FATF

Anti-money laundering and counter-terrorist financing measures

Italy

Mutual Evaluation Report

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Executive Summary

This report provides a summary of the anti-money laundering and combating the financing of terrorism (AML/CFT) measures in place in Italy as at the date of the on-site visit (14-30 January 2015). It analyses the level of compliance with the Financial Action Task Force (FATF) 40 Recommendations and the level of effectiveness of Italy's AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

1. Italy has a mature and sophisticated AML/CFT regime, with a correspondingly well-developed legal and institutional framework. It is nonetheless confronted with a significant risk of money laundering (ML) stemming principally from tax crimes and activities most often associated with organised crime, such as corruption, drug trafficking, and loan sharking.

2. All the main authorities have a good understanding of the ML and terrorist financing (TF) risks, and generally good policy cooperation and coordination. Italy is now developing a nationally coordinated AML/CFT strategy informed by its 2014 national risk assessment (NRA).

3. Law enforcement agencies (LEAs) access, use, and develop good quality financial intelligence. The authorities are able to successfully undertake large and complex financial investigations and prosecutions, and have confiscated very large amounts of proceeds of crime.

4. Nevertheless, current results are not fully commensurate with the scale of ML risks. This is partly due to the insufficient focus on standalone ML cases and other cases, generated by foreign predicate and/or involving legal persons' offenses, as well as to the length of the judicial process.

5. The risk of TF in Italy appears to be relatively low, and Italy has effectively implemented targeted financial sanctions (TFS). It also actively mitigates the proliferation financing (PF) risk, but additional outreach to the private sector would be beneficial.

6. Financial institutions (FIs) generally have a good understanding of ML threats that they face, and the larger banks appear to be strongest in their mitigation efforts. The nonfinancial sector, with some exceptions, is far less attuned to ML/TF risk, and is hampered by the absence of detailed secondary legislation.

7. Customer due diligence (CDD) measures are well embedded in the financial sector, but

there appears to be an over-reliance on the due diligence undertaken by the banks when accepting business through agency arrangements, and the processes for identifying beneficial owners are not consistent. Reporting by the nonfinancial sector is generally poor, especially among the lawyers and accountants, but on the rise.

8. Financial sector supervisors have been using a risk-based approach (RBA) to varying degrees, but their supervisory tools could be improved. Cooperation among domestic supervisory authorities, and with home country supervisors notably needs to be enhanced in regards to agents acting on behalf of remittance companies that have benefited from the EU passporting arrangements.

9. While the framework governing the supervision of EU payment institutions (PIs) operating in Italy under the EU framework is in place, there is very limited cooperation between Organismo Agenti e Mediatori (OAM) and the home country supervisor of the EU PI in the context of on-going supervision of these persons.

10. The sanctions regimes for ML and non-compliance with preventive measures need to be strengthened.

11. Information on beneficial ownership of legal persons is generally accessible in a timely fashion, but cross-checking is necessary to ensure its reliability. Companies are misused to some extent, in particular by organised crime groups, and foreign legal arrangements operating in Italy pose a minor but growing challenge.

Risks and General Situation

12. Italy has a strong legal and institutional framework to fight ML and TF, but faces a particularly high amount of illegal proceeds-as acknowledged in the national risk assessment (NRA)-most of which are domestically generated. Available estimates vary widely, ranging from 1.7-12% of GDP, with most pointing to the upper end of the range. The main proceeds-generating crimes are (i) tax and excise evasion (around 75% of total proceeds); (ii) drug trafficking and loan sharking (around 15% of the total); and (iii) corruption, fraud, counterfeiting, environmental crime, robbery, smuggling extortion, and illegal gambling (around 10% of the total). Categories of crime (ii) and (iii) are most closely associated with the activities of organised crime, a historically pervasive problem in Italy.

13. The channel most vulnerable to ML activity appears to be the banks due to their dominance of the financial sector, the range of products they offer, the transaction volumes they handle, and the interconnectedness of the banking sector with the international financial system. Lawyers, notaries, and accountants are in some cases involved in creating and managing structures that lack transparency and used to launder money. The high use of cash and relatively large informal economy very significantly increases the risk that illicit proceeds may be rechanneled into the regulated formal economy.

14. The risk of TF appears to be relatively low. While domestic extremist groups exist, they are very fragmented and do not, at present, seem to pose a significant risk. The risk is mainly connected to independent individuals who are devoted to Jihad, operating through small cells that are primarily self-funded.

Overall Level of Effectiveness and Technical Compliance

15. Since the last assessment in 2005, Italy's level of technical compliance has markedly improved in several areas-notably in preventive measures and supervision of financial institutions-but not in some others-such as sanctions for noncompliance with preventive measures. Italy has a strong legal and institutional framework for combating ML, TF, and PF. Measures are particularly strong regarding the assessment of risks, law enforcement, confiscation, targeted financial sanctions, preventive measures for and the supervision of FIs, and transparency of legal persons and arrangements, but less so regarding sanctions for ML and non-compliance, and preventive measures for designated nonfinancial businesses and professions (DNFBPs).

16. In terms of effectiveness, Italy achieves substantial results in risk assessment and national policies, international cooperation, collection and use of financial intelligence, ML and TF investigation, prosecution, confiscation, and transparency of legal persons and arrangements. Only moderate improvements are needed in these areas. More significant improvements are needed in the other areas as indicated below.

Assessment of Risks, coordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33)

17. Italy has a good understanding of its ML/TF risks, and generally good policy cooperation and coordination to address these risks. It completed a robust NRA in 2014.

18. Operationally, national AML/CFT coordination under the auspices of the Financial Security Committee (FSC) is quite good. Although Italian authorities have for some time been applying an RBA to varying degrees based on their individual understanding of risk, and several initiatives have been launched in the wake of the NRA, Italy has not yet developed a nationally coordinated AML/CFT strategy that is fully informed by the ML/TF risks in the NRA.

19. Notwithstanding their awareness of ML/TF risks, supervisors have not fully adapted their tools and operational practices to reflect the identified risks. The Financial Intelligence Unit (*Unità di Informazione Finanziaria*–UIF) could further improve its policies and activities, and better use its resources to focus more on high-risk areas. Although LEAs and prosecutors have the skills to take down ML networks, current efforts are mainly aimed at sanctioning the predicate offenses and some related third-party ML offenses, and confiscating related assets at the expense of standalone ML cases and those generated by foreign predicate offenses. The lack of criminalisation of self-laundering until January 1, 2015 meant that the AML framework could not be used to its fullest extent. Although the new provision is a significant step forward, it is too soon to tell how it will work out in practice.

20. The FSC has proven to be a useful platform for coordinating action for the prevention of the use of the financial system and of the economy for ML/TF and PF purposes. It is currently in the process of updating its assessment of the TF risk as a result of the global rise in the threat of terrorism. It will now also need to ensure that policies and activities are fully aligned with and prioritised according to the identified risks.

21. The authorities have shared the results of the NRA with FIs and DNFBPs which as a result are generally aware of the main ML risks and to a lesser extent TF risks, and how the identified risks relate to their institutions in the context of their business models. The financial sector, in general, and the banks, in particular, has a good understanding of the ML risks in Italy. The understanding of

ML/TF risks within the DNFBP sectors is very mixed, but, overall, is clearly not as sound as within the financial sector.

Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)

22. Italy has a comprehensive institutional framework of LEAs responsible for ensuring that ML, TF and predicate offenses are properly investigated. Their powers to obtain information are comprehensive, and they collect and use a wide variety of intelligence to investigate crimes. They have the expertise to identify and investigate ML, and financial investigations are launched in every investigation involving proceeds-generating crimes. However, there is the potential for duplication of effort, particularly during the early stages of investigations, owing to the overlapping responsibilities of LEAs.

23. The authorities have access to a very broad range of financial and other information. The UIF receives suspicious transaction reports (STRs) and other information, and has access to a range of administrative and financial information. The *Guardia di Finanza* (GdF, the financial police) and the *Direzione Investigativa Antimafia* (DIA, the anti-mafia investigative authority) can also access a wide range of financial information. The UIF produces good analysis for the GdF and DIA, but does not have access to LEA information and certain administrative information (e.g. the land registry) that could enrich its analysis.

24. LEAs and prosecutors have proven that they are able to undertake large and complex financial investigations. They have been successful in a number of high-profile cases, and in some of them in disabling criminal enterprises. The Criminal and the Anti-Mafia Codes constitute a comprehensive and effective framework for seizing and confiscating proceeds of crime. However, as noted above, current efforts are mainly aimed at sanctioning the predicate offenses and some related ML activities, and confiscating related assets at the expense of standalone ML cases and those generated by foreign predicate offenses. The lack of criminalisation of self-laundering until January 1, 2015 meant that the AML framework could not be used to its fullest extent notably in regard to tax evasion. The criminal judicial system appears to be complex and procedures, lengthy. Combined, these two elements, along with the complexity of ML cases, as well as insufficient resources, may undermine the effectiveness of the judicial system. The fact that, in many cases, ML and predicate offenses are committed by repeat offenders would tend to indicate that the sanctions applied are not sufficiently dissuasive.

25. More granular statistics on investigations, prosecutions and convictions would better allow the authorities to gauge their performance.

Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9- 11; R.5-8)

26. The authorities demonstrated a good understanding of TF risk. The most significant emerging risk is the potential support of Italian self-financed residents travelling to conflict zones abroad to help foreign terrorist groups.

27. Italy's anti-terrorism investigative activities are essentially focused on detecting and disrupting such cells, but include parallel financial investigations. While there have been some

convictions for terrorist activities in the last five years, none of the investigations carried out found evidence of TF activities.

28. Italy has effectively implemented TFS. It has adopted a passive system of notification for FIs and DNFBPs for actions related to targeted financial sanctions: the UIF simply provides a link to the EU list on its website. It does not have a focused, interagency coordinated approach to supervising the non-profit organisation (NPO) sector; however, LEAs have imposed administrative penalties. The main ministry in charge of NPOs (i.e., the Ministry of Labor and Social Policies (MLSP)) is not integrated into the FSC's work; therefore a key sector is excluded from the national coordination body for TFS. Limited outreach has been undertaken.

29. Italy actively mitigates the PF risk through TFS and controls on dual-use goods under the relevant international agreements. In view of the volume of trade, efforts focus more on the risks emanating from Iran, but the authorities are also aware of the risk emanating from trade with North Korea. Although the authorities have conducted outreach to the export sector, additional outreach to the financial and nonfinancial sector would strengthen the system.

Preventive Measures (Chapter 5—IO.4; R.9–23)

30. FIs generally have a good understanding of ML threats that they face, and support the conclusions of the NRA. Although the banks are potentially most vulnerable to ML, the larger ones appear to be strongest in their defences. The appreciation of TF risk is, however, much less developed. The DNFBP sectors are far less attuned to risk.

31. CDD measures are well embedded in the financial sector, but there appears to be an over-reliance by some sectors (e.g., insurance, asset managers, and payment institutions) on the due diligence undertaken by the banks when accepting business through agency arrangements. While there is a general appreciation within the financial sector of the process for identifying beneficial ownership, there is a lack of consistency in the detailed processes, especially with respect to following the 25% threshold through a complex ownership chain. Reporting by DNFBPs is generally poor, especially among the lawyers and accountants.

32. An area of major concern is the provision of remittance services by agents acting on behalf of companies that have benefited from the EU passporting arrangements under the Payment Services Directive. Investigations have revealed large scale abuses of the cash reporting requirements. The authorities understand the problems and have been instrumental in having them addressed within the EU's 4th Money Laundering Directive. However, cooperation among domestic supervisory authorities and with home country supervisors needs to be enhanced.

Supervision (Chapter 6—IO.3; R.26-28, R.34–35)

33. Financial sector supervisors generally have a good understanding of the ML/TF risk associated with the range of FIs they oversee. However, their supervisory tools could be improved in order to provide them with comprehensive, timely and consistent data on the nature and quantum of inherent risk at the level of individual institutions. A new risk-based supervisory methodology currently under development by the BoI will constitute an improvement over existing arrangements but it has some limitations. While the BoI, IVASS, and the MEF apply sanctions for violations of the AML Law and related regulations, there is room to strengthen the existing arrangements, including

by better aligning sanctions with the institutions' size and financial capacity and reducing the time required to impose sanctions on insurance licensees. The authorities also need to determine if the BoI can apply sanctions available under the CLB to banks that come under the prudential supervision of the ECB.

Transparency of Legal Persons and Arrangements (Chapter 7—IO.5; R.24–25)

34. Italian legal persons are used to a relatively large extent in ML schemes. The NRA highlights that most of these schemes are organised domestically, and usually involve relatively simple corporate structures. The authorities are well aware of the risk of misuse of legal persons by organised crime groups, but less so with respect to their misuse in other circumstances, although there are exceptions; the GdF in particular has a good understanding of the risk of misuse in the context of tax offenses.

35. Basic information on legal persons is readily available. Information on beneficial ownership is generally accessible by competent authorities albeit to a lesser extent than basic information, and not consistent in terms of reliability. Although the authorities have usually been able to identify the ultimate beneficial owner, the process could be improved, including by strengthening due diligence by notaries.

36. Foreign legal arrangements clearly pose a growing threat. Italian trustees increasingly provide trust services under other jurisdictions' legislation, including for domestic ML schemes. Domestic legal arrangements do not, however, appear to pose a significant ML or TF risk.

37. Stronger enforcement of existing obligations would contribute to dissuading further the misuse of legal persons. Sanctions for failure to comply with the identification requirements are available but are not used to their full extent.

International Cooperation (Chapter 8—IO.2; R.36–40)

38. Italy has a sound legal framework for international cooperation as well as a network of bilateral and multilateral agreements to facilitate cooperation. According to the feedback received from many countries, the authorities provide constructive and timely information or assistance when requested, including evidence, financial intelligence, and supervisory information related to ML, TF, or associated predicate offenses. They also assist with requests to locate and extradite criminals and to identify, freeze, seize, and confiscate assets. The lack of criminalisation (until December 31, 2014) of self-laundering, and delays in referring requests to the competent authority have undermined the scope and level of the assistance requested and/or provided by Italy. However, the recent criminalisation of self-laundering should have a positive effect on international cooperation. More comprehensive statistics and the introduction of a case management system would better allow Italy to gauge its performance on international cooperation.

Priority Actions

- LEAs should place more efforts on pursuing ML investigations and prosecutions that focus on risks associated with self-laundering, standalone money laundering, and foreign predicate offenses, and the abuse of legal persons. Sanctions need to be strengthened.

- The UIF should be authorised to access law enforcement information, and additional administrative databases (e.g., real estate), and to disseminate analysis beyond DIA and GdF to other relevant LEAs and agencies, and more selective in its disseminations. The GDF and DIA should in turn provide better feedback to the UIF.
- A national coordination mechanism amongst Italian LEAs and customs should be established to identify travel routes, flights, ships, and concealment methods that are considered highly used by cash couriers. Customs should enhance its activities in targeting proceeds of crime, including tax offenses, transported by cash couriers and share suspicious cases with the UIF.
- More granular statistics should be collected and maintained on financial investigations and international cooperation in order to be better able to measure performance.
- Regulatory and supervisory authorities are recommended to:
  - Work with the financial sector and DNFBPs to improve the understanding and implementation of requirements to identify beneficial owners.
  - Work closely with the financial sector to help improve the latter's understanding of the typologies of tax crimes, and the reporting of related suspicious transactions.
  - Issue secondary legislation or encourage the development of enforceable guidance to ensure coverage of all the DNFBP sectors, and engage in an outreach.
- Financial sector supervisors and the GdF should improve supervisory tools, the inputs for which should include good quality and consistent data on the inherent risks to which entities/persons are exposed, and the type of risk management practices they have in place. Sanctions for noncompliance need to be strengthened.
- The OAM should strengthen cooperation with home country supervisors of PI agents who operate in Italy under an EU passport.

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings (High, Substantial, Moderate, Low)

IO.1 - Risk, policy and coordination	**IO.2** - International cooperation	**IO.3** - Supervision	**IO.4** - Preventive measures	**IO.5** - Legal persons and arrangements	**IO.6** - Financial intelligence
Substantial	**Substantial**	**Moderate**	**Moderate**	**Substantial**	**Substantial**
IO.7 - ML investigation & prosecution	**IO.8** - Confiscation	**IO.9** - TF investigation & prosecution	**IO.10** - TF preventive measures & financial sanctions	**IO.11** - PF financial sanctions	
Substantial	**Substantial**	**Substantial**	**Moderate**	**Substantial**	

Technical Compliance Ratings (C, LC, PC, NC)

R.1 - assessing risk & applying risk-based approach	**R.2** - national cooperation and coordination	**R.3** - money laundering offence	**R.4** - confiscation & provisional measures	**R.5** - terrorist financing offence	**R.6** - targeted financial sanctions – terrorism & terrorist financing
LC	**LC**	**LC**	**C**	**C**	**LC**
R.7- targeted financial sanctions - proliferation	**R.8** -non-profit organisations	**R.9** – financial institution secrecy laws	**R.10** – Customer due diligence	**R.11** – Record keeping	**R.12** – Politically exposed persons
PC	**LC**	**C**	**LC**	**C**	**LC**
R.13 – Correspondent banking	**R.14** – Money or value transfer services	**R.15** –New technologies	**R.16** –Wire transfers	**R.17** – Reliance on third parties	**R.18** – Internal controls and foreign branches and subsidiaries
PC	**C**	**LC**	**PC**	**LC**	**LC**
R.19 – Higher-risk countries	**R.20** – Reporting of suspicious transactions	**R.21** – Tipping-off and confidentiality	**R.22** - DNFBPs: Customer due diligence	**R.23** – DNFBPs: Other measures	**R.24** – Transparency & BO of legal persons
C	**LC**	**LC**	**LC**	**LC**	**LC**
R.25 - Transparency & BO of legal arrangements	**R.26** – Regulation and supervision of financial institutions	**R.27** – Powers of supervision	**R.28** – Regulation and supervision of DNFBPs	**R.29** – Financial intelligence units	**R.30** – Responsibilities of law enforcement and investigative authorities
LC	**LC**	**LC**	**LC**	**LC**	**C**
R.31 – Powers of law enforcement and investigative authorities	**R.32** – Cash couriers	**R.33** – Statistics	**R.34** – Guidance and feedback	**R.35** – Sanctions	**R.36** – International instruments
C	**LC**	**LC**	**LC**	**PC**	**C**
R.37 – Mutual legal assistance	**R.38** – Mutual legal assistance: freezing and confiscation	**R.39** – Extradition	**R.40** – Other forms of international cooperation		
LC	**LC**	**C**	**LC**		

*This report, originally published on 10 February 2016, was republished on 11 February to correct a typographical error on this page.

MUTUAL EVALUATION REPORT

Preface

This report summarizes the AML/CFT measures in place in Italy as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Italy's AML/CFT system, and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was based on information provided by Italy, and information obtained by the evaluation team during its on-site visit to Italy from January 14 to 30, 2015.

The evaluation was conducted by an assessment team consisting of:

- Richard Lalonde, (team leader)
- Nadine Schwarz, (legal expert)
- Ian Carrington, (financial expert)
- Chady El-Khoury, (financial intelligence unit and legal expert), all IMF;
- Richard Chalmers, consultant (financial expert);
- Christopher Burdick, U.S. Department of the Treasury (financial expert);
- Henri Pons, Court of Appeal of Montpellier, France (legal expert); and
- Santiago Alvarez, National Police, Spain (law enforcement expert).

The report was reviewed by Mr. John Ringguth, Executive Secretary to MONEYVAL; Ms. Christina Pitzer, Senior Policy Officer, Gruppe Geldwäscheprävention, Federal Financial Supervisory Authority (BaFin), Germany, and Ms. Emily Rose Adeleke, Financial Sector Specialist, World Bank.

Italy previously underwent a FATF Mutual Evaluation in 2005, conducted according to the 2004 FATF Methodology. Italy's 2005 Detailed Assessment concluded that the country was compliant (C) with 18 Recommendations; largely compliant with 13; partially compliant with 12; and non-compliant with 6. Italy was rated compliant or largely compliant with 11 of the 16 Core and Key Recommendations. Italy entered into the follow-up process in October 2007, which it exited in February 2009 on the basis that it had achieved a sufficient level of compliance with all Core and Key Recommendations, such that all were considered equivalent to at least an LC.

The 2005 evaluation and 2009 follow-up reports have been published and are available at www.fatf-gafi.org/countries/d-i/italy/.

CHAPTER 1. ML/TF RISKS AND CONTEXT

39. Italy occupies a land area of about 294 140km², making it the seventy-second largest country in the world. Neighbouring countries are Austria, France, Slovenia, and Switzerland. The sovereign states of San Marino and Vatican City are enclaves within Italy, while *Campione d'Italia* is an Italian exclave in Switzerland. Italy's population is currently about 60 million with approximately 7.5% of the population being immigrants. Italy was one of the founding members of the European Community in 1957, which became the EU in 1993. It is part of the Schengen Area, and has been a member of the Eurozone since 1999.

40. Italy is a republic. The President of the Republic appoints the Prime Minister and, on his proposal, the Ministers (cabinet), all subject to Parliament's confidence. The legislative branch consists of a democratically-elected bicameral parliament divided between the *Senato* (315 seats) and *Camera dei Deputati* (630 seats).

41. Italy's Constitution was adopted on December 22, 1947 and came into force on 1 January 1948. Italy's judiciary is comprised of judges and public prosecutors, all considered magistrates. The Constitution guarantees the independence of magistrates from the executive branch of government and assigns specific powers to the *Consiglio Superiore della Magistratura* (CSM)-which is an independent, self-governing judicial body with the competence to appoint, assign, move, promote, and discipline judges and public prosecutors. The judiciary is subdivided geographically on an administrative basis. Prosecutors are responsible for directing the police to conduct investigations. The Italian Constitution provides for mandatory criminal prosecution.

ML/TF Risks and Scoping of Higher-Risk Issues

Overview of ML/TF Risks

42. Although there is no official estimate, the authorities and the assessors agree that the amount of proceeds generated annually by predicate crimes committed in Italy is high. Available estimates vary widely, ranging from 1.7–12% of GDP,1 with most pointing to the upper end of the range. In 2014, this translates into illegal proceeds ranging from EUR 27.5–194.4 billion.

43. The main proceeds-generating crimes can be divided into three tiers of magnitude:[2]

i. Tax and excise evasion (around 75% of total proceeds of crime).[3] Income tax evasion and VAT fraud are considered the biggest sources of tax evasion. By value, most tax evasion takes place in northern Italy; tax evasion in the southern regions, while more widespread, tends to involve smaller amounts.

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[1] Estimates in the lower end of the range are based on household surveys and on indicators related to crime and criminality, while those at the upper end of the range are based on comparisons of macroeconomic indicators.

[2] For more information on the scale of proceeds see *Italy's National Risk Assessment (2014)* page 9–26, *Estimating illicit financial flows resulting from drug trafficking and other transnational organised crimes* (UNODC 2011) or *Estimating proceeds of crime and mafia revenues in Italy* (Global Crime Volume 15, Issue 1-2, 2014), *Counting the cost of crime in Italy* (Detotto, Claudio and Marco Vannini 2010). SOS Impresa, XII Rapporto (2010) *Le mani della criminalità sulle imprese*.

[3] For more information see *Italy's National Risk Assessment* p.14.

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ii. Drug trafficking and loan sharking (collectively around 15% of the total).

iii. Corruption and bribery, fraud, counterfeiting and piracy or products, environmental crime, robbery or theft, smuggling, extortion, and illegal gambling (collectively accounting for 10% of the total).

44. According to the authorities' NRA, most of the crimes in tiers ii. and iii. are closely linked to the activities of organised crime. Italy has historically suffered from a high rate of organised criminal activity linked to Mafia-type organised crime structures, such as the *Camorra*, *N'drangheta*, *Sacra Corona Unita*, *Cosa Nostra*, and *Stidda*. Although predominant in the South, organised crime has spread throughout the country (and trans-nationally). There is also a growing presence of foreign organised crime groups in certain parts of the country, notably central Italy.[4] Organised crime groups in Italy have become less visible than in the past, owing in part to their increasingly becoming entrepreneurial criminal organisations infiltrating the legitimate economy.[5] They may also have shifted their investment strategies from large urban areas to smaller municipalities and peripheral areas where it is easier to hide and infiltrate or corrupt public administrations.[6] This may not only reflect a need to move into more profitable lines of business but also be in response to the authorities' increased efforts to clamp down on organised crime since the 1990s. In their NRA, the authorities characterize organised crime as the dominant and most worrisome tool in criminal conduct.

45. The risk of TF appears relatively low. While domestic extremist groups exist, they are very fragmented and do not, at present, seem to pose a significant terrorism or TF risk. The main TF risk is connected to independent individuals who are devoted to Jihad, encouraged by online, anti-Western, and anti-Semitic propaganda, and tend to operate through small cells that are primarily self-funded. Charities and other NPOs do not appear to be used to a significant extent to raise funds for terror in or from Italy.

46. The channel most vulnerable to ML activity appears to be the banks and BancoPosta due to their dominance of the financial sector, the range of products they offer, the transaction volumes they handle, and the interconnectedness of the banking sector with the international financial system. This vulnerability is to a fair degree offset by the implementation of AML/CFT measures by banks and competent authorities. Increasing use of electronic money instruments is an emerging concern due to vulnerabilities in some preventive measures. Lawyers, notaries, and accountants are in some cases involved in creating and managing structures that lack transparency and are used to launder money. According to the authorities' NRA, certain types of trust companies may also be of high risk.

47. According to the NRA, the high use of cash[7] and relatively large informal economy[8] very significantly increases the risk that illicit proceeds may be rechanneled into the regulated formal economy.

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[4] *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe—Final report of Project OCP*, Cristina Soriani and Michele Riccardi (2015).

[5] *Idem.*

[6] *Idem.*

[7] It has been estimated that in 2010 cash accounted for about 90% of all micropayments. However, the use of cash is on the decline for retail purchases, which is consistent with the spread of payment cards and other electronic means of payment. For more info see *Payment, clearing and settlement systems in Italy* (BIS 2012).

48. The openness of its economy and the volume of international visitors expose Italy to international ML activity, but the extent of this is unclear. The main destinations for outwards flows are: Switzerland, Luxembourg, and Monaco (in particular with respect to proceeds of tax crimes),[9] as well as France, Germany, San Marino, and Spain.

49. Italy recently passed a law criminalizing self-laundering which came into force on January 1, 2015. Although some authorities believe this will lead to an increased number of ML cases, it is too soon to tell how it will work out in practice. That said, the adoption of the law is a welcome development as the absence of criminalisation of self-laundering had been highlighted by the authorities and others as compromising the authorities' ability to punish perpetrators, and hindering international cooperation other than FIU-to-FIU cooperation. The re-criminalisation of "false corporate accounting" is another welcome step, and is particularly significant in light of the extent of tax crimes in Italy.[10]

50. The criminal judicial system appears to be complex and procedures, lengthy.[11] Combined along with the complexity of ML cases, as well as insufficient resources, these factors appear to undermine the efficacy of the judicial system. The fact that, in many cases, ML and predicate offenses are committed by repeat offenders would tend to indicate that the sanctions applied are not sufficiently dissuasive.

Country's Risk Assessment and Scoping of Higher Risk Issues

51. Prior to the on-site visit, the assessment team reviewed material provided by the authorities, notably the national risk assessment, and the detailed assessment questionnaire, and other information from public sources. As a result, during the on-site visit the team gave increased attention to the following three areas which it deemed posed the highest ML/TF risks in Italy:

- **Tax evasion** (i.e., income tax evasion and VAT fraud) is by far the single most important source of proceeds of crime. The assessment team sought a better understanding of the phenomenon (e.g., whether there are linkages to the informal economy and organised crime; transmission channels into the regulated economy; and measures taken to curb it, including AML/CFT preventive measures, recovery efforts, cooperation (including through exchange of information) among relevant domestic competent authorities (e.g., tax authorities, FIU, supervisors, and law enforcement), and international cooperation (notably with counterparts in Switzerland, Luxembourg, and Monaco).

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[8] *Shadow Economy and Undeclared Work* (European Commission 2012). The size of the informal economy in Italy is comparable to those of Spain and Portugal in 2012.

[9] In 2009 the Italian tax amnesty (Asset Repatriation Program) yielded more than EUR 80 billion, 70% of the repatriated or regularized assets were originally invested in Switzerland.

[10] *Law n. 69 dated 29 May 2015* (Official Gazette 30 May 2015; entry into force June 14, 2015.

[11] See *World Justice Project Rule of Law Index 2015* concerning Italy's international ranking on criminal justice system factors, such as the timeliness of criminal adjudications.

- **Organised crime** remains pervasive and is connected to all the main predicate crimes in Italy, some of which are almost exclusively conducted in an organised crime context (notably drug trafficking, extortion, loan sharking, and illicit trafficking in waste materials). The team explored the extent of the problem, its linkages with the informal economy, tax evasion and corruption, its main ML methods, and the measures taken by the authorities to combat it, including domestic and international cooperation.
- **Corruption**, although estimates of its magnitude vary, is clearly a significant concern, both in terms of the proceeds it generates, and the potential impact it may have on the sound functioning of the AML/CFT framework. The team sought a better understanding of the magnitude of the problem, the linkages to organised crime, the areas of activity that are most affected, and the measures taken to combat corruption, including the enforcement of compliance with AML/CFT preventive measures, as well as the existing framework for cooperation and sharing of information among the FIU, anti-corruption and other domestic competent authorities and, internationally, with foreign counterparts.

52. Cross-cutting issues: In its examination of these risks, the assessment team paid particular attention to the implementation (as well as enforcement) of AML/CFT preventive measures in the banking sector on the grounds of materiality relative to other sectors. The team also focused on the functioning of the criminal justice system, the statute of limitations, and international cooperation. In this context, it also sought to gauge the potential impact of the newly-adopted law that criminalizes self-laundering. Finally, the team sought to ascertain the role of lawyers and notaries in the creation of corporate structures and legal arrangements that may lack transparency and facilitate ML.

Materiality

53. All financial services that comprise FATF's definition of "FIs" are provided in Italy, and all designated non-financial businesses and professions (DNFBPs) are present. Italy's financial sector is well developed and mature. In absolute terms, it is very large (and far larger than the sectors covered by the DNFBPs), with assets totalling approximately 240% of GDP[12] (this percentage indicates that FIs provide substantial services to non-residents), and, according to the IMF, is the eighth most interconnected financial system in the world.

54. The financial system is dominated by banks that hold over 85% of the total financial sector assets.[13] While banking has become slightly more concentrated over the past decade, there are still many small cooperative and regional banks in operation resulting in Italy having a relatively higher branch density. Italian banks are crucial for the financing of small and medium-size enterprises

[12] Italy is one of the 29 jurisdictions whose financial sectors are considered by the IMF to be systematically important: *Press Release No 14/08* of January 13, 2014.

[13] For more information on the financial sector, see the documents related to the 2013 IMF *The Financial Sector Assessment of Italy* (https://www.imf.org/external/np/fsap/fsap.aspx?CountryName=Italy).

(SMEs), which account for almost 70% of business value added. Non-resident loans are extended to customers mainly from Germany and Austria.[14]

55. According to the IMF's 2013 Financial Sector Assessment Program assessment of Italy, compliance with international standards for banking and securities supervision is high and supervisory practices are strong and sophisticated.

Structural Elements

56. The key structural elements for effective AML/CFT controls appear to be present in Italy. Political and institutional stability, accountability, rule of law are all present, although compared to other large high-income countries, Italy ranks relatively low in terms of governance indicators.[15] There is a professional and independent judicial system, but as noted above there are some vulnerabilities.

Background and other Contextual Factors

57. Italy has a mature and sophisticated AML/CFT regime, with a correspondingly well-developed legal and institutional framework. The level of financial inclusion is also relatively high.

58. Corruption in Italy is a significant problem, especially compared to other large high-income countries, and has drawn particular attention from the Council of Europe and the OECD during the past few years.[16] The authorities recognize this and have made combating corruption a key priority. Historically, Italy's strategic anti-corruption approach has relied to a considerable extent on the repression side. A new anti-corruption law was enacted in 2012. It aims at ensuring a more balanced approach towards anti-corruption policies, strengthening preventive measures and enhancing accountability within the public administration.[17] Within the third tier of the main proceeds generating crimes (see paragraph 39.), estimates of its costs and the amount of proceeds that it generates vary widely, but all suggest it is important, making corruption one of the most pressing issues in Italy.[18] In some instances, the relationship between politicians, organised crime and businesses, and the degree of integrity within the ranks of elected and appointed officials has appeared problematic. Public procurement, in particular with respect to infrastructure work, is one

[14] Italy's Financial System Stability Assessment (IMF 2013).

[15] The World Bank's *Worldwide Governance Indicators* places Italy approximately in the top 1/3 percentile of countries on these factors. Readers should exercise caution in interpreting indicators based on perceptions, such as these ones. (See footnote 19.)

[16] The World Bank's *Worldwide Governance Indicators.*

[17] http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organised-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_italy_chapter_en.pdf.

[18] Measuring corruption is based on perception indices and in Italy a significant number of corruption investigations have been conducted and reported by the media, thus influencing the perception of the phenomenon. For instance, "the 2013 Special Eurobarometer on Corruption12 showed that 97% of Italian respondents (second highest percentage in the EU) believe that corruption is widespread in their country (EU average: 76%). When it comes to direct experience with bribery, Italy scores better than the EU average in the 2013 Special Eurobarometer on Corruption, with only 2% saying that they were asked or expected to pay a bribe in the previous year (EU average: 4%). http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organised-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_italy_chapter_en.pdf.

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area vulnerable to corruption.[19] To ensure transparency of public procurement, the National Anti-Corruption Authority (ANAC) was charged in 2014 with the supervision of public contracts; special powers have been attributed to the ANAC, including for the extraordinary and temporary management of contractors. (See Annex 2 for a fuller description of steps taken by Italy over the past several years to combat corruption.)

Overview of AML/CFT Strategy

59. ML is criminalised in a comprehensive way. Italy recently criminalised self-laundering as well (article 648 *ter* 1 of CC—law of December 15, 2014, entered into force on January 1, 2015). All the categories of crimes listed in the FATF Glossary are predicate offenses to ML, including a range of tax crimes. A voluntary tax compliance program is effect from January until September 2015. It does not, however, appear to be an obstacle to the implementation of the AML/CFT framework including the implementation of the ML offense.

60. Italy has a comprehensive framework for seizing and confiscating assets linked to crime which includes not only "ordinary" confiscation but also confiscation of per equivalent, confiscation for disproportion, and a range of preventive measures under the Anti-Mafia Code.

61. The main ministries, agencies, and authorities responsible for AML/CFT are:

- **Ministry of Finance and Economy (MEF)**—is responsible for policies to prevent the use of the financial system and of the economy for the purpose of ML/TF. It houses and chairs the Financial Security Committee (FSC), which comprise key competent authorities and is tasked with coordinating action for the prevention of the use of the financial system and of the economy for ML/TF purposes, and the financing of proliferation of weapons of mass destruction (PF). The MEF also has the power to levy AML/CFT administrative sanctions.
- **Interior Ministry**—is responsible for the public order and general security policies. It coordinates the five national police forces to this effect. Preventive activities against ML and TF by the *Polizia di Stato* are conducted under the authority of the ministry.
- **Ministry of Justice**—deals with the organisation of justice/courts and some administrative tasks such as the management of notarial archives and of the judicial records register monitoring of chartered professions. It also plays a role in international cooperation. The Legislative Office carries out studies and develops proposals for legislative action.
- **Bank of Italy (BoI)**—is responsible for the supervision of banks, e-money institutions, payment institutions, Bancoposta, financial intermediaries, and *Cassa Depositi e Prestiti SPA*. The BoI also undertakes the supervision of investment firms, asset management companies and *Società di Investimento a Capitale Variabile* (SICAV) jointly with CONSOB. Under the SSM, the ECB is

[19] *Italy Annex to the EU Anti-Corruption Report* (European commission 2014).

responsible for the supervision of significant banks, i.e. the 13 largest banking groups in Italy. The BoI is responsible for the prudential supervision of the remaining banks and the AML/CFT supervision of all banks.

- **National Commission for Companies and the Stock Exchange**[20] **(CONSOB)**—is the public authority responsible for regulating the Italian financial markets. Its activity is aimed at the protection of the investing public. The CONSOB is the competent authority for ensuring (i) transparency and correct behaviour by financial market participants; (ii) disclosure of complete and accurate information to the investing public by listed companies; (iii) accuracy of the facts represented in prospectuses related to offerings of transferable securities to the investing public; and (iv) compliance with regulations by auditors entered in the Special Register. It also investigates potential infringements of insider dealing and market manipulation law.
- **Institute for Insurance Supervision**[21] **(IVASS)**—is the supervisor of insurance and reinsurance undertakings as well as all the other bodies subject to the regulations on private insurance, insurance agents and brokers included. It is responsible for ensuring the stability of the insurance market and undertakings, as well as the solvency and efficiency of market participants in the interests of policyholders and consumers.
- ***Unità di Informazione Finanziaria*** **(UIF)**—is an administrative FIU established within BoI. It has been operational since January 1, 2008[22] as the national centre for receipt, and analysis of suspicious transaction reports and other information relevant to ML and TF, and for the dissemination of the results of that analysis to LEAs.
- ***Guardia di Finanza*** **(GdF)**—is a body with military status placed under the direct authority of the MEF. It is responsible for dealing with financial crime, corruption, tax evasion and avoidance, as well as smuggling. It also has AML/CFT supervisory responsibilities regarding *bureaux de change*, payment institutions' agents and DNFBPs.
- ***Carabinieri***—is a military corps with police duties which also serves as the Italian military police. Its Specialised Operational Group (R.O.S.) was created to coordinate investigations into organised crime, and it is the main

[20] *Commissione Nazionale per le Società e la Borsa.*

[21] *Istituto per la Vigilanza sulle Assicurazioni.*

[22] The UIF was within the former *Ufficio Italiano dei Cambi* chaired by the Governor from 1997 until end of 2007.

investigative arm of the *Carabinieri* which deals with organised crime and terrorism, both at national and international levels.

- **Anti-Mafia Investigation Department (DIA)**[23]—is entrusted in particular with fighting specific Mafia-type organisations. It is a special inter-force investigative body staffed with personnel from the State Police, *Carabinieri* and GdF with experience in financial investigations and organised crime investigations. The DIA is vested with special investigative powers to fight organised crime.
- **Anti-Mafia National Department (DNA)**—is the judicial coordinating body which enforces the anti-mafia legislation. It comprises the National Anti-Mafia Prosecutor (*Procuratore Nazionale Antimafia*) and 20 deputy prosecutors. The DNA works in close coordination with the DIA.

62. Other agencies that play a role in AML/CFT include the National Anti-Corruption Agency (ANAC), Ministry of Foreign Affairs and International Cooperation, Inland Revenue Agency (*Agenzia delle Entrate*), Customs Agency, Ministry of Economic Development (MISE), and the Ministry of Labor.

63. The FSC, under the auspices of the MEF, is the key vehicle for the coordination of national AML/CFT policies. The judicial authorities must transmit to the FSC any information deemed as useful for its mandate.

64. There are detailed rules for the exchange of information and collaboration among the concerned agencies under the AML Law. Relevant agencies are required to cooperate and coordinate, and Memoranda of Understanding (MOUs) must be signed between them.[24] The AML Law also provides for the derogation of professional secrecy for the exchange of information between the supervisory authorities and the UIF.

65. Italian authorities have been applying an RBA to varying degrees based on their individual understanding of risk. Over the past decades, specific structures have been established to address the key ML threats (e.g., the DIA and DNA for combating organised crime, the GdF for financial crime). Unique and best practice measures have also been introduced (e.g., use of anti-mafia preventive measures against other crimes, including ML; confiscation measures originally conceived for ML and organised crimes have been applied to tax crimes; specific powers to ANAC—the anti-corruption authority—such as extraordinary and temporary management of contractors; and a highly-restrictive regime on the use of cash). Italy has a strong institutional framework for combating ML and TF. Law enforcement agencies (LEAs) and prosecutors pursue the recovery of proceeds of crime as a clear policy objective.

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[23] *Direzione Investigativa Antimafia*

[24] Coordination between the BoI and the UIF is governed by a 2009 memorandum of understanding. Accordingly, the BoI reports to the UIF suspicious transactions and any other information found in the performance of its supervisory activities that may be relevant to it; the UIF reports to BoI any information that may be relevant to its remit. The BoI also cooperates with judicial authorities and LEAs, reporting any irregularities which appear to be criminal offenses; the BoI also supplies judicial authorities with information requested in the framework of investigations or proceedings involving violations subject to criminal sanctions. It also cooperates with the CONSOB through a 2011 MOU.

66. Italy has not yet developed a nationally coordinated AML/CFT strategy which is fully informed by the ML/TF risks in the NRA, but the FSC is currently working on it. The NRA was finalised and published shortly before the on-site and, as such, its results are beginning to shape national AML/CFT strategy. Guidelines have been developed for notaries, work has begun on developing similar ones for accountants, and the BoI has launched a supervisory initiative targeted at EU branches of PIs and EMIs established in Italy that were identified as a major ML/TF vulnerability by the NRA. However, it is too soon to tell whether the current allocation of resources to AML/CFT is in line with the results of the NRA.

Overview of the Legal and Institutional Framework

67. Although the main authorities have identified and assessed Italy's ML/TF risks separately, i.e. within their respective remits, it is only recently that they have done so in a coordinated manner by issuing Italy's first NRA in July 2014, following a seven-month long exercise,[25] led by the FSC. The NRA refers to the ML/TF risks associated with the activities of reporting entities under the supervision of the BoI and other supervisors, the indicators and typologies developed by the UIF, the trends and information provided by the judiciary and LEAs, and reports issued by academics and regional and international organisations. The NRA analyses ML/TF threats and vulnerabilities, but not consequences, at the national level on the basis of an agreed upon methodology, that generally covers the range of issues addressed in the FATF guidance on conducting national ML/TF risk assessments. The assessment also identifies and assesses new and emerging risks reflected in the latest FATF standard including domestic politically exposed persons (PEPs) and tax evasion.

68. The NRA is of good quality, has involved close coordination among concerned agencies, the private sector and academia, and uses multiple sources of information. There are some data gaps (e.g., comprehensive statistics on ML/TF investigations, and international cooperation) and the methodology establishes how to deal with such gaps so as not to undermine the robustness of the assessment. The background information used to reach conclusions seems credible, factual, and up to date. The risk assessment focused on the laundering of the proceeds of crime committed in Italy and abroad, and predicate offenses as well as sectors affected by ML. It also includes an assessment of preventive measures in FIs and DNFBPs, cross-border controls, legal persons and trusts; investigative measures; and repressive measures. As a result, it identifies the FIs, and DNFBPs that present the highest risk (i.e. banks, electronic money institutions and payment institutions; and electronic gaming, gold buyers, real estate agents, and gambling, notaries, and lawyers). Although the TF component of the NRA appears to be less sophisticated than the ML component as a result of the differences in the available underlying information and data, it is of good quality and has yielded reasonable findings.

Overview of the Financial Sector and DNFBPs

69. The Italian financial system is diverse in nature, but is dominated by banks, which account for almost 85% of total financial sector assets, and which are focused on traditional banking business

[25] The Working Group started its activities in March 2013. The draft methodology was finalized and approved.

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of raising deposits from customers and (with the exception of BancoPosta)[26] lending to businesses and households. At end-2014, there were 684 banks (including BancoPosta) with total assets of about EUR 3.5 trillion. The top five banking groups (comprising 40 banks) held 47% of total banking assets.

70. At end-2014 a total of 134 Italian-incorporated insurance undertakings were authorised, of which 64 provided life insurance products. Foreign institutions (mostly French and German) control 48 of the Italian insurers, accounting for 24% of total premiums, while 93 EU-incorporated insurers are operating through branch networks. Overall, the business activity is relatively concentrated, with five institutions accounting for approximately 65% of life premiums. Life insurance is mainly sold through banks and post offices (the bancassurance model).

71. At end-2014, 936 firms were authorised to provide investment and other financial services, of which there were 89 investment firms (with EUR 8 billion under management); 147 asset management companies, whose core business is the management of open-ended investment funds (with EUR 770.5 billion under management); and 700 non-bank financial intermediaries, mainly involved in leasing, factoring and consumer credit. The banks own almost all the asset management companies, with the five largest accounting for about 65% of funds under management in Italy.

72. Of the 41 domestic payment institutions authorised at end-2014, 16 were providing remittance services, for the most part as their primary business. These payment institutions operate through a network of 21 branches and 1 400 agreements with local agents. However, since the introduction of the EU Payment Service Directive (March 2010), over 240 EU payment institutions have given notification of their intention to provide services in Italy, including remittance services in most cases. The result has been that Italian service providers now process only 10% of remittances. The NRA comments that: "this scenario is exacerbated by the fact that the distribution network is composed of about 40,000 people, only a thousand of which is registered at the *Organismo Agenti e Mediatori* (OAM), while the majority is attributable to community operators." Since 2005, remittances from Italy have been growing at an annual rate of 13%, totalling EUR 6.8 billion in 2012, of which 40% was destined to China.

73. Over 300 trust companies exist in Italy and are treated as part of the financial sector. The so-called "dynamic" trust company that actively manages investment portfolios on behalf of clients has largely disappeared from the market-place. The majority "static" trust companies act under a direct mandate executed on behalf of the client, for whom they act as nominees in the placement of investments, etc.

Table 1. **Composition of the Financial Sector in Italy as at end 2014**

Entity		Supervisor[1]
Banks and BancoPosta	667	BoI
Of which: *branches of foreign banks*	79	
Large	42	

[26] This Post Office savings bank has approximately 32 million retail customers, but provides only deposit taking services on its own account, although it does also market a range of third-party products (e.g., mortgages, investment funds).

Entity		Supervisor[1]
Medium	32	
Minor	473	
Small	42	
Banking groups	75	
Investment firms (*Società di intermediazione mobiliare*)	89	BoI + CONSOB
Asset management companies (*Società di gestione del risparmio* and SICAV)	147	BoI + CONSOB
Non-bank financial intermediaries ex article 107 of BL	175	BoI + GdF
Non-bank financial intermediaries ex article 106 of BL	525	BoI + GdF
Electronic Money Institutions (Imel)	5	BoI
Payment Institutions (including domestically registered money remitters)[2]	41	BoI + GdF
Money-changers	104	GdF
Life-insurance companies	64	IVASS
Insurance brokers	5 285	IVASS
Insurance agents	35 942	IVASS
Trust Companies	310	GdF

Table notes:

1. For those entities with more than one regulator listed, the statutory responsibility lies with the BoI, which can delegate to the secondary regulator (CONSOB and GdF). The UIF also has a power to inspect all entities for compliance with STR requirements.

2. In addition, there are approximately 240 EU payment institutions that have given notice of their intention to provide services in Italy in line with the Payments Services Directive.

74. Italy has approximately 4 600 notaries who play a key role in everyday private and commercial life through the requirement that they authenticate and hold documents relating to both movable and immovable property, particularly in respect of real estate transactions and corporate affairs. Although notaries undertake about three million acts each year, only a proportion will involve the type of transaction for which they are captured under the AML Law.

75. Approximately 80% of Italy's 234 000 lawyers act solely at litigators, and are not therefore subject to the AML legislation. Some 90 firms located in 30 cities across the country (and involving approximately 5 000 lawyers) generate the vast majority of revenues derived from engagement in the corporate, commercial and financial sectors.

76. There are about 114 000 registered accountants. Their activities include budgetary planning, preparation of financial statements, corporate and operations liquidations, evaluations, expert reports and opinions, consultancy, administration and custody. In addition, the AML Law has been extended to cover auditors, of whom there are about 100 000.

77. There are 31 681 active real estate agents recorded in the register. The category includes individuals who act as lessors, agents and/or brokers operating in one or more of the following

areas: selling, buying and renting real estate, and providing other services such as the valuation of property, or agency services on behalf of third parties.

78. Italy hosts four casinos (Campione d'Italia, San Remo, Venice, and Saint Vincent), all owned and managed by the municipalities in which they are located. Casinos are also located on ships when they are in international waters. There is a very active internet gambling sector, comprising approximately 800 vendors, some of which are covered by the AML Law.

Overview of Preventive Measures

79. The current legal framework relevant to the preventive measures postdates the last assessment of Italy's compliance with the FATF standards (based on the situation in 2005), and is materially different from that time. Therefore, no reliance has been placed on the previous assessment when considering Italy's compliance with the 2012 standards. The legal framework includes the AML Law of 2007, as subsequently amended, and the relevant regulations issued by the BoI on CDD and record-keeping (both effective from January 1, 2014, although the latter was an update of a 1993 regulation) and internal controls[27] (effective September 1, 2011); and by the IVASS on internal controls and CDD (effective August 1, 2012 and January 1, 2015, respectively). In addition, in September 2012, the BoI issued instructions for the application of EU Regulation 1781/2006 on information on the payer accompanying the transfer of funds. There are several additional laws that are not specific to AML/CFT measures, but which have relevance to this assessment, including the Consolidated Laws on both Banking and Finance.

80. The AML Law applies to all the financial activities and DNFBPs specified under the FATF Recommendations, but also extends to a variety of other activities not addressed within the standards (e.g., clearing and settlement services, security transport businesses, gaming enterprises, auditing firms (which the authorities consider to be a key addition), antiques traders, auction houses and art galleries). The primary law is quite comprehensive in its requirements relating to the preventive measures, such that the BoI, CONSOB, and IVASS regulations add relatively little in terms of core obligations, but do take into account many of the points of detail added in the course of the 2012 revision to the FATF standards. They also provide extensive narrative and guidance that is, itself, enforceable. However, these regulations only extend to the DNFBP sectors with respect to PIE auditors; for DNFBPs other than PIE auditors and notaries, there is no substantive secondary legislation or guideline linked to the 2007 AML Law.

81. One area where the law and regulations have not been updated for the financial sector to reflect the revision of the FATF standards relates to wire transfers. Pending action at the EU level, Italy is still bound by the 2006 EU Wire Transfer Regulation, which does not take account of the new requirements with respect to beneficiary information and the obligations on intermediary FIs.

82. Italy has not applied any exemptions from the AML/CFT framework with respect to financial activities defined within the FATF standards.

[27] The regulations on CDD and internal controls apply to banks, *Poste Italiane*, electronic money institutions, payment institutions, investment firms, asset management companies, SICAVs, stockbrokers, financial intermediaries, trust companies, *Casa Depositi e Prestiti*, loan brokers and financial agents. The record-keeping regulations also extend to the insurance sector.

Overview of Legal Persons and Arrangements

83. Several types of private legal persons may be established under Italian law, namely: (i) Companies, which are classified as: joint stock companies (*società per azioni*, SPA); limited liability companies (*società a responsabilità limitata*, SRL); and companies limited by shares (*società in accomandita per azioni*, SAPA); (ii) recognised associations (*associazioni riconosciute*); (iii) foundations (*fondazioni*); and (iv) cooperatives (*società cooperative*). The participation of a notary (who exercises a public function in Italy) is mandatory for the establishment of most legal persons as well as for some activities during the life of the company, such as an increase in capital. It is also common (but not mandatory in call cases) for other types of activities, such as a transfer of shares (which, for some companies, may also be performed by other reporting entities). Legal personality is acquired through registration in the Business Register (as far as companies and cooperatives are concerned) or in the Register of legal persons (for associations and foundations). Both types of registers are publicly available. Access to the information contained in the Business Register is facilitated through Infocamere's online database.

84. As the table below indicates, most businesses in Italy operate without legal personality. With a total of more than 1.5 million, the SRL is by far the most common form of legal persons created in Italy.[28] This is mainly due to the lower minimum capital requirement (EUR 10 000 as opposed to EUR 120 000 for the SPA and SAPA) and organisational flexibility.

Table 2. **Italian Businesses without Legal Personality**

	Individual enterprises	**Partnerships**	**Companies**		**Other forms of legal persons (incl. cooperatives)**	**Total**
			Joint stock companies (SPA and SAPA)	Limited liability companies (SRL, incl. simplified)		
Active	3 174 315	900 058	40 624	1 175 480	128 327	5 418 804
Inactive	99 213	249 447	6 050	367 614	40 741	763 065
Suspended	9 377	4 810	150	2 624	280	17 241
Total	3 282 905	1 154 315	46 824	1 545 718	169 348	6 199 110
			1 592 542			

85. NPOs are composed of 68 349 incorporated associations and 6 220 foundations.[29]

86. The majority of Italian companies are medium-sized (in terms of capital) and domestically owned. Detailed information is provided in Annex 3.

87. Two types of legal arrangements generally referred to as "trust companies" may be established under Italian law, namely: (i) the "static fiduciary" which includes a nominee working

[28] Source: Infocamere data as of November 24, 2014.

[29] Source: ISTAT 2013.

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under a direct mandate executed on behalf of the client. Static fiduciaries do not actively manage assets; and (ii) the "Dynamic fiduciary" which has a mandate to actively manage assets on behalf of the customer. Both are subject to AML/CFT requirements.[30] In practice, such arrangements are not a widespread activity: there are 282 static fiduciaries, all of which are very small arrangements, and less ten dynamic fiduciaries currently operating in Italy. The 2014 NRA highlights that they are highly vulnerable to misuse. However, considering that they are under the authorities' supervision, that their numbers are limited and in decline, and that they do not appear in major ML schemes investigated so far, the net risk of domestic legal arrangements appears low.

88. Italy is a party to Hague Convention of July 1, 1985 on the recognition of trusts, and foreign trusts are established—under another jurisdiction's law—and managed by Italian FIs and DNFBPs. Although there are no precise figures on the number of foreign trusts managed in Italy, the authorities noted an increase in instances where Italian FIs or DNFBPs act as trustees of a foreign trust. Providers of services to trusts are explicitly mentioned in the AML Law as being subject to its requirements, including the obligation to identify the beneficial owner of a trust. Significant shareholdings in Italian companies held by trusts must also be declared to the CONSOB. Trustees are not required to disclose the fact that they are acting as trustee, but, like any other customer, must provide reporting entities with all the necessary information, including information on the beneficial owner (see write-up for IO.4 for more details).

89. Recent reforms in the Italian bureaucracy have improved Italy's ranking in terms of ease of doing business.[31] Company formation, in particular, has been considerably improved and may now be completed within a matter of days. Nevertheless, Italy is not an international centre for the creation and administration of legal persons or arrangements. Although Italy is well connected with other European and non-European countries, only a small portion of corporate vehicles have foreign ownership: according to the Infocamere database, some 0.62% of Italian legal persons are partly owned by foreign legal persons and 0.47% by foreign legal arrangements (i.e. a total of some 17 618 of the total number of legal persons). The most frequent foreign owners are legal persons from China, Morocco, Romania, Albania, Switzerland, Germany, Bangladesh, and Egypt, and most own shares in relatively small companies active in the retail business. While limited in number, these companies employ some 1.3 million persons and generate an estimate a turnover of 458 billion.[32]

90. While not many legal arrangements are established in Italy under another jurisdiction's legislation, the authorities noted that their numbers are on the rise.

91. Italy is part of the European Business Register (EBR) private sector initiative that seeks to allow a unified access by all its 27 members[33] to an agreed minimum amount of information related to limited

[30] Article 11 para. 2 lit. a and para. 1 lit. m *bis* of the AML Law.

[31] World Bank at http://www.doingbusiness.org/rankings

[32] Source: Infocamere.

