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THE HOLY SEE (INCLUDING VATICAN CITY STATE)

Progress report and written analysis by the Secretariat of Core and Key Recommendations[1]

9 December 2013

[1] First 3rd Round Written Progress Report Submitted to MONEYVAL

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 progress report was adopted at MONEYVAL's 43rd plenary meeting (Strasbourg, 9-13 December 2013). For further information on the examination and adoption of this report, please refer to the Meeting Report of the 43rd plenary meeting at http://www.coe.int/moneyval

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This is the first 3rd round written progress report submitted to MONEYVAL by the Holy See (including Vatican City State). This document includes a written analysis by the MONEYVAL Secretariat of the information provided by the Holy See (including Vatican City State) on the 2003 FATF Core and Key Recommendations (1, 3, 4, 5, 10, 13, 23, 26, 35, 36, 40, SR.I, SR.II, SR.III, SR.IV and SR.V).

The Holy See

First Written Progress Report Submitted to MONEYVAL

1. Written Analysis of Progress Made in Respect of the FATF Core and Key Recommendations

1.1 Introduction

1. The purpose of this paper is to introduce the Holy See/Vatican City State's (HS/VCS) first report back to the Plenary concerning the progress that it has made to remedy the deficiencies identified in the first mutual evaluation report (MER) of the Holy See (including Vatican City State) using the 3rd round Financial Action Task Force (FATF) 2004 Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations[1]. This report was published by MONEYVAL in July 2012.

2. The HS/VCS was visited from 20 to 26 November 2011 and 14 to 16 March 2012. The MER was examined and adopted by MONEYVAL at its 39th Plenary meeting (2-6 July 2012).

3. This paper is based on the MONEYVAL Rules of Procedure, as revised in March 2010, which require a Secretariat written analysis of progress against the core Recommendations[2]. The HS/VCS requested that the Secretariat, on this occasion, also undertake a written analysis of the key Recommendations.[3] The Secretariat exceptionally agreed to review the key Recommendations and its analysis on these Recommendations is also included. The full progress report is subject to peer review by the Plenary, assisted by a Rapporteur Country and the Secretariat (Rules 38-40). The procedure requires the Plenary to be satisfied with the information provided and the progress undertaken in order to proceed with the adoption of the progress report, as submitted by the country, and the Secretariat written analysis, both documents being subject to subsequent publication.

4. The HS/VCS has provided the Secretariat and Plenary with a full report on its progress, including supporting material (including significant legislative changes), according to the established progress report template. Because of the extent and complexity of the new legislation in both the preventive and repressive areas, the Secretariat called upon some scientific experts to assist in an expert meeting with Vatican officials to review the latest developments. This meeting took place between 21 and 23 October 2013. For the purpose of this progress review, the Secretariat has considered all legislation that was in force and effect in the HS/VCS on 30 November 2013.

5. The Secretariat has drafted the present report to describe and analyse the progress made for each of the core and key Recommendations.[4] The HS/VCS received the following ratings on the core and key Recommendations:

[1] It should be pointed out that the FATF Recommendations were revised in 2012 and that there have been various changes, including their numbering. Therefore, all references to the FATF Recommendations in the present report concern the version of these standards before their revision in 2012.

[2] The core Recommendations as defined in the FATF procedures for evaluation under the FATF Recommendations 2003 and the Methodology of 2004 are R.1, R.5, R.10, R.13, SR.II and SR.IV.

[3] The key Recommendations as defined in the FATF procedures for evaluation under the FATF Recommendations 2003 and the Methodology of 2004 are R.3, R.4, R.23, R.26, R.35, R.36, R.40, SR I, SR III and SR V.

[4] R. 35 was rated 'Compliant' and has not been re-reviewed.

R.1 – Money laundering offence (LC)
R.3 – Confiscation and provisional measures (LC)
R.4 – Secrecy laws (LC)
R.5 - Customer due diligence (PC)
R.10 – Record keeping (LC)
R.13 - Suspicious transaction reporting (PC)
R.23 – Regulation, supervision and monitoring (NC)
R.26 – The FIU (LC)
R.35 – Conventions (C)
R.36 – Mutual Legal Assistance (LC)
R.40 – Other forms of co-operation (PC)
SR.I – Implementation of UN instruments (PC)
SR.II – Criminalisation of terrorist financing (LC)
SR.III – Freezing of Terrorist Assets (NC)
SR.IV – Suspicious transaction reporting related to terrorism (PC)
SR. V – International Cooperation (LC)

6. This paper provides a review and analysis of the measures taken by the HS/VCS to address the deficiencies in relation to the core and key Recommendations (Section 1.2) together with a summary of the main conclusions of this review (Section 1.3). This paper should be read in conjunction with the progress report and annexes submitted by the HS/VCS.

7. As the present analysis focuses only on the core and key Recommendations it should be understood that only a part of the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) system has been reviewed. As is customary with these progress reviews in MONEYVAL, no re-rating is ascribed as a result of the review. Recent information has been included which may potentially impact, so far as it is possible to ascertain in a desk-based review, on the current effectiveness of implementation of the relevant FATF Recommendations.

1.2 Detailed review of measures taken by the Holy See in relation to the Core and Key Recommendations

A. Main changes since the adoption of the MER

8. At the time of the evaluation, the evaluators noted that many of the building blocks of an AML/CFT regime were already formally in place in the HS/VCS. However, further important issues still needed addressing in order to demonstrate that the regime was being effectively implemented in practice. A number of recommendations were made by the evaluation team to guide and assist the HS/VCS authorities in this endeavour. Since the adoption of the MER in July 2012, significant efforts have been made by the HS/VCS authorities to implement the recommendations made by the evaluation team. Wide-ranging legislative and institutional measures were instituted to rectify deficiencies in all areas (legal, financial and law enforcement) of the HS/VCS AML/CFT framework.

9. On 11 July 2013, His Holiness Pope Francis issued a *Motu Proprio* on the *Jurisdiction of the Vatican City State* on *Criminal Matters*. On the same day, Law No. VIII on *Supplementary Norms on Criminal Matters* and Law No. IX on *Amendments to the Criminal Code* were enacted. These amendments brought about a major reform to the VCS Criminal Code and Code of Criminal Procedure. One of the primary purposes of this reform was to align further the money laundering (ML) offence, the financing of terrorism (FT) offence and the confiscation regime with international standards. Additionally, the jurisdiction of the competent judicial bodies of the VCS was extended to criminal offences (including ML/FT) committed by public officials of the Holy

See in the performance of their official functions, even when committed outside the territory of the VCS.

10. The FT offence, in particular, has received considerable attention since the evaluation in 2012. All the offences within the scope of and as defined in the treaties listed in the Annex to the United Nations Convention for the Suppression of the Financing of Terrorism were introduced in the VCS criminal code. This involved a complex and comprehensive legislative drafting exercise. Concurrently, the FT offence was amended to encompass financing of all the treaty offences without requiring any additional purposive element. The amendments also addressed the criminalisation of the financing of terrorist organisations and individual terrorists for legitimate purposes.

11. Minor changes were also carried out to the ML offence to clarify the relationship between the autonomous offence of ML and the receiving offence respectively contained in Article 421*bis* and Article 421 of the Criminal Code. It should be noted that the physical and material elements of the ML offence were broadly in line with the Vienna and Palermo Conventions at the time of the evaluation. Provisions covering the administrative liability of legal persons for ML and other criminal offences also received some treatment, with a view to ensuring compliance with international standards.

12. A detailed and modern legislative scheme in the area of domestic confiscation and associated provisional measures has been enacted. Certain features which represent essential components of an effective confiscation regime, such as a broad definition of the concept of property, value confiscation, protection of *bona fide* third parties and the voidance of actions which prejudice the ability to recover property subject to confiscation, are now securely entrenched in criminal procedural legislation. The legislative regime relating to mutual legal assistance (MLA) on matters related to confiscation was revised entirely, inspired by Article 13 of the Palermo Convention. In the intervening period since the evaluation, the HS/VCS authorities received nineteen MLA requests (eight of which were related to financial crime), which were processed and responded to in a timely manner. In 2013, the HS/VCS authorities submitted their first request for MLA to a foreign judicial authority, which is still being processed.

13. Significant progress was also made in the area of international financial sanctions. The most noteworthy development was the creation of a listing process as set out under Decree No. XI of 8 August 2013 *introducing norms relating to transparency, supervision and financial intelligence* confirmed by Law No. XVIII of 8 October 2013 on *Norms relating to transparency, supervision and financial intelligence* (the AML/CFT Law). The new provisions under the AML/CFT Law provide for the creation of a single national list of subjects who threaten international peace and security. These provisions enable the VCS to give effect to the freezing of funds of persons designated pursuant to United Nations Security Council Resolution 1267(1999), individuals and entities designated by the EU or third states pursuant to United Nations Security Council Resolution 1373(2001) and persons designated upon the motion of the appropriate authorities of the VCS itself. On 8 November 2013 the President of the Governorate issued the new relevant order attaching the domestic list of subjects who threaten international peace and security, taking into account the designations made by the relevant organs of the UN, the EU and third states.

14. The adequacy of laws applicable to non-profit organisations (NPOs) having their legal seat in the VCS has been reviewed by the HS/VCS authorities in detail. On 8 August 2013, His Holiness Pope Francis issued a *Motu Proprio* for *the Prevention and Countering of Money Laundering, the Financing of Terrorism and the Proliferation of Weapons of Mass Destruction* which makes all NPOs having canonical legal personality and legal seat in the territory of the VCS subject to the AML/CFT Law. A law regulating the NPO sector was in its final drafting stages at the time of the presentation of this report to the plenary.

15. The revised AML/CFT Law ushered in a number of amendments to the requirements of a preventive nature which were previously deficient. Exemptions from the application of customer due diligence measures in lower-risk scenarios no longer apply and simplified CDD may only be applied according to regulations of the Financial Intelligence Authority (FIA), which are still to be issued. Obligated entities are required to verify the source of funds in the course of the on-going monitoring of a business relationship and establish the source of wealth of politically exposed persons (PEPs). Enhanced CDD measures are now also required to be applied to both customers and beneficial owners who are PEPs. A direct requirement to pay special attention to complex and unusual transactions and transactions with customers in or from countries which do not or insufficiently apply the FATF Recommendations was introduced. Certain deficiencies in the CDD requirements applicable to notaries, accountants, tax consultants and trust and company service providers were rectified. An entire section (Chapter IV) was introduced in the AML/CFT Law to provide for the measures to be applied when carrying out cross-border and domestic wire transfers. The provisions dealing with official and financial secrecy were reviewed to address the deficiencies identified by the evaluators.

16. In parallel with the process to amend the AML/CFT Law, the Institute for Works of Religion (IOR) conducted an internal preliminary review process of its customer database, which was concluded by December 2012. Based on the findings of the preliminary review, a more intensive Know Your Customer (KYC) remediation process was commenced and which is still underway. Within the IOR this involves a process of updating customer records and which is being conducted under the supervision of the FIA. The methodology applied has been elaborated and approved by the FIA. External consultants have also assisted this process. As part of the process in the IOR, the categories of customers which may hold an account with the IOR were redefined and published on the website of the IOR. The remediation process has resulted in an upward trend of STRs and has involved account closures.

17. Concurrently, the Pontifical Commission for Reference on the Institute for Works of Religion was set up on 24 June 2013 to review the legal position of the IOR and harmonise the activities of the IOR with the universal mission of the Catholic Church. On 18 July 2013, the Pontifical Commission for Reference on the Organization of the Economic-Administrative Structure of the Holy See was set up to examine the internal structural organisation of the Holy See, including the Administration of the Patrimony of the Apostolic See (APSA). The mandate of this commission is to make recommendations on the proper use of economic resources with greater transparency and the role of APSA in the future (including whether accounts need to be held there at all). The commission, together with the FIA, is also conducting a review of the accounts held at the APSA. As a result of the review certain accounts have been closed or moved to IoR. The aim is that APSA should have no non-institutional accounts.

18. The financial supervisory and regulatory regime was completely overhauled. Prompted by the recommendations made in the MER, the HS/VCS authorities have created a prudential supervisory and regulatory framework for financial institutions. The FIA was established as the prudential supervisor and regulator responsible for the supervision of the IOR. The practical arrangements for prudential supervision within the FIA are still to be determined. The powers, duties and responsibilities of the FIA as a prudential supervisor, AML/CFT supervisor and those relating to financial intelligence have intentionally been set out in separate sections of the revised AML/CFT Law to clearly delineate between these separate competences of the FIA. The new statute of the FIA, issued by His Holiness Pope Francis on 15 November 2013, by *Motu Proprio*, establishes two separate departments within the FIA entitled Office of Supervision and Regulation and Office of Financial Intelligence respectively. The FIA is directed by the statute to adopt the necessary measures and procedures to ensure the operational distinction between the two departments.

19. The AML/CFT supervisory and sanctioning powers of the FIA, which were rated as non-compliant in the evaluation, have now been clarified in the AML/CFT Law. The FIA today has extensive powers to carry out off-site and on-site inspections (including spot checks) and request a broad range of information from obligated entities for supervisory purposes. Pursuant to amendments to the AML/CFT Law, the FIA may impose a full range of proportionate and dissuasive administrative sanctions, including in respect of senior management and beneficial owners of obligated entities. The law also provides that sanctions are to be published. On 11 July 2013, Law No. X on *General Norms on Administrative Sanctions* was issued to regulate the imposition of administrative sanctions.

20. The FIA's powers as a financial intelligence unit have been strengthened. Access to financial, administrative and law enforcement information has been widened. Such access now also covers information maintained by all legal entities (including foundations) registered with the Holy See, irrespective of where they are situated. The FIA may request additional information from any obligated entities, not only from obligated entities which submitted a suspicious transaction report. The FIA's freezing capacity was extended to include accounts. The power of the FIA to conclude memoranda of understanding (MoU) with foreign financial intelligence units without the consent of the Secretariat of State has been restored. Since the adoption of the MER, the FIA became a member of the Egmont Group (in July 2013) and has concluded a number of MoUs to enhance international cooperation with its counterparts.

21. The new statute of the FIA has brought about a reform to the internal structure of the FIA. In particular, Article 4 of the new statute now clearly states that both the President and Board of Directors of the FIA are to be selected among persons of proven reputation, free from any conflict of interest and having recognised professional competence in the legal, economic and financial fields as well as in the subject-matter falling within the scope of the FIA. As already mentioned, the FIA now comprises two separate departments responsible for supervisory and financial intelligence matters respectively. The responsibilities of the Board and the Director have been expanded. The Director is now to be appointed directly by the Secretary of State and the position of a Deputy Director has been created.

22. The requirement to report suspicious ML/FT transactions, activities and operations was brought into line with international standards. The number of suspicious transaction and activity reports (STR/SAR) submitted to the FIA has increased significantly, especially in 2013. The FIA now provides feedback in relation to every report submitted by obligated entities. Following the analysis of submitted STR/SARs, the FIA disseminated three analytical reports to the HS/VCS law enforcement authorities where reasonable grounds of a suspicion of ML/FT were identified. Based on these disseminations investigations were initiated and freezing orders were issued.

23. Measures were taken to address the deficiencies in the framework for cross-border declarations of currency. Title VII of the revised AML/CFT Law provides for a comprehensive regime to monitor cross-border transportation of currency, which includes the information to be provided in a currency declaration, powers of the Corps of Gendarmerie to restrain currency in case of suspicions, proportionate sanctions for false or incomplete declarations and provisions on cooperation between the Corps of Gendarmerie, FIA and other domestic and foreign competent authorities.

24. On 8 August 2013, His Holiness Pope Francis established the Financial Security Committee (FSC) by *Motu Proprio on the Prevention and Countering of Money Laundering, the Financing of Terrorism and the Proliferation of Weapons of Mass Destruction.* The purpose of the FSC is to coordinate the activities of the competent authorities of the HS/VCS for the prevention and countering of ML/FT and financing of proliferation of weapons of mass destruction (PF). The members of the FSC are the Assessor for General Affairs of the Secretariat of State; the Undersecretary for Relations with the States; the Secretary of the Prefecture of the Economic

Affairs of the Holy See; the Undersecretary of the Governorate; the Promoter of Justice of the Vatican City State Tribunal; the Director of the Financial Intelligence Authority and the Director of the Department of Security Services and Civil Protection of the Governorate. The FSC is responsible for establishing the criteria and the methods for the elaboration of the general assessment of risks of money laundering, financing of terrorism and the proliferation of weapons of mass destruction, and for their adoption. It is also the FSC's task to identify the measures required for the management and mitigation of the risks, coordinate the adoption and regular updating of AML/CFT policies and procedures and promote the active cooperation and exchange of information among all the competent authorities.

25. Further details on the progress made by the HS/VCS authorities can be found under the respective sections of this report.

B. Review of measures taken in relation to the Core Recommendations

Recommendation 1 - Money laundering offence (rated LC in the MER)

26. Recommendation 1 *Further consideration should be given to clarifying the relationship between the money laundering offence (Arts. 1 (4) & (5) of the revised AML/CFT Law) and the traditional receiving offence (Art. 421 of the Criminal Code).* In the Mutual Evaluation Report on the HS/VCS of July 2012 the sole formal factor underlying the rating of 'LC' for R.1 was that of concerns regarding effectiveness. That said, the evaluators urged the relevant authorities to consider how best to further clarify the relationship between the autonomous offence of money laundering, contained in Article 421 bis of the Criminal Code, and that of receiving, addressed in Article 421 thereof, where the scope of coverage of the two overlaps. This issue was, in turn, specifically addressed in Law No. IX of 11 July 2013 on Amendments to the Criminal Code and the Code of Criminal Procedure. Article 29 (receipt of stolen goods) amends Article 421 in a manner which makes clear the residual character of the offence of receiving.

27. The FIU has disseminated 3 ML cases to the Promoter of Justice. This has resulted in 4 cases under investigation (involving 5 persons) and two freezing orders. No indictments have so far been preferred by the HS/VCS authorities. The Promoter of Justice can start an investigation without an STR and has done so, though an STR subsequently followed. Issues in relation to cases where the HS/VCS and Italian authorities may have concurrent criminal jurisdictions would need to be resolved on an *ad hoc* basis.

Special Recommendation II - Criminalisation of terrorist financing (rated LC in the MER)

28. Recommendation 1 *The terrorist acts set out in the Annex to the UN Terrorist Financing Convention should be brought into the Criminal Code.* At the time of the MER the HS, although a party to the UN International Convention for the Suppression of the Financing of Terrorism, was not bound by any of the multilateral treaties of global reach listed in the Annex to the 1999 text. As a consequence the HS/VCS had not, as such, criminalised on a systematic basis offences within the scope of and as defined in those instruments. Notwithstanding the wording of Article 9 of the Act No LXXI on the Sources of Law of 1 October 2008 designed to address lacuna in the system of criminal law, the evaluators recommended that it would be better for these matters to be directly addressed in the Criminal Code. The absence of such specific criminalisation was one of the two factors underlying the rating of 'LC' in respect of SR.II. In the course of the MONEYVAL Plenary Meeting of July 2012 which adopted the MER the HS/VCS authorities expressed a commitment to undertake the necessary remedial legislative action in this context (see, MER, p.61, note 34). To that end a major legislative drafting exercise was conducted the results of which are contained in Law No. VIII of 11 July 2013 entitled Supplementary Norms on Criminal Law Matters. Among other things this ambitious legislative measure gives effect to the undertaking noted above. Chapter VI (Crimes with Explosive Devices or Concerning Nuclear Material), Chapter VII (Crimes against the Safety of Maritime Navigation, Civil Aviation,

Airports and Fixed Platforms), and Chapter VIII (Crimes against Internationally Protected Persons) are central to the satisfaction of that goal. In addition, and importantly, Article 23 of the same Law introduces a revised definition of the financing of terrorism. Article 23(1)(a) makes it clear that all of the annexed Convention offences are so treated in a manner independent of their purpose and in a fashion consistent with the relevant international standard.

29. Recommendation 2 *The Criminal Code should be amended to criminalise the financing of terrorist organisations and individual terrorists for legitimate purposes*. The second factor underlying the rating of 'LC' for SR II was that the financing of individual terrorists or terrorist organisations for legitimate purposes were not covered. In the course of the July 2012 Plenary discussion of SR. II the authorities of the HS/VCS expressed a commitment to address the issue of the financing of individual terrorists or terrorist organisations for legitimate purposes within the meaning of the FATF standards. In this regard several Articles of Law No. VIII of 11 July 2013 are of relevance. In particular it should be noted that pursuant to Article 23(2) the offence of the financing of terrorism "exists whether the acts are directed to finance groups or whether they are directed to finance one or more natural persons." The authorities also point to the relevance in this context of Article 19 of the same Law dealing with "association for terrorist or subversive purposes" and in particular to the broad scope of paragraph 2 thereof. Furthermore, Article 20(1) stipulates that "whoever provides refuge, food, shelter, transportation or means of communication to a person who forms part of a group referred to in Article 19, is punished with three to six years imprisonment." It is of importance to recall for present purposes that Article 23(1)(a) on the financing of terrorism explicitly extends to, *inter alia*, Article 19 and Article 20 offences. It should also be noted that Article 23(3) includes a limited humanitarian and charitable operations carve out. On its face the interaction of the various provisions mentioned above goes a long way towards addressing the deficiency noted in the MER. However, in the absence of judicial practice it remains unclear if the matter has been comprehensively covered. For example, the financing of an individual who is no longer actively engaged in terrorist activities is not explicitly addressed.

30. There have been no TF investigations initiated in the HS/VCS.

Recommendation 5 - Customer due diligence (rated PC in the MER)

31. Recommendation 1 *The AML/CFT Law needs to be amended to specifically require that financial institutions should verify that the transactions are consistent with the institution's knowledge of the source of funds, if necessary*. Under the revised AML/CFT Law, obliged entities are required to verify the source of funds of the customer at the inception as well as in the course of a business relationship. In terms of Article 16, before entering into a business relationship, obliged entities are required to verify and obtain documents, data and information relating to the purpose and nature of the relationship, and the origin of the funds. When conducting on-going monitoring, Article 19 requires obliged entities to scrutinise operations or transactions undertaken throughout the course of a business relationship to ensure that they are consistent with the knowledge of customer, his activity and risk profile, and the source of funds.

32. Recommendation 2 *Serious consideration should be given to a statutory provision describing the types of legal and natural persons eligible to maintain accounts in the IOR and APSA.* As part of a review process carried out by the Pontifical Commission for Reference on the Institute for Works of Religion and the Pontifical Commission for Reference on the Organization of the Economic-Administrative Structure of the Holy See, serious consideration was given to the categories of natural and legal persons eligible to receive services and to open and/or maintain accounts with IOR and APSA. The HS/VCS authorities indicated that statutory provisions to regulate the matter were put forward for consideration with a view to their adoption, though final decisions await the outcome of the review process as a whole.

33. Recommendation 3 *Amend the exemptions for low-risk customers, products and transactions as adopted from the Third EU AML Directive by clarifying that minimum CDD (i.e. less detailed CDD) should nevertheless be accomplished.* In terms of Article 13 of the revised AML/CFT Law, the FIA shall, by means of regulations, indicate the sectors and types of relationship, product, service, operation, transaction and channels of distribution of low risk. The identification of low risk shall be based on a risk assessment carried out by the Financial Security Committee. The FIA may authorise the adoption of simplified procedures and measures, indicating the procedures and measures to be adopted by the obligated entity. Similar provisions are set out under Article 24. No regulations identifying low risk sectors and authorising the application of simplified CDD are yet in force. As a result, financial institutions are not currently in a position to apply simplified CDD. The FIA should ensure that neither the IOR nor the APSA apply simplified CDD measures before the relevant regulations are issued.

34. Recommendation 4 *Provide in the Law that simplified CDD measures are not permissible where higher risk scenarios apply.* Article 24(3) of the revised AML/CFT Law clearly stipulates that simplified CDD measures are not permissible in high-risk scenarios.

35. Recommendation 5 *Stipulate in the AML/CFT Law that simplified CDD measures, with respect to credit or financial institutions located in a State that observes equivalent AML/CFT requirements, shall only be permissible where those institutions are supervised for compliance with those requirements.* As already mentioned, financial institutions may only apply simplified CDD with respect to cases specified by the FIA in regulations. Regulations to that effect have not yet been issued. It is assumed that this recommendation will be implemented in the regulations, when they are issued. The FIA should ensure that neither the IOR nor the APSA apply simplified CDD measures before the relevant regulations are issued.

36. Recommendation 6 *Simplified CDD measures should only be permissible if listed companies are subject to regulatory disclosure requirements.* As already mentioned, financial institutions may only apply simplified CDD with respect to cases specified by the FIA in regulations. Regulations to that effect have not yet been issued. It is assumed that this recommendation will be implemented in the regulations, when they are issued. The FIA should ensure that neither the IOR nor the APSA apply simplified CDD measures before the relevant regulations are issued.

37. Recommendation 7 *Amend FIA Instruction No. 2 to clarify that the verification of the identity of the customer and beneficial owner, following the establishment of the business relationship, should only be permissible where all conditions mentioned under criterion 5.14 are met cumulatively.* Article 16(3) of the AML/CFT Law now clearly states that where it is impossible to carry out CDD measures, obligated persons are not permitted to establish a relationship or perform an operation or transaction. Nevertheless, FIA instruction No. 2, which is still in force, permits obligated persons to complete the verification of the identity of the customer and the beneficial owner following the establishment of the business relationship, without specifying the conditions where this is acceptable (in line with criterion 5.14). It therefore appears that these two provisions are incompatible. In this regard, the authorities pointed to Article 90 (2) of the AML/CFT Law, which states that those provisions in the FIA regulations and instructions that are incompatible with the contents of the law no longer apply. While the position of the authorities appears to be justified from a legal perspective, effective implementation may still be challenged given that the provisions in FIA regulations and instructions that are considered incompatible with the AML/CFT Law have not been clearly singled out. As already recommended in MER, the FIA instructions should therefore be aligned with the legal provisions in the AML/CFT Law.

38. Recommendation 8 *Abolish the exemptions to CDD provided under Art. 31 §3 of the revised AML/CFT Law.* This recommendation has been addressed. The exemptions to CDD previously provided under Article 31 (3) of the old AML/CFT Act have been removed and no longer feature under the revised AML/CFT Law (compare Articles 25 seq. of the Law n. XVIII).

39. Recommendation 9 *Where the Law allows for simplified or reduced CDD measures to customers resident in another country, HS/VCS authorities should limit this in all cases to countries that the HS/VCS is satisfied are in compliance with and have effectively implemented the FATF Recommendations.* Pursuant to Art. 9 (2) (b) (ix) of the revised AML/CFT Law, the FIA shall identify countries that impose obligations equivalent to those set out under the revised AML/CFT Law. A list of these countries is to be published by the FIA once identified. This mechanism ensures that simplified or reduced CDD measures are only permissible with respect to countries that the FIA is satisfied are in compliance with and have effectively implemented the FATF Recommendations.

40. Recommendation 10 *The FIA Instructions should be amended to require that verification should occur as soon as possible in situations where verification occurs after establishment of a business relationship.* As noted under paragraph 37 above, the FIA Instruction was not amended. The issues noted in that paragraph also apply to this recommendation.

41. Recommendation 11 *The provision that only transactions executed within a period of seven days have to be considered as "linked transactions" should be abolished.* The definition of "linked transactions" under Article 1(26) of the revised AML/CFT Law now refers to a transaction which, even if in itself is autonomous, constitutes, from an economic perspective, a unique operation with one or more operations executed at different stages or moments. Reference to the seven-day period has been removed.

42. Recommendation 13 *FIA should raise awareness with respect to the obligations that have been introduced or clarified in the AML/CFT Law after the MONEYVAL on-site visits to ensure effective implementation* The FIA advised that immediately after the on-site mission in November 2011, it entered into an in-depth dialogue with obligated entities, and in particular the IOR, to strengthen the knowledge and consistent implementation of the newly-introduced AML/CFT requirements. The FIA held regular face-to-face meetings with the management (Direzione Generale) and board of superintendence (Consiglio di Sovrintendenza) of the IOR. Written guidance and training programmes for officers and employees were also provided. Training sessions with officers and employees, in particular regarding the reporting obligations, have taken place on a regular basis over the last year. Furthermore, guidance has been provided in written form, mainly on a case-by-case basis.

43. Recommendation 14 *Most importantly, FIA should put in place appropriate arrangements to monitor and ensure compliance with the requirements under R. 5 (including adequate sample testing)* Planning by the FIA to conduct an on-site inspection at the IOR either in December 2013 or January 2014 is at an advanced stage. The inspection will be carried out in terms of the recently established AML/CFT supervisory framework which provides the FIA with broad powers to request and inspect any type of information, data and documentation held by IOR, including sample testing. An on-site inspection of APSA will take place at a later stage.

44. As noted above by the end of 2012 the IOR had concluded an internal preliminary review process of its customer database. Based on the findings of the preliminary review, the remediation process referred to above (which is still underway), was initiated under the supervision of the FIA to update customer records. The process also includes a review of transactions conducted by customers of the IOR. The profiles of the customers are being updated according to specially-designed KYC templates, which vary according to whether the customer is a natural or legal person. The templates cover the key components of customer due diligence such as an indication of the documents obtained for the verification of identity, information on the source of wealth and funds, transaction activity, type of services and products and the overall risk profile of the customer. Accounts which are not strictly related to the statutory purpose of the IOR at the service of the Catholic Church are being closed. It is to be noted, also, that the review of dormant and blocked accounts (a shortcoming that was also identified in the MER) has been given a priority.

45. The review process was conducted on the basis of a risk-based methodology. Approximately thirty percent of all customers were reviewed by October 2013, representing the two categories of customers posing the highest risk to the IOR. It is expected that approximately fifty percent of all customers will have been subject to the review by the end of 2013. The entire process is planned to be completed by the first quarter of 2014.

46. With a view to addressing the deficiencies identified in MER regarding the risk categorisation of IOR customers, the IOR has developed an AML/CFT internal risk rating which takes into account geographic risk, type and frequency of transactions, product/service risk, duration of the business relationship and the number of authorized signatories. In addition to the review of the customer-base, changes to the governance structure of the IOR were carried out to enhance the existing risk-management framework. A position of Chief Risk Officer (reporting directly to the President of the Board of Superintendents) was created. The functions of the AML Committee were reviewed and expanded. Furthermore, a quality assurance mechanism was introduced. The Compliance Officer has been entrusted with the task of testing and reviewing the application of the AML/CFT policy and procedures by all the departments of the IOR

47. As mentioned previously, a review of the accounts held at the APSA is also being conducted by the Pontifical Commission for Reference on the Organization of the Economic-Administrative Structure of the Holy See. This review of accounts is being undertaken together with the FIA.As a result of this review, which began in the third quarter of 2013, certain accounts have been closed or moved to IoR. As noted above, the aim is that APSA should have no non-institutional accounts.

48. While the reviews being conducted within the IOR and APSA are a significant step forward in ensuring compliance with international standards, the FIA is urged to take a more active role in the oversight of the IOR and APSA's procedures. The FIA should provide guidance and assess the adequacy of the measures implemented, including by undertaking risk-focused sample testing of customers files. Updates on the outcome of the review process should be communicated by the IOR and APSA to the FIA in detail on a regular basis.

Recommendation 10 – Record-Keeping (rated LC in the MER)

49. *Recommendation 1 FIA should put in place appropriate arrangements to monitor and ensure effective implementation of the record-keeping requirements (including adequate sample testing).* For further details regarding the implementation of this recommendation, reference may be made to paragraphs 43-48 above.

50. Recommendation 2 *Adopt internal procedures clearly specifying the record keeping duties and responsibilities of APSA staff.* Comprehensive and detailed record-keeping requirements have been introduced under Article 38 of the revised AML/CFT Law. However, no internal procedures have yet been introduced which clearly specify the respective duties and responsibilities of APSA staff in the performance of their functions.

Recommendation 13 and SR IV – Suspicious transaction reporting (rated PC in the MER)

51. Recommendation 1 *Amend the AML/CFT Law to broaden the reporting scope beyond the strict terrorism financing to bring it in line with the standards*. The reporting requirement, as amended following the evaluation, is two-pronged. Under Article 40(1)(a), the FT requirement mirrors the content of criteria 13.2 and IV.1, with minor variations. Obligated entities are required to report to the FIA when they suspect or have reasonable grounds to suspect that funds or other assets are linked or related to the financing of terrorism, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. "Funds or other assets" are defined under Article 1(10) as any assets, including but not limited to, financial assets, economic resources, property of every kind, whether tangible or intangible, movable or immovable, however acquired,

and legal documents or instruments in any form, including electronic or digital, evidencing title thereto, or interest in, such funds or other assets, including but not limited to, bank credits, travellers' cheques, cheques, money orders, shares, securities, bonds, drafts or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets. Article 1(10) therefore encompasses all the elements in the definition of funds under the glossary of the FATF 2003 Methodology.

52. Under Article 40(1)(b) obligated entities are required to report activities, operations or transactions which they consider particularly likely, by their nature, to be linked, *inter alia*, to the financing of terrorism, terrorist acts, terrorist organisations or those who finance terrorism.

