorism, terrorist acts or by terrorist organizations or those who finance terrorism is not explicitly required in the law.
SR.V	International cooperation	Compliant	The recommendation is fully observed.
SR.VI	AML requirements for money/value transfer services	Largely compliant	<ul style="list-style-type: none"> • There is no ongoing monitoring for compliance with the AML requirements, including internal procedures and training, by the relevant supervisor. The identification threshold of €12,500 does not allow money transfer operators to comply with SR VII.
SR.VII	Wire transfer rules	Non compliant	<ul style="list-style-type: none"> • Absence of requirements to ensure that complete originator is included in outgoing wire transfer messages and that financial institutions adopt effective risk-based procedures to identify and handle incoming wire transfers that are not accompanied by account number and address information.
SR.VIII	Nonprofit organizations	Compliant	The recommendation is fully observed.
SR.IX	Cash Couriers	Compliant	The recommendation is fully observed.

Table 3. Recommended Action Plan to Improve Compliance with FATF Recommendations

FATF 40+9 Recommendations	Recommended Action (listed in order of priority)
2. Legal System and Related Institutional Measures	
Criminalization of Money Laundering (R.1 & 2)	<ul style="list-style-type: none"> • Penal liability of legal persons should be provided by law, or if it is not possible, money laundering should be added to the list of offences for which administrative liability can be sought, as proposed in the draft law of ratification of the UN Convention on Transnational Organized Crime. However, more deterrent sanctions should be provided. • Fines established for money laundering (maximum of €15,493) are far too limited. To strengthen the deterrent effect of imprisonment penalties and for an effective financial retribution it is suggested to increase the maximum amount of fines. • Although it is not a requirement under FATF rec. 1 for countries which consider that it is contrary to general principles of penal law, it is recommended to criminalize self laundering. Countries with similar legal systems are progressively moving to including self laundering as a punishable offence. Law enforcement agencies pointed out the difficulties resulting from this situation. • Authorities may wish to consider clarifying the language of the law and to provide for a definition of assets which includes indirect proceeds of crime.
Criminalization of Terrorist Financing (SR.II)	<ul style="list-style-type: none"> • The definition of the offence should be made consistent with that provided by the 1999 convention. Alternatively, there should be a definition of the concept of “financing”, including with regard to the type of funds and assets which can serve the purpose of financing terrorism. • This definition should include the financing of “individual” terrorists and not be limited to the financing of terrorist associations. • More deterrent sanctions should be provided in the framework of administrative liability of legal persons.
Confiscation, freezing and seizing of proceeds of crime (R.3)	<ul style="list-style-type: none"> • It is recommended to give a broad definition of assets subject to confiscation that would include proceeds indirectly derived from the offence, or assets intermingled with criminal proceeds. A system of confiscation of assets of equivalent value should be considered (as currently proposed in the draft law on the ratification of the Palermo Convention). The law should allow for the confiscation of assets, regardless of whether it is held or owned by a criminal defendant or by a third party. • Authorities could consider extending the power to manage seized assets proposed by the draft law on terrorism financing to cases of assets seized in the course of an AML investigation. An agency to manage and dispose of seized and confiscated assets, for AML as well as for CFT, would strengthen the efficiency of