[33] In addition to Italy, the members of the EBR are: Austria, Belgium, Denmark, Estonia, Finland, France, Germany, Great Britain, Greece, Guernsey, Ireland, Jersey, Latvia, Lithuania, Luxembourg, Macedonia, Malta, Holland, Norway, Czech Republic, Serbia, Slovakia, Slovenia, Spain, Sweden, and Ukraine.

liability companies in domestic Business Registers.[34] Access to the information registered in Italy is granted online through the Infocamere database.[35]

Overview of Supervisory Arrangements

92. Under the SSM the ECB is responsible for the supervision of significant banks, which in effect are the 13 largest banking groups in Italy. The BoI is responsible for the prudential supervision of the remaining banks and the AML/CFT supervision of all banks as well as prudential and AML/CFT supervision of e-money institutions, payment institutions (PIs), *Poste Italiane* SPA, financial intermediaries, and *Cassa Depositi e Prestiti* SPA. The BoI also undertakes the prudential as well as AML/CFT supervision of investment firms, asset management companies, stock brokers and *Società di Investimento a Capitale Variable* (SICAV) whereas the CONSOB is responsible for market conduct supervision and also undertakes some AML/CFT supervisory activities with respect to capital market licensees, on behalf of the BoI. IVASS is responsible for the supervision of insurance entities while the GdF is responsible for the supervision of trust companies and *bureaux de change*. The BoI can delegate GdF to carry out inspections at PIs (including the Italian branches of EU PIs), and non-bank financial intermediaries. The OAM is responsible for the supervision of loan brokers and finance agents but AML/CFT supervision of these entities rests with the GdF. Due to the newness of the SSM, the BoI, and the ECB have held discussions with the objective of ensuring the effectiveness of the new supervisory arrangements. Discussions have focused on ensuring effectiveness with respect to the flow of information between the supervisory agencies and coordination generally including with respect to enforcement actions. The ECB is currently consulting with the LEGCO Committee to verify the legal basis for the exchange of AML/CFT supervisory information. BoI indicates it has adopted a pragmatic approach to the exchange of information and the coordination of supervisory action relying in part on the powers it has a both prudential and an AML/CFT supervisor.

93. GdF is responsible for the AML/CFT supervision of a wide range of DNFBPs including (i) lawyers; (ii) accountants; (iii) notaries; (iv) casinos; (v) specified categories of persons engaged in manufacture, intermediation, and commerce including exporting and importing precious objects; (vi) trust and company service providers; and (vii) real estate agents. It shares responsibility for the supervision of chartered accountants, notaries, and lawyers with their respective professional associations. It is also the supervisor of a number of DNFBP sectors that fall outside of the scope of the standard. CONSOB is responsible for the AML/CFT supervision of auditing firms PIE auditors. The UIF is responsible for verifying compliance of all obliged entities with regard to the reporting of suspicious transactions. The GdF's role as the primary supervisor of DNFBPs is supplemented by

[34] The data that is made available through the EBR is the following: (i) Company Data File: This is the standard profile, containing personal, legal and administrative information on companies. This data file is populated in real time from the EBR system using official data, but does not match the official national tables (such as the "company profile" in Italy). (ii) List of Office Holders: this is a list of the legal or natural persons who administer a company; (iii) Deeds and Financial Statements: these are deeds of establishment (including articles of association) and/or financial statements that have been registered. These documents are generally provided in their original language; (iv) Personal Data File: this is the standard profile which groups together data regarding a single person (date of birth, address, tax ID code) and the list of positions held by the latter in one or more companies. This list allows you to navigate, via hypertext links, through the latest information on each company in which the person holds a position.

[35] Access is made possible through the following website: www.registroimprese.it.

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professional associations which, under the provisions of the AML Law, have a responsibility to foster and verify their members' compliance with the law.

94. The AML Law gives all supervisory authorities the power to undertake off-site and on-site inspections of supervised persons. The law also sets out a number of sanctions that can be imposed by supervisors on covered persons for breaches of its requirements.

Overview of International Cooperation

95. International cooperation is a focus matter for Italy in light of the high risk of organised-crime groups laundering abroad the criminal proceeds generated by predicates offenses committed in the country. Italy has ratified the Vienna, Palermo, CFT and Merida conventions and has a strong framework for international cooperation which includes a range of bilateral and multilateral conventions for MLA and extraditions. Where international conventions are lacking, the CPC provisions on dual criminality apply. The Central Authority for MLA and extradition, is the Ministry of Justice.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key Findings and Recommended Actions

Key Findings

The authorities have largely succeeded in identifying, assessing, and understanding the ML and TF risks. A risk-based approach (RBA) has been applied to varying degrees, and a nationally coordinated AML/CFT strategy informed by a national risk assessment (NRA) is being developed. Domestic policy cooperation and coordination is relatively strong.

LEAs and prosecutors are able to undertake large and complex financial investigations and prosecutions, and considerable amounts of illegal assets of all types have been removed from the hands of criminals. However, current efforts are mainly aimed at the predicate offenses and some related third party ML, at the expense of standalone ML cases and ML of proceeds of foreign predicate offenses.

Investigative and prosecutorial resources do not seem commensurate with nature and scale of the ML/TF risks.

Financial institutions, and the banks, in particular, have a good understanding of the ML risks. However, it is not clear how robust are the banks' measures to deal with tax evasion, which is the biggest single ML threat. The understanding of ML/TF risks within the DNFBP sectors is very mixed, but, overall, is not as sound as within the financial sector.

Recommended Actions

Italy should:

- Complete the update on TF risks expeditiously.
- Extend the scope of the national risk assessment to cover remaining areas (e.g., art galleries and ship-based casinos).
- Continue to monitor, review, and orient policies and activities in line with the NRA.
- Implement more forceful policies and strategies for pursuing stand-alone ML cases, ML generated by foreign predicate offenses, and complex ML cases involving legal persons with a view to disrupt major ML networks and facilitators.
- Review current investigative, prosecutorial and judicial resources and ensure that they are commensurate with the nature and level of the identified ML/TF risks.
- Continue to adapt supervisory tools and operational practices to the identified risks.
- Work closely with the financial sector to help improve the latter's understanding of tax evasion typologies.
- Issue secondary legislation (or, at least, guidance) to cover all the DNFBP sectors, and raise awareness on AML/CFT.
- Ensure that exemptions from CDD are based on a proper assessment of ML/TF risks.

- Collect and maintain more granular statistics on financial investigations and international cooperation.

The relevant Immediate Outcome considered and assessed in this chapter is IO1. The recommendations relevant for the assessment of effectiveness under this section are R1-2.

Immediate Outcome 1 (Risk, Policy and Coordination)

Country's Understanding of its ML/TF Risks

96. In general, Italy appears to demonstrate a high level of understanding of its risks. Notwithstanding some data gaps noted above, the NRA provided to the assessment team was of high quality in relation to ML risks. Although the TF component of the NRA appears to be less sophisticated than the ML component as a result of the different available underlying information and data, it is of good quality and has yielded reasonable findings. The NRA has involved close coordination among concerned agencies, and uses multiple sources of information. It represents a shared view among the authorities on risk and priorities. The private sector and academics were also consulted. The UIF also contributed to the understanding of risk by conducting several strategic analysis studies. Following the adoption of the NRA and its publication, Italy has not yet articulated nationally coordinated and prioritised AML/CFT strategy to deal with the different threats and vulnerabilities identified in the risk assessment.

National Policies to Address Identified ML/TF Risks

97. The FSC is responsible for overall policy setting and coordination of the AML/CFT regime and assessment of risk. Its members have very good understanding of risks. Going forward, the FSC will be involved in updating the risks related to TF and developing a strategy.

98. All supervisors were involved in the NRA and demonstrate a good understanding of the threats and vulnerabilities identified during that process. This has permeated their dialogue with reporting entities that, with some variability, have an overall good understanding of the major ML/TF risks. Italy advises that resource allocation at the BoI is based on RBA. The annual planning takes into account intermediaries' features, and the need for in-depth controls emerged while performing supervisory tasks, and (macro- and micro-) ML/TF risks. Notwithstanding this level of awareness, supervisors have not fully adapted their tools and operational practices to reflect the identified risks.

99. Historically, the authorities have separately been applying an RBA, but it is not clear whether this has led to a formalised process for a coherent macro-level allocation of the resources in line with ML/TF risks.

100. The UIF demonstrates a high level of understanding of the risks, but could further improve its policies and activities to focus more on high-risk areas. The UIF contributed significantly to the national risk assessment by providing qualitative and quantitative data and strategic analysis that allowed the identification of risks. The guidance on the manner of reporting provided to the reporting entities also focused on the high-risk areas identified in the risk assessment.

101. Italian LEAs and prosecutors seem to have a good understanding of the risks which affect their specific areas of focus that are supported by the NRA. Measures have been adopted to mitigate the main ML risks identified, for example, focusing on asset seizure in the fight against mafia-type criminal organisations, or the designation of specialised law enforcement units focused on the investigation of financial and organised crime. That said, current efforts are mainly aimed at sanctioning the predicate offenses, and some related third-party ML (for further details, please refer to IO.7) and confiscating related assets at the expense of standalone ML cases and those generated by foreign predicate offenses. The lack of criminalisation of self-laundering until January 1, 2015 meant that the AML framework could not be used to its fullest extent, notably in the fight against tax evasion. Although the new provision is a significant step forward, it is too soon to tell how they will work out in practice. Finally, these measures have not been commensurate with the extent of the main ML threats, and the activities of different LEAs and prosecutors have not yet fully been adapted to this. This may be due in part to the lack of sufficient resources.[36]

102. The Italian authorities deem the risk of TF as relatively low. Domestic extremist groups are very fragmented and, at present, do not seem to pose a significant risk of terrorism or TF. The most significant emerging risk is the international religious terrorism and the potential support of Italian residents travelling to conflict zones abroad to help foreign terrorist groups. In the last five years, none of the investigations carried out found evidence of TF activities and the terrorist activities detected, related to both domestic and foreign terrorist groups, were conducted by small, self-financed cells. As a result of the global rise in the threat of terrorism, the authorities are updating their national assessment of the TF risk. Italy has established the Strategic Counter-Terrorism Analysis Committee (CASA), which coordinates the response to specific terrorist and TF threats at strategic level.

Exemptions, Enhanced and Simplified Measures

103. The authorities have not sought to apply any exemptions from the AML/CFT requirements for any of the financial activities covered by the FATF standard. On the contrary, they have extended the obligations to a variety of other activities and entities not addressed within the standard (e.g., public administration, clearing and settlement services, security transport businesses, gaming enterprises,[37] auditing firms, antiques traders, auction houses and art galleries). For the most part, these are based upon an analysis of the risk within each activity (e.g., public administration in light of its exposure to corruption), but the auditors were included primarily on the basis that they have a close insight into the activities of their clients, such that they may be able, in particular, to identify and report suspicious activity.

104. On the other hand, the exemptions from CDD provided for under the AML are not based on a proper assessment of risks but are the result of the transposition of the EU Directive.

[36] *World Justice Project Rule of Law Index 2015.*

[37] These are entities engaged in electronic gaming and other activities related to games, betting, and contests with prizes in cash.

Objectives and Activities of Competent Authorities

105. Although supervisors have a reasonably good understanding of risk at the national level, they generally would benefit from having better supervisory tools that would provide them with comprehensive, timely, and consistent data on the nature and quantum of inherent risk at the level of individual institutions. While a new risk-based supervisory methodology currently under development by the BoI will represent an improvement over existing arrangements, there are some concerns about its limitations in capturing comprehensive data relevant to the most significant inherent risk in the financial sector, such as data related to exposure to PEPs.

106. The objectives and activities of LEAs are generally consistent with the ML/TF risks, but could be improved further to have a greater impact. The LEAs are focused on investigating organised crimes and other related financial crimes, but to a lesser extent on launching parallel investigations related to money laundering.

107. The UIF adapts regularly its policies based on the results of its strategic analysis. In addition, based on the results of the NRA, it recently underwent restructuring to focus more on analysis.

National Coordination and Cooperation

108. The FSC and the CASA are well managed for their specific missions, but there appears to be a lack of policy coordination between these two functions. Agencies describe the work of both bodies as autonomous; however MEF reports that they have on occasion joined CASA meetings to collaborate with CASA's law enforcement and intelligence agencies and integrate CASA's cases into the work of the FSC.

109. There has been good collaboration among BoI, CONSOB, and IVASS in developing approaches to exercising oversight of the institutions they supervise, but less so between the GdF and the professional associations with which it shares oversight responsibility for a number of DNFBP sectors.[38]

110. There are good communication channels and exchanges of information between the UIF and other competent authorities. Cooperation among regulators and supervisors is governed by a series of MOUs and appears to work well. Although LEAs cooperate and coordinate amongst each other, the sheer number of them, coupled with overlapping responsibilities, requires a significant investment in operational coordination in which there have been some lapses. Cooperation and coordination among the LEAs, and feedback from them to UIF could also be improved.

111. For NPO oversight, Italy lacks a proper mechanism for domestic cooperation and coordination that would allow for information to be shared among authorities and organisations that hold relevant information on NPOs.

112. Appropriate to Italy's volume of trade, coordination for combating proliferation financing is focused on the risks related to Iran. The FSC and the Interagency Dual-Use Export Council coordinate on the application for export of dual-use goods and the respective financial payments. The authorities are able to identify potential sanctions evasion activities and prevent payment for goods or shipment of goods.

[38] Cooperation among supervisors is governed by a series of MOUs and appears to work well.

Private Sector's Awareness of Risks

113. The authorities have shared the results of the NRA with FIs, DNFBPs, and NPOs which as a result, are generally aware of the main ML risks and to a lesser extent TF risks and how the identified risks relate to their institutions in the context of their business models. Both supervisors and SRBs have undertaken initiatives to provide guidance to reporting entities and to generally raise awareness of ML/TF risks.

114. The financial sector, in general, and the banks, in particular, has a good understanding of the ML risks in Italy. The sector was consulted in the preparation of the NRA, and the FIs consider that the conclusions of the NRA broadly reflect their own perceptions that the proceeds of tax crimes, corruption, organised crime, drug trafficking, loan sharking and usury are the key threats that they face. That said, it was not clear how robust are the banks' measures to deal with the particular complexities of tax evasion, which is widely recognised as the biggest single threat. Moreover, their appreciation of the TF risks appears to be somewhat less developed, there being a general sense that the risks are low, although the basis for this conclusion was not as well articulated as was the case with respect to the ML risks.

115. The understanding of ML/TF risks within the DNFBP sectors is very mixed, but, overall, is not as sound as within the financial sector. With the exception of notaries and PIE auditors, there appears to have been less engagement by the authorities with the DNFBPs, and, unlike the financial sector, they are still not subject to any secondary legislation or guidelines to support the 2007 AML Law. Such regulations or guidance might be expected to enhance their appreciation of the risk-based approach, as was clearly the case with the financial sector and PIE auditors following the introduction of the BoI, CONSOB, and IVASS regulations, and notaries following the adoption of their CDD guidelines.

Overall Conclusions on Immediate Outcome 1

116. Italy is achieving IO.1 to a large extent. It has a generally good understanding of the main ML/TF risks, and generally good policy cooperation and coordination to address its ML/TF risks. The NRA, which is of good quality, is a further and the most recent demonstration that it has identified and assessed its risks.

117. Although competent authorities have for some time separately been applying an RBA to varying degrees based on their respective understanding of risk, Italy has not yet developed a nationally coordinated AML/CFT strategy which is fully informed by the ML/TF risks in the NRA. Although several initiatives have been launched in its wake, its results are only beginning to have an impact on the shape of the AML/CFT strategy.

118. Supervisors have not fully adapted their tools and operational practices to reflect the identified risks. The UIF could further improve its policies and activities and better use its resources to focus more on high-risk areas. Current efforts are mainly aimed at sanctioning the predicate offenses, and some related third-party ML, and confiscating related assets at the expense of standalone ML cases and those generated by foreign predicate offenses. The lack of criminalisation of self-laundering until January 1, 2015 meant that the AML framework could not be used to its fullest extent against one of Italy's highest risk areas, i.e., tax evasion. Although the new provision is a significant step forward, it is too soon to tell how they will

work out in practice. Moreover, their efforts have not been commensurate with the extent of those risks. Although the authorities deem the risk of TF as relatively low, they are updating their assessment of the TF risk, as a result of the global rise in the threat of terrorism.

119. Going forward, the FSC will need to ensure that policies and activities are fully aligned with and prioritised according the identified risks.

120. The authorities have shared the results of the NRA with FIs and DNFBPs which as a result are generally aware of the main ML risks and to a lesser extent TF risks and how the identified risks relate to their institutions in the context of their business models. The financial sector, in general, and the banks, in particular, has a good understanding of the ML risks in Italy. The understanding of ML/TF risks within the DNFBP sectors is very mixed, but, overall, is not as sound as within the financial sector.

121. Italy has achieved a substantial level of effectiveness for IO.1.

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

Key Findings

Italy has a comprehensive framework of LEAs responsible for investigating ML, TF, and predicate offenses. The authorities have adequate powers and expertise. Financial investigations are conducted in every investigation into serious asset generating crimes. There is, however, a risk of duplication of efforts among the different LEAs in the initial stages of an investigation.

The UIF produces good analysis that serves the GdF and DIA well in launching investigations. However, the UIF does not have sufficient access to law enforcement information which weakens the filtering of STRs and analysis. It also lacks the ability to disseminate some information more selectively and beyond the GdF and DIA to other relevant agencies. Customs does not proactively send suspicious declarations to the UIF.

LEAs and prosecutors are able to successfully undertake large and complex financial investigations. The authorities have been successful in a number of high-profile cases, and in some of have successfully disabled criminal enterprises.

However, current efforts are mainly aimed at the predicate offenses and some related third party ML, at the expense of standalone ML cases and ML of proceeds of foreign predicate offenses. In some cases, the complexity of the ML investigations and the overall length of the criminal process significantly reduce the likelihood of successful outcomes.

Recommended Actions

Italy should:

IO.6:

- To enhance the UIF's operational analysis, (i) provide it with the power to access law enforcement information, and allow it in practice to access additional administrative information (e.g., the land registry); (ii) and finalize its data mining ("Warehouse") IT tool.
- Enable the UIF to disseminate selected information and the results of its analysis beyond the DIA and GdF NSPV to additional LEAs and concerned agencies (e.g. TF cases). The UIF should refrain from sending all the STRs to LEAs, and improve the dissemination of selective information to allow the recipient agencies focusing on relevant cases and information.
- Provide DNFBPs with comprehensive guidance on reporting jointly developed by the UIF and supervisors.
- Require recipient agencies to provide regular feedback on the quality of disseminated intelligence to the UIF.
- Amend the AML Law to provide an explicit reference to the UIF powers in relation to predicate crimes.

IO.7:

- Place a greater focus on detecting and pursuing self-laundering, standalone ML, ML generated by foreign predicate offenses, and complex ML cases involving legal persons.
- Ensure that sanctions applied are dissuasive.
- Consider streamlining the judicial procedures to shorten the criminal process.
- Improve the collection of statistics related to ML investigations, prosecutions and convictions.
- Improve coordination between LEAs during the initial phases of investigations.

IO.8:

- Ensure that seizure and confiscation of assets located abroad are pursued on a systematic basic;
- Continue asset recovery (both in criminal proceedings against ML and the main predicates and administrative proceedings to recover unpaid taxes), especially with respect to the main ML threats (organised crime, corruption and tax crimes), to ensure that crime is made unprofitable.
- Increase their efforts to detect cross-border movements of cash and other BNIs suspected of being linked to ML, and to domestic as well as foreign predicate offenses. The authorities are recommended to consider implementing the FATF Best Practice paper and to target their efforts to a greater extent on key transit points (such as the border with Switzerland) and higher-risk individuals;
- Introduce a mechanism to monitor assets more closely through the different stages of the criminal or administrative processes for seizure and confiscation;
- Share assets confiscated in Italy with foreign countries, in the case where predicate offenses have been committed abroad.

The relevant Immediate Outcomes considered and assessed in this chapter are IO6-8. The recommendations relevant for the assessment of effectiveness under this section are R.3, R4 & R29-32.

Immediate Outcome 6 (Financial intelligence ML/TF)

Use of Financial Intelligence and other Information

122. The concerned authorities have access to a very broad range of financial and other information. The UIF receives a wide range of STRs and other information, and can access a wide range of administrative and financial information.

123. The UIF receives STRs from reporting entities as shown in the tables below. The number of STRs received is increasing. Most STRs are filed by banks and the UIF considers them to be of good quality. DNFBPs, except notaries, send very few reports. In light of the risks of different DNFBPs sector, this affects the quality of information received, analysed, and disseminated by the UIF to different LEAs (Please refer to section IO.4c for more details on the level and quality of reporting).

124. It also receives aggregated data from FIs. The number of aggregate reports is high due to the requirement of financial intermediaries to submit, on a monthly basis, aggregated data on their

activities. The UIF conducts a targeted analysis of this data in order to detect possible ML/TF anomalies in specific geographical areas.

Table 3. **Number of STRs between 2009-2004**

Number of STRs	2009	2010	2011	2012	2013	2014
Money laundering	20 660	37 047	48 836	66 855	64 415	71 661
Terrorism Financing	366	222	205	171	131	93
Proliferation of weapons of mass destruction	40	52	34	21	55	4
Total	21 066	37 321	49 075	67 047	64 601	71 758

Table 4. **Anti-Money Laundering Aggregate Reports - Descriptive Statistics 2014 (estimate)**

Type of intermediary	***Number of entities submitting reports***	***Total number of aggregate data sent*** *(billions of euros)*	***Total number of transactions underlying the aggregate data***
Banks, *Poste Italiane*, and CDP	705	20 414.6	297 930 666
Trust companies	282	84.6	503 743
Other financial intermediaries[2]	187	286.6	4 601 182
Asset management companies	171	234.6	5 942 323
Investment firms	146	105.2	6 519 564
Insurance companies		279.0	2 803 846
Payment Institutions	91	66.4	5 435 053
Electronic money institutions	4	1.0	175 986
Total	**1 586**	**21 472.0**	**323 912 363**

125. The UIF receives the STRs through an electronic platform ("RADAR") dedicated to the collection, storage, and management of reports. The system notably identifies instances where a particular natural or legal person has been previously reported. The UIF can and does also request additional information from reporting entities. Most of the additional requests are directed to banks but in few instances other reporting entities were also asked to provide additional information.

126. In addition to STRs, the UIF can obtain information from the customs database which contains the cross border currency and bearer negotiable instruments declarations collected from travellers and gold transactions. However, customs do not notify the UIF about suspicious cross-border transportation incidents. This is particularly important in the case of Italy because of the high risks of laundering through cash couriers.

127. It can also access the following administrative and financial information:

a) **Administrative:** (1) Tax registry (article 6(6)(e)), which contains, on a national scale, data and information resulting from tax declarations and complaints and related verifications, as well as other data and information of possible fiscal relevance (article 1 of Italy's DPR n. 605/1973;(2) Commercial register (Infocamere off-site and Cerved on-site; (3) central tax

reports database (CEBIL) that contains ID tax data and tax declarations held by the tax agency; (4)) Local administrators database (municipality, district and region).[39]

b) **Financial:** (1) Central electronic archive (article 37 of the AML Law) for CDD information from some FIs; (2) the central database of bank accounts; (3) central credit register on the debt of banks and other FIs' customers managed by BoI (accessible on line); (4) TARGET2 (Trans-European Automated Real-Time Gross Settlement Express Transfer System), which stores all the data pertaining to wire transfers in the Euro Area; (5) Database containing information about the restituted funds in case of impossibility to complete CDD pursuant to article 23 para.1 *bis* of the AML Law.[40]

c) **Open source and other commercial databases** like World-check; and Orbis (international business database).

128. The UIF makes regular and timely use of these sources for the purposes of its analysis of STRs. It does not have access rights to law enforcement databases, but can obtain information from LEAs in order to respond to requests for information it receives from foreign FIUs. In addition, the UIF sends the STRs to the GdF, which then cross checks them with the information contained in its databases and, on this basis, gives the UIF monthly feedback about the "level of relevance" of the STRs. This monthly feedback notably classifies the reported persons by level of risk, and allows the UIF when relevant to prioritize its analysis of STRs. While useful, the monthly feedback from LEAs is limited in its content and is not provided on a timely basis. It does not constitute a substitute for granting the FIU with direct and timely access to law enforcement databases that would undoubtedly bolster its operational analysis. Moreover, while the UIF has access to a number of administrative information, there are other administrative databases that would prove useful for its analysis, such as the one maintained by the land registry.[41] This would be particularly useful in light of the vulnerability of the real estate sector. Finally, it appears that the UIF seeks access (indirectly i.e. through the fiscal database) to the Central database of bank accounts (which contains information about the accounts held by natural and legal persons) in a limited number of cases only, whereas more regular access may prove useful.

129. The AML Law does not specifically enable the UIF to receive STRs related to the predicate crimes. In practice, however, the UIF does receive, analyses them and disseminates to either the GdF-Special currency unit (NSPV) and DIA. The GdF-NSPV and the DIA have direct access (without the need to a prior judicial authorisation) to an even broader range of information than the UIF. In addition to the information noted above, they have access to various law enforcement databases (e.g., tax database held by GdF, criminal records, information about criminal proceedings and suspects).

[39]A centralized notaries' database which contains all real estate transactions is being developed and access will be provided to the UIF. In addition, access to the cadastre and mortgage archive will be available in the future.

[40] Around 275 STRs for a total of EUR 9M were reported under this article.

[41] The land registry is a publicly accessible database that requires subscription. Currently, the UIF accessed only for FT cases.

Box 1. **TF case: Distance adoptions-related donations performed by foreign terrorist fighter**

The account at an Italian bank of an organisation based in Northern Italy promoting charitable activities (e.g., distance adoptions) in Syria received cash deposits and wire transfers (mostly involving small amounts) sent by numerous individuals and entities in located in Italy and Europe. Once credited, funds were sent to Turkey, where they would be withdrawn for their final legitimate use (most descriptions associated with the transactions referred mainly to "adoptions"). At a later stage, with reference to a limited number of transfers, investigations revealed that one of the donors was a member of an extremist group located in the North of Italy aimed at recruiting people to engage in violent extremism. Financial analysis eventually showed that this individual, who subsequently died fighting in Syria, used the organisation as unwitting conduit for fund transfers possibly connected to his terrorist activity.

130. LEAs routinely access and use financial intelligence and other information, to identify and trace proceeds, and to support investigations and prosecutions of predicate offenses and to a lesser extent of ML. All of the LEAs and prosecutors met are adequately focused on pursuing financial investigations and recognised the value of "following the money," but the development of evidence and tracing criminal proceedings are more often related to domestic predicate offenses, than to self-laundering (since it was criminalised recently), and standalone ML investigations, or to foreign predicate offenses (refer to write-up under IO.7 for more information).

STRs Received and Requested by Competent Authorities

131. The UIF receives STRs and a broad range of other information. UIF advises that, in general, these reports and additional information are of high quality, and are used to support its strategic and operational analysis functions. STRs are mostly filed by FIs. A very limited number of STRs are filed by DNFBPs, mainly notaries. In 2014, the UIF requested additional information from reporting entities in some 25% of cases: it sent some 19 000 requests to banks and non-bank FIs, and only around 100 to DNFBPs. The aggregated data it receives is found to be very useful and is frequently used to develop studies and strategic analysis (e.g., financial flows from tax evasion, financial flows connected to NPOs or loan sharking activities). The UIF does not provide feedback on the quality of STRs to reporting entities, but is developing and testing a feedback system. It publishes annual reports which contain comprehensive statistics and information about its activities including trends and typologies.

132. The customs integrate the cash declarations into a database that can be accessed by the UIF, but does not send to the UIF declarations that appear suspicious. Considering that the proceeds of tax evasion and other crimes are often transported in cash across the border, Customs is in an ideal position to identify potential cases of ML. Customs should therefore, as a matter of priority, inform the UIF of suspicious declarations.

Operational Needs Supported by FIU Analysis and Dissemination

133. The UIF disseminated more than 92 415 STRs in 2013, and 75 858 in 2014 to the DIA and GdF-NSPV. Over the period 2009–2014, there has been a steady increase in disseminations. STRs

that are closed are also forwarded to the GdF and DIA for inclusion into their databases and further "pre-investigation."

Table 5. **Number of Suspicious Transaction Reports Received, Analysed and Dismissed**

	2009	2010	2011	2012	2013	2014
Reports received	21 066	37 321	49 075	67 047	64 601	71 758
Reports analysed	18 838	26 963	30 596	60 078	92 415	75 858
- reports dismissed	4 024	3 560	1 271	3 271	7 494	16 263
STRs included in disseminated technical notes	14 814	23 403	29 325	56 807	84 921	59 595

134. The UIF has an advanced reporting system that has some data mining features but is still enhancing its analytical tools. The reporting and management system RADAR is very advanced and allows a classification of STRs by risks, cross checking, and tracking them until they are disseminated. The RADAR currently has some features that allow a comparison of the STR information with that held in other databases.

135. The current systems allow, in some instances, to analyse multiple STRs, aggregated on the basis of identified connections and interactions between targets and possible proceeds of crimes. The disseminated technical report sent to the GdF and DIA includes an analysis of the financial flows with identification of the economic reasons and motivations underlying the operations and assessment of the origin of the funds. A scale of the risk linked to the STRs is also assigned by way of LEA feedback based on different criteria (i.e. recurring patterns of behaviour, risks exposure of sectors, and vulnerability of certain payment instruments). To assist the LEAs in conducting their investigations, the UIF also includes a mention of the potential predicate crime involved. The main offenses "identified" by the UIF's analysis are tax evasion, fraud, participation in organised crime, drug trafficking, illegal disposal of toxic waste, and human trafficking. The UIF sometimes uses its power to suspend the execution of relevant transactions for a maximum of five days to give the LEAs sufficient time to launch their investigations and impose provisional measures (refer to text under IO.9 for additional information).

Table 6. **Results of disseminations from UIF to LEAs**

	2010	2011	2012	2013	2014
Number of STRs analysed by GdF during the pre-investigation phase	22 728	21 621	17 245	85 483	85 581

Table 7. **LEAs investigations prompted by UIF reports**

	2010	2011	2012	2013	2014
Cases—by number of STRs - relevant for further investigations	13 654	9 140	12 198	13 514	27 771
Cases—by number of STRs—relevant for further investigations by DIA	372	445	343	443	449

	2010	2011	2012	2013	2014
Investigations with positive action/outcome	4 654	3 619	4 030	6 753	8 355
New legal proceedings/investigations	666	396	578	604	588
Request of information from prosecutors (for appropriate action)—STRs provided	922	774	615	874	931
STRs absorbed into existing legal proceedings	2 484	1 923	2 070	4 454	6 049

Table 8. **GdF Investigations resulting from technical notes and STRs**

	2010	2011	2012	2013	2014
Total Number of criminal violations stemming from GdF investigations (triggered by UIF dissemination)	**766**	**805**	**1010**	**972**	**755**
ML	**143**	**59**	**103**	**80**	**66**
Non-Compliance with AML/CFT Laws and regulations	144	127	188	148	115
Fiscal violations	68	142	246	245	276
Fraud	12	33	68	137	43
Loan sharking	27	11	22	17	13
Illegal financial activity—unlicensed businesses	12	10	39	48	31
Falsification	122	46	90	98	35

Table 9. **DIAs ML and associated predicate crimes investigations triggered by STRs classified by relevant organisation**

By OC/ Year	2010	2011	2012	2013	2014
Cosa Nostra	91	99	63	89	143
Camorra	103	145	117	70	105
'Ndrangheta	138	186	150	213	187
Apulian	16	9	5	6	10
Other Italian organised crime groups	20	6	8	41	4
Other foreign organised crime groups	4	-	-	24	-
Total number of STRs relevant for further investigations	**372**	**445**	**343**	**443**	**449**

136. The UIF is finalizing the "Warehouse" project,[42] an IT platform which will allow for the consolidation of all the information gathered from STRs with the other information received and data contained in other databases accessible by the UIF. The project is in its roll-out phase. Once finalised, the "Warehouse" will provide analysts with better tools for data mining and identification of specific targets to follow particular activities or transactions, as well as to determine the links between those targets and possible proceeds of crime.

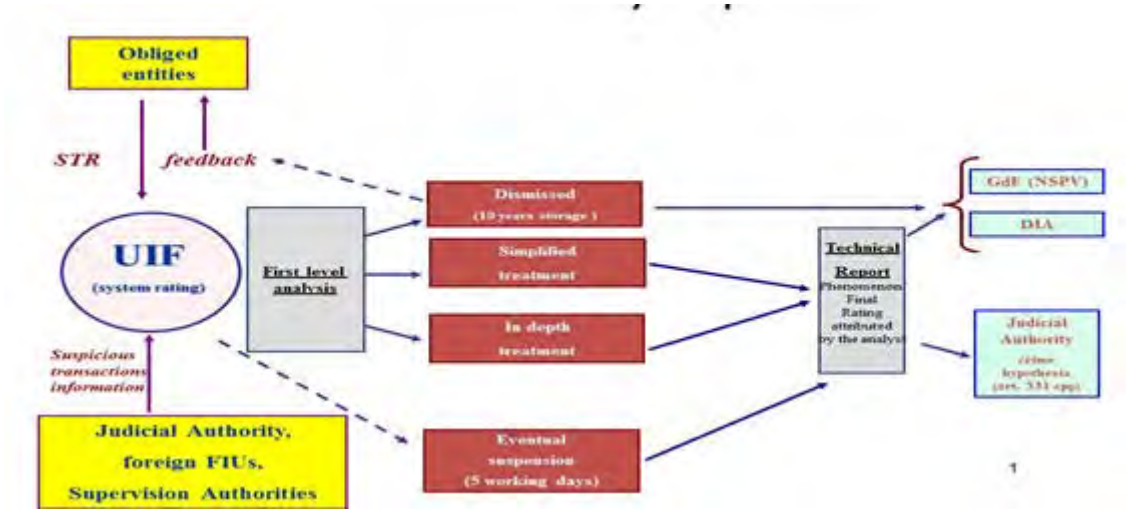
137. The GdF and DIA receive all the STRs, technical reports (analysis reports) and other information from the UIF with a final risk score, and then conduct a pre-investigation to confirm or dispel the UIF findings. UIF's disseminated technical reports and STRs may be used only as financial intelligence (i.e., they have no evidentiary value). Unlike most FIUs, he UIF is also required to make to recipient agencies (i.e. the GdF and the DIA) the STRs that it deems irrelevant and that it has therefore closed. The GdF and DIA ensuring "pre-investigation" includes verifying the information provided by the UIF with the information contained in LEA databases. The closed STRs do not undergo a "pre-investigation" in all cases but are made available to GdF and DIA if this appears necessary on a case-by-case basis. As explained above, the technical reports are comprehensive and useful, however, closed STRs are made available in bulk and not selectively, and therefore they do not allow the recipient agencies to focus on relevant cases and information but constitute instead an overload and repetitive work.

138. The GdF and DIA are well-equipped to undertake an effective analysis because they have specialised analysts and IT tools (e.g. SIVA - the *Sistema d'Intelligenza Valutaria* - and MOLECOLA, both described in the Box 3 below) with greater access to law enforcement information, as noted above. However, providing the UIF with access to LEA information and allowing it to close the STR without making them available would prove particularly beneficial: it would enhance the UIF's operational analysis capacity, prevent the repetition of analysis/ duplication of efforts by LEAs, lead to a better use of resources, and allow the UIF to improve further the dissemination of selective information only and the recipient authorities to focus on the most relevant cases/information.

139. Intelligence disseminated by the UIF generally leads to successful investigations into ML/TF and related predicate offenses by recipient agencies. The AML Law does not allow the UIF to disseminate its technical reports to other GdF specialised units and other concerned agencies. As far as the GdF is concerned, the information disseminated is nevertheless made available to other units (because the NSPV enters all the STRs and related information into the SIVA system, which is accessible by other GdF specialised agencies as well), but not necessarily on a targeted and timely basis. However, enabling the UIF to disseminate intelligence to competent authorities beyond the GdF-NSPV and DIA would lead to greater use of financial intelligence and, ultimately, greater results. More specifically, a direct dissemination of the UIF's technical reports to other LEAs would ensure that these units and agencies are alerted to potential crimes on a timely basis and enable them to take the necessary actions in a quicker fashion. In addition, in instances of suspicions of tax offenses and/or corruption, the dissemination of technical reports to the revenue agency and ANAC, respectively, would assist these agencies in focusing their audits and other activities. This would bolster the preventive framework, which seems particularly important in light of the high risk of tax crimes and corruption in Italy.

[42] The new system has been activated since June 2015.

Figure 1. **The Financial Analysis Process**



Box 2. **Strategic Analysis conducted by the UIF**[1]

- STRs featuring connections with tax havens or offshore financial centres
- Statistical indicators to evaluate banks activity and risk-exposure in different provinces
- Econometric model on anomalous use of cash at Municipality level
- Econometric analysis of banks' compliance with suspicious transaction reporting activity
- STRs connected to suspected loan-sharking activity
- STRs connected to pre-paid cards; and analysis on financial flows connected to NPOs

Note:

1. Future projects for strategic analyses: (i) Study on anomalous cash withdrawals at Italian ATMs performed using credit cards issued by foreign banks is at the concluding stage; (ii) econometric analysis of the UIF risk rating of STRs; (iii) Study on the fiduciary service companies sector, on account of the vulnerabilities it features and also due to the evidence from the past tax shield program (whereby wire transfers from offshore countries reported by fiduciary companies showed a significant increase); the study aims, among other things, at monitoring the sector activity during the current new voluntary disclosure program.

140. The intelligence provided by the UIF to the GdF-NSPV is centralised and managed using the SIVA. The SIVA (described in Box 3 below) notably allows for greater prioritisation of investigations and their geographical allocation to local GdF units. Financial investigations focus on assets seizure, establishing and identifying targets through preliminary inquiries and other GdF IT tools such as SCICO-Geo Loc. Another powerful and useful tool used in financial investigations and financial analysis is MOLECOLA (described in Box 3 below). The combination of these different IT tools (also described in Box 3 below) allows for better and faster results in building financial investigation cases.

Box 3. **IT tools for financial analysis and investigations**

The **SIVA** (*Sistema d´Intelligenzia Valutaria)* is an intelligence management and analysis system developed by Currency Police Special Unit of the GdF in order to manage all phases of the investigation of STRs disseminated by the UIF. SIVA provides an "automatized" analysis of the information contained in the STRs by linking the information from Law enforcement data bases and open sources (such as the Register of companies, worldcheck). It provides intelligence output that permits to highlight financial flows, major proceeds generating offenses, as well as identify new trends and new information to start investigations. The analysis through SIVA also enables the prioritisation of investigations and the distribution of the intelligence among the territorial investigative units. DIA has a similar tool called **ELIOS** (*Elaborazioni Investigative operazioni sospette).*

SCICO Geo-Loc: This system includes information on every investigation performed by the GdF, permits the geographical localisation of areas of influence of different organised criminal groups and to prioritize and focus on certain areas of higher risk. This aspect is especially positive as it enables the GdF to prioritize investigations and to concentrate its efforts in certain specific areas. The SCICO is widely used and, according to the GdF, particularly useful in practice.

MOLECOLA: This tool is used in financial investigations with software integrated within GdF and DNA. MOLECOLA imports electronically bulk information from different databases (e.g., the various law enforcement databases, tax administration database, land register, company register and information from other open sources). The information is analysed according to the operational activities investigated, allowing to elaborate standardised reports suitable for investigations and also operational analysis reports detecting links between people and financial operations, and the disproportion between incomes and expenses of the persons that are under investigation.

Cooperation and Exchange of Information/Financial Intelligence

141. The UIF and other competent authorities cooperate and exchange information and financial intelligence on a regular basis. The GdF and DIA receive the STRs from the UIF that lead to investigations in ML, associated predicate offenses and TF. The UIF and the GdF-NSPV and DIA use secure channels for exchanging information, and protect the confidentiality of information exchanged or used. The UIF significantly enhanced its controls and developed specific procedures governing the exchange and subsequent use of information from local counterparts.

142. The GdF and DIA do not provide feedback to the UIF about the actions taken in relation to the received STRs and technical notes. Such feedback would, however, allow the UIF to improve the quality of its technical notes and provide feedback to reporting entities about the outcome of the STRs. Closer coordination and meetings between the UIF analysts and GdF and DIA officers would also improve the exchange of information and enhance the use of financial intelligence in ML/TF investigations.

UIF Resources

143. The UIF resources have been increased to take into consideration the higher workload. The UIF staff increased from 121 in 2012 to 130 in 2014, and is projected to increase further to 141 in 2015. Most of the new staff work as analysts due to the increase in the number of STRs. The costs (i.e. salaries, HR management, e-learning platform) are directly covered by the BoI. The budget to cover additional expenses (mostly related to training requested by the UIF) is also granted by the BoI. It was EUR 172 000 in 2012 and increased to EUR 197 000 in 2014. The UIF director can authorize the expenditures. The UIF structure seems adequate especially after the recent allocation of additional staff to the analysis division.

Overall conclusions on Immediate Outcome 6:

144. In general, the UIF and LEAs collect and use a wide variety of intelligence and other relevant information to investigate ML, associated predicate offenses, and TF. The competent authorities, more specifically the UIF, the GdF, and DIA have the necessary resources and skills to use the information to conduct their analysis and financial investigations, to identify and trace the assets, and to develop operational analysis.

145. The UIF is a well-functioning financial intelligence unit. It produces good operational and high quality strategic analyses that add value to the STRs. Its technical notes serve the GdF-NSPV and DIA in launching ML, associated predicate crimes, and TF investigations.

146. Overall, Italy has achieved a substantial level of effectiveness with IO.6.

Immediate Outcome 7 (ML Investigation and Prosecution)

ML Identification and Investigation

147. Italy's main law enforcement policy objective is to disrupt and deter crimes, including through ML investigations and prosecutions. The Italian LEAs focus on what they consider to be the main three proceeds-generating predicate risks (organised crime, corruption, and tax offenses). However, Italy should expand its focus to ensure that a greater number of cases of ML (including self-laundering) are being investigated and subject to effective and dissuasive sanctions. At the time of the on-site visit, no investigation into self-laundering had been concluded[43] due to the recent enactment (a few weeks prior to the onsite) of the new self-laundering provision. The new provision had, therefore, not had an impact on the overall effectiveness of this outcome.

148. Italy has a comprehensive institutional framework for ensuring that ML, and associated offenses are properly investigated, prosecuted and sanctioned. They have appropriate powers to obtain access to available information and evidence, especially in the context of the fight against organised crime. The four police forces with responsibility of ensuring that ML and predicate offenses are properly investigated: the GdF, *Carabinieri*, the State Police, and the DIA have good expertise in "following the money", and other associated asset-generating crimes. The DIA and GdF-NSPV have been explicitly designated as the special police units in charge of investigating the facts

[43] GdF subsequently developed 28 investigations for self-laundering (with 14 persons arrested) during the first six months of 2015. One case was presented before the Court of Rome.

included in the UIF's STRs and technical reports. Outside the organised crime context, investigations into other predicates crimes are developed through parallel investigations.

149. Coordination between the various LEAs at the strategic level takes place within the Security and Public Order Committee (housed in the MoI). Coordination at the operational and intelligence levels is developed through the data processing centre of investigations SDI (*Sistema d´Indagine*), administered by the MoI, which includes information related to investigations, as well as through the sharing of police databases. However, due to the structure of these databases and the fact that information on the initial stages of investigations (i.e. before a case is referred to the prosecutor's office) are not included in the SDI, there is a risk of duplication of law enforcement efforts during the initial stages of an investigation. Different LEAs may indeed be conducting similar activities (such as gathering and analyzing information, for example) with respect to a same natural or legal person without any knowledge of what the others are doing. Repetitive investigative work is only effectively avoided once the Prosecutor's office leads the investigation. The Prosecutor's office must be called upon when more "intrusive" measures are called for, such as wire-tapping, for example. From then on, the prosecutor in charge of the investigation coordinates the different LEAs' activities during the inquiries.

150. Investigations into organised crime activities are coordinated by the DIA, a special inter-force investigative body with specific powers under the Anti-Mafia Code, which brings together staff from the GdF, *Carabinieri*, and State Police with practical experience in financial and organised crime investigations. The DIA develops two types of investigation, namely one focused on judicial police investigations on mafia- type crimes, and another focused on financial flows of people linked to mafia-type organisations. The financial investigation focuses mainly on the identification of the structure of the criminal organisation, and gathering evidence of illicit financial activities about the assets held by the members of the organisation in order to seize them. However, additional efforts in pursuing legal persons and their ultimate beneficial owners in order to obtain effective convictions and dismantle the whole financial infrastructure of the criminal organisations would prove useful. The LEAs efforts are based on their assessment of the threat and are focused on domestic predicate crimes and the laundering activities. In light of the cases discussed with the authorities, additional attention to the laundering of foreign proceeds and to cross-border laundering activities (e.g., outgoing cash couriers and remittances) is however warranted.

151. Customs sometimes also assist in detecting ML activities through smuggling or other predicate crimes. These cases are investigated with the assistance of GdF. The declaration system is, however, not being used effectively to detect and disrupt suspicious transportation of cash and bearer negotiable instruments and false declarations.[44]

152. Information obtained in the context of the GdF AML supervisory activities may also result in police investigations when these activities reveal enough evidence. This was notably the case in the "Money River Operation" highlighted in the Box below. Special attention is therefore placed on the results of inspections, in particular in the context of monitoring of money transfer services.

[44] Since the end of 2014 Customs have started developing typologies–in cooperation with DNA–to detect suspicious physical and/or legal persons; intelligence has also been used to establish links between flows of goods at risk and suspicious financial flows.

Box 4. **Case Study: Money River Operation – December 2014**

Money transfer service play a significant role in Rome's economy and include a large number of operators from foreign communities. An AML inspection of a money transfer agent carried out by the GdF revealed abnormal operations, which led to a two-year criminal investigation. The case involved multiple criminal associations operating through the Rome branch of the Payment Institution (a U.K.-based multinational company specializing in worldwide money transfers) as well as seven money transfer agencies operating within the network headed by the Payment Institution. The association members include branch managers, AML compliance officers, and front-office staff.

The investigation identified that the agents transferred abroad (principally to China) approximately EUR 1 billion, representing the proceeds of several predicate offenses: import and sale of counterfeit goods, market fraud, sales of industrial products with false or misleading trademarks, and tax evasion. The money was transferred through a large number of illicit cash transfers. The operations were performed using fictitious names, and names belonging to deceased persons or to unsuspecting customers already registered in the Payment Institution's database. Transfers were always made below the applicable cash transaction threshold (i.e., EUR 4 999 up to August 12, 2011 when the threshold stood at EUR 5 000; EUR 2 499 up to December 5, 2011 when the threshold was EUR 2 500; and, most recently, EUR 999 when the threshold stands at EUR 1 000. Those requesting the transfers were Chinese entrepreneurs and traders, with a history of criminal convictions for smuggling, counterfeiting and tax evasion. The money transfer operators were indicted for transnational criminal association and money laundering, and 18 persons were arrested. The GdF seized assets worth over EUR 13 million, which represented the total profits made from the illicit transactions.

153. All LEAs are authorised to pursue the investigation of potential ML in the context of an investigation lead in parallel to their investigation into the predicate offense. LEAs are not requested to refer the case to one dedicated agency to follow-up with such investigations. As indicated under IO.6, sophisticated IT tools (e.g. MOLECOLA) are available and used by LEAs that provides them with good intelligence to target suspects and their assets.

Consistency of ML Investigations and Prosecutions with Threats and Risk Profile, and National AML Policies

154. As indicated above, the main asset-generating activities in Italy are tax offenses, mafia-type organised crime and corruption. The types of ML activities investigated and prosecuted are generally consistent with Italy's risk profile and the results of the NRA. The following paragraphs describe actions taken by different LEAs in respect to the main ML threats:

155. Tax Offenses: Italy´s LEAs, especially the GdF, have been successful in investigating complex tax fraud cases. According to the authorities, the largest tax fraud schemes takes place in northern Italy, notably in light of the fact that 30–35% of the largest Italian companies are located in the area of Milan. Investigations are notably based on a risk analysis of companies in order to identify potential tax fraud and money laundering schemes. Many of the financial investigations into tax crimes include information derived from STRs. The authorities have been successful in bringing a number of cases to justice, including large, complex tax fraud cases such as the "Green Fees" case described below. Nonetheless, it is important to stress that the risk of people evading taxes through

"simple" tax evasion (as opposed to through complex fraud schemes) is high in Italy, and that the proceeds of tax evasion are often carried in cash (see IO.8) or transferred through banks to be laundered in neighbouring countries. Although the volume of cash related to tax evasion and transported outside Italy is important, customs do not detect and forward suspicious cases to the UIF (see IO.6 and 8).

Box 5. **Operation "Green Fees"**

The investigation started in 2012, carried out by the Public Prosecutor's Office in Milan and by the GdF, started through the analysis of different STRs and other financial information including from abroad, that identified illegal exchanges of emission allowances (CO2 certificates) using a system of intra-Community VAT carousel fraud in the emission of trading market.

The fraud committed through complex company scheme, including foreign ones, affected the supply of CO2 certificates. In particular, it was found that some companies were, in practice, "empty boxes" and after a brief period of activity, had ceased to operate without paying the necessary taxes. The operating companies benefited from a significant tax credit that was used for requesting refunds or compensation of tax debts. This enabled them to acquire CO2 certificates at competitive prices and to occupy significant portions of the market, thereby distorting competition between traders.

Arrest warrants were issued against 11 people and 82 individuals were reported for conspiracy, transnational in nature, aimed at tax evasion and money laundering; Major bases for VAT to EUR 659 727 230.83 were established and supplies of money to EUR 80 302 998 were impounded.

156. Organised crime: Specific mechanisms were established to counter organised crime, namely the DNA and the DIA (a specialised inter-force investigative body entrusted with fighting specific mafia-type organisations and with special investigative powers (as explained under R.30 of the TC annex). Some of the measures initially conceived to fight organised crime can now also be used to fight ML, tax crimes, or other crimes when committed on a habitual basis, as well as TF. According to the authorities, most of the main crimes committed in Italy are closely linked to the activities of organised crime. The special anti-mafia mechanisms and powers are therefore frequently implemented in practice. The following indicates the results of the DIA's investigative activities, including those triggered by STRs:

Table 10. **Results of DIA's investigative activities**

	2010	2011	2012	2013	2014
Persons arrested	224	275	154	129	164
Persons reported but not arrested	330	175	313	125	305

157. Through the analysis of intelligence and police investigations, the Italian authorities have been able to identify the ML typologies used by mafia-type organisations. The "Middle World" case described in the Box below also revealed a previously unknown organised criminal group. This indicates that the authorities do not focus only on traditional mafia groups, but also react to the threat posed by new criminal groups.

Box 6. **"MIDDLE-WORLD" (December 2014)**

The "Middle-World" case is a large-scale joint investigations carried out by the Carabinieri and the GdF against a previously unknown mafia-type organisation characterised by the exercise of strong power of intimidation as well as a strong hierarchical structure and stringent secrecy code. The investigation was initiated in 2012 and was developed through joint investigation teams, one focused on the predicate offenses committed by the organised group, and the other on the group's financial activities.

The investigation revealed criminal activities and modus operandi similar to those observed in traditional mafia-type organisation, and permitted the detection of a corruption network at the local level. It also revealed that the criminal organisation was involved in projects funded by the city of Rome and related municipal companies, which included the management of nomad camps and facilities for foreign asylum seekers, as well as waste collection, and maintenance of public parks. During the operation, 37 suspects were arrested in December 2014 for participation in mafia-style criminal organisation, extortion, usury, bribery, bid rigging, false invoicing, fraudulent transfer of assets and money-laundering, with the aggravating circumstance of mafia-type and armed association. The investigation also led to the seizure of the assets (including companies, real estate and cash) held by the suspects, for overall EUR 204 million. As a result of these efforts, the new organised crime group was effectively dismantled.

158. Corruption[45] is mainly linked to contracts for construction of public works, services or supplies, generally affecting local and regional public administrations. In corruption cases, the relationship between mafia-type organisations, corrupt politicians and officials is often very tight. The statistics related to the number of individuals arrested for corruption in the public administration and the numbers of individuals convicted on this charge are indicated in the table below. The table shows that, despite the differences due to the period of time needed to bring the trials to conclusion, most of the individuals brought before to court are convicted. Despite these successes, the risk of ML related to corruption is still significant and LEAs efforts could be strengthened further to focus on laundering of proceeds of corruption (see statistics related to ML convictions below).

Table 11. **Number of people arrested and convicted by final sentence in Italy for corruption against public administration**
(articles 314, 317, 318, 319 *TER*, 320, 323 Criminal Code)

Year	2011	2012	2013
Number of people arrested	700	942	762
Number of people convicted	597	619	558

[45] Italy's parliament has approved an anti-corruption law in May 2015. Among the various provisions, the law re-introduces the crime of presenting false accounts, increases the punishment for corruption cases, and lengthens the terms of the statute of limitations. All investigations will have to be notified to Italy's anti-corruption authority—ANAC.

159. Overall and in all above mentioned crimes, LEAs could further improve the AML policy by determining objective criteria that would allow them to prioritize ML cases related to major proceeds-generating offenses and those related to foreign predicates.

Types of ML Cases Pursued

160. Prosecutions and convictions of ML are focused on cases related to proceeds of domestic predicates offenses, and to a lesser extent to those related to foreign predicate crimes. There were no prosecutions and convictions related to self-laundering due to its recent criminalisation.

161. The ML activities investigated are generally the result of the identification a related predicate offenses. In some cases, the ML investigation led to the detection of predicate offense (see for example the Money River Operation above). There are few standalone ML investigations conducted by the GdF and other LEAs. According to the authorities, this is due to the fundamental legal principle according to which criminal action is mandatory (and any suspicions of a predicate must therefore also be investigated) and to the fact that illegal proceeds are, in most cases, generated in Italy rather than abroad. The predicate offenses identified by the GdF in the last few years are the following:

Table 12. **Natural persons arrested by GdF for ML – linked to PO**
(Articles 648 *BIS* and 648 *ter* CC)

Predicate offense	**2010**	**2011**	**2012**	**2013**	**2014**
Tax fraud	31	5	15	34	51
Usury and Extortion	23	2	15	4	3
Forgery	-	-	1	-	-
Drug trafficking	7	13	6	8	-
Financial Abusiveness	-	19	1	37	-
Bankruptcy	1	13	8	13	8
Scam (Article. 640 C.C)	14	12	8	30	8
Theft	10	13	7	9	10
Corruption	1	-	3	7	5
Other cases	27	30	12	6	24
Smuggling	-	-	3	-	-
Illegal Immigration	-	-	-	1	-
Buying stole goods (art. 648 CC)	16	8	8	6	3
Mafia-Type organisation	15	3	26	12	20
Total	**145**	**118**	**113**	**167**	**132**

162. All the GdF investigations into ML that were triggered by STRs are also connected to an investigation into a predicate crime. Until December 2014, these cases were all related to third-party money launderers (because until then, self-laundering was not criminalised). The DIA's financial investigations efforts focus on attacking the financial structure of "profit-oriented criminality," and

their funds. In response to the growing threat posed by mafia-type organised crime groups, special measures were adopted (in the 1980s and thereafter) to provide the authorities with more powers to trace and confiscate assets (e.g., preventive seizures, confiscation per equivalent, described below). The special measures are now also available outside the context of organised crime, such as in instances where ML or self-laundering is committed habitually.

163. Italy has vast experience in prosecuting complex cases that mainly involve the laundering of proceeds of predicate crimes committed in Italy. ML as a standalone offense is not often investigated. It is more frequent to find combined investigations of the predicate offense and the laundering activities. It is not necessary to prove any links to specific predicate offenses to be able to prosecute ML, the very high number of investigations linked to associate predicate crimes indicates that investigations and prosecutions are not pursued unless the link to the predicate offenses is well established.

164. The structure of the public prosecution's office varies across the different regions of Italy. Their composition and configuration is based on the criminality profile of their area of competence. In each region, specialised pools of Prosecutors are dedicated to different crimes, for example, as it has stated above, in Milan, due to the characteristics of the criminality of the region (i.e. the predominance of financial crimes), the prosecutor's office includes prosecutors specialised in the prosecution of tax crimes and other financial crimes. The authorities informed the team that criteria are often used by prosecutors to prioritize cases, including ML cases.

165. The number of prosecution for ML (including the number of natural persons)—article 648 *bis*—money laundering, complemented by article 648 *ter*—use of money, goods or assets of illicit origin—of the Criminal Code and article 12 *quinquies* D.L. 306/92-conducted is as follows:

Table 13. **Number of prosecutions and number of people included for the requests of prosecution for the related crimes**

	Regulation		2010	2011	2012
Money Laundering	648 *bis* Criminal Code	Cases	1 375	1 292	1 285
		Persons	2 285	2 261	2 189
	648 *ter* Criminal Code	Cases	43	49	77
		Persons	123	134	207
	Article 12 *quinquies* D.L. 306/92	Cases	68	70	74
		Persons	212	276	229
Tax Crimes	Law 74/200 Articles 2, 4, 5, 8	Cases	5 270	7 533	7 648
		Persons	7 821	10 692	10 661
Corruption	318, 319, 319 *ter*, 320 Criminal Code	Cases	349	307	304
		Persons	1 067	719	1 402

166. The average of prosecutions initiated decreases slightly from 2011 to 2012, after an increase in 2010. ML prosecutions are generally linked to the predicate offense and there are fewer prosecutions for the ML as a standalone crime. Foreign predicate offenses are not frequently

prosecuted from the ML perspective—because Italy does not consider that foreign predicate offenses are major predicates for ML in Italy, however there are suspicions about foreign organised crimes laundering their funds in Italy.