53. The FT reporting scope under the revised AML/CFT Law is therefore now considered to be sufficiently broad to cover the criteria under the standards.

54. Recommendation 2 *Amend the reporting requirement to require that a report is submitted to the FIA when it is suspected or there are reasonable grounds to suspect that "funds" (rather than "transactions") are the proceeds of a criminal activity*. Under the revised AML/CFT Law, the focus of the reporting requirement is on "funds" rather than "transactions". Obligated entities are required to report when they suspect or have reasonable grounds to suspect that funds or other assets are the proceeds of criminal activities (Article 40(1)(a)). The definition of "funds or other assets" is very wide, as indicated under paragraph 51. Reference to "criminal activities" is not tied to predicate offences for ML under the HS/VCS Criminal Code and may therefore be interpreted in a broad manner to include any criminal activity carried out in or outside the HS/VCS.

55. Recommendation 3 *Formally broaden the reporting duty beyond suspect operations to include suspicions on funds generally.* As stated in the analysis of Recommendation 2 above, the reporting duty is triggered by a suspicion that funds or other assets are the proceeds of criminal activities, even in the absence of a specific operation or transaction.

56. Recommendation 4 *Remove any doubt about the reporting obligation including attempted transactions. S*uspicious attempted operations or transactions are now explicitly required to be reported under Article 40(3) of the AML/CFT Law.

57. Recommendation 5 *Remove any uncertainty as to the extent of the reporting obligation of the financial institutions in respect of the identification of the predicate offence*. The reporting requirement which was applicable at the time of the evaluation applied (1) in case of suspicious transactions involving funds suspected to be proceeds of criminal activities or (2) when ML/FT was suspected to have been or was being committed. The evaluators noted at the time that, suspicious operations (other than suspicious transactions) were only required to be reported when such operations were related to ML or FT. Bearing in mind that the ML offence is not predicated on an all-crimes regime, the evaluators considered that the reporting requirement could have been understood as requiring reporting entities to submit a report only in cases where a relevant predicate offence could be identified.

58. Under the revised AML/CFT Law, the reporting requirement was amended. One of the new features of the reporting requirement is the reporting of funds suspected to be proceeds of criminal activity, irrespective of whether the suspicion arises in the context of a transaction, operation, activity or any other information which is unrelated to any activity on the account.

59. Recommendation 6 *Emphasise the priority rule of the subjective assessment of the suspicious nature of the funds, where the objective indicators should only be seen as a guidance and support.* At the time of the evaluation, the evaluators noted that the financial institutions met on-site interpreted FIA Instruction No. 4, which sets out a list of indicators of suspicion, as having a mandatory character. In their view, the existence of an indicator found in the list triggered an automatic duty to report. These findings prompted the evaluators to recommend that measures be

taken by the authorities to address this matter. The intention of the evaluators was to ensure that reports were only submitted following a subjective assessment by the reporting entity based on the specific circumstances of each case.

60. Referring to the reporting requirement, as revised, it is now founded on two separate components of suspicion which should induce obligated entities to submit a report to the FIA. In terms of Article 40(1)(a), obligated entities are required to report suspicions that funds or other assets are the proceeds of criminal activity. It is assumed that the decision to report in these cases would be based on a subjective assessment of the suspicious nature of the funds.

61. Pursuant to Article 40(1)(b), obligated entities are also required to report activities, operations or transactions which they consider to be particularly likely, by their nature, to be linked to ML or FT. On the face of it, the duty to report an activity, operation or transaction due to its nature rather than the circumstances in which it is carried out appears to veer close to a reporting system based on objective indicators, generating reports which may be made without any significant subjective scrutiny by the obligated entity. It is therefore recommended that the FIA issue guidelines (as envisaged under Article 40(5)) in an expeditious way to elaborate on the manner in which this requirement is to be applied in practice.

62. At the time of the evaluation, 2 STRs had been received by the FIU. In 2012 the FIU received 6 STRs. As at the end of October 2013, the FIU had received 105 suspicious transaction reports. The sharp rise in STRs was attributed to a combination of the ongoing remediation process and increased transaction monitoring. The authorities indicated that 150 reports could be filed by the end of 2013. Once the remediation process is concluded the HS/VCS authorities expect that the annual number of STRs should settle down at a level significantly below the current figures.

C. Review of measures taken in relation to the Key Recommendations

R.3 – Confiscation and provisional measures (rated LC in the MER)

63. Recommendation 1 *A detailed, comprehensive and modern scheme to address the range of issues described in the report should be introduced.* At the time of the adoption of the MER the HS/VCS had in place modern and explicit legislative provisions for confiscation in a money laundering and terrorist finance context. Although the Plenary was satisfied, in large measure due to a formal interpretation issued by the Pontifical Commission, that the legislation covered predicate offences the legislative wording in this respect was more opaque. In so far as provisional measures were concerned reliance had to be placed on various provisions of the Italian Code of Criminal Procedure which applied by virtue of Act 8 of the Act on the Sources of Law of 2008. Primarily for these reasons the report recommended (see paragraph 270) that the authorities of the HS/VCS consider, in due course, the possibility of enacting a detailed, comprehensive and modern legislative scheme in the area of confiscation and associated provisional measures. It should be noted that this was not a factor underlying the rating of 'LC' for R.3.

64. The authorities have addressed this recommendation quickly. Their conclusions are reflected in various provisions of Law No. IX of 11 July 2013 on Amendments to the Criminal Code and the Code of Criminal Procedure. In addition to provisions governing domestic cases this Law, as will be seen in greater detail in the analysis of Recommendation 36 below, also addresses confiscation in a mutual legal assistance context. In both areas the drafters were influenced by the relevant provisions of the Vienna and Palermo Conventions. It will be recalled that the HS is a Party to both of these important international instruments.

65. Article 8 of Law No. IX (which replaces Article 36 of the Criminal Code) is central to the approach taken in domestic proceedings. Paragraph 1 provides for mandatory post-conviction confiscation of instrumentalities and proceeds on an all crimes basis. The only discretion not to confiscate arises where the goods concerned are in the hands of third parties. It reads as follows:

"In case of a guilty verdict, the judge orders the confiscation of the goods used or intended to commit the offence, as well as the proceeds, profits, their value and other benefits that arise from their use." The goods owned or possessed by a third party that knew or that should have known that they were used or intended to be used to commit an offence, or that they constituted its proceeds, profits, or value (a non-*bona fides* third party), are subject to confiscation. In addition, the confiscation of forbidden goods is mandatory even if owned by *bona fides* third parties.

66. The appropriate authorities have stressed that the concept of "goods" as utilised in the Article "should be read in the light of Article 810 of the Civil Code in force in the Vatican City State, which defines 'goods' as 'the things that may be the object of rights'." This is but one example of a drafting technique which was intentionally broad "so as to encompass the widest range of material, immaterial, movable and immovable goods".

67. Several other features of Article 36 should be mentioned for present purposes. Firstly, by virtue of paragraph 6, confiscation applies "to the goods that result from the transformation, conversion or intermingling of the goods subject to confiscation, as well as to the profits and other benefits that arise from their use". Second, where confiscation of the relevant "goods" is not possible equivalent value confiscation is explicitly provided for (Article 36(7)). Third, provision is made for the protection of the rights of bona fide third parties (see eg Article 36(3)(4) and (7), and Article 9). Finally, for present purposes the authorities have stressed that by virtue of Article 36(5) the goods owned, possessed or administered, whether directly or indirectly, by criminal associations are subject to confiscation "even if the origin of these goods is unknown…". Article 36(8) makes detailed provision for provisional or "precautionary" measures while Article 32 of Law No. IX clarifies the seizure powers of the judicial police.

68. Recommendation 2 *The Criminal Procedure Code should be amended quickly to clarify the authority to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation*. The lack of comprehensive legislative authority to prevent or void actions for the purposes stipulated in criterion 3.6 was a factor underlying the rating of 'LC' for R.3. This issue is treated in Article 9 of Law No. IX. This inserts a new Article 36 bis in the Criminal Code though, somewhat confusingly, it is headed "protection of bona fides third parties". Paragraph 1 is of particular relevance and reads as follows: «When ordering the confiscation of goods, the judge declares void any deed or contract concerning the confiscated goods when it emerges that the third party knew or should have known that the goods that are the object of the said deed or contract fall within the scope of paragraphs 1, 2, 5 and 6 of article 36." Although a contract having as its object goods subject to confiscation is voided only at the time of the final confiscation - once there is legal certainty of the illicit origin or purpose of the goods and that their current owner is not a *bona fides* third party - the frozen and seized goods cannot be subject to any act of disposal (art. 36.8) such as the execution of a contract that has the same goods as its object. This complements the pre-existing procedure under Article 11(1) of the Code of Civil Procedure under which the Promoter of Justice may request the court to cancel a contract "in the public interest". It will be recalled that effectiveness concerns also constituted a factor underlying the rating of 'LC' for R.3.

69. It is noted that Euro 1,980,000 was seized in a money laundering investigation earlier in 2013. Beyond this, there is no practice yet in confiscation matters generally.

R.4 – Secrecy laws (rated LC in the MER)

70. Recommendation 1 *Introduce an express exemption from the obligation to observe financial secrecy with respect to the exchange of information with foreign financial institutions where this is required to implement FATF Recommendations*. Pursuant to Article 6 (d) of the AML/CFT Law, financial institutions may exchange information with foreign financial institutions in the

context of correspondent relationships (Article 27 of the AML/CFT Law) and cross-border wire transfers (Chapter IV (Title II) of the AML/CFT Law). The exchange of information between financial institutions for the purposes of Recommendation 9 is not relevant in the HS/VCS, sine reliance on third parties is not permissible (Article 5(1)(b) of the AML/CFT Law).

71. Recommendation 2 *Clarify FIA's powers to request information as recommended under R. 26 and R. 29 to ensure that obliged subjects cannot refuse to comply with a request for information based on the financial secrecy obligation*. Article 6 (b) of the revised AML/CFT Law provides that official and financial secrecy shall not inhibit or restrict access to information by competent authorities, including the FIA.

72. The FIA´s powers as a supervisor to compel the production or to obtain access to relevant information are stipulated in Article 46 (b) and (e) of the revised AML/CFT Law in line with R. 29.The FIA's access to information as a FIU is set out under Article 50 in line with R.26.

73. Recommendation 3 *Clarify FIA´s power to exchange information with foreign supervisory authorities to make sure that official secrecy cannot inhibit such information exchange*. Article 69 of the revised AML/CFT Law empowers the FIA to cooperate and exchange information with equivalent authorities of other states in order to exercise its supervisory and regulatory functions adequately. Such exchange of information shall not be inhibited or limited by official and financial secrecy in terms of Article 70(1).

74. In addition, Art. 6 (c) of the revised AML/CFT Law also expressly stipulates that official and financial secrecy do not inhibit or limit the cooperation between the competent authorities and the exchange of information at international level.

75. Recommendation 4 *Consider adding the Judicial Authority to the list of all competent authorities in Chapter I bis of the revised AML/CFT Law in order to eradicate any potential doubts*. Article 3 of the *Motu Proprio* for the Prevention and Countering of Money Laundering, the Financing of Terrorism and the Proliferation of Weapons of Mass Destruction, issued by Pope Francis on 8 August 2013, establishes judicial bodies of the VCS as competent authorities for ML/FT purposes.

R.23 – Regulation, supervision and monitoring (rated NC in the MER)

76. Recommendation 1 *The definition of supervision and inspection should be changed so that it is made clear what the powers given to the AML supervisor encompass in practice.* At the time of the evaluation in 2012, the supervisory and regulatory powers of the FIA were not considered to be sufficiently wide to ensure adequate compliance with criterion 23.1. In particular, the powers to monitor obligated entities and conduct on-site inspections were found to be wanting. With a view to addressing the concerns of the evaluators, a more comprehensive supervisory framework is provided for under Title II (Chapter VII) and Title III of the revised AML/CFT Law, which establishes the FIA as the competent supervisor for both AML/CFT and prudential matters.

77. In order to fulfil its AML/CFT oversight and monitoring functions, the FIA is empowered to supervise and verify obligated entities' compliance with the AML/CFT requirements set out in the law (Article 46(a)). For such purposes, the FIA may carry out off-site and on-site inspections, which may include an assessment and review of the policies, procedures, measures, accounting books and ledgers and sample testing (Article 46(e)).

78. Access to information for supervisory purposes is extensive (Articles 46(b)(c)(f) and Article 69). The FIA may access and request information from supervised entities, other legal entities with a registered office in the VCS or registered in the registers of legal persons held by the VCS, other authorities of the HS/VCS and foreign FIUs and supervisory authorities. Information that may be accessed or requested to be produced includes any documents, data, information, registers and accounting books, including information related to accounts, operations, transactions and the analyses carried out to identify unusual or suspicious activities, operations and transactions.

Additionally, legal entities with a registered office in the VCS or registered in the legal register of the VCS may be requested to provide documents, data and information related to their nature and activity, beneficial owners, beneficiaries, members and administrators, including members of the management and senior management.

79. Recommendation 2 *Clarify in law or regulation the exact meaning of "operational" as opposed to "full" independence of the FIA as supervisor.* It will be recalled that the version of the AML/CFT Law that preceded the AML/CFT Law applicable at the time of the 2012 evaluation granted full, rather than operational, independence to the FIA as a supervisor. Following the evaluation, reference to "operational" independence was removed from the presently applicable AML/CFT Law and the FIA Statute now provides that the FIA shall perform its functions in full autonomy and independence (Article 2 of the FIA Statute).

80. Recommendation 3 and 4 *Introduce specific measures to involve the supervisor in the process of licensing and approving of senior staff at financial institutions*. *Directors and senior management of IOR and APSA should be specifically evaluated and 'licensed' on the basis of "fit and proper" criteria including those relating to expertise and integrity.* Title II (Chapter VII) and Title III of the revised AML/CFT Law contain detailed provisions on the authorisation process of a financial institution and measures to prevent access by criminals or their associates to the management of a financial institution.

81. In terms of Article 46 of the revised AML/CFT Law, the FIA shall prevent criminals and associates from holding, directly or indirectly, a management function in the executive or supervisory organs of an obligated entity. The tools to implement this requirement are set out under Article 61. The FIA is tasked with the responsibility of establishing the expertise and integrity requirements (by means of regulations) of members of management, organs of control and senior management of those who hold or shall hold analogous functions within a financial institution. The regulations on expertise and integrity requirements are to include measures to evaluate and ensure adequate expertise and experience with regard to the activity to be carried out by the person concerned and absence of criminal convictions or serious administrative sanctions which would render the person unfit. No regulations have as yet been issued. The HS/VCS authorities indicated that these regulations are in preparation and will be issued shortly.

82. In determining the fitness and propriety of a prospective management member, the FIA is also required to examine potential conflicts of interest. This will entail an in-depth analysis of the potential candidate by FIA which will include the collection of relevant background information, including requesting information within the VCS and from counterparts in other countries.

83. Additional rules governing the integrity of the financial institution's management are also provided. Article 61(3) of the AML/CFT Law imposes a requirement on financial institutions to behave diligently, correctly and transparently in the interest of the customers and for the integrity and stability of the markets. Pursuant to Article 63, the FIA is responsible for establishing regulations for the promotion of high moral and professional standards within financial institutions. Regulations should set out criteria to be observed by financial institutions including, *inter alia*, selection criteria for members of management, senior management, personnel and collaborators in any capacity within the financial institution and policies, procedures and measures for the promotion of high professional and moral standards within the financial institutions and for the prevention of any kind of abuse in the financial sector for unlawful purposes. The regulations are in preparation and will be issued shortly.

84. Recommendation 5 *Give the FIA the power to assess 'fit and properness' on an on-going basis.* Articles 46(d), 61 and 63 are crafted in a manner which implies that the obligations arising therein

apply to the management of a financial institution throughout the duration of its activities[5] and not merely at the authorisation stage. However, no information was made available on whether the fitness and propriety of directors and senior management is or will be assessed on an on-going basis or how this would be done in practice. It is recommended that the frequency and procedure of such assessments be set out in the regulations still to be issued by the FIA under Articles 61 and 63.

85. Recommendation 6 *The FIA (or another body) should take up its supervisory role on AML issues immediately, plan for (a schedule of) inspections, set up a standard manual and work procedure and provide for feedback proactively.* The FIA advised that it was in the process of preparing a schedule of inspections, an inspection manual and relevant work procedures. The first on-site inspection of the IOR is scheduled to take place either in December 2013 or January 2014. An on-site inspection at APSA is also being planned, although the date is still to be determined. Feedback on reporting is provided proactively by the FIA whenever an STR is submitted.

86. Recommendation 7 *The FIA should start a supervisory inspection with IOR as soon as possible*. As mentioned in the preceding paragraph, the first on-site inspection of the IOR is scheduled to take place either in December 2013 or January 2014. Although no formal inspection has taken place yet, a number of initiatives undertaken by the HS/VCS authorities are currently underway. As mentioned above, there are commissions to assess and review the long-term position of the IOR and APSA. Equally there are on-going remediation activities in respect of account holders, under the supervision of the FIA.

87. The Pontifical Commission for Reference on the Institute for Works of Religion, set up on 24 June 2013, is in the process of carrying out an in-depth assessment of the institutional mandate of the IOR. The aim is to propose measures to harmonise the activities of the Institute with the universal mission of the Catholic Church. The commission has been instructed to work closely with the Pontifical Commission for Reference on the Organisation of the Economic and Administrative Structures of the Holy See, set up on 18 July 2013.

88. The ultimate aim of these two commissions is to restructure the Holy See's economic organs, especially the APSA, the IOR and the Governorate of the VCS, in a more effective, sustainable and coherent fashion, in line with international governance standards.

89. As noted above, in early 2013, at its own initiative, the IOR commenced an internal review process of its customer database. Based on the findings of a preliminary review (concluded at the end of 2012), the IOR is carrying out an in-depth audit and remediation of customer records and a review of past transactions undertaken through client accounts. Further details on this process may be found under paragraphs 43-48 above. The authorities indicated that this review process is being carried out under the supervision of the FIA. In addition, in 2013 the FIA also carried out two *ad hoc* inspections of the IOR. The inspections were triggered by certain transactions and specific behaviour of the individuals involved as well as reports in the media. The work mainly focused on the transactions as such and the potential involvement of certain individuals.

90. While the efforts of the HS/VCS regarding the oversight of the IOR are noted positively, it is recommended that the FIA conducts a full inspection of the IOR without any further delay.

91. Recommendation 8 *Annual statistics on on-site inspections by the supervisor or sanctions applied should be published. Reinstate the requirement to draw up such statistics in the law.* Since no formal on-site inspections have been carried out and no sanctions have been imposed, statistics are not yet available for publication. Nevertheless, the requirement to maintain and publish statistics on supervisory activities has been reinstated in the law. The FIA, both as an AML/CFT and

[5] E.g. Article 46(e) states that the FIA "adopts the measures necessary to avoid criminals …".

prudential supervisor, is responsible for the publication of annual reports containing non-confidential data, information and statistics relating to the activities carried out in the exercise of its institutional functions (Article 46(g) and 65(k) of the revised AML/CFT Law).

92. Recommendation 9 *IOR should subscribe to the Basel Core Principles for Banking Supervision.* At the time of the MER, the IOR had not subscribed to the Basel Core Principles for Banking Supervision. Banking adequacy and market liquidity risk standards of the Basel Committee were being implemented only as best practices. Given that the IOR undertakes some banking and deposit-taking business and that the Core Principles are referenced in Recommendation 23, the evaluation team recommended that the IOR subscribe to the Core Principles. In order to achieve this goal, the authorities introduced a legislative framework for the prudential supervision and regulation of financial institutions, including the IOR. Title III of the revised AML/CFT Law provides for the rules governing the structure and governance of a financial institution (Article 58), capital and liquidity requirements (Article 59) and (financial) risk management (Article 60). The rules are to be elaborated in regulations still to be issued by the FIA.

93. Recommendation 10 *IOR should be supervised by a prudential supervisor in the near future*. In the course of the evaluation it was concluded that the absence of independent prudential supervision of the IOR exposed the stability of the small financial sector of the HS/VCS to a significant risk. Hence, the authorities were urged to take measures to rectify this matter, despite prudential supervision not being a formal requirement under the FATF standards. Since the adoption of the MER, significant progress has been made by the authorities in this regard. As already noted above, the FIA was established as a prudential supervisor and regulator responsible for the supervision of the IOR. The role of the FIA as a prudential supervisor is now clearly set out under Article 2 of the revised FIA Statute. The practical arrangements for prudential supervision within the FIA are still to be determined. For this purpose, the FIA intends to employ new staff with previous experience in prudential supervision. The regulations elaborating the prudential requirements to be complied with by the IOR are also still to be issued.

94. Recommendation 11 *Clearly separate the task of supervision from the FIA as FIU and combine this with adequate prudential supervision, including:*
    - *(i) licensing and structure;*
    - *(ii) risk management processes to identify, measure, monitor and control material risks;*
    - *(iii) ongoing supervision; and*
    - *(iv) global consolidated supervision when required by the Core Principles.*

95. The powers, duties and responsibilities of the FIA as a prudential supervisor, AML/CFT supervisor and those relating to financial intelligence have intentionally been set out in separate sections of the revised AML/CFT Law to clearly delineate between these separate competences of the FIA. Title II (Chapter VII) deals with AML/CFT supervision and regulation, Title II (Chapter VIII) sets out the framework for the FIA as a financial intelligence unit and Title III provides for the functions relating to prudential supervision and regulation. In addition, Article 8(4) specifies that the FIA shall adopt the necessary procedures and measures to ensure the distinction between the supervisory function and financial intelligence function of the FIA. On an institutional level, the FIA is in the process of setting up an AML/CFT and prudential supervision department which will be completely separate from the financial intelligence department. The supervision department is expected to be set up and become operational by the first quarter of 2014 at the latest. It is understood that the persons who will be involved in prudential supervision will also conduct AML/CFT supervision.

R.26 – The FIU (rated LC in the MER)

96. Recommendation 1 *Expressly extend the power of enquiry of the FIA to the information held by all entities subjected to the reporting duty.* At the time of the evaluation, the FIA was only

authorized to obtain additional information from obligated entities having submitted the STR. The evaluators considered this provision to be inconsistent with the general power of the FIA to access financial information, which was interpreted by the FIA as granting access to financial information held by all obligated entities. Hence, a recommendation was made expressly to empower the FIA to obtain additional information from all obligated entities, with a view to avoiding any possible ambiguity.

97. The HS/VCS has implemented this recommendation by introducing Article 50(b) in the revised AML/CFT Law. Accordingly, the FIA may now request any relevant additional information from all obligated entities. This general power is not subject to any qualifications, neither in terms of the type of information to be requested, nor with respect to the obligated entity which may be obliged to provide information. The FIA indicated that this power has been used in approximately twenty cases.

98. Recommendation 2 *Clarify to what additional sources the FIA has access and to include explicitly the foundations located in and/or dependent from the HS*. In the MER, it was noted that the extent of the FIA's authority in querying financial and administrative data was unclear. In particular, it was doubtful whether the FIA's power to request information extended to foundations located in and/or dependent on the Holy See. Given the significant role played by these foundations in the financing of the VCS, it was recommended that access by the FIA to information held by foundations be explicitly provided for in the AML/CFT Law.

99. Article 50 of the revised AML/CFT Law now stipulates that the FIU has access to information of a financial, administrative and investigative nature, in general, and information of a financial and administrative nature held by reporting subjects and by legal persons registered in the registers held by the State. "Legal persons" are defined under Article 1(15) as any legal person, whatever the nature and activity, including companies, foundations and trusts.

100. Recommendation 3 *Specify the instances triggering the authority and intervention of the FIA, besides the receipt of SARs.* At the time of the evaluation, the FIA considered itself legally competent to initiate an analysis on the basis of requests from foreign FIUs and other sources of information, although the law merely referred to disclosures by reporting entities as the starting point for FIU operational activity. The authorities were advised to specify in legislation the instances authorising the FIU to initiate an analysis.

101. Under the revised AML/CFT Law, the FIA's authority to initiate an analysis is couched in generic terms. In terms of Article 48(d), the FIA shall carry out the analysis of suspicious activity reports and documents, data and information received. This enables the FIA to undertake its operational activity on the basis of any type of information received, besides SARs.

102. Recommendation 4 *Reinforce the autonomy of the FIA by restoring its decision power to conclude mutual co-operation agreements with its counterparts*. The requirement of *nihil obstat* from the Secretariat of State for the conclusion of a MOU with a foreign counterpart, which was applicable at the time of the evaluation, has been removed. The FIA may now autonomously negotiate and enter into a MOU with a foreign FIU for intelligence as well as supervisory purposes (Article 69(b) of the revised AML/CFT Law). The FIU has now entered into MoUs with 6 countries (see Recommendation 40 beneath).

103. Recommendation 5 *As an effectiveness consideration, strengthen the freezing capacity of the FIA to include accounts and revisit the obligation of immediate handover to the Promoter of Justice.* The HS/VCS authorities have implemented this recommendation by introducing Article 48(k) and (e) in the revised AML/CFT Law. The FIA may now freeze accounts, funds or other assets, for up to five working days, where a suspicion of ML/FT exists, unless this measure obstructs investigative or judicial activity. This review was informed that the freezing power was used in one case, following the amendments. Dissemination of information to the Promoter of

Justice is no longer mandatory when the FIA finds information relevant to ML/FT suspicions. Analytical reports are now only required to be disseminated when there is a reasonable motive to suspect a ML/FT activity.

104. To handle its workload the FIA has currently seven operational staff (1 Director, 2 analysts, 1 strategic analyst, 1 IT specialist, 1 legal officer and an administrative officer). The operational resourcing of the FIU, which was adequate to handle its analytical and other operational workload at the time of the evaluation, appears now to need re-assessing in the light of the new structure and current and projected workloads.

R.36 – Mutual Legal Assistance (rated LC in the MER)

105. Recommendation 1 *Consideration should be given to enacting modern and detailed legislative provisions covering tracing, freezing and seizure and confiscation of the proceeds of money laundering, predicate offences, and terrorist finances or related instrumentalities*. At the time of the adoption of the MER in July 2012 issues of international cooperation were regulated by the relevant provisions of the Italian Code of Criminal Procedure of 1913 as it stood in 1929 (CCP). Article 635 of the CCP stipulated that international conventions and practices regarding letters rogatory are to be observed. However the HS was a Party to very few relevant Conventions (Vienna, Palermo and the TF Convention being exceptions). In the absence of a treaty nexus other Articles of the CCP applied. While these were often drafted with elegance and flexibility none provided focused coverage of cooperation in the identification, freezing, seizure and confiscation of the proceeds of crime or in a terrorist finance context. While the conclusion was reached that the absence of such modern legislation should not be considered a factor underlying the 'LC' rating for R.36 (criterion 36.1) or for R.38 (also rated 'LC') the report recommended (para.1048) that "consideration should be given to enacting modern and detailed legislative provisions in this sphere".

106. As was noted in the analysis of R.3 above the appropriate authorities inserted several provisions in Law No. IX of July 2013 designed to modernise the domestic system of confiscation and provisional measures (which apply to both ML and FT). Article 8, which entirely replaces Article 36 of the Criminal Code, is central to that development. Article 41 of the same Law (which replaces entirely Article 639 of the CCP) gives that new domestic regime relevance in the context of mutual legal assistance. Inspired by Article 13 of the Palermo Convention the intention was to ensure that "all the goods that may be subject of seizure and confiscation in a domestic procedure may be subject of seizure and confiscation as a result of a mutual legal assistance request".

107. At the same time the authorities of the HS/VCS decided to go beyond the confines of the recommendation contained in the MER and to revise entirely the legislative regime relating to international cooperation. The steps which have been taken in this regard are set out in some detail in the text of the progress report submitted by the Holy See reproduced in full at a later stage of this document. It will suffice for present purposes to note several important features of this new scheme governing international cooperation as provided by the provisions of Law No. IX. First, Article 37, which replaces Article 635, CCP continues the tradition of explicitly giving full force and effect to the provisions on judicial cooperation contained in international conventions to which the HS is a Party. The subsequent detailed provisions of the Law are applicable only in the absence of such a treaty nexus. These, in turn, have been drafted using the Vienna and Palermo Convention provisions as the primary inspiration. Finally, it will be noted that Article 40 (which replaces Article 638 of the CCP) explicitly treats the important issue of the refusal and deferral of mutual legal assistance requests. Paragraph 1 sets out four such discretionary grounds which include that of double criminality ("the relevant facts underlying the proceedings in the requesting

State are not foreseen as an offence under Vatican law"). None of these grounds is, from the perspective of international practice, exceptional.[6]

108. Paragraph 3 contains specific treatment of bank secrecy. It is worded as follows: "where expressly provided for by the ratified international conventions, banking secrecy may not be relied upon to reject a request for mutual legal assistance". The authorities of the HS/VCS have been at pains to stress that this should not give rise to any implication that such a ground can be relied upon in other circumstances. In their words "it should be underlined that in the Vatican legal system financial secrecy is not one of the grounds for refusing cooperation". In their view the four grounds stipulated in paragraph 1 are exhaustive. It is understood that this interpretation is shared by the Promoter of Justice. The authorities have further explained that paragraph 3 was motivated by the desire to make explicit the prohibition contained, inter alia, in Article 18(8) of the Palermo Convention and Article 12(2) of the FT Convention. While this review accepts the above assurances, it is recommended that the appropriate authorities consider, in due course and in the light of experience, if the provision is removing, as intended, doubts on this matter. If this proves not to be the case corrective action should be considered[7].

109. Recommendation 2 *Develop a procedure to cover 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*. In the context of the enhanced regime of criminal cooperation with Italy established by the Lateran Treaty of 1929 a mechanism exists for determining on an ad hoc basis the most appropriate venue for the prosecution of defendants. It was concluded, however, that no formal consideration had been given to addressing this matter in the context of cases involving countries other than Italy (see MER, para.1035). This was the sole deficiency underlying the rating of 'LC' for R.36.

110. In the intervening period this issue has been addressed in part through the enactment of specific provisions on concurrent jurisdiction in criminal cases (Article 5 of Law No. IX of July 2013. See also, paragraph 5 of the *Motu Proprio* of the same date). However, these address only one aspect of the issue; namely instances in which the individual has been tried abroad (*ne bis in idem*). They do not reach the question of determining the best venue for prosecution in cases subject to the jurisdiction of more than one country. This is the primary concern of criterion 36.7. This matter should thus be revisited by the authorities of the HS/VCS.[8]

111. The system of mutual legal assistance continues to be utilised in practice. It is understood, for example, that the HS/VCS authorities have received ten requests in the course of 2013. Of these, four are believed to have related to financial crimes, two of which were money laundering specific. 2013 has also seen the first ever outgoing request for mutual legal assistance from the HS/VCS and this relates to a money laundering matter.

R.40 – Other forms of co-operation (rated PC in the MER)[9]

112. Recommendation 1 *The FIA should quickly conclude MOUs with at least FIUs from those countries with which it will most likely need to exchange information.* In the period since the adoption of the MER in 2012, the FIA concluded a MOU with the FIU of Belgium, Spain, Slovenia, the Netherlands, the United States of America and Italy. Negotiations are currently underway to conclude a MOU with more than fifteen foreign FIUs. As noted, the FIA became a member of the Egmont Group in July 2013.

[6] The developments referred to in this paragraph are also relevant for the purposes of SR V, in so far as mutual legal assistance is concerned.

[7] The HS/VCS authorities indicated that in replying to two requests for mutual legal assistance related to ML in early November, Article 40(3) did not create any obstacle to the provision of financial information.

[8] The concerns expressed in this paragraph are also relevant to SR V, in so far as mutual legal assistance is concerned.

[9] The measures referred to in this section also address the recommendations made by the evaluation team in the MER in relation to SR V.

113. Recommendation 2 *The law should be amended to specifically allow for the exchange of supervisory information.* According to Article 69(b), the FIA, with a view to carrying out adequately its functions of supervision and regulation and as a financial intelligence unit cooperates with and exchanges information with the equivalent authorities in other States, under the condition of reciprocity and on the basis of agreement protocols. It is required that the Secretariat of State is informed of such protocols.

SR.I – Implementation of UN instruments (rated PC in the MER)

114. Recommendation 1 *Prioritise the effective implementation of Chapter IV of Act No CXXVII of January 2012 through the completion of the listing process and other means, as necessary, to ensure full and effective implementation of UN Security Council Resolutions on the financing of terrorism*. On 3 April 2012 two major steps were taken towards the satisfaction of this recommendation. First, the HS/VCS list of designated persons was promulgated by the Secretariat of State which covered, inter alia, the natural and legal persons designated by the UN Security Council Committee pursuant to Resolution 1267. Second, on the same day the FIA issued an Ordinance giving effect to this list and transmitted it to all obligated persons. However, the list was not thereafter revised until 8 November 2013. This was no doubt due, at least in part, to the decision to draft new legislation governing the listing of "subjects who threaten international peace and security". As detailed in the analysis of SR.III below, this legislation entered into force recently.