	<p>the seizure and confiscation measures, as it is the case in a number of other countries.</p> <ul style="list-style-type: none"> • The power to void transactions or dealings on assets belonging to persons listed on terrorism financing lists should be extended to persons against whom an AML investigation is conducted.
Freezing of funds used for terrorist financing (SR.III)	<ul style="list-style-type: none"> • Authorities should institute a notification system to inform banks of list updates, they should enhance the monitoring mechanism to check the even implementation of freezing measures and should effectively apply sanctions to financial and nonfinancial sectors in case of violation of the EC regulations and guidelines. • Procedures should be instituted to protect the rights of <i>bona fide</i> third parties. • Authorities are encouraged to adopt the measures detailed in the draft law addressing the issue of freezing assets other than bank accounts. This draft could also include some provisions to institute the procedures mentioned above.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	<ul style="list-style-type: none"> • The <i>Servizio anti-riciclaggio</i> of the UIC should improve its filtering function and send to police authorities only STRs where suspicion can be substantiated. • To achieve this objective, it is recommended that the UIC be granted access to law enforcement information during the analysis process so that it can perform a more effective screening function. Furthermore, it is recommended that more human resources be placed for the analysis function of STRs. • It would appear that a system-wide evaluation of the quality of STRs, which would require the cooperation of the UIC, of the recipient police services, and possibly of the judiciary and Ministry of Justice, would be appropriate. Similarly, it would be useful to undertake a further evaluation of the effectiveness of the analysis work done by the UIC.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	<ul style="list-style-type: none"> • Authorities should review the effectiveness of law enforcement and prosecution strategies and action
Cash couriers (SR IX)	
3. Preventive Measures–Financial Institutions	
Risk of money laundering or terrorist financing	
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<p>The authorities should expand CDD requirements in line with the revised FATF Recommendations in the following areas:</p> <ul style="list-style-type: none"> • Need to expand in law or regulation the circumstances where CDD must be carried out, in particular for: the identification of occasional transactions that are wire transfers below the Euro 12 500 threshold. For greater clarity, should also consider making

	<p>explicit the requirement to identify and verify the identity of any customer when there is a suspicion of money laundering or terrorist financing.</p> <ul style="list-style-type: none"> • Need to establish in law or regulation a requirement to verify that the person purporting to act on behalf of the customer is so authorized. Financial institutions should also be required to verify the legal status of a customer that is a legal person; • Specific requirements should be introduced in law or regulation for financial institutions to take reasonable measures to understand the ownership and control structure that is a legal person and to determine who are the natural persons that ultimately own or control the customer; • The requirement in the Decalogo for conducting ongoing due diligence should be set out in law or regulation. • The exemption from CDD in the case of customers that are banks or branches abroad should be limited to those that are located in jurisdictions that effectively implement the FATF recommendations. • Specific requirements should also be extended to the identification and verification of the identity of the settlor, trustee or person exercising effective control over trusts and the beneficiaries; • The need for enhanced due diligence in higher risk situations, e.g., for nonresident customers, private banking, legal persons and arrangements such as trusts or for companies that have nominee shareholders or shares in bearer form.; • The timing of verification of identity should be clarified; • Full identification and recording of persons to whom a bearer passbook is transferred. • Additional specific requirements should be introduced for the identification of PEPs and senior management approval for establishing a business relationship with a PEP; • Additional specific requirements should be introduced regarding procedures for the opening and operation of cross-border correspondent banking relationships, notably with respect to gathering information on the respondent, assessing its AML/CFT controls, obtaining senior management approval before establishing new correspondent relationships, documenting respective responsibilities, and with respect to payable-through accounts, ensuring that the respondent has verified the identity of and performs ongoing due diligence regarding sub-account holders and is able to provide customer identification upon request of the correspondent. • Need to enshrine the documentary evidence required for verification of identity in law or regulation;
<p>Third parties and introduced business (R.9)</p>	<p>The authorities should introduce the following additional requirements:</p> <ul style="list-style-type: none"> • Financial institutions should satisfy themselves that copies of identification data and other relevant information relating to CDD requirements will be made available from the third party upon request without delay;