167. Up until January 1, 2015, the lack of criminalisation of the self-laundering meant that only third-party laundering could be prosecuted. This not only entailed that the author of the predicate offense could not be sanctioned for laundering the proceeds of that offense but, in many instances, also hindered the sanctioning of the activities performed by some third parties, more specifically certain groups of professionals (e.g. accountants in the case of tax crime). This is due to the fact that any involvement on their part in the ML activities (which was a frequent occurrence in practice), even a minor one, led judges to conclude that this was an instance of self-laundering that could not be punished. A conviction was therefore based only on their participation in the predicate crime (as accomplice or accessory to the main crime), which generally carries a lower penalty than ML.

168. As a result of the recent introduction of the self-laundering offense, some authorities foresee an increase in ML cases -but none seem to consider this sufficient ground to seek for additional resources. While the new self-laundering offense clearly opens additional avenues to fight crime and provides opportunities for greater international cooperation, it has not been tested by the prosecutors and courts and the impact it will have on the effectiveness of Italy's AML efforts is still subject to courts' jurisprudence.[46]

169. The number of ML cases with final verdict are as follows:

Table 14. **Definitive convictions by type of crime**

			2010	2011	2012	2013
Money Laundering	648 *bis* Criminal Code (ML offense)	Cases	1 080	1 060	880	941
		Persons	676	719	642	666
	648 *ter* Criminal Code (use of money goods or assets of illicit origin)	Cases	12	11	15	20
		Persons	10	9	8	15
	Sentence issued under Articles 648 (receiving), 648 *bis*, or 648 *ter* but not as the more serious crime[1]	Persons	2 655	2 664	2 585	2 472
	Article 12 *quinquies* D.L. 306/92	Persons	27	27	25	36
Tax crimes	Article 2 ,4,5 and 8 Law 74	Cases	1 979	2 593	2 604	2 761
		Persons	1 197	1 352	1 588	1 641
Corruption	318,319,319 *ter*,320 Criminal Code	Cases	369	313	301	208
		Persons	110	101	79	91

Note:

1. Authorities informed that it was not possible to split the numbers for each type of crime (648, 648 *bis*, and 648 *ter*), but, according statistics presented above, most of them refer to article 648 (receiving).

[46] Authorities informed that GdF developed 28 investigations for self-laundering (with 14 persons arrested) during the first six months of 2015 as well as a case presented in the Court of Rome conducted to adopt precautionary measures related to self-laundering.

Table 15. **Number of ML prosecutions compared to total number of prosecutions (2010-2012)**

	2010		2011		2012	
Number of prosecution cases	**Initiated**	**Closed**	**Initiated**	**Closed**	**Initiated**	**Closed**
CP 270 *bis*	6	63	1	55	4	50
CP 314	639	661	667	700	809	783
CP 317	234	219	238	254	260	268
CP 318	25	45	22	80	24	71
CP 319	284	306	252	300	248	321
CP 319 *ter*	20	23	20	28	21	29
CP 320	20	18	13	10	11	17
CP 323	902	4 381	936	4 370	916	4 508
CP 416	1 075	1 008	989	990	1 045	1 022
CP 416 *bis*	224	385	208	320	181	369
CP 640	20 058	35 274	19 857	34 656	21 254	37 556
CP 644	568	981	557	997	515	974
CP 648	28 009	16 008	25 280	15 057	24 452	14 208
CP 648 *bis*	1 375	885	1 292	865	1 285	899
CP 648 *ter*	43	81	49	76	77	88
LEG 74 article 2	1 865	1 294	3 149	1 366	2 894	1 688
LEG 74 article 4	993	1 240	1 260	1 666	1 423	2 016
LEG 74 article 5	1 189	948	1 761	1 179	1 993	1 447
LEG 74 article 8	1223	1 048	1 363	1 085	1 338	1 108
LEG 74 *bis* article 10	2 972	405	3 222	528	3 721	874
LEG 74 *ter* article 10 (a)	6 887	795	7 874	886	8 992	1 139
LEG 309 article 74	417	470	403	450	365	472

Table 16. **ML Investigations**

	2010	2011	2012	2013	2014	2015
Number of ML cases investigated by GdF	**477**	**449**	**651**	**619**	**736**	
Of which triggered by STRs	143	59	103	80	66	
Number of persons investigated by GdF for ML (648 *bis* and 648 *ter*)	1 131	1 053	1 307	1 352	1 483	
Number of persons arrested by GdF for ML investigations	145	118	113	167	132	
Number of persons investigated for ML by GdF (article12 *quinquies*)	545	895	614	839	635	402
Out of which , number of persons arrested for ML by GdF (article12 *quinquies*)	95	68	86	141	83	32
Number of ML cases investigated by DIA	**16**	**11**	**11**	**22**	**9**	
Number of persons investigated for ML by DIA	102	87	175	46	30	
Total number of ML cases investigated	**493**	**460**	**662**	**641**	**745**	
ML prosecutions						
648 *bis*—number of cases	1 375	1 292	1 285			
648 *ter*—number of cases	43	49	77			
12 *quinquies*—number of cases	68	70	74			
Total number of ML cases prosecuted	**486**	**1 411**	**1 436**			
ML convictions						
648 *bis*—number of cases	1 080	1 060	880	941		
648 *ter*—number of cases	12	11	15	20		
12 *quinquies* – number of cases	27	27	25	36		
Total number of ML convictions	**1 119**	**1 098**	**920**	**996**		

170. According to the authorities, the number of prosecutions and convictions for standalone ML and for ML related to foreign predicate offences is difficult to compile due to the fact that that foreign predicate offenses are also often considered as domestic (due to links with Italy). The number of final convictions is low when compared to the number of cases investigated. Italy does not have available up-to-date statistics on sanctions of legal persons. Only one case where a legal person was sanctioned was provided. Overall, Italy has improved in terms of obtaining ML convictions since the last assessment and is achieving reasonable results. However, in light of the magnitude of the risks, the overall results are lower than they should be. In addition, the numbers have been slightly decreasing in recent years whereas the risks seem to remain at the same level. Furthermore, the number of ML prosecutions is generally low compared to the overall number of prosecutions in associated predicate crimes.

Effectiveness, Proportionality and Dissuasiveness of Sanctions

171. Some statistics reveal that most of the ML cases (article 648 *bis*) were sanctioned with a penalty of imprisonment of 2 to5 years, with some higher terms of imprisonment of 5 to 10 years; cases of receiving (article 648) were sanctioned with a penalty of imprisonment of less than one year; the use of money, goods or assets of illicit origin (article 648 *ter*) were sanctioned with penalties of imprisonment of 2–5 years, with some individuals sentenced to 1–2 years of imprisonment. Discussions with LEAs also revealed that a large number of persons sanctioned for ML and predicate crimes are repeat offenders. This would tend to indicate that the sanctions applied are not sufficiently dissuasive but, according to the authorities, is more indicative of a lack of adequate rehabilitation.

172. Legal persons have not been often prosecuted for ML offenses despite the fact that, as highlighted in the NRA, they are misused to a relatively large extent for ML purpose. It appears therefore that this option is not adequately considered or pursued. Statistics on sanctions imposed on legal entities are not available, but cases shared with the assessors (see Middle World Case for example) indicate that sanctions are applied in some cases. Shares have notably been confiscated in instances where companies were involved in the illegal activities of or were owned by criminals. At the time of the assessment, no sanctions had been imposed on charges of self-laundering due to the recent entry in force of the offense. Overall and in conclusion, legal persons are not sufficiently prosecuted for ML activities. The complexity of the criminal activities under scrutiny, the complexity of the court procedures, together with the combination of the existence of two courts of merit and one of legitimacy—*Corte di Cassazione* (the Supreme Court), contribute to prolonging the proceedings, which, in turn, could undermine the efficacy of the judicial system. Some authorities expressed concerns over the procedural aspects of the Italian judicial system, in particular with respect to the statute of limitation.[47][48] (No precise information on the length of criminal proceedings

[47] Statute limiting the time for prosecution of all crimes other than those that carry a sentence of life imprisonment. The time starts to run from the day on which the offense was committed, and the definitive sentence must be handed down before the term expires, with limited possibility to interrupt its course.

[48] The Italian criminal system has a statute limiting the time for prosecution of all crimes (articles 157–161 CC), apart from felonies punishable by life imprisonment, to a period of time equaling the maximum penalty provided for by law, which cannot, though, be less than six years for *delitti* (felonies) and four years for *contravvenzioni* (misdemeanours). For the purposes of determining the limitation period, regard shall be made to the penalty laid down by law for the committed or attempted offense, with no account being taken of mitigating or aggravating circumstances, with the exception of those circumstances for which the law provides a penalty other than the standard penalty (article 157, para. 2 CC).

Periods for prescription (articles 157–161 Criminal Code) on ML			
Criminal code	**Basic period**	**Maximum period**	**Maximum period for repeated offenders**
Article 648	12 years	13 years and 4 months	16 years
Article 648 *bis*	18 years	20 years	24 years
Article 648 *ter*	18 years	20 years	24 years

Time shall start to run from the day on which the offense was committed or, in the case of attempted or continuing offences, from the date on which the offender's activity or continuing activity ceased (article 158 CC). There are limited circumstances to interrupt the prescription period (articles 157–160 CC). It is not enough that the criminal suit be started before the statute of limitations ran out: it is the definitive sentence that must be handed down before the term expires. There is also another statute of limitations, limiting the time for enforcing a penalty, to a period of time provided for by law: twice the time to be served, or ten years in

was provided, but it was clear from discussions with the authorities that ML cases, especially complex ones, take several years from the beginning of the investigations to the final sentence. The average of the limitation period for article 648 *bis* CC runs for 18 to 24 years which appears adequate, and is not affected by the limitation period for the predicate crime. Some prosecutions raised concerns to corruption activities conducted before the implementation of Law 190 of 2012 and the 2015 anti-corruption regulation approved in May 2015 mentioned above. The recent Law amended some provisions of the CC, including the regime of statute limitation for corruption crimes. Prior to those regulations the limitation period for corruption cases was shorter and some criminal activities could go unpunished.

Extent to Which Other Criminal Justice Measures Area Applied Where Conviction is not Possible

173. It is possible to use plea bargaining during the process (in limited circumstances also for repeat offenders), and in most of the crimes punished with final penalties less than five years of imprisonment (article 51 of CPC). Plea bargaining is available but can only be used in limited circumstances. For instance it cannot apply to organised crimes cases. Authorities mentioned it is possible to implement plea bargaining for ML cases with the above mentioned limitations.

174. The data provided under IO.8 reveals that the LEAs and the public prosecutors make great use of the different provisional and confiscation measures, including non-conviction based confiscation provided by the Italian law to deprive criminals from the proceeds of crime and instrumentalities.

175. Resources are generally available for LEAs, prosecutors and courts. However, lack of financial resources for prosecutors and courts in some provinces is an issue. LEAs could benefit from additional training about the ML offense.

Overall Conclusions on Immediate Outcome 7

176. Italy demonstrates many of the characteristics of an effective system for investigating and prosecuting ML offenses. ML cases, including large, complex cases, are investigated through specialised teams, using sophisticated and well-developed IT tools, as well as a range of investigative techniques. The anti-mafia toolbox, in particular, has proven particularly useful in practice including in cases unrelated to organised crime. These important features of Italy's law enforcement efforts as well as the quality and expertise of police officers and prosecutors have led to a good number of ML activities being investigated and prosecuted and offenders sanctioned. Nevertheless, in light of the high risk of ML in Italy, some moderate improvements are necessary to further enhance the prospect of detection, conviction and punishment is dissuasive against potential criminals when carrying out proceeds generating crimes and ML.

177. Italy has achieved a substantial level of effectiveness for IO.7.

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the case of a fine, when dealing with a felony; five years, when dealing with misdemeanors. According to a report from Transparency International (published in 2010), statutes of limitation could weaken the fight against criminal offense, such as corruption, in EU countries, in particular in Italy ("Timed Out: statutes of limitation and prosecuting corruption in EU Countries")

Immediate Outcome 8 (Confiscation)

Confiscation of Proceeds, Instrumentalities and Property of Equivalent Value as a Policy Objective

178. The confiscation of criminal proceeds, instrumentalities, and property of equivalent value is a clear policy objective that the Italian authorities pursue to a large extent in the context of their proceedings. This is notably highlighted by the large amounts and variety of assets seized and confiscated. The authorities take a "follow the money" approach based on a comprehensive framework for both conviction-based and non-conviction based confiscation. Asset recovery is considered as the best way to fight organised criminal groups, in particular the mafia-type groups, not only to remove the assets from the hands of the criminals and disrupt their activities, but also to send a strong "symbolic" signal.

Confiscations of Proceeds from Foreign and Domestic Predicates, and Proceeds Located Abroad

179. Italy has a developed a strong asset recovery system which includes a variety of tools and involves a number of actors. The framework is characterised by the availability of (i) conviction-based confiscation (issued within criminal proceedings and includes both criminal and "extended" confiscation), and (ii) preventive confiscation (which was developed specifically to target serious and organised crime offenses, and which can used outside criminal proceedings; See Box on the so-called Anti-mafia measures, below).

Box 6. **"Preventive seizure and confiscation measures provided by the Anti-Mafia Code**

Alongside the "traditional" seizure and conviction-based confiscation made available by the criminal procedure code for a wide range of crimes (including but not limited to serious and organised crime), the LD No. 159/2011 (the Anti-Mafia Code) provides for a number of so called "preventive" measures specifically aimed at facilitating the recovery of assets linked to the specific serious crimes and depriving criminals of the assets at their disposal.

Originally designed in 1982 to fight the mafia, these measures are now available in other contexts as well, including ML when conducted on a "habitual" basis and TF. They target the assets of persons who (i) are linked to organised and non-organised crime; (ii) "habitually" conduct criminal activities (including ML), i.e., persons who, in light of their conducts(s) and standard(s) of living, appear to be living, even in part, on the proceeds of criminal activity; or (iii) are suspected of funding terror (including natural and legal persons designated by the UNSC).

These measures can be applied independently from the prosecution include, in particular, the confiscation per equivalent. The key prerequisite for its application is the potentially socially dangerous conduct of the subject (e.g., potential affiliation to a criminal organisation or involvement in certain serious crimes). The main benefit of the preventive confiscation is the reversal of the burden of proof. It is not necessary for the prosecution to bring a proof that the person targeted has committed an offense. It must only be established that the person is habitually engaged in criminal activities or is living, even in part, from the proceeds of criminal activity. A wide range of financial crimes is captured such theft, robbery, extortion, fraud, usury, third party ML or self-laundering, and tax offenses. It is up to the person affected by the measure to demonstrate the legitimacy of the

assets seized or confiscated. Preventive confiscation may also be applied in instances where the person is deceased.

In anticipation of confiscation, provisional measures may be applied, such as the preventive seizure ("*sequestro di prevenzione*," i.e. the seizure of goods under the direct or indirect control of the accused person) and early seizure ("*sequestro anticipato*," i.e. the seizure of assets in tangible danger of being consumed, misappropriate or transferred for confiscation which may be ordered before setting a hearing).

180. In practice, the authorities pay adequate attention to the confiscation of assets (of all types) in the course of their investigations and trials. This is in particular the case for assets in Italy as highlighted by the case and statistics provided. During their investigations into domestic predicate offenses, the LEAs carry out financial investigations with a view to identifying assets that can be seized and confiscated. The SCICO (i.e., the GDF Unit against organised crime) notably uses the MOLECOLA platform (described in Box 3 above) to identify all the assets owned by a suspect or third persons linked to him/her. All types of assets are seized and confiscated, including bank accounts, shares of legal persons, real estate, businesses, cars and luxury goods. Alongside law enforcement measures, the UIF also has the power to suspend momentarily suspicious transactions and to implement freezing measures. From 2009 to 2014, it has suspended 238 transactions, for a total value of EUR 313.80 million.

181. The Italian authorities provided numerous examples of implementation of the "preventive" measures provided by the Anti-Mafia Code, such as the "Middle-World" case (described in Box 6). The statistics provided by the DNA (See Annex 4) show that these measures are frequently and effectively applied against a great variety of assets representing important amounts, not only on the grounds of predicate offenses but also ML. The statistics also reveal that preventive measures are more often implemented in the south of Italy, more specifically in Calabria, Campania, and Sicily, both in terms of number of assets and amounts that they represent.[49] This is line with the Italy's risk profile as these three regions are those in which the most important and powerful organised crime groups are still established, namely, the *N'drangheta* in Calabria, the *Camorra* in Campania (notably in Naples), and the *Cosa Nostra* in Sicily.

182. The charts provided by the GdF and DIA indicate similarly large amounts seized for ML or for the predicates, on the basis of the Anti-Mafia Code or of the general seizure and confiscation provisions. (See Annex 4).

183. The following table attempts to consolidate the statistics on seizures and confiscations provided by some authorities (i.e., GdF, DIA, and DNA):

[49] Seizures ordered in these regions account for some EUR 1.6 billion of a national total of some EUR 2.8 billion; and confiscations for some EUR 2 billion out of a national amount of some EUR 2.9 billion.

Table 17. **Conviction and non-conviction based seizures and confiscations[1] (in EUR millions)**
Investigations

	2010	2011	2012	2013	2014
SEIZURE					
GdF					
ML offense	NA	NA	NA	157.3	675.1
Predicate Offenses	NA	NA	NA	2411.0	3989.6
Customs					
Cash couriers	83	37.5	43.8	46.6	10.6
DIA					
Anti-mafia measures	3268.8	568.8	984.3	[1146.6] [2]	NA
Activities of judicial police…	179.3	196.3	292.1	[105.4]	NA
***…of which ML offense*[3]**	*27*	*196.3*	*120*	*[2.7]*	*NA*
DNA					
Anti-mafia measures	NA	NA	NA	2869.7 [4]	NA
TOTAL	**3531.1**	**802.7**	**1320.3**	**5484.6**	**4675.4**
CONFISCATION					
DIA					
Anti-mafia measures	130.2	484.3	1772.7	[2716.3][5]	NA
Activities of judicial police…	99.7	539.4	26.6	[47.4]	NA
…of which ML offense	*6*	*1.8*	*6.5*	*[4.1]*	*NA*
DNA					
Anti-mafia measures				2941.2	
TOTAL	**229.9**	**1023.7**	**1799.3**	**2941.2**	**NA**

Notes:

1. This table is a consolidation of statistics maintained by different authorities using different criteria, and over different time periods.

2. For 2013, DNA data include most of DIA data. Therefore, the DIA amounts have not been added to the DNA amounts.

3. Seizures related to ML are part of the anti-mafia measures and judicial activities, and therefore were not added under the total.

4. Assets seized from January to November 2013. This number includes DIA seizures and additional ones conducted by DNA. Only DNA seizures were added under the total.

5. For 2013, DNA data include most of DIA data. Therefore, the DIA amounts have not been added to the DNA amounts.

184. The cases provided (notably the "Green fees" case described in Box 5 above)[50] indicate that the authorities are proactive in seeking other jurisdictions' assistance in seizing and confiscating

[50] Additional cases were shared with the assessment team including (i) the "Broker" investigation conducted by the GdF and *Carabinieri* ROS into a complex tax fraud. The case involved several individuals and more than 90 legal persons established in foreign jurisdictions including Switzerland, Luxembourg, Panama, Hong Kong, Singapore and Dubai. Some 15 requests were sent and enabled the reconstruction of the transactions through with the proceeds of tax fraud were laundered abroad, as well as the application of precautionary measures to

assets (including proceeds, instrumentalities of crime and property of equivalent value) located abroad, and that, on the basis of these collective efforts, large amounts of proceeds of crime have been repatriated to Italy. Limited statistics are, however, available in this respect. The only statistics provided deal with the number of requests for police cooperation sent through the "ARO" (the Asset Recovery Office located within the Home Office), a supranational network at the EU level.[51] The figures provided for 2012 and 2013 indicate a clear increase in the number of requests for cooperation in the tracing illicitly acquired assets in foreign territories (37 requests were sent abroad in 2012 and 68 in 2013), but no detail was provided on their outcome. In these circumstances, while it is clear that the authorities have been successful in a number of instances, it was not established that they target assets abroad as systematically as assets located in Italy. To date, Italy has not shared assets generated by an offense committed abroad and seized in Italy during a national investigation (i.e., predicate offense committed abroad and ML offense committed in Italy), but there was no indication at the time of the assessment that this may have undermined the effectiveness of Italy's efforts.

185. The assets seized and confiscated in Italy are managed by three agencies:

- The National Agency for the Management and Allocation of Seized and Confiscated Assets to Organised Crime *(ANBSC)*[52] which is the authority in charge of the administration, management and custody of assets other than funds definitely confiscated (i.e. with final judgement) in the context of organised and mafia-related crimes.
- The *Fondo Unico Giustizia* (FUG), which is in charge of the administration of seized and confiscated funds.
- The *Agenzia del Demanio*, which is the central authority in charge of the administration, management and custody of public property. It is in charge of confiscated real estate nonrelated to organised-crime cases.

186. The ANBSC, in particular, manages a large portfolio of assets of different kinds. As of January 2015, it notably managed 1 491 companies and 8 713 real estate. Where necessary, public administrators are appointed to run companies and businesses, and where possible, assets are sold by auction. The authorities indicated that, due to the stigma attached to organised crime, real estate previously owned by mafia groups are difficult to sell. In these cases, the assets are used for the public good (for example, some properties have been converted into barracks for LEAs). As for the FUG, from 2009 to September 30, 2014, it had transferred EUR 905 037 225 to the State budget. The ANBSC and FUG figures complete the information provided by the GdF and DIA with respect to

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some 36 individuals and assets worth more than EUR 80 million; and (ii) operation "Metropolis" conducted by the DIA and the local authorities in Calabria, into the infiltration of the tourist sector by the *N'drangheta*. Assets were traced in Spain and the United Kingdom with the assistance of the Spanish and British authorities, and subsequently confiscated. International cooperation also enabled the reconstruction of financial flows through these countries and back to Italian companies. At the conclusion of the investigation in March 2013, 20 arrest warrants were issued and seizing orders issued in Italy and abroad for a total amount of 450 million (which included housing units, companies and vehicles).

[51] The ARO was established by the European Decision 2007/845 of 6 December 2007.

[52] *Agenzia Nazionale per l'Amministrazione e la Destinazione dei Beni Sequestrati e Confiscati alla Criminalità Organizzata*

assets seized (see above), but the link between them is nevertheless unclear. More specifically, the information provided does not enable to establish the percentage of seizing orders or preventive confiscation orders that ultimately result in final confiscation.

Confiscation of Falsely or Undeclared Cross-Border Transaction of Currency/BNI

187. Italy has established a declaration system for cross-border transportation of currency or bearer negotiable instruments (BNI) that applies to both inter- and intra-European transfers equal to or above EUR 10 000. Italy is one of the few EU Member States (together with France, Spain and Germany) which has implemented a declaration obligation for intra-European movements of currency/BNI.

188. In instances where currency/BNI are not properly declared, the authorities seize amounts equal to 30 or 50% of the amounts transferred over EUR 10 000, depending on the value of the undeclared amounts.[53] Persons who fail to comply with the declaration obligations are either subject to an immediate plea, or to an investigation that results in a seizure, as indicated in the table below.

Table 18. **Declarations, interventions, violations, pleas and Seizures**

	Total Declarations	Value of Declaration	Inter-ventions	Total Violations	Total Pleas	Value of Pleas	Total Seizures	Amount Seized
2010								
Inbound	17 111	2 168 322 752						
Outbound	7 267	2 261 465 526						
Total	24 378	4 429 788 278		2 045	1 959	1 032 181	86	82 702 051
2011								
Inbound	19 695	3 544 833 363						
Outbound	9 035	2 291 719 241						
Total	28 730	5 836 552 604		2 797	2 743	1 412 864	54	37 533 000
2012								
Inbound	23 074	4 807 764 414						
Outbound	9 553	3 320 818 762						
Total	32 627	8 128 583 176	39 684	3 494	3 320	2 334 980	174	43 673 236
2013								
Inbound	23 007	3 807 239 750						
Outbound	9 881	2 884 219 668						
Total	32 888	6 691 459 418	42 720	5 143	4 943	2 808 165	200	45 773 162

[53] The percentage applied is (i) 30% of the amount transferred or attempted to be transferred exceeding the EUR 10 000 threshold, whereby such surplus does not exceed EUR 10 000; and (ii) 50% of the amount transferred or attempted to be transferred exceeding the EUR 10 000 threshold, whereby such surplus exceeds EUR 10 000.

	Total Declarations	Value of Declaration	Inter-ventions	Total Violations	Total Pleas	Value of Pleas	Total Seizures	Amount Seized
2014								
Inbound	20 860	3 632 053 853						
Outbound	10 028	3 020 685 380						
Total	30 888	6 652 739 233	46 218	4 749	4 521	2 407 017	228	9 247 998

189. These statistics show a steady increase in the issuance of sanction decrees, while the overall amount collected remains steady. This does not appear to demonstrate that the regime is sufficiently dissuasive in curbing the problem. The level of amounts seized and/or paid related to illegal cross-border movements of cash is low in comparison with the number of controls, and not consistent with the fact that the number of the cross-border cash movements has increased significantly.

190. The two main Italian agencies responsible for implementing the declaration system are the Customs and the GdF. While they implement the system independently pursuant to their respective authority, there is limited cooperation beyond the one-way transfer of reports from the Customs to GdF. Between 2011 and 2014, Italy's Customs Agency transmitted: 2 603 reports (of which 2 599 related to Customs checks carried out along Italy's borders with Switzerland) to Italy's IRA, with regard to subjects undergoing border controls for possible violations of tax laws in force (tax evasion); 41 reports to the GdF about 208 subjects. Reports made upon specific request of the GdF are 41 in total, 39 of these relate to specific subjects, 2 refer to massive queries related to declarations made to/from Switzerland and the Vatican City State; and 3 reports upon request for specific query presented respectively by: (i) DIA; (ii) *Carabinieri*; and (iii) IRA.

191. Controls carried out by the GdF in major airports are tailored to the specific operating environment. At the Malpensa Milan Airport, for example, a GdF Group uses timely statistical information made on currency-related offenses for the period 2008–2014, which allowed the GdF to develop risk profiles associated with currency couriers, and thus provided operational guidance to the military representatives operating in the currency field, on the occasion of each control activity performed.

192. The authorities mentioned three specific cases in particular where seizing was performed during Customs' controls on the grounds of suspected ML. All three cases were then notified to the judicial authorities. The information acquired in the course of cross-border controls on currency circulation is further investigated and enhanced: as soon as the conditions permit (existence of criminal records, detectable connections with crime-related subjects, obvious disproportion between available funds illegally possessed and official incomes, methods of concealment of the sums carried, recurrent name within SIVA, etc.), the relevant judicial authority orders the necessary interim measures in relation to the predicate offenses. In other cases, the relevant Department (*Reparto*) is notified for further investigation. In 2014, 1 720 informative notes were transmitted to the relevant local departments by the operational units operating at border zones (ports, airports, etc.).

Consistency of Confiscation Results with ML/TF Risks and National AML/CTF Policies and Priorities.

193. The confiscation results reflect the assessments of ML/TF risks to a large extent: organised-crime groups (both of mafia and non-mafia type) are clearly targeted by confiscation efforts as a matter of priority. The proceeds of corruption have also been seized and confiscated albeit to a lesser extent. Efforts to curb tax crimes modest in comparison with the risk but have greatly increased over the past years and this positive trend is producing significant results: Italy's NRA has estimated the average value of annual tax evasion around EUR 140 billion. The methodology for this estimate was subsequently refined: A 2015 MEF report published estimates a tax gap (which does not necessarily reflect fiscal crimes only but may also include mere negligence) of some EUR 90 billion for 2014. This new estimate suggests that the situation may have improved but remains problematic. Over the last years, Italy has significantly increased its efforts to recover unpaid taxes (in general, i.e. in instance of mere negligence as well as of tax crimes). In its 2015 report, the MEF highlights that the tax administration had recovered a total of EUR 38.3 billion of unpaid taxes from 2011 to 2013 and EUR 14.2 billion in 2014 (i.e. an increase of 8.4% compared to 2013). These figures and the positive trend that they reflect are important (especially in a time of economic recession) and indicate the authorities' willingness to curb tax evasion.

Overall Conclusions on Immediate Outcome 8

194. Italy's system demonstrates many characteristics of an effective system. The authorities focus strongly on provisional and confiscation measures, at domestic and international levels, applying a "follow the money" approach in order to tackle crime. They target organised crime as a matter of priority, and have made significant efforts to recover the proceeds of other crimes as well, including corruption and tax crimes. The case studies and statistics provided indicate that they make good use of available tools, in particular the Anti-Mafia Code's preventive measures, to confiscate a range of assets linked to crime. These efforts are particularly effective with respect to assets located in Italy; due to loopholes in the statistical data, the authorities could not be established that they target assets abroad quite as systematically and as aggressively as assets located in Italy, but the cases provided nevertheless demonstrated that they have successfully sought international cooperation to trace and repatriate abroad. As a result of the authorities' actions, criminals have been deprived of large amounts of proceeds, including in the higher risk regions of the country. The total amount of assets confiscated in Italy varies between some 12.3% to 1.7% of the estimated total amount of proceeds (which, as mentioned above, ranges between 27 and 194 billion). These results are encouraging and should be maintained. Despite these efforts, organised crime remains a significant concern in Italy, carrying out varied criminal activities (not only in the South but on the entire national territory as well as abroad), generating enormous amounts of proceeds to be laundered. Similarly, corruption and tax crimes remain significant problems. This seems, however, to be due to the shortcomings identified under IO.7 rather than to any significant shortcoming in the implementation of the confiscation framework.

195. Overall, Italy has achieved a substantial level of effectiveness with IO.8.

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

Key Findings

The authorities demonstrate a good understanding of TF risk. Anti-terrorism efforts focus on detecting and disrupting terrorist cells, and include parallel financial investigations. No evidence of TF has been identified and, as a result, there have been no prosecutions for TF.

The two lead bodies (i.e., the CASA, which coordinates the response to specific terrorist threats, and the FSC, which coordinates the management of targeted financial sanctions - TFS) appear to be well managed but there is no policy coordination between them.

Italy has effectively implemented TFS but new listings are not actively communicated to FIs and DNFBPs. The FSC has nominated more than 90 individuals and entities for UN listing, and is effective in its management of assets of listed persons but its mandate and means for information sharing are not sufficiently wide. Italy has also adopted national measures to remedy the deficiencies in the EU framework for UN 1267/1989 and 1988 sanctions, although not all of these have been tested.

Italy does not have a targeted, interagency coordinated approach to supervising the non-profit organisation (NPO) sector. The ministry in charge of NPOs (i.e., the MLSP) is not integrated into the FSC's work. Limited outreach has been undertaken to the sector.

Italy actively mitigates the proliferation financing (PF) risk emanating from Iran, and is aware of the risk emanating from trade with North Korea but could not demonstrate that TFS can always be implemented without delay.

Recommended Actions

Italy should:

- Conduct additional outreach to the financial and non-financial sector with regards to the risk of PF and TF.
- Establish a system to actively notify reporting entities of new sanctions listings and ensure that new listings/designations for TF and PF are systematically implemented without delay.
- Adopt a more strategic mandate to address TF risk by discussing typologies and methodologies of TF. The authorities should also consider modalities to better integrate the activities of CASA and FSC to better exploit the use of sanctions to better mitigate TF risk. The FSC should consider whether additional legislative reforms are necessary to ensure a smooth flow of information across agencies, so as to further mission of the FSC.
- Continue current efforts to detect possible TF offenses and, if detected, proactively investigate and prosecute TF activities.
- Adopt a targeted, coordinated, RBA to oversight of higher risk NPOs and conduct additional outreach to and awareness raising for NPOs.

The relevant Immediate Outcomes considered and assessed in this chapter are IO9-11. The recommendations relevant for the assessment of effectiveness under this section are R.5-8.

Immediate Outcome 9 (TF Investigation and Prosecution)

196. The Italian authorities demonstrated a good understanding of TF risk. Risks are influenced mainly by international tensions and conflicts, particularly in Iraq, Libya and Syria. The most significant emerging risk is the potential support of Italian residents travelling to conflict zones abroad to help foreign terrorist groups. The terrorist activities detected, both for domestic and foreign terrorist groups, are based mainly in small, self-financed cells.

197. The CASA coordinates the response to specific terrorist threats at the strategic level. It is composed of the GdF, *Carabinieri,* and State Police, as well as the Intelligence Services. In CASA, information on terrorism is shared and analysed periodically by its members in order to take decisions on the planning of preventive actions. CASA focuses on the assessment of terrorist threats at domestic and at international level.

198. Counter-terrorism strategies have enabled Italy to identify terrorists and terrorist support networks. TF investigation is part of the counter-terrorism strategy. The cases shared with the assessment team indicated that the competent authorities systematically investigate the financial aspect of terrorists' activities (i.e. how the activities are financed, or the incoming and outgoing flows). Financial intelligence is a source to initiate and develop investigations by identifying other persons involved or detecting the existence of networks. The authorities use all the means of investigation available to them, including access to banking information, wire-tapping, searches and observation.

199. The authorities established that they also make an effective use of international co-operation channels, in particular, with neighbouring countries.

200. As a result of LEA's activities, several individuals were arrested on terrorist activities charges over the last five years. No evidence of TF activities was found;[54] all the cases related to self-financed cells and involved relatively small amounts. Similarly, none of the investigations revealed potential misuse of NPOs. Prosecutions were therefore initiated for terrorist activities (article 270 *bis* CC), but not TF. The statistics provided are the following:

Table 19. **Number of requests for prosecution initiation or filing for terrorism**
(Article 270 *BIS* CC)

Year	2009		2010		2011		2012	
	Prosecution initiation	Prosecution filing	Prosecution initiation	Prosecution filing	Prosecution initiation	Prosecution filing	Prosecution initiation	Prosecution filing
270 *bis*	63	10	6	63	1	55	4	50

201. The number of persons convicted are the following:

[54] In March 2015, (i.e. after the on-site visit), a sentencing for TF was published. Sentences for TF prior to 2009 were also made available by the Italian authorities.

Table 20. **Persons convicted by final sentence**
(270 *BIS* CC)

Year	Number
2008	13
2009	12
2010	3
2011	3
2012	5

202. Some statistics shared with the assessment team (but not consolidated for publication in this assessment report) revealed that most of the cases of terrorism are sanctioned with a penalty of imprisonment of 5–10 years, with some individuals sentenced to 2–5 years of imprisonment.

203. In some instances, Italy deported from its territory foreign residents deemed to pose a potential threat as a means to disrupt potential terrorist activities.[55] The deportation was ordered by the MoI when there was no evidence of terrorism or TF but possible links to such activities. Three individuals were deported on these grounds in 2012, two in 2013 and one in 2014.

Overall conclusions on Immediate Outcome 9

204. Italy exhibits many characteristics of an effective system for investigating and prosecuting those involved in terrorist actions. The legal framework for the investigation and prosecution of TF is generally sound. Every counter-terrorism investigation includes an investigation into potential TF. While some convictions on terrorist activities have been secured, no recent TF convictions were produced due to the characteristics of the people cases (small self-financed terrorist cells). Italy also uses other measures to address the most relevant emerging terrorist activities.

Immediate Outcome 10 (TF Preventive Measures and Financial Sanctions)

Implementation of Targeted Financial Sanctions for TF without Delay

205. As a member of the EU, Italy is reliant upon the EU framework for implementing designations under United Nations Security Council Resolutions (UNSCR) 1267/1989 and 1988, EU Regulations 881/2002, and 753/2011, respectively. Italy subsequently adopted national legislation for implementing TFS (LD 109/2007 and Ministerial Decree (MD) 203/2010). Through this framework, Italy has implemented a national mechanism to propose designations, manage frozen assets, and delist identified persons and entities. These measures will be described in the subsequent paragraphs.

206. Italy has national measures available to supplement the EU freezing framework via the Anti-Mafia Code and the joint MEF/MFA decree (LD 109/2007).Through the Anti-Mafia Code, Italy

[55] In February 2015, the Italian government adopted a new regulation with new measures against terrorist activities, such as strengthen deporting powers and the adoption by Anti-Mafia National Prosecutor of competences in the counter-terrorism field.

can freeze the assets of "EU Internals", and supplement a gap in the EU framework. Italy, through national measures, has also supplemented the EU framework via LD 109/2007 to include "assets" that are "owned or controlled" by a listed person within the scope of the freezing measures. In a recent case, the authorities froze a bank account and company registered in name of the spouse of a listed UNSCR 1267/1989 person, thus demonstrating that they can affect assets indirectly owned by designated persons.[56]

207. Accounts/assets located in Italy at the time of UN designation: Through pre-designation coordination amongst UN member states, Italy receives notification of pending designation proposals usually a few weeks before UN listing. On this basis, the UIF conducts searches through the database of assets to determine whether the listed person or entity maintains any accounts or property in Italy. If the UIF locates assets, it notifies the FSC which can then request a joint MEF/MFA decree or public prosecutor's freezing order under the Anti-Mafia Code, please see R.6 for further analysis. These measures have not been tested in practice, as there have been no instances where the UIF has located relevant assets of the person or entity that will be designated. Their effectiveness therefore cannot be determined. In particular, it could not be established that freezing can occur "without delay." The joint MEF/MFA decree was used one time and it took several months to conclude under non-emergency conditions.

208. For transactions transiting Italy, given the time delay between the UN designation and EU action, transactions involving listed entities or persons could be processed. In the time between the UN listing and EU listing, a transaction could be processed through the Italian financial system as EU listings can be delayed by days due to the EU implementation process. The authorities note that in advance of a new EU listing, the UIF alerts financial intermediaries to the new UN listing, so that they do not to process a transaction. While this approach aims to mitigate the UNSCR 1267 requirement to prohibit the provision of financial services to listed persons, it is unclear to what extent the UIF's alert is binding on the financial intermediaries. While these national measures for both accounts in Italy and transactions transiting Italy are available, they have not been used in practice, as the need for such measures has not arisen yet, and therefore the effectiveness cannot be assessed.

209. Italy has nominated 80 individuals and 16 entities to the UNSCR 1267 Al Qaeda Sanctions Committee. The statements of the case accompanying these nominations provided enough information for a successful listing of the targeted individuals and entities. Italy has not made any requests foreign states under UNSCR 1373, but has received one request, which the authorities referred to the EU's CP 931 Committee. Italy has also nominated 16 individuals and one entity to the EU CP 931 Committee.

210. Pursuant to UNSCR 1267, Italy has frozen approximately USD 110 000 in assets related to 53 transactions/accounts and 38 persons/entities to date. Since 2007, it has also placed four companies listed by the UN's Al Qaeda Sanctions Committee under controlled management by the State Property Agency. In addition, between 2005 and 2007, it dealt with the freezing of a hotel in Milan through an ad hoc procedure.

211. Supervision of the implementation of TFS appears to be functioning well. Italy's TF-related supervision of TFS includes checks conducted by the UIF, during both on-site and off-site supervision of all reporting entities. Between 2012 and 2014, the UIF identified nine potential sanctions breaches

[56] This rationale was also used to freeze the assets of a bank which was owned by the Libyan Arab Foreign Bank designated pursuant to the UN's Libyan Sanctions program.

which resulted in three final sanctions issued by the MEF, namely one EUR 500 fine in 2012 and two fines for a total of EUR 900 in 2013. The most frequent violation was the transfer of funds to subjects listed (article 5.4); in one case the UIF was not informed of freezing adopted (article 7.1) and in another case information related to listed persons was not passed to the UIF (article 7.2).

212. The authorities have issued guidance in 2001, 2002, 2009, and 2010 for FIs and DNFBPs related to their obligations on TF asset freezing measures. In addition, the UIF's website contains references to the specific freezing obligations.

213. Italy does not have a mechanism for actively notifying FIs and DNFBPs of newly listed individuals and entities. Currently, the UIF includes links on its webpage to the UN, EU, and U.S. sanctions lists, as well as an overview of obligations for institutions under LD 109/2007; however, the Italian authorities do not reach out to obliged entities when a name is added to the UN Consolidated list. Obliged entities and individuals are responsible for informing the UIF when they have identified asset related to the EU framework. The authorities indicate that individual firms can subscribe to a European Commission RSS feed that provides designation updates. The use of external service providers, such as World-Check, by most FIs and larger DNFBPs may mitigate the risk that a firm is unaware of a new listing. While the authorities have not conducted any checks to verify the contents and robustness of these commercial databases, they indicate that they inspect the commercial databases of the financial intermediaries to monitor for new listings. These commercial databases are also used daily for real-time transaction monitoring by FIs and some DNFBPs. As such, these commercial databases update their information with new sanctions listings as it becomes available. Therefore, if a bank using this software did not check the EU's website on a regular basis, it could still be alerted to potential transactions that may involve listed entities.

214. Italy has an effective system for the management of frozen assets and companies, and for receiving and vetting requests for unfreezing funds, as well as for monitoring frozen assets. The FSC is responsible for managing the assets of all persons and entities sanctioned by the UN under the EU's framework. Since 2010, the FSC has granted four of the seven requests received for unfreezing terrorist assets under the basic expenses exemption of UNSCR 1452, which mainly dealt with health-related expenses. The authorities report that they have instituted a system of funds tracing to ensure that the unfrozen funds are used for their intended purpose. Through the State Property Agency, Italy has developed a system for the management of designated companies to ensure that the designated persons does not benefit from the profit of these entities, while also preserving the employment of the individuals at the firm.

215. Amongst those designated by Italy (alone or jointly with other countries) under the sanctions regime for Al Qaeda, 27 individuals and 16 entities were subsequently delisted. There was also one case of an individual whose assets had been accidentally frozen due to homonymy. The Italian authorities resolved this case through coordination with a third country via diplomatic channels, and the individual's assets were unfrozen.

Targeted Approach, Outreach and Oversight of At-Risk Non-Profit Organisations

216. Italy's non-profit sector is composed of over 300,000 entities that take a variety of legal forms. NPOs do represent some risk to the Italian financial sector, but the NRA found that the NPO sector represents a low TF risk. The authorities stated that the primary risk from NPO is for tax evasion, due to the decreased tax regime that these entities enjoy. The FIs met by the evaluation

confirmed this belief/understanding, noting historic cases where NPOs were used for ML purposes, but not validating their potential risk for TF purposes. While the GdF has access to information on NPOs' financial activities, it does not appear that the authorities have conducted a targeted risk-based analysis in order to prioritize the implementation (monitoring, enforcement) of NPOs, per R.8. Since 2010, the UIF has received and analysed a total of 26 STRs all sent by financial intermediaries regarding activities of non-profit entity account holders .[57] According to the authorities, many of these reports were of an "investigative interest," and several of these cases are on-going. (See Text Box under IO.6 for an example.).

217. Italy does not have a targeted, interagency coordinated approach to supervising the NPOs with the highest risk, such as those operating overseas and those controlling the largest amount of financial resources in the NPO sector. With multiple ministries, regions, and law enforcement agencies exercising authorities over different aspects of the NPO sector, Italy's NPO monitoring lacks effective national coordination, particularly related to identifying TF threats in the sector While the MLSP is the Ministry that is responsible for non-profit oversight, it does not appear to have established a mechanism with respect to the counterpart ministries, law enforcement agencies, and regional governments to oversee the sector and ensure that the TF threat is adequately mitigated using a risk-based approach. In turn, the MLSP has only a limited involvement in both the FSC and CASA, having participated in a limited number of activities.

218. The authorities are able to identify instances of abuse in the course of their daily activities and take enforcement actions against NPOs if TF or other abuse is identified. These enforcement actions are carried out by the GdF and IRA, as well as other ministries. Since 2010, the GdF has inspected 224 NPOs for potential tax crimes under LD 74/2000. None of these inspections revealed potential signs of TF. These measures appear to be in line with the low risk of TF identified by the authorities.

219. The MLSP is responsible for publishing guidance and conducting outreach, such as recent engagement with NPOs to discuss the NRA results. However, Italy has only conducted limited engagement and outreach to maintain regular dialogue with its domestic NPO sector about TF risks to the NPO sector, the potential TF risk in Italy and TF-specific risk mitigation best practices. One example provided related to outreach conducted to the NPO sector with respect to the NRA results. The MLSP has not published any guidance with respect to the TF threat to the charitable sector.

220. The assessment team did not have the opportunity to discuss these issues with the NPO sector.[58] It is therefore unclear if NPOs understand TF vulnerabilities, risk mitigation measures to protect themselves from the threat of terrorist abuse, or the efforts taken by the authorities to protect the NPO sector from abuse using a risk-based approach.

Deprivation of TF Assets and Instrumentalities

221. Italian anti-terrorism investigation efforts are mainly targeted on disruption while parallel investigations are also conducted but have revealed assets in limited instances only and therefore few provisional measures were ordered.

[57] This data, taken from the NRA, concerns Islamic NPOs.

[58] The team did meet with various civil society representatives to discuss corruption and the national risk assessment.

Consistency of Measures with Overall TF Risk Profile

222. Given Italy's focus on disrupting terrorist cells and limited number of TF evidence, Italy's law enforcement uses TFS for TF less actively than in the past as a tool to prevent terrorists, terrorist organisations, and terrorist financiers from using the international financial system.

223. While the authorities have a forum for deliberating and developing designation proposals, the system is not currently actively used to propose nominations to the EU and UN. From 2001–2006, the FSC has nominated 80 individuals and 16 entities to the 1267/1989 Al Qaeda committee. Italy's last successful terrorism designation proposal was in 2006, when 16 individuals and 1 entity were listed.

224. As the overall AML/CFT policy coordinator, the FSC adequately manages frozen assets, but its effectiveness to implement TFS could be improved by considering additional strategic initiatives through an expanded mandate, such initiatives could include a typology discussion. While no confidentiality clause hinders the sharing of information amongst FSC member agencies, information sharing is often limited to the listing, delisting, and freezing related measures under deliberation.

225. Individuals traveling to high-risk areas for work or pleasure are at risk of terrorist kidnapping for ransom operations. Italian citizens, including journalists, aid workers, and others, have indeed been taken hostage by terrorist groups, included those linked to Al Qaeda, in the Sahara, Afghanistan/Pakistan, Syria, Iraq, and Libya over the past 15 years. As the FATF typology on Piracy/Kidnapping for Ransom (KFR) discusses, terrorist groups are increasingly relying on KFR to raise monies. Despite the above, kidnapping is only addressed in the NRA as it relates to domestic, organised-crime driven activity. Italy's MFA does provide a website for Italians to register their travel abroad to crisis areas. The MFA also provides information on crime, security, as well as issuing travel warnings for high-risk areas.

Overall Conclusions on Immediate Outcome 10

226. Italy demonstrates some characteristics of an effective system in this area. While the authorities have augmented the EU framework for TFS with national measures, some of these national measures have not been tested in practice and some deficiencies remain with respect to implementing freezing without delay, in particular the prohibition related to ongoing financial services. Italy has passive system of notification to the FIs and DNFBPs for new listings, and the authorities have not conducted outreach to obligors or published guidance recently. NPOs are an area for improved efforts and specific action. There has been a lack of a targeted TF-related outreach and TF-related monitoring of NPOs, thus leaving NPOs potentially vulnerable to misuse by terrorist organisations. Although there are parallel financial investigations for terrorism cases, Italy has taken few provisional measures due to its context and risks.

227. Italy has achieved a having moderate level of effectiveness for IO.10.

Immediate Outcome 11 (PF Financial Sanctions)

228. As a member of the EU, Italy is reliant on the EU framework for implementing restrictive measures against Iran and North Korea, as its legal system and processes for implementing UNSCRs 1718 and 1737 are the same as for UNSCR 1267 and successor resolutions. As noted above, Italy has

implemented national controls to supplement the EU regime which provide for the designation of EU internals and affect assets that are owned and controlled by designated persons/entities; however, the same deficiencies as outlined in R.6 and IO.10 also apply to PF-related financial sanctions, including the inability to freeze without delay and the lack of an active notification regime. In order to implement these measures, the authorities expanded the FSC's mandate in 2007 to cover Iran sanctions and invited the Ministry of Economic Development and the Customs Agency into its membership in order to coordinate activities on trade in dual use goods and the corresponding financial transactions between the respective ministries. To date, Italy has been successful in freezing a large number of assets for Iran, as well as the Rome branch of the UN-designated Bank Sepah.

Table 21. **Italian trade with Iran and North Korea in 2014 (in EUR)**

	Iran	North Korea
Imports	441 000 000	427 000
Dual-use Good Exports	6 000 000	0
Total Exports	156 000 000	919 000

229. Historically, Iran was Italy's leading trade partner, but today trade with Iran has dropped considerably. As of 2014, it consisted of imports of EUR 441 million and exports of EUR 156 million, including EUR 6 million in dual use goods, compared to a global dual-use export trade of EUR 683 million. The major categories of Italian exports to Iran include industrial and manufacturing equipment, electronics, and automobile parts.

230. Despite minimal trade flows with North Korea, the Italian authorities are conscious of North Korean interest in goods barred under UN sanctions. In 2012, Italy's trade with North Korea was over EUR 6 million in exports and EUR 1 million in imports, whereas by 2014 this trade dropped to EUR 919 000 in exports and EUR 427 000 in imports. The major category of both import and export trade is in manufactured goods. Despite this marginal trade, there have been examples of North Korea attempts to obtain Italian goods, in particular luxury goods banned under the UNSCR 1718 regime.[59] Per UNSCR 1718 and successor resolutions, which are implemented by EU Regulation 329/2007, dual-use trade with the North Korea is banned throughout the EU.

Implementation of Targeted Financial Sanctions Related to Proliferation Financing without Delay

231. In response to UNSCR 1747 (2007), the BoI in collaboration with the FSC placed the Italian subsidiary of Bank Sepah under special administration pursuant to the procedure set in the CLB's Crisis Procedures in March 2007, a month before the EU listing. Over the course of a weekend, Italian authorities established a legal mechanism to permit the continued operation of the bank under strict controls. The authorities believed that freezing the bank's assets could compromise the sound management of the entity, so the bank was allowed to continue to operate, but under strict Italian government scrutiny by BoI, GdF, and the UIF. Since 2007, the branch has only conducted

[59] According to the press, North Korea has also attempted to obtain snow blowers, tap dancing shoes, and wine from Italian manufacturers in contravention of the UNSCR 1718 regime.

transactions authorised by the UN sanctions committee, to include payment of current expenses, legal fees and expenses related to the extraordinary administration, as well as payments in favour of individuals and entities not listed relating to contracts concluded before the listing of Bank Sepah.

232. With regards to new designations, the FSC is also responsible for proposing new listings to the respective UN and EU bodies. However, the effectiveness of the regime has not yet been tested in practice.

Identification of Assets and Funds Held by Designated Persons/Entities and Prohibitions

233. The FSC has effectively managed the sizeable assets frozen under the Iran sanctions program. Italian FIs have frozen 60 accounts and transactions of 14 individuals subject to EU and UN sanctions on Iran totalling an amount of approximately $13 billion. No funds have been frozen pursuant to DPRK sanctions.

Table 22. **Funds and assets frozen pursuant to PF-related sanctions**

Year	2009	2010	2011	2012	2013	2014
Assets Frozen (USD)	0	0	0	238 712	3 561 933 562	3 562 400 332
Assets Frozen (EUR)	466 424	6 554 521	4 382 474	8 139 540	8 591 076	7 878 188
Assets Frozen (CHF)	0	37 781	37 593	37 593	37 593	37 593
Accounts and Transactions	11	25	29	56	57	60

234. As described above, the FSC is responsible for authorizing requests to frozen funds for basic expenses per UNSCR 1737. To date, no basic expense authorisations have been approved under EC Regulation 267/2012.

235. The FSC is also responsible for pre-authorizing transactions under the EU's Iran sanctions program. Pursuant to EU Council Regulation 267/2012, the Italian government must pre-approve all financial transactions involving Iranian persons and entities worth more than EUR 40,000 (which was subsequently increased). Authorities report that since the beginning of the Joint Program of Agreement in January 2014, when the pre-approval threshold was increased to EUR 400,000, they have reviewed fewer transactions. Nonetheless, in 2014 the FSC reviewed over 4 700 transactions. In order to effectively manage these resources, Italy has developed an innovative IT solution for dealing with the both the submission process and the interagency review.

FIs and DNFPBs' Understanding of and Compliance with Obligations

236. Italy's FIs demonstrate knowledge of PF risk and are filing PF STRs. The BoI's UIF published guidance to aid reporting entities in filing suspicious transaction reports related to proliferation and PF activities. Since 2009, there have been 206 PF STRs submitted, all of which were provided by banks (See box below). In total nine provinces reported PF STRs, the responses were concentrated in the industrial regions of Italy (Emilia-Romagna and Lombardia). While banks submitted STRs for transactions involving UN or EU listed persons, the majority of these reports are the result of banks reporting for reasons not related to transactions involving listed parties. The most frequent reasons

for FIs filing STRs relate to irregularities with respect to the commercial counterparts (recipients, consignee, and banks) involved, the mis-coding of export goods, and the delivery to a destination that is not the shipper's.

237. In addition to UIF's guidance, the MEF has also issued interpretive guidance to the obliged entities on compliance with EU sanctions.

4

Competent Authorities Ensuring and Monitoring Compliance

238. During the last two years, UIF inspectors have visited two financial intermediaries holding frozen accounts/transactions and verified that the internal controls and procedures regarding these funds were in place. Neither on-site inspection revealed any violation. More frequent on-site inspections are necessary to ensure effective compliance by FIs and DNFBPs.

239. This table shows the decrees issued by MEF for violations of CTF/CPF targeted sanctions.

Table 23. **Final sanctions by MEF for proliferation violations (2012-2014)**

Year	Number	Total Amount (EUR)
2012	0	**0**
2013	2	**11 318**
2014	5	**50 882**
Total		**62 200**

240. Both the MEF and MISE have conducted outreach to the financial and DNFBP sectors on the risk for PF. MISE and Customs have been active in engaging the export manufacturing sector on potential PF risks. The authorities note that in addition to the FSC's outreach to Confindustria, Italy's leading industrial association, they have daily contact with the financial sector on the legal interpretation issues with regards to changes in the EU's PF sanctions regime.

241. The authorities can detect sanctions evasion activities through tracking dual-use trade via interagency coordination, as well as their analysis of trends in exporter activity. Dual-use trade is monitored through both the FSC, which authorizes the financial transaction, and the MED-led interagency dual-use export council, which is responsible for approving the dual-use good export applications. Either body can suspend their authorisation at the request of the other body. MED and MEF report that they have both been alerted by the other body to potential evasion activities using this dual-track approach of monitoring. This technique can be used to detect trade sanctions and TFS evasion. Through MED's analysis of trends in dual-use exports, the authorities have also been able to identify potential sanctions evasion activities through third countries, when recurrent exporters to Iran have diverted trade to third countries.

Overall Conclusions on Immediate Outcome 11

242. Italy demonstrates many characteristics of an effective system in this area. The issues listed under IO.10 and that relate to UN sanctions implementation also apply to IO.11. Even though IO.11 shares certain deficiencies with IO.10, IO.10 has additional shortcomings vis-à-vis the NPO sector that do not apply to IO.11. Italy has frozen a substantial volume of assets and other funds pursuant to the PF sanctions programs. Italy's FIs demonstrate knowledge of PF risk and are filing STRs related to potential PF. The authorities appear to have established adequate domestic cooperation mechanisms in relation to sanctions evasion with regards to the PF country sanctions programs for Iran and North Korea. While the BoI on-site examinations do include PF among the issues assessed, the Italian authorities do not conduct frequent on-site inspections of FIs outside the BoI's purview (such as insurance companies) nor of DNFBPs. Considering, however, that the main potential risk is linked to the banking sector, this deficiency does not appear to have a material impact in the context of this assessment.