115. Recommendation 2 *Legislative measures should be taken to address the current deficiencies in the criminalisation of terrorist financing as identified in the analysis of SR.II.* As detailed in the analysis of SR II above, a major effort has been made by the HS/VCS since the adoption of the MER to meet the identified deficiencies. To this end extensive legislative provisions were included in Law No. VIII of July 2013. Only relatively technical gaps in legislative coverage now remain.

116. Recommendation 3 *The system for implementing UNSCR 1267 and 1373 needs to be made operational.* See paragraph 114 above.

SR.III – Freezing of Terrorist Assets (rated NC in the MER)

117. Recommendation 1 *The legislative framework should be brought into full force and effect as a matter of urgency.* It will be recalled that within the time-frame relevant to the evaluation of the HS/VCS the legislative scheme concerning the UN Security Council dimension of SR.III (Chapter IV of Law No. CXXVII as amended in January 2012) had still to be made operational in practice. However on 3 April 2012 the HS/VCS list of designated persons was promulgated by the Secretariat of State which covered, *inter alia*, the list of persons designated by the UN Security Council Committee pursuant to UNSC Resolution 1267. On the same day the FIA issued an Ordinance giving effect to the list and transmitted the same to all obligated entities. This text also provided obligated entities with relevant guidance.

118. The list was only amended in November 2013 to take account, inter alia, of changes to designations agreed in New York. On 8 August 2013 Decree No. XI of the President of the Governorate of the VCS on "Norms concerning transparency, vigilance and financial information" introduced significant changes concerning the listing process and entrusted the President of the Governorate with its adoption and updating. These provisions were subsequently confirmed by Law No. XVIII of 8 October 2013 "confirming the Decree N.XI of the President of the Governorate of the Vatican City State, on Norms concerning transparency, supervision and financial information".

119. This new legislative scheme provides for the creation of a single national list of "subjects who threaten international peace and security". It is constructed in such a manner as to enable the VCS

to give effect to, among others, the freezing of funds or other assets of persons designated by the 1267 Committee, individuals and entities designated by the EU or third states pursuant to UNSC Resolution 1373(2001), and persons designated upon the motion of the appropriate authorities of the VCS itself. It should be noted in this context that Article 72(5) of Law No. XVIII provides as follows:

> "5. In drawing up and updating the list, the President of the Governorate shall examine the designations made by the competent organs of the Security Council of the United Nations, of the European Union and of other States. Such designations may constitute, even on their own, sufficient grounds for inscription in the list".

120. Article 74 adds further substance to the envisaged two-way system of cooperation between the HS/VCS and the UN, EU and third states in this context. In a welcome innovation Article 76 permits freezing on a precautionary basis for up to 15 days to permit the listing process to take place.

121. The new legislation is of a detailed nature and contains provisions on the scope and effect of freezing measures (Articles 75 and 77), the administration of frozen assets and property (Article 78), delisting (Article 73), the protection of bona fide third parties (Article 80) and like matters.

122. On 8 November 2013, pursuant to Article 71(1) of the AML/CFT Law, the President of the Governorate issued Order N. XXVII adopting the list of subjects that threaten international peace and security, thus rendering the new system operational.

123. Recommendation 2 *Art. 24 of the revised AML/CFT Law should be clarified to place beyond doubt that it is intended to give effect to "designations" made by the EU and other "international" bodies and by third states.* As was noted above, Article 72(5) of Law No. XVIII of 8 October 2013 mandates the President of the Governorate to take cognisance of, among others, designations made by the competent organs of the EU. Given the nature of the new legislative scheme the above recommendation can be regarded as having been met.

124. Recommendation 3 *On the basis that Art. 24 is so intended, separate procedures should be put in place to cover the so called "EU internals" (which are not subject to designation as such by the European Union).* Given the altered legislative scheme introduced by Law No. XVIII of 8 October 2013 this recommendation is no longer relevant.

125. Recommendation 4 *Guidance to obligated entities on the freezing of funds for terrorist purposes should be finalised and circulated.* As was noted at an earlier stage of this analysis of SR III, on 3 April 2012 the FIA issued an Ordinance giving effect to the list of designated persons of the same date and providing guidance to obligated persons. As has been noted at paragraph 122 the list of subjects that threaten international peace and security has now been issued so the spirit of this recommendation is now met. No doubt the FIA will be issuing further clarificatory guidance in due course.

126. Recommendation 5 *Steps need to be taken to create a comprehensive and effective system for delisting, exemptions and like matters. This is particularly the case in respect to the authorisation of access to funds needed for basic expenses or for extraordinary expenses in accordance with Security Council Resolutions 1452 (2002).* Article 73 of Law No. XVIII creates a detailed mechanism governing delisting in which the President of the Governorate plays a central role. The procedure operates both ex officio and upon request by a relevant listed person. Determinations made in the latter context are subject to judicial review (Article 73(5) - (7)). The same law also provides for access to funds, upon the authorisation of the FIA, for the meeting of basic expenses. Access of funds to satisfy extraordinary expenses is also subject to the authorisation of the FIA but, in this instance, it must have "previously obtained the nulla osta of the President of the Governorate" (Article 79(2)). Given that the Holy See is not a member of the

UN it is unsurprising that there is no formal requirement in the latter context for prior contact with the UN in New York. Nor does Article 74 on international cooperation envisage contact with the UN in relation to matters governed by Article 79. However, there is nothing to prevent the system from being operated in a manner consistent with the spirit of relevant UNSC Resolutions.

SR.V – International Cooperation (rated LC in the MER)[10]

127. Recommendation 3 *Address the identified deficiencies in the criminalisation of terrorist financing and other conduct, as required by SR.II, to ensure that extradition is not inhibited.* As mentioned under paragraphs 28 and 29 of this report, the criminalisation of terrorist financing is now broadly in line with the FATF standards. Therefore, this should not be an obstacle to effective extradition procedures.

1.3 Main conclusions

128. It is clear from this review that much work has been done in a short time to meet most of the MONEYVAL technical recommendations. There are many welcome clarifications and improvements to the AML/CFT legal structure.

129. The legal structure for criminalisation of ML and TF and related confiscation is much improved, but still needs to be tested in practice. The legislation governing the freezing of terrorist assets pursuant to relevant UNSC Resolutions has been amended and a new listing was adopted on 8 November 2013.

130. There are important processes in train to ensure that the financial institutions within the HS/VCS know who their account holders are and that customer due diligence measures are applied to them in line with international standards. This work is ongoing. It appears to have generated a significant number of suspicious transaction reports, which are being analysed by the FIA and, where appropriate, referred to the Promoter of Justice. The first mutual legal assistance request has been made by the HS/VCS and this was in a ML case.

131. It is particularly welcome that the autonomy of the FIA to negotiate MoUs has been restored, that MoUs have been concluded and more are being negotiated. The new professional structure of the FIA, set out in its revised statute, will need supplementing with more trained and experienced AML/CFT staff to handle the full range of its FIU functions.

132. Similarly, now that a decision has been taken that the FIA should become the prudential supervisor as well as the AML/CFT supervisor, the FIA needs to recruit appropriately skilled professionals quickly to undertake these responsibilities. It was somewhat surprising that there have not been formal AML/CFT inspections yet of the IOR and APSA, though it is noted that the remediation processes undertaken by the IOR, and to some extent the APSA, are being pursued in close conjunction with the FIA, as a supervisor. It is important that the forthcoming inspections of IOR and APSA proceed as now planned. As indicated in the MER, these inspections should include risk-focused sample testing of customer files. In this context it is noted that a credible regime is now formally in place in terms of AML/CFT supervisory powers and sanctioning, which now also needs to be tested in practice.

133. The regulations which are still outstanding in respect of expertise and integrity requirements for financial institutions need to be issued quickly. Until then, the FIA cannot take on the assessment of the fitness and propriety of management of financial institutions and the examination of potential conflicts of interest, which are important parts of its supervisory remit.

[10] This section covers the recommendation made by the evaluation team in the MER which is not already covered under other FATF Recommendations in this report, i.e. R. 36 and R. 40.

134. As a result of the discussions held in the context of the examination of this first progress report, the Plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the progress on the core and key Recommendations. Pursuant to Rule 41 of the Rules of procedure, the progress report will be subject of an update every two years between evaluation visits (the next update being December 2015). The HS/VCS authorities also offered to provide updates before December 2015 on any further developments under the tour de table procedure of future plenaries.

2. Information submitted by the Holy See (including Vatican City State) for the first 3rd round progress report

2.1 General overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field

Introduction

Since the adoption of the Mutual Evaluation Report (MER) of the Holy See and the Vatican City State by the MONEYVAL Plenary on 4 July 2012, the Holy See and the Vatican City State have taken further steps to strengthen the system to fight ML/FT in line with the recommendations made by MONEYVAL. In particular, significant efforts as part of a long-term strategy to meet international standards have been undertaken to improve the legal and institutional framework to prove the Holy See's and the Vatican City State's strong commitment to financial transparency.

A. Legislative developments

(a) Amendments of the AML/CFT Law on 14 December 2012

The Law *on the Prevention and Countering of Laundering of Proceeds of Crimes and Financing of Terrorism* of 30 December 2010, N. CXXVII (henceforth "Law N. CXXVII"), which came into force on April 1, 2011, after the first reform of 24 January 2012 (with the Decree of the President of the Governorate N. CLIX, confirmed with the Law of the Pontifical Commission for the Vatican City State, N. CLXVI of 25 April 2012), on 14 December 2012 (with the Law of the Pontifical Commission for the Vatican City State, N. CLXXXV) was further amended to abolish the *nihil obstat* (that is, the prior consent) of the Secretariat of State for the signature of MOUs by AIF, in order to ensure full autonomy of AIF in its international cooperation.

(b) *Motu proprio* of Pope Francis and the Laws on Criminal Matters of 11 July 2013

As announced in the course of the 2012 mutual evaluation process (MER, p. 58, fn. 33, and p. 61, fn. 34), the Holy See has conducted a thorough analysis of the Vatican City State's Criminal Code and Code of Criminal Procedure in light of the international standards and the ratified international conventions. On 11 July 2013, as a result of such a review, a wide-ranging reform of the criminal law system was enacted. On that date, the Pontifical Commission for the Vatican City State enacted Law N. VIII, on *Supplementary Norms on Criminal Matters* and Law N. IX, on *Amendments to the Criminal Code*, while His Holiness Pope Francis issued his *Motu Proprio* on *the Jurisdiction of Vatican City State on Criminal Matters.*

As recommended in the 2012 MER, the new criminal laws introduced into the Vatican legal system all the terrorist offences set forth in the Conventions annexed to the Terrorist Financing Convention as well as a new approach on the administrative liability of legal persons arising from crime. In particular, a modern scheme on confiscation, freezing and seizure has been adopted, the powers of the police to seize goods intended to be used to commit offences have been strengthened, and the rather dated provisions on extradition and mutual legal assistance have been modernized in light of the 1988 Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the 2000 Palermo Convention against Transnational Organized Crime. Finally, to ensure the effective exercise of criminal jurisdiction by the Vatican Tribunal over transnational crimes, the heads of jurisdiction set forth in the Criminal Code have been revised.

On its part, the *Motu Proprio* on *the Jurisdiction of Vatican City State on Criminal Matters*, of 11 July 2013, extended the jurisdiction of the Vatican Tribunal over criminal offences - including the financing of terrorism and money laundering - committed by public officials of the Holy See in the context of the exercise of their functions, even if outside Vatican territory.

Also on 11 July 2013, the Pontifical Commission for the Vatican City State enacted Law N. X, on *General Norms on Administrative Sanctions*, which provides the legal framework for application of sanctions for administrative violations.

(c) *Motu Proprio* of Pope Francis of 8 August 2013 and the Decree *introducing norms relating to transparency, supervision and financial intelligence*, N. XI of 8 August 2013, confirmed by the Law *introducing norms relating to transparency, supervision and financial intelligence*, N. XVIII of 8 October 2013

Pope Francis, by *Motu Proprio for the Prevention and Countering of Money Laundering, the Financing of Terrorism and the Proliferation of Weapons of Mass Destruction* of 8 August 2013, strengthened the supervisory and regulatory function of the Financial Intelligence Authority and established the function of prudential supervision over entities professionally engaged in financial activities. This function is assigned to the Financial Intelligence Authority (AIF). Furthermore, the Financial Security Committee has been established for the purpose of coordinating the competent authorities of the Holy See and the Vatican City State in the area of prevention and countering of money laundering and the financing of terrorism. The same day, the President of the Governorate of the Vatican City State issued Decree of the President of the Governorate N. XI *Introducing Norms Relating to Transparency, Supervision and Financial Intelligence*, which was confirmed by Law of the Pontifical Commission for the Vatican City State, N. XVIII of 8 October 2013.

This new AML/CFT Act of the Holy See and the Vatican City State introduces a comprehensive system in accordance with the international standards to fight money-laundering and financing of terrorism and is a further step towards strengthening the system to actively combat any potential misuse of financial activities within the Vatican City State. In brief, Law N. XVIII incorporates and expands on steps taken with the reform of January 2012 and the further amendments of December 2012. In particular, it deals with financial transparency, supervision, and financial intelligence, clarifying and consolidating the functions, powers and responsibilities of AIF. In concrete terms, it gives, among others, greater supervisory and regulatory powers to AIF and empowers it with prudential supervisory functions.

(d) NPOs and terrorist list

Two specific subject matters are worth mentioning.

The Holy See authorities have undertaken a careful analysis – in light of the international standards – of the laws applicable to those NPOs that have their legal seat in the Vatican City State. As a result, Pope Francis, in his *Motu Proprio* of 8 August 2013, decided to subject all NPOs having canonical legal personality and legal seat in the territory of Vatican City State to the Vatican anti-money laundering and countering of terrorism laws. In addition, the new Law N. XVIII requires all legal persons with their legal seat in the Vatican – including NPOs – to keep adequate records on their activities, beneficiaries, beneficial owners and managers and to provide such information, upon request, both to the competent authorities, including AIF, and to the financial institutions.

Moreover, the Holy See and the Vatican City State authorities are currently finalizing a new law to regulate the NPO sector, which is expected to be adopted in the course of the coming weeks. The new law will reaffirm the duty of all NPOs to inscribe themselves in the State registries, to keep updated the

relevant information regarding their senior management and beneficial owners, possess detailed books and records, and to apply the "know your beneficiaries" rule. Adequate sanctions will be imposed for the violation of those rules.

Finally, Law N. XVIII introduced greater precision on the application of financial measures to freeze and confiscate terrorist assets, as well as regarding the imposition of precautionary measures and the administration of those assets. Moreover, a detailed mechanism for the listing and delisting of subjects, as well as a scheme for exceptions to the financial sanctions, covering both basic expenses and extraordinary needs, have been adopted.

B. International cooperation

Since the adoption of the MER, the Holy See and the Vatican City State have put a strong emphasis on international cooperation. In July 2013, AIF was admitted to the Egmont Group and over the last months has signed MOUs with Belgium, Spain, USA, Italy, Slovenia and the Netherlands. It is currently in the process of signing further MOUs with several Financial Intelligence Units of other countries and will continue to broaden its international network to fight money laundering and terrorism financing.

C. Review process within the IOR

By the end of 2012, the IOR concluded the preliminary review process of its customer database. Based on the findings of this first phase, an in-depth audit of customer records and remediation, including analysis of transactions, under the supervision of AIF was launched at the beginning of 2013. This process is still ongoing. Furthermore, the IOR redefined the categories of customers entitled to IOR services and were published in July 2013 on IOR's website.

D. Effectiveness of the AML/CFT system

Since the adoption of the MER, an ongoing trend toward increased reporting of suspicious activity from different reporting entities, with a significant growth in 2013, can be observed. Investigations based on STRs have been started and freezing orders initiated. In the area of international cooperation, AIF has entered into an active exchange of information with various Financial Intelligence Units and the Holy See and the Vatican City State requested mutual legal assistance on a domestic case.

E. Institutional framework (introduction of new Pontifical Commissions)

Since his election, His Holiness Pope Francis has been committed to addressing the financial administration and organization of the various organs of the Holy See. As a priority of his Pontificate, the Holy Father is working to establish a more organic approach to the rationalization of the economic structures of the Holy See and the Vatican City State. To this end, among other initiatives two Pontifical Commissions have been established to study the Institute for Works of Religion (IOR) and the economic and administrative structures of Vatican City State and the various offices which serve the universal mission of the Catholic Church.

By a Chirograph dated 24 June 2013, Pope Francis established the *Pontifical Commission for Reference on the Institute for Works of Religion*. This Commission, which is composed of five members expert in their various fields, is charged with gathering information on the Institute regarding its legal position and the various activities it is presently undertaking so as to ensure a better harmonization of the Institute with the universal mission of the Catholic Church.

By a Chirograph dated 18 July 2013, Pope Francis took the further step of establishing the *Pontifical Commission for Reference on the Organisation of the Economic and Administrative Structures of the Holy See*. This Commission will cooperate with the Council of Cardinals, announced on 18 April 2013 and granted permanent status by Chirograph on 28 September 2013, in order to draft reforms of the Curia that simplify and organize more rationally the various structures of the Holy See and that assist in coordinating its various economic and administrative activities.

The *Pontifical Commission for Reference on the Organisation of the Economic and Administrative Structures of the Holy See* is composed of eight members who are experts in legal, financial, economic and organisational matters, and will provide technical support as strategies are devised to insure the integrated organisation of the Holy See, the proper use of economic resources with greater transparency, elimination of duplication in administrative matters, and improved administration of the patrimony of the Holy See.

It is important to note that the mandate for the Commissions is not only to study the IOR and the economic and administrative structures of the Holy See and to provide historical data to the Holy Father. The Commissions are instructed to work closely together in order to identify how the various offices and structures of the Holy See can more directly collaborate in areas of shared competencies and to seek a reform of these structures so that their organization is effective in serving the universal mission of the Holy See. Furthermore, these Commissions will work closely with the Council of eight Cardinals in studying these matters and in making recommendations regarding any necessary reforms, as well as the Commission of fifteen Cardinals who oversee the consolidated budget of the Holy See.

The eventual goal of these united efforts is to restructure the Holy See's economic organs, especially the Administration of the Patrimony of the Apostolic See (APSA), the IOR and the Governorate of Vatican City State, in a more effective, sustainable and coherent fashion, in line with the international standards for governments. In so doing, the Holy See will realize a reform of its structures and practices which will permit it to fulfil more effectively its universal mission in the world.

2.2 Core recommendations

Please indicate improvements which have been made in respect of the FATF Core Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV) and the Recommended Action Plan (Appendix 1). Please also provide information which may demonstrate effective implementation.

<table>
<tr><th colspan="2">Recommendation 1 (Money Laundering offence)</th></tr>
<tr><td colspan="2">Rating: Largely compliant</td></tr>
<tr><td>Recommendation of the MONEYVAL Report</td><td>Further consideration should be given to clarifying the relationship between the money laundering offence (Arts. 1 (4) & (5) of the revised AML/CFT Law) and the traditional receiving offence (Art. 421 of the Criminal Code).</td></tr>
<tr><td>Measures taken to implement the Recommendation of the Report</td><td>With a view to eliminating any potential overlap between the autonomous Money laundering and self-laundering offence (article 421 bis of the Criminal Code) and the pre-existing offence of Receipt of stolen goods (article 421 of the Criminal Code), article 29 of Law N. IX, on "Amendments to the Criminal Code", of 11 July 2013, makes explicit the residual character of the receiving offence. Article 29 of Law N. IX reads:
Article 29
(Receipt of stolen goods)
In article 421 of the Criminal Code, the words "outside the case foreseen in article 225" are replaced by the following: "outside the cases foreseen in articles 225 and 421 bis."</td></tr>
<tr><td>(Other) changes since the last evaluation</td><td>In order to ensure that the widest range of predicate offences are covered by the Money Laundering offence – including all those incorporated in Vatican criminal law on 11 July 2013 – article 30 of Law N. IX, on "Amendments to the Criminal Code", of 11 July 2013, adopts the "threshold approach" to the definition of predicate offences. Article 30 of Law N. IX reads:
Article 30
(Money laundering and self-laundering)
The following paragraph 1 bis is added to article 421 bis: of the Criminal Code:
"1 bis. For the purposes of this article, "predicate offence" means any criminal acts punishable, pursuant to the criminal law, with a minimum penalty of six months or more of imprisonment or detention; or with a maximum penalty of one year or more of imprisonment or detention."
In addition, with a view to ensuring the effective exercise of criminal jurisdiction by the Vatican Tribunal over transnational crimes, the heads of jurisdiction set forth in the Criminal Code have been revised in light of the requirements set forth in the various international conventions. Articles 1 to 4 of Law N. IX read:
Article 1
(Offences committed in the territory of the State)
The text of article 3 of the Criminal Code is entirely replaced by the following:
"Whoever commits an offence in the territory of the State is punished according to Vatican law.
An offence is deemed to be committed in the territory of the State when its constituting action or omission is carried out, as a whole or in part, in the territory, or if the consequence resulting from that action or omission takes place in the territory.</td></tr>
</table>

The offence committed on board a vessel that is flying the flag of the State or on an official aircraft, or on an aircraft that is registered under the laws of the State at the time that the offence is committed, is also deemed to be committed in the territory of the State."

Article 2

(*Offences committed abroad*)

The text of article 4 of the Criminal Code is entirely replaced by the following:

"Whoever commits abroad one of the following offences:

a) offences against the security of the State;

b) offences of counterfeiting the seal of the State and the use of a counterfeited seal;

c) offences of counterfeiting currency, revenue stamps and Vatican public bonds;

d) offences committed by public officials in the service of the State, taking advantage of their powers or violating the duties inherent to their functions;

f) any other offence for which the laws or the ratified international conventions require the application of the Vatican law;

is punished according to the Vatican law.

Whoever has committed an offence abroad whose prosecution is required by a ratified international agreement is punished according to Vatican law if he is found in the territory of the State and is not extradited."

Article 3

(*Offences committed by a citizen abroad*)

The text of article 5 of the Criminal Code is entirely replaced by the following:

"Outside the cases set forth in the previous paragraph, the citizen who commits abroad an offence for which the Vatican law sets forth a penalty of no less than three years imprisonment, is punished according to the same law, if found in the territory of the State.

For the purposes of the present article, a stateless person who has his habitual residence in the State is assimilated to the citizen. "

Article 4

(*Offences committed abroad against the State or the citizens*)

The text of article 6 of the Criminal Code is entirely replaced by the following:

"Outside the cases set forth in the preceding articles, the foreigner who commits abroad an offence against the State or a citizen for which the Vatican law sets forth a penalty of no less than three years imprisonment, is punished according to the same law, upon request of the Secretariat of State.

When a citizen if the victim of the offence, a private complaint is also required to proceed.

In these cases, as well as in those cases foreseen in article 4, paragraph 2, and article 5, the penalty is reduce by a third."

In the same vein, the *Motu Proprio* on "*the jurisdiction of Vatican City State on Criminal Matters*", of 11 July 2013, extended the jurisdiction of the Vatican Tribunal to the crimes set forth in Law N. IX - including the offence of Money laundering -when committed by the public officials of the Holy See "in the context of the exercise of their functions" even if outside Vatican territory. The relevant provisions read:

	1. The competent Judicial Authorities of Vatican City State shall exercise penal jurisdiction also over: a) the crimes committed against the security, the fundamental interests or the patrimony of the Holy See; b) the crimes referred to in: - Vatican City State Law N. VIII, of 11 July 2013, containing *Supplementary norms on Criminal Law matters*; - Vatican City State Law N. IX, of 11 July 2013, containing *Amendments to the Criminal Code and the Code of Criminal Procedure*; when committed by the persons referred to in paragraph 3 in the context of the exercise of their functions; c) any other crime whose prosecution is required by an international agreement ratified by the Holy See, if the author is found in the territory of the Vatican City State and is not extradited. 3. For the purposes of Vatican criminal law, the following persons are deemed *"public officials"*: a) the members, officials and personnel of the various organs of the Roman Curia and of the Institutions connected to it. b) the papal legates and diplomatic personnel of the Holy See. c) any person who serves as a representative, manager or director, as well as any person who even *de facto* manages or exercises control over the entities directly dependent on the Holy See listed in the registry of canonical legal persons kept by the Governorate of the Vatican City State; d) any other person holding an administrative or judicial office in the Holy See, permanent or temporary, paid or unpaid, irrespective of that person's seniority.

Recommendation 5 (Customer due diligence)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	The AML/CFT Law needs to be amended to specifically require that financial institutions should verify that the transactions are consistent with the institution's knowledge of the source of funds, if necessary.
Measures taken to implement the Recommendation of the Report	The new AML/CFT Act – namely Law N. XVIII of 8 October 2013 – incorporates the requirements for financial institutions that transactions are consistent with the institution's knowledge of the source of funds. In particular, the new AML/CFT Act establishes the following requirements relating to CDD including the ongoing CDD: **Article 16 – *Requirements*** 1. For the purposes of due diligence, the obliged subjects shall fulfil, *inter alia*, the following requirements: [...] e) verifying and obtaining documents, data and information relating to the purpose and nature of the relationship, and the origin of funds. **Article 19 – *Ongoing customer due diligence*** 1. Customer due diligence shall be conducted constantly including the following activities: a) constantly monitoring the relationship, including scrutinising operations or transactions undertaken through the course of that relationship, so as to ensure that they are consistent with the knowledge of the customer, his activity and risk profile, and the

	source of funds; [...]
Recommendation of the MONEYVAL Report	Serious consideration should be given to a statutory provision describing the types of legal and natural persons eligible to maintain accounts in the IOR and APS.
Measures taken to implement the Recommendation of the Report	With the constitution of the Pontifical Commission for Reference on the Institute for Works of Religion on 24 June 2013 and the Pontifical Commission for Reference on the Organization of the Economic-Administrative Structure of the Holy See on 18 July 2013, in-depth assessment of the institutional mandate of the IOR, as well as APSA, has been undertaken and in that regard serious consideration is being given to the categories of natural and legal persons eligible to receive services and to open and/or maintain accounts. As a consequence of this process relevant statutory provisions are currently under consideration.
Recommendation of the MONEYVAL Report	Amend the exemptions for low-risk customers, products and transactions as adopted from the Third EU AML Directive by clarifying that minimum CDD (i.e. less detailed CDD) should nevertheless be accomplished.
Measures taken to implement the Recommendation of the Report	According to the new AML/CFT Act, the Financial Intelligence Authority, by regulation, will introduce the cases of simplified CDD and the minimum CDD requirements. Exemptions for low risk customers, products and transactions will be included in the AIF Regulation. **Article 24 – *Simplified customer due diligence*** 1. In the case of low risk of money-laundering or financing of terrorism, connected to a category and to the country or geographical area of the customer, or the type of relationship, product or service, operation or transaction, including channels of distribution, the Financial Intelligence Authority may authorise the obliged subjects to carry out simplified due diligence. 2. The Financial Intelligence Authority, having taken into account the risk assessment referred to in articles 9 and 10, identifies cases of application of simplified customer due diligence and indicates the procedures and measures to be adopted, including the requirements to be fulfilled. [...]
Recommendation of the MONEYVAL Report	Provide in the Law that simplified CDD measures are not permissible where higher risk scenarios apply.
Measures taken to implement the Recommendation of the Report	According to article 24 (3) (a) of the new AML/CFT Act, in any case, simplified CDD measures cannot be applied in a high-risk scenario. **Article 24 – *Simplified customer due diligence*** [...] 3. In any case, simplified customer due diligence: a) cannot be applied when there is suspicion of money-laundering or financing of terrorism and in a high-risk scenario; [...]
Recommendation of the MONEYVAL Report	Stipulate in the AML/CFT Law that simplified CDD measures, with respect to credit or financial institutions located in a State that observes equivalent AML/CFT requirements, shall only be permissible where those institutions are supervised for compliance with those requirements.
Measures taken to implement the Recommendation of the Report	According to the new AML/CFT Act, the Financial Intelligence Authority, by regulation, will introduce the cases of simplified CDD and the minimum CDD requirements. In any case, AIF regulations will establish that simplified CDD measures with respect to credit or financial institutions, located in a State that observes equivalent AML/CFT requirements, will only be permissible where those institutions are supervised for compliance with those requirements. **Article 24 – *Simplified customer due diligence***

	1. In the case of low risk of money-laundering or financing of terrorism, connected to a category and to the country or geographical area of the customer, or the type of relationship, product or service, operation or transaction, including channels of distribution, the Financial Intelligence Authority may authorise the obligated subjects to carry out simplified due diligence. 2. The Financial Intelligence Authority, having taken into account the risk assessment referred to in articles 9 and 10, identifies cases of application of simplified customer due diligence and indicates the procedures and measures to be adopted, including the requirements to be fulfilled. [...]
Recommendation of the MONEYVAL Report	Simplified CDD measures should only be permissible if listed companies are subject to regulatory disclosure requirements.
Measures taken to implement the Recommendation of the Report	According to the new AML/CFT Act, the Financial Intelligence Authority, by regulation, will introduce the cases of simplified CDD and the minimum CDD requirements. In any case, AIF regulations will establish that simplified CDD measures are permissible only with respect to listed companies which are subject to regulatory disclosure requirements. **Article 24 – *Simplified customer due diligence*** 1. In the case of low risk of money-laundering or financing of terrorism, connected to a category and to the country or geographical area of the customer, or the type of relationship, product or service, operation or transaction, including channels of distribution, the Financial Intelligence Authority may authorise the obligated subjects to carry out simplified customer due diligence. 2. The Financial Intelligence Authority, having taken into account the risk assessment referred to in articles 9 and 10, identifies cases of application of simplified customer due diligence and indicates the procedures and measures to be adopted, including the requirements to be fulfilled. [...]
Recommendation of the MONEYVAL Report	Amend FIA Instruction N. 2 to clarify that the verification of the identity of the customer and beneficial owner, following the establishment of the business relationship, should only be permissible where all conditions mentioned under criterion 5.14 are met cumulatively.
Measures taken to implement the Recommendation of the Report	According to article 16 (3) of the new AML/CFT Act, a relationship cannot be established without having fulfilled the CDD requirements. In any case, according to article 90 (2) of the new AML/CFT Act, AIF Instruction N. 2 has been abrogated in the light of the new CDD requirements. **Article 16 – *Requirements*** **[...]** 3. In cases where it is not possible to carry out the customer due diligence in accordance with paragraphs 1 and 2, it is forbidden to establish a relationship or carry out an operation or transaction. In such cases, the obliged subjects shall send a report to the Financial Intelligence Authority. **Article 90 – *Abrogation*** […] 2. Provisions established by the regulations and instructions of the Financial Intelligence Authority are still in force, where they are not incompatible with the provisions of this Law.
Recommendation of the MONEYVAL Report	Abolish the exemptions to CDD provided under Art. 31 §3 of the revised AML/CFT Law.
Measures taken to implement the	According to the new AML/CFT Act, the exemptions to CDD provided under article 31 (3) of the old AML/CFT Act have been abolished. See articles 25 ff.

Recommendation of the Report	
Recommendation of the MONEYVAL Report	Where the Law allows for simplified or reduced CDD measures to customers resident in another country, HS/VCS authorities should limit this in all cases to countries that the HS/VCS is satisfied are in compliance with and have effectively implemented the FATF Recommendations.
Measures taken to implement the Recommendation of the Report	According to article 9 (2) (b) (ix) AIF identifies and publishes a list of countries that are in compliance with and effectively implement the FATF Recommendations. Accordingly, AIF will introduce the cases of simplified CDD measures only to customers resident in countries meeting these requirements. **Article 9 – *General Risk Assessment*** **[...]** 2. On the basis of the general risk evaluation: […] b) The Financial Intelligence Authority: […] ix) identifies and publishes a list of States that impose obligations equivalent to those found in this Title. **Article 24 – *Simplified customer due diligence*** [...] 2. The Financial Intelligence Authority, having taken into account the risk assessment referred to in articles 9 and 10, identifies cases of application of simplified customer due diligence and indicates the procedures and measures to be adopted, including the requirements to be fulfilled. [...]
Recommendation of the MONEYVAL Report	The FIA Instructions should be amended to require that verification should occur as soon as possible in situations where verification occurs after establishment of a business relationship.
Measures taken to implement the Recommendation of the Report	According to article 16 (3) of the new AML/CFT Act, a relationship cannot be established without having fulfilled the CDD requirements. In any case, according to article 90 (2) of the new AML/CFT Act, AIF Instructions have been abrogated in light of the new CDD requirements. **Article 16 – *Requirements*** **[...]** 3. In cases where it is not possible to carry out the customer due diligence in accordance with paragraphs 1 and 2, it is forbidden to establish a relationship or execute an operation or transaction. In such cases, the obliged subjects shall report to the Financial Intelligence Authority. **Article 90 – *Abrogation*** […] 2. Provisions established by the regulations and instructions of the Financial Intelligence Authority are still in force, where they are not incompatible with the provisions of this Law.
Recommendation of the MONEYVAL Report	The provision that only transactions executed within a period of seven days have to be considered as "linked transactions" should be abolished.
Measures taken to implement the Recommendation of the Report	According to article 1 (26) of the new AML/CFT Act, the definition of "linked transactions" is not linked anymore to the "seven days" criterion as in the old AML/CFT Law.