	<ul style="list-style-type: none"> Beyond obtaining head office certification financial institutions should be required to obtain from the third party located abroad a copy of its customer acceptance and ongoing CDD policies and satisfy themselves that the third party is regulated and supervised in accordance with FATF Recommendations 23, 24 and 29;
<p>Financial institution secrecy or confidentiality (R.4)</p>	
<p>Record keeping and wire transfer rules (R.10 & SR.VII)</p>	<p>It is recommended that the authorities:</p> <ul style="list-style-type: none"> Consider removing the €12,500 threshold for the recording in the AUI transactions conducted on an account. Introduce requirements to ensure that complete originator information is included in outgoing wire transfers and that beneficiary financial institutions adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by account number and address information. Moreover, the threshold of €12,500 at or above which customer identification and record keeping is required should be lowered to € 1,000 or eliminated altogether as is envisaged in the forthcoming EU regulation.
<p>Monitoring of transactions and relationships (R.11 & 21)</p>	<p>It is recommended that the authorities:</p> <ul style="list-style-type: none"> Ensure that there are effective means to enforce the provisions of the Decalogo with respect to financial intermediaries that are not subject to prudential supervision. Extend requirements to pay special attention to business relationships and transactions with persons from any country which does not or insufficiently apply the FATF recommendations.
<p>Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)</p>	<ul style="list-style-type: none"> The authorities should introduce a specific requirement for the reporting of transactions suspected of being related to or to be used for terrorism, terrorist acts or by terrorist organizations, or those who finance terrorism. Under the Italian legislation, terrorist financing is a predicate offence to money laundering and is therefore technically included in the reporting requirements set out in the law. Special Recommendation IV nevertheless calls for a direct mandatory obligation to report suspicions of terrorist financing. The reporting requirement is not effectively being implemented by bureaux de change, the postal bank, stockbrokers, investment companies, trust companies and insurance companies. The respective supervisory authorities should review this more closely as part of their on-site inspections and additional outreach and guidance should be considered. While the suspicious transaction reporting requirement applies to all transactions regardless of threshold, the usage of GIANOS in the banking and other sectors (including the application of transactions thresholds) should be reviewed to ensure it is used as a complement rather than a substitute for ongoing vigilance.

	<p>Moreover, they should ensure that there are effective means to enforce the provisions of the Decalogo with respect to financial intermediaries not prudentially supervised.</p> <ul style="list-style-type: none"> • The authorities should review the scope of the legal protection from criminal and civil liability associated with the reporting of suspicious transactions and clarify in law that it is restricted to only those persons who report in good faith. • The authorities should introduce an explicit prohibition to disclose the <i>fact</i> that a report has been made to the UIC or the fact that the UIC has requested additional information. • The UIC should provide reporting entities with systematic feedback in the form of statistics and typologies, for instance by means of a periodic newsletter or an annual report.
<p>Internal controls, compliance, audit and foreign branches (R.15 & 22)</p>	<ul style="list-style-type: none"> • There is a need to introduce requirements for adequate screening procedures for hiring employees. In addition, more detailed guidance should be developed on how financial intermediaries other than prudentially supervised financial institutions should organize themselves to comply with AML/CFT requirements. • Additional requirements should also be introduced to further ensure that AML/CFT principles are implemented by branches and majority-owned subsidiaries located abroad. In particular, the requirements should extend to foreign branches of other financial institutions (such as insurance companies and securities firms) and to majority-owned subsidiaries of financial institutions located abroad. Moreover, foreign establishments of Italian financial institutions should be required to notify competent authorities when they cannot do so.
<p>Shell banks (R.18)</p>	<ul style="list-style-type: none"> • The authorities should prohibit financial institutions from entering into or continuing correspondent banking relationships with shell banks and from establishing relations with correspondent foreign financial institutions that permit their accounts to be used by shell banks. • A clearer prohibition on the establishment of shell banks should be considered.
<p>The supervisory and oversight system—competent authorities and SROs (R. 17, 23, 29 & 30).</p>	<ul style="list-style-type: none"> • The supervisory authorities of prudentially regulated financial institutions are appropriately structured and have appropriate powers to ensure compliance with prudential and market conduct requirements. However, the authorities should assess the effectiveness of its AML/CFT supervision of nonprudentially supervised financial intermediaries with a view to ensuring more comprehensive, systematic and uniform inspections for all financial intermediaries. • The resources and efforts directed to AML/CFT supervision and