243. Italy has achieved a substantial level of effectiveness for IO.11.

CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key Findings

Generally, the FIs have a good understanding of ML threats, but their appreciation of TF risk is much less developed. The DNFBP sectors are far less attuned to risk, partly because updated secondary legislation has not been issued since the introduction of the AML Law.

Banks are potentially most vulnerable to ML, but despite some failings, the larger ones appear to be strongest in their defences. It is not clear how well they are managing the overall risk of being the conduit through which the proceeds of tax evasion are channelled.

An area of major concern is the provision of remittance services by agents acting on behalf of companies that have benefited from the EU passporting arrangements under the Payment Services Directive. Investigations have revealed large-scale abuses of the cash reporting requirements. The authorities have been instrumental in having the supervisory framework addressed within the EU's 4th Money Laundering Directive.

CDD measures are well embedded in the financial sector, but there is an over-reliance by some sectors on the due diligence undertaken by the banks when accepting business through agency arrangements. There is also a lack of consistency in the detailed processes for ascertaining beneficial ownership, and undue reliance on registry information, and customers' self-declarations.

The obligation to identify domestic PEPs has only been extended to the financial sector so far. In view of their awareness of the threats of corruption, many institutions have extended their PEP risk profiling well beyond the scope of the regulations to include regional and local politicians and administrators.

Suspicious transaction reporting by the banks has improved over the years, but questions remain about the promptness of reporting. The results among the other parts of the financial sector are more mixed. Reporting by DNFBPs is generally poor, especially among lawyers and accountants, but is improving in the case of notaries.

Recommended Actions

Italy should:

- Issue secondary legislation (or, at least, guidance) to cover all the DNFBP sectors in consultation with the relevant professional associations, and engage in an outreach program on AML/CFT obligations (in particular, CDD and the submission of STRs, and the application of the RBA).
- Work closely with the financial sector to help improve the latter's understanding of tax evasion typologies, and improve the reporting of suspicious transactions.
- Extend the obligations with respect to domestic PEPs and persons holding positions of influence in international organisations to all FIs and DNFBPs; and consider extending the definition of domestic PEPs to include relevant persons at regional and local level.

- Provide further guidance and education to reporting entities' on steps needed to identify the ultimate beneficial owner of a customer, and clarify that reliance on the customer's self-declaration is not, in itself, sufficient.
- Explicitly require the filing of STRs in relation to the proceeds of criminal activity (and not just ML/TF); and stress the importance of the prompt filing of STRs.
- Consider what measures might be taken to require banks to strengthen their procedures for dealing with correspondent banks within the EU to ensure that they take account of the true risks that exist when dealing with different institutions in the EU.

The relevant Immediate Outcome considered and assessed in this chapter is I04. The recommendations relevant for the assessment of effectiveness under this section are R9-23.

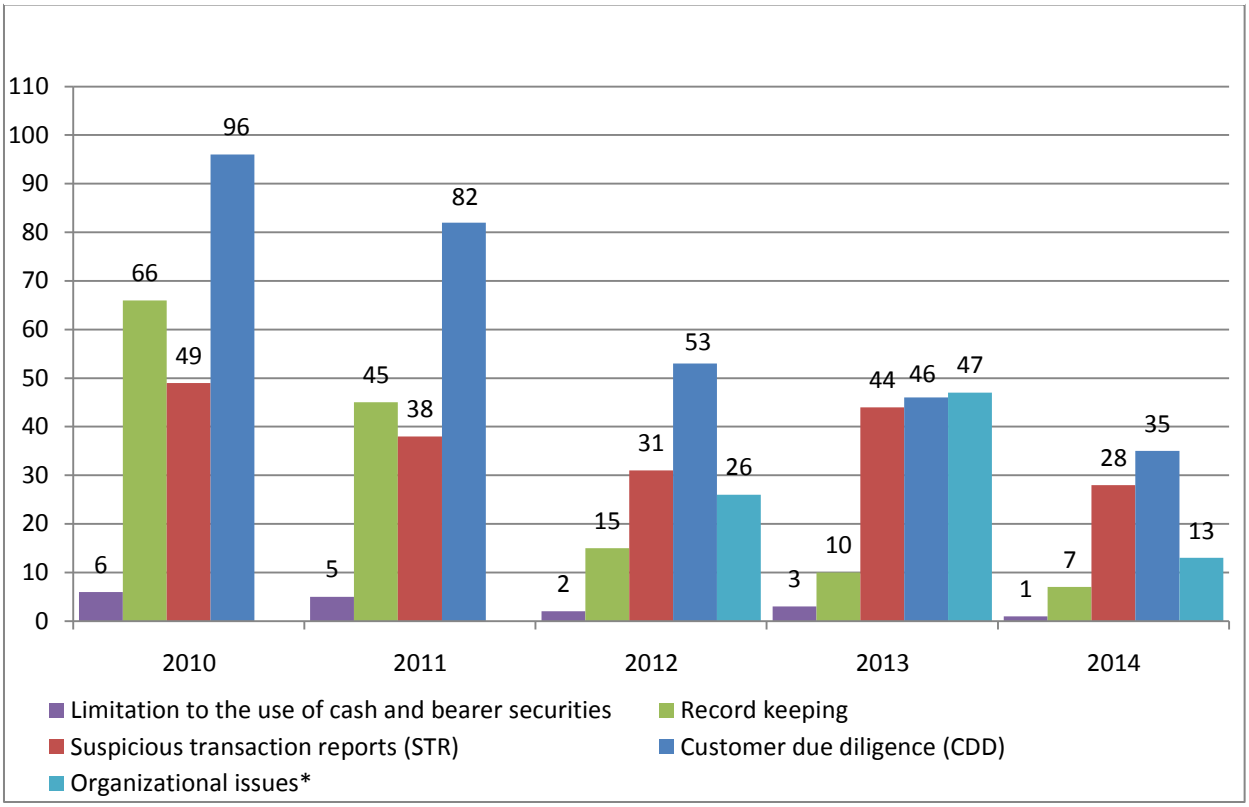
Immediate Outcome 4 (Preventive Measures)

Understanding of ML/TF Risks and AML/CTF Obligations and Application of Risk Mitigating Measures

244. All the FIs interviewed perceived tax evasion (estimated in the NRA at EUR 140 billion per annum) to be the number one challenge they faced, with the proceeds of corruption, organised crime, drug-trafficking, loan-sharking and usury also being very significant issues. In many cases, these challenges centre on the broad issue of organised crime. In practical terms, this frequently translates into treating the following as higher risk: business conducted in specific geographical areas in Italy (especially the south and north-west); engagement in real estate transactions; transactions with customers that are party to public works projects; cash transactions; and interaction with certain other financial intermediaries that, historically, have a reputation for shielding the identity of clients, especially the trust companies.

245. The banking sector (including BancoPosta), which dominates the financial services industry, recognizes that it is the most vulnerable to these threats, if only because of the scope and breadth of its operations. The inspection work undertaken by the various regulators appears to show a gradual improvement over the years in the application of the preventive measures (see, for example, the table below with respect to the BoI findings), and the banks showed a good degree of awareness of their position as "gatekeepers."

Figure 2. **AML Deficiencies by Type (BoI Inspections)**



*The BoI regulation on intermediaries' AML organisation entered into force in September 2011.

246. However, it was far from clear how robust are the banks' measures to deal with the particular complexities of tax evasion, which is widely recognized as the biggest single threat. For example, there are valid questions to be answered about the implications of the 2010 tax amnesty that led to the repatriation of EUR 97 billion, of which EUR 67 billion came from Switzerland alone. While the banks appear to have applied appropriate procedures when dealing with the repatriation of the funds by their clients (including filing STRs where relevant), it must be the case that a very substantial part of the repatriated funds was transferred out of Italy, in the first place, through the financial system to a jurisdiction that had been classified domestically as high risk for receiving the proceeds of tax evasion. These flows continue, as more recent data collected by the UIF show that, in 2013, wire transfers totalling EUR 36 billion were made to Switzerland on behalf of Italian domestic households and commercial businesses (excluding banks and governmental agencies), although it has to be acknowledged that Switzerland is one of Italy's major trading partners, with exports of EUR 15 billion in 2013, and is also a major centre for wholly legitimate investment activity.

247. The FIs had a near-common view that the risks relating to TF were low with respect to both domestic and international terrorism. Again, this view matched the conclusions of the NRA, but it was not possible to determine whether FIs have reviewed their policies and safeguards in the light of the developments in Iraq and Syria, in particular, since mid-2014.

248. The understanding of ML/TF risks within the DNFBP sectors is mixed, but is generally significantly less well developed than in the financial sector. This situation is not helped by the fact that secondary legislation to support the AML Law has not yet been issued for all the DNFBPs. As was clearly the case with the financial sector, such regulations would provide the DNFBPs with a much clearer appreciation of the appropriate risk-mitigation procedures.

249. Notaries play a key role in the AML framework. They operate often in sole practices, offering a highly standardised service, i.e., authenticating customer identification. The Council of Notaries has a good sense of the high-risk transactions, identifying both real estate and corporate deed transfers as the transactions giving greatest concern. Despite this awareness, notaries demonstrated less sensitivity to address the requirements for high-risk customers, such as PEPs. Real estate agents, who work directly with notaries in property transactions, generally have a low awareness of ML issues, despite the high-risk nature of the real estate sector.

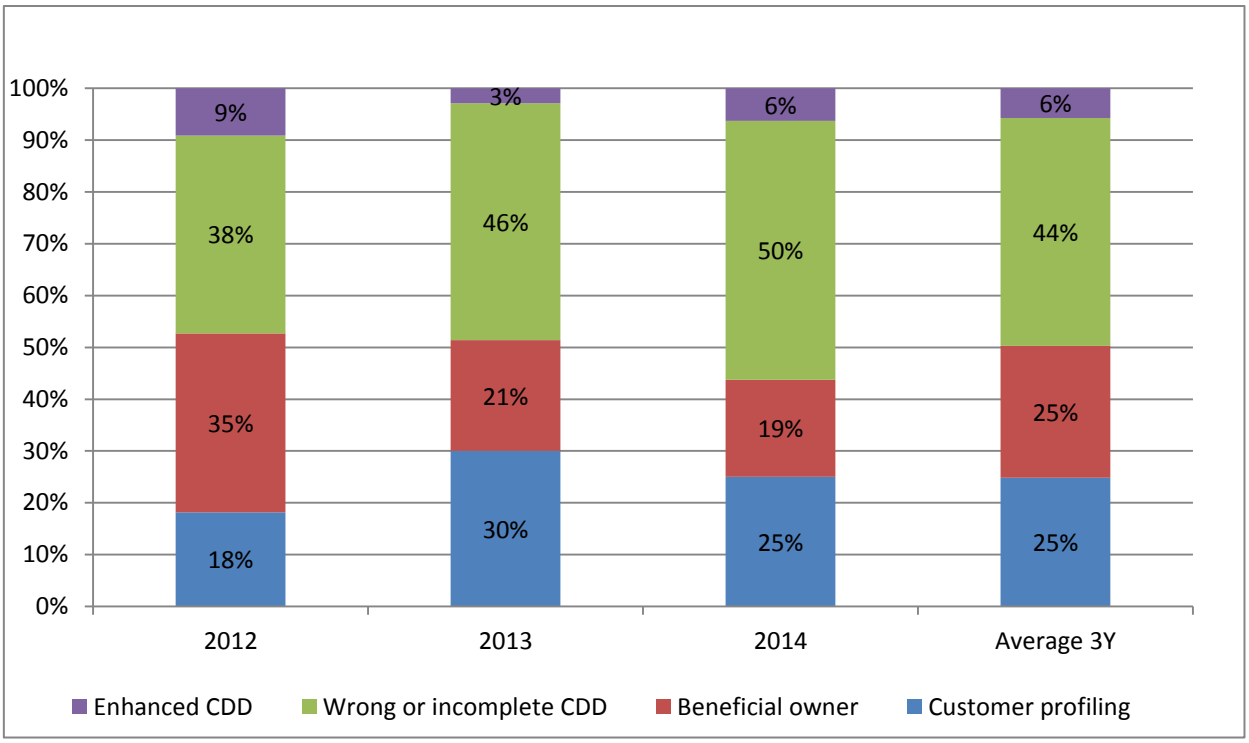
250. Lawyers view their ML/TF risk as limited only to those in their profession engaging in financial/business consultancy activities. Almost 80% of Italy's 180 000 active lawyers are litigators operating in law firms with fewer than 6 professional staff, and so the market for business/financial lawyers is limited in size. There is no common appreciation of lawyers' vulnerability to being used by ML facilitators, although most agreed that risks are highest in real estate transactions, advising on project capital, and/or providing tax advice.

Application of Enhanced or Specific CDD and Recordkeeping Requirements

251. The CDD procedures across much of the financial sector are surprisingly uniform, and appear to be well embedded. Discussions with representatives of a number of FIs and their professional associations showed that, for the most part, they have a good appreciation of both their obligations and the challenges in meeting them.

252. It is clear from the BoI data (see previous table on "AML Deficiencies by Type") that the number of occasions in which CDD deficiencies are being identified during inspections across the financial sector is declining. However, as the following table also indicates, the pattern of those deficiencies remains fairly consistent, with cases of incorrect or incomplete CDD averaging 44% of the total over the last three years.

Figure 3. **CDD deficiencies by type (BOI inspections)**



253. However, these data should be treated with some care, as the recorded deficiencies relate to both isolated failures within an institution, and failures that have more systemic implications for an institution. Therefore, it is not possible to draw any firm conclusions about the true depth of the weaknesses, although the regulators were of the opinion that the overall quality of the banks' CDD procedures has been improving in the last two years. A particular challenge has been in trying to complete the CDD procedures for clients that were on the books prior to the introduction of the AML Law. The BoI estimates that about 90% of these have now been successfully processed.

254. A very high proportion of customers access the broader financial system by way of the banking sector, through which about 50% of the life insurance business is sold, and virtually all the business handled by the asset managers and card-issuing payment institutions is channelled. While, in principle, the institutions that take client funds through the banks are required to perform their own CDD, they do so almost entirely on the information supplied to them by the banks, and talk in terms of being "shielded" by the strength of the banks' own CDD procedures. In a number of cases, this reliance on a third party has resulted in problems for the customer profiling by the insurers and asset managers, either because not all the relevant information is being passed across by the bank, or because the recipient institution is not undertaking any further analysis. The challenges are even greater when insurers rely on non-bank agents. One insurer indicated that a sample of CDD files passed from its agents revealed discrepancies in approximately 18% of the cases. The authorities believe that the new IVASS regulations on CDD that came into force on January 1, 2015 will help address the problem by providing more guidance.

255. Interviews with a cross-section of FIs and DNFBPs revealed different perceptions of what the law requires with respect to the identification of beneficial ownership.[60] First, there is a lack of consistency in applying the principle that any legal or natural person that holds 25% or more of the shares at each level of the ownership chain should be regarded as a potential beneficial owner. Second, the distinction between beneficial ownership and shareholding is not always fully appreciated. The financial regulators have recognised both these issues, and clearer statements than exist in the primary law have been included in the BoI and IVASS regulations that came into force on January 1, 2014, and January 1, 2015, respectively. No similar regulations or guidance have been issued for the DNFBP sectors, with the exception of the PIE auditors who are addressed by CONSOB secondary regulations, and notaries who have received guidelines from their professional body. It is understood that the implementation, in due course, of the EU's 4th Money Laundering Directive may help to address these issues.

256. Many institutions place undue reliance on the Chambers of Commerce database (Infocamere) when seeking to identify the ultimate natural person who controls a customer. Some institutions indicated that, where the ownership chain is comprised purely of Italian-incorporated companies, they can rely intrinsically on the database to track the ultimate beneficial owner. However, the Infocamere holds only shareholding interests, and is not able to indicate whether the ultimate shareholder of record is also the beneficial owner. Although notaries, when processing the paperwork for company formations, are required to identify and record the true beneficial ownership, this information does not form part of the Infocamere database, and cannot, therefore, be accessed by users.

257. There also appears to be an over-reliance on the customer's self-declaration when the ownership chain starts to become complicated. This is particularly the case for those FIs that have less sophisticated systems, and for most DNFBPs. Some institutions seemed to regard the declaration as a safe-harbour statement for them, thereby avoiding the need to spend time and energy on their own independent checks. It is an offense under the AML Law for a customer to provide incomplete or false information on beneficial ownership, and the authorities have provided some examples of cases where prosecutions have been brought, but the practice of placing ultimate reliance on the completeness and accuracy of the self-declaration is questionable.

258. The issue of domestic PEPs is of particular concern to FIs in Italy due to the relatively high levels of corruption across the public sector. While the primary legislation only addresses foreign PEPs, both the BoI and IVASS have extended the definition to persons resident in Italy, and require a risk-based approach to dealing with such persons. In practice, many of the FIs interviewed consider the scope of the definition in the regulations to be far too narrow, and, in consultation with their regulators, have extended their internal profiling to include a broad range of regional and local politicians and administrators. This is clearly a sensible approach and reflects a good understanding, in general, of the risks faced at a local level when dealing with officials involved in public works and administrations. Unfortunately, the respective authorities responsible for the oversight of the DNFBP sectors (apart from the PIE auditors) have not extending CDD requirements with respect to domestic PEPs, and most firms appear to take the view that they should be following the letter of the law only.

[60] However, there has been a steady increase in the number of STRs filed by FIs because they cannot identify the beneficial owner.

259. Banks do not apply enhanced or even basic CDD measures when establishing correspondent-banking relationships with other EU institutions, as is permitted under the AML Law in line with EU principles. The banks indicated that their practice was simply to verify that the respondent institution is established and regulated in a Member State, in order to be exempted from all the measures applicable when dealing with non-EU entities. At the same time they recognised that the risks posed by individual respondents in different member states were far from homogeneous.

260. The NRA identifies money remitters as a weak link in the AML/CFT framework in terms of compliance with the preventive measures, and many within the financial sector share this view. The majority of the remitters do business in Italy under the EU "passporting" arrangements (as provided under the Payment Services Directive), which places primary responsibility for regulation in the hands of the home country supervisor. Where such businesses operate through a permanent establishment in Italy (as opposed to remotely), they do so through a large number of agents based in otherwise unregulated businesses (e.g. corner shops, petrol stations, etc.). Although these entities are subject to the Italian AML/CFT laws, the authorities have limited powers to exercise any broader regulatory permissions or oversight over their activities; but, ultimately, the MEF can prohibit their operations if the home country regulator fails to address any problems reported to them by the Italian authorities. The Italian authorities were instrumental in having specific provisions included within the EU's 4th Money Laundering Directive to help strengthen the regulatory framework for such entities. A case study of the challenges that the authorities have had to face with respect to this sector is shown by the Money River Operation, summarised in the box included in the previous discussion of IO.7.

261. Italian remittance businesses argue that they are at a competitive disadvantage to EU passported firms, in view of what they see as an imbalance in the regulatory regime. They report that clients will regularly decide to take their business to such other firms on the basis that the client will not be subject to the level of CDD measures applied by the Italian businesses.

262. The approach to CDD within the DNFBP sectors tends to be less nuanced than in the financial sector. Basic identification and verification is the norm, with many of those interviewed expressing the opinion that they were not well positioned to go beyond the client's self-declaration on beneficial ownership, or to monitor for foreign PEPs (the requirement to identify domestic PEPs not having yet been extended to these sectors). In general, the application of a risk-based approach to CDD is a less familiar concept to them, and is a process on which they appear to have received little guidance from their regulators, with the exception of the PIE auditors who are covered by CONSOB secondary regulations, and the notaries who work under guidelines issued by their professional association and endorsed by the authorities. Of note, in the casino sector there appear to be customer identification procedures, but no means for verifying customer identification.

263. Real estate transactions are widely recognised as a key ML risk in Italy, an issue that is compounded by the fact that the construction sector has a significant degree of involvement by organised crime. Real estate agents are a third party to transactions, and represent neither the vendor nor the purchaser. Many of the approximately 31 681 active agents are small- and medium-sized entities that do not have the capacity to undertake all the required CDD measures, a challenge that is recognised within the industry itself.

264. Generally, there appears to be a good level of record-keeping across the financial sector. Most institutions are required to maintain a Single Electronic Archive (Italian acronym "AUI")

dedicated solely to specific AML/CFT data, which must be run in parallel with their normal record-keeping framework. Both the AUI and the more general records must be maintained for at least ten years, and the regulators routinely check for compliance with this principle in their inspection procedures. In earlier years, the authorities regularly identified deficiencies in the transfer and updating of information in the AUI, but these cases are now declining in number as the institutions address the technological challenges of running their two systems in parallel. The authorities had no criticism of the quality of the more general record-keeping procedures.

5

Reporting Obligations and Tipping Off

265. The UIF is generally of the view that there has been a significant improvement in the quality of the STRs that it has received from the banking sector in recent years, and that progress is being made with respect to the insurance sector. Where structural problems still do exist within the banking system, it tends to relate to weaknesses in the processes for centralizing internal reporting by banks with extensive branch networks. Despite this, the UIF believes that, in general, the big banks have better STR controls than many of the regional institutions. In most cases there is a marked increase in reporting following an inspection, but some institutions suggested that this may include an element of "defensive" reporting, as they feel that the regulators are often applying 20/20 hindsight when sanctioning them for earlier non-reporting. The following table shows the pattern of reporting by each sector over the past three years.

Table 24. **Number of STRs filed by financial institutions and DNFBPs**

	2012	2013	2014
Financial Intermediaries	**64 677**	**61 765**	**68 220**
Banks and BancoPosta	58 929	53 745	59 048
Non-bank financial intermediaries	3 739	5 645	6 041
Insurance companies	369	602	723
Electronic money institutions	535	1 304	1 822
Trust companies	270	263	310
Asset management companies	158	134	127
Securities firms	36	45	64
Other financial intermediaries	641	27	85
Professionals and non-financial businesses	**2 370**	**2 836**	**3 538**
Notaries	1 876	1 824	2 186
Accountants, book keepers	90	98	148
Lawyers	14	35	27
Auditors	5	10	16
Other professionals	3	18	13
Casinos and betting operators	283	774	1 053
Gold traders and high value manufacturers and traders	54	26	47
Other non-financial operators	45	51	48
Total	**67 047**	**64 601**	**71 758**

266. The FIs indicated that unexplained cash transactions continue to be a core component of their reports, and UIF data for 2014 show that such transactions account for about 30% of the total number, but only 13% by value. The AML Law specifically cites certain types of cash transactions as grounds for suspicion, and there may be the potential for this to lead towards a large number of cash-related reports, not all of which are based on suspicion. In addition, the Law only requires the reporting of suspicions of ML and TF, and does not extend explicitly to the proceeds of criminal activities, more generally. In terms of the type of economic activity linked to the reports, there is a common perception that transactions involving the real estate market are one of the key triggers for reporting. Several institutions that were generally low-volume reporters indicated that a reasonable percentage (and, in some case, a significant number) of their STRs arise from requests for information from law enforcement agencies in the course of criminal investigations (i.e., reactive rather than spontaneous reporting).

267. Outside the core retail banking sector, the picture of STR-filing is very mixed. Trust companies and asset managers file relatively few reports. Inspections by the UIF show this to result primarily from weak customer profiling by the institutions. However, the activities within the

financial sector that give greatest concern about the adequacy of reporting are the money remittance services provided under the EU passporting arrangement. The failure to report, despite the relatively high-risk business (in terms of cash transactions and dealings with high-risk jurisdictions) is attributed by the authorities to the use of non-professional agents to administer transactions, and a lack of proper control exercised by the parent company outside Italy.

268. With the exception of the notaries (for whom guidelines have been developed by their national association in conjunction with the authorities), the filing of STRs by the DNFBP sectors is very low. In relative terms, the notaries' performance (an average of just under 2 000 STRs for each of the past three years) vastly outstrips that of other DNFBPs, and reflects a close engagement by the authorities with this key sector. However, given that the transfer of real estate is widely seen to be the most common ML typology, the assessors are unconvinced about the adequacy of the notaries' level of reporting, since the notaries play a central role in authenticating documents that are fundamental to most commercial and private transactions (involving over three million documents each year).

269. Although the number of reports filed by all other professionals (lawyers, accountants, auditors, etc.) has doubled since 2012, it still only reached just over 200 in 2014. The professional associations attribute this, in part, to a lack of updated secondary legislation and guidance, but some authorities believe that it reflects, in particular, the nature of the independent professionals' relationship with their clients.

270. As indicated, reporting levels among the financial sector are improving, but there are concerns about the timeliness of the reports. Analysis by the UIF in 2013 showed that only 65% of reports were being filed within two months of the execution of a suspicious transaction, and 9% were filed more than seven months after the event. In 2014, these figures showed improvements, with 72% of reports filed within two months and 6% filed more than seven months after the event. In the DNFBP sectors, there was also some improvement in timeliness of reporting, with 80% being filed within two months in 2014, compared with 70% the previous year. What these data do not show is how much of the delay is genuinely accounted for by the internal investigation process by the institutions, but, although the recent improvement in timeliness is welcome, the timeframes remain difficult to reconcile with the notion of "prompt" reporting, and must have an impact on the immediate value of the reports to the UIF.

Internal Controls and Legal/Regulatory Requirements Impending Implementation

271. The BoI data on the deficiencies identified during inspections show that there has been a marked drop in the problems identified in relation to the overall systems and controls. A key aspect of the control framework is an obligation imposed on an institution's internal governance bodies under section 52 of the AML Law (underpinned by criminal sanctions). This requires them to report to the authorities all failures to comply with any relevant regulations issued by the supervisory bodies. Generally, this pushes institutions in the direction of having structured compliance functions that report routinely to senior management, so that the latter may report matters to the authorities. In the four years to end-2014, approximately 450 such reports were made. However, the authorities have indicated (and the FIs have confirmed) that the vast majority of these reports relate to individual cases where an existing procedure has not been followed properly, rather than to systemic failures in the control structure. The criminal sanction provides a strong personal incentive at top management level to report every specific case identified.

272. In broad terms, the FIs consider that the biggest challenge they face is trying to keep their technology up to date with the rapidly changing regulatory environment caused by the bringing into force of new regulations over the past two years. While the bigger banks have, in principle, been better placed to accommodate the required changes, the scale of their operations has often meant that adjustments have taken longer than expected. In general, the regulatory authorities considered that the systems and controls were improving and that there were no significant or consistent problems being identified through their inspection program.

273. Outside the banking sector, no generic concerns have been identified in the control environments within the financial sector, with the exception of the money remitters operating under the EU passporting arrangements. As regards this sector there are considerable concerns about the controls maintained by the agents and about the oversight exercised by some of the parent companies.

274. The standards of AML/CFT internal controls within the DNFBP sectors fall well short of those applied by most FIs. For instance, a recent survey by one of the lawyers' professional associations revealed that fewer than 40% of the firms that responded had routine AML/CFT training programs for their staff. As previously indicated, some of the professions and businesses feel that the lower standards result from a lack of new secondary legislation to support the principles laid down in the primary law; others simply attribute it to the fact that they are not well placed to handle the complexities of the AML/CFT requirements. Some professional associations are working with their members to develop guidance that might be promoted as a standard for their profession, but they report difficulties in engaging with their respective regulators and the MEF because the associations are not seen to be part of the regulatory oversight network.

Overall Conclusion on Immediate Outcome 4

275. It is a strong point that there is generally a good level of understanding of the ML risks in the core financial sector, with the banks, which dominate the sector, being particularly attuned. The appreciation of TF risks is less developed. There is significantly less understanding of both ML and TF risks in the DNFBP sectors, where the general awareness of the risk-based approach is much more limited, with the exception of the PIE auditors and the notaries, who have received specific input from their regulators. This distinction between FIs and DNFBPs is carried forward into the relative robustness of the preventive measures employed within the different sectors. Evidence suggests that the large domestic banks and BancoPosta have taken measures to strengthen the core elements of their CDD, record-keeping and STR filing in recent years, but they are faced with an important challenge of how to mitigate the risk in relation to tax evasion by the clients, given the endemic nature of this problem in Italy. More generally, there are marked variations in the understanding among FIs and DNFBPs about what is required in terms of establishing ultimate beneficial ownership. This is a key area of concern to the assessors. The passporting arrangement under the EU Payment Services Directive has given rise to a large number of remittance agents in Italy, some of which the authorities have evidence to suggest are systematically failing to implement proper AML/CFT controls. While this issue can only be addressed at the EU level, it does have a material impact on the robustness of the AML/CFT framework in Italy. Among the DNFBPs, the approach to the preventive measures appears to be somewhat mechanical, with relatively little attempt made to identify high-risk situations and to take appropriate measures. Finally, it has to be noted that certain of the deficiencies as regards technical compliance with the FATF standards have

an adverse impact on effectiveness, particularly those relating to CDD exemptions, correspondent banking, PEPs and wire transfers.

276. Italy has achieved a moderate level of effectiveness for IO.4.

CHAPTER 6. SUPERVISION

Key Findings and Recommended Actions

Key Findings

Financial sector supervisors and the UIF generally have a good understanding of the ML/TF risk associated with the FIs they oversee.

Sound arrangements are in place to prevent criminals from participating in the ownership, control, and /or management of FIs and DNFBPs.

The supervisory tools of financial sector supervisors fall short of providing comprehensive, timely and consistent data on the nature and quantum of inherent risk at the level of individual institutions. While a new risk-based supervisory methodology currently under development by the BoI will improve the situation, some concerns remain about its limitations in capturing information relating to exposure to PEPs.

The framework governing the supervision of EU PIs operating in Italy under EU is in place, the robust and ongoing supervisory cooperation between the OAM and home country supervision that is essential for these arrangements to be effective is not operating as well as it should. Cooperation between OAM and the GdF with respect to the supervision of these entities is not as effective as it should be.

The BoI, IVASS, and the MEF apply sanctions for violations of the AML Law and related regulations. However the BoI's inability to sanction natural persons including removing a member of the board of directors or senior management is a concern.[61] Sanctions are not commensurate with the institutions' size and financial capacity and, in the case of insurance licensees, are not imposed in a timely manner.

While the GdF, which has supervisory responsibility for most DNFBPs, has developed a risk-based approach, the model in place is biased towards law enforcement-type indicators and does not sufficiently integrate indicators that are better aligned with ML/TF risk in Italy.

Recommended Actions

Italy should:

- The BoI should continue the development of its new risk-based supervision model and IVASS should commence the development of a more robust model than the one currently in use. Both models should take full account of the specific risks to which supervised entities are exposed and the quality of their risk management practices. The models should generate outputs that can clearly prioritize institutions for supervisory oversight.
- To support effective operation of the models, supervisory returns/reports should be developed that would require institutions to periodically submit information on the type and quantum of

[61] This deficiency was addressed by Decree 72 of 2015 which came into effect after the on-site visit.

inherent risk implicit in their operations and the type of risk mitigation measures that have been adopted. The requirements for coverage of inherent risk should be aligned with the major threats identified through the NRA and other credible processes. For the joint AML/CFT oversight of capital market licensees, CONSOB should, where relevant contribute to the design of the risk based model being developed by the BoI.

- Increase the dissuasiveness of sanctions for noncompliance with AML/CFT obligations; IVASS should endeavour to reduce the current two-year period required to impose a sanction. Until such time as the 4th AML Directive is implemented, the authorities should clarify if sanctions available under the CLB can be applied to banks subject to the ECB's prudential oversight. In addition to criminal sanctions, ensure that DNFBPs are subject to administrative sanctions.
- The GdF should develop a risk-based model that places less emphasis on law enforcement-type intelligence and is better aligned with the inherent risk implicit on the operations of the range of DNFBPs which it supervises. GdF should also develop mechanisms that would allow supervised persons to periodically report on the inherent risk and their risk management practices, particularly for the oversight of the larger and more sophisticated entities/persons in this sector.
- The GdF should better integrate OAM into the planning process for its on-site inspections of the agents of PIs operating under an EU passport. It should also work more closely with industry associations to strengthen its understanding of the risks to which their members are exposed.
- The OAM should strengthen cooperation with home country supervisors of PI agents who operate in Italy under an EU passport.

The relevant Immediate Outcome considered and assessed in this chapter is IO3. The recommendations relevant for the assessment of effectiveness under this section are R26-28 & R.34 & 35.

Immediate Outcome 3 (Supervision)

Licensing, Registration and Controls Preventing Criminals and Associates from Entering the Market

277. Italy has a comprehensive program in place for the licensing of FIs. The BoI, CONSOB, and IVASS undertake fit and proper assessments of shareholders, members of the board of directors, and managers of entities seeking to be licensed as FIs. The process includes an assessment of the integrity of persons in the above-mentioned categories which includes reference to any criminal proceedings or convictions.

278. Beyond the licensing phase, FIs are responsible for undertaking fit and proper assessments when there are changes in the persons subject to the these reviews. Such assessments must be reviewed and confirmed by institutions' board of directors and all relevant information must be submitted to the supervisor. The supervisor reviews all of the information received and on a selective basis makes its own enquiries with law enforcement and relevant supervisory authorities to verify the accuracy of the information.

279. Since the supervisors do not undertake the fit and proper assessments after the licensing stage and only review the processes undertaken by licensees, with a selective verification of the assessments, this process is less robust than the one undertaken at the time of licensing and is likely to be less effective. Agents who provide services on behalf of Italian PIs and EMIs are subject to a fit and proper assessment undertaken by the OAM.

280. Lawyers, accountants, and notaries are enrolled in registers maintained by their national professional associations and are subject to on-going oversight and monitoring. Persons subject to criminal convictions are not allowed admission to these registers. In the case of lawyers and accountants, on-going monitoring is undertaken by their local professional associations. The on-going monitoring includes oversight of conduct, with a specific emphasis on meeting high ethical and integrity standards. The four casinos operating in Italy are public entities operated by municipalities under the oversight of the Ministry of Interior (MoI). Persons involved in the management of casinos are subject to fit and proper assessments undertaken by the MoI.

281. The authorities are aware of instances where persons have been providing financial services without the appropriate authorisation. The incidence of this appears to be highest in the MVTS sector. Where the authorities have become aware of such operations in any sector they have taken steps to terminate their activity.

Supervisors' Understanding and Identification of ML/TF Risks

282. All supervisors were involved in developing the NRA and therefore demonstrate a good understanding of the threats and vulnerabilities identified during that process. At the level of predicate criminal activity, there is considerable focus on threats arising from tax evasion, corruption, and the activity of organised crime groups among others. In terms of risks arising from an institution's business model, supervisors generally pay attention to cash transactions, wire transfers, (particularly those that involve high risk countries), correspondent banking, activities related to PEPs and high net worth individuals, and the geographic regions with relatively high levels of criminal activity. Some primary determinants of risk in the insurance sector are considered to be the nature of the products, the size of the distribution network and the quantum of premium income. With respect to the allocation of supervisory resources across all FIs there is a heavy focus on the supervision of banks as this sector accounts for 85% of financial sector assets.

Risk-Based Supervision of Compliance with AML/CTF Requirements

283. AML/CFT supervision within the BoI is the responsibility of the recently formed Consumer Protection and Anti-Money Laundering Unit within the Bank Supervision Department (BSD). The unit, which was formed approximately one year ago, has a staff of 43 and has access to other BSD staff resources in undertaking its AML/CFT supervisory responsibilities.

284. The BoI has started to develop and apply experimentally a new risk-based methodology. It is currently being tested and has not been officially adopted. It was used as a basis for identifying some FIs for targeted supervisory meetings and inspections conducted during 2014 and in January 2015 and is expected to be fully introduced over the next year. This analysis is therefore based on the system that was in place at BoI during the on-site visit and which has been the basis of AML/CFT supervision over the past few years.

285. The BoI uses both off-site surveillance and on-site inspection modalities in undertaking its AML/CFT supervisory functions. The BoI's Risk Assessment System (RAS) which is used for its overall supervisory activities incorporates AML/CFT risk as a component of reputational and operational risk which is one of nine risk factors[62] used to assess a bank's overall risk profile. The Guide to Supervisory Activities—Circular 269/2008 indicates that each of the nine factors is rated on a scale of 1 (the best score) to 6 (the worst score). The score is determined after assessing both quantitative and qualitative factors, but the full range of scores can only be used with respect to qualitative factors where relevant information has been obtained through an on-site inspection. Under the RAS ML/TF risk is assessed in the context of "anomalies from on-site analysis including the level of compliance with ML/TF legal and regulatory requirements. The RAS uses mainly information obtained through on-site inspection and focuses more on risk mitigation than it does indicators of inherent ML/TF risk. Significance is attached to the size of an institution, with larger and more systemically important institutions being subject to more intensive supervisory oversight.

286. BoI's AML/CFT offsite activity is cantered on the review of information obtained from a number of sources. These include relevant information contained in prudential returns such as balance sheet and income statement data by economic sector and geographic location. Returns also include some information on distribution channels. Other sources of information include the annual reports which institutions are required to submit outlining specific violations of obligations under the AML Law, information arising from previous supervisory activity and information received from UIF, GdF, and other agencies. The BoI also uses a number of indicators to develop a view on the level of an institution's inherent risk. These include analyses of an institution's relative level of cash transactions, transactions to high-risk countries (including wire transfers), and the relative levels of occasional transactions. It has developed a methodology for prioritizing bank branches for on-site inspections. Taking geographic risk into account the methodology prioritizes areas with higher levels of criminal activity and relies on data obtained from LEAs in this regard. This approach takes account of the number of STRs, the number of investigations prompted by the STRs, the level of transfers to tax havens, the total amount of cash transactions, and the incidence of criminal activity such as extortion and usury. Greater resources are dedicated to institutions which have a large branch network. Since the RAS as described in Guide to Supervisory Activities—Circular 269/2008, does not include an analysis of inherent risk, some indicators of inherent risk are taken into account in addition to the outputs of the RAS. Together they are used to make decisions with respect to establishing AML/CFT supervisory priorities.

The BoI aims to undertake three to four targeted AML/CFT inspections annually at major banks or banking groups and has established a four to five year supervisory cycle for "minor" banks which account for approximately 450 institutions. During the period 2010 to 2013, the BoI undertook approximately 1 070 AML/CFT inspections at offices of regulated entities. These consisted of targeted AML/CFT inspections undertaken at institutions' head offices, instances in which AML/CFT was included as a component of a prudential inspection and inspection activity at branches which accounted for one- third (347) of AML/CFT on-site inspections.

287. The BoI provided some examples of AML/CFT on-site inspections that were undertaken to address specific concerns that arose about the level of ML/TF risk and weaknesses in the quality of risk management at particular institutions. Some of these inspections were triggered by law

[62] (1) Strategic risk, (2) credit risk, (3) market risk, (4) liquidity risk, (5) interest rate risk, (6) operational and reputational; risk, (7) internal governance and controls, (8) profitability, and (9) capital adequacy.

enforcement concerns, while others arose from concerns that were identified during BoI's on-site and off-site AML/CFT and prudential supervisory activity. BoI also periodically conducts thematic reviews to address issues related to the effective management of ML/TF risk. Such reviews have, for example, covered issues related to the management of the risk associated with PEPs, trusts and fiduciaries, and the effectiveness of identifying beneficial owners of legal persons. BoI's on-site inspection procedures include a question aimed at assessing bank's compliance with a requirement for contractors, subcontractors, and concessionaires to use dedicated accounts for all transactions used for public works and services. Apart from addressing supervisory concerns that arise during such reviews, important issues arising from the findings are generally shared with the industry. During the period 2013-2014 BoI also conducted a series of short on-site inspections of payment institutions and electronic money institutions to assess the effectiveness of their risk management frameworks. BoI requires PIs to have their agents connected directly to their information systems to ensure that the agents operate within established limits set by the PI. Where PI's do not have the ability to do this they are not authorised to engage agents. Where a PI fails to meet this requirement but already has agents it is not allowed to engage new agents and is requested to suspend the operations of existing agents. Where concerns emerge about the internal control measures in place at a PI the BoI can require the PI to provide all relevant internal audit reports related to its agent network. On at least two occasions when BoI was concerned about the level of ML/TF risk it has intervened at an early stage, and objected to plans of EU countries to establish branches of PIs in Italy. In one case the home country supervisor revoked the PIs authorisation to operate, and in the second case, the home country supervisor restricted the PI's operations to the home country.

288. CONSOB undertakes AML/CFT on-site inspections of capital market licensees on behalf of the BoI. It does so as a component of an inspection with a wider focus or as a standalone inspection. As its acts as an agent of the BoI in this context, it uses the BoI's supervisory tools and methodologies to undertake such inspections. It contributes to the development of AML/CFT risk profiles for capital market licensees by providing the BoI with information it considers relevant for this purpose. This would include information about the nature of the licensee's core operations, its general risk management practices, and any concerns that may relate to integrity and standards of ethical conduct.

Table 25. **On-site inspections conducted by bank of Italy (2010-2014)**

	2010		2011		2012		2013		2014	
	No of Institutions	No of Inspections	No of Institutions	No of Inspections	No of Institutions	No of Inspections	No of Institutions	No of Inspections	No of Institutions	No of Inspections
Banks (including branches)	760	236	740	208	706	212	684	199	667	213
Banking Groups	76	1	77	3	75	4	77	13	75	2
Financial Intermediaries	1483	28	970	20	844	29	725	22	700	18
Payment institutions	1	-	34	-	44	-	43	4	41	3
E-money Institutions	3	1	3	1	3	1	4	1	5	-
Investment Firms	111	17	102	8	101	10	94	11	147	10
Collective Investment Funds	198	10	190	12	172	10	152	9	89	14

289. IVASS also uses both on-site and off-site methodologies to undertake its AML/CFT supervision. In addition to the results of previous supervisory activity, the outcomes of a review of reports submitted by licensees under article 52 of the AML Law and ISVAP regulation of 20/2008 are major inputs into the process of prioritizing licensees for supervisory oversight. The reports contain information on the licensee's violations of requirements related to CDD, record keeping, internal organisation and controls and also provide some information on the licensee's AML/CFT risk management function. In assessing the relative level of inherent risk across insurance entities IVASS takes account of the geographic areas in which licensees operate, the size of the entity's distribution network, the types of contract sold, the volume of premium income, and the number of STRs filed with UIF.

290. IVASS employs a risk-based model for its overall supervisory activity and is in the process of finalizing a handbook which is expected to be issued during the first quarter of 2015. The model covers the major risks faced by insurance entities including, (i) underwriting, (ii) financial, (iii) strategic, (iv)operational, and (v) counterparty. ML/TF risk is assessed as a component of operational risk. During an onsite inspection IVASS reviews the institution's ML/TF risk profile against the information it has on file, and undertakes an assessment of the risk mitigants in place.

Table 26. **On-site inspections conducted by IVASS (2011-2014)**

	2011	2012	2013	2014
Life Insurance Companies	5	3	6	9
Intermediaries of Life Insurance	5	4		-
Total	10	7	6	9

291. Over the four-year period 2011–2014, IVASS undertook on-site inspections of 23 insurance entities and 9 intermediaries. During this period the number of insurance entities remained relatively stable at 64 institutions. During 2013 and 2014 no intermediaries were subject to on-site inspection reflecting a change in IVASS' strategy to focus on-site inspections almost exclusively on insurance institutions where it believes it will be able to identify any deficiencies in monitoring their intermediary networks. Under this revised strategy on-site inspections of intermediaries is undertaken where such deficiencies are identified at the principle institutions. The new strategy has resulted in an increase in the number of insurance institutions inspected annually. Between 2011 and 2012 IVASS inspected 8 insurance institutions while this number increased to 15 between 2013 and 2014. Over the period 2011–2012 inspections accounted for 13% and 32% of the industry's premium income on a solo and group basis respectively. Over the period 2013–2014, inspections accounted for 29% and 33% of premium income on a solo and group basis respectively. Over the four-year period, the corresponding figures were 42% and 56%. Despite the increase in the number of principal institutions inspected annually between 2013 and 2014, these on average represented 12% of all life insurance entities. The significant reduction in the on-site inspections of intermediaries (9 inspections over a four year period out of a total 5 285 brokers and 35 942 agents)[63] raises concerns that deficiencies which are not effectively identified by the monitoring systems of the principle institution are likely to go unnoticed by IVASS. IVASS it is currently in the process of revising a number of its internal processes and hopes to generally reduce the time required to undertake various aspects of its supervisory activities.

292. The financial sector supervisors and particularly the BoI have undertaken a large number of on-site inspections over the past four years including full scope, limited scope and thematic inspections. They have also undertaken off-site analyses to assess institutions' inherent ML/TF risk and the measures they employ to mitigate their exposures. However there were some deficiencies in the supervisory approach used by the BoI, CONSOB and IVASS at the time of the on-site visit. The RAS, which is the main risk assessment model used by BoI, does not give prominence to ML/TF risk. This risk is analysed as a component of reputational risk which is itself a component of operational risk. BoI does however have regard to indicators other than those captured by the RAS. Much of the data originates for example, from returns which are primarily intended for prudential purposes. While this information has some utility for ML/TF risk assessment purposes, it is not clear that there is currently a model in place which uses the prudential data submitted by Italy's 667 banks and analyses it so that meaningful comparisons can be made across all banks for the purpose of assessing ML/TF risk. Furthermore there is no guidance that sets out how data extracted from prudential returns should be analysed to produce a rating that can be integrated into the rating generated by the RAS, bearing in mind that the rating generated by the RAS relates to operational risk more

[63] These figures relate to both general and life insurance agents. The authorities were unable to provide information on the number of intermediaries specifically associated with life insurance.

broadly and not to ML/TF risk specifically. It is therefore difficult to conclude that the system used to prioritize institutions for AML/CFT oversight is sufficiently and consistently driven by appropriate ML/TF risk indicators. The authorities have confirmed that the system in place does not generate a rating or ranking of institutions in the context of ML/TF risk. In addition the systems in use do not adequately capture all of the inherent risks to which institutions are exposed. The supervisors are therefore not in a position to adequately assess an institution's customer, product/service, geographic and delivery channel risks. While, for example, corruption is widely accepted to be a major predicate crime in Italy, there are no mechanisms in place to inform supervisors of each institution's exposure to PEPs and other customers who may create a direct exposure to this criminal activity. An important contributory factor is the absence of off-site supervision tools that would allow institutions to periodically provide this information to the supervisors. While the methodology currently under development by the BoI will represent an improvement over existing arrangements, assessors have suggested further refinements to capture comprehensive data relevant to the most significant inherent risks in the financial sector.

293. The BoI, CONSOB and IVASS currently receive information from institutions that contributes to their understanding of the quality of risk management in place at licensees. By law each supervisor must receive an annual report from institutions AML/CFT compliance functions and their Boards of Auditors, and Supervisory Boards are required to inform supervisors of instances of violations of the preventive measure provisions of the law. While this is a useful mechanism to provide the supervisors with some information relative to the effectiveness of an institution's risk management practices, there are deficiencies in these arrangements. The report submitted by institutions' AML compliance functions is received annually and there are no specific requirements for its content and structure. Some institutions provide this information on a quarterly basis but this is not required by the BoI. It can, therefore, be challenging to make meaningful comparisons across institutions that can be used to develop profiles of relative effectiveness of their risk management practices. As a result of the deficiencies in the arrangements to consistently collect comprehensive and good quality information of institutions' levels of inherent risk and the quality of their risk management, the supervisors are not in a position to develop reliable rankings of net ML/TF risk for all institutions.

MVTS

294. While the OAM has the general supervisory responsibility for agents of payment institutions, GdF is the AML/CFT supervisor. The OAM is notified by the central contact point when a passported agent commences operation. On a quarterly basis the OAM provides the GdF with a list of financial agents operating in Italy on behalf of EU e-money and payment institutions. GdF has identified agents of payment institutions as priorities for AML/CFT oversight. GdF's level of cooperation with the OAM in the context of the supervision of MVTS is suboptimal. With respect to criminal investigations the OAM cooperates with the relevant Comandi Provinciali and the GdF. With respect to overall AML/CFT supervision the GdF provides OAM with a copy of its on-site supervision reports, but does not consult with the OAM prior to undertaking its inspections. The on-site inspection planning process does not therefore benefit from input from the OAM, which as the overall supervisor of MVTS agents, could have valuable information that could influence the scope and main focus of the inspection.

295. The authorities have some concerns about the operation of passported agents who operate under the PSD which came into effect in Italy in 2012. There are currently in excess of 17 500 agents

and 22 500 stores operating in Italy of which only 1 000 are registered by the OAM.[64] The vast majority of passported PSD agents are affiliated to U.K. and Ireland-based entities. Others are affiliated with entities licensed in Spain, Romania and Belgium. The effectiveness of supervisory arrangements for these entities depends heavily on the supervision undertaken by the home country and the effectiveness of cooperation between the home supervisor and the OAM.

296. While the OAM and the GdF do not have powers to exercise AML/CFT oversight of these entities the GdF can undertake on-site inspections of these agents and can inform the OAM of any violations of AML/CFT requirements that are identified. Under such circumstances the OAM would inform the home country supervisor of the violations. If the OAM deems that the home country supervisor has not taken appropriate action it can ask the MEF to impose sanctions on the agent. The authorities did not identify any instances in which the MEF was requested to impose such sanctions. There has been one instance in which an order of application of precautionary measures was adopted by the Court of Rome against a British payment institution and some of its agents.

297. In one instance in 2014, GdF, acting under the authority of a prosecuting agency uncovered AML/CFT violations at a passported agent and the relevant information was provided to the home country supervisor. Notwithstanding this example of cooperation, there is room for improvement in the arrangements between the OAM and the home supervisors of the agents operating under the EU Passport. The authorities did not identify any instances in which a home country supervisor has undertaken an on-site inspection of any agents operating in Italy and the operational interaction between the OAM and the home country supervisors is limited. In light of the very large number of agents operating under the PSD and the concerns the authorities have about their operations it is important for the OAM, the GdF and the home country supervisors to strengthen arrangements for on-going supervisory cooperation. Deficiencies in the GdF's supervision which are described in the following paragraphs also apply to its supervision of passported agents.

298. In summary, with respect to the supervision of passported agents, the OAM is notified by the central contact point when a passported agent commences operation, but there is very limited interaction between OAM and the home country supervisor in the context of on-going supervision of these persons and the authorities did not identify any instances in which a home country supervisor undertook an onsite inspection of a passported agent.

DNFBPs

299. With respect to the supervision of DNFBPs the GdF has developed a risk-based approach which focuses on relative levels of exposure to predicate offenses among the persons it supervises. In establishing its supervisory priorities, it uses information from a number of sources including STRs, criminal and tax records, and known association with criminal circles among other sources. It

[64] With respect to the supervision of passported payment institutions under the current EU framework, the home supervisor is responsible for the AML oversight of the authorised payment institution operating under the free provision of services. In that case, should the host supervisor become aware of concerns about the AML/CFT compliance in its territory, it should inform the home supervisor who can take the adequate action to address the shortcomings, including by delegating supervisory powers to the host authority. When a payment institution operates under the freedom of establishment in the host country, AML supervisory competences belong to the host supervisor. At the time of the onsite inspection there was a lack of clarity whether agents should be considered a form of free provision of services or establishment. (The 4th AML Directive will further strengthen the cooperation). The assessors concluded that there was very limited interaction between OAM and the home country supervisor in that respect.

focuses on links between criminal groups and some DNFPB categories such as financial agents and real estate agents. It also focuses on persons engaged in international tax planning and company formation. If the latter instance, it has an intensified focus on persons that may be involved in company formation in countries considered to be high risk for ML/TF. It has generally prioritised lawyers, credit agents, payment intermediaries and trusts companies for supervisory oversight as they are considered to have a relatively high exposure to ML/TF risks, in line with the NRA. The below table outlines the inspections undertaken of the DNFBPs prioritised for oversight from 2012 to 2014.

Table 27. **Inspections of DNFBPs**

Category of DNFBP	2012	2013	2014	Total
Agents of Financial Institutions	155	83	73	311
Notaries	31	38	53	122
Lawyers	20	30	42	92
Real Estate agents	23	15	20	58
Trust and Company Service Providers	-	-	4	4
Accountants	39	75	94	208
Casinos	-	1	-	1

300. While the GdF uses a risk-based approach to its AML/CFT supervision, the main indicators used to prioritize DNFBPs for over sight are heavily influenced by law enforcement-type intelligence. Persons are prioritised, for example on the basis of criminal convictions or where they are suspected to have connections to criminal activity. In light of prevalent predicate offenses in Italy it is understandable that there will be a focus on persons/entities associated in some way with tax offenses, for example. Notwithstanding this level of ML/TF risk inherent in the operations of various DNFBP sectors does not appear to be given sufficient weight in establishing supervisory priorities. A number of industry associations expressed the view that the GdF has not worked closely enough with them or their membership to develop a good understanding of the specific nature of inherent ML/TF risk to which they are exposed. There is therefore no mechanism through which the various sectors perspectives on ML/TF risk can feed into the GdF's supervisory strategy.

301. The GdF's supervisory model relies heavily on on-site inspection and intelligence obtained about issues related to possible criminal activity. It does not have any tools that would allow persons/entities to submit periodic reports outlining the nature of their inherent risk and the quality of their risk management practices. While such tools would not be necessary for the supervision or monitoring of small-scale entities/persons, they would enhance the oversight of the more sophisticated DNFBPs such as fiduciaries and lawyers. Representatives of the various sectors are also of the view that GdF on-site inspection practices are largely compliance based and do not sufficiently differentiate on the basis of relative ML/TF risk across different categories of reporting persons.

302. With the exception of PIE auditors and notaries, the absence of AML/CFT regulations or guidelines for DNFBPs places the supervision this sector at somewhat of a disadvantage when compared to FIs supervised by the BoI, CONSOB, and IVASS which are subject to regulations issued by their supervisor.

Oversight Role of Professional Bodies

303. The AML Law requires professional bodies to "foster and verify" their members' compliance with the law and a number of professional associations have undertaken several initiatives in this regard as set out in the below table. These initiatives have a positive impact on sensitizing reporting persons to issues related to ML /TF risk and enhance compliance with the legal framework.

Table 28. **Initiatives per professional association**

Professional Association	Initiatives Undertaken
Association of Notaries	Issued CDD Guidelines Developed a handbook which provides guidance with respect to the process of analyzing suspicious transactions and filing a report with the UIF. Oversight of membership undertaken through regional associations.
Association of PIE Auditors	Developed a paper for its membership that summarizes AML/CFT duties applicable to audit firms.
Associazione Studi Legali Associati [1] ***(ASLA)***	An ASLA working group has drafted AML guidelines for its members. The guidelines have been shared with the National Bar Council and the MEF.
Real Estate Association	Arranges AML/CFT training for its members in conjunction with the GdF and the DIA.
Association of Accountants	Developed AML/CFT Guidelines for its members in 2008 and updated them in 2011.
Association of Fiduciaries	Issued AML/CFT guidelines to members. Provides members with updates on sanctions list Conducts on-going training programs which include AML/CFT component. Conducts annual training event undertaken in conjunction with the BoI and GdF

Note

1. ASLA represents 90 law firms. Its members account for a large percentage of revenues of the legal sector.

Audit Firms

304. CONSOB is the AML/CFT supervisor for auditing firms PIE auditors. While it considers that due to the nature of their activity they represent a relatively low risk for ML/TF, a view echoed by the NRA they are considered to be a valuable source of information about their clients especially with regard to STR obligations. In 2013, CONSOB sent a questionnaire to all audit firms to assess the nature of their potential exposure to ML/TF risk. The questionnaire was updated in 2014 after the CDD regulation came into force. CONSOB undertakes AML/CFT oversight on the basis of its risk classification arising from the analysis of responses to the questionnaire. It undertook three on-site inspections of PIE auditors in 2014.

UIF

305. The UIF undertakes inspections to assess reporting persons' compliance with their obligations to file STRs. The system used to prioritize persons for inspection is based on a model which makes assumptions about the expected STR reporting based on the nature of an entity's operations, including consideration of its products, customers and the geographic regions in which it operates. The UIF prioritizes on-site inspections at reporting persons that appear to be underreporting based on the level of expected reporting indicated by the model. Decisions to undertake inspections can also be influenced by intelligence received by the UIF or trends indicated by STRs. The UIF shares concerns related to weaknesses in STR reporting with BoI, IVASS and CONSOB. These supervisors address issues related to STR reporting in the wider context of their assessment of the quality of risk management systems and practices in place at institutions.