	Article 1 – *Definitions* For the purposes of this Law, the following definitions shall be applied: […] 26. « *Linked transaction* »: a transaction which, even if in itself autonomous, from an economic point is a joint operation with one or more operations, executed at different stages or moments.
Recommendation of the MONEYVAL Report	Introduce an express requirement to verify that the transactions are consistent with the institution's knowledge of the source of funds where necessary.
Measures taken to implement the Recommendation of the Report	The new AML/CFT Act introduced the duty to verify that the transactions are consistent with the institution's knowledge of the source of funds. **Article 16 – *Requirements*** 1. For the purposes of due diligence, the obliged subjects shall fulfil, *inter alia*, the following requirements: [...] e) verifying and obtaining documents, data and information relating to the purpose and nature of the relationship, and the origin of funds. **Article 19 – *Ongoing customer due diligence*** 1. Customer due diligence shall be conducted constantly including the following activities. a) constantly monitoring the relationship, including scrutinising operations or transactions undertaken through the course of that relationship, so as to ensure that they are consistent with the knowledge of the customer, his activity and risk profile, and the source of funds; [...]
Recommendation of the MONEYVAL Report	FIA should raise awareness with respect to the obligations that have been introduced or clarified in the AML/CFT Law after the MONEYVAL on-site visits to ensure effective implementation
Measures taken to implement the Recommendation of the Report	Since the MONEYVAL on-site visit (November 2011), AIF has entered into an in-depth dialogue with the obliged subjects, and in particular the IOR, to strengthen the knowledge and consistent implementation of the relevant and recently introduced AML/CFT requirements. AIF had regular face-to-face meetings with the management (Direzione Generale) and the senior management (Consiglio di Sovrintendenza) of the IOR, including the providing of written guidance and training session for officers and employees.
Recommendation of the MONEYVAL Report	FIA should put in place appropriate arrangements to monitor and ensure compliance with the requirements under R. 5 (including adequate sample testing)
Measures taken to implement the Recommendation of the Report	By the end of 2012, the IOR concluded the preliminary review process of its customer database. Based on the findings of this first phase, an in-depth audit of customer records and remediation, including analysis of transactions, under the supervision of AIF was launched in the beginning of 2013. This process is still ongoing. Furthermore, the IOR redefined the categories of customers entitled to IOR services and were published in July 2013 on IOR's website.
(Other) changes since the last evaluation	

Recommendation 10 (Record keeping)	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	FIA should put in place appropriate arrangements to monitor and ensure effective implementation of the record-keeping requirements (including adequate sample testing).
Measures taken to implement the Recommendation of the Report	By the end of 2012, the IOR concluded the preliminary review process of its customer database. Based on the findings of this first phase, an in-depth audit of customer records and remediation, including analysis of transactions, under the supervision of AIF was launched in the beginning of 2013. This process is still ongoing. Furthermore, the IOR redefined the categories of customers entitled to IOR services and were published in July 2013 on IOR's website.
Recommendation of the MONEYVAL Report	Adopt internal procedures clearly specifying the record keeping duties and responsibilities of APSA staff.
Measures taken to implement the Recommendation of the Report	According to article 38 of the new AML/CFT Act, strict and transparent record keeping requirements have been introduced for the obliged subjects. **Article 38 –** ***Requirements of registration and record-keeping*** 1. The obliged subjects shall register and keep the following documents, data and information, for a period of 10 years from the end of the relationship, from the closure of an account, from the performance, or the carrying out of an operation or transaction: a) with reference to customer due diligence: i) all the documents collected, including originals or certified copies of identity documents; ii) all data, including originals or certified copies of identification data; iii) written documents, account books and statements, with a detailed description of the movement; iv) correspondence; v) results of reviews and analyses; b) with reference to transactions, whether internal or international, in addition to the requirements of subparagraph a): i) the name, address, identification data and information of the customer, the beneficiary and the beneficial owner; ii) the nature, reason and date of the transaction; iii) the currency and amount of the transaction; iv) the number or identification code of the accounts in question; v) all documents, data and information sufficient for the reconstruction of the single transaction and, where necessary, of the collection of evidence for the purpose of investigative or judicial activities; c) with reference to suspicious activity reporting: i) certified copy of the report to the Financial Intelligence Authority; ii) all the documents, data and information connected to the report, sufficient for the analysis and understanding of the suspicious activity and, where necessary, for the collection of evidence for the purpose of investigative or judicial activities; iii) correspondence with the Financial Intelligence Authority or other competent authorities. 2. For the purposes of the fulfilment of the registration and record-keeping found in paragraph 1, the obliged subjects: a) shall register the documents, data and information mentioned in subparagraphs a), b) and c), immediately upon their acquisition or reception; b) shall adopt procedures and measures for the registration and record-keeping

	which allow for: i) the provision in a timely manner of documents, data and information required by the Financial Intelligence Authority and the competent authorities; ii) the registration and updating in an accurate manner of documents, data and information, in particular with reference to high-risk categories of customer and types of relationship, products or service, operations transactions, including high-risk channels of distribution; iii) the guarantee of the integrity, security and confidentiality of the documents, data and information.
(Other) changes since the last evaluation	
Recommendation 13 and Special Recommendation IV (Suspicious transaction reporting)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	Amend the AML/CFT Law to broaden the reporting scope beyond the strict terrorism financing to bring it in line with the standards.
Measures taken to implement the Recommendation of the Report	According to article 40 of the new AML/CFT Act, the reporting scope relating to terrorism financing has been broadened and brought in line with the standards. **Article 40 - *Suspicious activity report*** 1. The obliged subjects shall send a report to the Financial Intelligence Authority: a) when they suspect or have reasonable grounds to suspect that funds or other assets are the proceeds of criminal activities, or are linked or related to the financing of terrorism, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism; b) in the case of activities, operations or transactions which they considered particularly apt, by their nature, of having a link with money-laundering or the financing of terrorism or with terrorist acts or terrorist organizations or those who finance terrorism.
Recommendation of the MONEYVAL Report	Amend the reporting requirement to require that a report is submitted to the FIA when it is suspected or there are reasonable grounds to suspect that "funds" (rather than "transactions") are the proceeds of a criminal activity.
Measures taken to implement the Recommendation of the Report	According to the article 40 (1) (a) of the new AML/CFT Act a report has to be submitted to the AIF when the suspicion is linked or related to funds or other assets and not only transactions as in the old AML/CFT Law. **Article 40 – *Suspicious activity report*** 1. The obliged subjects shall send a report to the Financial Intelligence Authority: a) when they suspect or have reasonable grounds to suspect that funds or other assets are the proceeds of criminal activities, or are linked or related to the financing of terrorism;
Recommendation of the MONEYVAL Report	Formally broaden the reporting duty beyond suspect operations to include suspicions on funds generally.
Measures taken to implement the Recommendation of the Report	According to article 40 (1) (a) of the new AML/CFT Act a report has to be submitted to the AIF when the suspicion is linked or related to funds or other assets and not only transactions as in the old AML/CFT Law. **Article 40 – *Suspicious activity report*** 1. The obliged subjects shall send a report to the Financial Intelligence Authority: a) when they suspect or have reasonable grounds to suspect that funds or other assets are the proceeds of criminal activities, or are linked or related to the financing of terrorism;

Recommendation of the MONEYVAL Report	Remove any doubt about the reporting obligation including attempted transactions.
Measures taken to implement the Recommendation of the Report	According to article 40 (3) of the new AML/CFT Act the reporting obligation including attempted transactions has been clarified. **Article 40 – *Suspicious activity report*** [...] 3. The suspicious activities, operations or transactions including attempted operations or transactions, shall be reported irrespective of their value, or any other consideration, including, *inter alia*, considerations of a fiscal nature. [...]
Recommendation of the MONEYVAL Report	Remove any uncertainty as to the extent of the reporting obligation of the financial institutions in respect of the identification of the predicate offence.
Measures taken to implement the Recommendation of the Report	According to article 40 (1) (a) of the new AML/CFT Act, relating to the reporting obligation, clarified that the report shall be based on the suspect or reasonable grounds to suspect that funds or other assets are the proceeds of criminal activities, with no reference to a specific predicate offence. **Article 40 - *Suspicious activity report*** 1. The obliged subjects shall send a report to the Financial Intelligence Authority: a) when they suspect or have reasonable grounds to suspect that funds or other assets are the proceeds of criminal activities, or are linked or related to the financing of terrorism, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism;
Recommendation of the MONEYVAL Report	Emphasise the priority rule of the subjective assessment of the suspicious nature of the funds, where the objective indicators should only be seen as a guidance and support.
Measures taken to implement the Recommendation of the Report	Article 40 (1) (a) of the new AML/CFT Act clarified the priority of the subjective assessment of the suspicious nature of the funds. The indicators given by AIF represent elements for guidance and support to the reporting subjects. **Article 40 - *Suspicious activity report*** 1. The obliged subjects shall send a report to the Financial Intelligence Authority: a) when they suspect or have reasonable grounds to suspect that funds or other assets are the proceeds of criminal activities, or are linked or related to the financing of terrorism, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism;
(Other) changes since the last evaluation	

Special Recommendation II (Criminalise terrorist financing)	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	The terrorist acts set out in the Annex to the UN Terrorist Financing Convention should be brought into the Criminal Code.
Measures taken to implement the Recommendation of the Report	Law N. VIII, on *"Supplementary norms on criminal law matters"*, of 11 July 2013, has introduced in Vatican criminal law all the offences set forth in the Conventions referred to in the annex of the Terrorist Financing Convention. Articles 18 and 23 of Law N. VIII, which replace the previous article 138 *sexies* of the Criminal Code, define the basic terrorist offence as follows: **Article 18**

	(*Definitions*) 1. For the purposes of the criminal law: a) "*acts performed for terrorist purposes*" means those acts intended to cause death or serious bodily injury to civilians or to persons not taking active part in hostilities in cases of armed conflict, when the act, by its nature or context, is carried out with the intent to: i. intimidate a population; ii. compel the public authorities or an international organization to do or to abstain from doing any act; b) "*acts performed for subversive purposes*" means those acts intended to cause death or serious bodily injury to civilians or to persons not taking active part in the hostilities in a situation of armed conflict, when the purpose of such acts, by its nature or context, is to destabilize the fundamental political, constitutional, economic and social structure of a State or of an international organization; c) "*explosive or other lethal weapons or devices*" means: i. any weapon or explosive or incendiary device, that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage; ii. any weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or of radiation or radioactive material; d) "*military forces of a State*" means the armed forces that a State organizes, trains and equips under its internal law for the primary purpose of national defence or security as well as the persons acting in support of those armed forces who are under their formal command, control and responsibility; e) "*armed forces during an armed conflict*" means the military forces of a State and dissident armed forces or other organized armed groups that take part in an international or a non-international armed conflict which, under responsible command, exercise such control over a part of the territory as to enable them to carry out sustained and concerted military operations and to observe international humanitarian law. 2. The terrorist or subversive purposes exist even when the violent acts are directed against another State, against an international institution or organization, or when they are committed in the territory of another State. 3. The offence does not exist when the acts foreseen in this section are undertaken by armed forces during an armed conflict or by the military forces of a State in the exercise of their official duties, in accordance with international law. **Article 22** ***(Attack for terrorist or subversive purposes)*** 1. Whoever endangers the life or health of one or more persons by committing an act for terrorist or subversive purposes, is punished with at least ten years imprisonment. 2. When the conduct foreseen in paragraph 1 causes: a) the death of one or more persons, the guilty person is punished with no less than twenty-five years imprisonment. b) serious or grave injury one or more persons, the guilty person is

punished with at least fifteen years imprisonment.

Chapter VI of Law N. VIII, which replaces article 8 of the previous AML/CFT law, incorporates into Vatican law the offences set forth in the 1980 Convention on the Physical Protection of Nuclear Material and in the 1997 Convention for the Suppression of Terrorist Bombings. Chapter VI reads:

CHAPTER VI

CRIMES WITH EXPLOSIVE DEVICES OR CONCERNING NUCLEAR MATERIALS

Article 25

(*Definitions*)

1. For the purposes of the criminal law:
   a) "*place of public use*" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, for a commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar use so accessible or open to the public;
   b) "*public or government facility*" means any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of the government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization, in connection with their official duties;
   c) "*public transportation system*" means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in publicly available services for the transport of persons or cargo;
   d) "*infrastructure facility*" means any publicly or privately owned facility providing services for the benefit of the public, such as water, sewage, energy, fuel or communications.
   e) "*nuclear material*" means plutonium, except that with isotopic concentration exceeding 80 per cent in plutonium-238; uranium enriched in the isotope 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore residue; as well as any material containing one or more of aforementioned isotopes.
2. The offence does not exist when the acts foreseen in this section are undertaken by armed forces during an armed conflict or by the military forces of a State in the exercise of their official duties, in accordance with international law.

Article 26

(Acts of terrorism or subversion with explosive devices)

Unless it constitutes a more serious offence, whoever performs an act for a terrorist or subversive purpose, directed to damage public or private movable or immovable goods, using explosives or other lethal weapons or devices, is punished with two to five years imprisonment and with a fine of no less than 15,000 euro.

Article 27

(*Use of explosive devices*)

1. Whoever delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a government facility, a public transportation system or an infrastructure facility:

a) with the intent to cause death or serious bodily injury, is punished with no less than fifteen years imprisonment;

b) with the intent to cause extensive destruction of such place, facility or system, where such destruction results in or is likely to result in major economic loss, is punished with seven to twelve years imprisonment.

2. When the conduct foreseen in paragraph 1 causes:

a) the death of one or more persons, the guilty person is punished with thirty to thirty-five years imprisonment.

b) serious or grave injury to one or more persons, the guilty person is punished with no less than twenty years imprisonment.

3. If the offence is committed for terrorist or subversive purposes, the penalty set forth in paragraph 1 is increased, and the penalty set forth in paragraph 2, subparagraph b), is replaced by the penalty of thirty to thirty-five years imprisonment.

Article 28

(*Handling of nuclear materials*)

Whoever, without lawful authority, receives, possesses, uses, transfers, alters, disposes or disperses nuclear material in such a manner that it causes or is likely to cause:

a) death or serious bodily injury to any person;

b) substantial damage to property;

is punished, in the case foreseen in subparagraph a), with no less than fifteen years imprisonment, and, in the case foreseen in subparagraph b), with seven to twelve years imprisonment.

Article 29

(*Misappropriation of nuclear materials*)

1. Whoever steals, subtracts or misappropriates nuclear materials is punished with four to ten years imprisonment.

2. Whoever fraudulently obtains nuclear materials through threats, force or other forms of intimidation, is punished with five to twelve years imprisonment.

Article 30

(*Intimidation with nuclear material*)

1 Whoever threatens to use nuclear materials to cause death or serious injury to any person or substantial property damage, is punished with four to ten years imprisonment.

2. Whoever commits the offence set forth in paragraph 1 to compel someone to do or to abstain from doing any act, is punished with five to twelve years imprisonment.

3. If the offence is committed to compel a State or an international organization, the penalty is increased.

4. If the offence is committed in order to compel the State or the Holy See, it is punished in accordance with Vatican Law even if it is completed or attempted abroad.

Chapter VII of the aforementioned Law N. VIII incorporates into Vatican law the offences set forth in:

- the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft;
- the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;

- the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation;
- the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
- the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf.

Chapter VII reads:

CHAPTER VII
CRIMES AGAINST THE SAFETY OF MARITIME NAVIGATION, CIVIL AVIATION, AIRPORTS AND FIXED PLATFORMS

Article 31
(*Definitions*)

For the purposes of this article:

a) "*ship*" means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles, and any other floating craft, but excluding warships, ships owned or operated by a State when used as a naval auxiliary or for customs or police purposes, and ships that have been withdrawn from navigation or laid up;

b) "*aircraft in flight*" means any aircraft from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for the persons and property on board;

c) "*aircraft in service*" means any aircraft from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew of a specific flight until twenty-four hours after any landing; the period of service extends, in any event, for the entire period in which the aircraft is in flight, as defined in paragraph b) of this article.

d) "*fixed platform*" means an artificial island, installation or structure permanently attached to the sea-bed for the purposes of exploration or exploitation of resources or for other economic purposes.

Article 32
(*Crimes against the safety of maritime navigation and civil aviation*)

1. Whoever seizes or exercises control, by force or threat, over a ship or an aircraft in flight, is punished with seven to fourteen years imprisonment.
2. Whoever destroys a ship or an aircraft in service, is punished with at least fifteen years imprisonment.
3. Unless it constitutes a more serious offence, whoever performs one of the following acts:
   a) an act of violence against a person on board of a ship or an aircraft in flight;
   b) causes damage to a ship or to an aircraft in service, or to their cargo;
   c) places or causes to be placed on a ship or on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy or to cause damage to that ship or aircraft or to its cargo;
   d) destroys or damages maritime or aerial navigational facilities or services or interferes with their operation;
   f) communicates information he which knows to be false;

	is punished, when such an act, by its nature, endangers or is likely to endanger the safety of maritime navigation or civil aviation, with five to ten years imprisonment. 4. When the conduct foreseen in this article, either completed or attempted, causes: a) the death of one or more persons, the guilty person is punished with thirty to thirty-five years imprisonment; b) serious bodily injury to one or more persons, the penalty for bodily injury is added to the penalty set forth in this article. 5. Without prejudice to the cases of participation in the offence, whoever instigates someone to commit or threatens to commit one of the offences set forth in this article, is punished with three to six years imprisonment. 6. The offences set forth in this article are punished pursuant to Vatican law if the aircraft on board which the offence is committed lands in the territory of the State while the alleged offender is still onboard; as well as when the offence is committed on board an aircraft leased without crew to a citizen of the State, or to a person who has his domicile in the territory of the State. **Article 33** **(*Crimes against the security of airports*)** 1. Whoever, by performing an act that endangers or is likely to endanger the safety of an airport, using any sort of device, substance or weapons: a) commits, at an airport serving international civil aviation, an act of violence against a person which causes or which is likely to cause serious injury or death, is punished with five to ten years imprisonment; b) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located in the airport, or disrupts the services of the airport, is punished with four to eight years imprisonment. 2. When the conduct foreseen in this article, either completed or attempted, causes: a) the death of one or more persons, the guilty person is punished with thirty to thirty-five years imprisonment; b) serious bodily injury to one or more persons, the penalty for bodily injury is added to the penalty set forth in this article. 3. Without prejudice to the cases of participation in the offence, whoever instigates someone to commit or threatens to commit one of the offences set forth in this article, is punished with three to six years imprisonment. **Article 34** **(*Crimes against the safety of fixed platforms*)** 1. Whoever seizes or exercises control, by force or threat, over a fixed platform, is punished with six to twelve years imprisonment. 2. Whoever destroys a fixed platform, is punished with no less than twelve years imprisonment. 3. Unless it constitutes a more serious offence, whoever performs one of the following acts: a) an act of violence against a person on board a fixed platform; b) causes damage to a fixed platform; c) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed

platform or to damage it;

is punished, when such an act, by its nature, endangers or is like to endanger the safety of a fixed platform, with four to eight years imprisonment.

4. When the conduct foreseen in this article, either completed or attempted, causes:
   a) the death of one or more persons, the guilty person is punished with thirty to thirty-five years imprisonment with life imprisonment;
   b) serious bodily injury to one or more persons, the penalty for bodily injury is added to the penalty set forth in this article.
5. Without prejudice to the cases of participation in the offence, whoever instigates someone to commit or threatens to commit one of the offences set forth in this article, is punished with three to six years imprisonment.

Article 35

(*Common provisions*)

1. The instigation, the threat and the attempt of one of the offences set forth in articles 32, 33 and 34, even if committed abroad, in whole or in part, are punished pursuant to Vatican law insofar as the offence that was instigated, threatened or attempted has been committed or should have been committed in the territory of the State, as understood under article 3 of the Criminal Code, or against, or on board of an aircraft or a fixed platform of the State or of the Holy See.
2. If the offence is committed for terrorist or subversive purposes, the penalty is increased.

Article 36

(*Piracy*)

The kidnapping, depredation, and any other act of violence committed for private ends by the crew or the passengers of a private ship or aircraft and directed against another ship or aircraft or against the persons or cargo on board, is punished with ten to twenty years imprisonment.

Article 37

(*Criminal responsibility of the Captain*)

At the beginning of the text of article 30 of the Decree n. LXVII, of 15 September 1951, are added the following words: *"Unless it constitutes a more serious offence,".*

Chapter VIII of Law N. VIII has introduced in Vatican Law the offences set forth in the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents:

CHAPTER VIII

CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS

Article 38

(*Definitions*)

For the purposes of this chapter, "*internationally protected person*" means:

a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of his own State, whenever he is outside the territory of his own State, as well as members of his family who accompany him;
b) a Head of Government or a Minister for Foreign Affairs, whenever he is outside the territory of his own State, as well as members of his family who accompany him;

c) a representative or official of a State or of the Holy See as well as any other official or agent of an international organization of an intergovernmental character who, at the time when and in the place where an offence against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family living with him.

Article 39

(*Crimes*)

1. Whoever causes the death of an internationally protected person, is punished with no less than twenty-one years imprisonment.
2. Whoever causes a bodily injury to an internationally protected person, is punished with three to six years imprisonment. If the injury caused is serious, the penalty shall be of four to eight years imprisonment. If the injury is of the outmost gravity, the penalty shall be of six to twelve years imprisonment.
3. Whoever kidnaps or otherwise deprives an internationally protected person of his personal freedom, is punished with five to ten years imprisonment.
4. Unless it constitutes a more serious offence, whoever endangers the person or personal freedom of an internationally protected person through a violent act upon his official premises, private accommodation or means of transport, is punished with four to eight years imprisonment.
5. Whoever threatens to commit one of the offences set forth in this article, is punished with one to four years imprisonment.

Article 40

(*Crimes committed abroad*)

1. The offences set forth in this chapter, committed against a person who enjoys the status of internationally protected person by virtue of functions which he exercises on behalf of the State or of the Holy See, are punished pursuant to Vatican law even if committed abroad.
2. The instigation, the threat and the attempt to commit one of the offences set forth in this chapter, even if committed abroad, in whole or in part, are also punished pursuant to Vatican law insofar as the offence that was instigated, threatened or attempted has been committed or should have been committed in the territory of the State, as understood under article 3 of the Criminal Code.

Article 24 of the aforementioned law incorporates into Vatican law the offences set forth in 1979 International Convention against the Taking of Hostages:

Article 24

(*Kidnapping for terrorist or subversive purposes)*

1. Whoever performs the conduct set forth in article 146 of the Criminal Code for terrorist or subversive purposes, is punished with seven to fifteen years imprisonment and with a fine of no less than 25,000 euro.
2. To this offence apply, to the extent they are compatible, the provisions of article 146, paragraphs 4 and 5, of the Criminal Code.
3. The offence that is committed in order to coerce the State or the Holy See is punished in accordance with Vatican Law even if it is completed or attempted abroad.

Moreover, article 12 of Law N. IX, on *"Amendments to the Criminal Code"*, of 11 July 2013, has amended article 146 of the Criminal Code, on the criminalization of

kidnapping, in light of the elements of the crime required by the 1979 International Convention against the Taking of Hostages. Article 12 of Law N. IX reads:

Article 12

(*Kidnapping*)

The text of article 146 of the Criminal Code is entirely replaced by the following:

"Whoever deprives another person of his personal freedom is punished with one to five years imprisonment and with a fine up to 10,000 euro.

If the guilty person seizes or in any way detains and threatens to kill, to injure or to continue to detain another person in order to compel a third party to do or abstain from doing any act as an explicit or implicit condition for his release, is punished with four to ten years imprisonment and with a fine ranging from 5,000 to 15,000 euro.

If the offence is committed against an ancestor, a descendant or the spouse; against a public official in view to his public functions; or if, as a consequence of the fact, the victim suffers serious injury to his person, health, or goods; or if the offence is committed for profit; the penalty is of five to twelve years imprisonment and with a fine of no less than 15,000 euro.

If the offence is committed against two or more persons, the penalty is increased from one third to a half.

The punishment is reduced between a sixth and a half if the guilty person spontaneously releases the person retained, before any act of persecution, without having obtained any benefit, and without having caused him any physical injury."

It should be noted that the general provisions on participation and inchoate crimes – articles 61 to 66 of the Criminal Code – apply to all the aforementioned crimes.

In addition, articles 19, 20 and 21 of Law N. VIII, which replace articles 138 *quater* and 138 *quinquies* of the Criminal Code, criminalize the association for terrorist or subversive purposes, the assistance to members of a terrorist organization and the recruitment of terrorists:

Article 19

(Association for terrorist or subversive purposes)

1. Whoever promotes, creates, organizes, or directs a group that intends to commit acts for terrorist or subversive purposes, is punished with five to fifteen years imprisonment.
2. Whoever participates intentionally in the group, or who actively participates in its criminal activities or in other activities of the group, or who contributes to the group or to its activities in any way, directly or indirectly, even if through connected groups, in the knowledge that his participation or contribution aids the achievement of the criminal aims of the group, is punished, by the mere fact of his participation or contribution, with four to ten imprisonment.
3. The provisions of article 248, paragraphs 3, 5, 6 and 7 shall apply to the offence set forth in this article.

Article 20

(*Assistance to the members*)

1. Unless it constitutes a more serious offence or participation in the offence as an accomplice or as an accessory after-the-fact, whoever provides refuge, food, shelter, transportation or means of communication to a

person who forms part of a group referred to in article 19, is punished with three to six years imprisonment.

2. The penalty is increased if the assistance is provided for an extended period of time.

Article 21

(Recruitment and training for terrorist or subversive purposes)

1. Whoever recruits one or more persons to commit acts for terrorist or subversive purposes, or to sabotage essential public facilities or services, is punished with the penalty set forth in article 19, paragraph 1.
2. Whoever, outside the cases foreseen in article 19, trains or otherwise provides information on the preparation or use of an explosive or other lethal weapon or device, or on any other technique or method to commit acts for terrorist or subversive purposes, or to sabotage essential public facilities or services, is punished with three to ten years imprisonment. The same penalty applies to whoever receives the training.
3. If the person recruited or trained is a minor, the penalty is increased. Instead, in relation to the minor, if punishable, the penalty is reduced.

In this context, it should also be noted that Article 25 of Law N. IX, on "*Amendments to the Criminal Code*", of 11 July 2013, has introduced a new definition of criminal association. Article 25 of Law N. IX reads:

Article 25

(*Criminal association*)

The text of article 248 of the Criminal Code is entirely replaced by the following:

"When two or more persons enter into a partnership to commit several crimes or to obtain unjust benefits by taking advantage of the intimidating potential that arises from the partnership, those who promote, constitute, organize or direct the criminal group are punished, just for that fact, with three to seven years imprisonment.

Whoever participates intentionally in an organized criminal group and whoever actively participates in its criminal activities or in other activities of the group, in the knowledge that his participation contributes to the achievement of the criminal aims of the group, is punished, by the mere fact of his participation, with one to five years imprisonment.

If the organized group intends to commit several offences that are punishable, in the maximum, with a penalty of no less than four years; the penalty, in the cases foreseen in paragraph 1, is of five to ten years imprisonment, while, in the cases foreseen in paragraph 2, the penalty is of three to six years imprisonment.

Whoever organizes, directs, aids, abets, facilitates or counsels the commission of a crime involving an organized criminal group, is subject to the same penalties set forth in paragraph 2.

The partnership to commit a single crime that is punishable, in the maximum, with no less than four years, is punished, in the case the offence is not attempted, with a penalty of six months to three years imprisonment. In case the offence is attempted or completed, the penalty for the attempted or completed crimes applies, if higher.

If the group is armed, the penalty is of five to fifteen years imprisonment. A group is deemed armed if the members of the group have access to arms or explosives in order to attain the ends of the group, even if

	those arms or explosives are hidden or stored. If the group has ten or more members, the penalties are increased." Finally, the definition of the terrorist financing offence has been revised to ensure that the financing of all the aforementioned terrorist offences constitutes terrorist financing. The key provision in this context is the revised article 23, paragraph 1, letter a, of Law N. VIII, which criminalizes as "financing of terrorism" all the aforementioned conducts independently of their purpose. Article 23, paragraphs 1 and 2 of Law N. VIII read: **Article 23** ***(Financing of terrorism)*** 1. Whoever, directly or indirectly, collects, provides, deposits or holds currency, funds or other assets, however obtained, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to: a) commit one of the offences set forth in articles 19, 20, 21, 22, 24, 26, 27, 28, 29, 30, 32, 33, 34 and 39 of this law; b) commit or abet the commission of one or more acts for terrorist purposes; is punished, regardless of whether those funds or assets are used to commit or to attempt to commit those acts, with five to fifteen years imprisonment. 2. The offence exists whether the acts are directed to finance groups or whether they are directed to finance one or more natural persons.
Recommendation of the MONEYVAL Report	The Criminal Code should be amended to criminalise the financing of terrorist organisations and individual terrorists for legitimate purposes.
Measures taken to implement the Recommendation of the Report	In addition to articles 19, paragraph 2, and 20 of Law N VIII, on *"Supplementary norms on criminal law matters"*, of 11 July 2013, which criminalize the assistance to members of terrorist or subversive associations with criminal intent (*see* above), article 23, paragraph 3, of Law N. VIII, criminalizes the financing of terrorist organizations and individuals for legitimate purposes: Art. 23.3. The same penalty, reduced by a third, applies to whoever finances the subjects included in the list of those who threaten international peace and security approved to this end. The offence does not exist if the provision of funds or assets occurs in the course of an emergency humanitarian or charitable operation, and insofar as the goods provided are those strictly indispensable to fulfill of the basic needs of the beneficiaries. In order to adhere to the principle of legality, this offence is linked to the national list of terrorists, compiled in accordance with Articles 64 and 65 of Decree N. XI of the President of the Governorate of the Vatican City State, on "*Norms concerning transparency, vigilance and financial information"*, of 8 August 2013, which were confirmed in Articles 71 and 72 of Law N. XVIII of 8 October 2013 (*see* answers concerning Special Recommendation I).
Recommendation of the MONEYVAL Report	Art. 42 *bis* of the revised AML/CFT Law on administrative responsibility of legal persons being contingent on the securing of a prior conviction of a natural person should be reconsidered in the light of the examiners' concerns and practical experience of its functioning.
Measures taken to implement the Recommendation of the Report	Chapter X of Law N. VIII, on *"Supplementary norms on criminal law matters"*, of 11 July 2013, which replaces Article 43 *bis* of the revised law CXXVII, has introduced a new approach on the administrative liability of legal persons arising from crimes. Unlike the previous Article 43 *bis*, which was restricted to cases of money laundering and of financing of terrorism, the new provisions apply to all

	crimes. Thus, according to Article 46.1 of Law VIII, legal persons may be held liable for any criminal offence committed in its favour or on its behalf. Moreover, according to Article 46.5, the liability of legal persons is not contingent any more on securing the prior conviction of a natural person. Article 46 of Law N. VIII reads: **Article 46** **(*Liability of legal persons*)** 1. A legal person is liable for the offences committed in its favour or to its benefit by: a) persons holding positions representing, managing or directing the entity or one of its units having financial and functional autonomy, as well as by persons who manage or control, even *de facto*, the entity; b) by persons subject to the direction or supervision of one of the subjects referred to in subparagraph a). 2. The legal person is not liable if the subjects referred to in paragraph 1 have operated exclusively to their own benefit or in favour of a third party. 3. If the offence is committed by one of the subjects referred to in paragraph 1, subparagraph a), the legal person is not liable if it proves that: a) the directing organ adopted and implemented effectively, before the commission of the offence, structural and managerial models apt to prevent offences such as the one that has been committed; b) the responsibility of supervising the operation and implementation of the said models and of ensuring their continuous review has been delegated to an organism having autonomous powers of action and control; c) the subjects have committed the offence by evading fraudulently the said structural and managerial models; and, d) the organism referred to in subparagraph b) has not omitted or exercised insufficient supervision. 4. The confiscation of the goods of the legal person that were used or that were intended to be used to commit the offence, as well as its proceeds, profits, their value and other benefits, even of an equivalent value, is always ordered. 5. The liability of the legal persons subsists even if: a) the author of the offence is not identified or is not imputable; b) the offence becomes extinguished for a reason other than an amnesty. 6. The provisions of this chapter do not apply to public authorities. 7. In those instances where the tribunals have jurisdiction over offences committed outside the territory of the State, the legal persons having their corporate seat in the State, may also be liable for the offences committed abroad.
(Other) changes since the last evaluation	On 26 September 2012, the Holy See ratified, also in the name and on behalf of the Vatican City State, the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. As noted above (*see* answer concerning Recommendation 1), articles 1 to 4 of the aforementioned Law N. IX of 11 July 2013, amended the heads of jurisdiction of the Vatican Tribunal in light of the requirements set forth in the various counterterrorism conventions. Moreover, the *Motu Proprio* on "*the jurisdiction of Vatican City State on Criminal Matters*" extended the jurisdiction of the Vatican Tribunals to the crimes set forth in Law VIII, including the various terrorist and terrorist financing offences, when committed by the public officials of the Holy See "in the context of the exercise of their functions" even if outside Vatican territory.