	<p>on-site inspections with respect to the securities and insurance sectors as well as financial intermediaries registered under Article 106 of the BL should be increased. Where it is possible, the authorities should increase the frequency of on-site inspections of foreign branches and subsidiaries of Italian financial intermediaries.</p> <ul style="list-style-type: none"> • Given its considerable importance as a provider of financial services more attention should be paid to Bancoposta, particularly following its introduction of new procedures and internal controls and now that the BoI has recently been granted supervisory authority over it. • There are also some gaps in supervision, notably with respect to independent distributors working with or on behalf of insurance undertakings (i.e., financial salespersons, sub-agents and brokers) and supervisory efforts should be increased, albeit on a risk basis. The authorities should continue with their plans to expand registration requirements and ensure they have requisite professional qualifications and integrity. • The authorities should amend the law in order to clarify the sanctions framework and ensure that it is effective, proportionate and dissuasive. They should render the financial institutions (i.e. legal persons) separately liable for all violations of the AML/CFT requirements. They should also extend the range of sanctions in order to include sanctions for deficiencies in internal controls and training, particularly for financial intermediaries that are not prudentially supervised.
<p>Financial institutions—market entry and ownership/control (R.23)</p>	
<p>AML/CFT Guidelines (R.25)</p>	<ul style="list-style-type: none"> • Additional specific guidance should be developed to assist in identifying suspicious transactions possibly linked to terrorist financing. • Guidance to DNFBPs should be developed to assist them in identifying suspicious transactions. • Positive feedback should be provided to financial institutions on their STRs. • Periodic reports should be published on trends and typologies.
<p>Ongoing supervision and monitoring (R.23, 29 & 32)</p>	<ul style="list-style-type: none"> • The authorities should assess the effectiveness of its AML/CFT supervision of nonprudentially supervised financial intermediaries with a view to ensuring more comprehensive, systematic and uniform inspections for all financial intermediaries. • The resources and efforts directed to AML/CFT supervision and on-site inspections with respect to the securities and insurance sectors as well as financial intermediaries registered under Article 106 of the BL should be increased. Where possible the authorities should increase the frequency of on-site inspections of foreign branches and subsidiaries of Italian financial

	<p>intermediaries.</p> <ul style="list-style-type: none"> • Given its considerable importance as a provider of financial services, more attention should be paid to Bancoposta, particularly following its introduction of new procedures and internal controls now that the BoI has been granted supervisory authority over it • There are also some gaps in supervision, notably with respect to independent distributors working with or on behalf of insurance undertakings (i.e., financial salespersons, sub-agents and brokers) and supervisory efforts should be increased, albeit on a risk basis. The authorities should continue with their plans to expand registration requirements and ensure that they have requisite professional qualifications and integrity • Authorities should maintain more systematically statistics regarding requests for assistance made or received by supervisors including whether the request was granted or refused.
<p>Money value transfer services (SR.VI)</p>	<ul style="list-style-type: none"> • Authorities should review their inspection policies with regard to money transfer agents and sub-agents and ensure that the whole sector is adequately monitored and complies with the AML/CFT requirements.
<p>4. Preventive Measures– Nonfinancial Businesses and Professions</p>	
<p>Customer due diligence and record-keeping (R.12)</p>	<ul style="list-style-type: none"> • Since the EU and the FATF have changed their requirements for the DNFBPs some time ago, the authorities are urged to implement these requirements without delay and ensure that all the DNFBPs are informed of their obligations to identify their customers and keep records. • The authorities should clarify which dealers and manufacturing of “valuables” are to be covered by the AML Law and ensure that the relevant sectors are informed of their upcoming duties. • The authorities should ensure that the identification requirements for DNFBPs are in line with the FATF Recommendations. The regulations specifying the identification and registration requirements should also include issues like specific measures for the identification of PEPs, ongoing due diligence in accordance with the FATF Recommendations. • The authorities should ensure that also other independent legal professionals are covered by the AML Law.
<p>Monitoring of transactions and relationships (R.12 & 16)</p>	<ul style="list-style-type: none"> • The authorities should ensure that either by law, regulation or other enforceable means, the DNFBPs are required to pay special attention to all complex, unusual large transactions, and all