Remedial Actions and Effective, Proportionate and Dissuasive Sanctions

306. Prior to the entering into force of the BoI March 2011 regulation in December 2012 sanctions for AML/CFT violations were applied under the CLB in the wider context of "anomalies regarding organisation and internal controls". These sanctions were applied to natural persons such as members of the board and senior management. Since December 2012 pecuniary sanctions have been applied under the AML Law and have ranged from EUR 10,000 to EUR 113 500. These sanctions can only be applied to legal persons. The BoI uses a grid to determine the amount of pecuniary sanctions to be assessed on a case by case basis. One objective of the system is to ensure that sanctions are proportionate to the size of the entity and the score it receives under the BoI's SREP or other scoring tools. In terms of remedial actions, the BoI engages FIs' representatives through different instruments (letters, ad hoc-meetings, follow-up inspections) depending on the seriousness of deficiencies found. Requests for remedial actions are normally formalised in written communications to the governing bodies of FIs, where the measures are specified; in 2014, BoI wrote 95 letters of intervention requiring institutions to adopt corrective measures within specific timelines. There were also 26 occasions in 2014 where entities were requested after meetings with BoI to adopt action plans to correct identified deficiencies. Progress reports are requested in order to monitor developments. The BoI has applied other sanctions to institutions that may be linked indirectly to AML violations. These sanctions are applied under the CLB and represent the wider category of "anomalies regarding organisation and internal controls". In the most serious cases, the BoI may also combine requests with the imposition of prudential measures. The set of measures ranges from additional capital buffer for operational risks to prohibition of certain categories of transactions and restrictions on operations or structure of branches. The BoI provided some examples in this respect. Since the introduction of the SSM, it the authorities are uncertain whether, the Italian legal framework allows them to apply AML/CFT sanctions based on the CLB to banks supervised by the ECB. This is a concern as these are the 13 largest banking groups in Italy that account for approximately 70% of the assets of the sector.

Table 29. **Sanctions applied by BoI under AML law**

	2012	2013	2014
Number of Sanctions	1	3	11
Amount of Sanctions	10 000	158 300	477 000

Table 30. **Sanctions applied by BoI under CLB where underlying deficiency related to AML**

	2012	2013	2014
Number of Sanctions	36	33	26
Amount of Sanctions	4 800,000	9 500.000	10,200,000

307. The average value of individual pecuniary sanctions applied to legal persons in 2013 was EUR 57 766 with the largest being EUR 85 000. The average value of sanctions applied to legal persons in 2014 was EUR 43 363 with the largest individual sanction being EUR 113 500. With respect to sanctions applied to natural persons under the CLB, these averaged EUR 133 333 in 2012, EUR 287 878 in 2013, and EUR 384 615 in 2014. Over this period sanctions applied to natural persons have been significantly higher than those applied to legal persons. If the sanctions applied to natural persons are designed to be dissuasive, it is very unlikely that the lesser sanctions applied to legal persons are dissuasive in the context of their asset size and revenue streams. Notwithstanding that the authorities have provided some examples where institutions applied the desired corrective actions following the use of sanctions.

308. The MEF applies sanctions related to violations of the obligation to file STRs and during the period 2011 to 2014 applied sanctions to 164 entities/persons as set out in the following table:

Table 31. **Sanctions related to violations of the obligation to file STRs**

Year	Category of Institutions/Persons	Total Value of Sanctions (euros)
2011	37 financial institutions	17 563 247
	2 trust companies	
	1 currency exchange	
2012	27 financial institutions	22 351 906
	1 trust company	
	2 accountants	
2013	52 financial institutions	18 537 138
	3 money transfers operators	
	1 accountant	
	1 notary	
2014	30 financial institutions	8 412 527
	4 money transfer operators	
	2 notaries	
	1 accountant	

309. The BoI's inability to remove members of the board of directors or senior management reduces the effectiveness of the sanctions regime. This deficiency was however addressed by Decree 72 of 2015 which came into effect after the on-site visit.

310. During the period 2011 to 2014, IVASS initiated the process to impose pecuniary sanctions on six institutions as set out in the below table. Due to the length of IVASS' internal processes, it can take up to two years before the sanctions are actually imposed. The length of this process significantly reduces the effectiveness of the sanctions regime.

Table 32. **Status of sanction procedures initiated by IVASS (2011-2014)**

	Year Process Initiated	Proposed Sanctions (in EUR)	Status
1	**2011**	32 500	Sanctions Imposed
2	**2012**	65 000–950 000	On-going [1]
3	**2013**	70 000–1 400 000	On-going [2]
4	**2013**	60 000–1 200 000	On-going
5	**2014**	20 000–400 000	On-going
6	**2014**	40 000–800 000	On-going

Notes:

1. This case was concluded on March 25, 2015.

2. This case was concluded on June 3, 2015.

311. With the exception of PIE auditors DNFBPs are not subject to administrative sanctions with respect to violations of CDD requirements. However, a number of the violations of provisions of the AML Law related to preventive measures identified by the GdF during its on-site inspection attract criminal sanctions set out under article 55 of the law. The deficiency in administrative sanctions for DNFBPs impacts negatively on the effectiveness of the regime, as it is sometimes difficult to apply a sanction that is commensurate with the violation. Some representatives of the DNFBP sector identified instances in which the sanction appears to be disproportionately harsh with respect to the violation. A sample of violations identified by the GDF during the period 2010 to 2014 are set out in the below table. The authorities did not provide details of the sanctions applied with respect to these violations.

Table 33. **Violations identified by the GDF**

	Inspections	Criminal Violations	Administrative Violations
Notaries	138	45	49
Lawyers	94	49	46
Chartered Accountants	202	190	124
Statutory Auditors	4	4	1
Trust and Company Service Providers	4	6	3

Impact of Supervisory Actions on Compliance

312. The BoI indicates that its supervisory activity, including the use of sanctions usually produces the desired changes in behaviour of supervised entities. It noted that there has only been one instance in which the AML/CFT violations triggered the use of crisis management powers as set out in the CLB. The BoI assessed that the problems at the institution in question were endemic and that the Board of Directors was inhibiting the ability of the AML/CFT compliance function from operating effectively. In this instance special administrators acting under the direction of judicial authorities are in place at the institution and are seeking to rectify its AML/CFT risk management deficiencies.

Promoting a Clear Understanding of AML/CTF Obligations and ML/TF Risks

313. The BoI, IVASS, CONSOB, GdF, and the UIF have undertaken several initiatives to sensitize reporting persons to ML/TF risk and the obligations arising from Italy's legal and regulatory framework. This has been achieved by issuing circulars and guidance to reporting persons, organizing and participating in seminars and workshops, and publishing FAQs and list of ML/TF indicators. UIF publishes a six-month review related to the STRs reported. It also has an on-going training program for reporting persons with the objective of enhancing processes for the filing of STRs. The UIF is also in the process of developing a system to provide feedback to reporting persons. It is hoped that this will enhance their understanding of ML/TF risk and help them to better identify suspicious transactions including those related to higher risk offenses such as corruption and tax evasion. The BoI also informs its licensees of the outcomes of its thematic reviews which focus on specific threats and vulnerabilities to the financial sector. Many reporting persons confirmed that that UIF and the BoI were generally very proactive in undertaking initiatives to engage with them in this regard. While GdF also engages with reporting persons, feedback indicated that this was often in the form of participating in events arranged by others and was not seen as effective as events which were arranged by other supervisors.

314. Notwithstanding these initiatives, a number of reporting persons, particularly in the DNFBP sector appear not to have a clear understanding of the principal ML/TF risks to which they are exposed, notaries generally being the exception in this regard. Some FIs, including asset management companies and investment firms, also appear to consider that ML/TF risk is virtually eliminated where the customer comes through an intermediary FI.

Overall Conclusion on Immediate Outcome 3

315. Financial sector supervisors and the UIF generally have a good understanding of the ML/TF risk associated with the range of FIs they oversee, and the BoI in particular has undertaken a large number of on-site inspections across the range of institutions it supervises. While financial sector supervisors have a reasonably good understanding of risk at the national level, their supervisory tools could be improved in order to provide them with comprehensive, timely and consistent data on the nature and quantum of inherent risk at the level of individual institutions. There is no well-defined, documented model in place that would ensure that the rating generated for operational risk by the RAS is effectively integrated into a rating that takes comprehensive information on inherent risk and risk mitigants into account, in order to prioritize FIs for supervisory oversight. There are

some weaknesses in the supervisory arrangements for the large number of agents of EU PIs operating in Italy under EU passports. The level of supervisory cooperation with respect to these entities with foreign counterparts is generally inadequate and to date no home country supervisor has undertaken an on-site inspection of any agents operating in Italy. While the BoI and IVASS apply sanctions for violation of the AML Law and related regulations on an on-going basis there is room to strengthen the existing arrangements. A notable concern relates to the uncertainty about whether BoI can apply sanctions available under the CLB to banks that fall under the ECB's supervisory responsibility as these sanctions are an important supplement to those available under the AML Law. The BoI's inability to remove directors and managers has been addressed by legislative decree 72/2015 which came into effect after the end of the on-site visit. Beyond these measures there is scope to make the sanction regime more effective and dissuasive. While GdF has developed a risk-based approach to its supervisory responsibility, the model in place is biased towards law enforcement-type indicators and imperatives, and does not sufficiently integrate indicators that are better aligned with ML/TF risk in Italy. This is particularly important for the oversight of the larger and more sophisticated operators in this sector. In addition, there is room for the GdF to strengthen the nature and level of its cooperation with groups such as the industry associations of a number of the DNFBP sub-sectors. It also needs to strengthen its cooperation with the OAM with respect to the supervision of agents of PIs operating under EU passports.

316. Italy has achieved a moderate level of effectiveness for IO.3.

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

Key Findings

Italian companies are misused to some extent in ML schemes, most of which are organised domestically, especially those generated by Mafia-type criminal organisations, and involve simple corporate structures and straw men. The authorities are well aware of the risk of misuse by organised crime groups and in tax evasion schemes, but less so with respect to misuse in other circumstances such as corruption. Legal persons other than companies and domestic legal arrangements appear less at risk. However, foreign legal arrangements are increasingly used in domestic ML schemes.

Accurate and up-to-date basic information on legal persons incorporated in Italy is readily accessible by competent authorities (as well as reporting entities).

Information on beneficial ownership is generally accessible on a timely basis, but the reliability of the information varies. This has not, however, prevented the authorities from identifying the ultimate beneficial owners (and confiscating companies or parts of their shares).

Notaries play a key role during the creation of legal persons, and throughout the life cycle of most companies. Although there are signs of progress, there remain shortcomings in the process they use for identifying the beneficial owners of legal persons.

Recommended Actions

Italy should:

- With respect to notaries:
- Conduct outreach to foster a greater understanding of the ML/TF risks;
- Amend the CNN guidelines with a view to (i) reflect the main typologies of misuse of companies in Italy, in particular the risk of infiltration by organised crime through the use of straw men; (ii) foster deeper and more accurate examination of the beneficial owner including through thorough verification of the declarations provided.
- Ensure effective supervision of the notaries' implementation of their CDD obligation and registration obligations.
- Ensure that competent authorities always have timely access to beneficial ownership information. Consider making tools similar to MOLECOLA available to other authorities, and to centralizing beneficial ownership information (e.g., by broadening the scope of the Business Register) to facilitate access to beneficial ownership information by competent authorities and reporting entities.
- In line with the recommendations made under IO.7, and building on recent successes, ensure that LEAs focus to a greater extent on companies in the context of their investigations.
- Conduct a formal assessment of the ML/TF risks of Italian legal persons in contexts other than

those linked to organised crime and fiscal crimes, in particular with respect to corruption.

- Consider conducting a more in-depth assessment of Italian legal persons with foreign ownership.
- Apply proportionate and dissuasive sanctions to persons who fail to comply with the information requirements.

The relevant Immediate Outcome considered and assessed in this chapter is IO5. The recommendations relevant for the assessment of effectiveness under this section are R24 & 25.

Immediate Outcome 5 (Legal Persons and Arrangements)

Public Availability of Information on the Creation and Types of Legal Persons and Arrangements

317. Information on the creation and types of legal persons that may be established under Italian law is available online, mainly through a consultation of the relevant legislation, in particular the Civil Code. Summarised information may also be found on various websites, such as the council of notaries' website.[65]

Identification, Assessment and Understanding of ML/TF Risks and Vulnerabilities of Legal Entities

318. Italy has assessed the threats and vulnerabilities of most legal persons on the basis of a review of the current legal framework, cases where corporate shares were confiscated from organised crime, and academic studies. The assessment did not cover listed companies (because they are subject to separate transparency rules) and cooperatives (for which it was concluded that there are no vulnerabilities in terms of transparency due to the specific rules applicable to the exercise of voting rights). The NRA concluded that legal persons were adequately transparent in terms of basic information, but that the same was not true in terms of beneficial ownership, where information was less accurate and less easily accessible when dealing with companies with foreign ownership. The NRA highlighted that organised crime groups do not invest in highly regulated and controlled sectors or those with high entry costs, nor in complex corporate structures, but mainly use relatively simple corporate structures (most frequently in the form of the SRL) active in labour-intensive, low tech sectors (including, in decreasing order: wholesale and retail, and the repair of motor vehicles; constructions; hotels and restaurants; and other sectors). The NRA identified the use of straw men as the most frequent form of infiltration by organised crime (but does not specify whether straw men appear most frequently as shareholders or in some managerial function). According to a study conducted by Transcrime and incorporated into the NRA, the misuse of legal persons by organised crime groups respond to a variety of reasons, such as profit making, ML, control of territory, and "social consensus."[66] The NRA identified the regions that were most affected (which include, in

[65] www.notariato.it.

[66] The notion of "social consensus" refers to the intimidating or appealing attitude adopted by criminal groups including mafia-type organisations with a view to invest in certain legitimate businesses such as hotels, shops, etc.

decreasing order, Sicily, Campania, and Lombardia), and the type of legal persons where all or part of the shares have been most frequently confiscated namely the SRL (which account for 46.7% of all legal persons–or shares therein–and other commercial enterprises confiscated from organised crime). Italian companies are subject to a real risk of infiltration by organised crime. More specifically, the NRA concluded that while unequal throughout the national territory and across the range of economic sectors, the risk of misuse of domestic legal persons is "relevant"[67] and the level of relative vulnerability of legal persons is "rather significant."[68] It also highlighted a need to exploit to a greater extent the potential of the Business Register and of the CDD performed by reporting entities. The findings of the NRA were confirmed during the assessment and generally appear adequate, although, in light of their relatively large turnover (and despite their low numbers), Italian companies with foreign ownership would deserve further attention.

319. As mentioned above, the NRA included an analysis of the transparency of legal persons on the basis of the information available through Infocamere, as well as an analysis of threats which was mainly based on a study of the legal persons confiscated (in whole or in part) from organised crime groups. The authorities explained this choice by the fact that the information was readily available (both through Infocamere and the statistics maintained by the anti-mafia authorities) and that most crimes in Italy, including corruption, are generally committed in the context of organised crime. The risk of misuse of legal persons in other instances, such as in the context of tax crimes or corruption unrelated to mafia-type or other organised crime groups, was not assessed. This is a relatively major shortcoming of the 2014 NRA considering in particular the prevalence of fiscal crimes (which are far from limited to organised crime) in Italy, but is compensated to some extent by the fact that the GdF nevertheless has a good understanding of the risk of ML related to fiscal crimes on the basis of its activity. Similarly, the NRA did not look into the potential misuse of bearer shares. This appears, however, to be a minor shortcoming: bearer shares may only be issued in the form of saving shares (i.e. without voting powers), in limited circumstances[69]—and are dematerialised and thus likely to present a limited ML risk.

320. In the context of its 2014 NRA, Italy domestic fiduciary arrangements are vulnerable to misuse. In practice, however, as mentioned in Section 1 above, the net risk appears low. Italy also assessed the ML/TF risk posed by common law trusts established (abroad or in Italy) under another jurisdiction's legislation. This assessment was notably conducted on the basis of a study carried by the UIF in December 2013 of STRs related to foreign legal arrangements, and of an analysis conducted by the GdF of recent investigations that involved foreign trusts. The FIU's study revealed that, in most cases, transactions were reported in light of the difficulties encountered in the identification of the beneficial owner and only marginally from the characteristics, nature and scope of the operations carried out in the name of a trust. The GdF analysis indicated an increase in the presence of foreign trusts in Italy. The NRA highlighted the difficulties in acquiring the necessary documentation for the verification of the beneficial ownership, in particular when trusts are established entirely abroad and constitute the last structure in the chain of control of the customer acting in Italy. It categorised the vulnerability of trusts as "very significant" and the specific risk of misuse as "high risk," i.e., higher than the risk posed by Italian legal persons. Discussions held with

[67] In a scale that includes "negligible risks," "average risk", "relevant risk," and "high risk."

[68] In a scale that includes "non-significant," "lowly significant," "rather significant," and "very significant."

[69] Bearer shares may only be issued by listed SPAs and SICAVs. There are currently no SICAVs in Italy.

the authorities and the private sector during this assessment confirmed that trusts are being misused in Italy, but not to a significant extent.

321. The FIU and LEAs generally have a good understanding of the risks of misuse of legal persons and foreign trusts, and were well aware of the findings of the NRA in this respect. Their understanding of the risks linked to domestic legal arrangements, however, was less comprehensive, due to the scarcity of such arrangements.

322. Although the main findings of the NRA have been published, representatives from the private sector had varying degrees of understanding of the risk posed by legal persons, with banks having a better understanding than most. Notaries (who are public officials and play a key role throughout the life cycle of companies) notably seem to work under the assumption that the main ML/TF risks stem from foreign ownership, despite the typologies pointing to the contrary (i.e. to the infiltration, by domestic organised crime groups, of Italian legal persons). They also seem to underestimate the risk of misuse through straw men. This is notably reflected in the recent CNN guidelines which explicitly qualify instances of private agreements of representation that are not revealed to the notaries as being "marginal within the notary' activity." While this should be read in light of the other chapters of the guidelines (in particular Section III let. b which calls on notaries to assess the risks) and of the MoJ's list of anomalous conducts (which, if followed, will assist notaries in identifying potential straw men), the guidelines should be amended to adequately reflect the high risk of infiltration by organised crime group.

Mitigating Measures to Prevent the Misuse of Legal Persons and Arrangements

323. The main measures implemented to increase the transparency of legal persons incorporated in Italy are the public availability of information contained in the Business Register and the access granted the authorities—to varying degrees and under different circumstances—to the information collected by reporting entities.

324. The Italian Business Register focuses on legal ownership and includes basic information on all types of companies and cooperative incorporated in Italy. The Infocamere database, which collects all the information entered into the register, was designed as a tool for economic and legal disclosure. In addition to the company name, legal form, and place of incorporation, it notably includes the name of the administrators (board members and directors) and shareholders of limited liability companies. At the time of incorporation, the information is entered on the basis of a public deed prepared by a notary and processed online through the use of a digital signature. The public deed itself is available to external parties "as is." Basic checks are conducted by the IT system upon registration. They include an automated calculation of shares (to ensure that they don't exceed 100%) and of the capital (to ensure it does not exceed the proposed total) as well as an automated validation of information such as the tax ID number entered, digital signature–and therefore the identify–of the applicant, and of the payment of the mandatory fees and taxes. Additional automated checks are also performed with respect to new information entered into the system (for example to ensure that shares are only transferred by persons who are already in the system). Any anomaly highlighted by these automated checks is analysed by the Business Register staff before the publication is authorised. The checks performed do not include the verification of the identity of the persons mentioned or of the beneficial owners of a company.

325. Changes to the ownership and control structure of the legal person must be recorded into the Register within different timeframes, namely within 30 days of the notarial act that validates them, in the case of SRLs and SRLSs, and once a year for the SPAs (i.e. at the time of filing the annual accounts). Transfers of shares must be filed with the Business Register by a notary or be performed by a bank or stockbroker,[70] in the case of SRL and SRLS, the information may be filed by notaries or chartered accountants. The checks performed with respect to the information filed by notaries are the same as described above. The information filed by other professionals is subject to further scrutiny,[71] but this does not include verification of the identity of the owners.

326. Access to basic information is free for public entities (unless more targeted analysis of consolidated information is required), and for a set fee for private users.[72] The data provided by Infocamere suggest that both public authorities and representatives of the private sector (either through their trade associations or individually) regularly consult the information in the database.[73] Through the relevant website, it is possible to obtain simple information, such as the name of a company and its address, as well as–for a higher fee–more complex data, such as the annual accounts, the articles of association, the name of the administrators and shareholders, the stakes in other companies, the name of the auditors and members of the supervisory boards, and, for limited liability companies only, the history of transfers of shares. Information may also be easily obtained on specific individuals, their positions in various legal persons and businesses, and their shareholdings. This information is provided in a Personal Data File (which includes a list of companies in which the individual exercises a function and the type of function) or a Company Data File (which details the businesses in which the individual owns shares and the percentage of shares owned). The relevant extracts are available in Italian and, since October 2014, the chamber of commerce certificate and company reports are also available in English (without the need to require a sworn authentication of the translation).

327. Notaries in Italy perform a public function. The information that they provide is deemed self-sufficient, and its content is not verified other than through the automated checks mentioned above. The information provided by other DNFBPs such as accountant may result in additional checks, which are mainly aimed at ensuring the completeness of the information, rather than its accuracy. The information entered into the register pertains to the legal ownership of the company, not the beneficial ownership.

328. The NRA and the authorities met consider the Italian system of registration as providing adequate transparency over the legal ownership and deem that the main risk of opacity emanates

[70] The law provides for this option but according to the authorities there are currently no stockbrokers in Italy.

[71] In addition to the automatic and manual checks already mentioned, the Business Register personnel checks the merit of the content of the information against the relevant regulation, verifies compliance with the technical specifications issued by the Ministry of Economic Development, verifies that the chartered accountants is authorized to file the information on behalf of the natural or legal person concerned and registers the deed with the *Agenzia delle Entrate*.

[72] The fees are set by Decree issued by the Ministry of Economic development and co-approved by the Ministry of Economy and Finance.

[73] Public authorities (at both the central and the local levels) count some 50 000 users who consult the Infocamere database on average 15 million times a year; Commercial data providers, trade associations and other SRBs include some 80 distributors who, on average, consult the database some 50 million times per year; some 220 000 private users also consult the database some 13 million times per year.

from foreign companies or legal arrangements.[74] The authorities expressed their satisfaction with the accuracy of the legal ownership information collected by the notaries (and others) and entered into the Business Register, as well as with the timeliness of their access to that information.

329. Basic information on associations and foundations is maintained in the Register of legal persons which is publicly available. The authorities have access to additional information in the same instances as for companies. This is less of a concern than with respect to companies considering that associations, foundations, and cooperatives present a relatively minor risk of misuse.

330. Bearer shares or warrants and nominee shareholders or directors are not a significant issue in Italy. Although the risk posed by bearer shares was not assessed in the context of the NRA, there is no indication that they present a particular risk. Shares may be issued in bearer form in limited circumstances, (namely for the SPA (i) in the form of saving shares, which do not carry voting rights, or (ii) in the context of a SICAV) and must be dematerialised: they must be deposited with a central depository and the exercise of the rights that they confer may only be performed through a reporting entity. The central deposit opens an account for each intermediary to record the movements of the financial instruments deposited into that account. The conditions and procedures for bearer shares apply equally to bearer warrants. Nominee shareholders and nominee directors are not a common feature of the Italian corporate landscape. The publicity rules that apply to companies' directors do not allow for a recourse to nominees. Shareholders may be represented by third parties, but the latter may only intervene on their behalf on the basis of a duly signed power of attorney, which ensures the transparency of the operation. Companies must maintain a copy of the power of attorney when the non-shareholder third party exercises the rights carried by the shares in the company's general assembly. The same applies to notaries (and, where relevant, accountants), in the case of a transfer of the shares performed by the third party on behalf of the shareholder, and the normal CDD requirements apply.

Timely Access to Adequate, Accurate and Current Basic and Beneficial Ownership Information on Legal Persons

331. Basic information is easily accessible through online consultation of the information contained in the Business Register. The NRA as well as the authorities met concluded that while that information is easily accessible, accurate and up-to-date, information on the beneficial owners does not encounter the same level of accuracy and speed of access, especially when it pertains to foreign owners, and/or the use—in Italy or abroad—of front men to mask the ultimate beneficial owner. Information on shareholders who hold more than 25% of an SRL and on beneficial owners of listed companies may be easily be found (respectively in the Business Register and a the CONSOB), but beyond these specific cases, access to and the reliability of beneficial ownership information vary, as they depend mainly on the information collected by reporting entities and the use, by some LEAs, of different databases.

332. The UIF and LEAs may access information on the beneficial owner held by reporting entities (as soon as the reporting entity that holds the information has been identified). This applies

[74] At the time of the assessment: (i) 0.62% of Italian legal persons had foreign legal persons as shareholders (any percentage); (ii) 0.47% of Italian legal persons had trusts or other legal arrangements as shareholders (any percentage). At the time of the assessment, these figures were slightly lower.

across the range of FIs and DNFBPs, but, in practice, most frequently concerns banks, and notaries. Provided that a specific legal person is in a business relationship with an Italian bank, that bank can easily be identified by the authorities through a consultation of the database of accounts and other financial business relationships (the Archivio dei rapporti finanziari) held by the AdE. This then enables the authorities to retrieve the CDD information collected by the bank in application of the AML/CFT law and collected in the Archivio Unico Informatico. A consultation of the Business Register enables the identification of the notary that filed the information into the register (although some of the authorities mentioned that, in practice, this may nevertheless prove challenging in some instances considering the organised crime groups' noted practice of consulting different notaries at different points in time).

333. The quality of the information collected by banks and notaries is considered to be generally adequate by LEAs, although the 2014 NRA concluded that beneficial ownership information was generally less reliable than basic information, and that the process for the identification of the beneficial owner needed to be strengthened. As mentioned above, the use of front men in the creation of companies has been established as one of organised crime's longstanding practices; this would tend to indicate that insufficient attention may be given to the identification of the real beneficial owner, especially by notaries. This factor and the discussions with reporting entities, including notaries, led the assessment team to conclude that the identification by notaries of beneficial owners of legal persons is not as rigorous as it should be, and that the reliability of the information that they collect is not optimal. This is of concern, particularly in light of (i) the role played by notaries in Italy, (ii) the fact that most of the information contained in the Business Register (which is often the starting point of the authorities' enquiries) is filed by them, and (iii) the risk of misuse of legal persons, notably by organised crime groups.

334. The authorities noted that progress is being made: they highlighted in particular that the recent increase[75] in the number of STRs filed by notaries (and others) facing obstacles in the CDD process is a sign that reporting entities and notaries in particular are devoting more attention to the identification of the beneficial owners. They also noted that the CNN's 2014 CDD guidelines (that were issued after the completion of the NRA) and the MoJ's list of indicators of anomalous activities are a good steps in ensuring a better understanding and implementation of the AML Law's requirements on the identification of beneficial owners. The increase in the number of STRs is indeed encouraging and the recent CNN guidelines and MoJ list of indicators are useful in raising the notaries' attention to their identification obligations and to certain risk factors. However, the CNN guidelines also include misleading statements. In particular, despite the frequent use of front men by organised crime groups, the guidelines explicitly qualify instances of private agreements of representation that are not revealed to the notaries as being "marginal within the notary' activity." While this is in part compensated by the other chapters of the guidelines, it raises a risk that insufficient attention may continue be given to the circumstances surrounding the establishment of a legal person or other activities that require the identification, by the notary, of the parties involved.

335. In addition, and as indicated under IO.3 above, some concerns remain with respect to the identification of beneficial owners by banks as well. This would suggest that the accuracy and reliability of the information collected by notaries and banks to which the authorities have access are not as optimal as they should be.

[75] The percentage of STRs filed for being unable to complete the identification of the beneficial owner rose from 1% of the total number of STRs filed in 2012 to 14% of those filed in 2014.

336. These shortcomings are, however, largely compensated by the fact that the authorities, in particular the GdF and DNA, conduct a number of cross-checks of the information obtained from reporting entities. One of the main tools used by the GdF and DNA in their financial investigations, the MOLECOLA platform (see Box 3 under IO.7), facilitates the identification of the real beneficial owner of legal persons incorporated in Italy by processing the information maintained in various sources (Business Register, law enforcement databases, tax administration database, land register, lists of designated persons under the UNSCRs, and other open sources). As established in the cases provided, this has enabled the GdF to successfully identify the ultimate beneficial owner in a number of instances, including in cases involving complex, transnational corporate structures. The MOLECOLA platform has proven useful notably by considerably reducing the length of time needed to conduct cross-checks, but is not available to the other police forces in charge of investigating ML or TF cases (i.e., the Carabinieri ROS and the Polizia di Stato), nor to the UIF.

337. Information is also collected through international cooperation which, in the case of most EU countries, has proven adequate, but is considerably more challenging in instances where the counterparties do not cooperate, or provide information in an alphabet other than the Roman alphabet. These challenges have not prevented law enforcement agencies from eventually identifying the ultimate beneficial owner and seizing his or her shares in a legal person in some cases, but have nevertheless caused some delay in the overall investigation.

338. Access to the beneficial ownership information of foreign legal arrangements may also be obtained from reporting entities (especially banks, through a consultation of the ADC) but is generally speaking more reliant on foreign countries' active cooperation, with varying degrees of timeliness and success. The UIF and LEAs noted that more often than not, foreign trusts are deliberately established in jurisdictions that do not collaborate, thus making the identification of the ultimate beneficial owner particularly arduous.

Effectiveness, Proportionality and Dissuasiveness of Sanctions

339. The main consequence of a failure to comply with the information requirements is the impossibility, for the notary, to conclude the notarial deed that serves as the basis for including new information or amending existing information in the Business Register. Representatives of the CNN explained that in instances where they cannot obtain the information on the beneficial owner (e.g. because he or she is located abroad), they conclude the notarial act on the basis of a declaration provided by the customer, which they do not verify.

340. Sanctions are available, especially in the context of CDD (both for the customer and the reporting entity), but they do not appear to be implemented in a particularly dissuasive and proportionate manner. Unless it constitutes a more serious crime, the customer fails to provide to the reporting entity the identifying information of the person for whom a transaction is executed, or who provides false information is punishable with imprisonment between 6 to 12 months, and a fine of an amount ranging between EUR 500 and EUR 5 000. Failure to comply with the CDD requirements is punishable with a fine of an amount between EUR 2 600 and EUR 13 000. (See write-up under IO.4 for the detail of sanctions issued). The GdF, in particular, has initiated a number of sanction proceedings on these grounds,[76] but additional detail about these proceedings (such as a

[76] The number of violations of CDD requirements by reporting entities and customers (article 5 para. 1, 2, and 3 of the AML Law) detected by the GdF are 242 in 2012, 315 in 2013 and 246 in 2014. The number of persons referred to the judicial authorities on these grounds are 696 in 2012 663 in 2013 and 382 in 2014.

breakdown per category of reporting entity) is not available, and it is therefore unclear whether and to what extent notaries and accountants have been sanctioned for failure to comply with their obligation to identify the beneficial owner of legal persons.

341. Sanctions for legal persons are also available (see write-up for R.24 in TCA), but no information was provided on the number of legal persons or managers sanctioned for failure to comply with the information requirements. From discussions with the authorities, this seems to be a rare occurrence.

International Cooperation

342. Requests sent by Italy: no statistics were provided on the number of instances in which the Italian authorities requested information from their foreign counterparts with a view to obtaining information on foreign natural persons owners of Italian legal persons or legal persons and arrangements established abroad. Several case examples provided (including large-scale investigations such as the Fastweb case, demonstrated criminal connections between several countries and highlight that the UIF, LEAs, and prosecutors are proactive in seeking the cooperation of their foreign counterparts for the purposes of their analysis, investigations and prosecutions. In a number of instances, the cooperation sought resulted in the exchange of information on the identity and whereabouts of the beneficial owners of legal persons incorporated abroad and/or in Italy as well as of foreign legal arrangements. This has also resulted in assets being identified abroad and repatriated to Italy, but, in the absence of statistics, no precise indication was provided on the extent of these results.

343. Requests sent to Italy: As mentioned above, basic information on legal persons incorporated in Italy may be accessed online, in these instances, foreign authorities may obtain information without having recourse to the Italian authorities. Additional information including beneficial ownership information may be requested, either between competent authorities such as the UIF and the law enforcement agencies, or through the international cooperation channels. No statistics were provided in this respect. The feedback provided by countries with respect to their experience in international cooperation with Italy highlights no particular challenges or concerns with respect to the exchange of information concerning Italian legal persons. It is nevertheless likely that the timeliness challenge that the authorities face in domestic proceedings also arises in the response to foreign requests.

Overall Conclusion for Immediate Outcome 5

344. As reflected in the NRA the risk of Italian legal persons, especially companies, being misused for ML purposes is high, in particular in light of the real infiltration of domestic companies by organised crime. Foreign legal arrangements also play an increasing role in ML schemes although their presence in Italy is far more limited. The risk in other contexts (TF; other legal persons, and domestic legal arrangements) appears to be much lower. The authorities' understanding of the risk of misuse of domestic legal persons is comprehensive in the context of organised crime groups and tax evasion, but is less developed in other contexts. While the NRA's focus on organised crime was appropriate, a better understanding of the misuse in instances unrelated to organised crime would prove useful, in particular in the context of corruption. In addition, although they represent a small percentage of the total number of legal persons incorporated in Italy, companies with foreign

ownership may not be entirely immaterial considering their significant turnover, and would deserve further analysis in the context of the next risk assessment.

345. Basic information on legal persons incorporated in Italy is readily accessible, accurate, and up-to-date. Beneficial ownership information is slightly more difficult to acquire and less reliable until it is verified by LEAs. In practice, the Italian authorities, in particular the GdF and DNA, have been successful in a number of instances in identifying the beneficial owners of companies misused by criminals, especially mafia-type organised crime groups, through a combination of measures, including consultation of the information collected by reporting entities (mainly notaries and banks) and of various databases, as well as international cooperation. The timeliness of the authorities' access to beneficial ownership information varied between a few minutes to a few days depending on the complexity of the case and of the corporate vehicle involved, and is generally deemed adequate. The MOLECOLA platform used by the GdF and DNA, in particular, has proven very useful in facilitating and accelerating the consultation of a range of sources of information, thus cutting down the amount of time needed to identify the real beneficial owner. While overall satisfactory, Italy's mechanism could be strengthened further: The reliability of the information obtained from reporting entities varies, which entails a requirement for cross-checks in all instances. Notaries, in particular, are a logical first port of call for the authorities; they exercise a public function in Italy and play a central role throughout the life cycle of companies. In these circumstances, the fact that they did not, until recently, seem to pay sufficient attention to the identification of the real beneficial owner is cause for some unease. Recent progress in this respect is therefore particularly welcome and should be encouraged further. As highlighted under IO.7, despite the successes obtained, a greater focus, by LEAs, on companies would also prove useful. In addition, effective sanctions do not appear to be applied to persons who do not comply with their information requirements. Greater attention to legal persons with foreign ownership to establish their materiality in terms of risk in light of their turnover could be useful. Finally, stronger enforcement actions of the registration requirements would be a useful deterrent. These measures are recommended to address what appears to be relatively minor shortcomings rather than real impediments to access to information; moderate improvements are needed to ensure that Italian companies (and other legal persons) are prevented from misuse for ML and TF purposes.

346. Italy has achieved a substantial level of effectiveness for IO.5.

CHAPTER 8. INTERNATIONAL COOPERATION

Key Findings and Recommended Actions

Key Findings

Italy has a sound legal framework for international cooperation as well as a network of bilateral and multilateral agreements to accelerate cooperation. The authorities undertake a range of activities on behalf of other countries for AML/CFT purposes.

However, the lack of criminalisation (until December 31, 2014) of self-laundering may have undermined the scope of the assistance requested and provided by Italy. The new self-laundering offense should, however, prove useful, even though its practical impact could not be tested, and is a welcome development.

The effectiveness of Italy's international cooperation framework may be hampered by the lack of mechanisms such as a case management system to prioritize and respond to request, and the failure to ratify the relevant EU agreements and framework decisions relative to the judicial mutual legal assistance in penal cases between the member states, mutual recognition of confiscation orders, and common teams of investigation. Available statistics are not sufficiently comprehensive.

Supervisory authorities (BoI, IVASS, and CONSOB) as well as the UIF cooperate frequently and effectively with their respective counterparts. However, they do not provide spontaneous information as frequently as they should commensurate with risk.

Recommended Actions

Italy should:

- Ratify and transpose additional instruments such as the May 29, 2000 agreement relative to the judicial mutual legal assistance in penal case between the member states of the EU, and the Council Framework Decision of June 13, 2002, related to the common teams of investigation.
- Set up, within the MoJ, a case management system (relative to the collection and dissemination of data related to MLA and extraditions request) and improve collection of statistics on international cooperation.
- Increase the spontaneous exchanges of information with foreign supervisory authorities for AML/CFT purposes commensurate to the risks.
- Ensure timely response to requests from other countries to identify and exchange information on the beneficial owners of legal persons and arrangements.
- Share assets confiscated in Italy with foreign countries that provided assistance especially in the case where predicate offenses have been committed abroad.

The relevant Immediate Outcome considered and assessed in this chapter is IO2. The recommendations relevant for the assessment of effectiveness under this section are R.36-40.

Immediate Outcome 2 (International Cooperation)

Providing and Seeking Constructive and Timely MLA and Extradition

347. International cooperation is particularly important for Italy, as the country faces a high risk of organised crime groups, both in the mafia and non-mafia contexts, which conduct transnational criminal activities. The Italian authorities have provided many cases, investigated by GdF, ROS, or DIA, in which active or passive MLA was successfully pursued, particularly with respect to the seizure of criminal proceeds. These cases include for examples in Box 8 below which involved large scale operations aimed at seizing assets and arresting suspects simultaneously in Italy and other countries. Cases of international cooperation in CFT were also provided and considered for the assessment of IO.9.

Box 6. **International cooperation to investigate and prosecute predicate offenses and ML**

- **The "lost funds" operation (2010)**: The investigation (which was led by the Prosecutor's Office of Rome) pertained to an alleged financial promoter who failed to return the money invested, and resulted in the identification of a transnational criminal organisation dedicated to the commission of crimes such as illegal financial activity, fraud against thousands of investors and obstruction to public supervisory authorities. 1 500 clients, who invested over EUR 350 million through the unauthorised financial intermediary, were identified. The proceeds of unlawful activity were conveyed onto foreign accounts belonging to the investigated individuals. Five MLA requests were sent to Luxembourg, Austria, Switzerland, the United Kingdom, and The Bahamas. The Italian authorities issued arrest warrants against seven associates, and seizure of registered assets, real estate property, corporate shares and companies up to EUR 170 million.
- **The "Telecom/Fastweb case" (2006–2010)**: In February 2010, the ROS executed a custody order, issued by the preliminary investigation judge (GIP) at the Court of Rome upon request of the local Anti-Mafia District Prosecutor Office, against 33 suspects for criminal association for ML and use of money illicitly gained through a very high value carousel VAT fraud. The investigations involved several Italian regions and were extended, through police and judiciary cooperation requests, to Switzerland, the United Kingdom, Cyprus, Romania and Austria, particularly to identify the foreign bank accounts on which the laundered funds were credited. In this context, in addition to the seizure of shares of about 20 companies purchased with the proceeds of ML, measures were performed, both in Italy and abroad, for equivalent of assets worth EUR 38 million. A total of 18 people were sentenced in October 2013 for criminal association, tax crime and ML, from 3 years (for criminal association) to 15 years (for ML and tax crimes) of incarceration, and to fines ranging from EUR 15 000 to EUR 20,000 (for a total amount of EUR 130,500). Ancillary penalties were also imposed.

348. The authorities established that they make effective use of international cooperation in the context of the fight against organised crime: From 2013 to 2015, the DNA processed more than 60 mutual legal assistance requests related to ML offense or preventive measures (24 in 2013, 29 in 2014 and 3 in January and February of 2015). The main counterparts are Switzerland (16), Netherlands (10), Germany (6) and Spain (5). MLA was active in 44 cases and passive in 19.

349. Regarding GDF, from 2013 to 2015, 957 requests (including Europol, Interpol, and mutual legal assistance requests) have been processed (361 active and 596 passive).[77]

350. No additional statistics regarding MLA (in contexts other than the fight against organised crime) and extradition were provided. This is notably due to the lack of case management system in place. Feedback received from other countries indicates a good level of satisfaction with the assistance provided by Italy (active and passive).[78]

351. Cooperation in cases of self-laundering is a concern (as notably highlighted in Italy's NRA). Until December 31, 2014, self-laundering was not criminalised and cooperation could therefore not be granted or requested. A new provision, which came into force on January 1, 2015, criminalizes self-laundering (see full write-up under R.3 in the TC annex). At the time of the assessment, due to its recent entry into force, the self-laundering offense had not been implemented, neither in a domestic nor international context. Its practical impact could therefore not be tested.

352. Italy has not yet transposed into its domestic framework some relevant international agreements, such as those pertaining to the establishment of joint investigation teams (Council Framework Decision of June 13, 2002), execution in the European Union of orders freezing property or evidence (Council Framework Decision no. 2003/577/JHA) confiscation of the instruments and proceeds of crime (Council Framework Decision no. 2005/212/ JHA), and the application of the principle of mutual recognition to confiscation orders (Council Framework Decision no. 2006/783/JHA). Similarly, Italy has not ratified the agreement relative to the judicial mutual legal assistance in penal case between the member states of the European Union of May 29, 2000. In practice, however, this has not been an obstacle to effective international cooperation, and, in particular, has not prevented Italy from conducting joint investigations with other countries on a case-by-case basis (e.g. joint teams were notably established with Albania and Switzerland). Joining the above-mentioned agreements may nevertheless expedite the process in future cases. While Italy does, in practice, conduct joint investigations with other countries on a bilateral basis, the implementation of the European agreement would increase the law enforcement agencies' and the judicial authorities' capacities and accelerate the investigations.

Providing and Seeking other Forms of International Cooperation for AML/CTF Purposes

353. Law Enforcement Agencies: LEAs regularly exchange information with their foreign counterparts, Cooperation is developed through police channels (Europol, Interpol, and also through bilateral agreements). Italian police forces exchange information and carry out investigations on behalf of foreign requesting counterparts—on the basis of a request of judicial assistance—in the same manner as they would carry out investigations at a domestic level. The International Police Co-operation Service within the Criminal Police Central Directorate in the MoI ensures information exchanges through Interpol, Europol and SIRENE channels and acts also as Assets Recovery Office (ARO) in Italy. At the police level, the activities that do not require formal judicial authorisation and are conducted on the basis of bilateral agreements. As indicated above, agreements with Switzerland and Albania have been signed in order to create joint investigation teams to fight against organised crime, corruption and terrorism.

[77] These data include all types of request, and not only the ones related to ML offense.

[78] One country noted that the Italian authorities have authorized agents of foreign judiciary police to be present in Italy and assist with the implementation of a MLA request, which was deemed useful.

354. A legislative proposal has been put forward to the Parliament to allow for the creation of joint investigative teams, and, when necessary, the establishment of bilateral or multilateral arrangements to enable such joint investigations according to the European Decision of June 13, 2002, related to the common teams of investigation.

355. FIU cooperation: The UIF is effective in seeking and providing information in a timely and effective manner from/to other FIUs spontaneously and upon request. It can access and provide administrative, law enforcement and financial information based on requests from foreign FIUs or non-counterparts. The UIF's ability to cooperate is not conditioned by the indication of the predicate crime by the foreign counterpart. The responses are always provided on timely basis, using secured channels, and in line with Egmont principles.

356. In 2014, overall 660 requests each involving one or multiple subjects were sent to foreign counterparts. The trend of requests sent is increasing, and since 2013, the UIF is using several techniques to enhance the exchange of information with some European counterparts through the FIU.NET. In addition to the mechanism of "known/unknown" automatic exchange of information, the UIF is making the use of bilateral and multilateral data-matching tools to search for positive hits between massive datasets. It also exchanges information with non-counterparts. However, the number of requests made by the UIF should be higher to commensurate the ML/TF risks and the large number of STRs involving cross-border elements.

Box 7. **Fraud to a bank performed by a disloyal employee**

A disloyal employee distracted fraudulently some EUR 1 million from the internal account of the bank where he was employed, issuing banker's checks negotiated at a foreign Bank. The case originated from a spontaneous communication submitted to UIF by the FIU of the country where the disloyal employee tried to launder the embezzled funds. During the UIF's financial analysis, STRs were transmitted by the Italian financial intermediaries involved in the operation.

The spontaneous communication submitted by the foreign FIU reported that on an account held by an Italian citizen, 16 banker's checks had been credited for the total amount of about EUR 800,000. In order to identify the origin of the funds, the UIF asked for information to the Italian issuing bank, and established that the checks had been debited from an account held by one of its own employees, the same owner of the foreign account where the checks had been credited. More precisely, 20 banker's checks had been issued from that account for a total amount of about EUR 1 million. The funds necessary to the issuing of the checks were credited on the account some days before, through an internal wire transfer, justified by the reported individual as an indemnity ordered by an insurance company as the result of the death of a relative. It was established that the sum had in fact been stolen by the reported person from a bank internal account, where it was credited by order of a company belonging to the same Group, by way of payment of personnel expenses. Exploiting homonymy with the colleague in charge of the management of those payments, the disloyal employee embezzled the funds and, before internal controls could detect the anomaly, transferred them on his personal account. The funds were then used to issue the above mentioned 20 checks, 16 of which banked abroad. The remaining 4 checks for about EUR 200,000 were credited on an account held by the same individual at a different Italian bank and, from there, used to order wire transfers in favour of natural and legal persons related, in different ways, to the disloyal employee.

The case shows the importance of a timely and effective international cooperation between FIUs. The spontaneous communication received from the foreign FIU allowed the UIF to start immediately a financial analysis, and reconstruct the path followed by the funds, thus facilitating the investigation by the judicial authority that, in the meantime, had received the bank's complaint.

Table 34. **Requests to foreign FIUs**

	2009	2010	2011	2012	2013	2014
To comply with requests of the Judicial Authorities	60	89	128	137	124	146
For internal analysis purposes	19	37	44	80	56	242
Known/unknown [(2)]	-	-	-	-	270	272
Total	79	126	172	217	450	660

357. Requests received and subjects requested: in 2013, 793 received and 3 538 requested, and 2014, 939 received and 3 765 requested.

358. Supervisory Authorities: Both IVASS and the BoI have established mechanisms for international cooperation with respect to FIs; with respect to DNFBPs, only the CONOSB has similar mechanism.

359. Cooperation with EU supervisors of FIs does not require the use of an MOU, while cooperation with non- EU supervisors takes place on the basis of bilateral MOUs. Cooperation with non-EU supervisors requires that (i) there be no impediment to the sharing of information between supervisors and between the parent institution and its foreign subsidiaries, (ii) there should be equivalent confidentiality requirements, (iii) the Italian supervisor should be able to undertake inspections of Italian branches and subsidiaries in the host country, and (iv) the non-EU country should have an adequate AML/CFT framework.

360. Both supervisors often cooperate with foreign counterparts in the process of conducting fit and proper assessments. Cooperation arrangements with Hong Kong and Singapore have allowed the BoI to undertake on-site inspection of subsidiaries of Italian FIs operating in these countries. IVASS recently commenced a joint inspection with the FCA of an Italian branch of a U.K. insurance company.

361. The BoI and IVASS provide information on an on-going basis in response to requests received from other supervisory authorities. IVASS has provided information requested by the Hungarian authorities to assist them in the conducting fit and proper assessment. The BoI has also cooperated with U.S. regulators to assist them in taking supervisory action against a subsidiary of an Italian institution operating in the United States. In 2014, the BoI alerted the authorities in the United Kingdom about the activities of agents of a U.K.-based entity that were of a concern with respect to ML/TF risks. The BoI usually responds to requests for assistance within one to three weeks. IVASS usually responds within one month.

362. With respect to the supervision of DNFBPs, the CONSOB has established mechanisms for international cooperation, but the GdF has not.

International Exchange of Basic and Beneficial Ownership Information of Legal Persons and Arrangements

363. Basic information on legal persons is readily accessible online. Although no statistics were provided in this respect, the authorities indicated that they have received requests for information on the beneficial ownership of legal persons incorporated in Italy, which they respond to by using all the powers granted to them under domestic laws. No requests seem to have been made with respect to legal arrangements. The authorities did not establish the average timeframe for their responses but mentioned that the timeliness of their response varies. The feedback provided by countries in the context of this assessment does not suggest particular concerns in this respect.

Overall Conclusions on Immediate Outcome 2

364. Italy demonstrates many characteristics of an effective system. Italy has a strong framework for cooperation and provides constructive and timely assistance when requested by other countries. Competent authorities notably provide information, including evidence, financial intelligence, supervisory information related to ML, TF, or associated predicate offenses, and assist with requests to locate and extradite criminals as well as to identify, freeze, seize and confiscate assets. Italy seeks on a regular basis and generally in a successful way, international cooperation from other countries to pursue criminals and their assets. Italy should nevertheless set up a case management system and improve its statistics on international cooperation. Although the absence of implementation of the relevant EU instruments has not been an obstacle to cooperation so far, it

cannot be excluded that it may slow down cooperation in the future. Implementation is therefore encouraged with a view to avoid potential delays. In addition, a greater exchange with foreign authorities of financial intelligence and supervisory information would enhance the system further.

365. Italy has achieved a substantial level of effectiveness for IO.2.

TECHNICAL COMPLIANCE ANNEX

This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerological order. It does not include descriptive text on the country situation or risks, and is limited to the analysis of technical criteria for each Recommendation (R.). It should be read in conjunction with the Detailed Assessment Report (DAR).

Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2005. This report is available from www.fatf-gafi.org/countries/d-i/italy/.

Recommendation 1 - Assessing Risks and applying a Risk-Based Approach

At the time of the third mutual evaluation report (MER), there was no requirement for a national risk assessment (NRA) or other risk-related requirements set out in R.1.

Obligations and decisions for countries

Risk assessment

Criterion 1.1— Italy identified and assessed its money laundering (ML) and terrorist financing (TF) risks by issuing its first NRA in July 2014, following a seven month long exercise,[79] led by the Financial Security Committee (FSC) at the Ministry of Economy and Finance (MEF). The NRA refers to the ML/TF risks associated with the activities of reporting entities under the supervision of the Bank of Italy (BoI) and other supervisors, the indicators and typologies developed by the Financial Intelligence Unit (Unita di Informazione Finanziaria—UIF), the trends and information provided by the judiciary and law enforcement agencies, and reports issued by academics and regional and international organisations. The NRA analyses ML/TF risks at national level on the basis of a pre-agreed methodology that generally covers the range of issues discussed in the FATF guidance on conducting national ML/TF risk assessments. The assessment also identifies and assesses new and emerging risks reflected in the latest FATF standard including domestic politically exposed persons (PEPs) and tax evasion.

The background information used to reach conclusions seems credible, factual and up to date. The risk assessment focused on ML from criminal activities taking place inside and outside the country, criminal activities involving proceeds of crime that need to be laundered, and sectors affected by ML. The document also includes an assessment of preventive measures in financial institutions (FIs), designated non-financial businesses and professions (DNFBPs), cross-border controls, analysis of legal persons and trusts; investigative measures; and repressive measures. As a result, it identifies the FIs (banking and insurance), and DNFBPs (e.g., electronic gaming, gold buyers, real estate agents, and gambling, notaries, lawyers) as presenting high levels of risk.

The NRA is of good quality, has involved close coordination among concerned agencies, and uses multiple sources of information.

[79] The Working Group started its activities in March 2013. The draft methodology was finalized and approved by the FSC in December 2013, and the risk assessment was initiated in January 2014.

Criterion 1.2— The NRA was conducted by the NRA Working Group (NRAWG) with representatives from all the agencies of the FSC and in consultation with other concerned agencies and the private sector and academics. The FSC is chaired by the Director General of the Treasury and has 13 members, including representatives of the MEF, the Ministry of Interior (MoI), the Ministry of Justice (MoJ), the Ministry of Foreign Affairs and International Cooperation (MFA), the BoI, the National Commission for Companies and the Stock Exchange (CONSOB), the Institute for Insurance Supervision (IVASS), the UIF, the Guardia di Finanza (GdF), Carabinieri (CC), the Anti-Mafia Investigative Directorate (DIA), and the National Anti-mafia Directorate (DNA). Other agencies were also consulted throughout the process. These were the Inland Revenue Agency (IRA), Customs Agency, Ministry of Economic Development (MISE), Ministry of Labor and Social Policies (MLSP), the National Anti-Corruption Agency (ANAC), representatives from the intelligence services, and the Italian Chamber of Commerce.

Criterion 1.3— The first NRA was finalised in July 2014. The NRA Methodology approved by the FSC requires a periodic update of the NRA every three years. The update of the analysis must be conducted earlier if there is a case of emerging threats or vulnerabilities of particular relevance. Following the increasing threats of terrorism and TF in Europe, in December 2014 the FSC asked its experts group to re-assess the level of TF threat. The results of this review are expected to be finalised and shared with the private sector.

Criterion 1.4— According to the Italian NRA methodology, the ad hoc NRAWG is also responsible for preparing an abstract of the NRA and sharing it with the private sector, self-regulatory bodies, and non-profit organisations (NPOs). The abstract that set out the main conclusions of the NRA and identifies potential areas for increased attention was published on the MEF website on December 4, 2014.[80] Certain sensitive information was excluded from the abstract.

Risk mitigation

Criterion 1.5— Although authorities have been applying a risk-based approach (RBA) to varying degrees based on their individual understanding of risk, it is not apparent that a nationally coordinated RBA has been developed since the NRA, and thus whether the allocation of resources is in line with the results of the NRA. The authorities have indicated that there is now an ongoing effort within the FSC to ensure this.

Italy advises that resource allocation at the BoI is based on an RBA. The annual planning takes into account intermediaries' features, and the need for in-depth controls emerged while performing supervisory tasks, and (macro- and micro-) ML/TF risks. While the BoI, IVASS, CONSOB, and the GdF have an understanding of ML/TF risk in Italy and employ varying types of RBA to their work, there is a need for improvement in the existing arrangements. None of the supervisors has established mechanisms through which reporting persons periodically provide information on the nature and level of their inherent risk. In the absence of this information, any decisions made on the allocation of resources under the existing risk-based approaches are not clearly based on the inherent ML/TF risk faced by the persons/entities they supervise. There is also a need to strengthen the current arrangements used by BoI and IVASS through which institutions inform them of the risk mitigation measures they adopt. No clear guidance has been provided to reporting persons on the format and content of reports they are required to submit. Differences in the nature of the reports submitted by

[80] http://www.mef.gov.it/inevidenza/article_0059.html

reporting persons make it difficult for the supervisors to make meaningful comparisons across all reporting persons with respect to the quality of their risk management practices.

Criterion 1.6— Italy has not applied any exemptions from the AML/CFT framework with respect to financial activities defined within the FATF standards. Moreover, the AML regime has been extended to certain other activities not included in the standards (e.g., clearing and settlement services, security transport businesses, gaming enterprises, auditing firms, antiques traders, auction houses, and art galleries.)

Criterion 1.7— In light of intensive use of cash, Italian laws (article 1 of Law 197/1991) introduced a prohibition of the use of cash for private transactions above a certain threshold (currently fixed at EUR 1 000) (article 49 (1) of the AML Law). The BoI regulation on customer due diligence (CDD) also calls for enhanced due diligence in connection with products or technologies favouring anonymity and high denomination banknotes, communications have been recently issued on the risks associated with virtual currencies. Furthermore, article 20 of the AML Law requires reporting entities to apply a RBA when conducting CDD.

Criterion 1.8— Italy allows simplified measured to be applied by FIs and DNFBPs in specific circumstances that have been assessed to be low risk, and which are identified under article 25 of the AML Law (i.e., identification and verification of the customer if it is an office of Public Administration or an institution or organisation performing public functions. Italy has created, in line with the EU Directive 2005/60/EC, a number of exemptions regarding the application of CDD measures. The list of exemptions is related to listed companies, domestic public authorities, or customers meeting the technical criteria established in Directive 2006/70/EC, including customers that are credit or FIs within the EU or in third countries that impose requirements equivalent to those of the Directive. It has not been demonstrated that these categories are low risk, or that the preconditions required under criterion 1.8 are met. A similar issue arises in connection to requirements applicable in the case of correspondent banking relationships.