2.3 Key Recommendations

Please indicate improvements which have been made in respect of the FATF key Recommendations (Recommendations 3, 4, 23, 26, 35, 36, 40; Special Recommendations I, II, III and V) and the Recommended Action Plan (Appendix 1). Please also provide information which may demonstrate effective implementation.

<table>
<tr><th colspan="2">Recommendation 3 (Confiscation and provisional measures)</th></tr>
<tr><td colspan="2">Rating: Largely compliant</td></tr>
<tr><td>Recommendation of the MONEYVAL Report</td><td>A detailed, comprehensive and modern scheme to address the range of issues described in the report should be introduced.</td></tr>
<tr><td>Measures taken to implement the Recommendation of the Report</td><td>Article 8 of Law N. IX, on “Amendments to the Criminal Code and the Code of Criminal Procedure”, of 11 July 2013, has introduced into the Code of Criminal Procedure a modern scheme regarding confiscation and provisional measures. Such scheme is based, in particular, on Article 5 of the 1988 Vienna Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances and on Article 12 of the 2000 Palermo Convention against Transnational Organized Crime.
It should be noted that the provisions on confiscation and freezing are intentionally broad, so as to encompass the widest range of material, immaterial, movable and immovable goods. In this context, the concept of “goods” utilized in Article 36 of the Criminal Code, as amended by Article 8 of Law N. IX, should be read in light of Article 810 of the Civil Code in force in the Vatican City State, which defines “goods” as “the things that may be the object of rights”. Furthermore, article 36, paragraph 5, of Code of Criminal Procedure, as amended by article 8 of Law N. IX, foresees in particular the confiscation of the goods owned, possessed or administered, directly or indirectly, by criminal associations, even if the origin of those goods is unknown, while paragraph 7 allows the confiscation of goods or assets of an equivalent value.
Article 8 of Law N. IX reads:
Article 8
(Confiscation and freezing)
The text of article 36 of the Criminal Code is entirely replaced by the following:
“In case of a guilty verdict, the judge orders the confiscation of the goods used to or intended to commit the offence, as well as its proceeds, profits, their value and other benefits that arise from their use.
The confiscation of the goods whose manufacture, use, transport, possession or sale constitutes an offence is always mandatory, even in absence of a guilty verdict.
If the goods mentioned in paragraph 1 belong to a bona fides third party, their confiscation shall not be ordered.
Regarding the goods referred to in paragraph 2, their confiscation shall not be ordered if they belong to a bona fides third party and if their manufacture, use, transport, possession or sale may be approved through an administrative authorization.
The goods owned, possessed or administered, directly or indirectly, by criminal associations, beyond those goods referred to in paragraph 1, are always confiscated, without prejudice to the bona fides rights of third</td></tr>
</table>

parties.

The preceding provisions apply to the goods that result from the transformation, conversion or intermingling of the goods subject to confiscation, as well as to the profits and other benefits that arise from their use.

Whenever it is not possible to confiscate the goods referred to in preceding paragraphs, the judge orders the confiscation of currency, goods or assets of an equivalent value among those owned or possessed, directly or indirectly, exclusively or jointly with others, by the convict, without prejudice to the bona fide rights of third parties.

The judge adopts precautionary measures, including the seizure of the money, goods or assets likely to be confiscated, to prevent their sale, transfer or disposition, as well as other measures that permit identifying, tracing, and freezing the money, goods or assets likely to be confiscated, without prejudice to the bona fide rights of third parties.

"freezing" means:

a) regarding goods, the prohibition to move, transfer, convert, dispose, use, manage, or access those goods so as to modify their volume, amount, location, ownership, possession, nature, destiny, as well as of any other change that would allow their use, including the management of an investment portfolio;

b) regarding other assets, the prohibition to move, transfer, convert, use or manage those assets, including their sale, attachment to or constitution of any other rights or warranties over them in order to obtain goods or services.

Unless otherwise provided by the law, the confiscated goods are acquired by the Patrimony of the Holy See."

In addition, Article 639 of the Code of Criminal Procedure, amended by as Article 41 of Law N. IX, of 11 July 2013, provides for the confiscation and seizure of goods pursuant to a request of mutual legal assistance. This provision is based on Article 5 of the 1988 Vienna Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances and on Article 13 of the 2000 Palermo Convention against Transnational Organized Crime.

Since Article 639, paragraph 1, of the Criminal Procedure Code explicitly refers to the goods subject to confiscation pursuant to Article 36 of the Criminal Code, as amended by Article 8 of Law N. IX, all the goods that may be subject of seizure and confiscation in a domestic procedure may be subject of seizure and confiscation as a result of a mutual legal assistance request. Consequently, even the confiscation of goods of an equivalent value, as foreseen in article 36, paragraph 7, of the Criminal Code, may be ordered in the context of mutual legal assistance. Article 41 of Law N. IX reads:

Article 41

(*Confiscation and seizure*)

The text of article 639 of the Code of Criminal Procedure is entirely replaced by the following:

"A mutual legal assistance request may also be directed at:

a) the confiscation or execution of a confiscation order regarding goods referred to in article 36 of the Criminal Code;

b) identifying or seizing goods referred to in article 36 of the Criminal Code with the view to their eventual confiscation;

	c) executing an order for the exhibition or seizure of bank, financial, or commercial records. In addition to the information required by article 8, the requests for mutual legal assistance referred to in paragraph 1 shall also: a) describe the goods to be confiscated and expose the facts relied upon by the requesting State such as to enable the requesting State to dictate a confiscation order under the law; b) in the case of a request for the execution of a confiscation order, transmit an authentic copy of the order, as well as expose the facts and provide the information required for its execution; c) in the case of a request made for the purposes referred to in paragraph 1, subparagraph b), expose the facts and motives relied upon in the request and provide a detailed description of the requested actions. Where appropriate, the tribunal orders those measures, including precautionary measures, that are necessary for the execution of the request. The goods confiscated pursuant to this article are acquired by the Patrimony of the Holy See. However, upon request from the requesting State, the tribunal may order the restitution of the confiscated goods, in whole or in part, with the view to compensate the victims of the offence or to restitute those goods to their legitimate owners." Finally, article 46, paragraph 4, of Law N. VIII, on *"Supplementary norms on criminal law matters"*, of 11 July 2013, on the liability of legal persons arising from crimes, foresees the mandatory confiscation of "the goods of the legal person that were used or that were intended to be used to commit the offence, as well as its proceeds, profits, their value and other benefits, even of an equivalent value".
Recommendation of the MONEYVAL Report	The Code of Criminal Procedure should be amended quickly to clarify the authority to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation.
Measures taken to implement the Recommendation of the Report	Article 9 of Law N. IX, on *"Amendments to the Criminal Code and the Code of Criminal Procedure"*, of 11 July 2013, empowers judicial authorities to void any deeds or contracts concerning confiscated goods when the parties involved knew or should have known that those actions could prejudice the authorities' ability to recover property subject to confiscation. The relevant provision reads: ***Article 9*** ***(Protection of bona fides third parties)*** In Book I of the Criminal Code, "On penalties," Chapter II, "On penalties in general," after article 36, the following article 36 bis is added: "When ordering the confiscation of goods, the judge declares void any deed or contract concerning the confiscated goods when it emerges that the third party knew or should have known that the goods object of the said deed or contract fall within the scope of paragraphs 1, 2, 5 and 6 of article 36. The action for annulment is brought forth by the Promoter of Justice, and trial is governed by the rules applicable to civil actions in criminal proceedings. Bona fides third parties entitled to the restitution of seized goods or of goods subject to other precautionary measures, may intervene in the proceedings and request their restitution.

	Bona fides third parties entitled to the restitution of confiscated goods may bring forward civil proceedings to secure their rights as well as the ensuing restitution of those goods or, if restitution is not possible, compensation for any damages."
(Other) changes since the last evaluation	Articles 32 and 36 of Law IX, on *"Amendments to the Criminal Code and the Code of Criminal Procedure"*, of 11 July 2013, clarify the powers of the police to seize goods intended to be used to commit the offence as well as those goods which are the product of the crime and those which might be useful to ascertain the truth. Articles 32 and 36 of Law IX read: **Article 32** ***(Seizure by the judicial police)*** The text of article 166, paragraph 1, of the Code of Criminal Procedure is replaced by the following: "The officials of the judicial police shall seize the goods used to or intended to be used to commit the offence, those which are the product of the crime, their profit or value as well as all those which could be useful to ascertain the truth." **Article 36** **(*Seized goods*)** The text of article 612, paragraph 1, of the Code of Criminal Procedure is replaced by the following: "The goods referred to in article 166 remain seized as long as it is required by the process; at the end of the proceedings, if those goods are not subject to confiscation, they are returned to whomever is entitled."

Recommendation 4 (Secrecy laws consistent with the Recommendations)	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	Introduce an express exemption from the obligation to observe financial secrecy with respect to the exchange of information with foreign financial institutions where this is required to implement FATF Recommendations
Measures taken to implement the Recommendation of the Report	Article 6 (d) of the new AML/CFT introduced an express exemption from the obligation to observe financial secrecy with respect to the exchange of information with foreign financial institutions. **Article 6 – *Official secret and financial secrecy*** Official secret and financial secrecy neither inhibit or limit: […] d) The exchange of information between obliged subjects, also at the international level.
Recommendation of the MONEYVAL Report	Clarify FIA's powers to request information as recommended under R. 26 and R. 29 to ensure that obliged subjects cannot refuse to comply with a request for information based on the financial secrecy obligation
Measures taken to implement the Recommendation of the Report	Article 6 (b) of the new AML/CFT clarifies AIF's general powers to request information, including under Recommendations 26 and 29, also ensuring, in light of article 47, that obliged subjects cannot refuse to comply with a request for information based on the financial secrecy obligation.
Recommendation of the MONEYVAL Report	Clarify FIA's power to exchange information with foreign supervisory authorities to make sure that official secrecy cannot inhibit such information exchange
Measures taken to implement the Recommendation of	According to articles 69 and 70 of the new AML/CFT Act AIF's power to exchange with foreign supervisor authorities has been clarified in particular that official secrecy cannot inhibit nor limit such exchange.

the Report	**Article 69 –** ***Cooperation and exchange of information at the domestic and international levels*** 1. The Financial Intelligence Authority, with a view to carrying out adequately its functions of supervision and regulation and financial intelligence: a) cooperates with and exchanges information with other authorities of the Holy See and of the State, which shall give to the Financial Intelligence Authority relevant documents, data and information; b) cooperates with and exchanges information with the equivalent authorities in other States, under the condition of reciprocity and on the basis of memoranda of understanding. The Secretariat of State shall be informed of the stipulation of such memoranda. **Article 70 –** ***Secrecy and exchange of information*** 1. Official secret and secrecy in financial matters do not inhibit or limit the activities mentioned in the article 69. 2. The preceding provisions shall be applied without prejudice to the norms in force relating Pontifical Secret and Secret of State.
Recommendation of the MONEYVAL Report	Consider adding the Judicial Authority to the list of all competent authorities in Chapter I *bis* of the revised AML/CFT Law in order to eradicate any potential doubts
Measures taken to implement the Recommendation of the Report	Adding the Judicial Authority to the list of competent authorities has been considered. Since it is expressly mentioned in article 3 of the Motu Proprio of Pope Francis of 8 August 2013, there is no need to introduce it in the AML/CFT Act.
(Other) changes since the last evaluation	
Recommendation 23 (Regulation, supervision and monitoring)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	The definition of supervision and inspection should be changed so that it is made clear what the powers, given to the AML supervisor, encompass in practice.
Measures taken to implement the Recommendation of the Report	The new AML/CFT Act clarifies the supervisory power of AIF, in particular it introduces AIF as competent supervisor and regulator for both AML/CFT and prudential matters. See Title II (Chapter VII) and Title III.
Recommendation of the MONEYVAL Report	Clarify in law or regulation the exact meaning of "operational" as opposed to "full" independence of the FIA as supervisor.
Measures taken to implement the Recommendation of the Report	The term "operational" has been removed by the new AML/CFT Act. "Full" autonomy and independence of AIF is ensured by article 2 (2) of its Statute. **Article 2 –** ***Functions*****.** [...] § 2. The Financial Intelligence Authority, in accordance with the international law and principles relating to the fight against money laundering and financing of terrorism, carries out the functions, duties and activities mentioned in the preceding paragraph [Vatican laws] as well as in this Statute, in full autonomy and independence.
Recommendation of the MONEYVAL Report	Introduce specific measures to involve the supervisor in the process of licensing and approving of senior staff at financial institutions.
Measures taken to implement the Recommendation of	With the new AML/CFT Act an authorization procedure has been introduced. Any entity carrying out professionally a financial activity shall be authorized by AIF.

the Report	**Article 54 – *Authorisation*** 1. The Financial Intelligence Authority authorises the carrying out professionally of a financial activity. 2. The Financial Intelligence Authority establishes, by regulation, the criteria and the procedures for authorisation, including suspension and withdrawal. 3. The present article and future regulations of the Financial Intelligence Authority relating to the authorisation to carry out professionally a financial activity shall respect the contents of the norms in force in the Holy See and in the State relating to the creation and dissolution of organs and entities.
Recommendation of the MONEYVAL Report	Directors and senior management of IOR and APSA should be specifically evaluated and 'licensed' on the basis of "fit and proper" criteria including those relating to expertise and integrity.
Measures taken to implement the Recommendation of the Report	In light of the new AML/CFT Act, any member of the management and/or organs of control and of the senior management shall be evaluated by AIF regarding their "fit and proper" criteria, including expertise and integrity. **Article 61 - *Expertise and integrity requirements*** 1. The Financial Intelligence Authority establishes, by means of a regulation, the expertise and integrity requirements of management members, of the organs of control and of the senior management, or of those who hold or shall hold similar offices within the subject carrying out professionally a financial activity, and shall examine potential conflicts of interest. 2. Expertise and integrity requirements include, inter alia, the evaluation of the following elements: a) adequate expertise and integrity with regard to the activity in question; b) the absence of criminal conviction or serious administrative sanctions which would make a person unfit. 3. In carrying out professional activity of a financial nature, the subjects found in the present title shall: a) behave diligently, correctly, and transparently, in the interest of the customer and for the integrity and stability of markets; b) acquire the necessary information from customers and work in ways to ensure that they are always adequately informed.
Recommendation of the MONEYVAL Report	Give the FIA the power to assess 'fit and properness' on an ongoing basis.
Measures taken to implement the Recommendation of the Report	According to article 61 (1) of the new AML/CFT Act, AIF has the power to assess "fit and properness" on a ongoing basis.
Recommendation of the MONEYVAL Report	The FIA (or another body) should take up its supervisory role on AML issues immediately, plan for (a schedule of) inspections, set up a standard manual and work procedure and provide for feedback proactively.
Measures taken to implement the Recommendation of the Report	AIF is currently preparing a schedule of inspections and setting up an inspection manual including relevant work procedure.
Recommendation of the MONEYVAL Report	The FIA should start a supervisory inspection with IOR as soon as possible.
Measures taken to implement the Recommendation of	In the course of the current year AIF has carried out two *ad hoc* inspections.

the Report	
Recommendation of the MONEYVAL Report	Annual statistics on on-site inspections by the supervisor or sanctions applied should be published. Reinstate the requirement to draw up such statistics in the law.
Measures taken to implement the Recommendation of the Report	The new AML/CFT Act established the duty of AIF to publish an annual report, including relevant statistics also in its capacity of supervisor and regulator. See articles 46 (g) and 65 (k). **Article 46 – *Supervision and regulation for the prevention and countering of money laundering and financing of terrorism*** The Financial Intelligence Authority is the central authority for supervision and regulation for the prevention and countering of money laundering and financing of terrorism, and to this end: [...] g) [it] publishes an annual report containing data, information and statistics of a non-reserved nature on the activity carried out in the exercise of its institutional functions. **Article 65 – *Prudential supervision and regulation*** The Financial Intelligence Authority is the central authority for prudential supervision and regulation, and to this end: [...] k) [it] publishes an annual report containing data, information and statistics of a non-reserved nature on the activity carried out in the exercise of its functions.
Recommendation of the MONEYVAL Report	IOR should subscribe to the Basel Core Principles for Banking Supervision.
Measures taken to implement the Recommendation of the Report	Title III (articles 52-66) of the new AML/CFT Act introduces the prudential supervision and regulation of the entities carrying out professionally a financial activity, establishing AIF as prudential supervisor and regulator. The IOR falls under the scope of application of Title III on prudential supervision. In particular, according to article 59 of the new AML/CFT Act, AIF shall establish, by regulation, the capital and liquidity requirements of the entities carrying out professionally a financial activity. **Article 56 – *Capital and liquidity requirements*** The Financial Intelligence Authority establishes, by means of a regulation, the capital and liquidity requirements, in a manner coherent with the risks assumed and presented by the subjects who carry out professional activity of a financial nature, within the economic and financial framework and the macroeconomic conditions in which they operate.
Recommendation of the MONEYVAL Report	IOR should be supervised by a prudential supervisor in the near future.
Measures taken to implement the Recommendation of the Report	Title III (articles 52-66) of the new AML/CFT Act introduces the prudential supervision and regulation of the entities carrying out professionally a financial activity, establishing AIF as prudential supervisor and regulator. The IOR falls the scope of application of Title III on prudential supervision.
Recommendation of the MONEYVAL Report	Clearly separate the task of supervision from the FIA as FIU and combine this with adequate prudential supervision, including: (v) licensing and structure; (vi) risk management processes to identify, measure, monitor and control material risks; (vii) ongoing supervision; and (viii) global consolidated supervision when required by the Core Principles.
Measures taken to implement the	The new AML/CFT Act clarifies the separation of the institutional functions of AIF as supervisor and regulator and as financial intelligence, and according to article 8

Recommendation of the Report	(4) AIF shall adopt internal procedures and measures to ensure the separation of its institutional functions. Moreover, in the new AML/CFT Act, the institutional functions of AIF are subject to separate sections, that is Title II (Chapter VII) on AML/CFT Supervision and regulation, Title II (Chapter VIII) on financial intelligence and Title III on prudential supervision and regulation.
(Other) changes since the last evaluation	

Recommendation 26 (The FIU)	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	Expressly extend the power of enquiry of the FIA to the information held by all entities subjected to the reporting duty.
Measures taken to implement the Recommendation of the Report	Article 50 (b) of the new AML/CFT Act clarifies the AIF's power to have access to all relevant information held by all reporting subjects. **Article 50 – *Access to information*** The Financial Intelligence Authority: […] b) has access, on a timely basis, to other relevant information held by all reporting subjects;
Recommendation of the MONEYVAL Report	Clarify to what additional sources the FIA has access and to include explicitly the foundations located in and/or dependent from the HS.
Measures taken to implement the Recommendation of the Report	Article 50 (c) of the new AML/CFT Act clarified the AIF's power to have access to all relevant financial and administrative information held by the legal persons located and registered in the VCS. **Article 50 – *Access to information*** The Financial Intelligence Authority: […] c) has access to information of a financial and administrative nature held by the reporting subjects and by legal persons registered in the registers held by the State;
Recommendation of the MONEYVAL Report	Specify the instances triggering the authority and intervention of the FIA, beside the receipt of SARs.
Measures taken to implement the Recommendation of the Report	AIF is the competent Authority to fight ML and FT within the HS/VCS, and is acting actively within its legal framework to combat any misuse linked to financial activities. In particular, according to article 48 of the new AML/CFT Act, AIF is the central authority for the receipt, analysis and dissemination of the suspicious activity reports. At the same time, AIF can exercise its power and intervene also without the precondition of the filing of an SAR, e.g., according to article 69 of the new AML/CFT Act, within the framework of the cooperation and exchange of information at the domestic and/or international levels. In practice, AIF can also exercise its power and intervene spontaneously.
Recommendation of the MONEYVAL Report	Reinforce the autonomy of the FIA by restoring its decision power to conclude mutual co-operation agreements with its counterparts.
Measures taken to implement the Recommendation of the Report	With Law n. CLXXXV of December 14, 2012, the requirement of the prior *nihil obstat* (that is, prior consent) of the Secretariat of State for the signature of MoU with foreign counterparts has been removed. Article 69 (b) of the new AML/CFT Act confirmed the autonomy of AIF to negotiate and stipulate MoU with foreign

	counterparts, also specifying that this capacity of AIF relates to its functions of supervision and regulation and financial intelligence. **Article 69 – *Cooperation and exchange of information at the domestic and international levels*** The Financial Intelligence Authority, with a view to carrying out adequately its functions of supervision and regulation and financial intelligence: [...] b) [it] cooperates with and exchanges information with the equivalent authorities in other States, under the condition of reciprocity and on the basis of agreement protocols. The Secretariat of State shall be informed of the stipulation of such protocols.
Recommendation of the MONEYVAL Report	As an effectiveness consideration, strengthen the freezing capacity of the FIA to include accounts and revisit the obligation of immediate handover to the Promoter of Justice.
Measures taken to implement the Recommendation of the Report	Article 48 (k) establishes the AIF's power to freeze accounts, funds or other assets, for up to 5 working days, as a preventive measure in case of suspicion of ML/FT. Moreover, article 48 (d) (e) clarifies that AIF has the duty to disseminate to the Promoter of Justice after the analysis of the suspicious activity report at both operational and strategic levels, and in case of suspicion or reasonable ground to suspect ML or FT. **Article 48 – *Receipt, analysis and dissemination of suspicious activity reports*** The Financial Intelligence Authority: [...] d) carries out the analysis of the suspicious activity reports, documents, data and information received: i) at the operational level: using the documents, data and information available and obtainable in order to identify specific objectives, to follow the course of operations and transactions, to establish links between the above-mentioned objectives and the eventual evidence of crimes; ii) at the strategic level: using the documents, data and information available and obtainable; e) disseminates reports, documents, data and information to the Promoter of Justice if there is a reasonable motive to suspect an activity of money-laundering for the financing of terrorism, adopting adequate measures to guarantee the integrity, security and confidentiality of the transmission; [...] k) freezes accounts, funds or other assets, for up to 5 working days in case of suspicion of money-laundering or the financing of terrorism, if this does not obstruct investigative or judicial activity;
(Other) changes since the last evaluation	

Recommendation 36 (Mutual legal assistance)	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	Consideration should be given to enacting modern and detailed legislative provisions covering tracing, freezing and seizure and confiscation of the proceeds of money laundering, predicate offences, and terrorist finances or related instrumentalities.
Measures taken to implement the Recommendation of the Report	As noted above (*see* answers concerning Recommendation 3), Law N. IX, on *"Amendments to the Criminal Code and the Code of Criminal Procedure"*, of 11 July 2013, has introduced in Vatican Law a modern scheme regarding confiscation

	and provisional measures. In particular, Article 8 of the aforementioned law has introduced into the Code of Criminal Procedure detailed provisions on the freezing, seizure and confiscation of the proceeds of crimes, including money laundering and the financing of terrorism. Moreover, Article 41 of the same law establishes the conditions for freezing, seizure and confiscation in the context of mutual legal assistance.
Recommendation of the MONEYVAL Report	Develop a procedure to cover 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.
Measures taken to implement the Recommendation of the Report	With a view to addressing those situations in which several jurisdictions may prosecute the same offender for the same facts, Article 5 of Law N. IX, *on "Amendments to the Criminal Code and the Code of Criminal Procedure"*, of 11 July 2013, amended Article 8 of the Criminal Code so as to require an explicit request from the Secretariat of State to proceed for the same facts against a foreign national if that case has already been tried in a foreign jurisdiction. **Article 5** **(*Concurrent jurisdiction*)** The text of article 8 of the Criminal Code is entirely replaced by the following: "In the cases foreseen in the preceding articles, when the citizen or the foreign national has been judged abroad, the prosecution for the same facts shall not proceed except upon request of the Secretariat of State. When the foreign trial is renewed in the State, the penalty served abroad shall be taken into account, considering its nature and applying, where necessary, the provisions of article 40." In addition, paragraph 5 of the *Motu Proprio* on "The Jurisdiction of the Vatican City State in criminal matters", of 11 July 2013, establishes that: 5. When the same facts are prosecuted in another State, the provisions in force in the Vatican City State on concurrent jurisdiction shall apply.
(Other) changes since the last evaluation	Law N. IX, on *"Amendments to the Criminal Code and the Code of Criminal Procedure"*, of 11 July 2013, has updated the norms of the Code of Criminal Procedure on mutual legal assistance in light of the provisions of the 1988 Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and of the 2000 Palermo Convention against Transnational Organized Crime. In continuity with the previous practice, article 635 of the Code of Criminal Procedure, as amended by Article 37 of the Law N. IX, gives immediate effect to the provisions on mutual legal assistance, extradition and rogatories set forth in ratified international conventions. Consequently, the new provisions on mutual legal cooperation are subsidiary to the international norms. Article 37 of Law N. IX reads as follows: **Article 37** **(*Judicial cooperation*)** The text of article 635 of the Code of Criminal Procedure is entirely replaced by the following: "In matters related to rogatory letters, extradition, the legal effect of foreign convictions and other relations with foreign authorities concerning the administration of criminal justice; ratified International Conventions, international customs and the laws are to be observed. In their defect, the following provisions apply."

	Article 636 of the Code of Criminal Procedure, as amended by Article 38 of the Law N. IX, ensures that mutual legal assistance may be provided for the widest range of purposes, including the voluntary transfer of detained persons, in line with Article 18, paragraphs 3, 10, 11, 12, and 29 of the 2000 Palermo Convention against Transnational Organized Crime. Article 38 of Law N. IX reads as follows: **Article 38** **(*Mutual legal assistance*)** The text of article 636 of the Code of Criminal Procedure is entirely replaced by the following: "The widest possible measure of legal assistance in matters relating to judicial investigations and proceedings is provided to the requesting State, within the limits and conditions set forth by the law. Mutual legal assistance may be afforded for the following purposes: a) taking evidence or statements from persons; b) effecting service of judicial documents; c) executing searches, seizures, and freezes; d) examining objects and sites; e) providing information, evidentiary items and expert evaluations; f) providing originals or certified copies or extracts of relevant documents and records, including public, bank, financial, corporate or business records; g) identifying or tracing proceeds of crime, property, instrumentalities or other goods, for confiscation or for evidentiary purposes; h) facilitating the voluntary appearance of persons in the requesting State; i) any other type of assistance foreseen by the law. Within the limits set forth by the laws, the competent authorities of the State may, without a prior request, transmit information relating to criminal matters to a competent authority of a foreign State, through diplomatic channels, whenever they believe that such information could assist the authorities in undertaking or successfully concluding inquiries and criminal proceedings or could provide the basis for a request for mutual legal assistance being formulated by the foreign State. Copies of government records, documents or information that are available to the general public under law, shall provide to the requesting State. Whenever the request concerns government records, documents or information are not available to the general public; complete or partial copies or summaries may be provided in a discretionary matter to the requesting State, within the limits set forth by the law and subject to such conditions as deemed appropriate. When a foreign State requests the presence of a person who is detained or who is serving a sentence in the territory of the State, for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to acts foreseen as offences by the Vatican law, the person may be transferred if: a) the person freely gives his informed consent; b) the competent authorities of both States agree, subject to such conditions as they may deem appropriate.

For the purposes of the preceding paragraph:

a) the foreign State to which the person is transferred shall keep the person transferred in custody, unless otherwise requested or authorized by the State;

b) the foreign State to which the person is transferred shall return the person to the custody of the State Party without delay, as agreed;

c) the foreign Party shall not require the State to initiate extradition proceedings for the return of the person;

d) the person transferred is entitled to receive credit for time spent in the custody of the foreign State to be taken into account towards the service of his sentence.

Mutual legal assistance may be provided subject to the condition that the requesting State undertakes not to transmit or to use that information or evidence for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the competent authority of the State, unless such a disclosure was intended to exonerate an accused person."

Article 637 of the Code of Criminal Procedure, as amended by Article 39 of the Law N. IX, sets forth the requirements and the procedure applicable to mutual legal assistance requests, in line with Article 18, paragraph 15, of the 2000 Palermo Convention against Transnational Organized Crime. In continuity with previous practice, the revised provisions require that assistance requests both from and to the Vatican tribunal be communicated through diplomatic channels. Article 39 of Law N. IX reads as follows:

Article 39

(*Form and execution of the request*)

The text of article 637 of the Code of Criminal Procedure is entirely replaced by the following:

"Requests for mutual legal assistance shall be communicated in writing to the Secretariat of State or through it through diplomatic channels, under conditions that allow to establish their authenticity.

Requests for mutual legal assistance shall contain:

a) the identity of the authority making the request;

b) the subject matter and nature of the investigation, prosecution or judicial proceedings to which the request relates as well as the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;

c) a brief summary of the relevant facts, except for requests whose purpose is the service of judicial documents;

d) a description of the kind of assistance sought as well as details of any particular procedure that the requesting State wishes to be followed;

e) where possible, the identity, location and nationality of any persons concerned;

f) the purpose for which the evidence, information or action is sought.

Requests are ordinarily put forward by the Promoter of Justice and executed by the Tribunal upon request by the Secretariat of State.

When it appears necessary for the execution, or when it may facilitate such execution, additional information may be sought from the requesting

State."

Article 638 of the Code of Criminal Procedure, as amended by Article 40 of the Law N. IX, introduces into the legal system the grounds for refusing or deferring a request of mutual legal assistance permitted by article 18, paragraphs 9, 20 and 25 of the 2000 Palermo Convention against Transnational Organized Crime, and article 7, paragraphs 15 and 17, of the Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. As foreseen in the abovementioned conventions, these grounds for refusal are optional, not mandatory. Consequently, even in the absence of dual criminality, cooperation may be provided in the interest of justice, if so determined by the tribunals, as foreseen in article 18, paragraph 9, of the Palermo Convention.

Furthermore, it should be underlined that in the Vatican legal system financial secrecy is not one of the grounds for refusing cooperation. Paragraph 3 of amended article 638 is intended only to incorporate explicitly into the legal system the prohibition contained in Article 18, paragraph 8, of the 2000 Palermo Convention against Transnational Organized Crime and in Article 12, paragraph 2, of the 1999 International Convention for the Suppression of the Financing of Terrorism – both ratified by the Holy See – so as to remove any further doubts on this matter. Article 40 of Law N. IX reads as follows:

Article 40

(*Refusal and deferral*)

The text of article 638 of the Code of Criminal Procedure is entirely replaced by the following:

"Mutual legal assistance may be refused if:

a) the request is not made in conformity with the provisions of article 637;
b) it is deemed that execution of the request is likely to prejudice the sovereignty, security, public order or other essential interests of the State or of the Holy See;
c) the relevant facts underling the proceedings in the requesting State are not foreseen as an offence under Vatican law;
d) if the execution of the request is likely to impair ongoing investigations or criminal proceedings in the State.

The refusal to provide mutual legal assistance shall be motivated.

Where expressly provided for by the ratified international conventions, banking secrecy may not be relied upon to reject a request for mutual legal assistance.

Mutual legal assistance may be deferred whenever granting it would hinder an ongoing investigation, prosecution or judicial proceedings."

Article 639 of the Code of Criminal Procedure, as amended by Article 41 of Law N. IX, governs confiscation and seizure of in the context of mutual legal assistance requests in line with Article 13 of the 2000 Palermo Convention against Transnational Organized Crime. As noted above (*see* answers concerning Recommendation 3) all the goods that may be subject of seizure and confiscation in a domestic procedure may be subject of seizure and confiscation as a result of a mutual legal assistance request. Article 41 of Law N. IX reads as follows:

Article 41

(*Confiscation and seizure*)

The text of article 639 of the Code of Criminal Procedure is entirely

replaced by the following:

"A mutual legal assistance request may also be directed at:

a) the confiscation or execution of a confiscation order regarding goods referred to in article 36 of the Criminal Code;
b) identifying or seizing goods referred to in article 36 of the Criminal Code with the view to their eventual confiscation;
c) executing an order for the exhibition or seizure of bank, financial, or commercial records.

In addition to the information required by article 637, the requests for mutual legal assistance referred to in paragraph 1 shall also:

a) describe the goods to be confiscated and expose the facts relied upon by the requesting State such as to enable the requesting State to dictate a confiscation order under the law;
b) in the case of a request for the execution of a confiscation order, transmit an authentic copy of the order, as well as expose the facts and provide the information required for its execution;
c) in the case of a request made for the purposes referred to in paragraph 1, subparagraph b), expose the facts and motives relied upon in the request and provide a detailed description of the requested actions.

Where appropriate, the tribunal orders those measures, including precautionary measures, that are necessary for the execution of the request.

The goods confiscated pursuant to this article are acquired by the Patrimony of the Holy See. However, upon request from the requesting State, the tribunal may order the restitution of the confiscated goods, in whole or in part, with the view to compensate the victims of the offence or to return those goods to their legitimate owners."

Article 639 *bis* of the Code of Criminal Procedure, introduced by Article 41 of Law N. IX, establishes that the costs of execution fall ordinarily on the requested State.

