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

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Mutual Evaluation Report – *Executive Summary*

Anti-Money Laundering and Combating the Financing of Terrorism

THE HOLY SEE (INCLUDING VATICAN CITY STATE)

4 July 2012

The Holy See (including Vatican City State) is evaluated by MONEYVAL pursuant to Resolution CM/Res(2011)5 of the Committee of Ministers of 6 April 2011. This evaluation was conducted by MONEYVAL and the report was adopted as a third round mutual evaluation report at its 39th Plenary (Strasbourg, 2-6 July 2012).

EXECUTIVE SUMMARY

1. Background and scope of the evaluation

1. On 24 February 2011, His Eminence Cardinal Bertone, Secretary of State, wrote to the Secretary General of the Council of Europe, requesting that the Holy See (including Vatican City State) (HS/VCS) become subject to the evaluation and follow up procedures of MONEYVAL. MONEYVAL is the Council of Europe's primary monitoring arm in anti-money laundering and countering the financing of terrorism (AML/CFT). The Committee of Ministers accepted this application on 6 April 2011. The Holy See (including Vatican City State) became fully engaged with MONEYVAL thereafter and arrangements were made for a MONEYVAL on-site visit in November 2011.

2. MONEYVAL is a peer evaluation mechanism. It assesses the compliance with and the effectiveness of the implementation of the legal framework, plus the financial and law enforcement measures in place to combat money laundering and terrorist financing. Its assessments are made against the global standards of the Financial Action Task Force (FATF), and also in respect of some aspects of Directive 2005/60/EC (the 3rd EU Directive). MONEYVAL is a leading Associate Member of the FATF.

3. This report describes and analyses the AML/CFT measures that were in place in the HS/VCS at the time of the first MONEYVAL on-site visit (20-26 November 2011) and takes into account developments in the subsequent two months to 25 January 2012 (as is permitted in FATF and MONEYVAL practice). A second MONEYVAL on-site visit was made between 14-16 March 2012 to clarify certain matters. The MONEYVAL report offers recommendations on how to strengthen aspects of the system. It was prepared on the basis of the FATF 40 Recommendations (2003) and the 9 Special Recommendations of the FATF on Terrorist Financing (2001), as updated. It is not based on the revised FATF Recommendations, which were issued in February 2012.

4. Under the procedures of MONEYVAL, no account can be taken in the text of the report, and for rating purposes, of developments after the 25th January 2012. None-the-less, the HS/VCS has continued to move forward to improve and modernise its laws and practices since the 25th January 2012. Important developments since the 25th January 2012 are referred to by updating footnotes in the body of the mutual evaluation report in accordance with MONEYVAL procedure.

5. This report is an evaluation of measures in place to counter money laundering and terrorist financing. It is not an investigation into past or present allegations of money laundering and terrorist financing. It is not concerned directly with the situation before the implementation of AML/CFT legislation. The assessment is also not an audit of any particular financial institution, as this is outside the scope of an evaluation. However, the evaluators have assessed intensively effective implementation of the global standards (in particular by the Institute for Works of Religion - IOR). MONEYVAL's assessment in this area was based on interviews with IOR management and employees, the analysis of comprehensive internal procedures and other documents requested by the evaluation team.

2. The specific context of the evaluation

6. The Vatican City State is geographically and demographically the smallest country in the world and consequently there is very little domestically generated crime. However, St Peter's Basilica and the Vatican Museums receive more than 18 million pilgrims and tourists each year and this inevitably results in a certain level of petty crime.

7. No independent businesses are established within the HS/VCS, as a public monopoly regime exists in the economic, financial and professional sectors. Thus, unlike other states evaluated by MONEYVAL, there is no market economy. Given this, the authorities consider that the threat of money laundering and terrorist financing is very low. However, no formal risk assessment has been done as yet. The evaluators consider that such a risk assessment should be undertaken to properly judge the adequacy of this approach, and a process has been initiated to commence one. This is

important as the evaluators have identified factors present in the system which could potentially increase the AML/CFT risk situation including: high volumes of cash transactions and wire transfers (although, the evaluators fully appreciate that cash transactions are an important contributor to the funding of the global mission of the church); global spread of financial activities (including with countries that insufficiently apply the FATF Recommendations); and the limited availability of information on the non-profit organisations operating in the HS/VCS.

8. There are only two entities, the Institute for Works of Religion (IOR) and the Administration of the Patrimony of the Holy See (APSA), which have been treated as financial institutions for the purposes of this evaluation. The IOR is the larger of the two financial institutions with 33,404 accounts being operated as at 30 November 2011. Both financial institutions are ultimately controlled by the HS/VCS.

9. There are only a few (foreign domiciled) designated non-financial businesses and professions (DNFBP), notably external accountants, providing relevant services within the HS/VCS.

3. Key findings

10. The HS/VCS authorities have come a long way in a very short period of time and many of the building blocks of an AML/CFT regime are now formally in place. But further important issues still need addressing in order to demonstrate that a fully effective regime has been instituted in practice.

11. In order to bring the legal system of the HS/VCS into line with international standards on AML/CFT matters the Act of the Vatican City State No. CXXVII, concerning the prevention and countering of the laundering of proceeds resulting from criminal activities and financing of terrorism, was enacted on 30th December 2010 and came into force on 1 April 2011. By an Apostolic letter of 30 December 2010, in the form of a '*Motu Proprio*,[1]' His Holiness Pope Benedict XVI also extended this law to the Holy See itself and created the *Autorità di Informazione Finanzaria* (Financial Intelligence Authority (FIA)) as the financial intelligence unit (FIU) for the HS/VCS and AML/CFT supervisor. This original AML/CFT Law was rapidly revised after the first MONEYVAL visit, largely to take into account the evaluators' emerging findings. The first law was wholly supplanted and replaced by Decree No. CLIX of 25 January 2012 making amendments and additions, all of which came into force also on 25 January 2012. The Decree has since been confirmed. The revised AML/CFT Law introduced a significant number of necessary and welcome changes, but due to the timing of its introduction it was not possible for the evaluators to assess the effectiveness of implementation. The amended AML/CFT Law also clearly establishes the Secretariat of State as responsible for the definition of the policies on AML/CFT, and for adhesion to international treaties and agreements.