Criterion 1.9— The Italy Financial Sector Assessment Program (FSAP) update conducted by the IMF in January 2013 found that BoI generally has a good supervisory process in place which uses appropriate tools and methodologies and integrates a risk-based approach into its supervisory activity. BoI regular supervision activities ensure that RBA obligations stipulated under article 20 of the AML Law are being implemented. Similarly and according to the International Association of Insurance Supervisors (IAIS) assessment, the legal framework (articles 7 and 53 of the AML Law) requires insurers to have effective risk management systems in place that are being inspected by IVASS. While the GdF also has, to some extent, an RBA in place, it also uses a compliance-based approach to its work and is less successful than the BoI and the IVASS in ensuring that the persons/entities it supervises understand, assess and mitigate ML/TF risks.

Obligations and Decisions for Financial Institutions and DNFBPS

Risk assessment

Criterion 1.10— According to the RBA obligations (article 20 of the AML Law), the intensity and scope of the obligation to carry out adequate CDD are to be determined in accordance with the ML/TF risks associated with the type of customer, business relationship, professional service, operation, product, and transaction in question (article 20 of the AML Law).

Under article 20 of the AML Law, there is a general obligation for all covered institutions and DNFBPs to adopt an RBA and to be able to communicate this to the relevant authorities. This is further elaborated under the BoI Regulation and, for public interest enterprise (PIE) auditors, the CONSOB regulation on AML/CFT controls which imposes obligations on various levels of corporate management in terms of risk management. These additional obligations only apply to the financial sector, and no such secondary legislation has been issued with respect to the DNFBPs. Similar obligations have been imposed on notaries pursuant to guidelines they have adopted and enforce under their ethics rules.

Risk mitigation

Criterion 1.11— According to legal framework, all FIs and DNFBPs are required to have policies and procedures in place in order to document the management of ML/TF risks. Institutions supervised by BoI, CONSOB, and IVASS are required to have compliance arrangements in place to monitor the implementation of these measures and AML programs must be subject to review by internal audit. Under article 28 of the AML/CFT law, all FIs and DNFBPs must apply enhanced due diligence when there is a greater risk of ML or TF, and in circumstance specified under the article.

Criterion 1.12— The AML Law provides for Simplified Due Diligence (SDD) in specific cases. As a general principle, according to the AML Law, whenever there is a suspicion of ML/TF, CDD obligations are to be fully applied, regardless of any derogation or exception. Italy has also extended the exemptions provided for under the EU directives, although without demonstrating low risk or that the pre-conditions under the standard have been met.

Weighting and Conclusion

Italy meets criteria 1.1 to 1.5, and 1.7. It largely meets criteria 1.9 to 1.11. It partially meets criteria 1.12 and 1.8. Criterion 1.6 is not applicable. **Italy is largely compliant (LC) with R.1.**

Recommendation 2 - National Cooperation and Coordination

In its third mutual evaluation report (MER), Italy was rated LC with these requirements: pages 95–96. The main deficiency related to the absence of a national coordination mechanism for AML matters. Subsequently, a new amendment to the AML Law has further improved Italy's national cooperation and coordination mechanisms.

Criterion 2.1— Although Italy has AML/CFT policies which are informed by the ML/TF risks, it has not yet formulated a national strategy and prioritised action plan that is informed by the recently completed NRA. The supervisors will also be integrating the NRA results into their RBA, where appropriate. Finally, the amendments of the AML Law planned for 2015 will benefit from the results of the NRA.

Criterion 2.2— Italy has designated the FSC, under the auspices of the MEF, as the key mechanism responsible for national AML/CFT policies (article 5 of the AML Law (amendment of November 4, 2009), Ministerial Decree (MD) no. 203 of October 20, 2010).

Criterion 2.3— As mentioned under R.1, the FSC is chaired by the Director General of the MEF and includes representatives of several key agencies. The FSC is in charge of preventing the financial and economic system from being used for laundering proceeds from criminal activities and TF purposes.

The FSC is required to present to the MEF, by the end of May each year, a report that provides an assessment of the AML/CFT actions taken and proposals to make them more effective. To this end, the UIF, financial sector supervisory authorities, competent authorities, GdF, DIA, and professional associations are required to provide, by March 30 of each year, statistics and information on their respective activities over the previous calendar year as part of their supervisory and control functions.

Detailed rules for the exchange of information and collaboration among the concerned agencies are established under article 9 of the AML Law. These agencies are required to cooperate and coordinate, and Memoranda of Understanding (MOUs) must be signed between them. All the information held by the UIF is protected by professional secrecy except toward the judicial authorities that could access the information in the course of investigations or proceedings involving violations subject to penal sanctions (article 9.1. of the AML Law). In this respect, the Law (article 9.2) provides for the derogation of professional secrecy for the exchange of information between the supervisory authorities and the UIF. The UIF signed MOUs with all the supervisory authorities.

Criterion 2.4— The FSC is responsible for countering the activities performed by countries threatening international peace and security, as well as fund-freezing measures established by the United Nations and the European Union (article 3.1 of the Legislative Decree (LD) 109/2007), which allow it to ensure coordination in proliferation financing (PF) matters (namely related to Iran and North Korea). In this event, the representatives from the MISE, and the Customs Agency join the FSC meeting (article 3.3 of the LD 109/2007). Members from other agencies, including intelligence services, can also be invited by the FSC Chair. However, the law does not explicitly extend the Committee's powers to coordinate and cooperate in PF-related policy and activities.

Weighting and Conclusion

Italy meets criteria 2.2 to 2.3. It largely meets criteria 2.1 and 2.4. **Italy is largely compliant with R.2.**

Recommendation 3 - Money laundering offence

In its 2005 MER, Italy was rated compliant with former R.1 and partially compliant with R.2 (pages 28–30). The technical deficiencies were (i) the lack of penal, administrative, and civil liability of legal persons, and (ii) the fact that penalties (in particular for fines) were not proportionate and dissuasive. Italy has addressed deficiency (i) in LD n.231 of November 21, 2007 (hereafter, the AML Law, which entered into force on January 1, 2008), but deficiency (ii) remains. The standard now also includes a new requirement.

Criterion 3.1— Italy has ratified the 1988 Vienna Convention through Law No. 328 of November 5, 1990, and the 2000 Palermo convention through Law No. 146 of March 16, 2006. ML is criminalised in article 648 bis ("money laundering") of the Criminal Code (CC), which covers all the activities referred to in the Vienna and Palermo conventions. It is complemented by two other provisions

dealing with other aspects of the offense (the illicit origin of the proceeds of crime): article 648 (receiving) and article 648 ter (use of money, goods, or assets of illicit origin) of the CC.[81]

Criterion 3.2— Article 648 bis of the CC considers any "malicious" crime (i.e., any crime committed intentionally) as predicate offense. Only unintentional crimes and contraventions (misdemeanours punishable with arrest and/or fines) are excluded. Articles 648 and 648 ter indicate "predicate offenses" as all offenses. All the categories of crimes listed in the FATF Glossary are considered as malicious crimes in Italian criminal law. All tax crimes contained in LD No. 74 of March 10, 2000 also constitute predicate offenses (Court of Cassation, sentences N. 45643/2009 and N. 6061/2012). These tax crimes are related to tax returns, to documents (false invoices and other documents related to fictitious operations) and to tax payments, including the value-added tax (VAT).

Italy adopted a voluntary tax compliance (VTC) program in December 2014 as part of a broader strategy against tax evasion, the cornerstone of which is the forthcoming implementation of the new OECD global standard of automatic exchange of financial information for tax purposes[82] (Law No.186 of December 15, 2014 published in the official gazette on December 17, 2014). The VTC took effect on January 1, 2015 and expires on September 30, 2015. The program allows previously undeclared patrimony and financial assets constituted or held outside Italy to be taxed at the normal rate with reduced administrative sanctions. Under the VTC, normal criminal liability for certain tax crimes (i.e., fraudulent return by use of invoices or other documents for non-existing operations; fraudulent return by other devices; unfaithful return; omitted return; or failed payment of taxes) and the laundering of their proceeds do not apply if the conditions of the VTC are met, and the taxable assets are declared in line with the VTC law. Upon reception of a VTC declaration, the IRA will initiate the tax inspection process in order to ascertain the amounts of tax due. In this context, should the Agency suspect that the underlying activities are or may be illegal, it will inform the relevant prosecutor or report the operation to the UIF. For these reasons, the FATF concluded, in February 2015, that Italy's VTC program did not have a negative impact on the implementation of the FATF Recommendations including R.3—and complied with the FATF's four basic principles for VTCs.

Criterion 3.3— Italy applies an all-crimes approach.

Criterion 3.4— Articles 648 bis and 648 ter of the CC refer to "money, assets or other property" of illicit origin regardless of their value, and article 648 refers to "money or property derived from any crime." These definitions, in these three articles, include any kind of property that represents the proceeds of crime. Even if the law does not specify whether it extends to assets which are not the direct proceeds of crime, jurisprudence of the Court of Cassation gives a broad scope of the notion of "other property" considering them as "indirect assets" (Sentence No. 6061/2012

[81] Article 648 *bis* states that "anyone who replaces or transfers money, assets, or other property derived from malicious crime or carries out any other operation aimed at preventing the tracing of the related illicit provenance" commits the ML offense. Article 648 provides that "anyone who, in order to procure for himself/herself for others profit, purchase, receives or conceals money, assets or property derived from any crime, or is involved in acquiring, receiving or concealing such money, assets or property" commits the "receiving" offense. Article 648 *ter* defines the use of money, assets or property of illegal provenance as the act of "anyone who uses in economic or financial activities money, assets or other property derived from crime."

[82] The automatic exchange of financial information for tax purpose ("Common Reporting Standard") was incorporated into EU legislation by means of Council Directive 2014/107/EU, which was adopted under the Italian Presidency.

Criterion 3.5— The text of the law (article 648 bis of the CC) does not require a prior conviction for the predicate offense or that the perpetrator of the predicate offense be identified or charged. Courts will satisfy themselves that the proceeds are derived from a predicate offense, proved by evidence brought by investigations and prosecution (Court of Cassation, Sentence No. 28715/2013). The ML offense could be laid down even if the author of the predicate offense is unknown (Court of Cassation, Sentence No. 8384/1990 and N. 36940/2008).

Criterion 3.6— The CC does not specify whether the predicate offenses for ML extend to conducts that occurred in another country. However, Italy's Court of Cassation jurisprudence clarified that the ML offense is applicable when the predicate offense has been committed abroad and is also an offense under Italian law (Court of Cassation, Sentence No. 42120/2012

Criterion 3.7— Article 648 ter1 of the CC, which came into force on January 1, 2015,[83] criminalizes self-laundering in instances where the fundamental principle of "ne bis in idem"[84] does not apply. Its first paragraph provides that it shall punish "any persons who, having committed or participated in committing an intentional crime, employs, replaces, or transfers within economic, financial, business, or speculative activities, the money, assets, property or others benefits resulting from the commission of this crimes(s), so as to concretely hinder the identification of their criminal origin" (para 1). Its fourth paragraph states that "in cases other than [those described above], conducts are not punishable whereby the money, assets/property, or other benefits are intended for merely personal use or enjoyment". Due to its recent enactment, article 648 ter had not been applied at the time of the assessment. In the absence of a court decision on the implementation of the new provision, the authorities noted that the precise scope of article 648 ter 1 is open to interpretation and debate.

The authorities' understanding is that the first paragraph (i.e., the punishable events) has a broad application, whereas the scope of the fourth paragraph (the non-punishable activities) is residual (because it explicitly mentions "in cases other than" those in the previous paragraphs) and applies in limited circumstances only (namely, solely where the fundamental principle of ne bis in idem applies).[85]

With respect to the first paragraph, they maintain that the wording is broad, in particular, the reference to "employs" and goes beyond the conducts listed in article 6(1)(a) of the Palermo convention as it includes any form of "re-introduction" of the assets into the legitimate economic circuit. The concealment element captured by "so as to concretely hinder the identification of their criminal origin" is an objective element of the conduct which includes any obstacle to the identification of the assets' origin, irrespective of the purpose or aim of the perpetrator, i.e., any act

[83] This new provision was included in the December 2014 law on "provisions to regulate disclosure and repatriation of assets held abroad and strengthen the countering of tax evasion" which introduced the VTC program described under 3.2 above. Until this new law, the ML offense did not apply to persons who committed the predicate offense (articles 648 bis and ter of Criminal Code). However, Italy's Cassation Court (sentence n.25191/2014) stated that self-laundering was punishable in some limited circumstances as per article 12 quinquies of Decree-Law n.306/192, ratified with amendments by law No. 356 dated August 7, 1992. This article sanctions the fraudulent transfer of money, assets, or property,

[84] "*Ne bis in idem*" is the Civil law equivalent of the Common law concept of double jeopardy.

[85] The authorities' understanding of the new article 648 *ter*.1 is shared by Associate Professor Francesco Mucciarelli of the Bocconi University, in "*Qualche nota sul delitto di autoriciclaggio*" published in *Diritto Penale Contemporaneo* on December 24, 2014 (www.penalecontemporaneo.it)

which make the identification more difficult. The term "concretely" (which does not appear in the wording of the ML offense) is intended to refer to the objective facts and not to the perpetrator's intention. The reference to "within economic, financial, business or speculative activities" was explained as intended to introduce the notion of "re-introduction" or "re-entry" into legitimate economic activities, which according to the authorities is the key element that distinguishes the punishable activities from those that constitute "post factum" activities (and that are not punishable in light of the fundamental principle of ne bis in idem).

With respect to the fourth paragraph, the authorities maintain that it applies only when the "acquisition, possession or use of property" constitute post factum" activities (which, in light of the ne bis in idem principle, cannot be punished), which is in line with article 6(1)(b) of the convention. It is limited to instances where the assets were intended only for personal use or enjoyment, and where there is no concealment. Although this is not reflected in the text, according to the authorities, the terms "merely personal use" apply to money and other movables assets, whereas "personal enjoyment" apply to immovable assets. Any form of "re-introduction" of proceeds into the economic-financial circuit is excluded in both cases because it is sanctioned under the first paragraph (which has a general application). Similarly, the absence of concealment activities is not specifically mentioned in the fourth paragraph, but is implied because any form of concealment is sanctionable in implementation of the first paragraph.

The entry in force of article 648 ter para. 1 of the CC constitutes an important progress in the Italian legal framework. Read in light of the authorities' explanations, it is in line with the standard, but the interpretation of its wording (and especially of the references to activities committed "within economic, financial, business or speculative activities" and "mere personal use" could prove challenging for the courts.

Criterion 3.8— Article 192 of Criminal Procedure Code (CPC) states that circumstantial evidence is admitted, and jurisprudence clarified that the knowledge element of the ML offense can be inferred from factual circumstances (Court of Cassation, Sentence No. 9090/1995

Criterion 3.9— Since December 4, 2014, ML is punishable by more stringent sanctions than in the past, namely imprisonment from 4 to 12 years and a fine from EUR 5 000 to EUR 25 000 to natural persons (article 648 bis of the CC).[86] Ancillary penalties shall also be applied, such as prohibition of public functions, or of other profession, prohibition for public procurements (article 19 CC). For self-laundering, imprisonment ranges from two to eight years, and the fine is the same as that for ML (article 648 ter.1 of the CC), and ancillary penalties also apply. The penalties are reduced for self-laundering related to predicate offenses punished with imprisonment of less than five years (imprisonment from one to four years and a fine of EUR 2 500 to EUR 12 500). Although the amount of the fine for ML and self-laundering is one of the highest in Italy, it is not proportionate and dissuasive.

Criterion 3.10— The LD No. 231/2007 of November 21, 2007, entered into force on January 1, 2008, introduces sanctions for legal persons involved in the ML offense (article 648 bis of the CC), the receiving offense (article 648) and the use of money, funds or assets of illegal origin offense (article 648 ter) (new article 25 octies of LD No. 231/2001). The sanctions include fines from EUR 25 800 to EUR 1 549 000 and a prohibition to conduct certain activities for a period of time no

[86] Until the new law criminalizing self-laundering, ML was punishable by imprisonment from 4 to 12 years and a fine from EUR 1 032 to EUR 15 493 to natural persons (article 648 *bis* of the criminal code).

longer than two years. Article 5 of the AML Law also lays down rules on administrative liability of legal persons for crimes committed in their interest or for their benefit. The criminal liability of natural persons is not affected by the liability of legal person: both liabilities are actionable.

Criterion 3.11— Instigation to commit, attempt, criminal association, aiding and abetting are criminalised by the CC (in articles 414, 416, 416 bis, 56, and 378–379 respectively) and are applicable in the context of the ML offense.

Weighting and Conclusion

Italy meets all the criteria, except criterion 3.9 which is partially met (and criterion 3.3 which is non-applicable). Italy is largely compliant with R.3.

Recommendation 4 - Confiscation and provisional measures

In its 2005 MER, Italy was rated largely compliant with former R.3. The technical deficiencies were a) voiding transactions should be extended to AML cases, b) the definition of assets should be broadened, c) the lack of system of confiscation of assets of corresponding value, and d) the fact that confiscation of assets held by third parties was not possible. Italy subsequently addressed deficiencies b), c), and d) through its AML Law, and deficiency a) through LD N. 159/2011 (the Anti-Mafia Code). The standard now also includes new requirements.

Criterion 4.1— Article 648 quater of the CC provides for the confiscation of the assets which are the product or profit of the ML offenses (stated by articles 648 bis and ter of the CC).[87] It also provides for the confiscation of equivalent sums of money, assets or other property which the offender has available, including through intermediaries, for a value equivalent to the product, price or profit of the offense. Instrumentalities may be confiscated in application of article 240 of the CC. The Italian law has also provided to the confiscation "for disproportion" (article 12 sexies of Law Decree N. 306/92 converted into Law N.356/1992): in case of conviction for offenses of ML or offenses committed with the aim of terrorism, confiscation shall always apply to money, assets, or other property of which the offender cannot justify the origin and which, despite being held by a third person or entity, appear to be his property or are available to him, for any function, in a disproportionate measure with respect to his income. With respect to the financing of terrorism, article 270 bis of the CC imposes the mandatory confiscation of the items that served or were intended to be used ordered to commit the offense or the related price, product, profit or use of these items. Confiscation "not based upon conviction" (preventive confiscation) is also provided by the Anti-Mafia Code (article 24): under these provisions, the judicial authority shall order confiscation against persons only suspected of ML/TF. This legislation on ML shall apply when the ML offense is committed habitually. The preventive measure of seizure (preventive seizure) may be implemented before being communicated to the concerned party (article 22 of the same code).

[87] Italy has not yet fully implemented the EU Council Framework Decision 2005/212/JHA on confiscation of crime-related proceeds, instrumentalities, and properties. As for now, Italy has to implement only "confiscation per equivalent" for all offenses punishable by a term of imprisonment exceeding one year (Article 2 of Framework Decision). However, in these cases under Article 240 Criminal Code (general confiscation) shall apply.

Criterion 4.2— Article 648 quater of the CC gives the prosecutor the powers to take any investigative measures necessary to trace the assets, money, or other property to be confiscated. Article 321(2) of the CC, which has a general scope, also provides for preventive seizure that may be ordered by the Court at the request of the prosecutor, of assets, sums of money, and other property subject to confiscation under article 648 bis. Seizure of equivalent value may also apply.

The judge ordering the preventive confiscation of seized assets must declare the nullity of the transfer of property if it has been established that certain assets and properties have been fictitiously assigned or transferred to third parties (article 26 of the Anti-Mafia Code).[88] Such measures apply in mafia-related cases but also in others when the offense is committed habitually (articles 1, 4, 16, and 24 of the Anti-Mafia Code) or to persons suspected of one of the crimes listed in article 51 (3 bis) of CC (such as theft, robbery, or drug trafficking). Article 19 of the Anti-Mafia Code ("assets investigation") provides an additional type of investigation aimed at determining the overall financial situation and possible sources of income in order to apply preventive measures. The purpose of this investigation is not to gather evidence of an offense but to apply preventive measures to persons suspected of ML or TF (even outside a criminal process).

Criterion 4.3— Bona fide third parties are entitled to restitution of the property seized (article 263 of the CPC) and may challenge the seizure order (but not the confiscation decision) through a request for reconsideration and appeal to the Court of Cassation (articles 322, 322 bis, 324, and 325 of the CPC). Similar measures are provided by the Anti-Mafia Code in the matter of mafia cases.

Criterion 4.4— Confiscated funds and assets are managed by different authorities:

- The ANBSC, the National Agency for the Management and Allocation of Seized and Confiscated Assets to Organised Crime[89] which is the central authority in charge of the administration, management, and custody of assets other than cash seized and/or confiscated in cases related to mafia crimes and other organised crimes (including terrorism financing crimes, when organised), confiscation for disproportion, and preventive measures (Title III of the Anti-Mafia Code);
- Fondo unico Giustizia (FUG) which is in charge of the administration of seized and confiscated funds; and
- The Agenzia del Demanio, which is the central authority in charge of the administration, management, and custody of public property, is residually in charge of confiscated real estate not related to organised-crime cases.

In mafia and other organised crime cases, during the phase of seizure, judicial administrators are assisted by the ANBSC, which replaces them over the phase of direct management of property since the relevant confiscation decision is issued (article 35 of Anti-Mafia Code). In the other cases, article 259 of the CPC applies: the seized objects shall be placed in custody at the judge's or the public prosecutor's Clerk's Office or, if this is impossible or inappropriate, in another custodian appointed by the judicial authorities.

[88] The Anti-Mafia Code provisions apply to a wide range of persons among whom: those who are to be considered to be usually engaged in serious crimes an "habitual basis" and those whose standard of living appears to be even in part, funded with the proceeds of crime; as well as persons suspected of TF (the complete range of persons can be found in articles 1, 4, 16 of the Anti-Mafia Code).

[89] Agenzia Nazionale per l'Amministrazione e la Destinazione dei Beni Sequestrati e Confiscati alla Criminalità Organizzata

Weighting and Conclusion

Italy meets all the criteria. It has a strong and comprehensive legal framework that enables the authorities to undertake all the necessary provisional measures and confiscate all property as required in the standard. Italy is compliant with R.4.

Recommendation 5—Terrorist Financing Offense

In its 2005 MER, Italy was rated largely compliant with former Special Recommendation (SR.) II. The TF offense was considered as not fully consistent with the International Convention for Suppression of the Financing of Terrorism (ICSFT) because (i) of a lack of definition of the concept of "financing associations" that did not include the collection of funds or the transfer and concealment of assets, and (ii) it did not extend to the financing of individual terrorists. Italy subsequently addressed both deficiencies via Decree-Law n. 144 of July 27, 2005 converted into Law No. 144 31.7.2005 (article 15 "new criminal offence of terrorism" introduced article 270 sexies in the CC) and via LD n.109/2007 of June 22, 2007.

Criterion 5.1— Italy ratified the ICSFT through Law No.7 of January 14, 2003.[90] The jurisprudence of the Court of Cassation about the article 270 sexies of the CC (which defines the terrorist conducts) makes reference to binding international instruments for Italy, such as SFT Convention, and, doing so, introduces a mechanism capable of automatically ensuring harmonisation of laws of the State party (Sentence No. 1072/2006). Article 1 para. 1 (a) of the LD N. 109/2007 defines "terrorist financing" as "any activity that aims, through any means, to collect, supply, mediate, deposit, hold or disburse funds or economic resources, in any way undertaken, wholly or in part, for the purpose of committing one or more criminal acts of terrorism or favour the commission of one or more criminal acts of terrorist covered by Italy's Criminal Code, regardless of whether such funds or economic resources were actually used to commit said criminal acts." All terrorist conducts, including TF, are criminalized by virtue of the ratification of this convention and the issuance of articles 270 bis and 270 sexies of the CC (which set out the sanctions for TF).

[90] Italy has also ratified the instruments listed in the annex to the ICSFT through the following laws:

Convention for the Suppression of Unlawful Seizure of Aircraft, The Hague, 1970	Law 906/1973
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Montreal, 1971	Law 906/1973
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, UN, 1973	Law 485/1977
International Convention against the Taking of Hostages, UN 1979	Law 718/1985
Convention on the Physical Protection of Nuclear Material, Vienna 1980	Law 704/1982
Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Montreal 1988	Law 394/1989
Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Rome 1988	Law 422/1989
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms, Rome 1988	Law 422/1989
International Convention for the Suppression of Terrorist Bombings, UN 1977	Law 34/2003

Criterion 5.2— Article 270 bis of the CC punishes anyone who finances associations whose purpose is to carry out acts of violence with the purpose of terrorism or democratic order subversion. Since the 2005 MER, Italy adopted the LD N.109/2007 of June 22, 2007 which, in its article 1 para. 1 no longer mentions the financing associations and broadens the TF definition. In accordance with general principles, the definition of the concept of TF provided by this Decree completes the criminal provision of article 270 bis of the CC. Under this Decree, TF offense is not bound to the act of financing associations but could include any financing activity undertaken for the purpose of committing a criminal act of terrorism or favour such a terrorist act.

Criterion 5.3— Article 270 bis of the CC provides that "anyone who promotes, establishes, organizes, directs, or finances associations whose aim is to carry out acts of violence with the purpose of terrorism or subversion of democratic order shall be punished." This text does not include any limitation with respect to the origin of the funds and therefore includes funds of both legitimate and illegitimate sources. The Italian authorities confirmed that, for the purposes of the application of the TF offense, it is irrelevant whether funds have a legitimate or illegal origin.

Criterion 5.4— According to the authorities, for the purpose of the application of TF offense, it is not required that the funds are used for an act, and not even that the funds are allocated to a specific act. Although the article 270 bis of the CC does not provide any mention about this matter, Italian authorities point out that the offense under this article refers to the "alleged risk" in order to prevent the result of financing, and anticipates punishability at a "prodromal time." Moreover, the Italian Court of Cassation has stated that the offense punished by article 270 bis of CC is committed, without it being necessary that material execution of the terrorist act be actually set up (sentence n° 24994/ 2006).

Criterion 5.5— Intent and knowledge may be inferred from factual circumstances (see write up for Criterion 3.8 above).

Criterion 5.6— TF is punishable with imprisonment from 7 to 15 years.

Criterion 5.7— Legal persons may be liable of the TF offense under article 25 quater of the LD N.231/2001 dated June 8, 2001. This Decree provides administrative sanctions, which range from fines (minimum of EUR 51 600 (i.e., 200 "units of fine" up to a maximum of EUR 1 549 000) to a prohibition to exercise the activity and/or removal of the licenses or authorisations (for a duration to be determined by the judge). A "definitive interdiction" (i.e., indefinite prohibition) can be applied if the legal person was created solely for the purpose of TF. The criminal liability of the natural persons is not affected by the liability of the legal person. Both liabilities are actionable, and it is mandatory to prosecute both persons.

Criterion 5.8— TF complicity is covered by articles 110, 378, and 379 of the CC. Moreover, article 270 bis of the same code provides for the penalty of imprisonment for the conduct as promoter, founder, manager, organizer, and financer of the association involved in the terrorist act: in the case of TF, as soon as the conduct of TF has begun, the offense shall be assessed as already committed and not as merely attempted, and there is no specific requirements stating that the funds must be received by the recipient. As an offense of alleged risk, punishability is anticipated at a "prodromal time." So any attempt shall be punished as a committed crime as per article 270 bis.

Criterion 5.9— TF is a predicate offense for ML offense.

Criterion 5.10— Article 6 of the CC states that the offense, in this case the TF offense, shall be deemed as committed in the territory of the Italian State whereby the act that constitutes it took

place wholly or partly in the state itself, or whereby the event being the result of the action occurred there.

Weighting and Conclusion

Italy meets all the criteria. It has criminalised TF in a comprehensive manner and addressed the deficiencies identified during its previous evaluation. **Italy is compliant with R.5.**

Recommendation 6—Targeted Financial Sanctions Related to Terrorism and Terrorist Financing

In its third MER, Italy was rated largely compliant with former SR.III, due to the limitation in the legal regime on types of assets that could be frozen, as well as the lack of protections for the rights of bona fide third parties.

Identifying and designating

Criterion 6.1— With regards to designations under UN Security Council Resolutions (UNSCR) 1267/1989 and 1988, both EU and domestic measures apply. EU regulations 881/2002 and 753/2011 provide the legal framework for the implementation of UNSCRs 1267/1989 and 1988 sanctions. In addition, Italy has adopted LD 109/2007 and MD203/2010.

a) Per articles 6 of MD 203/2010 and 3 (10) of LD109/2007, Italy has established the FSC, which is explained above in R.1, and this body is the competent authority for proposing designation submissions to UNSCR 1267/1989 and 1988 Sanctions Committees and EU. The FSC nominated 80 individuals and 16 entities to the 1267/1989 Al-Qaeda section, of which 27 individuals and 16 entities were delisted.

b) Per articles 6 of MD 203/2010, and 3(13) of LD 109/2007, and the "Whereas" section of the MD, the FSC has an established mechanism to propose targets for designation based on information from the law enforcement agencies as well as foreign states and international bodies while taking into account the UN and EU frameworks for implementing sanctions under the 1267/1989 and 1988 regimes.

c) According to article 6 (2)c of MD 203/2010, the information collected in support of a designation should be consistent with a "reasonableness standard" (please see explanation under 6.3). Designations are not contingent upon a criminal proceeding.

d) MD 203/2010 establishes a general procedure covering: the sources of information, types of information to include, as well as the form of information to be sent through the MFA to the relevant UN Security Council Sanctions Committee.

e) Article 6 of MD 203/2010 requires the collection of information in support of UN or EU listing. This information could include: factual evidence of active, or supporting, participation by the concerned individuals and/or entities in terrorist activities; criminal proceedings or jurisdictional provisions against the individual/entity being proposed for designation; information on possible relationships between subjects proposed for designation and individuals or entities already listed; information on other sanctions imposed per UNSCRs or EU Common Positions; specific identification information; and any other relevant information, including information from foreign states and

international bodies. As per articles 6 (3) and (4) of MD 203/2010, in order to ensure international coordination, the FSC shall share designation proposals with the bodies performing similar activities in other countries and transmit the motivated proposal for the subjects designated for listing, through the MFA, to the competent bodies of the UN and/or the European Union. The Decree is silent on the procedure regarding whether or not the government should make known their designating status to other UN member states.

Criterion 6.2— With regards to designations under UNSCR 1373, both EU and domestic measures apply. Council Common Position (CP) 2001/931/CFSP and EC Regulation 2580/2001 establish the framework for UNSCR 1373 sanctions. In addition, Italy has adopted LD 109/2007 and MD 203/2010.

- At the EU level, the Council of the EU is the competent authority for making designations, per EU Council Regulation 2580/2001 and Council Common Position 931/2001/CFSP. Domestically, per articles 6 of MD 203/2010 and 3 (10) of LD 109/2007, the FSC is the competent authority for proposing designation submissions to the EU.
- Per articles 6 of MD 203/20 October 2010 and 3(13) of LD 109/2007, while the FSC has an established mechanism to propose targets for designation based on the information from the law enforcement agencies, as well as foreign states and international bodies, as the "Whereas" section of MD 203/2010 notes both CP 2001/931/CFSP and EC Regulation 2580/2001 of December 27, 2001.
- At the EU level, when requests are received, CP 931 Working Party (WP) of the Council of the EU examines and assesses whether the person meets the 1373 designation criteria.[91] Article 3 (9) of LD 109/2007 entrusts the FSC to receive requests from third countries, although it is silent with regards to the promptness for this review and determination.
- CP 931 WP applies a "reasonable basis" evidentiary standard of proof, and the decision is not conditional on the existence of criminal proceedings: CP 2001/931/CFSP article 1(2) and (4). At the domestic level, according to Article 6 (2)c of MD 203/2010, the information collected in support of a designation should be consistent with a 'reasonableness standard' (see discussion under 6.3 (a)).
- At the EU level, requests to third countries are addressed in the CP 2001/931/CFSP or EU Regulation 2580/2001. While there is no specific procedure under either LD 109/2007 or MD 203/2010 for requesting another country to give effect to the actions initiated under Italian national freezing mechanisms, article 3(9) of LD N. 109/1997 allows the FSC to request other countries to take freezing actions. Italy has not utilised this national measure, as the authorities rely on freezing through multilateral institutions, such as the UN or EU level. To date, Italy has proposed 16 individuals and 1 entity to the CP 2001/931 CFSP list.

Criterion 6.3—

- At the EU level, all EU Member States are required to provide each other with the widest possible range of police and judicial assistance in these matters, inform each other of any measures taken, and cooperate and supply information to the relevant UN Sanctions Committee. Per articles 3(5) of LD 109/2007 and 2 (8–10), 3(8), and 5 of the MD 203/2010, the FSC has the power to collect and

[91] The criteria specified in CP 2001/931/CFSP are consistent with the designation criteria in resolution 1373.

solicit information to identify persons and entities that meet the criteria for designation from the law enforcement agencies. The listed elements provide the basis for the authorities' logical basis to conclude that the identified person is the same as the person identified in the information. Article 6 (2)c of MD 203/2010, the information collected in support of a designation should be consistent with a 'reasonableness standard,' which is not further defined, but the authorities have explained to mean that the decision to propose the listing had to be supported by underlying information in light of the elements referred to in Article 6(2) of MD 203/2010.

- According to EC Regulation 1286/2009 preamble para.5, designations take place without prior notice to the person/entity identified. For asset freezing, the Court of Justice of the EU makes an exception to the general rule that notice must be given before the decision is taken in order not to compromise the effect of the first freezing order. The listed individual or entity has the right to appeal against the listing decision in Court, and seek to have the listing annulled. There is no provision in Italian law or regulation that stipulates that authorities can act ex parte against a person or entity; however, the authorities infer this element from the fact that article 8(2) of MD n. 203/2010 states that the procedure for notifying individuals for designation occurs exclusively after listing.

Freezing

Criterion 6.4— In the EU framework, implementation of targeted financial sanctions (TFS), pursuant to UNSCRs 1267/1989 and 1988, does not occur "without delay." Because of the time taken to consult between European Commission departments and translate the designation into all official EU languages, there is often a delay between when the designation and freezing decision is issued by the UN and when it is transposed into EU law under Regulation 881/2002. As regards Resolution 1988, similar issues arise when the Council transposes the decision under Regulation 753/2011. In 2013, transposition times ranged from 7 to 29 days for resolution 1989 designations, and 7 days to 3.5 months for resolution 1988 designations.[92] Domestically, Italy can address delays regarding 1267/1989 and 1988 designations, whereby the MEF and MFA can jointly issue a decree imposing a freezing order pursuant to article 4 of LD 109/2007 upon legal and natural persons in the interim period between UN Security Council action and relative EU implementing action. For resolution 1373, TFS are implemented without delay because, once the decision to freeze has been taken, Council Regulation 2580/2001 is immediately applicable to all EU Member States. However, in the case of delays of requests under UNSCRs 1267 and 1373, the FSC would request that the public prosecutor freeze the accounts on the basis of articles 4 and 16 of the Anti-Mafia Code. This mechanism is applicable without delay: Article 22 provides that the Court must order freezing measures within five days of their request or, in case of particular urgency, upon their request.

Criterion 6.5—

a) As an EU member, the EU regulations transposing UNSC decisions are directly applicable to all Member States upon the day of publication in the EU's Official Journal. The FATF standard for 'without delay' indicates that this should be done in a matter of hours. For UNSCRs 1267/1989 and 1988, there is an obligation to freeze all funds, financial assets, or economic resources of designated persons/entities.[93] However, as described in

[92] In the third round of mutual evaluations, these delays ranged generally between 10 to 60 days.
[93] EU Regs. 881/2002 article 2(1), 1286/2009 article 1(2), 753/2011 article 4, and 754/2011 article 1.

criterion 6.4, long transposition times mean that this does not happen without delay and raises the question of whether the freezing action, in practice, takes place without prior notice to the designated person/entity. For UNSCR 1373, the obligation to freeze all funds/assets of designated persons/entities applies immediately to all EU Member States, and without notice to the designated persons/entities: EU Regulation 2580/2001 article 2(1)(a). Listed EU internals[94] are not subject to the freezing measures of Regulation 2580/2001, but are subject to increased police and judicial cooperation among Member States: CP 2001/931/CFSP footnote 1 of Annex 1. Supplementing the EU framework, the freezing obligation for natural and legal persons is also covered by national legislation (see article 4 of LD 109/2007 and the Anti-Mafia Code). The obligation for natural and legal persons to freeze the assets of designated persons derives automatically from the entry into force of EU regulation, without any delay in this respect.

b) For UNSCRs 1267/1989 and 1988, the freezing obligation extends to all funds/other assets that belong to, are owned, held or controlled by a designated person/entity. The obligations to freeze the funds or assets of persons and entities to be frozen when acting on behalf of, or at the direction of, designated persons or entities is met by the requirement to freeze funds or assets "controlled by" a designated entity, which extends to persons acting on their behalf in relation to those funds: EU Council Regulation 881/2002 article 2 (2). For UNSCR 1373, the freezing obligation does not cover a sufficiently broad range of assets under the EU framework (although subsequent regulations cover a wider range) in EU regulation 2580/2001 art.1(a) and art.2(1)(a). Italy has supplemented the EU framework through article 1(c) of LD 109/2007, wherein Italy can affect assets "owned also through a third natural or legal persons" and the authorities have tested this in practice under their 1267/1989 sanctions program.

c) Under the EU framework per EU Regulations 881/2002 (article 2(2)), 1286/2009 (article 1(2)), 753/2011 (article 4) and 754/2011 (article 1), EU nationals and persons within the EU are prohibited from making funds and other assets available to designated persons and entities.

d) According to articles 10(4) of LD 109/2007 and 8 and 10(5) of MD 203/2010, the UIF shall disseminate lists of designated subjects to FIs and DNFBPs through their professional associations. The UIF has also issued guidance in 2001 and 2002 related to the obligations of freezing of subjects and reporting. Per article 8 (3) of MD 203/2010, the UIF has the power to pre-notify FIs for all designations. All EU regulations are also published in the Official Journal of the European Union, and the EU maintains a consolidated list of designated individuals. Italian entities that subscribe to the EU's RSS feed are also informed of all changes.

e) Natural and legal persons (including FIs/DNFBPs) are required to provide immediately any information about accounts and amounts frozen under both EU and domestic legislation per articles 5.1 of EU Regulation 881/2002, 4 of EU Regulation 2580/2001, 8 of EU Regulation 753/2011, and 7 of LD 109/2007.

[94] "EU internals" are persons who have their roots, main activities, and objectives within the EU.

f) Articles 6 of EC Regulation 881/2002, 7 of EC Regulation 753/2001, 4 of Regulation 2580/2001, and 5 (8) of LD 109/2007 protect the rights of bona fide third parties acting in good faith when undertaking freezing actions.

De-listing, unfreezing and providing access to frozen funds or other assets

Criterion 6.6—

a) Articles 10 (1–2) of MD 203/2010 and 3(12) of LD 109/2007 permits the FSC to consider proposals for delisting individuals and/or entities, and to propose to the relevant UN and EU body delisting. Italy has not adopted additional specific procedures for delisting, and is reliant on the EU framework in this regard.

b) For 1373 designations, amendments to Regulation 2580/2001 are immediately effective in all EU Member States. Per articles 3 (11) of LD 109 and 11 of MD 203/2010, the FSC is responsible for considering unfreezing funds of individuals and entities from the designation lists.

c) At the EU level, a listed individual or entity can write to the Council to have the designation reviewed or can challenge the relevant Council Regulation, a Commission Implementing Regulation, or a Council Implementing Regulation in Court, per Treaty on the Functioning of the European Union (TFEU), article 263 (4)). Article 275 also allows legal challenges of a relevant CFSP Decision. When freezing is decided through LD 109/2007, article 14 of this decree applies, wherein a petition is made to the Administrative Tribunal. When freezing is disposed through anti-mafia measures, judicial remedies apply.

d) & e) For 1267/1989 and 1988, designated persons/entities are informed about the listing, its reasons and legal consequences, and have rights of due process. At the EU level, there are legal authorities and procedures for de-listing, unfreezing, and allowing a review of the designation by the European Commission (UNSCR 1267/1989) or the Council of the EU (UNSCR 1988). The designation can also be reviewed using the UN mechanisms of the UN Office of the Ombudsperson (UNSCR 1267/1989 designations) or the UN Focal Point mechanism (UNSCR 1988 designations). These procedures may take place in parallel: EU Council Regulation 881/2001 article 7a and EU Council Regulation 753/2011 article 11. Per article 9 of MD 203 of October 20, 2013, the FSC periodically reviews the listings in accordance with subjects in international lists. Per article 4 of LD 109/June 22, 2007, the FSC informs listed entities through the GdF and per article 8(g) of MD 203/2010, GdF would inform listed individuals/entities of remedies in place, including the Focal point mechanism.

e) According to the EU Regulations 881/2002 and 2580/2001, upon verification that the person/entity involved is not designated, the funds/assets must be unfrozen. Italy does not have publicly known procedures to unfreeze the funds of persons inadvertently affected, as the authorities believe that it is not a matter of urgency to have available a public procedure in this regard since it has occurred very seldom.

f) According to articles 10(4) of LD 109/2007 and 8 and 10(5) of MD 203/2010, the UIF shall disseminate lists of designated subjects to FIs and DNFBPs through their professional associations.

Criterion 6.7— At the EU level, there are mechanisms for authorizing access to frozen funds or other assets which have been determined to be necessary for basic expenses, the payment of certain types of expenses, or for extraordinary expenses, per articles 2a of EU Regulation 881/2002, EU Regulation 753/2011, and 5–6 of EU Regulation 2580/2001.

Weighting and Conclusion

Italy meets all the criteria except 6.3 and 6.5 which are largely met. It has the authorities and mechanisms to propose nominations for designation, process requests for basic expenses, as well as unfreeze assets. Italy has also adopted national measures to supplement the EU framework, in particular, Italy can also freeze assets of EU internals, and assets owned/controlled by listed persons. Deficiencies nevertheless remain: there is no system for active notification to FIs and DNFBPs of newly listed persons. **Italy is largely compliant with R.6.**

Recommendation 7—Targeted Financial Sanctions Related to Proliferation

This recommendation was added to the standard in 2012—Italy has, therefore, not previously been assessed against this recommendation.

Criterion 7.1— As a member of the EU, Italy relies upon the EU framework, supplemented by domestic measures, for implementation of R.7.[95] Domestically, Italy relies upon LD 109/2007 and MD 203/2010.

Criterion 7.2—

R.7 requires implementation of proliferation-related targeted financial sanctions (TFS) to occur without delay—a term that, in this context, is defined to mean "ideally, within a matter of hours." The EU regulations require all natural and legal persons within the EU to freeze the funds/other assets of designated persons/entities. This obligation is triggered as soon as the regulation is approved and the designation published in the Official Journal of the European Union (OJEU). However, delays in transposing the UN designations into EU law means that freezing may not happen without delay for entities which are not already designated by the EU, and raises the question of whether the freezing action, in practice, takes place without prior notice to the designated person/entity. Article 4 of LD 109/2007 could remedy this concern through the adoption of a freezing decree by the Ministers of economy and finance, and of foreign affairs at the request of the FSC. According to the authorities, this mechanism can, in practice, be implemented within a matter of hours (article 3 of the MD 203/2010 notably provides that the FSC may take decisions without meeting, i.e. by exchanges of emails, to expedite the process) but the legislation does not specifically require action without delay.

The freezing obligation extends to the full range of funds or other assets required by R.7.

Under the EU framework, EU nationals and persons within the EU are prohibited from making funds and other assets available to designated persons and entities per articles 6(4) of EU Regulation 329/2007 and 23 (3) of EU Regulation 267/2012.

[95] UNSCR 1718 on the Democratic People's Republic of Korea (DPRK) is transposed into the EU legal framework through Council Reg. 329/2007, Council Decision (CD) 2013/183/CFSP, and CD 2010/413. UNSCR 1737 on Iran is transposed into the EU legal framework through Council Reg. 267/2012.

According to articles 10(4) of LD 109/2007 and 8 and 10(5) of MD 203/2010, the UIF shall disseminate lists of designated subjects to FIs and DNFBPs through their professional associations. All EU regulations are also published in the Official Journal of the European Union, and the EU maintains a consolidated list of designated individuals. Italian entities that subscribe to the EU's SS feed are also informed of all changes.

Under article 7 of LD 109/2007, obliged entities are required to report to the UIF and GdF-Special Currency Unit (NSPV) when the FI, DNFBP, or public administration office takes any freezing action, including attempted transactions.

Articles 42 of EC Regulation 267/2012 and 11 of EC Regulation 329/2007, as well as 5 (8) of LD 109/2007 protects the rights of third parties acting in good faith when undertaking freezing actions.

Criterion 7.3— EU Member States are required to take all measures necessary to ensure that the EU regulations in this area are implemented, and have effective, proportionate and dissuasive sanctions available for failing to comply with these requirements.96 Building on the EU framework, Italy's domestic legislation in article 10 (1) of LD 109/2007 entrusts the UIF with monitoring implementation of these sanctions. While the EU framework is more recent in this regard, the LD's definition of "Council Regulation" captures EC Regulations 2580/2001, 881/2002, and all regulations issued pursuant to articles 60 and 301 of the EC Treaty. The UIF undertakes this activity through on-site and off-site monitoring. Both administrative and criminal sanctions are available to address infractions of the freezing orders. According to article 13 of LD 109/2007, authorities can issue a fine of not less than half the value of the transaction and not more than twice the value in circumstances where a financial institution of DNFBP makes funds available (frozen or not). There are also penalties if a financial institution or DNFBP fails to notify the UIF when it locates frozen assets, and those administrative penalties range from EUR 500–25 000, per LD 109/2007 article 7. Criminal penalties are provided in article 2 of LD 64/2009, whereby infractions are subject to imprisonment from 2 to 6 years. Italy has issued fines under these provisions.

Criterion 7.4— The EU Regulations contain procedures for submitting delisting requests to the UN Security Council for designated persons/entities that, in the view of the EU, no longer meet the criteria for designation. Italy does not have publically known procedures for delisting requests, but articles 10 (1–2) of MD 203/2010 and 3(12) of LD 109/2007 permit the FSC to consider proposals for delisting individuals and/or entities, and to propose to the relevant UN and EU body delisting.

The Council of the EU communicates its designation decisions and the grounds for listing, to designated persons/entities, who have rights of due process. The Council of the EU shall promptly review its decision upon request, and inform the designated person/entity. Such a request can be made, irrespective of whether a de-listing request is made at the UN level (for example, through the Focal Point mechanism). Where the UN de-lists a person/entity, the EU amends the relevant EU Regulations accordingly.[97] Per article 4 of LD 109/June 22, 2007, the FSC informs listed entities through the GdF.

Italy does not have publically known procedures to unfreeze the funds of persons inadvertently affected for the reasons articulated under 6.6 (f) above. Under Law 21/1990 on administrative proceedings, anyone can ask the FSC why a decision has been taken, and the FSC must reply.

[96] EU Council Regulation 329/2007 article14 and Reg.267/2012 article 47.
[97] EU Council Regulation 329/2007 article 13.1(d) and (e), Reg.267/2012 article 46, and CP 2006/795/CFSP article 6.

At the EU level, there are specific provisions for authorizing access to funds or other assets, where the competent authorities of Member States have determined that the exemption conditions set out in resolutions 1718 and 1737 are met, and in accordance with the procedures set out in those resolutions.[98] Domestically, per articles 3 (11) of LD 109 of 22 June 2007 and 11 of MD 203/2010, the FSC is responsible for considering requests to unfreeze funds of individuals and entities from the designation lists, or to transfer funds to or from an Iranian person, entity or body above the threshold (according to the more restrictive legislation enacted by the EU). Italy has established a web-platform where entities can request on-line authorisation for these funds.

According to articles 10(4) of LD 109/2007 and 8 and 10(5) of MD 203/2010, the UIF shall disseminate lists of designated subjects to FIs and DNFBPs through their professional associations.

Criterion 7.5—

a) According to articles 29 of EU Regulation 267/2012 and 9 of EU Regulation 329/2007, interests or other earnings to frozen accounts or payments due under contracts, agreements or obligations are permitted, as long as they are subject to the freezing action.

b) Per articles 8 of EU Regulation 329/2007 and 24-28 of EU Regulation 267/2012, payments due under a contract entered into prior to the date of listing are permitted provided that prior notification is made to the UNSCR 1737 Sanctions Committee, and determination that the payment is not related to any of the prohibitions under UNSCR 1718.

Weighting and Conclusion

Italy partially meets criterion 7.2, largely meets criterion 7.4 and meets the remaining criteria. The concerns identified under R.6 relating to passive notification of obliged entities, are also relevant to this recommendation. Criterion 7.2 is a fundamental component of R.7. **Italy is partially compliant with R.7.**

Recommendation 8—Non-Profit Organisations

In its third MER, Italy was rated compliant with these requirements (pages 92–94).

Criterion 8.1— The possible legal structures for non-profit entities are associations, foundations, cooperatives, and committees. Non-profit organisation (NPO) is not a legal status itself; NPOs adopt the legal structures provided for by the Italian civil code. The Organizzazioni non-lucrative di utilità sociale (ONLUS) does not represent a new type of legal entity. These are a type of fiscal entity that, subject to specific requirements, enjoy lower income tax and VAT regimes.

NPOs represent a very complex and heterogeneous field ranging from small charities to extremely complex structures such as hospitals, universities, and foundations. Article 18 of the Constitution recognizes the right of free associations. Associations are not required to be registered. However, if they want to acquire legal status, receive grants or other benefits, they need to register.

[98] EU Council Regulation 329/2007 articles 7 and 8, and EU Council Regulation 267/2012 articles 24, 26, and 27.

Non Profit sector	Form	Legal status	Number of entities
	Non Incorporated Associations	No	201 044
	Incorporated Associations	Yes	68 349
	Foundations	Yes	6 220
	Social Cooperatives	Yes	11 264
	Other forms, including committees	If incorporated	14 354
Total			**301 191**

Source: ISTAT, 2013

Associations are required to maintain accounting records. Some of the entities with legal status are subject to specific controlled measures, depending on the type of activities that they carry out or the administrative or fiscal status that they wish to acquire. The MLSP is entrusted to exert control over non-profit organisations. In 2012, MLSP took over the functions previously exerted by *Agenzia per il terzo settore* (NPOs Agency, previously called ONLUS Agency). Furthermore, specific measures have been taken to prevent the possible misuse of the non-profit sector for the purpose of financing of terrorism. The BoI has issued operating guidelines regarding NPOs in July 2003, which require all financial intermediaries to pay special attention to the quality of associates, the beneficiaries and country of destination of donations, as well as to possible inconsistencies between transactions and the subjective profile of the client. It also recalls the obligation to immediately declare all suspicious transactions to the UIF. In addition, NPOs are subject to the general obligation to transfer funds through authorised financial intermediaries for all transfers of EUR 1 000 and more and to the obligation to declare cross-border transfers.

The various types of NPOs are:

a. **Voluntary organisations:** These are regulated by Law No. 266/1991. Any organisation that primarily and expressly avails itself of the personal, voluntary, and free-of-charge services of its members is considered a voluntary organisation. Voluntary organisations must perform their activities on a non-profit basis (including indirect profits) and exclusively for solidarity purposes. Voluntary organisations can adopt the legal form they regard as the best suited to the pursuit of their aims, compatibly with their solidarity purposes. Voluntary activities cannot be rewarded and only expenses agreed in advance can be reimbursed. Regions and provinces can regulate such institutions and keep registers of voluntary organisations. Registration is a prerequisite for accessing public donations and for stipulating conventions and being granted tax benefits. Law No. 266/1991 also established the National Overseeing Body (*Osservatorio nazionale*) for the voluntary sector. The Overseeing Body, presided over by the MLSP and composed of representatives from voluntary organisations, performs research and supervises the voluntary sector.

b. **Social cooperatives:** Law No. 381/1991 resulted in the creation of social co-operatives, its purpose being to pursue the social interests of the community, including the promotion of individuals and their social integration by means of the management of socio-medical and education services; and the pursuit of various activities—agricultural, industrial, commercial or services—aimed at facilitating the entry of disadvantaged individuals into the labour market. Subject to the general co-operative regulations, social cooperatives are to be listed in the Prefectoral Register of Co-operatives, following examination by the Provincial Commission for the Monitoring of Co-operatives (Government Territorial Office).

c. **Nongovernmental organisations (NGOs):** Those working with developing countries are recognised by the MOFA (Law No. 49/1987), enabling them to obtain subsidies for their co-operative activities. Their activities include short- and medium-term projects in developing countries; the selection, training, and employment of volunteers involved in social services; and the training of citizens of developing countries in their local environments. NGOs can assume the legal status of incorporated or not-incorporated associations, foundations or committees. NGOs are subject to periodic checks by the MOFA and are obliged to supply the ministry with detailed accounts of the last three years in order to prove proper fund management. Balance sheets should be certified by external auditor and submitted annually to MOFA.

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

Therefore, in line with such diversity, several regulations have been issued, addressed to different public authorities depending on the specific objective pursued by the law. In particular, Italy's MLSP is the authority entrusted with most organic competencies, and is in charge of the following functions (Law n. 44/2012 in conjunction with article 5 of Presidential Decree n. 329/2001): (1) Supervision and control, in order to assist within proper application of relevant legislation by the third sector. To such end, there are structured forms of cooperation with other bodies in charge of such control activities (GdF and *Agenzia delle Entrate*). The Ministry can request competent financial administration bodies to perform specific checks in order to verify subjective and objective requirements for tax benefits enjoyed or invoked by individual organisations and associations; (2) Promoting knowledge of the third sector, dissemination of good practices and support action for active citizenship education; and (3) Guidance to foster uniform and proper compliance with legislation and regulations in force.

Additional public authorities (both central and local) involved in supervision and monitoring of the activity include: Italy's MoI and Government Territorial Office—*Prefetture*, MOFA, IRA, GdF, and Regions.

Italy developed a draft law for NPOs that is pending before the Parliament for adoption.[99] The ISTAT has detailed statistics about the different NPOs and the NRA included an analysis of the risks related to the sector. However, Italy could improve its understanding of the risks including the features and types particularly at risk for being misused for TF purposes.

Criterion 8.2— The supervisor of the NPO sector (e.g., MLSP) was involved in conducting the NRA. The results of the NRA were published and shared with the sector.

Criterion 8.3— Additional policies to promote transparency, integrity, and public confidence in the administration and management of all NPOs are required.

Criterion 8.4— Central and Government Territorial Office—*Prefetture* involved in supervision and monitoring of NPOs activities include: Italy's MoI, MLSP, MFA, territorial offices of the Government, and Regions. The registration process requires the relevant authorities to verify the legal requirements for access and ensure an adequate level of compliance, also keeping information on any organisations. In addition, competent authorities can remove from the respective registers those organisations missing the necessary requirements established by sectoral laws. The authorities responsible for NPOs are subject to Italy's general regulations on preservation of public documents.

The NPOs with legal personality are required to maintain information on the (i) purpose and objectives of their stated activities; and (ii) the identity of person(s) who own, control or direct their activities. Furthermore, they are required to issue annual financial statements that provide detailed breakdowns of income and expenditure. Proper controls are in place to ensure that all funds are fully accounted for, and are spent in a manner that is consistent with the purpose and objectives of the NPO's stated activities. In the case of foundations, the memorandum and articles of association shall contain the criteria and procedures for payment of annuities. As to associations, the same acts shall contain rules on the rights of associates and members (including economic rights). Finally, for cooperatives, the establishing act (2521 CC) and the articles of association shall contain rules on the conduct of the mutual activity whereby it is carried out with regard to third parties.

NPOs must keep accounts and balance sheet(s) for the commercial activities they exert, or in case of fund raising (articles 20 and 20 *bis* of DPR n. 600/1973). Such documentation shall be kept for 10 years (articles 22 of DPR n. 600/1973 and 2220 of the Civil Code. It is not clear, however, whether there are requirements for NPOs to follow a "know your beneficiaries and associated NPOs" rule.

Non-incorporated associations and committees are regulated by articles 36–42 of the Civil Code. These entities have no legal personality. They do not have financial autonomy; there is no limited liability with respect to the obligations undertaken by those who act on behalf of such entity, they cannot accept bequests, legacies and donations, and acquire properties (e.g., real estate). Managers/directors are those who act in the name and on behalf of the non-incorporated entity.