Article 42

(*Costs of execution*)

The following article 639 *bis* is added to Book IV, "On the execution and special proceedings"; Chapter V, "On the judicial relations between the Italian authorities and the foreign authorities"; Section II, "On rogatories", of the Code of Criminal Procedure:

"The ordinary costs of executing a request of mutual legal assistance shall be borne by the State, unless otherwise agreed with the requesting State. If expenses of a substantial or extraordinary nature are required to fulfil the request, the request shall be executed in agreement with *the requesting State."*

Articles 643 and 644 *bis* of the Code of Criminal Procedure, as amended by Article 42 and 43 of Law N. IX, govern the temporary detention of a suspect upon a request for extradition, in line with Article 16, paragraph 9, of the 2000 Palermo Convention against Transnational Organized Crime. Articles 43 and 44 of Law N. IX read as follows:

Article 43

(Temporary detention)

The text of article 643 of the Code of Criminal Procedure is entirely replaced by the following:

"In order to ensure the presence in the territory of the State for the

duration of the proceedings of a person who is alleged to have committed an offence abroad, an arrest warrant may be issued within the limits and conditions set forth by the law.

Upon a request or an offer of extradition, a foreigner may be taken temporarily into custody with the view to ensure his presence in the relevant proceedings, pursuant to article 9, paragraph 4, of the Criminal Code.

Where required by the ratified international conventions, the imposition of the measures foreseen in this article is notified, without delay to:

a) the State that has requested the extradition;
b) the State in whose territory the offence has been committed;
c) the State or international organization that has been the target of the offence;
d) the State of nationality of the natural or legal person that has been the victim of the offence or, if he is a stateless person, the State where he permanently resides;
e) the state of nationality of the alleged offender or, if he is a stateless person, the State where he permanently resides;
f) any other interested States."

Article 44

(*Rights of the foreigner and of the stateless person*)

The following article 644 *bis* is added to Book IV, "On the execution and special proceedings"; Chapter V, "On the judicial relations between the Italian authorities and the foreign authorities"; Section III, "On extradition", of the Code of Criminal Procedure:

"The foreigner or stateless person in custody pursuant to a precautionary measure pursuant to article 643 is entitled to:

a) communicate without delay with the nearest appropriate representative of the State of his nationality, or of the State which is otherwise entitled to communicate with him, or, if he is a stateless person, of the State in whose territory he permanently resides;
b) be visited by a representative of that State;
c) be informed of the rights set forth in subparagraph a) and b)."

Finally, new article 650 *bis* of the Code of Criminal Procedure, introduced by article 45 of Law N. IX, sets forth a guarantee for the protection of the extradited person:

Article 45

(*Limits to the extradition*)

The following article 650 *bis* is added to Book IV, "On the execution and special proceedings"; Chapter V, "On the judicial relations between the Italian authorities and the foreign authorities"; Section III, "On extradition", of the Code of Criminal Procedure:

"The extradited person shall not be subject to any restriction to his personal freedom in execution of a sentence or of a precautionary measure, nor shall be subjected to any other measure involving deprivation of his freedom, for acts committed prior to his surrender other than for those for which the extradition was granted unless: the foreign State expressly consents to it; the person does not leave the territory of the State within forty-five days after his final release, been able to do so; or he has voluntarily returned to the State after having left it."

Recommendation 40 (Other forms of co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	The FIA should quickly conclude MOUs with at least FIUs from those countries with which it will most likely need to exchange information.
Measures taken to implement the Recommendation of the Report	AIF has so far stipulated MoUs with the competent authorities of relevant countries, namely: Belgium, Spain, Slovenia, Netherlands, United States of America and Italy. Moreover, negotiations are currently under way with a view to signing an MoU with more than 15 competent authorities of relevant countries. Finally, AIF entered into the Egmont Group in July 2013.
Recommendation of the MONEYVAL Report	The law should be amended to specifically allow for the exchange of supervisory information.
Measures taken to implement the Recommendation of the Report	Articles 69 (b) of the new AML/CFT Act clarifies the AIF's power to exchange information with foreign supervisor authorities. **Article 69 –** ***Cooperation and exchange of information at the domestic and international levels*** 1. The Financial Intelligence Authority, with a view to carrying out adequately its functions of supervision and regulation and financial intelligence: [...] b) cooperates with and exchanges information with the equivalent authorities in other States, under the condition of reciprocity and on the basis of memoranda of understanding. The Secretariat of State shall be informed of the stipulation of such memoranda.
(Other) changes since the last evaluation	

Special Recommendation I (Implement UN instruments)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	Prioritise the effective implementation of Chapter IV of Act N. CXXVII of January 2012 through the completion of the listing process and other means, as necessary, to ensure full and effective implementation of UN Security Council Resolutions on the financing of terrorism.
Measures taken to implement the Recommendation of the Report	On 3 April 2012, with the view to render operational Chapter IV of Law N. CXXVII, as modified in January 2012, the Secretariat of State promulgated a national list of persons and entities that threaten international peace and security on the basis, *inter alia*, of the designations made by the United Nations sanctions committees. On the same date, the FIA issued an ordinance giving effect to that list and transmitting it to all obligated subjects.
Recommendation of the MONEYVAL Report	Legislative measures should be taken to address the current deficiencies in the criminalisation of terrorist financing as identified in the analysis of SR.II.
Measures taken to implement the Recommendation of the Report	As noted above (*see* answers concerning Special Recommendation II.), Law N. VIII, on *"Supplementary norms on criminal law matters*", of 11 July 2013, introduced in Vatican law all the criminal offences set forth in the Conventions referred to in the annex of the Terrorist Financing Convention.
Recommendation of	The system for implementing UNSCR 1267 and 1373 needs to be made operational.

the MONEYVAL Report	
Measures taken to implement the Recommendation of the Report	As noted above, on 3 April 2012, the Secretariat of State promulgated a national list of persons and entities that threaten international peace and security on the basis, *inter alia*, of the designations made by the United Nations sanctions committees and various national authorities.
(Other) changes since the last evaluation	Although the Holy See is not a State member of the United Nations and it is therefore not legally bound to implement the resolutions of the United Nations Security Council, it has voluntarily adopted a mechanism for the creation of a national list of designated persons and entities that threaten international peace and security, including terrorists, which are subject to financial measures equivalent to those requested by the UN Security Council. Thus, on 8 August 2013, Decree N. XI of the President of the Governorate of the Vatican City State on *"Norms concerning transparency, vigilance and financial information"* revised the mechanisms for the elaboration of the national list and entrusted the President of the Governorate with its adoption and updating. These provisions were confirmed articles 71 and 72 of Law N. XVIII, of 8 October 2013 "*confirming the Decree N. XI of the President of the Governorate of the Vatican City State, on Norms concerning transparency, supervision and financial information".* Article 71 and 72 of Law N. XVIII read: **Article 71** ***List of subjects who threaten international peace and security*** 1. The President of the Governorate, having heard the Secretariat of State, adopts and updates a list containing the names of subjects, physical persons and entities, regarding whom there are reasonable grounds to believe that they pose a threat to international peace and security shall be approved and periodically updated. 2. The list referred to in paragraph 1 must contain the name and all the information necessary to allow the positive and unequivocal identification of the subjects inscribed therein. 3. The list referred to in paragraph 1 and its updates shall be transmitted in a timely manner to the Financial Intelligence Authority and shall be published in the supplement of the *Acta Apostolicae Sedis*, as well as by displaying it at the door of the offices of the Governorate, in the Cortile San Damaso, in the State's post offices, and on the Internet sites of the State and of the Financial Intelligence Authority. **Article 72** ***Identification of the subjects who threaten international peace and security*** 1. The President of the Governorate shall designate those subjects in relation to whom he has determined that there are reasonable grounds to believe that they: a) commit, participate, organise, prepare, facilitate or finance terrorist acts; b) promote, constitute, organise, lead, finance, recruit or participate in an association which claims to commit terrorist acts; c) furnish, sale or transfer arms, explosive devices or other lethal devices for committing or participating in the commission of acts of a terrorist purposes, or participating in an association which claims to commit terrorist acts; d) participate, organise, prepare, facilitate, contribute, or finance an

	unlawful program for the proliferation of weapons of mass destruction. 2. The subjects referred to in the previous paragraph are to be inscribed in the list even if there is no criminal conviction or pending criminal process in their regard. 3. The Promoter of Justice, the Corps of Gendarmes and the Financial Intelligence Authority shall propose to the President of the Governorate the designation in the list of those subjects regarding whom there are reasonable grounds to believe that they carry out one of the activities referred to in paragraph 1 and shall transmit to the President of the Governorate all pertinent information and documentation. 4. In drawing up and updating the list, the President of the Governorate may request of the Promoter of Justice, the Corps of Gendarmes and the Financial Intelligence Authority any additional information or documentation that may contribute to his own assessment. 5. In drawing up and updating the list, the President of the Governorate shall examine the designations made by the competent organs of the Security Council of the United Nations, of the European Union and of other States. Such designations may constitute, even on their own, sufficient grounds for inscription in the list. It should be noted that, according to the aforementioned provisions, in compiling such a list of subjects full value is given to the designations made by United Nations organs, by EU entities and by other States. From a practical point of view, on the basis of article 72, paragraph 4, and article 73, paragraph 2, of Law N. XVIII of 8 October 2013, which empower the Promoter of Justice, the Corps of the Gendarmerie and the Financial Intelligence Authority to propose the listing and delisting subjects from the list national, operational mechanisms are currently being developed with a view to ensure that those institution assist the Governorate in keeping updated the list by periodically reviewing the information available to them through their international contacts (such as Interpol and bilateral cooperation).

Special Recommendation III (Freeze and confiscate terrorist assets)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	The legislative framework should be brought into full force and effect as a matter of urgency.
Measures taken to implement the Recommendation of the Report	As noted above (*see* answers concerning SR. I), on 3 April 2012, the Secretariat of State promulgated a national list of subjects that threaten international peace and security, thus rendering operational Chapter IV of Law N. CXXVII, as modified in January 2012. On the same date, the FIA issued an ordinance giving effect to that list and transmitting it to all the obligated subjects.
Recommendation of the MONEYVAL Report	Art. 24 of the revised AML/CFT Law should be clarified to place beyond doubt that it is intended to give effect to "designations" made by the EU and other "international" bodies and by third states.
Measures taken to implement the Recommendation of the Report	Article 72, paragraph 5, of Law N. XVIII, of 8 October 2013, "*confirming the Decree N. XI of the President of the Governorate of the Vatican City State, on Norms concerning transparency, supervision and financial information"*, clearly states that, in compiling the national list of subjects that threaten international peace

	and security, full force is given to the designations made by the organs of the EU and of other States. In this regard, article 72, paragraph 5, of Law N. XVIII: 5. In drawing up and updating the list, the President of the Governorate shall examine the designations made by the competent organs of the Security Council of the United Nations, of the European Union and of other States. Such designations may constitute, even on their own, sufficient grounds for inscription in the list.
Recommendation of the MONEYVAL Report	On the basis that Art. 24 is so intended, separate procedures should be put in place to cover the so called "EU internals" (which are not subject to designation as such by the European Union).
Measures taken to implement the Recommendation of the Report	As noted above, article 72, paragraph 5, of Law N. XVIII, of 8 October 2013, "*confirming the Decree N. XI of the President of the Governorate of the Vatican City State, on Norms concerning transparency, supervision and financial information"*, clearly states that, in compiling the national list of subjects that threaten international peace and security, full force is given to the designations made by the organs of the EU and of other States. Although the Holy See is not a member of the EU, the aforementioned provision was intentionally drafted in broad terms so as to give effect to the so called "EU internals" without the need for a separate procedure.
Recommendation of the MONEYVAL Report	Guidance to obligated entities on the freezing of funds for terrorist purposes should be finalized and circulated.
Measures taken to implement the Recommendation of the Report	As noted above (*see* answers concerning Special Recommendation I), on 3 April 2012, the Financial Intelligence Authority issued an ordinance giving effect to the list of persons and entities that threaten international peace and security promulgated by the Secretariat of State and transmitted it to all the obligated subjects. Furthermore, articles 75 to 78 of Law N. XVIII of 8 October 2013 provided greater precision regarding the application of financial measures to freeze and confiscate terrorist assets, as well as regarding the imposition of precautionary measures and the administration of those assets. Articles 75 to 78 of Law N. XVIII read: **Article 75** ***Financial Measures*** 1. It is forbidden to place, directly or indirectly, at the disposal of subjects inscribed in the list funds or other financial assets or to grant them financial services or services connected to them. 2. The Financial Intelligence Authority, with its own provision, shall proceed immediately and without previous notice, to the freezing of: a) the funds and other financial assets owned, held, controlled or detained, in an exclusive or partial manner, directly or indirectly, by the subjects inscribed in the list; b) the benefits and profits generated by the funds and other financial assets referred to in letter a); c) the funds and other financial assets held or controlled by other subjects, physical persons or entities, in the name of or in behalf of or in favour of subjects inscribed in the list. 3. The provision of the Financial Intelligence Authority referred to in the previous paragraph shall define the terms, conditions and limits of freezing, with a view also to safeguarding the rights of third parties in good faith. 4. The provision ordering the freezing of assets referred to in number 2

shall be communicated without delay to the subjects who perform professionally financial activities.

5. Subjects who perform professionally financial activities shall verify without delay their presence within their own institution of funds or other financial assets owned or held, exclusively or jointly, directly or indirectly, by the subjects inscribed in the list.
6. The subjects that perform professionally financial activities shall communicate to the Financial Intelligence Authority, within 30 days from the date of the emanation of provision referred to in number 1:
   a) the measures adopted for the implementation of the provision on the freezing of assets, indicating the subjects involved and the amount and nature of the funds or other financial assets;
   b) any information relative to the reports, services or other transactions, as well as every other datum available that may be related to the subjects inscribed in the list;
   c) any information relative to any attempt at a financial transaction which may have for its object frozen funds or other financial assets pursuant to paragraph 2.
7. In the case of the delisting of a subject, the Financial Intelligence Authority, with its own provision, shall immediately revoke the provision ordering the freezing of assets referred to in paragraph 2, informing without delay the subjects who perform professionally financial activities.

Article 76

Precautionary measures

1. When there are reasonable grounds to believe that a subject poses a threat to international peace and security and that there is also the risk that the funds or other financial assets which should be frozen may be hidden or used for criminal purposes, the President of the Governorate shall inform the Promoter of Justice and the Financial Intelligence Authority with a view to the adoption of precautionary measures.
2. In the case foreseen by the previous paragraph, the Financial Intelligence Authority shall order immediately the freezing of the goods and assets, informing the subjects that perform professionally financial activities of the same.
3. The provision ordering the freezing of assets referred to in paragraph 2 shall become ineffective if, after 15 days from its adoption, the subject has not been inscribed in the list.

Article 77

Effects of the freezing of assets

1. The frozen funds and other financial assets shall not be the subject to transfer, modification, use, management or access in such a way as to modify their volume, import, place, property, possession, nature, destination or any other change which would permit the use, including the management of stock portfolios.
2. The frozen assets shall not be subject to transfer, modification, use or management, including sale, location or constitution of any other real right or guarantee, with a view to obtaining in any way goods and services.
3. The contracts and the acts of disposition having as their object the goods frozen pursuant to article 75 or 76 are null and void when the third

parties knew or should have known that the funds or other financial assets which are the object of the contract or act of disposal were placed under the measures mentioned in article 75 or 76.

4. The provision ordering the freezing of assets referred to in articles 75 and 76 does not prejudice the effects of any eventual order for the sequestration or confiscation adopted in the context of a judicial or administrative procedure, having the same funds or other financial assets as their object.
5. The freezing of funds or other financial assets, as well as the omission or refusal to provide financial services, believed in good faith to be in conformity with the present title shall not give rise to any kind of liability for the physical or juridical person, including its legal representatives, administrators, directors, employees, advisers or collaborators of any kind, who puts them into effect, except in cases of grave fault.
6. The tribunal shall be competent over any legal recourse to the freezing of assets referred to in article 75 and 76.
7. The judicial process shall be conducted in accordance with articles 776 and following of the Code of Civil Procedure, insofar as applicable, with the necessary intervention of the Promoter of Justice and with the contradictory between the petitioner and the Financial Intelligence Authority.

Article 78

Safeguarding, administration and management of frozen funds and other financial assets

1. The President of the Governorate shall provide directly, or through the appointment of a guardian or an administrator, for the custody or administration of frozen funds and other financial assets.
2. If in the course of a judicial or administrative process, the sequestration or confiscation of the funds or other financial assets referred to in the previous paragraph is ordered, the authority which ordered the sequestration shall provide for their administration. In the case of confiscation, the President of the Governorate shall provide for their administration.
3. The guardian or administrator shall operate under the direct control of the President of the Governorate, following his directives, sending periodic reports and presenting an account at the end of his activity.
4. The expenses of the guardianship or administration, including the remuneration of the guardian or administrator, shall be paid from the administered funds and other financial assets or from the funds and other financial assets that are their profit.
5. The President of the Governorate shall transmit to the Prefecture for Economic Affairs of the Holy See periodic reports on the state of the funds and other financial assets and on the activities carried out.
6. In the case of delisting of a subject, the Governorate shall provide for communication to the interested party, in accordance with article 170 and following of the Civil Code. In the same communication the interested party shall be invited to take possession of the funds and other financial assets within six months from the date of the communication and shall be informed about the activities undertaken pursuant to paragraph 8.

	7. In the case of real estate or registered movable goods, an analogous communication shall be transmitted to the competent authorities with a view to the cancellation of the freezing from the public registers. 8. From the cessation of the freezing measures to the consignment to the interested parties, the President of the Governorate shall continue to provide the guardianship or the administration of the funds and other financial assets. 9. If the interested party does not request the consignment of the funds or other financial assets within the 12 months following the communication referred to in paragraph 6, the same goods and financial assets shall be acquired by the Apostolic See and destined, at least in part and taking into account any international agreements of repartition, to support the victims of terrorism and their families. The provision for the acquisition shall be communicated to the interested party and shall be transmitted to the competent authorities by the means referred to 6.
Recommendation of the MONEYVAL Report	Steps need to be taken to create a comprehensive and effective system for delisting, exemptions and like matters. This is particularly the case with respect to the authorization of access to funds needed for basic expenses or for extraordinary expenses in accordance with Security Council Resolution 1452 (2002).
Measures taken to implement the Recommendation of the Report	Article 73 of Law N. XVIII , of 8 October 2013, "*confirming the Decree N. XI of the President of the Governorate of the Vatican City State, on Norms concerning transparency, supervision and financial information*", sets forth the mechanism for the delisting of subjects from the national list which includes an administrative procedure, either *ex officio* or upon request, and the possibility of appeal to the judiciary. Articles 73 of Law N. XVIII reads: **Article 73** ***Removal of subjects from the list*** 1. The President of the Governorate, having heard the Secretariat of State, shall delist those subjects regarding whom there are no longer reasonable grounds to believe that they pose a threat to international peace and security. 2. The delisting may also take place pursuant to a proposal from the Promoter of Justice, the Corps of Gendarmes or the Financial Intelligence Authority. 3. To that end, the President of the Governorate shall examine also the decisions taken by the competent organs of the Security Council of the United Nations, of the European Union and of other States. 4. Those who believed that they have been inscribed in the list without sufficient grounds or by error may apply for delisting directly to the President of the Governorate. The President of the Governorate shall reply within 15 days. 5. In the case of a negative reply or of no reply within the allocated period, the designation may be challenged before the tribunal. 6. The trial shall proceed in accordance with articles 776 and following of the Code of Civil Procedure, insofar as applicable, with the necessary intervention of the Promoter of Justice and with the contradictory between the petitionary and the Governorate. 7. If the tribunal finds that the grounds for the designation of the subject were insufficient, it shall order its delisting. Article 79 of Law N. XVIII establishes a scheme for exceptions to the financial

	sanctions, covering both basic expenses and extraordinary needs. It reads: **Article 79** ***Exceptions*** 1. The Financial Intelligence Authority may authorise the release of funds or other financial assets frozen pursuant to 75 or 76 to the extent necessary for the payment of expenses essential to their proprietors, including food, rent, taxes, insurance, medical services, public services and legal expenses. 2. The Financial Intelligence Authority may authorise the release of funds or other financial assets frozen pursuant to articles 75 or 76 for the payment of extraordinary expenses, having previously obtained the *nulla osta* of the President of the Governorate. 3. The frozen bank accounts shall continue to generate interest and may receive payments and profits coming from contracts concluded prior to the adoption of the measures set forth in articles 75 or 76. 4. The Financial Intelligence Authority, having previously obtained the *nulla osta* of the President of the Governorate, may authorise the payment of debts incurred by designated subjects when: a) the debt was acquired before the imposition of the measures set forth in articles 75 or 76; b) it does not have as its object lethal arms or devices or materials, nor technologies or services which may promote a programme for the proliferation of weapons of mass destruction; c) the debt does not have as its counterpart another designated subject. Furthermore article 80 of Law N. XVIII provides a general norm to protect the good faith rights of third parties. It reads: **Article 80** ***The protection of the rights of good faith third parties*** Good faith third parties that have a right to the frozen funds and other financial assets, may initiate a civil legal action to ascertain their rights and the consequent restitution of the funds or, if that is not possible, for the compensation of damages.
(Other) changes since the last evaluation	Article 74 of Law N. XVIII of 8 October 2013 requires the cooperation of the Holy See and the Vatican City State, through the Secretariat of State, with the authorities of the United Nations, the EU and Third States in the identification of subjects to be listed, the delisting and the exchange of relevant information. That provision reads: **Article 74** ***International cooperation*** The Secretariat of State: a) shall receive from the competent organs of the Security Council of the United Nations, of the European Union and of other States, communications regarding the subjects to be inscribed in the list and shall transmit them to the President of the Governorate; b) having heard the President of the Governorate, shall convey to the competent organs of the Security Council of the United Nations and of the European Union as well as other States proposals to identify subjects regarding whom there are reasonable grounds to believe that they pose a threat to international peace and security, communicating the information necessary to that end; c) having heard the President of the Governorate, shall present to the

	competent organs of the Security Council of the United Nations and the European Union as well as other States proposals for the delisting of subjects from their respective lists, also on the basis of the outcome of recourses presented in accordance with article 73; d) shall acquire from the competent organs of the Security Council of the United Nations and of the European Union as well as from other States any other information which may be useful to the carrying out of the tasks mentioned in articles 71, 72 and 73 and it shall forward it to the President of the Governorate; e) shall conclude accords or protocols of understanding with the authorities of other States and competent international organisations in order to contribute to the necessary international cooperation. In addition, article 47, paragraph 1, letter d, of Law N. XVIII, of 8 October 2013, empowers the Financial Information Authority to impose administrative sanctions in case of violation of the obligations set forth in articles 75 to 78 of the same Law, regarding the freezing and safeguarding funds and other financial assets as well as of the precautionary measures involving subjects that threaten international peace and security.

2.4 Other Recommendations

In the last report the following FATF recommendations were rated as "partially compliant" (PC) or "non compliant" (NC) (see also Appendix 1). Please, specify for each one what measures, if any, have been taken to improve the situation and implement the suggestions for improvements contained in the evaluation report. Please also provide information which may demonstrate effective implementation.

Recommendation 6 (Politically exposed persons)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	Extend the requirement to put in place appropriate risk management systems to determine whether the counterpart is a politically exposed person to the case of the beneficial owner.
Measures taken to implement the Recommendation of the Report	Article 28 (1) (a) of the new AML/CFT Act, relating to the enhanced CDD establishes the duty to determine if the customer or the beneficial owner is a PEP. **Article 28 - *Politically exposed persons*** 1. The obliged subjects: a) determine on a timely basis if the customer or the beneficial owner is a politically exposed person; [...]
Recommendation of the MONEYVAL Report	Extend the requirement to establish the source of funds of customers and beneficial owners identified as PEPS to expressly include the establishment of their wealth.
Measures taken to implement the Recommendation of the Report	Article 28 (1) (c) of the new AML/CFT Act, relating to enhanced CDD in case of PEPs, introduced the duty to establish the source of wealth of customers and beneficial owners identified as PEPs. **Article 28 – *Politically exposed persons*** 1. The obliged subjects: [...] c) establish the source of the wealth and funds of the customers and the beneficial owners identified as politically exposed persons;

	[...]
Recommendation of the MONEYVAL Report	FIA should raise awareness with respect to the obligations that have been introduced or clarified in the AML/CFT Law after the MONEYVAL on-site visits to ensure effective implementation.
Measures taken to implement the Recommendation of the Report	AIF entered after the on-site visit into an in depth dialogue with the relevant entities carrying out professionally a financial activity to raise awareness with respect to the new AML/CFT Act.
Recommendation of the MONEYVAL Report	FIA should put in place appropriate arrangements to monitor and ensure compliance with the requirements under R. 6 (including adequate sample testing).
Measures taken to implement the Recommendation of the Report	AIF has indirectly introduced a remediation process to ensure full compliance with the requirements under FATF Recommendation n. 6.
(Other) changes since the last evaluation	

Recommendation 8 (New technologies and non face-to-face business)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	Eliminate the exemptions from CDD provided by Art. 31 §3 of the revised AML/CFT Law (in particular with respect to ongoing monitoring).
Measures taken to implement the Recommendation of the Report	According to the new AML/CFT Act, the exemptions to CDD provided under article 31 (3) of the old AML/CFT Act have been abolished. See articles 25 ff.
Recommendation of the MONEYVAL Report	FIA should raise awareness with respect to the obligations that have been introduced or clarified in the AML/CFT Law after the MONEYVAL on-site visits to ensure effective implementation.
Measures taken to implement the Recommendation of the Report	AIF entered after the on-site visit into an in depth dialogue with the relevant entities carrying out professionally a financial activity to raise awareness with respect of the new AML/CFT Act.
Recommendation of the MONEYVAL Report	FIA should put in place appropriate arrangements to monitor and ensure compliance with the requirements under R. 8 (including adequate sample testing).
Measures taken to implement the Recommendation of the Report	AIF has indirectly introduced a remediation process to ensure full compliance with the requirements under FATF Recommendation n. 8.
(Other) changes since the last evaluation	
Recommendation 11 (Unusual Transactions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	Introduce a requirement in Law, regulation or "other enforceable means" 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.
Measures taken to implement the Recommendation of the Report	Article 41 (1) of the new AML/CFT Act, introduces the duty to examine 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. **Article 41 - *Complex or unusual activities*** 1. Reporting subjects shall pay particular attention, inter alia, to complex activities, operations or transactions, or the ones of a notable or unusual value, or to unusual types of activities, operations or transactions, which have no clear or recognisable economic or legal purpose. [...]
Recommendation of the MONEYVAL Report	Introduce a requirement in Law, regulation or "other enforceable means" to keep such findings available for competent authorities and auditors for at least five years.
Measures taken to implement the Recommendation of the Report	Article 41 (2) introduces the duty to keep the findings relating to the complex or unusual activities available for competent authorities and for auditors for at least ten years. **Article 41 – *Complex or unusual activities*** [...] 2. Reporting subjects shall examine the context and scope of such operations or transactions and shall put their conclusions in writing, registering and recording those conclusions with respect to the obligations of registration and bookkeeping found in the present title and making them available for 10 years to the competent authorities and accountants.
(Other) changes since the last evaluation	

Recommendation 12 (Customer due diligence and Record keeping - DNFBP)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	Clarify in law or regulation that notaries, lawyers, accountants, external accounting and tax consultants as well as trust and company service providers are also required to undertake CDD measures when establishing business relations.
Measures taken to implement the Recommendation of the Report	Article 16 (2) (b) of the new AML/CFT Act establishes the DNFBP's to carry out CDD before establishing a relationship. **Article 16 – *Requirements*** […] 2. The customer due diligence and, in particular, the identification and verification of the identity of the counterpart, the persons authorised to act in the name of and on behalf of the counterpart, and of the beneficial owner, shall be carried out: [...] b) In cases involving subjects indicated by article 2, letters b) and c), in the initial phase of evaluation of the position of the counterpart and in any case before establishing a relationship or carrying out an operation or transaction;
Recommendation of the MONEYVAL Report	Set out in law, regulation or "other enforceable means" that trust and company service providers are 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.
Measures taken to implement the	Articles 15 (1) (c) and 38 of the new AML/CFT Act establishes that trust and company service providers are subject to CDD and registration and record-keeping

Recommendation of the Report	requirements with respect to the creation, operation or management of legal persons or arrangements and buying and selling business entities.
Recommendation of the MONEYVAL Report	The recommended actions in Section 3 above with respect to R 5, 6, 8, 10 and 11 should also be implemented for DNFBP.
Measures taken to implement the Recommendation of the Report	The recommended actions in Section 3 above with respect to R 5, 6, 8, 10 and 11 have been also implemented for DNFBP.
Recommendation of the MONEYVAL Report	Raise awareness amongst auditors and accountants with respect to their CDD and record-keeping obligations under the AML/CFT Law, provide training and put in place appropriate arrangements to monitor and ensure CDD and record-keeping compliance.
Measures taken to implement the Recommendation of the Report	No independent or external auditors and/or accountants falling under the scope of application of the new AML/CFT Act are currently active within the HS/VCS.
(Other) changes since the last evaluation	

Recommendation 15 (Internal controls, compliance and audit)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	Steps should be taken to ensure that all elements of guidance given by the FIU are sanctionable or make sure that relevant criteria are incorporated in the AML/CFT Law.
Measures taken to implement the Recommendation of the Report	With the new AML/CFT Act a comprehensive administrative sanctions system has been introduced. According to article 47 and article 66 of the new AML/CFT Act, AIF regulations are sanctionable.
Recommendation of the MONEYVAL Report	An explicit requirement for timely access to information for the compliance officer, either in law or guidance should be introduced.
Measures taken to implement the Recommendation of the Report	Article 11 (2) (d) of the new AML/CFT Act establishes the duties of the obliged subjects to appoint a complaint officer at management level with the power to access on a timely basis all relevant information. **Article 11 - *Internal controls*** [...] 2. Policies, procedures, measures and controls, under paragraph 1 are approved by the top level management and shall be proportionate to the nature, dimensions and activity of the obliged subject. These include: […] d) The appointment of a person responsible, at the management level, with the power of access on a timely basis to all information relating to the customer due diligence, operations and transactions; […]
(Other) changes since the last evaluation	

Recommendation 16 (Suspicious Transaction Reporting)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	The issues under Recommendations 13,14, 15 and 21 should be addressed for DNFBP.
Measures taken to implement the Recommendation of the Report	The recommended actions under Recommendations 13, 14, 15 and 21 have been also implemented for DNFBP.
(Other) changes since the last evaluation	

Recommendation 17 (Sanctions)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	Stipulate explicitly in law or guidance the full range of FIA's powers of disciplinary sanction.
Measures taken to implement the Recommendation of the Report	Considering the nature of the institutional and legal framework of the HS/VCS, disciplinary sanctions are normally applied by competent administrative authorities in light of the relevant legislation relating to the job relationship. Moreover, article 47 (3) (a) (b) and article 66 (3) (a) (b) of the new AML/CFT Act clarified the full range of AIF's power of disciplinary sanctions, relating in particular to members of senior management or beneficial owners of a legal person. **Article 47 – *Administrative sanctions*** [...] 3. In the most serious cases, the Financial Intelligence Authority shall recommend to the President of the Governorate the application of the following administrative sanctions: a) permanent or temporary interdiction of physical persons, from activity in the economic, commercial or professional sector; b) removal or limitation of the powers of senior management members, or similar figures, or beneficial owners of an important or controlling share of a legal person; [...] **Article 66 - *Administrative sanctions*** [...] 3. In the most serious cases, the Financial Intelligence Authority shall recommend to the President of the Governorate the application of the following administrative sanctions: a) permanent or temporary interdiction of physical persons, from activity in the economic, commercial or professional sector; b) removal or limitation of the powers of senior management members, or similar figures, or beneficial owners of an important or controlling share of a legal person; [...]
Recommendation of the MONEYVAL Report	Sanctions should encompass written warnings, orders to comply with specific instructions accompanied with daily fines for non-compliance, ordering regular reports, fines for non-compliance, barring individuals from employment in the sector, replacing or restricting the powers of managers, directors, imposing conservatorship, and at least the ability to withdraw or suspend a licence.