	<p>unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities and auditors.</p> <ul style="list-style-type: none"> • The authorities should ensure that either by law, regulation or other enforceable means, the DNFBPs are required to give special attention to business relationships and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply the FATF Recommendations. Whenever these transactions have no apparent economic or visible lawful purpose, their background and purpose should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities. • The authorities should require DNFBPs to conduct enhanced ongoing monitoring on business relationships with a PEP.
<p>Suspicious transaction reporting (R.16)</p>	<ul style="list-style-type: none"> • The authorities are advised to implement expeditiously the Legislative Decree that foresees the reporting of suspicious transactions by the DNFBPs. • They should also issue the necessary legal provision in order to grant legal protection from criminal and civil liability to the DNFBPs who report in good faith their suspicions to the UIC.
<p>Internal controls, compliance & audit (R.16)</p>	<ul style="list-style-type: none"> • The authorities should make sure that all DNFBPs are required to set up internal procedures, policies and controls to prevent ML and FT. The DNFBPs should also be required to either have a program for employee training or have some other access to (compulsory) training either provided by the orders and associations or by the authorities.
<p>Regulation, supervision and monitoring (R.17, 24-25)</p>	<ul style="list-style-type: none"> • The authorities are urged to designate AML/CFT supervisors for all the DNFBP and ensure that these supervisors have adequate powers to inspect for compliance with AML/CFT requirements, including internal procedures.
<p>Other designated nonfinancial businesses and professions (R.20)</p>	
<p>5. Legal Persons and Arrangements & Nonprofit Organizations</p>	
<p>Legal Persons–Access to beneficial ownership and control information (R.33)</p>	<ul style="list-style-type: none"> • The authorities could consider measures to ensure that criminals cannot establish legal entities, for instance by performing an integrity check on person setting up a company.
<p>Legal Arrangements–Access to beneficial ownership and control information (R.34)</p>	<ul style="list-style-type: none"> • The authorities should take measures to prevent the misuse of foreign trusts handled in Italy by ensuring that there is adequate, accurate and timely information on the beneficial ownership and

	control of (express) trusts and that this information can be obtained in timely fashion by the competent authorities. In particular, to allow transparency and timely access to information in relation to foreign trusts handled by Italian financial intermediaries, the latter should be required, when dealing with trust funds, to identify the settlor, the trustees or persons exercising effective control over the trust and the ultimate beneficiaries.
Nonprofit organizations (SR.VIII)	<ul style="list-style-type: none"> The authorities could consider measures to ensure that criminals cannot establish or use the legal entities used for NPOs, for instance by performing an integrity check on person setting up a company.
6. National and International Cooperation	
National cooperation and coordination (R.31)	<ul style="list-style-type: none"> Although informal coordination mechanisms exist in AML/CFT matters and seem to work relatively well it is recommended to improve coordination in AML matters, on the basis of the successful experience of the FSC, to include as part of the FSC consultative process as well as in the AML coordination representatives of the businesses and professions concerned to ensure their involvement at various degrees in the design and implementation of preventive and coercive measures.
The Conventions and UN Special Resolutions (R.35 & SR.I)	<ul style="list-style-type: none"> Legislative action, as discussed under Criminalization of the financing of terrorism, may be necessary to fully implement the financing convention, and adoption of the Palermo Convention is overdue.
Mutual Legal Assistance (R.32, 36-38, SR.V)	
Extradition (R.32, 37 & 39, & SR.V)	
Other Forms of Cooperation (R.32 & 40, & SR.V)	
7. Other Issues	
Other relevant AML/CFT measures or issues	<ul style="list-style-type: none"> Relevant laws should be consolidated and streamlined in a single legislative instrument as well as in unified regulations.

Details of all Bodies met During the On-site Mission

I. MINISTRIES

1. Ministry of Economy and Finance

- *Department of Treasury – Financial Crime*

2. Ministry of Foreign Affairs

- *Department for International Cooperation against Terrorism, Drugs and Organized Crime*
- *Department for European Integration*
- *Judicial and Home Affairs Unit*
- *Secretariat for Legislation*

3. Ministry of Justice

- *Criminal Justice Department*
- *Office for Mutual Legal Assistance and Extraditions*
- *Office for Notaries*

4. Ministry of Interior

- *Department of Public Security – Office for Coordination and Planning of Polices Forces – Service 2 for the International Relations - Division 3 for Multilateral Affairs*
- *Direzione Centrale Polizia di Prevenzione*
- *Direzione Centrale Polizia Criminale*
- *Comando Generale Arma dei Carabinieri*