[99] The draft law provides, in addition to the rationalisation of the legal status of organisations, for reorganisation of the system of registration of entities and of all relevant management acts, according to streamlining criteria, through provision of a unified register of the sector, also in order to foster full knowledge thereof throughout the country as well as of obligations of internal control, accountability, transparency and information to associates and third parties.

Criterion 8.5— Coordination between the competent authorities that oversee the NPO sector within various capacities was identified as an area for improvement during the NRA exercise. Controls and sanctions are carried out through enrolment in special registers, periodic inspections by the relevant supervisory authorities and application of administrative sanctions (e.g. loss of status and related tax benefits), as well as criminal sanctions whereby offenses/crimes are identified. The focus of the inspections is on tax evasion and fraud and not TF issues. Administrative, civil, and criminal sanctions can be imposed against NPOs.[100]

Criterion 8.6— All the authorities involved in the recording, monitoring and control of non-profit associations (i.e., *Agenzia delle Entrate*, MoI, MLSP, MFA, the GdF), Government Territorial Office—*Prefetture*, and Regions) are required to collaborate and share information.

In particular, the GdF is responsible for carrying out tax controls on Italian taxpayers (both natural and legal persons), including all the categories covered by the definition of non-profit organisations. Pursuant to articles 1 and 2(1) and (2) of LD N. 68 of March 19, 2001, the GdF is entrusted with general functions of prevention and investigation of economic-financial violations. According to specific tax laws, the GdF shall carry out tasks of prevention and repression of tax violations as well as financial cooperation with Financial Offices for acquisition and retrieval of relevant information for purposes of income-related verifications and repression of violations. In this context, the system of checks and cooperation with other authorities (IRA, MoI, MLSP, MFA, GdF, UIF, local government offices, and Regions) turns out to be extremely effective. The operational procedures for control may be based either on cross-checking and query of numerous databases belonging to *Agenzia delle Entrate*) as well as on risk analysis carried out by the GdF.

In light of AML/CFT measures, also related to NPOs, the BoI, upon proposal of the UIF, issued Provision N. 616 dated August 24, 2010, publishing a series of anomaly indicators to facilitate reporting of suspicious transactions by financial intermediaries. A special section is dedicated to indicators related to the abuse of NPOs for the purpose of terrorist financing. These indicators relate to: inconsistent transactions with the declared activity of the organisations concerned; movements of funds between NPOs not adequately justified; repeated deposits of large amounts of funds into associations' or foundations' bank accounts, through donations or similar means, not adequately justified. This latter should raise reasonable suspicion, especially when made in cash and subsequently followed by the transfer of most of the concerned funds towards under developed countries and/or where TF activities are present the most.

The UIF conducted analysis of the non-profit sector; in particular, the analysis of aggregated data (SARA) enabled UIF to identify some anomalous positions of NPOs regarding wire transfers activities with counterparts resident in risky countries. The analysis results provided inputs to inspection activities.

The FSC ensures domestic cooperation and coordination in relation to FT; this allows information sharing among authorities or organisations that hold relevant information on NPOs. Access to

[100] Article 25 CC: "*The public authority may dissolve the administration of the foundations (or appoint a special commissioner) if the administrators do not act in accordance with the rules contained in the articles of association, the purpose of the foundation or the law*".

Administrative liability for NPOs (both with and without legal personality) shall apply as per LD n. 231 of 2001 on administrative liability of legal persons, entities/companies and associations also without legal personality, All criminal and administrative sanctions shall apply whereby offenses/crimes/other violations are identified (e.g. cash limitation obligation).

information on the administration and management of particular NPOs (including financial information) is conducted by the GdF.

Criterion 8.7— Information on NPOs can be shared through the channels of international cooperation normally used by law enforcement agencies (i.e., Interpol-Europol-Sirene, PWGT, and international protocols). The FSC is the point of contact to respond to third party requests for targeted financial sanctions. LEAs reply to other types of international requests. A clear procedure for the exchange of information related to the NPOs could further clarify the focal point and steps to follow to request information related to NPOs from Italy.

Weighting and conclusion

Italy meets criterion 8.2, largely meets criteria 8.1, 8.4, 8.5, 8.6, and 8.7, and partially meets criterion 8.3. Italy's understanding of risks related to NPOs is focused on risks related to tax evasion. Nevertheless, the understanding of FT risks related to NPOs could be improved. Additional policies to promote transparency, integrity, and public confidence in the administration and management of all NPOs are required. In addition, the monitoring of the sector is fragmented between different agencies and is not based on FT risks, and legislative framework can be improved to strengthen the monitoring. A clear procedure should clarify the focal point for international cooperation. **Italy is largely compliant with R.8.**

Recommendation 9—Financial Institution Secrecy Laws

In its third round MER, Italy was rated compliant with the previous R.4 (pages 51–52). The standard has not changed in this area.

Criterion 9.1— The laws applicable to FIs do not appear to inhibit the implementation of AML/CFT measures. Italian financial institutions are subject to data protection provisions,[101] and, in most cases, contractual confidentiality obligations. However, the laws provide clear gateways for the processing and sharing of personal data for the purposes of compliance with the laws, regulations, or EU Community legislation (article 24 para. 1 lit. A and 25 para. 2 of the Personal Data Protection Code). The laws and regulations also require the sharing of information in specific circumstances including the areas of particular concern as highlighted in the methodology:

a) *Access by competent authorities* to properly conduct their AML/CFT functions is ensured through various provisions: articles 6 para. 6 lit. c and 45 para. 3 of the AML Law enable the UIF, GdF and DIA to request information from reporting entities for the purpose of analyzing and investigating the facts reported in an STR; article 53 para. 5 of the same law grants the supervisory authorities and the Special Foreign Exchange Unit of the GdF the power to compel production of "documents, acts and other useful information" as well as to access them directly on the FIs' premises as described under R.27.

b) *The sharing of information between competent authorities* is ensured through article 9 para. 2 of the AML Law which provides an explicit derogation to the professional secrecy obligation that they are subject to, by allowing the UIF, the financial sector supervisory authorities and the GdF to cooperate including by exchanging information amongst

[101] Article 1 of the LD N. 196/2003, the Personal Data Protection Code, provides that everyone has the right to the protection of the personal data concerning them.

themselves. Sharing of information with foreign counterparts is also ensured, notably through article 9 para. 3 and 4 of the AML Law for the UIF, GdF, and DIA. In line with article 9 para. 3, the UIF has concluded memoranda of understanding with the GdF and the DIA, the supervisors as well as other relevant authorities and associations, establishing the conditions and procedures for the exchange of police data and information, directly as well as indirectly, with foreign and international counterparts.[102] The BoI and CONSOB have also concluded similar arrangements, as described under R.40.

c) Sharing of information between FIs is explicitly permitted in certain circumstances: article 46 para. 4 of the AML Law allows for the sharing of information about an STR between institutions belonging to the same group. The BoI Regulation on AML/CFT organisation and internal controls specifies the procedures that should be implemented to this effect. The exchange of information for AML/CFT between FIs that are not part of a same group is also made possible by article 46 para. 6 of the same law, within the limits of the privacy laws. In both instances, the exchange is possible even in instances where the FIs is domiciled in a third country, as long as measures similar to those called for in the EU Third Directive are applied. See also criterion 21.2 for more details.

Weighting and Conclusion

Italy is compliant with R.9.

Recommendation 10—Customer Due Diligence

The current legal framework relevant to the CDD measures postdates the last assessment of Italy's compliance with the FATF standards (based on the situation in 2005), and is materially different from that time. Therefore, no reliance has been placed on the previous assessment in considering compliance with R.10. The legal framework includes the AML Law of 2007, as subsequently amended, and the relevant regulations issued by the BoI[103] (effective January 1, 2014) and the IVASS (effective January 1, 2015). The AML Law and the supporting regulations apply to all financial activities specified under the FATF Recommendations. With respect to CDD, the BoI and IVASS regulations are, for the most part, identical. Therefore, in the interests of brevity in the following analysis, reference is made to the IVASS regulations only when they differ materially from, or add to, what is included within the BoI regulations.

Criterion 10.1— Article 50 of the AML Law prohibits the opening or use of anonymous accounts or accounts held in fictitious names.

When CDD is required

[102] MOUs of the UIF with: GdF and DIA, July 23, 2010 (with reserve?); BoI, April 2, 2009, updated January 20, 2011; IVASS, March 16, 2011; CONSOB, June 7, 2013; Inland Revenue Agency, June 16, 2009, renewed on June 7, 2012; Customs Agency, December 13, 2013; ANAC, July 30, 2014; National Council of notaries, June 3, 2009, updated on December 17, 2012; and National Council of Labor Consultants, May 22, 2009.

[103] These apply to banks, *Bancoposta*, electronic money institutions, payment institutions, investment firms, asset management companies, SICAVs, stockbrokers, financial intermediaries, trust companies, *Casa Depositi e Prestiti*, loan brokers and financial agents.

Criterion 10.2— Article 15 of the AML Law requires financial institutions to undertake CDD when establishing relationships and performing transactions in general, but specifically when: (i) establishing an ongoing relationship; (ii) carrying out occasional transactions amounting to EUR 15 000 or more in either a single transaction or multiple related transactions; (iii) there is a suspicion of ML or TF regardless of any thresholds or exemptions elsewhere; and (iv) there are doubts about the veracity or adequacy of previously obtained customer identification data.

Required CDD measures for all customers

Criterion 10.3— Article 19.1(a) of the AML Law requires financial institutions to identify and verify the identity of the customer and the beneficial owner in the presence of the customer on the basis of valid documents listed in the Technical Annex to the law, which refers to ID documents listed in articles 1 and 35 of Presidential Decree 445 of December 28, 2000. In addition, Part 2, section 5 of the BoI regulations on CDD specifies a range of what are considered to be reliable independent records for verifying the identity of customers, and also lays down procedures to be followed with respect to different types of customer (e.g., minors, non-EU nationals, stateless persons).

Criterion 10.4— In the case of customers that are legal persons, article 19.1(a) of the AML Law requires financial institutions to verify the authority of the person representing the entity, and to identify and verify the identity of that person. In the case of natural persons, Part 2, section 3 of the BoI regulations on CDD requires financial institutions to establish the authority of any "executor," and to carry out the same identification and verification procedures on that person as would apply to any comparable customer.

Criterion 10.5— Articles 18 and 19 of the AML Law requires FIs to identify and verify the beneficial owner at the same time as the procedures are applied to the customer. Article 21 imposes an obligation on the customer to provide all relevant information in their possession. Article 1 defines "beneficial owner" as either (i) a natural person on whose behalf a transaction or activity is conducted (type 1); or (ii) in the case of a legal person, the natural person or persons who ultimately control the entity or are the beneficiaries according to criteria specified in the Technical Annex to the Law (type 2).

The Annex specifies that, for companies, the beneficial owner means the natural person (or persons) who has ultimate control through direct or indirect ownership, or who controls over a "sufficient" percentage of the capital or voting rights of the company (excluding companies listed on a regulated exchange). A sufficient percentage is deemed to be 25% plus one share. The beneficial owner is also stated to include any person(s) who exercise(s) control over the company. In the case of legal arrangements, the beneficial owner is defined to include any person who is the beneficiary of 25% or more of the property of the arrangement, a person who exercises control over 25% or more of the property, or, in the case of persons yet to be identified, the class of persons for whose benefit the arrangement operates.

Under Part 2 of the BoI regulations on CDD, in the case of occasional transactions, the customer is required to declare whether the transaction is being carried out on behalf of another person. In the case of a business relationship, unless the customer, being a natural person, has specified otherwise, the transaction is deemed to be carried out on behalf of that person. Where the customer is a legal person, the presumption is that a type 2 beneficial owner needs to be identified. For a type 1 beneficial owner, the same identification and verification procedures are required as are generally applicable. For type 2, the financial institution is required to take "appropriate" measures to verify

the identity based on the customer's overall risk profile. In the case of low-risk situations, the financial institution may rely on a declaration by the customer confirming the integrity of the data on a type 2 beneficial owner.

Criterion 10.6— Article 18 of the AML Law requires FIs to obtain information on the purpose and intended nature of the business relationship or professional service. Part 2, section 6 of the BoI regulations on CDD expands on this by requiring that, in all cases, financial institutions must obtain information on the purpose of the relationship, the links between the customer and any executors, and the productive and economic activity of the customer. Beyond this, a list is provided of other information that may be appropriate, based on the customer's risk profile.

Criterion 10.7— Articles 18 and 19 of the AML Law require FIs to conduct ongoing due diligence on the business relationship or professional service, by analyzing transactions throughout the course of the relationship to verify that the transactions are consistent with the knowledge of the customer, its business activities and risk profile, including source of funds. It is also a requirement to keep documents, data and information up to date. In addition, Part 2, section 7 of the BoI regulations on CDD requires institutions to undertake continuous monitoring, having regard for the nature of the ongoing relationship and the specific transactions being conducted, compared with the known profile of the customer. Institutions are required to establish risk-based procedures for determining the timing and frequency of updates of information held on the customer, and to obtain new data whenever existing information becomes out of date.

Specific CDD measures required for legal persons and legal arrangements

Criterion 10.8— In the case of customers that are legal persons or arrangements, article 19 of the AML Law requires FIs to take an RBA towards understanding the customer's ownership and control structure. Article 20 requires that, when applying an RBA, institutions must take note, among other things, of the customer's main activity and geographical area of business. Part 1, section 2 of the BoI regulation on CDD expands on these issues by reinforcing the necessity to acquire relevant information, and providing examples of particular risks and potential sources of information.

Criterion 10.9— Article 18 of the AML Law requires FIs to identify and verify the identity of customers (including legal persons and arrangements) on the basis of reliable, independent documents, data, and information. Article 19 refers to criteria listed in the Technical Annex, which, in turn, refers to ID documents listed in the Presidential Decree of 2000. Article 20 references the legal form of the customer and the geographical area in which the residence or registered office is located as essential pieces of information to be obtained as part of the risk profiling of a customer. Part 2, section 3 of the BoI regulations on CDD also requires that institutions obtain information on the type of entity, its legal form and objectives, and details of the entry in the company registry (where they exist). Section 5 goes on to list sources for verifying identity, including chamber of commerce archives, registers and lists of authorised persons, constituent instruments, bylaws and financial statements or equivalent documents.

While the law and regulations cover the majority of the elements within the standards, there appears to be no explicit requirement for financial institutions to obtain the names of persons holding senior management positions within a legal person or arrangement, except when they act as an "executor" on an account.

Criterion 10.10— See the description under criterion 10.5 for information on the legal definition and obligations with respect to beneficial owners of legal persons. In addition, the Annex to the BoI regulations on CDD introduces a requirement that, where the holder(s) of a controlling interest (25%+1 of the voting shares) in a customer is itself a legal entity, the financial institution should apply the same procedures with respect to that legal person (i.e., follow the chain of ownership until one or more natural persons are identified). The Annex also requires institutions to refer to articles 2539 of the Civil Code and article 93 of the Consolidated Law on Finance. The latter expands on the notion of control by reference to persons who exercise a dominant influence through agreements with the shareholders. Finally, the Annex points to the situation where there is no control being exercised through the shareholding chain or otherwise, and indicates that it may be appropriate in such circumstances to consider that persons running the company are the beneficial owners. .

Criterion 10.11— Article 19 of the AML Law specifies that identification and verification of the beneficial owners shall be performed for "trusts and the like." Article 3 of the Technical Annex to the Law defines the beneficial ownership of such arrangements as trusts and foundations to include any person who is the beneficiary of 25% or more of the property of the arrangement, a person who exercises control over 25% or more of the property, or, in the case of persons yet to be identified, the class of persons for whose benefit the arrangement operates.

In principle, these provisions would address the requirements in the standards to identify the trustee (who, in fact, would be the customer and, therefore, be subject to the normal CDD provisions), the beneficiary and probably the protector (although they are not all named as key or essential parties to a trust). In addition, the Annex to the BoI regulations on CDD specifies certain types of information relevant when the customer is a trust company or foundation. However, the provisions make no reference to the need to identify the settlor who, by the very nature of a trust arrangement would no longer have any beneficial interest in, or control over, the assets of the trust.

CDD for Beneficiaries of Life Insurance Policies

Criterion 10.12— Article 9 of the IVASS Regulations requires insurers to identify the nominated beneficiary, and, where the beneficiaries are not natural persons, to acquire information on the type, legal form and activities of the entity. The regulations do not contain any specific provisions relating to circumstances where the beneficiary of a policy may be designated by characteristics or class, rather than by name, although article 9 requires the insurer to acquire a range of information in circumstances where the beneficiary is other than a nominated natural person. Article 11 requires the identity of the beneficiary to be verified, and specifies that this should take place at the time of payout under the policy. Article 16 prohibits any payout in the event that the insurer cannot fulfil the range of CDD requirements

Criterion 10.13— Article 5 of the IVASS Regulations provides for two specific circumstances in which the beneficiaries should be factored into an insurer's risk profile: when the beneficiaries do not have family or other natural links to the customer; and when changes of beneficiary take place frequently or close to the time of payout. More generally, article 5.1 requires consideration to be given to "further factors identified by undertakings which are considered relevant for the purposes of risk assessment." Article 21 requires that insurers undertake enhanced CDD where they identify higher risks, but there is no reference to any specific measures that are necessary to identify the beneficial owner of the beneficiaries when dealing with higher-risk beneficiaries that are legal persons or arrangements. The references to beneficial owner in the IVASS Regulations are in relation

to the customer, and do not extend to the beneficiary where the customer and beneficiary may not be the same.

Timing for verification

Criterion 10.14— Article 19 of the AML/CFT Law establishes the general principle that verification of identification of the customer and beneficial owner should take place at the same time as the initial identification procedures; and article 17 makes it clear that this should occur at the time of establishing a relationship or carrying out occasional transactions. Article 23 specifies that, when the institution cannot comply with the CDD obligations, it must not establish the business relationship or carry out the transaction.

However, Part 2, section 5 of the BoI regulations on CDD and article 11.8(a) of the IVASS Regulations state that, on the one hand, verification of the beneficial owner may take place after the establishment of the relationship, provided that measures are taken to prevent transactions being carried out prior to verification; but that, on the other hand, delayed verification of the beneficial owner (and the customer and executor) may take place when it is necessary not to interrupt the normal course of business, and where there is a low ML/TF risk (i.e., transactions may be undertaken pending verification). The delay must not exceed 30 days, after which the institution must decide whether to terminate the relationship. It is not entirely clear how the apparent different requirements of the AML Law and the regulations interact, but in either case, they are in line with the standards.

Criterion 10.15— Part 2, section 5 of the BoI regulations on CDD specifies that delays in verifying the identity of the customer, executor or beneficial owner may only take place in cases where there is a low ML/TF risk. However, there is no requirement to implement specific risk management procedures to govern the circumstances under which customers may utilize the relationship prior to verification.

Existing customers

Criterion 10.16— Article 22 of the AML Law requires that, for existing customers, the CDD measures must be applied "upon the first working contact, without prejudice for the assessment of any risk present." There are no related provisions in the BoI regulations, but examples have been provided in a circular issued by the MEF in July 2013.

Risk-Based Approach

Criterion 10.17— Article 20 of the AML Law requires FIs to apply an RBA to CDD, and to be able to demonstrate to regulators that the measures taken are commensurate with the risks. It goes on to specify a number of criteria that must be taken into account when assessing risk. In addition, article 28 specifies that enhanced due diligence must be undertaken in cases where there is a greater ML/TF risk, and mandates such an approach in a range of specified circumstances (e.g., where the customer is not physically present, correspondent relationships with non-EU FIs, and PEPs). However, there is no indication of what might constitute enhanced due diligence except in these specified circumstances. Part 4, section 1 of the BoI regulations on CDD and article 21 of the IVASS Regulations repeat the obligation to apply enhanced measures in higher risk situations, and expands

the list of mandatory circumstances to include cross-border transfers of cash or other valuables, higher risk products, transactions and technologies, and when an STR has been filed with the UIF.

Criterion 10.18— Article 20 of the AML Law establishes the general principle that FIs should adopt an RBA to CDD. However, article 25 provides for a statutory exemption from the full CDD measures for a range of customers, including certain regulated financial intermediaries, EU credit and FIs, credit and FIs from non-EU countries deemed to have equivalent requirements to those laid down in the EU Directive, and certain companies whose financial instruments are eligible to be negotiated in the regulated market in accordance with EU Directive 2004/39/EC. The only obligation on the FI is to establish that the customer falls within the category of customers for which the exemption applies. In addition, article 25 states that FIs "shall be authorised not to apply" CDD in respect of services in respect of a number of specified products and activities meeting certain conditions. In all cases, the exemptions do not apply when there is a suspicion of ML or TF.

The BoI and IVASS regulations clarify the extent of the exemption by specifying that FIs must, in all cases, satisfy themselves that the customer meets the conditions for being treated as low risk under article 25 of the AML Law. This is limited to requiring institutions to identify the customer by acquiring the name, legal status, registered office and, where relevant, tax code. A MD of February 2013 does, however, specify that, in the case of non-EU countries that have been deemed equivalent, FIs must continue to apply an RBA in terms of dealing with relevant customers from such countries. This Decree does not make a similar statement in relation to customers within the EU.

While the FATF standards recognize the possibility of applying simplified due diligence in circumstances where either the country or the FI has identified lower risk through an adequate analysis, they do not provide for broad exemptions from the CDD procedures for any type of customer or service. The exemption in the AML Law includes not only the identification and verification procedures (although this is mitigated to a very limited extent by the BoI and IVASS regulations in terms of customer identification), but also extends to the ongoing monitoring requirements, which have a material impact on the FIs' ability to identify suspicious activity. In addition, the application of an across-the-board, low-risk assessment for specified customers in all 28 member states of the EU does not appear to meet the test of being "adequate" in terms of the FATF standards, as it does not take account of inevitable variations in ML/TF risk among the same type of individual customers in different Member States. It is understood that implementation of the EU's Fourth Money Laundering Directive will seek to address these issues.

Failure to satisfactorily complete CDD

Criterion 10.19— Article 23 of the AML Law requires FIs to refrain from establishing a business relationship or performing a transaction when it is unable to meet the CDD obligations. When a relationship has already commenced, it must be terminated, and any funds returned to the customer by way of a transfer to another current bank account nominated by the customer. In all cases where CDD cannot be completed, the financial institution is required to assess whether to file a suspicious transaction report. These principles are repeated in the BoI regulation on CDD.

CDD and tipping-off

Criterion 10.20— There are no specific provisions that foresee the case of where an institution may be concerned that pursuing CDD will "tip-off" the customer. The more general provisions on failure to complete CDD and the filing of STRs apply (see criterion 10.19).

Weighting and Conclusion

Italy meets criteria 10.1 to 10.8, 10.10, 10.12, 10.14, 10.16, 10.17, and 10.19. It largely meets criteria 10.9 and 10.11, and partially meets criteria 10.13, 10.15, and 10.18. Criterion 10.20 is not applicable. As such, Italy meets the vast majority of the criteria, and with one exception, the deficiencies are relatively minor. The one material deficiency relates to the statutory exemption from most CDD measures with respect to a range of customers, including certain regulated financial intermediaries, and EU credit institutions (see criterion 10.18). **Italy is largely compliant with R.10.**

Recommendation 11—Recordkeeping

Some of the current legal framework relevant to the record-keeping measures postdates the last assessment of Italy's compliance with the FATF standards (based on the situation in 2005), and is materially different from that time. Therefore, no reliance has been placed on the previous assessment in considering compliance with Recommendation 11. The legal framework includes the AML Law of 2007, as subsequently amended, and the relevant regulations issued by the BoI (effective January 1, 2014) and the IVASS (effective January 1, 2015). The AML Law and the supporting regulations apply to all financial activities required under the FATF Recommendations. In addition, account has been taken of provisions in the Civil Code that have application to all entities in Italy.

Criterion 11.1— Article 36 of the AML Law requires FIs to retain copies of all transactions of EUR 15 000 or more (whether carried out as a single operation or a series of related operations) for a period of ten years after the transaction was carried out or the business relationship terminated. The information to be retained includes the date of the transaction, the payment details, amount, type of transaction, means of payment and ID data of the person carrying out the transaction or on whose behalf it was carried out. An exception to the EUR 15 000 threshold is made in respect of transactions carried out by financial institutions through financial or payment agents. In such cases records of all transactions must be retained. However, this provision does not apply in relation to transactions by customers who have been subject to the exemption from CDD requirements (see criterion 10.18). The BoI regulation on record-keeping (which, in this case, also extends to insurance companies) provides further, more detailed provisions on the type of transaction data required and how it should be recorded.

More generally, articles 2214–2220 of the Civil Code require all business undertakings to maintain records of correspondence and all transactions, irrespective of their amount, in chronological order for a period of ten years.

Criterion 11.2— Article 36 of the AML Law requires FIs to retain CDD data for a period of 10 years after the business relationship has ended. The information required includes the date of establishment of the relationship, CDD data on the customer and beneficial owner, and the names and addresses of any person authorised to operate the account on behalf of the customer. As is the case with the transaction records, these provisions do not apply with respect to customers who benefit from the exemption from the CDD requirements under article 25 of the AML Law (see

criterion 10.18). The BoI regulation on record keeping provides further, more detailed provisions on the type of CDD data required and how it should be recorded.

Criterion 11.3— Article 36 of the AML Law makes it clear that the documents must be in a format that is admissible in court proceedings. Article 37 requires FIs to establish a "single electronic archive," set up in such a way as to ensure clarity, completeness and accessibility of the data. The article goes on to provide some degree of flexibility as to how the archive may be structured, while the BoI regulations on recordkeeping provide further, extensive obligations with respect to the format and structure of the data storage systems.

Criterion 11.4— Article 36 of the AML Law states that an objective of the record-keeping requirement is to provide information for any investigation into, or analysis of, ML or TF by the UIF or another competent authority. Article 45 provides explicit authority for the UIF, the GdF, and the DIA to request information from FIs for the purpose of analyzing or conducting an investigation of an STR. Article 2 of the BoI regulations on record keeping state that FIs shall make available to the competent authorities information contained in the required electronic archive for the purposes of seeking and acquiring evidence and sources of evidence in the course of criminal proceedings at all stages, including preventive measures.

Weighting and Conclusion

Italy meets all of the criteria of R.11 and is rated compliant.

Recommendation 12—Politically Exposed Persons

See the introduction to R.10 for an explanation of the current legal framework relating to CDD issues, and its impact on the continued relevance of the previous assessment of Italy.

Criterion 12.1— Article 28(5) of the AML Law requires FIs to undertake the four steps set down in the FATF standard to identify and manage the relationship with foreign PEPs (both EU and non-EU). The Technical Annex to the Law provides an extensive definition of who constitutes a PEP and includes the principle of beneficial ownership of a legal person, either directly or through a close associate. A person is deemed no longer to be a PEP once they have ceased to hold a prominent public office for one year, although explicit reference is made to the fact that this does not necessarily remove an obligation to continue to conduct enhanced CDD on the basis of risk. This time limit has previously been accepted by the FATF as reasonable, provided that a risk-based approach is continued.

Criterion 12.2— There are no provisions within the AML Law that deal directly with domestic PEPs or persons entrusted with a prominent function in an international organisation. PEPs are defined explicitly to include only persons "residing in other EU countries or non-EU countries," and are limited to those holding positions in state structures and organisations, although the Technical Annex states that, in the case of certain specified positions, this extends to the European and international levels. However, the specified categories (e.g., heads of state, members of parliament, central bank directors, Supreme Court members, and ambassadors) would not be relevant to most of the types of international organisation, as defined by the FATF. Part 4, Section 3 of the BoI regulation on CDD and article 23 of the IVASS Regulations expand on the law by requiring FIs that the BoI and IVASS supervise to establish procedures to determine whether a customer or beneficial owner is a domestic PEP. In high-risk situations, enhanced measures, similar to those applied to foreign PEPs,

must be adopted. Neither set of regulations addresses the issue of persons entrusted with prominent functions in international organisations.

Criterion 12.3— The Technical Annex to the AML Law incorporates family members (spouses, children, and their spouses, those who have lived with such persons in the last five years, and parents) and close associates in the same category as foreign PEPs, and makes them subject to the same measures as the PEPs themselves. By cross-referencing the BoI and IVASS regulations, these provisions extend to family and associates of domestic PEPs, but they do not apply to relevant persons in international organisations.

Criterion 12.4— The provisions relating to PEPs in the AML Law apply equally to insurance companies, and make no distinction in terms of the procedures to be adopted and the timing of their application to different products. Article 23 of the IVASS Regulations generally repeats the terms of the AML Law. There are no specific provisions regarding either the circumstances under which the beneficial owner of the beneficiary should be identified, or the manner in which payouts to higher-risk beneficiaries should be processed.

Weighting and Conclusion

Italy meets criterion 12.1, largely meets criteria 12.2 and 12.3, and partially meets criterion 12.4. The legal provisions with respect to foreign and domestic PEPs are in line with the FATF standards, with the exception of those relating to insurance policies. The AML Law extends the scope to cover persons who hold certain specified functions and positions at the European and international level, in general, but most of these functions are not relevant to the type of international organisation defined by the FATF. **Italy is largely compliant with R.12.**

Recommendation 13—Correspondent Banking

See the introduction to R.10 for an explanation of the current legal framework relating to CDD issues, and its impact on the continued relevance of the previous assessment of Italy.

Criterion 13.1— Article 28(4) of the AML Law requires FIs to undertake the four steps laid down in the FATF standards to manage the relationship with correspondent banks, but this extends only to non-EU correspondents. The BoI regulations on CDD (which also make it clear that the provisions apply to other relationships similar to correspondent banking relationships) extend the scope of the EU exemption from the process to "equivalent third countries." Such exemptions are not in compliance with the standards.

Criterion 13.2— Article 28(4) of the AML Law imposes the appropriate measures in relation to payable-through accounts in correspondent relationships, but, as is the case more generally, these only apply to non-EU respondent institutions.

Criterion 13.3— Article 28(6) of the AML Law prohibits the opening of correspondent accounts, directly or indirectly, with shell banks. However, there is no explicit obligation on financial institutions to satisfy themselves that their respondent institutions do not permit their accounts to be used by shell banks.

Weighting and Conclusion

Italy partially meets all three of the criteria. While the general provisions with respect to correspondent banking are substantially in line with the standards, they do not apply with respect to respondent institutions within the EU or other "equivalent third countries," although institutions are still required (under Ministerial decree) to apply an RBA with respect to the latter category of countries. Given the level of international engagement by Italian banks, this exemption is material. **Italy is partially compliant with R.13.**

Recommendation 14—Money or Value Transfer Services

In its third MER, Italy was rated largely compliant with this recommendation. The report noted that there was no ongoing monitoring for compliance with the AML requirements by the relevant supervisor. In addition, the identification threshold of EUR 12 500 did not allow money transfer operators to comply with SR.VII. The MER noted a lack of supervision for agents and sub-agents. Since its third MER, Italy has transposed the EU Payment Services Directive (2007/64/EC) (PSD), through the amended Consolidated Law on Banking (CLB), the BoI's Supervisory Regulations on Payment Institutions and Electronic Money Institutions, and the MEF's MD 256/2012 on requirements for enrolment as a payment services agent.

Italian payment institutions may perform payment services in the union under the freedom of services through a notification process, as well as under the right of establishment; in their turn, EU payment institutions (PIs) may operate in Italy under symmetrical conditions. On the contrary, a non-EU PI (i.e., Canadian PI) needs to establish a subsidiary in Italy in order to operate, so that it would then be considered as an Italian PI. Money or value transfer services can be provided by those entities noted in the Italian CLB. Article 114 *sexies* of the CLB reserves money or value transfer services, with potential exception, to banks, e-money institutions, and payment institutions. Moreover, there are additional institutions permitted to perform money or value transfer services, including Poste Italiane, and non-bank intermediaries if they are authorised to perform such activity pursuant to article 114 *novies*, para. 4 of the CLB (or 114 *quinquies*, para.4 if they also issue e-money).[104]

Criterion 14.1— According to article 114 *septies* of the CLB, the BoI authorizes Italian payment institution entities to provide MVTS through a license. Article 114 *novies* of the CLB establishes the requirements for BoI authorisation to perform payment services: being a legal person, being either incorporated or a cooperative company, meeting minimum capital requirements of EUR 20 000, as well as having relevant shareholders and senior management that are proper, experienced, and independent. Chapter II of the BoI Regulation specifies the requirements and process for authorizing Italian payment institutions. Chapter VI requires Italian PIs to also submit information on their internal controls, as well as additional other financial/prudential information. The BoI Regulation on PIs and EMIs also contains detailed rules on (i) the provision of services by Italian payment institutions in the EU through the establishment of a branch, as well as in third countries (Chapter VII), and (ii) on foreign—both EU and non-EU PIs—wishing to provide their services in Italy (Chapter VIII). According to these rules, the EU PI that intends to perform services in Italy through an agent, has to provide the competent authorities in its home Member State with a description of

[104] The BoI maintains lists of all agents and branches of EU and Italian Payment Institutions, which is found at: http://www.bancaditalia.it/compiti/vigilanza/albi-elenchi/index.html. Per Law 141/2010, the *Organismo degli Agenti e dei Mediatori* also maintains a list of all agents of payment services, which is at: http://www.organismo-am.it/it/elenchi.

the internal control mechanisms that will be used by agents in order to comply with the AML/CFT obligations (see article 17 of the PSD). The competent authorities of the home Member State shall inform the BoI of their intention to register the agent and request whether the BoI has any concerns, per PSD article 17(6). Per Chapter VIII, section 1 (2) of the BoI regulations, the BoI shall communicate to the Home supervisor if there are reasonable grounds to suspect that the establishment of the branch could increase the risk of ML/TF. For all PI branches, Italian and EU, the BoI is authorised to conduct on-site examinations.

Criterion 14.2— Article 131 *ter* of the CLB establishes penalties for unauthorised payment services, to include imprisonment from six months to four years and a fine of EUR 2 066–10,329. The GdF is responsible for investigating unauthorised payment services. In addition, the BoI can impose administrative sanctions ranging from EUR 5,165 to 51,645 in case of use of the words "payment institution" or "provision of payment service" in the company's name or in the communications to the public by unauthorised subjects, per Article 133 of the CLB. In addition, article 55(9 *bis*) of the AML Law also provides for confiscation of the tools used by the agent performing MVTS to commit the crime punished under article 131 *ter* of the CLB and for serious and reiterated breaches of the identification and record-keeping requirements. The BoI and (LEA) authorities have utilised these sanctions in 42 cases affecting 99 persons since 2010.

Criterion 14.3— As financial intermediaries defined under article 11 of the AML Law, banks, e-money institutions, and payment institutions are all subject to the AML Law, and the BoI regulations on Internal Controls (March 2011), CDD (January 2014) and record keeping (April 2013) are all applicable. (See R.10, 11, and 18, respectively, for analysis of these provisions.).

Criterion 14.4— Agents for MVTS providers are required to be registered per article 128 *quater* (6) of the CLB. Article 128 *quinquies* establishes the criteria for registration.

Agents of Italian PIs: These agents of Italian PIs are required to be registered as per article 128 *quater* (6) of the CLB. Article 128 *quinquies* establishes the general criteria for registration of financial agents. Agents providing payment services as the only financial activity, i.e., they do not grant loans, but may perform other commercial activities, may benefit from a lighter regime, as specified in MEF MD 256/2012. This Decree establishes the requirements to be an agent, which include Italian citizenship, or another EU Member State, but domiciled in Italy (article 3.1.a), training standards, as well as meeting the integrity standards under article 15 of LD 141/2010. Per article 15 of LD 141/2010, the fit-and-proper requirements for agents include disqualification for convicts of serious crimes, persons convicted for "crimes against the public administration," imprisonment for any intentional crime, and those subject to preventive measures. For legal persons registering as agents, the entity must have a permanent registration in Italy, and its employees must meet the professionalism and integrity requirements described above. Once the BoI has granted authorisation to the Italian PI, then the PI notifies the *Organismo degli Agenti e dei Mediatori* (OAM) to indicate which agents will be used per CLB article 128 *quater* (6). The OAM is responsible for conducting fit-and-proper checks on all agents, including financial agents and agents providing financial services, as well as insuring the completeness of the training program. The OAM may carry out inspections, per CLB 128 *decies*, (4 *bis*). Once the OAM approves the agents, then the BoI authorizes the Italian PI to use the specified agents. If OAM delists/decertifies an agent, then during a weekly reconciliation process with BoI, any Italian PIs using that agent will be notified.

Agents of EU PIs: Similar to the request for establishing a branch per the BoI regulations, the EU PI's request to use agents is also subject to a BoI review. The EU PI that intends to perform services in

Italy through an agent is obliged to provide the competent authorities in its home Member State, among others, with a description of the internal control mechanisms that will be used by agents in order to comply with the AML/CFT obligations (see article 17 of the PSD). The competent authorities of the home Member State shall inform the BoI of their intention to register the agent and take its opinion into account. In addition to control information, the requesting institution must validate that they have verified the AML/CFT controls of the agents. The BoI will communicate to the home country supervisor if there are grounds to suspect that granting access to the agents of the EU PI will increase the risk of ML, per Chapter VIII, section 1 (3). Once the procedure has concluded successfully, the concerned agent or the central contact point—if established—shall notify the OAM, and the agent may then start business.

Per article 53(2) of the AML Law, the GdF is the supervisor that is responsible for monitoring compliance for all agents that provide payment services on behalf of foreign or Italian PIs, with AML/CFT requirements. If the GDF finds infringements with respect to EU PI agents, then the GDF informs OAM, and OAM is responsible for notifying the home authority. If the home authority fails to respond or takes inadequate measures, then OAM shall notify the MEF, which has the power to ban any agent's activities within Italy, per articles 128 *duodecies* CLB (1 *bis*) and 53 of the AML Law.

Criterion 14.5— Agents are covered by the AML Law through article 11 (3) (d), and the requirement to conduct CDD on transactions less than EUR 15 000 is explicitly covered by article 15 (4). Furthermore, the BoI maintains regulatory controls over Italian agents of EU PIs and their network agents, as all the three BoI regulations on Internal Controls (March 2011), CDD (January 2014), and record keeping (April 2013) are all applicable. The BoI does not maintain AML controls over agents of EU PIs, since they are subject to checks by GdF and OAM. Chapter IV, section I of the BoI Regulation on Internal Controls (March 2011) requires MVTS to monitor transactions including those undertaken by agents. The monitoring is required to cover the activity of both the payer and the beneficiary. With regards to the obligation for MVTS to monitor the activity of their agents, for Italian PIs, Chapter IV, Section I of the BoI Regulation on Internal Controls (March 2011) requires MVTS to monitor transactions including those undertaken by agents. The monitoring is required to cover the activity of both the payer and the beneficiary. For EU PIs, according to the EU principle of the home country control (applied by the PSD Directive) and to FATF standards, the requirement on EU PIs to monitor their agents should not be set by Italy, but by the home supervisor. The AML Law article 42(3) requires EU PIs with multiple agents to designate a central contact point for STR submission; however, agents of EU PIs can also submit STRs directly to the UIF.

Weighting and Conclusion

Italy meets all of the criteria. Through the transposition of the EU Payment Services Directive, Italy has a legal framework for the registration of both Italian and EU payment institutions providing money value transfer systems. There are sanctions available for the unauthorised provision of MVTS services, which the authorities have applied. The BoI, OAM, and GDF all exercise separate authorities for supervision of this sector. **Italy is compliant with R.14.**

Recommendation 15—New Technologies

In its third MER, Italy was rated compliant with former R.8. However, changes to the FATF Recommendations incorporated the former R.8 requirements regarding non-face-to-face business in

R.10, and refocused R.15 on the identification and mitigation of risks associated with new technologies, with specific obligations for countries and financial institutions.

Criterion 15.1— Pursuant to article 5 of the AML Law, under the auspices of the FSC, a working group completed a national risk assessment in July 2014. Among the vulnerabilities that were reviewed were those associated with electronic money. However, there is no specific requirement or mechanism to identify and assess the ML/TF risks that may arise in relation to the development of new products and business practices.

Article 28 (2) of the AML Law and Part 4 Section (1) (2) (f) of the CDD Regulation set out measures that should be applied in some high-risk situations including those associated with products, transactions, and technologies. Chapter II Section (1) (2) of the BoI March 2011 regulation provides that the AML function should undertake an assessment "in advance" to advise senior management of the extent to which company procedures are consistent with laws, regulations, and the entity's own regulations. As a part of the process, an FI's AML function is required to conduct assessments and advise its management in the case of new products and business services. This assessment, however, relates to the extent to which company procedures are consistent with the law, and the AML Law does not require FIs to undertake an assessment of the risk associated with new products. There is, therefore, a lack of clarity about the requirement to identify and assess the ML/TF risks that may arise in relation to the development of new products and business practices. Article 19 *bis* of IVASS Regulation 20/2008 requires institutions to pay particular attention to evaluating risks which arise from offering new products or entering new markets. While the regulation is not specifically focused on AML/CFT, its provisions are applicable for this purpose.

Criterion 15.2— As discussed above, there is a lack of clarity about the provisions of the BoI regulation with respect to the requirement for the assessment of new products or services. However, Chapter I, Section I of the BoI regulation on internal controls calls for financial institutions to implement controls for the prompt detection and management of ML risks. Article 20 (1) of the AML Law provides that CDD measures shall be commensurate with risk associated with, among other things, the product or transaction. It also provides that persons subject to the law must be able to demonstrate that the CDD measures in place are appropriate in view of the ML/TF risk. The BoI CDD regulation also requires FIs to apply enhanced CDD in instances of higher risk including in circumstances in which a product is the source of that higher risk.

Weighting and Conclusion

Italy largely meets criteria 15.1 and 15.2. The AML Law does not require financial institutions to identify and assess the ML/TF risks that may arise in relation to the development of new products and business practices. Although financial institutions covered by the BoI's March 2011 internal controls regulation are required to verify on an ongoing basis that their procedures are consistent with laws, regulations and the entity's own regulations, it needs to be strengthened to more directly address the requirements of this criterion. **Italy is largely compliant with R.15.**

Recommendation 16—Wire Transfers

The EU Regulation 1781/2006 (in force since January 2007) seeks to implement former SR.VII throughout the European Union. The Regulation applies directly to its addressees, without further implementation being required by member states through their national legislatures. However, at

the national level in Italy, the BoI issued supporting regulations in December 2012, but these cannot alter the obligations laid down in the EU regulation. A successor EU Regulation to implement the new FATF Recommendation 16 is currently under discussion, but has yet to be adopted.

In the previous round of assessments, the EU regulation was determined to be technically compliant with former SR.VII. Since the last assessment of Italy took place prior to the implementation of the Regulation (and, therefore, does not address its provisions), detailed analyses of the Regulation can be found in certain other reports of EU countries, in particular Germany, France, and the Netherlands. However, the revision of the Recommendations has introduced certain new requirements, which have not yet been implemented across the EU. Therefore, the following analysis is limited to identifying those new aspects that have not yet been incorporated within a new EU Regulation. With respect to the elements carried forward from former SRVII, Italy is deemed to be technically compliant.

Ordering financial institutions

Criterion 16.1— The EU Regulation does not contain any provisions requiring that, in the case of cross-border transfers, the ordering financial institution should obtain information on the beneficiary, specifically, the name and account number used to process the transfer (or a unique reference number where no account exists). Transfers between EU Member States are not considered to be cross-border under the Regulation, and, therefore, complete information on the originator is not required in such cases. However, the FATF has previously concluded that transfers within the EU may be treated as domestic transactions.

Criterion 16.2— The EU Regulation does not provide that cross-border batch files should contain full beneficiary information.

Criterion 16.3— Article 7 of the EU Regulation applies to all non-EU cross-border transfers, regardless of the amount. However, as indicated above, no provision is made for beneficiary information to be attached.

Criterion 16.4— Article 5 of the EU Regulation requires that verification of the originator information is only required for cross-border transfers in excess of EUR 1 000. However, article 5(4) states that this is without prejudice to the principle laid down in the Third Money Laundering Directive that full CDD should be undertaken in the event of suspicions of ML or TF. In addition, article 15 of the Italian AML Law also provides that financial institutions must undertake CDD when there is suspicion of ML or TF, regardless of any derogation, exemption, or threshold.

Criterion 16.5— The EU regulation has previously been considered compliant with respect to this criterion, which remains substantially unchanged from the requirements of former SR.VII.

Criterion 16.6— The EU regulation has previously been considered compliant with respect to this criterion, which remains substantially unchanged from the requirements of former SR.VII. Article 36 of the AML Law provides that competent authorities should have access to customer identification and other records held by FIs.

Criterion 16.7— The EU Regulation requires the ordering institution to retain records of the originator for five years. There is no obligation with respect to the inclusion of beneficiary information. However, article 7.2 of the BoI record-keeping regulations requires that, in the case of payment orders, the ordering institution must retain the first and last name or company name of the

beneficiary and, where known, the number of the ongoing relationship; the address and registered office or foreign country of residence of the beneficiary; and the name and foreign country or municipality of the operational unit of the intermediary effecting the crediting of the amount or the payment to the beneficiary.

Criterion 16.8— While the EU Regulation provides for appropriate procedures with respect to originator information, it does not adequately address the required beneficiary information. Therefore, the absence of beneficiary information does not constitute grounds for prohibiting institutions from executing transfers.

Intermediary financial institutions

Criterion 16.9— The EU regulation has previously been considered compliant with respect to this criterion, which remains unchanged from the requirements of former SR.VII (but noting that the information received by the intermediary will not necessarily contain the beneficiary information now required).

Criterion 16.10— The EU regulation has previously been considered compliant with respect to this criterion, which remains unchanged from the requirements of former SR.VII (but noting that the information retained by the intermediary will not necessarily contain the beneficiary information now required).

Criterion 16.11— The EU Regulation contains no provisions relating to the role of the intermediary institution in identifying missing originator or beneficiary information. However, when using a payment system with technical limitations, the intermediary PSPs, according to Chapter 4(2) of the BoI Instructions, shall take reasonable measures to detect whether the fields relating to the information on the payer in the messaging system have been properly filled in with complete information and using the characters or inputs admissible within the conventions of that system.

Criterion 16.12— The EU Regulation contains no provisions relating to the role of the intermediary institution in responding to situations where the originator or beneficiary information is missing.

Beneficiary financial institutions

Criterion 16.13— The EU Regulation has previously been considered compliant with respect to this criterion, in as far as it relates to originator information. However, it imposes no obligations in relation to missing beneficiary information.

Criterion 16.14— The EU Regulation does not require the beneficiary institution to verify the identity of the beneficiary in any circumstances. However, article 49(1) of the AML Law imposes a general prohibition on the transfer of cash between two persons in excess of EUR 1 000. Anything above this threshold may only be paid into an account maintained by a financial institution or executed as an occasional transaction, which will be subject to the obligation to undertake CDD.

Criterion 16.15— Article 9 of the EU Regulation requires that, when the originator information is missing or incomplete, the beneficiary institution should either reject the transfer or ask for complete information on the originator. While the institution may reject a transfer outright, there is no provision for its suspension pending receipt of complete information. If the beneficiary institution regularly receives incomplete transfers from a particular originating institution, it is required to take steps to address the issue, including ultimately terminating the relationship with the originating

institution. These requirements do not extend to situations where the required beneficiary information is missing.

Money or value transfer service operators

Criterion 16.16— The EU Regulation applies to all payment service providers, which are defined as any natural or legal person whose business includes the provision of transfer of funds services.

Criterion 16.17— The EU Regulation does not specifically address situations where both the originating and beneficiary institutions are controlled by the same MVTS. In terms of the obligations in Italy in relation to the filing of STRs by either party, these are covered by the general obligations described under R.20.

Implementation of Targeted Financial Sanctions

Criterion 16.18— Financial institutions conducting wire transfers are subject to the requirements of the EU Regulations and domestic measures that give effect to UNSCRs 1267, 1373, and successor Resolutions.

Weighting and Conclusion

Italy meets criteria 16.4 to 16.6, 16.14, 16.16, and 16.18, and it largely meets criteria 16.7, 16.9, and 16.10. It partially meets criteria 16.1 to 16.3, 16.8, 16.11, 16.13, 16.15, and 16.17, and does not meet criterion 16.12. Italy implements the requirements of R.16 through EU Regulation 1781/2006, which has not yet been updated to reflect the revised standards. Most significantly, there are no obligations to obtain, verify, retain, and record information on the beneficiary of a wire transfer; and there are very limited requirements for intermediary institutions in executing a wire transfer. **Italy is partially compliant with R.16.**

Recommendation 17—Reliance on Third Parties

See the introduction to R.10 for an explanation of the current legal framework relating to CDD issues, and its impact on the continuing relevance of the previous assessment of Italy.

Criterion 17.1— Article 29 of the AML Law permits FIs to rely on third parties to perform the three core elements of the initial CDD process, but specifies that such reliance does not remove the ultimate responsibility of the financial institution to satisfy the requirements. Article 34 requires that the third party must make information on the core elements available immediately to the relying institution, and provide copies of identification and verification data relating to the customer and beneficial owner on request without delay. Recourse to foreign third parties is only permitted when they are subject to equivalent CDD provisions as in Italy. Since article 34 imposes a direct requirement on the third party to fulfil certain obligations, it is difficult to see how this can be enforced on parties who reside outside Italy. However, Part V, section 2 of the BoI Regulation on CDD requires the relying firm to identify the data that the third-party must transmit, establish proper paper or electronic instruments for the exchange of the information, and, as far as possible, verify the truthfulness of the documents.

Criterion 17.2— Under article 30 of the AML Law, third-party reliance is permitted in the case of intermediaries based in Italy or another EU country, or banks in other countries deemed to apply the

FATF standards on an equivalent basis to those applied in the EU. In the case of EU countries, the reliance is based solely on the presumption that all EU members have equivalent AML/CFT standards, rather than on individual country risk assessments. In the case of non-EU countries, the MEF issues a list of countries deemed to be equivalent, based on the "common understanding" between EU member states on the criteria for such recognition, although the Ministerial decree reiterated the general principle that, even if a country is on the list, institutions should apply enhanced due diligence in situations that, by their very nature, present a high ML/TF risk. This approach is not in compliance with the standards, which require that individual countries must define any such equivalence lists on the basis of their own perception of the relevant ML/TF risks.

Criterion 17.3— There is no provision for Italian FIs to rely on other group companies that are based in countries not deemed to be "equivalent." The procedures under criteria 17.1 and 17.2 have universal application.

Weighting and Conclusion

Italy meets criterion 17.1, partially meets criterion 17.2, and criterion 17.3 is not applicable. The AML Law and the BoI regulations, together, address the core obligations with respect to reliance on third parties. However, the permitted reliance on intermediaries within the EU is based solely on the presumption that all EU members have equivalent AML/CFT standards, rather than on individual country risk assessments undertaken by the authorities. **Italy is largely compliant with R.17.**

Recommendation 18—Internal Controls and Foreign Branches and Subsidiaries

In its third MER, Italy was rated LC with former R.15 and PC with former R.22. Weaknesses identified with respect to former R.15 included the lack of requirements for screening of employees at the point of hiring and the absence of detailed guidance on how non-prudentially supervised FIs should comply with requirements for effective internal control arrangements. With respect to former R.22, concern was expressed at the absence of requirements that Italian FIs should apply AML/CFT principles to majority-owned foreign subsidiaries and that FIs, other than banks, should apply the principles to their foreign branches.

Criterion 18.1— Chapter II section I (2) of the BoI regulation of March 10, 2011 requires institutions to have an AML/CFT compliance function. Chapter II section I (1) provides that the function should be applied in a manner consistent with the institution's legal form, size, organisational complexity, and characteristics. The regulation provides that risk must be taken into account in detecting and reporting suspicious transactions and in differentiating customer identification measures. Chapter II section (I) (3) provides that the AML officer shall be a full member of the enterprise's control function, and that the institution should adopt measures to ensure the officer's stability and independence. The March 2011 Regulation indicates that the AML function must be the responsibility of a Director who, with the exception of instances in which an entity has only one director, should not be assigned any operational responsibilities.

Article 54 of the AML Law requires persons subject to its obligations to adopt measures for the training of staff and Chapter II section IV of the BoI regulation requires that staff should undergo continuous and systematic training. Chapter II section III of the March 2011 regulation provides that the AML/CFT system should be subject to review by internal audit. There is no requirement for screening procedures to ensure high standards when hiring employees.

Article 4 of IVASS Regulation 41 of May 15, 2012, which is applicable to insurance institutions, requires them to have suitable administrative organisation and a system of internal controls proportionate to their size, nature, and operating characteristics and designed to safeguard against the risks of ML/TF. Article 7 (g) requires the ongoing training of staff and article 10 requires institutions to have an adequately resourced and independent AML function. Article 12 of the IVASS regulation requires the head of the function have the independence, authority and professionalism to undertake the function.

Criterion 18.2— Chapter III section I of the BoI March 2011 Regulation requires that members of groups are responsible for implementing the group's strategies for managing ML/TF risk. It requires that the group's AML officer should have access to all databases within the group and also requires that information flows within a group should ensure that risk factors are known throughout the group. The regulation further provides that international banking groups are required to have an effective group-wide approach to ML risk and that procedures in place at branches and subsidiaries should be in line with the group's standards and should ensure the sharing of information at the consolidated level.

Article 19 of the IVASS Regulation 41 of May 2012 provides that group members are responsible for implementing risk management policies adopted by the group parent. Article 21 provides that insurance groups with cross-border activities shall establish generalised CDD standards. It further provides that procedures used by the group members must correspond to group standards to ensure information sharing at a consolidated level. The requirements of article 21 are, however, limited to issues related to CDD. Article 20 requires that the head of the group AML function must have access to all group databases, and article 14 requires ongoing sharing of information between the AML and compliance functions. There are no specific requirements with respect to the use of adequate safeguards ensuring the confidentiality of information shared, but the authorities indicate that normal confidentiality protocols apply.

Criterion 18.3— Article 11 (4) of the AML Law requires institutions to ensure that their branches and subsidiaries in non-EU countries apply measures equivalent to those established by the Directive on CDD and record keeping. Where the laws in such countries do not permit the application of equivalent measures, the institutions are required to inform their supervisor in Italy and to adopt additional measures to effectively address the ML/TF risks. The requirements of article 11 (4) relate only to CDD and record keeping and do not cover overall programs against ML/TF.

Weighting and Conclusion

Italy meets criterion 18.2 and largely meets criteria 18.1 and 18.3.The restriction on the requirements that should be in place at foreign branches and subsidiaries to issues related to CDD and record keeping is a weakness. The absence of a requirement for the screening of employees at hiring is also a deficiency. **Italy is largely compliant with R.18**.

Recommendation 19—Higher-Risk Countries

Italy received a rating of LC for former R.21 (requirements on higher-risk countries) in its third round MER. The principal weakness identified was the lack of enforcement powers for non-prudential supervisors.

Criterion 19.1— Article 28 (1) of the AML Law provides that covered persons shall apply enhanced due diligence where there is an elevated risk of money laundering. Article 28 7 *bis* of the AML Law provides that the MEF, on the basis of decisions taken by FATF, FSRBs, and the OECD, through an evaluation of national AML/CFT systems or on the basis of difficulties experienced with the exchange of information, shall issue a list of countries with money ML and TF risk, or lacking adequate arrangements for information exchange.

Criterion 19.2— The MEF regularly publishes notifications on its website informing FIs and DNFBPs of the ML/TF risks associated with dealing with institutions from jurisdictions included in the FATF Public Statement. The notices require that institutions pay enhanced attention to associated relations and transactions. The BoI also releases similar notices to the institutions it supervises advising them to apply enhanced due diligence measures consistent with its supervisory instruction of Customer Due Diligence, April 2012.

Criterion 19.3—Article 28 7 *bis* provides that the MEF, on the basis of decisions taken by FATF, FSRBs, and the OECD, through an evaluation of national AML/CFT systems or on the basis of difficulties experienced with the exchange of information, shall issue a list of countries with ML/TF risks or lacking adequate arrangements for information exchange. This is in compliance with the standard.

The authorities have developed a system for informing FIs of weaknesses in AML/CFT systems in other countries, and FIs are required to apply enhanced due diligence in instances of high ML/TF risk. Italy also has a system in place to adopt countermeasures, when called upon to do so by FATF and can also do so independently of such calls.