Measures taken to implement the Recommendation of the Report	Article 47 (2) (3) and article 66 (2) (3) clarify the full range of administrative sanctions applicable by AIF. **Article 47 – *Administrative sanctions*** [...] 2. In cases established by paragraph 1, the Financial Intelligence Authority applies the following administrative sanctions, in accordance with Law n. X, *concerning general norms in the question of administrative sanctions*, of 11 July 2013: a) a written appeal, with a specific letter or within an accounting report; b) an order to respect specific instructions, with a fine in the case of total or partial non-fulfilment; c) an order to make regular reports on the measures adopted by the sanctions subject, with a fine in the case of total or partial non-fulfilment; d) corrective measures; e) a fine of up to €5 million for physical persons, and up to 10% of the gross annual income in the preceding financial year for juridical persons. f) suspension or withdrawal of authorisation to carry out professional financial activities; g) controlled administration. 3. In the most serious cases, the Financial Intelligence Authority shall recommend to the President of the Governorate application of the following administrative sanctions: a) permanent or temporary interdiction of physical persons, from activity in the economic, commercial or professional sector; b) removal or limitation of the powers of senior management members, or similar figures, or beneficial owners of an important or controlling share of a legal person; **Article 66 – *Administrative sanctions*** [...] 2. In cases established by paragraph 1, the Financial Intelligence Authority applies the following administrative sanctions, in accordance with Law n. X, *concerning general norms in the question of administrative sanctions*, of 11 July 2013: a) a written appeal, with a specific letter or within an accounting report; b) an order to respect specific instructions, with a fine in the case of total or partial non-fulfilment; c) an order to make regular reports on the measures adopted by the sanctions subject, with a fine in the case of total or partial non-fulfilment; d) corrective measures; e) a fine of up to €5 million for physical persons, and up to 10% of the gross annual income in the preceding financial year for juridical persons. c) suspension or withdrawal of authorisation to carry out professional financial activities; d) controlled administration. 3. In the most serious cases, the Financial Intelligence Authority shall recommend to the President of the Governorate the application of the following administrative sanctions: a) permanent or temporary interdiction of physical persons, from activity in the economic, commercial or professional sector; b) removal or limitation of the powers of senior management members, or similar figures, or beneficial owners of an important or controlling share of legal a person;
Recommendation of the MONEYVAL Report	All sanctions levied should be published.
Measures taken to implement the Recommendation of the Report	According to article 47 (6) of the new AML/CFT Law, sanctions shall be published. **Article 47 – *Administrative sanctions*** [...] 6. The sanctions applied shall be published according to the legislation into force.
Recommendation of	Make explicit what the criminal sanctions are for natural persons in cases of

the MONEYVAL Report	infringement of the several articles of Act N. CXXVII relating to Chapters other than II and III.
Measures taken to implement the Recommendation of the Report	The breach or systematic non-fulfilment of the administrative requirements established by the new AML/CFT Act are punished with administrative sanctions and not with criminal sanctions.
Recommendation of the MONEYVAL Report	Make explicit that sanctions can be applied to directors and senior management of financial institutions.
Measures taken to implement the Recommendation of the Report	Article 47 (4) and article 66 (4) clarify that sanctions are applicable to directors and senior management of the obliged subjects. **Article 47 – *Administrative sanctions*** […] 4. The administrative sanctions established in paragraphs 2 and 3 shall be applied to all natural and legal persons, including directors and senior management. [...] **Article 66 – *Administrative sanctions*** […] 4. The administrative sanctions established in paragraphs 2 and 3 shall be applied to all natural and legal persons, including directors and senior management. [...]
(Other) changes since the last evaluation	

Recommendation 19 (Other forms of reporting)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	Consider the feasibility and utility of implementing a system where obliged subjects report all transactions in currency above a fixed threshold to either the FIA or the Gendarmerie.
Measures taken to implement the Recommendation of the Report	The Financial Security Committee, established by article 4 of the *Motu Proprio* of Pope Francis of 8 August 2013, is actively considering the utility of a system where obliged subjects report all transactions in currency above a fixed threshold.
(Other) changes since the last evaluation	

Recommendation 21 (Special attention for higher risk countries)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	Introduce a 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.
Measures taken to implement the Recommendation of the Report	With the new AML/CFT Act a clear risk-based approach has been established. In particular, according to article 9 (2) (b) (vi) AIF shall publish a list of high risk countries. Moreover, according to article 25 (3) AIF shall establish the application of enhanced CDD in case of high risk countries. Finally, according to article 10 (3) (a), obliged subjects shall give special attention to relationship and operations and

	transactions from or in countries which do not or insufficiently apply relevant AML/CFT international standards. **Article 9 – *General risk assessment*** […] 2. On the basis of the general risk evaluation: […] b) The Financial Information Authority: […] vi) informs the competent authorities and obliged subjects about the risks and the vulnerabilities of the systems of prevention and countering of money laundering in other States and to that end, publishes a list of high risk States; vii) identifies and orders adequate and proportionate counter measures to the risks in the case where a State persistently does not observe or observes insufficiently the international parameters in the area of prevention and countering of money laundering and the financing of terrorism; viii) undertakes the application of adequate reinforced controls, proportionate to the risks, for the relations, operations or transactions with physical or juridical persons, including financial institutions and States with a high risk of money laundering and the financing of terrorism; ix) may identify and publish a list of States that impose obligations equivalent to those established by this Title. **Article 25 – *Enhanced customer due diligence*** [...] 3. The Financial Intelligence Authority establishes the application of enhanced due diligence proportionate to the risks connected to the relationships, operations are transactions, whether physical or juridical persons, including financial institutions of countries at high risk of money-laundering and the financing of terrorism. In such cases, the Financial Intelligence Authority indicates the counter measures adequate and proportionate to the risks. [...] **Article 10 – *Specific risk assessment*** […] 3. The obligated subjects shall pay particular attention to: a) relationships, operations and transactions with physical or juridical persons, including financial institutions from States at high risk or which do not or insufficiently apply the international standards in the area of prevention and countering of money laundering and the financing of terrorism. […]
Recommendation of the MONEYVAL Report	Introduce a 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.
Measures taken to implement the Recommendation of the Report	According to article 10 (3) (a) of the new AML/CFT Act, obliged subjects, in case of operations or transactions with physical or juridical persons, including financial institutions from States at high risk or which do not or insufficiently apply the international standards, including FATF Recommendations, shall examine the background and purpose of such operations and transactions, as far as possible, and to keep written findings available, if they have no apparent economic or visible lawful purpose. **Article 10 – *Specific risk evaluation*** […] 3. The obligated subjects shall pay particular attention to: a) […] If the above operations and transactions have no economic or apparently lawful purpose, the motives and purpose for such operations and transactions, in so far as possible, are to be examined and their outcomes documented in writing and made

	available to assist the Financial Intelligence Authority and other financial authorities and accountants;
Recommendation of the MONEYVAL Report	Put in place effective measures to ensure that obliged subjects are advised of concerns about weaknesses in the AML/CFT systems of other countries.
Measures taken to implement the Recommendation of the Report	According to article 9 (2) (b) (vi) of the new AML/CFT Act, AIF shall inform obliged subjects of concerns about weaknesses in the AML/CFT systems of other countries.
Recommendation of the MONEYVAL Report	Introduce a clear empowerment to apply appropriate counter-measures where countries continue not to apply or insufficiently apply the FATF Recommendations.
Measures taken to implement the Recommendation of the Report	According article 9 (2) (b) (vii) of the new AML/CFT Act, AIF shall identify and order appropriate counter-measures where countries continue not to apply or insufficiently apply relevant AML/CFT international standards, including FATF Recommendations.
(Other) changes since the last evaluation	

Recommendation 24 (DNFBP – Regulation, supervision and monitoring)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	The FIA should issue a specific guideline for those DNFBP that operate in the HS/VCS, in particular on how they are to report to the FIA.
Measures taken to implement the Recommendation of the Report	No independent or external auditors and/or accountants falling under the scope of application of the new AML/CFT Act are currently active within the HS/VCS.
Recommendation of the MONEYVAL Report	The FIA should commence supervising the activities of DNFBP.
Measures taken to implement the Recommendation of the Report	No independent or external auditors and/or accountants falling under the scope of application of the new AML/CFT Act are currently active within the HS/VCS.
(Other) changes since the last evaluation	

Recommendation 25 (Guidelines and Feedback)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	All regulations and instructions should be amended to reflect the revised AML/CFT Law (as they currently all refer to the original AML/CFT Law and to articles that no longer exist or have been changed considerably).
Measures taken to implement the Recommendation of the Report	AIF is currently verifying the regulations and instructions in force and drafting new regulations in light of the new AML/CFT Act.

Recommendation of the MONEYVAL Report	Give proactive explanations of the issued Regulations and Instructions to the financial sector and provide feedback on procedures sent to the supervisor by financial institutions.
Measures taken to implement the Recommendation of the Report	AIF is currently strengthening the knowledge and implementation of the new AML/CFT Act by the obliged subjects, including the explanation of its impact on the AIF regulations and instructions currently in force.
(Other) changes since the last evaluation	

Recommendation 29 (Supervisors)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	It is recommended that the definition of supervision and inspection in the law is amended to make it clear that it is not restricted to certain activities.
Measures taken to implement the Recommendation of the Report	Article 46 (e) of the new AML/CFT Act clarifies and broadens the scope of the AIF's power to carry out on-site inspections. **Article 46 - *Supervision and regulation for the prevention and countering of money-laundering and financing of terrorism.*** The Financial Intelligence Authority is the central authority for the supervision and regulation for the prevention and countering of money-laundering and financing of terrorism. To this end: [...] e) [it] carries out off-site and on-site controls and inspections, which may also include a check and review of policies, procedures, measures, accounting ledgers and registers, as well as spot checks; [...]
Recommendation of the MONEYVAL Report	The Regulation of the Pontifical Committee should be amended to clarify what is understood by monitoring, verification and inspection. Ensure that it includes (also via on-site inspections) the review of policies, procedures, books and records, and sample testing.
Measures taken to implement the Recommendation of the Report	The new AML/CFT Act abolishes requirement of the regulation of the Pontifical Commission for the VCS empowering AIF to carry out on-site inspections, now regulated by article 46 (e). **Article 46 – *Supervision and regulation for the prevention and countering of money-laundering and financing of terrorism.*** The Financial Intelligence Authority is the central authority for the supervision and regulation for the prevention and countering of money-laundering and financing of terrorism. To this end: [...] e) [it] carries out off-site and on-site controls and inspections, which may also include a check and review of policies, procedures, measures, accounting ledgers and registers, as well as spot checks; [...]
Recommendation of the MONEYVAL Report	The Regulation should make it clear how the change from 'full independence' to 'operational independence' in the law applies and to what extent this effects the role and tasks of the President and Board of Directors of the FIA.
Measures taken to implement the	The term "operational" has been removed by the new AML/CFT Act. "Full" autonomy and independence of AIF is ensured by article 2 (2) of its Statute.

Recommendation of the Report	**Article 2 – *Functions*** [...] § 2. The Financial Intelligence Authority, in accordance with the international law and principles relating to the fight against money laundering and financing of terrorism, carries out the functions, duties and activities mentioned in the preceding paragraph [Vatican laws] as well as in this Statute, in full autonomy and independence.
Recommendation of the MONEYVAL Report	Reinstate Art 33, §2 of the original AML/CFT Law (which gave the FIA direct access to the financial, administrative, investigative and judicial information, required to perform its tasks in countering money laundering and financing of terrorism).
Measures taken to implement the Recommendation of the Report	According to article 46 (b) (c) of the new AML/CFT Act AIF's power as supervisor and regulation has been strengthened and broadened in its scope. **Article 46 – *Supervision and regulation for the prevention and countering of money-laundering and financing of terrorism.*** The Financial Intelligence Authority is the central authority for the supervision and regulation for the prevention and countering of money-laundering and financing of terrorism. To this end: [...] b) [it] has access to, or request the production of, documents, data, information, registers and accounting ledgers, relevant to the purposes of oversight and including, *inter alia*, those related to accounts, operations and transactions, including the analyses that the overseen subject has carried out in order to identify unusual or suspect activities, operations and transactions; c) [it] has access to, or request the production of, documents, data and information, on the part of legal persons with a registered office in the State's territory or inscribed in the registers of legal persons held by the State, related to the nature and activity, to the beneficial owners, beneficiaries, members and administrators, including members of the senior management; [...]
Recommendation of the MONEYVAL Report	Ensure supervisory authorities have the legal 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.
Measures taken to implement the Recommendation of the Report	The new AML/CFT Act clarifies the power of AIF to enter into the premises of obliged and supervised subjects. **Article 46 - *Supervision and regulation for the prevention and countering of money-laundering and financing of terrorism.*** The Financial Intelligence Authority is the central authority for the supervision and regulation for the prevention and countering of money-laundering and financing of terrorism. To this end: [...] e) [it] carries out off-site and on-site controls and inspections, which may also include a check and review of policies, procedures, measures, accounting ledgers and registers, as well as spot checks; [...]
Recommendation of the MONEYVAL Report	Ensure sanctions can be imposed against financial institutions, and their directors and senior management for failure to comply with the powers given to the supervisor.
Measures taken to implement the Recommendation of the Report	The new AML/CFT Act ensures in article 47 (f) that administrative sanctions can be imposed against financial institutions, and their directors and senior management, for failure to comply with the powers given to the supervisor. **Article 47 – *Administrative sanctions*** 1. The Financial Intelligence Authority, upon the contestation of charges, applies administrative sanctions in the following cases:

	[...] e) the obstruction of the oversight activity established in article 46.
Recommendation of the MONEYVAL Report	The FIA should take up its supervisory role as soon as possible.
Measures taken to implement the Recommendation of the Report	In the current year AIF has carried out two *ad hoc* inspections and an in depth supervisory program is in preparation.
Recommendation of the MONEYVAL Report	The President of the FIU should not be a member of the Cardinal's Committee.
Measures taken to implement the Recommendation of the Report	The President of AIF stepped back as member of the Cardinals' Commission at the beginning of 2013 to prevent any potential conflict of interest.
Recommendation of the MONEYVAL Report	Clarity should be provided on the role of the Board of the FIA in terms of identifying the supervision and sanctioning strategy on the basis of the Statute given the change towards "operational independence" in the new law.
Measures taken to implement the Recommendation of the Report	The term "operational" has been removed by the new AML/CFT Act. "Full" autonomy and independence of AIF is ensured by article 2 (2) of its Statute. **Article 2 – *Functions*.** [...] § 2. The Financial Intelligence Authority, in accordance with the international law and principles relating to the fight against money laundering and financing of terrorism, carries out the functions, duties and activities mentioned in the preceding paragraph [Vatican laws] as well as in this Statute, in full autonomy and independence.
(Other) changes since the last evaluation	

Recommendation 30 (Resources, integrity and training)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	Ensure an adequate structure and staffing of the FIA to reflect its supervisory role.
Measures taken to implement the Recommendation of the Report	With the consolidation and broadening of AIF's institutional functions, by the *Motu Proprio* of Pope Francis of 8 August 2013, and the new AML/CFT Act, AIF is currently reviewing its structure, staffing and internal organization.
Recommendation of the MONEYVAL Report	Ensure that FIA staff receive appropriate training on the supervisory aspect of their function.
Measures taken to implement the Recommendation of the Report	With the consolidation and broadening of AIF's institutional functions, by the *Motu Proprio* of Pope Francis of 8 August 2013, and the new AML/CFT Act, AIF is currently reviewing its structure, staffing and internal organization, including appropriate training.
(Other) changes since the last evaluation	

Recommendation SR. VII (Wire transfer rules)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	A clearer basis for requirements regarding the obligations of payment service providers in the law (instead of in guidance) should be established.
Measures taken to implement the Recommendation of the Report	Requirements relating to obligations of payment service providers have been clarified and strengthened by articles 33-37 of the new AML/CFT Act.
Recommendation of the MONEYVAL Report	An explicit requirement that ensures that non-routine transactions are not batched where this would increase the risk of money laundering should be established.
Measures taken to implement the Recommendation of the Report	According to article 32 (3) of the new AML/CFT Act, non-routine transactions are not batched where this would increase the risk of money laundering. **Article 32 – *Batched wire transfers*** [...] 3. The non-routine transfers of funds are not batched if this increases risks of money-laundering and financing of terrorism.
Recommendation of the MONEYVAL Report	Effective risk-based procedures for identifying and handling wire transfers from beneficiary financial institutions which are not accompanied by complete originator information should be established for beneficiary financial institutions.
Measures taken to implement the Recommendation of the Report	According article 36 (3), beneficiary payment service providers shall adopt effective risk-based procedures for identifying and handling wire transfers which are not accompanied by complete originator information. **Article 36 – *Beneficiary payment service providers*** [...] 3. The beneficiary payment service providers shall adopt adequate risk-based policies, procedures and measures to determine: a) when to execute, reject or suspend wire transfers lacking required originator or beneficiary data or information; b) the appropriate follow-up action.
Recommendation of the MONEYVAL Report	The FIA should apply its sanctioning powers where breaches of regulations are uncovered.
Measures taken to implement the Recommendation of the Report	Article 47 (c) of the new AML/CFT Act clarifies that AIF shall apply administrative sanctions in case of breach of systematic non-fulfilment of AIF regulations relating to wire transfers. **Article 47 – *Administrative sanctions*** 1. The Financial Intelligence Authority, upon the contestation of charges, applies administrative sanctions in the following cases: [...] c) breach of systemic non-fulfilment of requirements relating to [...] wire transfers [...] established by articles [...] 31, 32, 33, 34, 35, 36, 37 [...] and the connected requirements established by the regulations of the same Financial Intelligence Authority. [...]
Recommendation of the MONEYVAL Report	Art. 5 of Regulation 4 which obliges the payment service provider of the payer to 'verify the completeness' of the informative data before transferring the funds should be extended to require that financial institutions should verify the 'identity' of the originator as well.

Measures taken to implement the Recommendation of the Report	Article 31 (1) (a) clarifies that payment service providers of the originator shall ensure that the transfer of funds shall always be accompanied by the data relating to the identity of the originator. Under the general requirements of CDD such identity shall be verified. Moreover, the same article 31 (2) establishes the duty to carefully verify the identity of the originator in case of suspicion of ML or FT. **Article 31 – *Cross-border wire transfers*** 1. In the case of cross-border wire transfers the originator and beneficiary payment service providers shall ensure that the transfers of sums of EUR 1,000 or more shall always be accompanied by the following data and information: a) with reference to the originator: i) the name and surname or, in the case of a juridical person, the official title; ii) the account number or, in the absence of an account, a unique identification number which allows the traceability of the transaction; iii) the address of residence or domicile, or the date and place of birth, or in the case of a juridical person, the address of the registered office; [...] 2. The data and information mentioned in number 1, letters a) and b), shall be carefully verified with enhanced measures in the case of suspicion of money-laundering or of financing of terrorism.
Recommendation of the MONEYVAL Report	Art. 6 of Regulation 4 should be amended to limit the exemption that domestic transfers include only the originator's account number or a unique identifier to domestic transactions within the HS/VCS.
Measures taken to implement the Recommendation of the Report	Article 6 of the AIF regulation n. 4 has been abolished. Article 33 (1) of the new AML/CFT establishes the duty, also in case of domestic wire transfers, to include relevant information relating to the originator. **Article 33 – *Domestic wire transfers*** 1. In the case of internal wire transfers the ordering payment service provider shall accompany the internal wire transfer with data and information found in article 31, number 1, letter a). 2. Where the data and information accompanying the domestic wire transfer can be made available to the beneficiary payment service provider and to the competent authorities by other means, the ordering payment service provider shall include the account number and this is used for the transaction or, in the absence of an account, a unique identification code which allows the traceability of the transaction and which leads back to the provider of the beneficiary. 3. The ordering payment service provider shall make the data and information available within three business days of receiving the request of the beneficiary payment service provider or the competent authorities. In either case, law enforcement and judicial authorities can order the immediate production of such data and information.
Recommendation of the MONEYVAL Report	Full originator information in the message or payment form accompanying the wire transfer should be required for all other transactions.
Measures taken to implement the Recommendation of the Report	According to article 31 (1) (a) of the new AML/CFT Act shall other transactions shall be accompanied with the full originator information. **Article 31 – *Cross-border wire transfers*** 1. In the case of cross-border wire transfers the originator and beneficiary payment service providers shall ensure that the transfers of sums of EUR 1,000 or more shall always be accompanied by the following data and information: a) with reference to the originator: i) the name and surname or, in the case of a juridical person, the official title;

	ii) the account number or, in the absence of an account, a unique identification number which allows the traceability of the transaction; iii) the address of residence or domicile, or the date and place of birth, or in the case of a juridical person, the address of the registered office; [...] 2. The data and information mentioned in number 1, letters a) and b), shall be carefully verified with enhanced measures in the case of suspicion of money-laundering or of financing of terrorism.
Recommendation of the MONEYVAL Report	Art. 1 should be deleted and the Art. should apply only to transactions where technical limitations prevent the full originator information accompanying a cross-border wire transfer from being transmitted with a related domestic wire transfer.
Measures taken to implement the Recommendation of the Report	According to article 35 (2) in the case of technical limitations preventing the full originator information to accompany a domestic wire transfer, the intermediary payment service provider shall register and keep for 10 years the data and information received by the payment service provider of the originator or by another intermediary payment service provider. **Article 35 –** ***Intermediary payment service providers*** [...] 2. Where technical limitations prevent maintenance of data and information on the originator and on the beneficiary which accompany an international wire transfer linked to a domestic wire transfer, the intermediary payment service provider shall comply with the obligations of registration and record-keeping established in this Title, keeping for 10 years the data and information received by the payment service provider of the originator or by any other intermediary payment service provider.
(Other) changes since the last evaluation	

Recommendation SR. VIII (Non-profit organisations)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	Undertake a review the adequacy of domestic laws and regulations that relate to all NPOs located within VCS and conduct an assessment on the sector's potential vulnerabilities to terrorist activities.
Measures taken to implement the Recommendation of the Report	The Holy See authorities are currently reviewing the laws applicable to NPOs that have their legal seat in the Vatican City State. An advanced draft is currently being examined by the relevant authorities. Since there are three kinds of NPOs in the jurisdiction: some with Vatican City State legal personality, some with canonical legal personality, and some with both, Pope Francis, in his *Motu Proprio* of 8 August 2013 decided to subject all NPOs having canonical legal personality and legal seat in the territory of Vatican City State to the Vatican anti-money laundering and countering of terrorism laws. Article 1 of the aforementioned *Motu Proprio* reads: **Article 1** The dicasteries of the Roman Curia and other institutes and entities dependent on the Holy See, as well as non-profit organizations that enjoy juridical personality in canon law and are based in Vatican City State, are bound to observe the laws of Vatican City State with regard to: a) measures for the prevention and countering of money laundering and the financing of terrorism; b) measures against those who threaten international peace and

	security; c) prudential supervision of entities habitually engaged in a professional financial activity. Article 3 of the afore-mentioned *Motu Proprio* gives jurisdiction to the Vatican Tribunal over the NPOs having canonical legal personality and legal seat in the territory of Vatican City State on anti-money laundering and countering of terrorism matters: **Article 3** The competent judicial bodies of Vatican City State exercise jurisdiction in the above-mentioned issues also with regard to the dicasteries and other entities and institutions dependent on the Holy See, as well as to those non-profit organizations which have juridical personality in canon law and are based in Vatican City State. Meanwhile, those NPOs having only Vatican civil legal personality are subject, as a matter of course, to Vatican laws.
Recommendation of the MONEYVAL Report	The FIA should have its responsibilities extended to risk-based monitoring of the NPO sector with necessary access to relevant books and financial records.
Measures taken to implement the Recommendation of the Report	As noted above, NPOs, as all legal persons, are subject to the Vatican AML/FCT laws. Article 5, paragraph 2, of Law N. XVIII of 8 October 2013 requires, in particular, that all legal persons keep adequate records on their beneficiaries, beneficial owners and managers and provide such information, upon request, both to the competent authorities and to the financial institutions. Article 5, paragraph 2, reads: 2. Juridical persons having their legal seat in the State or inscribed in the registers of legal persons of the State, are to register, update and keep for a period of ten years all the documents, data and information relevant to their own nature and activity, and their beneficial owners, beneficiaries, members and administrators, disclosing them, upon request, to the competent authorities and the obliged subjects. Moreover, pursuant to article 46, letter c), of Law N. XVIII of 8 October 2013, the FIA may require from all legal persons, including NPOs, documents, data and information regarding its beneficiaries, beneficial owners and managers. Article 46, letter c reads: The Financial Intelligence Authority: (…) c) has access to, or require the disclosure of, documents, data and information, on the part of juridical persons having their legal seat in the State's territory or inscribed in the registers of legal persons held by the State, relating to the their nature and activity, and to their beneficial owners, beneficiaries, members and administrators, including members of the senior management;" In addition, pursuant to article 50, letter c), of Law N. XVIII of 8 October 2013, the FIA has access to all the financial and administrative information held by the juridical persons inscribed in the Vatican City State registries. Article 50, letter c) reads: The Financial Intelligence Authority: (…) c) has access to information of a financial and administrative nature possessed by the signaling subjects and by juridical persons having their

	legal seat in the State or inscribed in the registers held by the State;
Recommendation of the MONEYVAL Report	Develop guidance on the risks of terrorist abuse and the available measures to protect against such abuse for all NPOs which are located within VCS and then undertake outreach to raise awareness within the sector.
Measures taken to implement the Recommendation of the Report	The Holy See authorities have undertaken a careful analysis – in light of the international standards – of the laws applicable to those NPOs that have their legal seat in the Vatican City State. As a result, Pope Francis, in his *Motu Proprio* of August 8, 2013, decided to subject all NPOs having canonical legal personality and legal seat in the territory of Vatican City State to the Vatican anti-money laundering and countering of terrorism laws. In addition, the new Law N. XVIII requires all legal persons with their legal seat in the Vatican – including NPOs – to keep adequate records on their activities, beneficiaries, beneficial owners and managers and to provide such information, upon request, both to the competent authorities, including AIF, and to the financial institutions. Moreover, Holy See and the Vatican City State authorities are currently finalizing a new law to regulate the NPO sector, which is expected to be adopted in the course of the coming weeks. The new law will reaffirm the duty of all NPOs to inscribe themselves in the State registries, to keep updated the relevant information regarding their senior management and beneficial owners, possess detailed books and records, and to apply the "know your beneficiaries" rule. Adequate sanctions will be imposed for the violation of those rules.
Recommendation of the MONEYVAL Report	Legislation should: a) Require NPOs to maintain and file records on the purpose and objectives of their stated activities and the identity of person(s) who own, control or direct their activities, including senior officers, board members and trustees; b) Require NPOs to maintain, for a period of at least five years, and make available to appropriate authorities, records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the organisation; and c) Sanction violations of oversight measures or rules by NPOs or persons acting on behalf of NPOs.
Measures taken to implement the Recommendation of the Report	As noted above, article 5, paragraph 2, of Law N. XVIII of 8 October 2013, requires that all legal persons keep adequate records on their beneficiaries, beneficial owners and managers and provided such information, upon request, both to the competent authorities and to the financial institutions. In addition, article 47, paragraph 1, letter e), of Law N. XVIII, of 8 October 2013, empowers the FIA to impose administrative sanctions to in case of obstruction, on the part of NPOs, of the oversight measures set forth in article 46, letter c), of same Law. These issues are to be addressed in greater detail in the law on NPOs, currently under consideration.
Recommendation of the MONEYVAL Report	Legislation should develop provisions for the FIA and Gendarmerie to have full access to information on the administration and management of a particular NPO (including financial and programmatic information) during the course of an investigation.

Measures taken to implement the Recommendation of the Report	As noted above, according to article 5, paragraph 2, of Law N. XVIII of 8 October 2013, all legal persons – including NPOs – are bound to keep adequate records on their beneficiaries, beneficial owners and managers and to provided such information, upon request, both to the competent authorities, including FIA and the Gendarmerie. Pursuant to article 50, letter c), of Law N. XVIII of 8 October 2013, the FIA has access to all the financial and administrative information held by the juridical persons inscribed in the Vatican City State registries. In addition, pursuant to article 50, letter c), of Law N. XVIII of 8 October 2013, FIA may require from all legal persons – including NPOs – documents, data and information regarding its beneficiaries, beneficial owners and managers. Finally, in the course of a criminal investigation, the Corps of the Gendarmerie has access to the relevant information in its capacity as judicial police pursuant the norms of the Code of Criminal Procedure (articles 162 and following).
Recommendation of the MONEYVAL Report	Formal procedures for national co-operation and information exchange between the national agencies which investigate ML/FT cases should be developed.
Measures taken to implement the Recommendation of the Report	Article 8, paragraph 6, of Law N. XVIII, of 8 October 2013, requires that all competent authorities of the Holy See and the Vatican City State cooperate actively in the exchange of information. It reads: 6. For the purposes of preventing and countering money laundering and the financing of terrorism, the competent authorities of the Holy See and of the State actively cooperate and exchange information among themselves, as well as with analogous entities in other States, in the manner and within the limits set forth by law. Moreover, the Financial Security Committee, established by Pope Francis in his *Motu Proprio* on *"the prevention and countering of money-laundering, the financing of terrorism and the proliferation of weapons of mass destruction"*, of 8 August 2013, coordinates the adoption and update of all AML/CFT procedures. In this context, article 9, paragraph 2, subparagraph iii), of Law XVIII, of 8 October 2013, reads: 2. On the basis of the general risk evaluation: a) The Financial Security Committee: (…) iii) coordinates the adoption and regular updating of policies and procedures for the prevention and the countering of money laundering, of the financing of terrorism and the proliferation of weapons of mass destruction;
Recommendation of the MONEYVAL Report	An appropriate point of contact should be identified to respond to international requests for information regarding particular NPOs that are suspected of terrorist financing or other forms of terrorist support. Procedures should also be developed to process such requests.
Measures taken to implement the Recommendation of the Report	This issue is to be addressed in the draft law on NPOs, currently under consideration.
(Other) changes since the last evaluation	

Recommendation SR. IX (Cross Border declaration and disclosure)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	Take stock of the sanctions applied and analyse whether the voluntary settlement provisions undermine the effectiveness of the sanctions.
Measures taken to implement the Recommendation of the Report	The provision of the old AML/CFT Law relating to voluntary settlement has been abolished.
Recommendation of the MONEYVAL Report	As necessary reconsider the statutory sanctions to ensure that these are proportionate.
Measures taken to implement the Recommendation of the Report	The new AML/ CFT Act clarifies the scope of the administrative sanctions in case of false, omitted or incomplete declaration of cross-border transportation of currency or securities. **Article 85 – *False, omitted or incomplete declarations*** 1. In the case of a false, omitted or incomplete declaration, the holder of the currency is bound to rectify, submit or complete the declaration referred to in article 74. 2. In the case of false, omitted or incomplete declaration, the holder of the currency incurs a fine ranging from a minimum of 10% to a maximum of 40% of the sum in his possession exceeding €10,000. 3. At the same time that it documents the infraction, the Corps of Gendarmes may sequester, as a guarantee of payment of the fine, up to a of 40% of sum exceeding Euro 10,000. 4. The sequestration set forth in paragraph 3 shall continue until the sanctioning procedure is concluded.
Recommendation of the MONEYVAL Report	Consider introduction of clearer law enforcement powers to act on suspicion of money laundering or financing of terrorism in Art. 39 of the revised AML/CFT Law.
Measures taken to implement the Recommendation of the Report	Article 84 (3) of the new AML/CFT Act strengthens the law enforcement powers in case of suspicion of ML or FT. **Article 84 – *Checks on vehicles, luggage and persons*** [...] 3. If there is any suspicion of money-laundering or of the financing of terrorism, the Corps of Gendarmes seizes the currency for seven days in order to verify the suspicions and to search for evidence.
Recommendation of the MONEYVAL Report	Review the existing legal provisions to facilitate more effective Gendarmerie action in the restraint of suspect currency.
Measures taken to implement the Recommendation of the Report	Article 84 (1) (2) strengthens the powers of the Corps of the Gendarmerie for the restrain of suspect currency or securities. **Article 84 – *Checks on vehicles, luggage and persons*** 1. For the purposes of ensuring the application of the provisions of this title, the Corps of Gendarmerie, when there is any suspicion or in the course of a spot check, shall: a) checks the means of transport crossing the state border; b) requests to persons crossing the state border to show the contents of luggage, objects and values carried about their person. 2. In case of refusal, and where there are reasonable grounds for suspicion, an official of the Corps of Gendarmerie may proceed, with written provision specifically motivated, to search the means of transport, luggage and the above-mentioned persons. An official record of the search is made and transmitted within 48 hours, together with the motivated

	provision, to the Promoter of Justice at the tribunal. The Promoter of Justice, if he considers the provision legitimate, confirms it within the successive 48 hours. [...]
(Other) changes since the last evaluation	

2.5 Specific Questions

1. At the time of the on-site visit a review was being undertaken of all accounts at the IOR. Has this review been concluded?
By the end of 2012, the IOR concluded the preliminary review process of its customer database.
2. Have any actions been taken as a consequence of the review referred to in 1 above?
Based on the findings of the preliminary review process, an in-depth audit of customer records and remediation, including analysis of transactions, under the supervision of AIF was launched in the beginning of 2013. This process is still ongoing. Furthermore, the IOR redefined the categories of customers entitled to IOR services and were published in July 2013 on IOR's website.
3. Please provide details of international cooperation requests received by the FIU and requests for judicial mutual legal assistance received including the number and nature of requests and the time taken to respond.
(a) AIF's international cooperation and exchange of information Between August 2012 and September 2013, AIF received 8 requests by 2 counterparts, for cooperation and exchange of financial, administrative and investigative information. Those requests were answered within two to eighteen days after their receipt. **(b) Judicial mutual legal assistance** In the course of 2012, the Holy See received 9 requests of judicial mutual legal assistance from three countries, 4 of which were related to financial offences. Those requests were answered, on average, 4 months after their receipt. From January to September 2013, the Holy See has received so far 9 requests of judicial mutual legal assistance, 4 of which were related to financial offences. Of those, 6 requests have already been answered (on average, 2 months after their reception). The remaining 3 requests are currently being processed. The figures of the last two years (also based on the first reform and further amendments of the AML/CFT Law in 2012 and the second reform of the AML/CFT legal system in 2013) show a significant improvement of the system and its effectiveness.
4. If the above mentioned international cooperation and mutual legal assistance requests received were declined, please set out the reasons for declining.
All the requests of judicial mutual legal assistance received through diplomatic means in the period 2011-2013 were transmitted for execution to the appropriate judicial or canonical authority. None of the requests was declined; however, in two cases related to financial offences the information requested was not available.