12. Money laundering has been fully criminalised in accordance with the FATF standards although effectiveness of application has yet to be demonstrated as there have been no investigations, prosecutions or convictions for money laundering. Likewise, financing of terrorism has been criminalised, although the specific criminalisation of financing in respect of certain terrorist acts in relevant UN counter-terrorism conventions is absent. The authorities have the necessary powers to freeze, seize and confiscate criminal funds and assets although effectiveness of implementation has also still to be demonstrated. Detailed legislative provisions have been introduced to give full force and effect to the freezing of funds associated with terrorism and financing of terrorism in accordance with relevant UN Security Council Resolutions (UNSCRs). However, as of January 2012, they had not been brought into practical effect[2].

13. The VCS has an established Gendarmerie whose responsibilities now include the investigation of financial crime and money laundering offences, though there does not appear to have been enough training provided to them in financial investigation. Both the Gendarmerie and the FIA appear to have adequate legal and material resources.

[1] A document issued by the Pope on his own initiative directed to the Roman Catholic Church.

[2] On 3 April 2012 the HS/VCS list of designated persons was promulgated by the Secretariat of State which covered, *inter alia*, the 1267 list of designated persons. On the same day the FIA issued an Ordinance giving effect to this list and transmitted it to all obliged persons.

14. The preventive measures established by the original AML/CFT Law provided a comprehensive framework, including Customer Due Diligence (CDD)[3] and record keeping requirements. These represented a major step forward for the HS/VCS. The legal provisions were augmented by Regulations and Instructions issued by the FIA. However, some elements of the original preventive regime did not clearly meet the FATF standards. The amendments and additions made by the revised AML/CFT Law have filled a considerable number of gaps identified in the original AML/CFT Law. The gaps that remain relate mainly to the requirements for appropriate monitoring and scrutiny of business relationships and transactions and the implementation of the risk based approach established by the Law.

15. The IOR launched a process in November 2010 (in advance of the enactment of AML/CFT legislation) to review its client database. The IOR is committed to complete this process with up to date CDD information by the end of 2012, though this was still at an early stage at the time of the on-site visits. Though there is an IOR bylaw that sets out the categories of persons that may hold accounts in IOR, it is recommended that serious consideration be given to a statutory provision describing the categories of legal and natural persons who are eligible to maintain accounts in the IOR.

16. The AML/CFT Law introduced a suspicious transaction reporting regime and the FIA have issued guidance on indicators of anomalous transactions. But attempted transactions are not clearly covered by the requirements and there are deficiencies in the reporting provisions regarding terrorist financing. In the period under review 2 STRs had been filed under the AML/CFT regime by a financial institution. This appears to be low as the SAR regime has been in effect since 1 April 2011. Even if allowances are made for the small size of the financial sector in the HS/VCS and for the need of the reporting entities to accustom themselves to the new regime and acquire experience, effectiveness of the reporting system is questionable.

17. The FIA is the main supervisor for AML/CFT purposes. Nonetheless, there appeared to be a lack of clarity about the role, responsibility, authority, powers and independence of the FIA as supervisor. The legislative basis for supervision and inspection needs strengthening to ensure that it includes the review of policies, procedures, books and records and, above all, sample testing. The supervisory authorities should have the clear legal right of entry into premises under supervision and the right to demand access to books of account and other information. The FIA does not appear to have adequate powers to carry out its supervisory duties and has no ability to issue sanctions in respect of one of the two identified financial institutions (APSA) as APSA is regarded as a "public authority". Following its formation, the FIA concentrated on preparing and issuing guidance. At the time of the MONEYVAL on-site visits the FIA had not conducted an on-site inspection, notwithstanding the fact that the primary financial institution, the IOR, had requested that the FIA do so. No specific training had been provided to the FIA for its supervisory tasks.

18. The FIA is not involved in the process of licensing of senior staff in the financial institutions and there is no provision for the financial institutions to be prudentially supervised. It is strongly recommended that IOR is also supervised by a prudential supervisor in the near future. Even if this is not formally required it poses large risks to the stability of the small financial sector of HS/VCS if IOR is not independently supervised.

19. The AML/CFT Law covers lawyers and accountants who are operating within the VCS for STR reporting purposes. There are a number of non-profit organisations (NPO) based within the HS/VCS, all of which are linked to the mission of the Church. However, there is no supervisory regime in place in the NPO sector and no systemic outreach on AML/CFT issues has taken place as yet to the NPO sector.

[3] Customer Due Diligence is a cornerstone of a preventive AML/CFT regime. It requires that all customers are clearly identified and that their identity is verified against reliable documentation. This includes the identification and verification of the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted and those persons who exercise ultimate effective control over a legal person or legal arrangement (such as trusts).

20. Overall there are adequate arrangements in place to facilitate both national and international cooperation. In January 2012 the HS/VCS became a party to the Vienna, Palermo and Terrorist Financing Conventions of the United Nations which the evaluators warmly welcome as this will facilitate judicial mutual legal assistance. While information provided to the evaluators showed a broadly satisfactory track record in judicial international co-operation, one country indicated that it had encountered some difficulties in mutual legal assistance relationships with the HS/VCS.

21. The FIA is limited in its ability to exchange information with other FIUs by the requirement to have a Memorandum of Understanding (MOU) in place with its counterparts. As no MOUs had been signed at the time of the MONEYVAL on-site visits, the effectiveness of the FIU in international co-operation was not demonstrated[4]. The FIA does not have the explicit authority to share supervisory information.

4. Legal Systems and Related Institutional Measures

22. With regard to criminal law, the HS/VCS relies upon the Italian Penal Code of 1889 and the Italian Code of Criminal Procedure of 1913. It is, however, noted that the AML/CFT Law has introduced various updating amendments to the Penal Code to bring HS/VCS criminalised offences into line with the FATF "designated categories of offences"[5].

23. Prior to the enactment of the original AML/CFT Law, money laundering had not been specifically criminalised in the legal system of the HS/VCS. Before the AML/CFT Law came into force there was reliance on Art. 421 of the Italian Criminal Code of 1889. Subsequent to the MONEYVAL on-site visit of November 2011 and in the light of MONEYVAL's emerging findings, the authorities of the HS/VCS revisited the original AML/CFT Law in order to deal with identified gaps and also as they described it - to place the AML/CFT system on a more secure, long term and sustainable legislative footing. Extensive amendments and additions to the law brought about by this process came into force on 25 January 2012. Under this revised AML/CFT Law, the physical and material elements of money laundering required by the international standards are covered.