II. OPERATIONAL AND LAW ENFORCEMENT AGENCIES

1. Guardia di Finanza

- *Second Department*
- *Special Currency Police Unit (Nucleo Speciale Polizia Valutaria; NSPV)*
- *Analysis Unit*
- *Anti-fraud and International Cooperation Office*
- *Organized Crime Investigative Group*
- *Research Activity Office*

2. Ufficio Italian Cambi (UIC), Italian FIU

- *Legal Department*
- *AML Unit*
- *Inspectorate*

3. Direzione Investigativa Antimafia (DIA)

- *Third Branch*
- *Second Branch*
- *First Branch*
- *DIA Field Office in Rome*

4. Polizia di Stato – Polizia di Prevenzione
5. Arma dei Carabinieri

III. PROSECUTORIAL AUTHORITIES

1. Public Prosecution
2. National Anti-Mafia Directorate (Rome and Milano)
3. District Anti-Mafia Directorate (Rome)

IV. INTELLIGENCE SERVICES

1. CESIS, Executive Committee for Intelligence and Security Services
2. SISMI, Military Security and Information Service
3. SISDE, Democratic Security and Information Service

V. FINANCIAL INSTITUTIONS

1. Supervisory bodies
 - Bank of Italy (Banking Sector)
 - *Competition, Regulations and General Affairs Department*
 - *Banking Supervision Department*
 - *Supervision of Financial Intermediaries Department*
 - *Inspectorate*
 - *Payment Oversight Office*
 - CONSOB (Securities Market)
 - *International Relations Department*
 - *Intermediaries Division*
 - ISVAP (Insurance Sector)
 - *Inspection Department*
 - *Research Department*
2. Professional associations
 - *Italian Banking Association*
 - *Associazione Nazionale fra le Imprese Assicuratrici (ANIA)*
 - *Assogestioni*

VI. REPRESENTATIVES FROM THE FINANCIAL INSTITUTIONS SECTOR

1. Banks
2. Insurance companies and brokers
3. Money/value transfer service providers
4. Securities sector participants
5. Post
6. Asset Management Companies

VII. DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

1. Professional organisations
 - *National Order for Lawyers (Consiglio Nazionale Forense)*
 - *National Order for Notaries (Consiglio Nazionale Notariato)*
 - *National Order for Chartered Accountants (Consiglio Nazionale dei Ragionieri e Periti Commercialisti)*
 - *National Order for Legal-Economic-Accounting Professionals (Consiglio Nazionale Dottori Commercialisti)*

VIII. REPRESENTATIVES FROM THE DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS SECTOR

1. Accountants and auditors
2. Lawyers
3. Notaries

IX. OTHER

1. Revenue Agency – Central Assessment Department (Agenzia delle Entrate – Direzione Centrale Accertamento)
2. Customs Agency
3. Unioncamere
4. Agency for the ONLUS

Key AML/CFT Laws, Regulations, and Other Material

Criminal Code (Extracts)

1. Art.240 (general confiscation) [available only in Italian]
2. Art.270 *-bis* and *ter*
3. Art.648; 648 bis; 648 *ter* (*money laundering: use of money, goods and utilities of illicit origin*)

Criminal Procedure Code (Extracts)

4. Art. 253-258 (*Sequestri*) [available only in Italian]
5. Art. 316-317 (*conservative and preventive seizure*) [available only in Italian]
6. Art. 696-726ter (*Relazioni giuridizionali con autorità straniere*) [available only in Italian]

Civil Code (Extracts)

7. Art. 1387-1390 (*della rappresentanza*) [available only in Italian]
8. Art. 2080-2221 [available only in Italian]
9. Art. 2638 (*Ostacolo all'esercizio delle funzioni delle autorità pubbliche di vigilanza*) [available only in Italian]

Laws, Legislative Decrees, Ministerial Decrees, Circular and Guidelines

2005

10. Agreement signed between the Bank of Italy and the *Ufficio Italiano dei Cambi* on 15 February 2005 [available only in Italian]
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