2.6 Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)[11]

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	The Holy See/VCS are not a member of the EU. According to art. 8 (1) of the *Monetary Convention between the Holy See and the European Union* of 2009: The Vatican City State shall undertake to adopt all appropriate measures, through direct transpositions or possibly equivalent actions, with a view to implementing the EU legal acts and rules listed in the Annex to this Agreement, in the field of: […] (b) prevention of money laundering, […]. The Third Directive has been implemented through equivalent actions by Law N. CXXVII of 30 December 2010, as reformed and further amended in 2012, and reformed by Law N. XVIII of 8 October 2013.

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[12] (please also provide the legal text with your reply)	The definition of beneficial owner is given by Law N. XVIII of 8 October 2013, Article 1 (24), and is stricter in comparison with the definition given by the Third Directive. **Article 1 – *Definitions*** [...] 24. « *Beneficial owner* »: the physical person, in the name of whom and on whose behalf a transaction or operation is accomplished, or, in the case of a juridical person, the person who is the ultimate titular or controls the juridical person in the name of whom or on whose behalf an operation or transaction is accomplished, or that is beneficiary of it. a) In the case of companies, the beneficial owner is: i) the physical person who ultimately possesses or controls the juridical entity, through ownership or control, direct or indirect, of a sufficient percentage of shares in the company's capital or voting rights, also through shareholding; ii) The physical person who exercises in other ways control of management and direction of the company. b) In the case of foundations, of non-profit organizations and of trusts which distribute and administer funds, the beneficial owner is: i) the physical person who effectively exercises control of the patrimony of the juridical person or entity; ii) if the future beneficiaries have already been established, the physical person who is the effective beneficiary of the patrimony of the juridical person or entity; iii) if the future beneficiaries of the juridical person or entity have not yet been determined, the category of persons in whose principal interest the juridical person or entity has been established or acts.

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted	The new AML/CFT Act introduces risk-based approach criteria to exclude obliged subjects from its scope of application, establishing the conditions and empowering AIF to verify them in order to exclude an obliged subject from the scope of

[11] For relevant legal texts from the EU standards see Appendix II.
[12] Please see Article 3(6) of the 3rd Directive reproduced in Appendix II.

to use a risk-based approach to discharging certain of their AML/CFT obligations.	application. **Article 3 – *Exclusion from the scope of application*** 1. The Financial Intelligence Authority may exclude from the scope of this Law subjects who carry out a financial activity on an occasional basis or limited scale, and where there is a low risk of money laundering or financing of terrorism, provided that the following conditions are met: a) It is to be documented that the main activity of the subject: i) Is not a professional financial activity; ii) Is not included in the activities listed in article 2, f); iii) Is not a currency remittance; b) It is to be documented that the subject's activity of a financial nature: i) Is ancillary and directly related to the main activity; ii) Is offered only to the customers of the main activity and not to the general public; iii) Is limited in its overall revenue; iv) Is limited as to the amount of each operation or transaction. 2. The Financial Intelligence Authority, for the exclusion from the scope of application of this Law: a) In assessing the risk of money laundering or financing of terrorism, pays particular attention to the activities of a financial nature considered as particularly likely, by their nature, to be used or abused for money laundering or financing of terrorism. b) In assessing the criteria of exclusion: i) For the purposes of paragraph 1, a), i), [it] verifies that the revenue of financial activity does not exceed 5% of total revenues of the subject. ii) For the purposes of paragraph 1, b), iii), [it] verifies that the revenue of a financial nature does not exceed a certain threshold, which must be sufficiently low. The threshold is set by the Financial Intelligence Authority depending on the kind of financial activity; iii) For the purposes of paragraph 1, b), iv), [it] applies a maximum threshold for customer and individual operations or transactions, whether the transaction is executed in a single operation or in several operations which appear to be linked. The threshold is set according to the type of financial activity, and must be low enough to ensure that the kind of activity does not constitute a method of money laundering or the financing of terrorism, and does not exceed the threshold of EUR 1,000. The Financial Intelligence Authority adopts procedures and measures of control based upon the risk of preventing the abuse of exclusion from the scope of application of the present Title.

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive[13] are provided for in your domestic legislation (please also provide	Criteria for identifying PEPs are established by article 1 (14) (16) of the new AML/CFT Act, in accordance of the Third EU Directive. **Article 1 – *Definitions*** […] 14. « Person who is or has been entrusted with prominent public functions »: a) Heads of State or of Government, Ministers and their deputies, Secretaries-General and persons with analogous functions; b) Members of Parliaments; c) Members of Supreme Courts, of Constitutional Courts and of other high-level judicial organs whose decisions are not normally subject to appeal, except in

[13] Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

the legal text with your reply).	extraordinary circumstances; d) Members of Court of account and Board of Central Banks, or analogous functions. e) Ambassadors and Chargés d'Affaires; f) Senior Officers of the Armed Forces; g) Members of management, management, administration or oversight boards, of State enterprises; h) Analogous offices with the Holy See or the State. […] 16. « Politically exposed person »: a person who has or has had a function, an important public office in the Holy See, in the State, or in any State or who has or has held the office of Secretary-General, Deputy or Under Secretary-General, Director, Deputy Director or member of the branches of Government of international organization.

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	Article 44 (3) of the new AML/CFT Act establishes the prohibition to disclose also in case of ongoing investigations or criminal cases. **Article 44 – *Prohibition of disclosure*** 1. The reporting subjects, members of the senior management, officers and employees, and advisers and assistants of any kind, shall not disclose to the interested subject or to third parties knowledge of the suspicious activity, or the sending or preparation to send suspicious activity report, data and related information. […] 3. The prohibition of disclosure established by paragraphs 1 and 2 shall be applied also in case of ongoing investigations of criminal judiciary actions.
With respect to the prohibition of "tipping off" please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	According to article 44 (2) of the new AML/CFT Act, the prohibition of disclosure is lifted only in the case in which lawyers, notaries, other independent legal professionals and accountants, as independent legal professionals, attempt to dissuade a client from committing an unlawful activity. **Article 44 – *Prohibition of disclosure*** [...] 2. The cases in which lawyers, notaries, other independent legal professionals and accountants, as independent legal professionals, attempt to dissuade a client from committing an unlawful activity does not constitute a violation of the prohibition of disclosure.

"Corporate liability"	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	As noted above, (*see* answers concerning Special Recommendation II), Chapter X of Law N. VIII, on *"Supplementary norms on criminal law matters"*, of 11 July 2013, has introduced a new approach on the administrative liability of legal persons arising from crimes, replacing article 43 *bis* of the revised law CXXVII . Pursuant to article 46, paragraph 1, of Law N. VIII, a legal person may be held liable for any criminal offence committed in its favour or on behalf by its senior management or by those who have effective control over it. Article 46 of Law N. VIII reads: **Article 46** **(*Liability of legal persons*)** 1. A legal person is liable for the offences committed in its favour or to its benefit by: a) persons holding positions representing, managing or directing the entity or one of its units having financial and functional autonomy, as well as by persons who manage or control, even *de facto*, the entity; b) by persons subject to the direction or supervision of one of the subjects

referred to in subparagraph a).

2. The legal persons is not liable if the subjects referred to in paragraph 1 have operated exclusively to their own benefit or in favour of a third party.
3. If the offence is committed by one of the subjects referred to in paragraph 1, subparagraph a), the legal person is not liable if it proves that:
   a) the directing organ adopted and implemented effectively, before the commission of the offence, structural and managerial models apt to prevent offences such as the one that has been committed;
   b) the responsibility of supervising the operation and implementation of the said models and of ensuring their continuous review has been delegated to an organism having autonomous powers of action and control;
   c) the subjects have committed the offence by evading fraudulently the said structural and managerial models; and,
   d) the organism referred to in subparagraph b) has not omitted or exercised insufficient supervision.
4. The confiscation of the goods of the legal person that were used or that were intended to be used to commit the offence, as well as its proceeds, profits, their value and other benefits, even of an equivalent value, is always ordered.
5. The liability of the legal persons subsists even if:
   a) the author of the offence is not identified or is not imputable;
   b) the offence becomes extinguished for a reason other than an amnesty.
6. The provisions of this chapter do not apply to public authorities.
7. In those instances where the tribunals have jurisdiction over offences committed outside the territory of the State, the legal persons having their corporate seat in the State, may also be liable for the offences committed abroad.

Pope Francis, in his *Motu Proprio* on *"the Jurisdiction of Vatican City State on Criminal Matters"*, of 11 July 2013, extended the application of this provision to entities that operate within the Holy See. Paragraph 4, of the afore-mentioned *Motu Proprio* reads:

4. The jurisdiction referred to in paragraph 1 comprises also the administrative liability of juridical persons arising from crimes, as regulated by Vatican City State laws.

In addition to the administrative liability of legal persons arising from crimes, legal persons may be held liable for the administrative violations committed by their managers or employees. Article 6, paragraphs 3, 4 and 5, of Law N. X, on "General norms on administrative sanctions" reads:

Article 6

(*Joint liability and administrative liability of legal persons*)

(…)

3. If the violation is committed, in the exercise of his functions or duties, by the legal representative or by an employee of a legal person, an entity or a subject that engages professionally in an economic or financial activity, that legal person, entity or professional is held jointly liable with the author of the violation for the payment due.
4. Legal persons are directly liable for the administrative violations committed by their legal representatives or employee only in the cases foreseen by the laws. In those cases, the legal persons held liable for the violation even if the natural person responsible for the violation is not

	identified. 5. In the cases mentioned in the preceding paragraphs, whoever pays has the right to be fully reimbursed by the author of the violation.
Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	Article 46, paragraph 3, of Law VIII, on "Supplementary norms on criminal law matters", of 11 July 2013, specifically provides that the legal person is not liable if it had in place effective supervisory mechanisms. Accordingly, if the legal person lacks effective supervision or control, it may be held liable. Article 46, paragraph 3, of Law VIII, reads: 3. If the offence is committed by one of the subjects referred to in paragraph 1, subparagraph a), the legal person is not liable if it proves that: a) the directing organ adopted and implemented effectively, before the commission of the offence, structural and managerial models apt to prevent offences such as the one that has been committed; b) the responsibility of supervising the operation and implementation of the said models and of ensuring their continuous review has been delegated to an organism having autonomous powers of action and control; c) the subjects have committed the offence by evading fraudulently the said structural and managerial models; and, d) the organism referred to in subparagraph b) has not omitted or exercised insufficient supervision.
DNFBPs	
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	Relevant obligations are applicable to all natural of legal persons trading in all goods where payments are made in cash amounting to Euro 10,000 or over. **Article 2 – *Scope of application*** The following are obliged to comply with the present Title: […] f) Natural or legal persons who trade in goods or services in relation to currency transactions of EUR 10,000 or more, including when the transaction is made by several linked operations.

2.7 Statistics

2.6.1 Money laundering and financing of terrorism cases

2011												
	Investigations		**Prosecutions**		**Convictions (final)**		**Proceeds frozen**		**Proceeds seized**		**Proceeds confiscated**	
	cases	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)
ML	1	1										
FT												

2012												
	Investigations		**Prosecutions**		**Convictions (final)**		**Proceeds frozen**		**Proceeds seized**		**Proceeds confiscated**	
	cases	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)
ML												
FT												

January-September 2013												
	Investigations		**Prosecutions**		**Convictions (final)**		**Proceeds frozen**		**Proceeds seized**		**Proceeds confiscated**	
	cases	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)
ML	3	4							1	1.980.000		
FT												

2.6.2 STR/CTR

April-December 2011															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**Cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
Commercial Banks															
Insurance Companies															
Notaries															
Currency Exchange															
Broker Companies															
Securities' Registrars															
Lawyers															
Accountants/Auditors															
Company Service Providers															
Others (please specify and if necessary add further rows) **(a) Supervised subjects** **(b) Authorities of the HS/VCS** **(c) Other entities**		1		1		1									
Total		**1**													

2012															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**Cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
Commercial Banks															
Insurance Companies															
Notaries															
Currency Exchange															
Broker Companies															
Securities' Registrars															
Lawyers															
Accountants/Auditors															
Company Service Providers															
Others (please specify and if necessary add further rows) **(a) Supervised subjects** **(b) Authorities of the HS/VCS** **(c) Other entities**		5 1		5 1											
Total		**6**													

January-September 2013															
Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		Cases opened by FIU		notifications to law enforcement/ prosecutors		indictments				convictions			
								ML		FT		ML		FT	
		ML	FT	ML	FT	ML	FT	cases	persons	cases	persons	cases	persons	cases	persons
Commercial Banks															
Insurance Companies															
Notaries															
Currency Exchange															
Broker Companies															
Securities' Registrars															
Lawyers															
Accountants/Auditors															
Company Service Providers															
Others (please specify and if necessary add further rows) **(a) Supervised subjects** **(b) Authorities of the HS/VCS** **(c) Other entities**		98 5 2		98 5 2		3									
Total		**105**													

3. Appendices

3.1 APPENDIX I - Recommended Action Plan to Improve the AML / CFT System

AML/CFT System	Recommended Action (listed in order of priority)
1. General	**No text required**
2. Legal System and Related Institutional Measures	
2.1 Criminalisation of Money Laundering (R.1 & 2)	**R.1** • Further consideration should be given to clarifying the relationship between the money laundering offence (Arts. 1 (4) & (5) of the revised AML/CFT Law) and the traditional receiving offence (Art. 421 of the Criminal Code). **R.2** • Art. 42 *bis* of the revised AML/CFT Law on administrative responsibility of legal persons being contingent on the securing of a prior conviction of a natural person should be reconsidered in the light of the examiners' concerns and practical experience of its functioning.
2.2 Criminalisation of Terrorist Financing (SR.II)	• The terrorist acts set out in the Annex to the UN Terrorist Financing Convention should be brought into the Criminal Code. • The Criminal Code should be amended to criminalise the financing of terrorist organisations and individual terrorists for legitimate purposes. • Art. 42 *bis* of the revised AML/CFT Law on administrative responsibility of legal persons being contingent on the securing of a prior conviction of a natural person should be reconsidered in the light of the examiners' concerns and practical experience of its functioning.
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	• A detailed, comprehensive and modern scheme to address the range of issues described in the report should be introduced. • The Criminal Procedure Code should be amended quickly to clarify the authority to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced

	in their ability to recover property subject to confiscation.
2.4 Freezing of funds used for terrorist financing (SR.III)	• The legislative framework should be brought into full force and effect as a matter of urgency. • Art. 24 of the revised AML/CFT Law should be clarified to place beyond doubt that it is intended to give effect to "designations" made by the EU and other "international" bodies and by third states. • On the basis that Art. 24 is so intended, separate procedures should be put in place to cover the so called "EU internals" (which are not subject to designation as such by the European Union). • Guidance to obligated entities on the freezing of funds for terrorist purposes should be finalised and circulated. • Steps need to be taken to create a comprehensive and effective system for delisting, exemptions and like matters. This is particularly the case in respect to the authorisation of access to funds needed for basic expenses or for extraordinary expenses in accordance with Security Council Resolutions 1452 (2002).
2.5 The Financial Intelligence Unit and its functions (R.26)	• Expressly extend the power of enquiry of the FIA to the information held by all entities subjected to the reporting duty. • Clarify to what additional sources the FIA has access and to include explicitly the foundations located in and/or dependent from the HS. • Specify the instances triggering the authority and intervention of the FIA, beside the receipt of SARs. • Reinforce the autonomy of the FIA by restoring its decision power to conclude mutual co-operation agreements with its counterparts. • As an effectiveness consideration, strengthen the freezing capacity of the FIA to include accounts and revisit the obligation of immediate handover to the Promoter of Justice.
2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)	• Intensify the training of the law enforcement authorities in AML/CFT investigative tools, computer techniques and financial investigation. • Include the judiciary in such training to develop its own expertise to deal with the legal challenges inherent in the prosecution of ML/FT. • Law enforcement should further interact and coordinate

	with the FIA to develop the necessary investigative skills. • Develop HS/VCS' own experience and jurisprudence in stand-alone money laundering prosecutions, rather than transferring cases to the Italian investigative authorities. • Consider developing a joint committee to review and evaluate the effectiveness of the AML/CFT system.
2.7 Cross Border Declaration & Disclosure (SR.IX)	• Take stock of the sanctions applied and analyse whether the voluntary settlement provisions undermine the effectiveness of the sanctions. • As necessary reconsider the statutory sanctions to ensure that these are proportionate. • Consider introduction of clearer law enforcement powers to act on suspicion of money laundering or financing of terrorism in Art. 39 of the revised AML/CFT Law. • Review the existing legal provisions to facilitate more effective Gendarmerie action in the restraint of suspect currency.
3. Preventive Measures – Financial Institutions	
3.1 Risk of money laundering or terrorist financing	• HS/VCS authorities should undertake a formal and comprehensive risk assessment and should in particular review if the circumstances for simplified and enhanced due diligence are appropriate for the local environment/peculiarities.
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	**R.5** • The AML/CFT Law needs to be amended to specifically require that financial institutions should verify that the transactions are consistent with the institution's knowledge of the source of funds, if necessary. • Serious consideration should be given to a statutory provision describing the types of legal and natural persons eligible to maintain accounts in the IOR and APSA. • Amend the exemptions for low-risk customers, products and transactions as adopted from the Third EU AML Directive by clarifying that minimum CDD (i.e. less detailed CDD) should nevertheless be accomplished. • Provide in the Law that simplified CDD measures are not permissible where higher risk scenarios apply. • Stipulate in the AML/CFT Law that simplified CDD measures, with respect to credit or financial institutions located in a State that observes equivalent AML/CFT

	requirements, shall only be permissible where those institutions are supervised for compliance with those requirements. • Simplified CDD measures should only be permissible if listed companies are subject to regulatory disclosure requirements. • Amend FIA Instruction N. 2 to clarify that the verification of the identity of the customer and beneficial owner, following the establishment of the business relationship, should only be permissible where all conditions mentioned under criterion 5.14 are met cumulatively. • Abolish the exemptions to CDD provided under Art. 31 §3 of the revised AML/CFT Law. • Where the Law allows for simplified or reduced CDD measures to customers resident in another country, HS/VCS authorities should limit this in all cases to countries that the HS/VCS is satisfied are in compliance with and have effectively implemented the FATF Recommendations. • The FIA Instructions should be amended to require that verification should occur as soon as possible in situations where verification occurs after establishment of a business relationship. • The provision that only transactions executed within a period of seven days have to be considered as "linked transactions" should be abolished. • Introduce an express requirement to verify that the transactions are consistent with the institution's knowledge of the source of funds where necessary. **R.6** • Extend the requirement to put in place appropriate risk management systems to determine whether the counterpart is a politically exposed person to the case of the beneficial owner. • Extend the requirement to establish the source of funds of customers and beneficial owners identified as PEPS to expressly include the establishment of their wealth. **R.7** • The AML/CFT Law should be amended to introduce an 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. • Abolish the possibility to delegate the senior management approval for establishing new business relationships with a correspondent relationship. **R.8** • Eliminate the exemptions from CDD provided by Art. 31 §3 of the revised AML/CFT Law (in particular with respect to ongoing monitoring). **R.5 to R.8 generally** • FIA should raise awareness with respect to the obligations that have been introduced or clarified in the AML/CFT Law after the MONEYVAL on-site visits to ensure effective implementation. • FIA should put in place appropriate arrangements to monitor and ensure compliance with the requirements under R. 5 to 8 (including adequate sample testing).
3.3 Third parties and introduced business (R.9)	
3.4 Financial institution secrecy or confidentiality (R.4)	• Introduce an express exemption from the obligation to observe financial secrecy with respect to the exchange of information with foreign financial institutions where this is required to implement FATF Recommendations. • Clarify FIA's powers to request information as recommended under R. 26 and R. 29 to ensure that obliged subjects cannot refuse to comply with a request for information based on the financial secrecy obligation. • Clarify FIA´s power to exchange information with foreign supervisory authorities to make sure that official secrecy cannot inhibit such information exchange. • Consider adding the Judicial Authority to the list of all competent authorities in Chapter I *bis* of the revised AML/CFT Law in order to eradicate any potential doubts.
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	**R.10** • FIA should put in place appropriate arrangements to monitor and ensure effective implementation of the record-keeping requirements (including adequate sample testing). • Adopt internal procedures clearly specifying the record keeping duties and responsibilities of APSA staff. **SR.VII**

	• A clearer basis for requirements regarding the obligations of payment service providers in the law (instead of in guidance) should be established. • An explicit requirement that ensures that non-routine transactions are not batched where this would increase the risk of money laundering should be established. • Effective risk-based procedures for identifying and handling wire transfers from beneficiary financial institutions which are not accompanied by complete originator information should be established for beneficiary financial institutions. • The FIA should apply its sanctioning powers where breaches of regulations are uncovered. • Art. 5 of Regulation 4 which obliges the payment service provider of the payer to 'verify the completeness' of the informative data before transferring the funds should be extended to require that financial institutions should verify the 'identity' of the originator as well. • Art. 6 of Regulation 4 should be amended to limit the exemption that domestic transfers include only the originator's account number or a unique identifier to domestic transactions within the HS/VCS. • Full originator information in the message or payment form accompanying the wire transfer should be required for all other transactions. • Art. 1 should be deleted and the Art. should apply only to transactions where technical limitations prevent the full originator information accompanying a cross-border wire transfer from being transmitted with a related domestic wire transfer.
3.6 Monitoring of transactions and relationships (R.11 & 21)	**R.11** • Introduce a requirement in Law, regulation or "other enforceable means" 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. • Introduce a requirement in Law, regulation or "other enforceable means" to keep such findings available for competent authorities and auditors for at least five years. **R.21** • Introduce a 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. • Introduce a 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. • Put in place effective measures to ensure that obliged subjects are advised of concerns about weaknesses in the AML/CFT systems of other countries. • Introduce a clear empowerment to apply appropriate counter-measures where countries continue not to apply or insufficiently apply the FATF Recommendations.
3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	**R.13 & SR.IV** • Amend the AML/CFT Law to broaden the reporting scope beyond the strict terrorism financing to bring it in line with the standards. • Amend the reporting requirement to require that a report is submitted to the FIA when it is suspected or there are reasonable grounds to suspect that "funds" (rather than "transactions") are the proceeds of a criminal activity. • Formally broaden the reporting duty beyond suspect operations to include suspicions on funds generally. • Remove any doubt about the reporting obligation including attempted transactions. • Remove any uncertainty as to the extent of the reporting obligation of the financial institutions in respect of the identification of the predicate offence. • Emphasise the priority rule of the subjective assessment of the suspicious nature of the funds, where the objective indicators should only be seen as a guidance and support. **R.14** • Extend the tipping off prohibition to the fact that a STR has been identified and is in the process of being prepared/reported. **R.19** • Consider the feasibility and utility of implementing a system where obliged subjects report all transactions in currency above a fixed threshold to either the FIA or the Gendarmerie. **R.25** • All existing guidance should be updated in accordance

	with the revised AML/CFT Law. • The FIA should provide active explanations of the issued Regulations and Instructions to the financial sector. • The FIA should provide appropriate feedback on the internal procedures sent to the FIA by financial institutions.
3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)	**R.15** • Steps should be taken to ensure that all elements of guidance given by the FIU are sanctionable or make sure that relevant criteria are incorporated in the AML/CFT Law. • An explicit requirement for timely access to information for the compliance officer, either in law or guidance should be introduced. **R.22** • Introduce a requirement to pay particular attention that branches and subsidiaries in countries, which do not or insufficiently apply the FATF Recommendations, observe AML/CFT measures consistent with the home country requirements and the FATF Recommendations. • Consider introducing a requirement for financial institutions subject to the Basel Core Principles for Banking Supervision (the IOR qualifies as such) to apply consistent CDD measures at the group level, taking into account the activity of the customer with the various branches and majority owned subsidiaries worldwide.
3.9 Shell banks (R.18)	• Introduce an 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.
3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)	**R.23** • The definition of supervision and inspection should be changed so that it is made clear what the powers, given to the AML supervisor, encompass in practice. • Clarify in law or regulation the exact meaning of "operational" as opposed to "full" independence of the FIA as supervisor. • Introduce specific measures to involve the supervisor in the process of licensing and approving of senior staff at financial institutions. • Directors and senior management of IOR and APSA

	should be specifically evaluated and 'licensed' on the basis of "fit and proper" criteria including those relating to expertise and integrity. • Give the FIA the power to assess 'fit and properness' on an ongoing basis. • The FIA (or another body) should take up its supervisory role on AML issues immediately, plan for (a schedule of) inspections, set up a standard manual and work procedure and provide for feedback proactively. • The FIA should start a supervisory inspection with IOR as soon as possible. • Annual statistics on on-site inspections by the supervisor or sanctions applied should be published. Reinstate the requirement to draw up such statistics in the law. • IOR should subscribe to the Basel Core Principles for Banking Supervision. • IOR should be supervised by a prudential supervisor in the near future. • Clearly separate the task of supervision from the FIA as FIU and combine this with adequate prudential supervision, including: (ix) licensing and structure; (x) risk management processes to identify, measure, monitor and control material risks; (xi) ongoing supervision and (xii) global consolidated supervision when required by the Core Principles. **R.17** • Stipulate explicitly in law or guidance the full range of FIA's powers of disciplinary sanction. • Sanctions should encompass written warnings, orders to comply with specific instructions accompanied with daily fines for non-compliance, ordering regular reports, fines for non compliance, barring individuals from employment in the sector, replacing or restricting the powers of managers, directors, imposing conservatorship, and at least the ability to withdraw or suspend a licence. • All sanctions levied should be published. • Make explicit what the criminal sanctions are for natural persons in cases of infringement of the several articles of

	Act N. CXXVII relating to Chapters other than II and III. • Make explicit that sanctions can be applied to directors and senior management of financial institutions. **R.25** • All regulations and instructions should be amended to reflect the revised AML/CFT Law (as they currently all refer to the original AML/CFT Law and to articles that no longer exist or have been changed considerably). • Give proactive explanations of the issued Regulations and Instructions to the financial sector and provide feedback on procedures sent to the supervisor by financial institutions. **R.29** • It is recommended that the definition of supervision and inspection in the law is amended to make it clear that it is not restricted to certain activities. • The Regulation of the Pontifical Committee should be amended to clarify what is understood by monitoring, verification and inspection. Ensure that it includes (also via on-site inspections) the review of policies, procedures, books and records, and sample testing. • The Regulation should make it clear how the change from 'full independence' to 'operational independence' in the law applies and to what extent this effects the role and tasks of the President and Board of Directors of the FIA. • Reinstate Art 33, §2 of the original AML/CFT Law (which gave the FIA direct access to the financial, administrative, investigative and judicial information, required to perform its tasks in countering money laundering and financing of terrorism). • Ensure supervisory authorities have the legal 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. • Ensure sanctions can be imposed against financial institutions, and their directors and senior management for failure to comply with the powers given to the supervisor. • The FIA should take up its supervisory role as soon as possible. • The President of the FIU should not be a member of the Cardinal's Committee.

	• Clarity should be provided on the role of the Board of the FIA in terms of identifying the supervision and sanctioning strategy on the basis of the Statute given the change towards "operational independence" in the new law.
3.11 Money value transfer services (SR.VI)	
4. Preventive Measures – Non-Financial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	• Clarify in law or regulation that notaries, lawyers, accountants, external accounting and tax consultants as well as trust and company service providers are also required to undertake CDD measures when establishing business relations. • Set out in law, regulation or "other enforceable means" that trust and company service providers are 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. • The recommended actions in Section 3 above with respect to R 5, 6, 8, 10 and 11 should also be implemented for DNFBP. • Raise awareness amongst auditors and accountants with respect to their CDD and record-keeping obligations under the AML/CFT Law, provide training and put in place appropriate arrangements to monitor and ensure CDD and record-keeping compliance.
4.2 Suspicious transaction reporting (R.16)	• The issues under Recommendations 13, 14, 15 and 21 should also be addressed for DNFBP.
4.3 Regulation, supervision and monitoring (R.24-25)	• The FIA should issue a specific guideline for those DNFBP that operate in the HS/VCS, in particular on how they are to report to the FIA. • The FIA should commence supervising the activities of DNFBP.
4.4 Other non-financial businesses and professions (R.20)	
5. Legal Persons and Arrangements & Non-Profit Organisations	
5.1 Legal Persons – Access to	

beneficial ownership and control information (R.33)	
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	
5.3 Non-profit organisations (SR.VIII)	• Undertake a review the adequacy of domestic laws and regulations that relate to all NPOs located within VCS and conduct an assessment on the sector's potential vulnerabilities to terrorist activities. • The FIA should have its responsibilities extended to risk-based monitoring of the NPO sector with necessary access to relevant books and financial records. • Develop guidance on the risks of terrorist abuse and the available measures to protect against such abuse for all NPOs which are located within VCS and then undertake outreach to raise awareness within the sector. • Legislation should: a) Require NPOs to maintain and file records on the purpose and objectives of their stated activities and the identity of person(s) who own, control or direct their activities, including senior officers, board members and trustees; b) Require NPOs to maintain, for a period of at least five years, and make available to appropriate authorities, records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the organisation; and c) Sanction violations of oversight measures or rules by NPOs or persons acting on behalf of NPOs. • Legislation should develop provisions for the FIA and Gendarmerie to have full access to information on the administration and management of a particular NPO (including financial and programmatic information) during the course of an investigation. • Formal procedures for national co-operation and information exchange between the national agencies which investigate ML/FT cases should be developed. • An appropriate point of contact should be identified to respond to international requests for information regarding particular NPOs that are suspected of terrorist financing or other forms of terrorist support. Procedures should also be developed to process such requests.

6. National and International Co-operation	
6.1 National co-operation and co-ordination (R.31)	• Consider creating a formal mechanism for co-operation and co-ordination of their actions in the AML/CFT sphere. • There should be a collective review of the AML/CFT system and its performance which would enable setting the basis for future developments and implementation of policies and activities to combat money laundering and terrorist financing.
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	• Prioritise the effective implementation of Chapter IV of Act N. CXXVII of January 2012 through the completion of the listing process and other means, as necessary, to ensure full and effective implementation of UN Security Council Resolutions on the financing of terrorism. • Legislative measures should be taken to address the current deficiencies in the criminalisation of terrorist financing as identified in the analysis of SR.II. • The system for implementing UNSCR 1267 and 1373 needs to be made operational.
6.3 Mutual Legal Assistance (R.36-38 & SR.V)	• Consideration should be given to enacting modern and detailed legislative provisions covering tracing, freezing and seizure and confiscation of the proceeds of money laundering, predicate offences, and terrorist finances or related instrumentalities. • Develop a procedure to cover 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.
6.4 Extradition (R.39, 37 & SR.V)	• Address the identified deficiencies in the criminalisation of terrorist financing and other conduct, as required by SR.II, to ensure that extradition is not inhibited.
6.5 Other Forms of Co-operation (R.40 & SR.V)	• The FIA should quickly conclude MOUs with at least FIUs from those countries with which it will most likely need to exchange information. • The law should be amended to specifically allow for the exchange of supervisory information.
7. Other Issues	
7.1 Resources and statistics (R. 30 & 32)	**R.30** • Ensure an adequate structure and staffing of the FIA to

	reflect its supervisory role. • Ensure that FIA staff receive appropriate training on the supervisory aspect of their function. **R.32** • The FIA should draw up statistics concerning the application and effectiveness of the measures taken; for example, the annual statistics on on-site inspections by the supervisor or sanctions applied. • The FIA and the Gendarmerie should keep detailed statistics showing in particular their response times and whether the requests were fulfilled in whole or in part or were incapable of being fulfilled. • Statistics should also be kept in relation to the numbers and types of spontaneous disclosures made by the FIA.

3.2 APPENDIX II – Relevant EU texts

Excerpt from Directive 2005/60/EC of the European Parliament and of the Council, formally adopted 20 September 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing

Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3rd Directive):

(6) "beneficial owner" means the natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards; a percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;
(ii) the natural person(s) who otherwise exercises control over the management of a legal entity:

(b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds:

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;
(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

Article 3 (8) of the EU AML/CFT Directive 2005/60EC (3rd Directive):

(8) "politically exposed persons" means natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons;

Excerpt from Commission directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

Article 2 of Commission Directive 2006/70/EC (Implementation Directive):

Article 2
Politically exposed persons

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:
(a) heads of State, heads of government, ministers and deputy or assistant ministers;
(b) members of parliaments;

(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
(d) members of courts of auditors or of the boards of central banks;
(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
(f) members of the administrative, management or supervisory bodies of State-owned enterprises.
None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.
The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:
(a) the spouse;
(b) any partner considered by national law as equivalent to the spouse;
(c) the children and their spouses or partners;
(d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:
(a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;
(b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

4. Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph 1 of this Article for a period of at least one year, institutions and persons referred to in Article 2(1) of Directive 2005/60/EC shall not be obliged to consider such a person as politically exposed.