24. The offence of money laundering in the HS/VCS applies to natural persons who knowingly engage in proscribed activities. The evaluators were told that under applicable general principles and rules of the legal system the intentional element of the offence can be inferred from objective factual circumstances. A provision on "administrative responsibility of legal persons" was introduced into the amended legislation which came into force on 25 January 2012. The application of administrative responsibility of legal persons is based upon the prior securing of a criminal conviction of a natural person with relevant ties to the legal person in question for either money laundering or the financing of terrorism. The evaluators have concerns regarding the effectiveness of the corporate liability provision.

25. Specific offences to cover the financing of terrorism have also been included in the legislation. However, the ability to prosecute the financing of terrorism in respect of certain terrorist acts in some relevant UN counter-terrorism conventions is still missing. The financing of individual terrorists or terrorist organisations for legitimate purposes, which is also required under FATF standards, is not covered.

26. The AML/CFT Law provides for the mandatory confiscation of both proceeds and instrumentalities, including from third parties. Provisional measures, including the freezing and/or seizing of property, to prevent any dealing, transfer or disposal of property subject to confiscation are applied through reliance on the provisions of the Italian Criminal Code. The evaluators are satisfied that law enforcement agencies and the FIA have adequate powers to identify and trace property that is or may become subject to confiscation or is suspected of being the proceeds of crime. The system of

[4] The authorities have subsequently reported that they have entered into one MoU with an FIU. In addition they have approached 11 other FIUs receiving formal assent from two.

[5] The offences which are required to be criminalised in order that they can form an underlying basis for money laundering charges and prosecutions.

confiscation and of provisional measures contains wording designed to protect the interests of *bona fide* third parties, as the standards require.

27. The AML/CFT Law has introduced provisions to allow for the freezing of funds of persons identified under the UNSCRs. However, a system for the application of these provisions in practice had still to be developed at the time of the MONEYVAL visits[6].

28. The Financial Intelligence Unit for the HS/VCS, is the FIA. It has been operational since 1 April 2011. The *Motu Proprio* establishing the FIA identifies the FIA as a public institution of the HS. Its jurisdiction in respect of AML/CFT rules extends to all Dicasteries (Departments) of the Roman Curia and all the organisations and bodies depending on the Holy See that perform financial activities listed in the AML/CFT Law.

29. The FIA is an autonomous administrative authority. It exercises the key FIU functions of receiving and analysing suspicious activity reports (SARs), and of disseminating the results of its analysis to law enforcement. In support of its analytical activity the FIA has a broad power to collect additional data. The AML/CFT Law gives the FIA access, on a timely basis, to the necessary financial, administrative, investigative information and also additional information from the parties that made the disclosure. However, as a result of a regrettable shift between the texts of the original and the revised AML/CFT Law, the legal basis for the FIA enabling it to collect additional information from all entities that are subject to the reporting obligation has become uncertain. The AML/CFT Law guarantees the FIA's operational independence and autonomy and requires that the FIA shall have adequate resources.

30. Whilst the FIA is required to maintain the "highest secrecy", exchange of information in the context of international co-operation or with the judicial authorities is allowed. However, the FIA does not have the authority to autonomously conclude MOUs with its foreign counterparts which potentially limits its effectiveness in international cooperation. The FIA is seriously considering joining the Egmont Group[7] and has already taken steps to initiate the membership procedure which would enable it to co-operate directly with other FIUs in the Egmont Group in accordance with Egmont principles.

31. The judicial power in the HS/VCS is exercised by the Courts, i.e. the Single Judge, the Tribunal, the Court of Appeal and the Court of Cassation. The law enforcement authorities in the HS/VCS are comprised of: the Public Prosecutor's Office (the Promoter of Justice), who is nominated by the Pope; the Gendarmerie Corps, whose primary functions, as the only police force in the VCS, are the maintenance of public order and the investigation of offences. Due to the small size of the law enforcement community, there are no law enforcement authorities specialised in investigation and prosecution of ML or TF. The judiciary and law enforcement authorities have not yet been confronted with money laundering or terrorism financing matters, so it is not possible to assess their effectiveness on these issues.

32. The standards require that countries should have measures in place to detect the physical cross-border transportation of currency or bearer negotiable instruments. With the adoption of the AML/CFT Law the HS/VCS authorities established a declaration system for cash and bearer negotiable instruments with legal requirements for all natural persons. However, the declaration requirement does not cover shipment of currency through containerised cargo. The Gendarmerie Corps have the authority to make inquiries and inspections to ensure compliance with the requirements as well as to restrain currency where there is a suspicion of ML/FT. Although the authorities have the power to apply a penalty this is limited and there are doubts as to the ability of the Gendarmerie in practice to restrain currency where there is a suspicion of ML/FT on a timely basis, given that all declarations had been made at financial institutions. The Gendarmerie can co-operate with the Customs authorities of other

[6] See footnote 4 above.

[7] The Egmont Group provides a forum for FIUs around the world to improve cooperation in the fight against money laundering and financing of terrorism. Egmont Group members meet regularly to find ways to cooperate, especially in the areas of information exchange, training and the sharing of expertise.

countries, although there appear to be restrictions on the ability of the FIA to exchange information with counterparts on cross-border transportation.

5. Preventive Measures – Financial Institutions

33. The preventive measures established by the AML/CFT Law prior to the amendments made by Decree No. CLIX of 25 January 2012 provided a comprehensive framework, including CDD and record keeping requirements and were viewed as a major step forward for the HS/VCS. The legal provisions had been augmented by Regulations and Instructions issued by the FIA. However, some elements of the preventive regime did not clearly meet the FATF standards. The amendments and additions promulgated by Decree No. CLIX of 25 January 2012 have filled a considerable number of gaps identified in the previous Law. The gaps that remain relate mainly to the requirements for the monitoring and scrutiny of business relationships and transactions and the implementation of the risk based approach established by the Law.

34. The original AML/CFT Law as amended by Decree No. CLIX of 25 January 2012 applies to all activities and operations carried out by financial institutions as defined in the Glossary to the FATF Methodology. In practice, there are only two entities, notably the IOR and APSA, which have been treated as financial institutions for the purposes of this evaluation. The IOR is the most relevant to this assessment.

35. The revised AML/CFT Law introduced a comprehensive CDD regime and includes a risk-based approach to CDD. Enhanced CDD[8] is required by law for relationships established with politically exposed persons (PEPs), correspondent current accounts and non-face to face relationships. Some deficiencies have been identified with respect to these requirements. For example, the requirement to put in place appropriate risk management systems to determine whether a customer is a PEP does not extend to beneficial owners of accounts. With respect to non-face to face relationships the Law provides for undue exemptions from the full CDD requirements. The only additional requirement for enhanced due diligence, that appears to be designed based on a local risk assessment, is set out in an FIA Instruction and relates to repeated deposits of cash or valuables.

36. The instances for simplified CDD[9] as provided for in the AML/CFT Law are not the result of a specific assessment of the risks and vulnerabilities faced by the HS/VCS. The failure to have undertaken any formal risk assessment implies that there is no basis for determining whether other potential risks are addressed appropriately. As noted earlier, the evaluators have identified additional factors that could increase the risk situation. The evaluators' assessment on these specific risks largely matches with a preliminary threat assessment of the FIA. This preliminary assessment needs completing and formalising.

37. In applying the risk-based approach to simplified due diligence the AML/CFT Law creates blanket exemptions from the CDD requirements. As such these are not "reduced or simplified" CDD measures as the standards allow, but exemptions from any CDD requirements except in those situations when ML or FT are suspected, or when there are reasons to believe that the previous verification is unreliable or insufficient to provide the necessary information. These exemptions need reviewing.

38. The CDD framework also lacks an express requirement to verify that the transactions are consistent with the institution's knowledge of the source of funds. There is also no requirement to give special attention or to examine the background of business relationships and transactions with persons from or in countries that do not or insufficiently apply the FATF Recommendations. Nor are there requirements to examine the background and purpose of complex, unusual large transactions, or

[8] Enhanced CDD measures are required to be applied to certain high risk categories of customers (for example, non-resident customers). These procedures require seeking additional information concerning the background to the customers and their beneficial owners.

[9] Simplified CDD measures can be applied to certain categories of low risk customers (for example, government institutions or enterprises). This allows institutions to apply reduced measures to identify and verify the identity of the customers and their beneficial owners.

unusual patterns of transactions, that have no apparent or visible economic or lawful purpose, as the standards also require.

39. The IOR officials demonstrated clear commitment and high awareness as regards the accurate implementation of the obligations under the AML/CFT Law. The evaluators were pleased to note that the internal procedures established by the IOR went, to some extent, beyond the requirements set out by the Law prior to the amendments and additions introduced in January 2012. Their procedures partly contained requirements that were missing or unclear in the original AML/CFT Law.

40. On the other hand, based on these internal procedures, the evaluators have also identified some deficiencies impacting on the effective implementation of certain CDD measures. For example, the risk categorisation applied by the IOR does not take into account geographic risk, product/service risk, type and frequency of transactions, the activity carried out, business volumes, or behaviour of the client.

41. As a result of the incomplete risk categorisation by the IOR, enhanced due diligence measures appear to be applied to a very limited number of customer categories and the additional measures applied in higher risk situations seem limited. The IT systems to identify unusual and riskier transactions were still in the process of being developed at the time of the MONEYVAL on-site visits. Additionally, some weaknesses were detected in the identification procedures (e.g. with regard to persons purporting to act on behalf of a customer).

42. The APSA representatives demonstrated a good understanding of their obligations under the AML/CFT Law and the requirements appear to be implemented in practice. However, the formalisation of CDD procedures in APSA appears to be at an early stage. Internal procedures in APSA were only adopted after the first MONEYVAL on-site visit.

43. A major concern arises from the fact that there has never been a sample testing of the CDD files maintained by the IOR or a supervisory assessment by the FIA including the scrutiny of transactions and the origin of funds in transactions carried out by the IOR. While the evaluators took note of the efforts and commitment by the IOR to review its customer database in the light of the new regulatory framework, this process was still at an early stage at the time of the MONEYVAL on-site visits. Though there is an IOR bylaw that sets out the categories of persons that may hold accounts in IOR, the evaluators recommend that serious consideration be given to a statutory provision setting out the categories of legal and natural persons that may hold accounts in the IOR.

44. The AML/CFT Law has introduced a requirement to preserve the documents and records in accordance with the standards. With regard to wire transfers, the FIA has issued Regulations that also appear to be generally in line with the standards. However, there is no explicit requirement in the Regulation that ensures that non-routine transactions are not batched[10], where this would increase the risk of money laundering. The Regulation itself contains weaknesses regarding the verification of identity and too broad an interpretation of the concept of 'domestic transfers'. Furthermore, no requirements for beneficiary financial institutions to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information have been put in place.

45. The AML/CFT Law has introduced a suspicious transaction reporting regime which is basically sound and the FIA have issued guidance on indicators of anomalous transactions. However, attempted transactions are not clearly covered by the requirements. The reporting requirements refer to "transactions" rather than "funds" and there is no reporting obligation covering funds suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations. Furthermore, the deficiencies in the terrorist financing offence formally limit the terrorist financing reporting obligation. The level of STRs at the time of the on-site visits raises questions in the minds of the evaluators regarding the effectiveness of the reporting regime in practice. It is noted that no

[10] Batch processing groups similar transactions together to facilitate efficient data processing. The standards require that non-routine transactions should be processed individually.

reports were submitted to the prosecutor. The protection for persons reporting a suspicious transaction and the "tipping off" prohibition are largely in line with the standards.

46. The FIA has issued guidance on required internal controls in financial institutions. There are, however, concerns that the scope of the FIA's right to issue guidance is restricted. Neither the law nor guidance provide for timely access by the AML/CFT compliance officer to customer identification data and other CDD information, transaction records, and other relevant information. While neither of the financial institutions operates any foreign branches or subsidiaries, relevant provisions have been established in the AML/CFT Law to cover this, which are largely in line with the standards.

47. The FIA is the main supervisor for AML/CFT purposes. The AML/CFT Law states that the FIA has the power to perform inspections and to impose administrative pecuniary sanctions. The Law does, however, limit supervision to monitoring and verification of certain activities, which focus mainly on internal control measures and selection of employees. Furthermore, it is unclear to what extent the power to carry out inspections includes the review of policies, procedures, books and records, and can be extended to sample testing. It is also unclear whether the FIA's powers include the right of entry into the premises of the institution under supervision, the right to demand books of accounts and other information and the right to make and take copies of documents, with a penalty on the institution if its officers fail to comply. Following its formation, the FIA concentrated on preparing and issuing Regulations and Instructions. As a consequence of this virtually no supervisory activity took place during the period under review and, at the time of the MONEYVAL on-site visits, the FIA had not conducted an on-site inspection. It is recommended that the definition in the AML/CFT Law of supervision and inspection be amended to make it clear that those functions are not restricted only to certain AML/CFT activities but encompass all aspects of AML/CFT, and in particular the review of policies, procedures, books and records and sample testing. The supervisory authorities should have the legal right of entry into premises under supervision and the right to demand access to books of account and other information.

48. It is strongly recommended that IOR is also supervised by a prudential supervisor in the near future as currently there is no adequate, independent supervision of the IOR. Even if this is not formally required, it poses large risks to the stability of the small financial sector of HS/VCS if IOR is not independently supervised. In addition it would require IOR to implement additional regulatory and supervisory measures which are relevant for AML.

49. No sanctions for breaches of AML/CFT legislation are applicable to APSA as it is regarded as a public authority. This should be reconsidered. Otherwise, legal persons can be sanctioned. There are sanctions available also in respect of all natural persons, but directors and senior management are not specifically addressed in the legislation. Further clarity here would help. There is no power to withdraw, restrict or suspend a financial institution's licence. At the time of the MONEYVAL on-site visits, no sanctions had been applied. With regard to market entry, directors and senior management of IOR and APSA are not specifically evaluated on the basis of "fit and proper" criteria by the FIA and the financial institutions are "licensed" via the Chirograph[11] and the Pastor Bonus[12] but not by the FIA.

50. The AML/CFT Law states that financial secrecy should not obstruct requests for information by competent authorities and also provides for domestic authorities to actively co-operate and exchange information for AML/CFT purposes. The Law further states that official secrecy shall not inhibit the international exchange of information. HS/VCS authorities have demonstrated that information covered by financial and official secrecy is exchanged in practice. However, the Law lacks express exemptions from the secrecy provisions for certain types of information exchange.

[11] A papal document establishing the IOR.

[12] An Apostolic Constitution promulgated by Pope John Paul II which sets out the process of running the central government of the Roman Catholic Church. Both IOR and APSA are established under Pastor Bonus.

6. Preventive Measures – Designated Non-Financial Businesses and Professions (DNFBP)

51. Given the public monopoly regime, no one is entitled to establish businesses or to set up industrial or commercial enterprises without obtaining authorisation from the Governor. No such authorisation has ever been issued. Only those DNFBP services provided by HS/VCS entities, as well as cross-border services provided by foreign domiciled persons (e.g. lawyers, auditors, etc.), are permitted to be conducted within the HS/VCS.

52. The revised AML/CFT Law covers all categories of DNFBP covered by the FATF standards except for casinos (including internet casinos) the establishment of which is expressly prohibited by the Law. DNFBP have to comply with the same obligations as financial institutions, including *inter alia* CDD and record keeping requirements. Despite this broad scope of application, there appear to be only a few (foreign domiciled) DNFBP (notably external accountants) providing services within the HS/VCS that are relevant under the FATF standards. However, those DNFBP have not yet implemented the obligations of the AML/CFT Law.

7. Non-Profit organisations

53. There are a number of non-profit organisations based within the HS/VCS. They are all linked to the support of the mission of the Church. This sector is a significant controller of financial resources within the HS/VCS. No review has been undertaken of this sector to establish the adequacy of the legal and regulatory framework and the potential vulnerabilities to financing of terrorist activities. At the time of MONEYVAL's visits there was no monitoring regime in place. No written guidance had been prepared and no systemic outreach has taken place to this sector.

8. National and International Cooperation

54. Both the Holy See and the Vatican City State enjoy international legal personality. The HS maintains bilateral diplomatic relations with members of the international community. It is a member of certain international organisations and has observer status in many others, including the UN and the Council of Europe. It has a treaty making capacity in international law and has become a party to a number of multilateral conventions including several negotiated under the auspices of the UN. The evaluators warmly welcomed the decision of the HS/VCS to become a party to the Vienna, Palermo and Terrorist Financing Conventions of the UN in January 2012.

55. In the HS/VCS issues of international legal co-operation are regulated by the relevant provisions of the Italian Code of Criminal Procedure of 1913 as it stood in 1929 (CCP). The CCP stipulates that international conventions and practices regarding letters rogatory and related matters are to be observed. However, at the time of the first MONEYVAL on-site visit, no bilateral mutual legal assistance agreements had been concluded. However, since the HS/VCS is now a party to the Vienna, Palermo and Terrorist Financing Conventions of the UN, their extensive provisions relating to mutual legal assistance now apply as between the HS/VCS and all other state parties.

56. At present the HS/VCS relies on the Letters Rogatory process provided for in the CCP. This is drafted in relatively broad and flexible terms and double criminality is not required. This scheme of co-operation is generally adequate in relation to the provision of assistance for money laundering, terrorist financing and predicate offence investigations and prosecutions. With regard to extradition, two separate regimes operate. With regard to Italy, under the terms of the Lateran Treaty, the HS/VCS enjoys "an enhanced co-operation". With regard to other states the terms of the CCP apply. This means that when a request for extradition is made through diplomatic channels the courts play a decisive role in determining whether the relevant requirements have been satisfied. The final determination is made by the executive branch of government.

57. While information provided to the evaluators showed a broadly satisfactory track record in international co-operation in judicial mutual legal assistance, one country indicated that it had encountered some difficulties in the context of its mutual legal assistance relationship with the HS/VCS.

58. The legal systems of the HS/VCS do not contain any undue restrictions to law enforcement co-operation in fiscal matters. The legal system of the HS-VCS does not contain any particular

restrictions or conditions on international co-operation on the basis of the protection of financial secrecy and professional privilege of possible designated non-financial subjects. Competent authorities have powers to carry out inquiries on both the internal and international levels. In particular, the Gendarmerie, in close co-operation with the Judicial Authority, carries out inquiries and investigations and cooperates with authorities of other states within the framework of INTERPOL. It can request, through the competent channels, the co-operation of the equivalent Italian agencies. However, as noted, the FIA is limited in its ability to exchange information by the requirement to have an MOU in place with its counterparts and no MOUs had been signed at the time of the visits[13]. The evaluators were provided with conflicting opinions regarding the ability of the FIA to share information prior to the entry into force of the original AML/CFT Law on 1 April 2011. It was subsequently demonstrated to the evaluators that in practice this did not appear to restrict the ability of the FIA to receive or disseminate information relating to transactions prior to 1 April 2011. The FIA does not have the explicit authority to share supervisory information

9. Resources and Statistics

59. Both the FIA and the Gendarmerie appear to have adequate budgets to carry out their functions and the AML/CFT Law requires that FIA shall have adequate resources. At the time of the MONEYVAL visits, neither the FIA nor the Gendarmerie had yet developed adequate experience of the application of the AML/CFT law. The evaluators noted that the Gendarmerie lacked training and experience in financial investigation and thus there is a reserve on their future effectiveness in this area. The FIA staff had not received any specific training for its supervisory tasks, and this needs to be remedied.

60. The authorities were able to provide statistics on the level of crime in the HS/VCS and related criminal proceedings. The recent introduction of the AML/CFT Law meant that there were as yet relatively few statistics maintained, although a system for recording and analysing STRs was in place. Statistics were also provided on international co-operation.

10. Conclusion

61. Most states in MONEYVAL have had AML/CFT systems in place for 10-15 years and been through 3 evaluation rounds. The HS/VCS have therefore come a long way in a very short period of time and many of the building blocks of an AML/CFT regime are now formally in place. However, further important issues still need addressing in order to demonstrate that a fully effective regime has been instituted, particularly in respect of supervision of the financial institutions to ensure that the CDD measures are being effectively implemented and also in respect of the exchange of information by the FIA.

62. The HS/VCS authorities have co-operated closely with the evaluators and reacted quickly to remedy a number of the deficiencies highlighted during the first on-site visit.

63. The development of the HS/VCS AML/CFT regime is an on-going process. MONEYVAL will continue to monitor progress closely through its comprehensive follow-up procedures.

[13] The authorities have subsequently reported that they have entered into one MoU with an FIU. In addition they have approached 11 other FIUs receiving formal assent from two.

Ratings of Compliance with FATF Recommendations

Forty Recommendations	Rating	Summary of factors underlying rating[14]
Legal systems		
1. Money laundering offence	**LC**	• Effectiveness concerns.
2. Money laundering offence Mental element and corporate liability	**LC**	• The evaluators have concerns regarding the effectiveness of the corporate liability provisions.
3. Confiscation and provisional measures	**LC**	• Lack of comprehensive authority to prevent or void actions (c.3.6). • Effectiveness concerns.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	**LC**	• While in practice information covered by financial secrecy appears to be exchanged with foreign financial institutions where this is required to implement FATF Recommendations, there is no express exemption from the obligation to observe financial secrecy with respect to such information exchange and could therefore be challenged before the court. • Given that there is no clear empowerment for FIA to exchange information with foreign supervisory authorities, it remains unclear whether official secrecy could inhibit the information exchange with other foreign supervisors.
5. Customer due diligence	**PC**	• No requirement to verify that the transactions are consistent with the institution's knowledge of the source of funds, if necessary. • Failure to have undertaken any formal risk assessment implies that there is no basis for determining whether potential risks are addressed appropriately by the current risk based approach in place. • Rather than providing for simplified due diligence measures, the AML/CFT Law creates blanket exemptions from the CDD requirements. • The AML/CFT Law allows for simplified CDD measures even where higher risk scenarios apply. • Where obliged subjects are permitted to apply

[14] These factors are only required to be set out when the rating is less than Compliant.

		simplified or reduced CDD measures to customers resident in another country, this is not always limited to countries that the HS/VCS is satisfied are in compliance with and have effectively implemented the FATF Recommendations.
		• The FIA Instruction allows for the verification of the identity of the customer and beneficial owner following the establishment of the business relationship without all conditions mentioned under criterion 5.14 being met cumulatively.
		• The definition of "linked transactions" is not in line with the Standard, which does not provide for a limitation in respect of the time elapsing between transactions.
		
		<u>Effectiveness</u>
		
		• The following requirements have been introduced or clarified too recently to be considered fully effective[15]:
		  • The requirement to undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII.
		  • The requirement to verify that any person purporting to act on behalf of the customer is so authorised, and to identify and verify the identity of that person.
		  • The requirement to verify the legal status of the legal person or legal arrangement as required by the Standard.
		  • The clarification of the requirement to verify the identity of the beneficial owner as required by the Standard.
		  • The requirement to understand the ownership and control structure of the customer.
		  • The requirement to perform scrutiny of transactions undertaken.
		  • The requirement to apply CDD requirements to existing customers on the basis of materiality and risk and to CDD on such existing relationships at appropriate times.
		  • The requirement to examine the need to report an STR in situations where no relationship was established following failure to satisfactorily complete CDD.

[15] However, it has to be taken into account, that some of those requirements had been incorporated earlier in the IOR internal procedures.

		• Further effectiveness concerns with respect to some criteria (see shortcomings identified under "Effectiveness and efficiency").

6. Politically exposed persons	**PC**	• The requirement to put in place appropriate risk management systems to determine whether the counterpart is a politically exposed person does not extend to the case of the beneficial owner.
		• Beyond the requirement to establish the source of funds of customers and beneficial owners identified as PEPs there is no express requirement to establish the source of their wealth.
		<u>Effectiveness</u>
		• The following requirements have been introduced or clarified too recently to be considered fully effective:
		  • the requirement to apply PEP requirements irrespective of the residence.
		  • the requirement to obtain senior management approval, where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.
		  • the requirement to determine a PEP in all instances, irrespective of "risky situations".

7. Correspondent banking	**LC**	• No express requirement to assess whether a correspondent body has been subject to a ML/TF investigation or regulatory action nor to assess the respondent institution's AML/CFT controls, and to ascertain that they are adequate and effective.

8. New technologies and non face-to-face business	**PC**	• Undue exemptions from the CDD requirements, in particular with respect to ongoing monitoring (due to Art. 31 §3 of the revised AML/CFT Law).
		<u>Effectiveness</u>
		• The following requirements have been introduced or clarified too recently to be considered fully effective:
		  • The requirement to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in ML or TF schemes.
		  • The measures to be applied to manage risks related to non-face to face relationships were not fully appropriate to do so.

9. Third parties and introducers	**N/A**	
10. Record keeping	**LC**	Effectiveness • The requirement to maintain records of the business correspondence has been introduced too recently to be considered fully effective. • The lack of on-site inspections (including sample testing) with respect to the implementation of record keeping duties raises concerns. Furthermore, APSA has no internal procedures in place with regard to record-keeping obligations.
11. Unusual transactions	**PC**	• No requirement to examine as far as possible the background and purpose of complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose and to set forth their findings in writing. • No express requirement to keep such findings available for competent authorities and auditors for at least five years. Effectiveness • The requirement to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose had not been fully implemented at the time of the MONEYVAL on-site visits.
12. DNFBP – R.5, 6, 8-11	**PC**	• Requirement for notaries, lawyers, external accountants and tax advisers as well as trust and company service providers to undertake CDD measures when establishing business relations is not broad enough. • Trust and company service providers are not subject to CDD and record-keeping requirements with respect to the creation, operation or management of legal persons or arrangements and buying and selling business entities. • Shortcomings identified in the context of Recommendations 5, 6, 8, 10 et 11 are also applicable to DNFBP. Effectiveness • Lack of effective implementation of CDD and record-keeping requirements in respect of accountants providing services falling under the scope of the AML/CFT Law.

13. Suspicious transaction reporting	**PC**	• Attempted transactions not explicitly covered in the reporting obligation. • Reporting obligation is limited to "transactions" rather than "funds". • No reporting obligation covering funds suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations. • Deficiencies in the terrorist financing offence formally limit the reporting obligation in respect of those who finance terrorism. • Effectiveness concerns.
14. Protection and no tipping-off	**LC**	• There is no provision that restricts disclosure of the fact that a suspicious transaction has been identified and that an STR is in the process of being prepared/reported.
15. Internal controls, compliance and audit	**PC**	• The right of the FIA to issue guidance is restricted. • Neither the law nor guidance provide for timely access by the AML/CFT compliance officer to customer identification data and other CDD information, transaction records, and other relevant information. • IOR has internal procedures but their effectiveness could only partly be assessed (Effectiveness issue). • Overall the requirements have been introduced or clarified too recently to be considered fully effective.
16. DNFBP – R.13-15 & 21	**PC**	• Weaknesses regarding reporting as described under R 13 are also relevant for this Recommendation. • While at the moment the VCS authorities held the opinion that effectively there are no DNFBP operating within their jurisdiction that fall under the AML Law, the effectiveness of reporting to the FIA in practice might be very low. • The weaknesses as described under Recommendation 15 regarding financial institutions also apply for DNFBP. • The weaknesses as described under Recommendation 21, regarding giving special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations, also apply for DNFBP.

17. Sanctions	**NC**	• The conditions of sufficient effective, proportionate and dissuasive criminal, civil or administrative sanctions are not fully met. In particular sanctions are not applicable for ASPA as it is regarded as a public authority. • No specific sanctions are available for directors and senior management. • No power to withdraw, restrict or suspend a financial institution's licence. • No inspections have been executed by the FIA and no disciplinary or administrative sanctions have been effectively applied. • No particular sanctions have been applied to DNFPBs. • Overall the requirements have been introduced or clarified too recently to be considered fully effective.
18. Shell banks	**LC**	• There is no express requirement for financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.
19. Other forms of reporting	**NC**	• HS/VCS has not considered the feasibility and utility of implementing a system where obliged subjects report all transactions in currency above a fixed threshold to a national central agency with a computerised data base.
20. Other DNFBP and secure transaction techniques	**C**	
21. Special attention for higher risk countries	**NC**	• No requirement to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations. • No requirement to examine transactions, the background and purpose of such transactions, as far as possible, and to keep written findings available, if they have no apparent economic or visible lawful purpose. • No effective measures in place to ensure that obliged subjects are advised of concerns about weaknesses in the AML/CFT systems of other countries. • There is no empowerment to apply appropriate counter-measures where countries continue not to apply or insufficiently apply the FATF

		Recommendations.
22. Foreign branches and subsidiaries	**LC**	• No requirement to pay particular attention concerning whether the AML/CFT measures are consistent with the home country requirements and the FATF Recommendations are observed with respect to branches and subsidiaries in countries, which do not or insufficiently apply the FATF Recommendations.
23. Regulation, supervision and monitoring	**NC**	• Lack of clarity on the role, responsibility, authority and independence of the FIA as supervisor. • Directors and senior management of IOR and APSA are not specifically evaluated on the basis of "fit and proper" criteria by the FIA. • IOR and APSA as such are "licensed" via the Chirograph and the Pastor Bonus respectively but are not by the FIA. • No inspections have been undertaken of the AML/CFT program of financial institutions; no standard manual is available; no cycle of visits has been determined or planned for; and no feedback provided to IOR.
24. DNFBP - Regulation, supervision and monitoring	**NC**	• The weaknesses regarding the power of the FIA to apply sanctions as described under R 17 also has its effect under this Recommendation. • The weaknesses as described regarding the powers of the FIA to perform inspections and what rights they exactly entail as described under R 29 and R 23 also have an effect under this Recommendation. • Supervision or monitoring of DNFBP has not taken place.
25. Guidelines and Feedback	**PC**	• Regulations and Instructions not yet updated to reflect amendments to the AML/CFT Law. • Failure to provide further requested explanations on the issued guidelines or feedback on the internal procedures that were sent to the FIA. • No specific guidance has been provided for DNFBP operating for entities within HS/VCS. • Effectiveness issues arise as the guidance is harder to understand in certain cases as several articles have been changed considerably. • Effectiveness issues arise as the requirements have been introduced or clarified too recently to allow their application to be fully assessed.

Institutional and other measures		

26. The FIU	**LC**	• Power to query additional information does not appear to extend to all entities subject to the reporting obligation.
		• Effectiveness considerations:
		  • No access to information held by HS foundations.
		  • Recent adoption of AML/CFT Law meant that it was not possible to assess effectiveness of implementation.

27. Law enforcement authorities	**LC**	• Effectiveness not demonstrated. • Lack of experience and training in financial investigations (effectiveness issue).
28. Powers of competent authorities	**C**	
29. Supervisors	**NC**	• Definition of inspection appears to be limited to certain activities. • Both under the old and the new law it is unclear to what extent inspections include the review of policies, procedures, books and records, and should extend to sample testing. • No specific power for the FIA to have direct access, to the financial, administrative, investigative and judicial information, required to perform its tasks in countering money laundering and financing of terrorism. • Unclear if the legal empowerment of the supervisory authorities includes the right of entry into the premises of institutions under supervision, the right to demand books of accounts and other information, the right to make and take copies of documents with a penalty on the institution if its officers fail to comply. • Power to impose sanctions is arranged for in general terms under Art. 42, without making the link explicit. No explicit empowerment to sanction directors or senior management. • Conflict of interest on supervisory issues due to one of the members of the Cardinals' Committee being President of the FIA. • No inspections have been undertaken by the FIA.

		• Overall the requirements have been introduced or clarified too recently to be considered fully effective. • Overall, as no inspections have been executed and the Regulation is not available it is still unclear what "operational independence" means and whether the powers of the FIA as supervisor are adequate (Effectiveness issue).
30. Resources, integrity and training	**PC**	• Lack of training and experience in financial investigation for the Gendarmerie. • The structure of the FIA does not reflect division between the FIA as Supervisor or the FIA as FIU. There is also no real division in staff for the two different tasks. • No specific training was provided for the supervisory tasks. • Status of the Statue of the FIA is unclear while it refers to the old law. Although it gives the Board the task to define the strategy it has according to the new law only operational independence.
31. National co-operation	**LC**	• No formal mechanisms for co-operation and co-ordination or MOUs have been established or signed. • The effectiveness of the new amendments in the law on coordinating mechanisms is yet to be seen.
32. Statistics	**LC**	• No statistics concerning the application and effectiveness of the supervisory measures taken.
33. Legal persons – beneficial owners	**N/A**	
34. Legal arrangements – beneficial owners	**N/A**	
International Co-operation		
35. Conventions	**C**	
36. Mutual legal assistance (MLA)	**LC**	• No mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country other than Italy.
37. Dual criminality	**LC**	• Financing of terrorism insufficiently provided for so limiting the possibilities for extradition (dual criminality).

38. MLA on confiscation and freezing	**LC**	• No action to implement criteria 38.3. • Effectiveness concerns.
39. Extradition	**LC**	• Deficiencies in the criminalisation of financing of terrorism and some predicate offences may limit the possibilities for extradition (dual criminality).
40. Other forms of co-operation	**PC**	• The FIA does not have the explicit authority to share supervisory information. • The FIA is limited in its ability to exchange information by existence of an MOU and no MOUs have been signed (effectiveness issue).
Nine Special Recommendations		
SR.I Implement UN instruments	**PC**	• Failure to bring the new system concerning UN Security Council Resolutions into practical operation within the relevant period.
SR.II Criminalise terrorist financing	**LC**	• Absence of specific criminalisation of financing in respect of certain terrorist acts in the relevant UN counter-terrorism conventions annexed to the Terrorist Financing Convention. • Financing of individual terrorists or terrorist organisations for legitimate purposes not covered.
SR.III Freeze and confiscate terrorist assets	**NC**	• No designations under UNSCR 1267 or 1373 within the evaluation period. • Communication systems for designation were not tested within the evaluation period. • Lack of guidance for obligated entities. • Lack of comprehensive coverage of delisting procedures and exemption procedures. • Lack of publicly known procedures for unfreezing in a timely manner of the funds or other assets of persons inadvertently affected by a freezing order. • No procedures for authorising access to funds frozen pursuant to UNSCR 1267 that have been determined to be necessary for basic expenses. • Recent adoption of AML/CFT Law meant that it was not possible to assess effectiveness of implementation.
SR.IV Suspicious transaction reporting	**PC**	• Attempted transactions not explicitly covered in the reporting obligation. • No reporting obligation covering funds suspected to

		be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations. • Deficiencies in the terrorist financing offence formally limit the reporting obligation in respect of those who finance terrorism. • Effectiveness concerns.
SR.V International co-operation	**LC**	• No action to implement criteria 38.3 . • Deficiencies in the criminalisation of terrorist financing. • The same problems identified in R.40 in relation to exchange of information apply to financing of terrorism. • Effectiveness concerns.
SR.VI AML requirements for money/value transfer services	**N/A**	
SR.VII Wire transfer rules	**NC**	• No explicit requirement in the Regulation that ensures that non-routine transactions are not batched where this would increase the risk of money laundering. • No effective risk-based procedures have been required from beneficiary financial institutions for identifying and handling wire transfers that are not accompanied by complete originator information. • The Regulation itself contains weaknesses regarding the verification of identity and too broad an interpretation of the concept of 'domestic transfers'. • APSA had no written internal procedures in place at the time of the MONEYVAL on-site visits. • The FIA has not inspected IOR and APSA yet in its supervisory role. This does not give the impression that there are measures in place to effectively monitor the compliance. • Overall the requirements have been introduced too recently to be considered fully effective and the evaluators were unable to assess the effectiveness of implementation.
SR.VIII Non-profit organisations	**NC**	• No comprehensive review of the adequacy of the relevant laws in order to identify the risks and prevent the misuse of NPOs for terrorism financing purposes.

		• Lack of systematic outreach to the NPO sector. • No comprehensive monitoring activities and inspections for the whole NPO sector. • No explicit legal requirement for the NPOs to maintain business records for a period of at least five years. • No formal mechanism established for national co-operation and information exchange between the national agencies which investigate ML/FT cases relating to NPOs. • No formal mechanism established for responding to international requests regarding NPOs.
SR.IX Cross Border declaration and disclosure	**PC**	• The declaration requirement does not cover shipment of currency through containerised cargo. • Doubts on the ability of the Gendarmerie to restrain currency where there is a suspicion of ML/FT as all declarations have been made at financial institutions. • Restrictions on the ability of the FIA to exchange information with counterparts on cross-border transportation. • The voluntary payment rule substantially reduces the level of sanctions and may undermine the deterrent scope of the sanction. • It was not demonstrated that the relevant authorities were provided with sufficient training to effectively perform their functions (Effectiveness issue).