Weighting and Conclusion

Italy meets both criteria. **Italy is compliant with R.19.**

Recommendation 20—Reporting of Suspicious Transaction

In its third MER, Italy was rated partially compliant with the STR requirements (pages 55–60). The deficiencies related to lack of requirement to report suspicious transactions related to TF, lack of effectiveness in implementing the STR regime by bureaux de change, the postal bank, stockbrokers, investment companies, trust companies, and insurance companies.

Criterion 20.1— FIs specified under article 11 of AML Law are required to send a report of any suspicious transactions to UIF whenever "they know, suspect or have grounds to suspect that ML or TF is being or has been carried out or attempted" (article 41(1)). However, the requirement to report suspicions does not explicitly extend to the predicate offenses of money laundering. Suspicion may arise from the characteristics, size or nature of the transaction, or from any other circumstances ascertained as a result of the functions carried out, also taking account of the economic capacity and the activity engaged in by the person in question, on the basis of information available to the reporters, acquired in the course of their work or following the acceptance of an assignment. It is considered also a potential indicator of suspect activity the frequent or unjustified use of cash transfers, such as the deposit or withdrawal through financial intermediaries, if the value is EUR 15 000 or more (article 41.1 of the AML Law)).

Additional detailed guidance and indicators to assist reporting entities in identifying and reporting suspicious transactions are provided through targeted instructions issued by UIF and other competent authorities (see responses under C.29.1 and C.34.1).

The CC does not provide a punishment for transactions carried out by those who have committed or participated in committing the predicate offense. Reports must be made to the UIF "without delay" (article 41, (4)), as soon as the person required to make a report has grounds for suspicion, via the dedicated procedure called RADAR, which allows the reports to be acquired immediately.

Whenever possible, entities required to make a report must not execute the transaction until a report has been made (article 41, (5)); such provision allows the UIF to activate, if necessary, its power of suspension and, therefore, to block the execution of the operation for a maximum of five working days, thereby allowing the application to the judicial authorities of any protective measures.

Criterion 20.2— All FIs must file a report of a suspicious transaction regardless of the amount of the transaction. FIs must also report attempted ML or TF transactions. Given the broad formulation of article 41, the obligation to report extends to any activity deemed to raise ML or TF suspicions, even beyond the concept of "transactions:" this may be the case, for example, of customers requesting the opening of accounts or other business relationships, financial or professional advice or of relevant changes with respect to previously available information and risk profile. Additional suspicion elements are deduced by the anomaly indicators issued by competent authorities, upon the UIF's proposal.

Weighting and Conclusion

Italy meets criterion 20.2 and largely meets criterion 20.1. FIs are not explicitly required to report suspicions related to predicate offenses associated to ML. **Italy is largely compliant with R.20.**

Recommendation 21—Tipping-Off and Confidentiality

In its third MER, Italy was rated compliant with these requirements (pages 55–60).

Criterion 21.1— Reports of suspicious transactions "shall not constitute violation of secrecy requirements, professional secrecy or any limits to the communication of information imposed by contract or by laws, regulations or administrative provisions" and, if the reports are made for the envisaged purposes and in good faith, reporting entities "...shall not incur liability of any kind" (article 41(6)). The aforementioned protection from liabilities exists regardless of any knowledge of underlying criminal activity (which is not required for the transmission of the suspicion-based report). Reporting entities are, therefore, exempt from liability, in relation to their disclosures in good faith, even when they may "know" (that is, not merely suspect) that ML or TF is taking place or has occurred. However, the requirement does not extend to the reporting of suspicions related to predicate offenses.

Criterion 21.2— Those subject to reporting obligations under article 41 and whosoever may in any case be aware of a report having been made are prohibited from passing on this information (article 46(1)), or informing the interested party or third parties that a report of a suspicious transaction has been made or that an investigation is being or may be conducted into ML or TF (article 46(3)). The prohibition does not prevent communication between financial intermediaries belonging to the same group, even if they are located in third countries, upon condition that they apply measures

equivalent to those foreseen by the AML Law (article 46(4)). The requirement does not explicitly extend to the reporting of suspicions related to predicate offenses.

In cases relating to the same customer or the same transactions involving two or more financial intermediaries or two or more persons referred to in article 12(1)(a), 12(1)(b), or 12(1)(c), the prohibition does not prevent communication between the intermediaries or persons in question, on the condition that they are located in a third country that imposes obligations equivalent to those foreseen by the AML Law. The information exchanged may only be used for the purpose of the prevention of ML or TF (article 46 (6)). The return flow of information is subject to the same ban on communication to customers or third parties referred to above.

Unless the act constitutes a more serious crime, anyone who violates the prohibition is liable to imprisonment from six months to one year or with a penalty from EUR 5 000 to EUR 50 000 (article 55(8)).

Weighting and Conclusion

Italy meets criterion 21.2 and largely meets criterion 21.1.The tipping-off and confidentiality requirements do not explicitly extend to the reporting of suspicions related to the predicate offenses. **Italy is largely compliant with R.21.**

Recommendation 22—DNFBPs: Customer Due Diligence

In its third MER, Italy was rated non-compliant as the implementing regulations were not in place. In particular, there were no requirements for PEPs and ongoing due diligence. In addition, the AML/CFT regime did not include the full range of independent legal professionals, internet casinos, dealers in precious metals, and dealers in other precious metals. Italy's third follow-up report, which was adopted by the FATF plenary in 2009, concluded that Italy has since enacted a comprehensive range of measures to correct these deficiencies.

Italy's AML Law is the main legislative instrument for the DNFBP sector, although the Law on Public Security (TULPS) Law provides some coverage of the 'dealers in precious metals and stones' sector. While Italy's AML Law does not clearly indicate the competent authorities in charge of issuing secondary regulations addressed to DNFBPs on CDD and internal control requirements, the authorities have issued additional decrees, which provide coverage of some gaps in the preventive measures, in particular, the UIF has consulted with the Ministries of Interior and Justice on specific decrees with respect to suspicious transaction reporting for the casinos/internet gambling, dealers in jewellery/gold, real estate brokers, and professional sectors. Both the Council of Notaries, *Consiglio Nazionale del Notariato*, and Council of Accountants, *Consiglio Nazionale dei Dottori Commercialisti e degli Esperti Contabili*, have issued guidance to their respective members on interpretation of the AML Law, but these guidance documents do not impose any additional requirements on their members.

The AML Law covers most categories of DNFBPs in the scope of the AML Law through articles 10–14 (casino management); 14 1f (real estate brokers), 12 1 c (lawyers and notaries), 12 1cc and accountants and accounting experts; article 12 1(a and b). TSCPs are covered by article 12 1(c) and (d), although Italy does not have TSCSPs, as these services are frequently performed by lawyers, and notaries.

Italy has included part of the internet gambling sector under the AML through article 14. The covered sectors include fixed odds betting, online games, bingo, and video lottery terminal, whereas, the non-covered games are totalizer betting, totalizer number games, lotteries, lotto, and AWP. Italian cruise ships operating from Italian ports do provide casino games on board and authorities noted that games played aboard Italian flagged vessels in international waters are subject to the AML Law.

Italy's dealers in precious metals and stones fall outside the scope of the standard, due to the limits introduced by Italy on the use of cash (i.e., transactions in cash are prohibited above the threshold of EUR 1000). Therefore, criterion 22.1(c) is not applicable. However, Article 10(2) of the AML Law covers the "manufacture, intermediation and commerce, including exporting and importing precious objects, for which the license referred to in article 127 of the TULPS is required." Neither the AML Law or the TULPS law does provides a definition as to the scope of precious objects, as authorities consider the notion of dealers in precious metals and stones is particularly wide, and as such, they are not captured by an unique code of business activity identifying them. Italian case law interprets "precious things" in the widest possible way, and recognizes the obligation for license also, for instance, for merely gold plated objects dealers. Furthermore, article 10 (2) (e) limits the scope of the AML Law for the sector to the Decree's suspicious transaction reporting obligation, whereas the sector fulfils its CDD and recordkeeping obligation per article 128 of TULPS (The only other reference to the sector can be found in the MoI Decree, whose scope covers gold and jewellery dealers.

Regarding real estate agents, the scope of article 14 (1) (f) does not explicitly include both the purchaser and seller in the CDD requirements, however, article 1754 of the Civil Code, which defines a "broker" as the person who acts as an intermediary between two or more parties to conclude a deal.

Criterion 22.1— See R.10 (CDD) for an analysis of these deficiencies, as the AML Law extends the scope of the CDD requirements to the DNFBPs. For casinos, operators can meet the CDD obligations through either reporting transactions above a threshold (EUR 2 000) or for all persons upon entry to the premises. For professionals (lawyers, notaries, accountants), the AML Law requires that CDD be for the full range of circumstances defined by the FATF standard. For dealers in precious metals and stones the TULPs Law requires customer identification for entities subject to its provisions, but the full range of CDD is not covered.

Criterion 22.2— See R.11 (Record keeping) for an analysis of these deficiencies, as the AML Law extends these provisions to the DNFBPs. Dealers in precious metals and stones are required to maintain a register for five years, which they should produce upon request, records per the TULPS Law. These records do not include the full range of documents listed under R.11. For the professional, real estate agents, and casinos, articles 38 and 39 of the AML Law provides additional requirements for the registration of documents by these DNFBPs.

Criterion 22.3— See R.12 (PEPs) for an analysis of these deficiencies as DNFBPs are subject to the AML Law; however, there is no coverage for domestic PEPs. While the AML Law extends the scope to cover persons who hold certain specified functions and positions at the European and international level, but most of these functions are not relevant to the type of international organisation defined by the FATF. For real estate brokers, the MoI decree includes a reference to PEP-controlled assets.

Criterion 22.4— The DNFBP sector is covered by article 28 of the AML Law (see R.15 for further analysis); however, there are no additional requirements for the assessment of risk with respect to

new services or products, and there are no specific regulations or guidance for DNFBPs in this regard.

Criterion 22.5— See R.17 (Reliance on Third Parties) for analysis of these requirements, as the AML Law is applicable to DNFBPs in this regard.

Weighting and Conclusion

Italy largely meets criteria 22.1, 22.2, and 22.5, partially meets criterion 22.3, and does not meet criterion 22.4. Italy has extended the preventive measures for CDD, record keeping, new technologies, and reliance on third parties contained in the AML Law to cover all the categories of DNFBPs. Since there are no secondary regulations on CDD, there is also no requirement for the identification of domestic PEPs. With regards to new technologies, there are no specific regulations or guidance for DNFBPs. Notwithstanding any "shortcomings" in the application of preventive measures to dealers in precious metals and stones, since the sector falls outside the scope of the standard given the limitations on the use of cash in Italy, they do not impact on the extent to which the criteria are met. **Italy is largely compliant with R.22.**

Recommendation 23—DNFBPs: Other Measures

In its third MER, Italy was rated non-compliant with the respective recommendations due to a lack of implementing regulations for these requirements.

Criterion 23.1— See R.20 (Suspicious Transaction Reporting) for an analysis of these requirements, as article 41 (1) of the AML Law is also applicable to all categories of DNFBPs. However, DNFBPs are not explicitly required to report suspicions related to predicate offenses associated to ML. For real estate brokers, casino managers, and dealers in gold and jewellery, the MoI Decree provides specific additional anomaly indicators. For professionals, the MoJ Decree provides guidance on filing STRs. Per articles 12 (1) (a) and 12 (1) (c), DNFBPs can send STRs to the UIF via their professional associations.

Criterion 23.2— Italy's AML Law does not clearly indicate the competent authorities in charge of issuing secondary regulations addressed to DNFBPs on internal control requirements. The respective Ministerial decrees from the MoI and MoJ provide requirements for training on suspicious transaction reporting for the casinos, dealers in gold/jewellery, real estate brokers, and professionals; however, these decrees do not establish the full scope of internal control requirements, including the establishment of a compliance function. The authorities note that these are mostly contained in firms with single practitioners.

Criterion 23.3— See R.19 (higher-risk countries) for a description of these requirements, as the AML Law and MEF Circulars are applicable to DNFBPs.

Criterion 23.4— See R.21 (tipping-off and confidentiality) for a description of these requirements, as the AML Law is applicable to all DNFBPs in this regard. Both MoI and MoJ Decrees provide provisions on tipping-off and confidentiality. The tipping-off and confidentiality requirements do not explicitly extend to the reporting of suspicions related to the predicate offenses.

Weighting and Conclusion

Italy meets criterion 23.3, largely meets criteria 23.1 and 23.4, and partially meets criterion 23.2. Italy has extended the preventive measures for suspicious transaction reporting, high-risk jurisdictions, internal controls, and tipping off and confidentiality contained in the AML Law to also cover DNFBPs; however, there are no secondary regulations addressed to DNFBPs on internal control requirements, so the limited requirements that exist only require training for certain DNFBPs in suspicious transaction reporting. In addition, DNFBPs are not explicitly required to report suspicions related to predicate offenses associated to ML. The tipping off and confidentiality requirements do not explicitly extend to the reporting of suspicions related to the predicate offenses. **Italy is largely compliant with R.23.**

Recommendation 24—Transparency and Beneficial Ownership of Legal Persons

In its 2006 report, Italy was rated compliant with former R.33. Since then, the FATF standard has changed substantially and several pieces of relevant Italian legislation have been amended.

Criterion 24.1— Information on the various types and basic features of Italian legal persons[105] is found in the relevant laws,[106] which are publicly available.[107] This includes the process for obtaining and recording basic information. It also includes the requirements for FIs and DNFBPs to identify the beneficial owners. These requirements are set by law and, therefore, publicly available.

Criterion 24.2— Italy has assessed the ML/TF risks associated with most types of legal persons established in the country in the context of its 2014 NRA. The NRA focuses on joint-stock companies that are not listed on the stock exchange, limited liability companies, and unlimited liability companies by shares, as well as recognised associations and foundations. It does not address listed

[105] As mentioned in Chapter VII, the various types of legal persons are: Companies, which are further classified as: (i) joint stock companies (*società per azioni, SPA*: Articles 2325 to 2451 of the Civil Code); (ii) limited liability companies (*società a responsabilità limitata, SRL*: Articles 2462 to 2483 of the Civil Code); and (iii) companies limited by shares (*società in accomandita per azioni, SAPA*.: Articles 2452 to 2461 of the Civil Code); Recognized associations (*associazioni riconosciute*: Articles 14,16 of the Civil Code and Articles 1 and 4 of the Presidential Decree No. 361 of 2000; Foundations (*fondazioni*, Articles 14 to 16 of the Civil Code, and Article 1 and 4 Presidential Decree No. 361 of 2000; and Cooperatives (*società cooperative*, Articles 2511 to 2519, – 2521 – 2523 of the Civil Code.

[106] Civil Code, Book Five–Work, Chapter V–Companies

article 2188 and subsequent of the Civil Code;

article 8 of Law 580/1993 on the reorganisation of the Chambers of Commerce, Industry, Craftsmanship and Agriculture

Presidential Decree 581/95–Regulation for the implementation of article 8 of Law 580/93 on the incorporation of the Italian Business Register

LD 240/1991–Rules for the application of regulation no. 85/2137/CEE in relation to the establishment of a European Economic Interest Group–EEIG

Article 25 of Law 218/1995–Reform of the Italian system of private international law

LD 96/2001 (professional partnership of lawyers)

LD 155/2006–Regulation of corporations

Presidential Decree 558/1999

[107] The Italian legislation published in the Italian Official Gazette from 1944 onwards is available at www.normattiva.it.

joint-stock companies (because they are subject to separate transparency rules), nor by cooperatives (because it was considered that the rules on the exercise of the voting powers ensured sufficient transparency). The NRA was conducted by the FSC (*Comitato di sicurezza finanziaria*, CSF) and, as far as the assessment of the risks faced by legal persons is concerned, with the participation of the Ministry of Economic Development, the ad hoc participation of Unioncamere (which is the national union of chambers of commerce), and members of academia. The study examined the types of legal persons most commonly used by criminal organisations, as well as their geographical distribution and categories of activities. The information was collected on the basis of legal persons confiscated by the authorities from mafia-type and other criminal organisations between 1983 and April 2012, and in the course of more recent investigations. The study identified the type of legal person most frequently misused by criminals in Italy, their geographical locations, possible explanations as to their misuse, and proposes specific actions to mitigate the risk of further misuse.

Basic information

Criterion 24.3— All companies created in Italy are registered in the Business Register. The register includes a range of information for all types of enterprises, including the following: business name; legal form; address of the main business and, if possible, secondary offices; the type of administration and management in place; the list of administrators, managers as well as, for listed companies, auditors; and the type of activity to be conducted. The entry into the register constitutes proof of incorporation. The same applies to cooperatives which are regulated by articles 2519 to 2521 of the Civil Code.

Associations and foundations created in Italy acquire legal personality upon registration in the register of legal persons (article 1 of the Presidential Decree No. 361 of 2000). The establishing act and the articles of association and foundations must be drawn up by a notary and must contain the name of the legal person, the indication of its purpose, assets and domicile as well as the rules on the organisation and administration (article 16 of the Civil Code). The register of legal persons includes, among other information, the name and surname as well as fiscal code (*codice fiscale*) of the association's or the foundation's directors with a mention of those who may represent the association or foundation (article 4 of the same Presidential Decree). Changes to this information must be reflected in the register within 20 days (for cooperative) or 30 days (for others). The information contained in both the Business Register and in the register of legal persons is publicly available.

Criterion 24.4— All companies are required to maintain a register of their shareholders including details on the type and number of shares held, the name and surname of the registered shareholder, as well as all relevant information on transfers of shares (article 2421 of the Civil Code and article 14 of the Presidential Decree No. 600 of 1973). There is no requirement to maintain that information within Italy except for SRLs (for which the information is held in electronic form in the Business Register; articles 2470 of the Civil Code and 16.12 *undecies* of the LD No. 185/2008).[108]

Criterion 24.5— The involvement of a notary or, in some instances chartered accountant or accountant and other financial intermediaries, is necessary to establish the legal person and validate all changes to the basic information reflected in the business register and the register of legal

[108] According to the authorities, considering that entities must provide the information to the Italian competent authorities if requested, for practical reasons, they maintain that information in Italy rather than abroad.

persons. An important part of the notary's role is to ensure the accuracy of the information filed with the register. Changes to that information must be registered within 30 days of the drafting of the notarial act (articles 2436, 2454, 2480, and 2545 *novies* of the Civil Code). To be valid, a transfer of the shares of a joint stock company must be authenticated, signed and filed with the Business Register by a notary within 30 days of signature; it can also be performed by a bank, or stockbroker.[109] The company must then update its shareholder register accordingly (article 2355 of the Civil Code, and articles 2.2 and 11 of the Royal Decree 239/1942). The transfer of shares of a limited liability company may either be authenticated by a notary, or be performed by chartered accountants or accountants equipped with a digital signature assigned for this purpose by the legal representatives of the company (Article 2470 of the Civil Code). The act of transfer, electronically signed, must be filed, by the same professional, in the Business Register within 30 days from its signature. Similarly, with respect to limited liability companies, updated information must be registered by a chartered account with the Business Register within 30 days (article 2470 of the Civil Code). Notaries, chartered accountants and accountants are subject to the requirements of the AML Law, including the CDD obligations.

Beneficial Ownership Information

Criterion 24.6— Italy uses a combination of mechanisms to obtain beneficial ownership information, namely, by using information:

- Filed with publicly available registers: Legal persons have an obligation to file, with the necessary participation of a notary or, in case of limited liability companies, a notary or chartered accountant or accountant, the legal ownership information with the Business Register or, for associations and foundations, with the register of legal persons. The information filed pertains to legal ownership (which may coincide with beneficial ownership).
- Held by FIs and DNFBPs: All reporting entities must take appropriate measures to identify the beneficial owner of a legal person and understand the ownership and control structure of their corporate customer (articles 18 and 19 para. 1 lit. b of the AML Law; see write-up for criteria 10.5 and 10.8 above). This is supplemented by the general obligation on customers to provide all the necessary and updated information in their possession to enable FIs and DFNBPs to comply with their CDD obligations (article 21 of the AML Law). Access to the information collected by reporting entities requires the identification of the FI or DNFBP that holds the information, which is possible through different means:
    - A consultation of the register of accounts (*Archivio dei rapporti finanziari*, to which all competent authorities have access) enables the timely identification of the relevant bank (in instances where the company banks in Italy). Beneficial ownership information collected by the bank may then be retrieved from the *Archivio Unico Informatico*.
    - A consultation of the Business Register enables the identification of the notary or accountant who filed the relevant entries. Competent authorities may then request the beneficial ownership information collected. Providing false information to a notary is an offense (articles 495 and 483 of the CC), but there is no similar offense in the case of accountants.

[109] According to the authorities there are currently no stockbrokers operating in Italy.

- A consultation by the GdF of the tax database enables the identification of other relevant professionals that may have been involved in various aspects of the company's life cycle (see below).

- Available on the CONSOB's website. This includes information on the major shareholders and major shareholdings of listed companies above the thresholds set forth by the applicable law (LD N. 58/1998).[110][111]
- Held by companies: All types of legal persons must maintain a copy of their establishment act and statutes. Companies must in addition hold the information filed with the Business Register as well as maintain a register of their shareholders and other mandatory registers (for limited liability companies: article 2478 and following of the Civil Code; joint stock companies: article 2421; companies limited by shares: articles 2421 and 2454 and following; and for cooperatives: articles 2519 and 2421 of the Civil Code). The obligation pertains to legal ownership—there is no obligation on companies to obtain and hold up-to-date information on their beneficial ownership.

In addition, the GdF has access to the information collected by the *Agenzia delle Entrate* (including tax declarations filed and the results of tax audits) which may contribute to facilitate the identification of the beneficial owner, and may access the premises of FIs and notaries (or accountants, where relevant) to check any relevant information without the need to seek a court order.

Access to information on the legal ownership information and beneficial ownership of Italian companies owned, in full or in part, by foreign legal persons or arrangements is greatly dependent on international cooperation, the quality and timeliness of which varies greatly from one country to another. This has, however, limited impact overall considering the low number of Italian companies with foreign ownership.

Criterion 24.7— The measures taken to ensure that beneficial ownership information is accurate and as up-to-date as possible are the CDD obligations of FIs and DNFBPs, and the general obligation of customers to provide FIs and DNFBPs with updated information. All acts affecting a company's ownership (including the transfer of shares) must be done before a notary, or, for some companies, other reporting entities (i.e., in the case of a limited liability company, a chartered accountant,

[110] CONSOB's website contains information about major shareholdings in listed company subject to notification obligations, namely:

(i) shares exceeding (or reducing below) the thresholds of: 2% (such latter also if reached), 5%, 10%, 15%, 20%, 25%, 30%, 50%, 66.6%, 90%;

(ii) title to acquire shares, starting from the 5%-threshold (and subsequent thresholds: 10%, 15%, 20%, 25%, 30%, 50%, 75%);

(iii) the aggregated basket of the items (i) and (ii) above and of economically equivalent financial instruments, starting from the 10% threshold (and subsequent thresholds: 20%, 30% and 50%). (article 120 CLF and articles 117 and 119 *Regolamento Consob* n. 11971/99).

Amendments of the CLF (Law no. 116 of August 8, 2014) recently entered into force, introducing, inter alia, a lighter set of rules for small- and medium-sized listed companies, according to which the 2% threshold, under point (i) above, shall not apply to such companies (therefore, starting from the 5% threshold). Italy is in the course of implementing the Directive 2013/50/EU (amending the "Transparency Directive" 2004/109/EC), by the relevant deadline of November 2016; it would imply the review of the described set of rules and thresholds.

[111] http://www.consob.it/main/emittenti/societa_quotate/index.html.

accountant or consultant, and in the case of joint stock companies a credit institution or stockbroker), all of whom must notably verify that information. The administrators of a limited liability company have the obligation to update the information held at the Business Register within 30 days of their verification (article 2470 of the Civil Code). For joint stock companies that are not listed, article 2435 of the same code requires them to file an update of the annual list of members within 30 days of the approval of the budget.

Criterion 24.8— There is no specific obligation on companies to cooperate with the competent authorities in determining the beneficial owner. There are, however, general obligations on all persons to respond to requests made by competent authorities in the exercise of their functions (article 2384 of the Civil Code and, in the context of criminal proceedings, article 371 *bis* of the CC, as well as, with respect to the GdF in the context of VAT, in the prevention of ML/TF activities including follow-up on STRs, articles 51 para. 2 of Presidential Decree 633/1972 and 8 paras 4 and 5 of the AML Law). Providing false information when requested by the public prosecutor or false information on the identity of any individual when requested by any public official is a criminal offense (articles 371 *bis* and 496 of the CC). These requirements and the criminal sanctions for failure to comply can be considered as comparable measures which can effectively ensure cooperation.

Criterion 24.9— In the event of the dissolution or liquidation of a company, all corporate books must be deposited at the Business Register and maintained for a period of 10 years (article 2496 of the Civil Code). There are no similar obligations with respect to associations and foundations. The rules applicable to joint stock companies also apply to cooperatives (article 2519 of the Civil Code). FIs and DFNBPs also have an obligation to maintain documents collected in the performance of their CDD obligations for a period of ten years after the end of the business relationship or professional services (article 36 of the AML Law).

Other requirements

Criterion 24.10— The analysis under R.31 suggests that law enforcement authorities have adequate powers to obtain timely access to the basic and beneficial ownership information held by the Business Register, the relevant FIs, and DNFBPs.

Criterion 24.11— Two types of shares may be issued in bearer form, namely:

- "saving shares" of companies listed in Italy or in another EU country. These shares do not provide voting rights (article 145 of the LD n. 58/1998–CLF), and are limited to shareholders who are not listed as directors, members of the company's board of auditors, and general managers of the company; and
- shares of investment companies with variable capital (SICAV), which include one vote per shareholder, irrespective of the number of shares held (article 45 of the CLF).

Both types of shares must be dematerialised: they must be deposited with a single central depository and their transfer as well as the exercise of the rights they carry may only be exercised through intermediaries (articles 83 *bis* and following of the CLF). Bearer share warrants are not regulated by Italian law and, according to the authorities, do not exist in Italy.

Criterion 24.12— The Italian legal framework does not explicitly address nominee shareholdings or directors, but, according to the authorities, it does not enable their use: The possibility of nominee directors is excluded by the publicity rules that apply to directors and managers of companies. Under

the general rules on representation, non-shareholders or third parties may intervene on the shareholder's behalf on the basis of a power of attorney duly signed by the registered shareholder (article 1389 of the Civil Code). The third party may notably participate in the company's general assembly—albeit with some limitations—to exercise the shareholder's voting rights. In this case, the company must keep a copy of the power of attorney (article 2372 of the Civil Code). These measures ensure the transparency of the representation and over the real ownership of the shares.

Criterion 24.13— Some sanctions are available, more specifically for:

- Failure (by the FIs or DNFBPs) to comply with CDD requirements, which is sanctioned by a fine (usually ranging between EUR 2 600 to EUR 13 000 depending on the obligation that was not complied with) unless it represents a more serious crime in which case imprisonment might apply (article 55 of the AML Law).
- Failure (by the legal persons, their representatives or the DNFBPs such as notaries and accountants) to comply with the obligation set out in the Civil Code, in particular the obligations with respect to the Business Register, which may be sanctioned by a fine ranging between EUR 103 and 1 032 (article 2630 of the Civil Code), which does not appear dissuasive.
- Failure to comply with the registration requirements may be sanctioned by a fine from EUR 10 to 516 (article 2194 of the Civil Code), which does not appear dissuasive.

There are no specific sanctions for companies that fail to comply with their obligations to maintain the requested registers such as the register of shareholders but this is compensated by the general sanctions applicable to anyone who conceals or destroys all or part of accounting records or documents subject to mandatory conservations (article 10 LD N 74/2000).

Criterion 24.14— Basic information held in the Business Register is available online and is, therefore, accessible by foreign authorities. Additional information including beneficial ownership information may be obtained and shared by the UIF, or the LEAs (via Interpol or mutual legal assistance channels); this information may be provided rapidly in instances where beneficial ownership is readily accessible (for example, when the company holds all the necessary information or when the FI is easily identifiable and has identified the beneficial owners), or with some delay in others.

Criterion 24.15— According to the authorities, information received from foreign counterparts is verified for quality and accuracy before it is used. There is, however, no formal mechanism for monitoring the quality of assistance received and the results of the authorities' checks are not collated.

Weighting and Conclusion

Italy meets criteria 24.1, 24.2, 24.3, 24.8, 24.10, 24.11, 24.12. It largely meets criteria 24.4, 24.5, 25.6, 24.7, 24.9, 24.13 and 24.14. It partially meets criterion 24.15. **Italy is largely compliant with R.24.**

Recommendation 25—Transparency and Beneficial Ownership of Legal Arrangements

In its 2006 report, Italy was rated PC with former R.34. Assessors concluded that, although trusts could not be established under Italian legislation, because of the use of foreign trusts in Italy, measures needed to be taken to ensure the transparency of foreign trusts handled in Italy and that

access to adequate, accurate, and timely information on the beneficial ownership and control of these trusts.

Criterion 25.1— Trusts may not be established under Italian law, but foreign trusts are occasionally created in Italy under another jurisdiction's law, and foreign trusts established abroad also operate in Italy. A number of legal provisions impose identification obligations on trustees and on FIs and DNFBPs who hold assets under trusts or otherwise provide services to foreign trusts. The AML Law, article 19 (1) (b), in particular, requires the identification of the beneficial owner of trusts, which it defines in its technical annex 1, article 2 (b). The CONSOB requires further information when significant shareholdings are held in trust, including with respect to the powers of intervention and the nature, duration, and revocability of the trusts and applicable law (CONSOB Communication No. 66209 dated August 2, 2013). Any trustee holding a major shareholding in a company listed in Italy must notably transmit to CONSOB, together with the communication of major shareholding, additional information aimed at the identification of the beneficiaries and other persons involved (i.e., the settler and protector, if any), as well as information on the structure and main characteristics of the trust. CONSOB publishes on its website the information deemed necessary to ensure adequate transparency of the ownership structure (article 114 CLF). Persons acting as trustees in Italy are subject to adequate record-keeping requirements (see write-up under R.11 and R.22 above).

Under Italian law, two types of legal arrangements may be established: (i) Static fiduciary" which includes a nominee working under a direct mandate executed on behalf of the client. Static fiduciaries do not actively manage assets; and (ii) "dynamic fiduciary" which has a mandate to actively manage assets on behalf of the customer. In practice, this last type of fiduciary is very rare. Both types of fiduciaries are subject to the AML Law (articles 11 para. 2 lit. a and 11 para. 1 lit. m *bis*). Although the mentions "fiduciaires" and "trusts companies," this refers in fact to the nominees (i.e., the persons acting on behalf of another). Nominees are therefore subject to the same CDD and record-keeping requirements as other FIs and must obtain and maintain adequate, accurate and up-to-date information on the person on whose behalf they are acting.

Criterion 25.2— The AML Law imposes an obligation on (i) the customer to provide updated information to enable the FIs or DNFBPs to comply with their CDD obligations (article 21) and (ii) the FIs, DNFBPs, and persons acting on someone else's behalf in the context of the domestic "static" or "dynamic fiduciary" to ensure that the information collected in the context of the CDD requirements is up-to-date and verified on the basis of information obtained from reliable and independent sources (articles 18 and 19). See also write-up under R.10 for more details.

Criterion 25.3— There is no explicit obligation on trustees to disclose their status to the FI or DNFBP. However, article 21 of the AML Law imposes a general obligation on all customers to provide all the necessary information to enable the FI and DBFBP to conduct their CDD. According to the authorities, this general obligation entails that customers acting as trustees for foreign trusts, or as nominees for domestic "static" or "dynamic" fiduciaries must disclose their status.

Criterion 25.4— The relevant laws do not appear to prevent the disclosure of information regarding trusts or fiduciaries.

Criterion 25.5— The general powers of LEAs, prosecution authorities, and the judiciary apply to information regarding legal arrangements. The analysis under R.31 indicates that the authorities have comprehensive powers to obtain timely access to information held by trustees and other parties, in particular FIs and DNFBPs, on beneficial ownership of trusts.

Criterion 25.6— Italy has a comprehensive legal framework that allows its authorities to exchange information with their foreign counterparts, including by using all powers available under domestic law to obtain beneficial ownership information.

Criterion 25.7— Trustees and nominees are subject to the same general obligation imposed on all customers in article 21 of the AML Law and subject to the same sanctions for failure to comply with that obligation, namely, imprisonment from 6 to 12 months and a fine of an amount ranging between EUR 500 and EUR 5 000 (article 55 para. 2 of the AML Law). Fiduciaries are subject to the same CDD obligations as other FIs and subject to a fine of EUR 2 600 to EUR 13 000 in case they fail to perform their obligations (article 55 para. 1 of the AML Law).

Criterion 25.8— Failure to grant the competent authorities timely access to information regarding legal arrangements is sanctioned in most, but not all cases, depending on the authority that has requested the information and the circumstances of the request. Failure to:

- provide the UIF with the requested information is sanctioned by a fine ranging between EUR 5 000 and EUR 50 000 (article 57 para. 5 of the AML Law).
- duly respond to an ad hoc questionnaire sent by the GdF carries a fine ranging from EUR 258 to EUR 2,065 (article 37 para. 29 of the Decree Law No 223 of 2006). This applies in fiscal matters and the prevention of ML/TF.
- provide the BoI with the requested information is sanctioned by an administrative fine ranging between EUR 2 580 and EUR 129 110 (article 144 para 1, and 51, 108 para. 5, 144 *quinquies* para. 2.1 and 114 *quaterdecies* of the CLB).
- provide the public prosecutor with the requested information, or the provision of false information is sanctioned by a term of imprisonment of up to five years (article 371 *bis* of the CC).

Weighting and Conclusion

Italy meets all the criteria except 25.8, which it largely meets. **Italy is largely compliant with R.25.**

Recommendation 26—Regulation and Supervision of Financial Institutions

In its third MER, Italy was rated PC with respect to former R.23. Assessors expressed concern about the length of inspection cycles, particularly in the securities and insurance sectors and overall gaps in the supervision of some "downstream" entities in the insurance sector.

Criterion 26.1— Articles 7 (1) and 53 (1) of the AML Law provide that financial sector supervisory authorities oversee compliance with the law by persons they supervise. The BoI is responsible for the supervision of banks, e-money institutions, payment institutions, *Poste Italiane SPA*, financial intermediaries, and *Cassa Depositi e Prestiti SPA* BoI also undertakes the supervision of investment firms, asset management companies, stock brokers and SICAV jointly with CONSOB. Under the Single Supervisory Mechanism (SSM), the European Central Bank (ECB) is responsible for the supervision of significant banks, which in effect are the 13 largest banking groups in Italy. The BoI is responsible for the prudential supervision of the remaining banks and the AML/CFT supervision of all banks. IVASS is responsible for the supervision of insurance entities. Article 53 (2) of the AML assigns responsibility for the supervision of and bureaux de change to the Special Foreign Exchange Unit of the GdF. Banks, e-money institutions, payment institutions, and *Poste Italiane* are the only entities that can legally provide MVTS. To the extent that these entities provide such services, the activity

falls under the BoI's supervision. Article 53 (1) also provides that with the prior agreement of the relevant supervisory authority, supervision on the intermediaries listed therein may also be carried out by the Special Foreign Exchange Unit of the GdF. Therefore, according to this provision, the BoI can delegate GdF to carry out inspections at PIs (including the Italian branches of EU PIs), trust companies and non-bank financial intermediaries' premises. The OAM is responsible for the supervision of loan brokers and finance agents. These entities are covered by the regulations issued by the BoI.

Article 53 (4) gives the UIF responsibility for verifying compliance of all obliged entities with regard to the reporting of suspicious transactions. This is in compliance with the standard.

Market Entry

Criterion 26.2— Since the entry into force of the SSM on November 4, 2014, the ECB has assumed responsibility for the authorisation of credit intermediaries in Italy. Article 11 of the CLB prohibits any person other than a bank from engaging in deposit-taking activity on a public basis. Payment institutions are subject to authorisation by BoI in accordance with the provisions of article 114 *novies* of the CLB. Non-bank FIs granting loans and issuing guarantees are subject to authorisation by the BoI in accordance with the provisions under article 107 of the CLB. Agents of these entities are authorised by the OAM. Entities that intend to issue electronic money need to be authorised by the BoI according to article 114 *quinquies* of the CLB; PIs have to seek authorisation under article 114 *novies* of the CLB. Bureaux de change are subject to authorisation by the OAM.

Article 19 of the CLF provides that CONSOB can authorize investment companies after consultation with BoI. Article 43 of the CLF provides that BoI can authorize asset management companies after consultation with CONSOB. Articles 1, 2, and 6 of the Insurance Code define insurance activities and the classes of activity that are subject to licensing by IVASS. It also prohibits and sets out sanctions for persons engaged in unauthorised insurance activity. Banks, investment firms, and insurance entities incorporated in the EEA are allowed to operate in Italy subject to notification consistent with the right of establishment and the freedom to provide services

The 2013 FSAP update concluded on the basis of arrangements in place in Italy that the BoI does not allow the establishment of shell banks in Italy and does not allow Italian banks to set up shell banks abroad. This is in compliance with the standard.

Criterion 26.3— Article 14 (1) (d) and (e) of the CLB requires shareholders, directors, managers, and persons performing control functions of banks to satisfy specified integrity requirements. Article 25 provides that, where shareholders fail to meet the integrity requirements, they can be precluded from exercising voting rights and other rights that allow the shareholder to influence the company. Article 26 provides that where directors, managers, and persons performing control functions fail to satisfy the integrity and independence requirements, they shall be disqualified from holding office. Under the SSM, the ECB has responsibility for authorizing the acquisition of qualifying shareholding in Italian banks.

Articles 76 and 77 of the Insurance Code require members of the Board of Directors, senior management, and significant shareholders to be suitable for their functions. IVASS has the authority to disqualify and remove persons who do not meet established criteria and to prevent them from serving at another insurance institution.

The FSAP update indicates that, with respect to firms that provide investment services, MEF Decree 468/1998 requires members of the board of auditors, directors, senior management and controlling shareholders, and holders of shares that can have a significant influence on a regulated firm to be subject to fit-and-proper test.

The OAM applies fit and proper test to financial agents that provide services to PIs and EMIs in accordance with the provisions of Decree 14/2010.

Risk-based approach to supervision and monitoring

Criterion 26.4— Italy was subject to an FSAP update conducted by the IMF in January 2013. The update assessed Italy's compliance with the Basel Core Principles (BCP) for Effective Banking Supervision, the Core Principles for Effective Insurance Supervision, and Objectives and Principles of Securities Regulation.

The BCP assessment found BoI to have clearly defined objectives and powers and a governance framework that generally promoted transparency, accountability, and supervisory independence. The assessment found there was room to strengthen some aspects of the licensing process, particularly in relation to the conduct of fit-and-proper assessments of directors and senior managers which at the time of the assessment was undertaken entirely by the licensees, with no intervention by BoI. The FSAP update found that BoI generally has a good supervisory process in place which uses appropriate tools and methodologies and integrates a risk-based approach into its supervisory activity. The assessment noted that BoI has general powers to undertake consolidated supervision that allows it to exercise supervision over all financial institutions that are a part of a banking group. Under the SSM, BoI retains responsibility for AML/CFT supervision.

The IAIS assessment noted that the legal framework clearly defines insurance activity and sets out objective and transparent licensing criteria. The legal framework requires insurers to have effective risk management systems in place. Article 13 and 214 of the Insurance Code give IVASS the power to undertake group-wide supervision of insurance groups.

E-money and payment institutions are subject to monitoring and compliance oversight activity undertaken by BoI. (See discussion of BoI's supervision under para 309). Section I of the BoI March 2011 regulation requires MVTS to monitor transactions including those undertaken by agents. The monitoring is required to cover the activity of both the payer and the beneficiary. MVTS are required to have systems in place to identify and block suspicious transactions.

Passported agents of agents of EU-licensed PIs operating under the PSD fall under the supervisory responsibility of their home regulator.

Criterion 26.5— The authorities indicate that the intensity of both on-site and off-site supervision employed by BoI is tailored to be commensurate with the level of net ML/TF risks. BoI is in the process of designing a new AML/CFT risk-based supervision model but supervision for most institutions is undertaken using a model that will be phased out when the new model is fully developed and formally adopted. Under this model, ML/TF risks are taken into account in assessing operational and reputational risks. The assessment takes into account both the quantum of inherent risk and the quality of risk mitigants applied. The AML/CFT supervisory tools currently in use by BoI, CONSOB, and IVASS do not, however, provide comprehensive information on institutions' inherent risk exposures, and information on risk mitigants is not submitted to the supervisors in a manner that facilitates easy comparison across institutions.

IVASS uses an RBA similar to that which is currently in place at BoI. The system assesses ML/TF risk as a component of operational and reputational risk that is one of six risks assessed under the overall risk-based framework. IVASS has established a number of criteria to determine the level of inherent risk in the operations of insurance entities and uses the criteria to determine the intensity of AML/CFT supervisory activity.

Criterion 26.6— The authorities indicate that BoI undertakes risk assessments of FIs and groups annually, and the risk assessment is updated where necessary on the basis of new information emerging from the review process. In addition, risk assessments are undertaken whenever a supervisory procedure that requires BoI's authorisation is utilised. IVASS requires institutions to submit information on their control systems annually and assesses the changes that have taken place. The outcome of this assessment influences the supervisory strategy adopted for the institution or related group.

Weighting and Conclusion

Italy meets criteria 26.1, 26.2, 26.3, 26.4, and 26.6. Criterion 26.5 is largely met. Italy has comprehensive arrangements in place for the supervision of financial institutions, but there is room for improvement in the supervisory tools currently in use. **Italy is largely compliant with R.26**.

Recommendation 27—Powers of Supervisors

Italy received a rating of LC for the former R.29 in its third MER. The principal weakness identified was the lack of enforcement powers for non-prudential supervisors.

Criterion 27.1— Article 7 (1) and 53 (1) of the AML Law provides that financial sector supervisory authorities oversee compliance with the law by persons they supervise. The BoI is responsible for the supervision of banks, e-money institutions, payment institutions, *Post Italiane SPA*, financial intermediaries, loan brokers, and financial agents. BoI also undertakes the supervision of investment firms, asset management companies, stock brokers, and SICAV jointly with CONSOB. IVASS is responsible for the supervision of insurance entities. Article 53 (2) of the AML assigns responsibility for the supervision of bureaux de change and trust companies to the Special Foreign Exchange Unit of the GdF. Article 53 (1) also provides that with the prior agreement of the BoI, on-site visits at the premises of PIs and non-bank FIs may also be carried out by the Special Foreign Exchange Unit of the GdF. The OAM is responsible for the supervision of loan brokers and finance agents. This is in compliance with the standard.

Criterion 27.2— Article 53 (5) of the AML Law gives supervisory authorities and Special Foreign Exchange Unit of the GdF the power to conduct inspections of persons subject to the law. This is in compliance with the standard.

Criterion 27.3— Article 53 (5) of the AML Law gives supervisory authorities and Special Foreign Exchange Unit of the GdF the power to require supervised entities to present and transmit documents, acts, and any other useful information. The OAM is responsible for the supervision of loan agents and finance agents. This is in compliance with the standard.

Criterion 27.4— Articles 56, 57, and 58 of the AML Law provide for pecuniary administrative sanctions ranging from EUR 5 000 to EUR 500 000 that can be applied to supervised institutions, but not to natural persons. However, with regard to instances where AML violations are symptomatic of

broader organisational weaknesses, the BoI and IVASS can use sanctioning powers provided by the CLB, the CLF, and the Private Insurance Code in order to also punish natural persons. There are also weaknesses arising from the relatively low range of monetary sanctions that can be applied to legal persons. A full analysis of the sanctions regime is set out under R.35.

Weighting and Conclusion

Italy meets criteria 27.1, 27.2, and 27.3. Criterion 27.4 is largely met. BoI's' inability to remove directors and managers is a weaknesses in the sanctions regime. The relatively low level of sanctions that can be applied to legal persons also reduces the potential impact of these requirements. **Italy is largely compliant with R.27.**

Recommendation 28—Regulation and Supervision of DNFBPs

During its third MER, Italy was rated non-compliant (NC) for the former R.24 due to the absence of monitoring of casinos and other DNFBPs.

The 2006 MER and the response to the DAQ indicate that the four casinos operating in Italy are established under Royal Decree 2448/1927 (San Remo) 201/1933 (Campione) 1404/1936 (Venezia) and Laws 1065/1971 and 690/1981 (Saint Vincent).

Casinos

Criterion 28.1— In Italy the establishment of casinos is exclusively reserved to the State. Law 201 of March 2, 1933, Law 2448 of December 22, 1927 and Law 1404 of July 16, 1936—XIV provide that the municipalities of San Remo, Campione, and Venice can take measures necessary to address budgetary issues. The authorities have indicated that, based on these legal provisions each of the municipalities took steps to establish casinos. The authorities indicate that the Saint Vincent Casino was established via Decree of the President of the Council of the Valley dated 3 April 1946. All casinos are managed by municipality/region owned companies (San Remo, Campione, Saint Vincent) or by companies identified and awarded via public tender procedures (Venice). In both situations, in application of specific checks performed by the Ministries of the Interior and Economy and/or general provisions (public tender procedures), criminals are prevented from holding relevant positions or having controlling interests. The 2006 MER and the DAQ indicate that the four above-mentioned casinos fall under the supervisory authority of MoI *Direzione Generale dell'Amministrazione Civile—Divisione Enti Locali*.

Compliance by all four casinos and the gaming sector with the obligations set by the AML Law is entrusted to the GdF (article 8(3) AML Law), which has to report to the FSC on the adequacy of casino's AML/CFT systems (article 14(1) (d) AML Law).

DNFBPs other than casinos

Criterion 28.2— Article 8 (1) of AML Law provides that competent professional colleges and associations shall verify compliance with obligations set out in the law with respect to accountants, bookkeepers, labour consultants, auditors, notaries and lawyers. The GdF also has the powers to undertake on-site inspections of these persons and is the primary AML/CFT supervisor of these persons. Article 53 (2) of the AML Law provides that the GdF is responsible for the supervision of

persons exporting gold for industrial and investment purposes, manufacture, intermediation, and commerce including exporting and importing precious objects, the manufacture of precious objects by craft enterprises, trust companies, and persons other than bookkeepers and accountants and labour consultants who provide services in accounting and tax matters, trust and company service providers, auditors, and real estate brokering. Articles 7(2) and 53(2) of the AML Law establish that CONSOB shall verify compliance with obligations set out in the Law and its regulations with respect to PIE auditors. Article 1(78) and ss. of Law n.20 of 2010 and Law Decree 98 of 2011 that managers of entities engaged in electronic gaming and other activities related to games, betting and contests with prizes in cash are authorised by the Ministry of the Economy and Finance Autonomous Administration of State Monopolies (AASM).

Criterion 28.3— Article 53(2) provides that GdF is responsible for the supervision of persons engaged in commerce in antiques, auction house and art galleries, public administration offices, and custody and transport of cash, securities, or valuables. This is in compliance with the standard.

Criterion 28.4— Article 53 (5) of the AML Law provides that the relevant supervisory authorities and the GdF may undertake on-site inspections and may require the presentation and transmission of documents, acts, and any other useful information. Article 56 (1) of the AML Law provides for pecuniary administrative sanctions to be applied to supervised institutions ranging from EUR 10 000 to EUR 200 000. These sanctions are applied by CONSOB with respect to PIE auditors.

Lawyers, notaries, auditors, and accountants are subject to enrolment in registers held by the *Consigli dell'Ordine* and other supervisory entities and are required to be of "irreproachable conduct." Professional bodies monitor the conduct of their members with respect to breaking of laws and in relation to ethical issues. With respect to other categories of DNFBPs, persons seeking to be registered as legal entities are required to declare that the controlling shareholder, person performing administration, management and trustee functions, where control is exercised by a trust, are of good repute and integrity. Owners of at least 2% of the capital of the entities engaged in electronic gaming and other activities related to games, betting and contests with prizes in cash concerned and their administrations have to meet professional requirements, including not to be reported for certain relevant crimes, such as ML, corruption, tax crimes, or organised crime.

Article 56 of the AML Law subjects PIE auditors to administrative sanctions ranging from EUR 10 000 to EUR 200 000 for failure to undertake preventive measures required by the law.

Article 57 (1) subjects DNFBPs to administrative sanctions ranging from EUR 5 000 to EUR 200 000 for failure to suspend operations when instructed to do so by the UIF. Article 57(1) *bis* and *ter* provides administrative sanctions ranging from EUR 10 000 to EUR 250 000 for opening or maintaining a correspondent account with a shell bank or conducting business with legal persons or arrangements in listed countries. Article 57 (3) subjects professionals to administrative sanctions ranging from EUR 5 000 to EUR 50 000 for failure to create a central electronic archive and failure to maintain records.

Article 57 also provides the power to impose an escalating range sanctions which is determined on the basis of the value of specific transactions for failure to report suspicious transactions

With the exception of PIE auditors, DNFBPs are not subject to administrative sanctions for failure to perform CDD.

All DNFBPs

Criterion 28.5— The GdF uses RBAs in exercising its supervisory responsibilities. It focuses on reporting persons who it deems to have relatively high exposure to criminal activity. These include independent legal professionals and financial intermediaries. Apart from its focus on potential criminal activity, the GdF has not developed a supervisory methodology that would provide it with good information on the ML/TF risk inherent in the operations of supervised persons. CONSOB has developed an RBA with regard to PIE auditors supervision.

Weighting and Conclusion

Italy meets criteria 28.1, 28.2, and 28.3. Criteria 28.4 and 28.5 are partially met. The absence of administrative sanctions for DNFBPs (with the exception of PIE auditors) with respect to failure to perform CDD is a weakness in the sanctions regime. The lack of a supervisory methodology that provides GdF with good quality and comprehensive information on persons' inherent ML/TF risk is also of concern. **Italy is largely compliant with R.28.**

Recommendation 29—Financial Intelligence Units

In its third MER, Italy was rated largely compliant with the old R.26[112] (pages 36–39). The deficiencies related to the effectiveness of the UIF system that may be hampered by insufficient filtering of STRs; access to law enforcement information that should be enabled; guidance and positive feedback that is not provided to FIs; and public reports that are not made available to provide guidance on trends and typologies. Since Italy's last mutual evaluation, the FATF standards have been significantly strengthened, and more importantly, the Italian UIF moved location and changed its structure.

Criterion 29.1— Italy has established an administrative UIF within the BoI and been operational since January 1, 2008[113] as the national centre for receipt (article 6 (6)(b) of the AML Law), and analysis of STRs and other information relevant to ML and TF (article 6 (6)(a)(b)), and 6 (7)(a) of the AML Law), and for the dissemination of the results of that analysis (article 6 (7)(b)). The UIF does not have similar explicit powers in relation to predicate offenses associated to ML.

Criterion 29.2— The UIF is the central agency for the receipt of suspicious transactions reported by all obliged entities (financial intermediaries, non-financial operators and professionals). All reporting entities are under the obligation to file STRs (article 41.1 of the AML Law). Additionally, financial intermediaries submit, on a monthly basis, aggregated data concerning their activities on which the UIF conducts a targeted analysis in order to reveal possible ML or TF contingencies in specific geographical areas (article 40 of the AML Law). Finally, the UIF has access to declarations related to incoming/outgoing cross-border transportations of currency and bearer-negotiable instruments amounting to EUR 10 000 or more received by the Customs (see C. 32.6; LD N. 195/2008), and receives directly declarations of transactions and operations related to transfers or investments in gold and transactions in gold material mainly for industrial use. (article 1.2 of Law n. 7/2000).

Criterion 29.3— The UIF is legally empowered to require additional data and information from any persons required to make suspicious transaction reports, regardless of the source of the original report, via letter or inspection (article 6(6,c)). The UIF has also the legal power to access:

- "data contained in the registry of accounts and deposits," and "in the tax registry" (article 6.6.e of the AML Decree);
- Information and other forms of cooperation requested from relevant administrative bodies and professional associations (article 9.5 of the AML Decree);
- public registers, lists, acts or publicly available documents and any other instrument or information source permitted by Law (article 8.2. of the UIF regulation);
- Open source and commercial databases (please refer to text under IO.6 for the comprehensive list of financial and administrative information accessed by the UIF.

[112]The UIF was rated largely compliant with the old R.30 (resources) since the UIF had adequate staff, but greater share of its human resources required to be placed in the analysis function, and R.32 was rated largely compliant because of lack of review of the effectiveness of the reporting regime.

[113] The UIF was within the former *Ufficio Italiano dei Cambi* chaired by the Governor from 1997 until the end of 2007.

- The UIF does not have the legal powers to access law enforcement information that it requires to properly undertake its functions. Instead, it receives monthly feedback from the GdF and DIA about the relevance of the STR received based on cross checks with the law enforcement agency (LEA) databases.

Criterion 29.4 The UIF undertakes operational and strategic analysis based on the information received from reporting entities and the other information available to it.

Criterion 29.5— The UIF transmits the reports, compiled within the meaning of this paragraph and including a technical report containing the information on the transactions that led to the suspicion of ML or TF, without delay, including on the basis of memoranda of understanding, to the GdF-NSPV and DIA, which, in turn, must inform the National Anti-Mafia Prosecutor, whenever it relates to organised crime. It reports to the prosecutor, also through the judicial police, the facts constituting criminal offenses that can be prosecuted ex officio (article 331, para. 1 of the CPC).

The UIF also provides the general results of its studies and strategic analysis to police forces, financial sector supervisory authorities, the MEF, the MoJ, and the National Anti-Mafia Prosecutor, as well as provides the DIA and GdF-NSPV with the results of analyses and studies carried out on specific anomalies indicative of ML or TF (article 9(9)). These documents are also shared with the FSC. The UIF can cooperate with investigative bodies to "facilitate identification of every circumstance involving facts or situations knowledge of which can serve to prevent the use of the financial system and the economy for money laundering or terrorist financing" (article 9(10)), and informs the judicial authorities of the steps taken and the measures adopted article 9(7)). The UIF is compelled by law (article 256 of the CPC) to disseminate, upon request, the documentation requested by the judicial authority. LEAs can request information from the UIF after getting an authorisation from the judicial authority. It must also provide the other competent authorities with the information requested (article 9.2); and the GdF-NSPV, DIA, and other investigative bodies, under the cooperation arrangements established by law (article 9, para. 1-2-9-10). The disseminated information is sent through dedicated, secure, and protected channels.

The UIF spontaneously disseminates STRs and related information to GdF-NSPV of the GdF and DIA, but it would be recommended to allow it to send this information to other relevant LEAs and concerned authorities.

Criterion 29.6— The UIF must transmit STRs electronically to the GdF-NSPV of the GdF and DIA, in such a way as to ensure that the report only reaches the people concerned and that the information sent is received intact (article 45(4)). It usually sends the reports and technical analysis using a portal with the following security standards: two factor authentication, encryption of the transmission channel, encryption of stored data; transmission of information to other UIFs using electronic channels secured by the network of international communication (Egmont and UIF.net); and delivery of evidence to the judicial authorities using confidential couriers, encrypted emails, and hand delivery.

Criterion 29.7— LD 231/2007 establishes the UIF within the BoI, providing that the UIF shall perform its functions in complete autonomy and independence (see article 6, para.1 and 2). The Decree entrusts UIF with powers, tasks, and responsibilities within the AML/CFT framework and establishes that the organisation and functioning of the UIF is provided for by a specific regulation issued by the BoI, which implements the principle of autonomy and independence. The UIF Regulation has been updated by the BoI on July 2014 to improve the organisational structure.

The Regulation, implementing the above mentioned provision, was issued by the BoI on December 21, 2007. Article 8 of the Regulation, read in conjunction with article 2, para. 2 establishes that all the functions performed by UIF, including the core function of STR analysis, are to be performed with full autonomy and independence. The procedure for appointing both the Director and the Committee of Experts, and the establishment of their functions clearly, reflects UIF autonomy. In this respect, see also the answer to Criterion N. 29. 1. As a consequence of this legislative framework, all the decisional process is developed within UIF, without any interference from the BoI or any other authorities.

The UIF is empowered to make arrangements with any domestic competent authority involved in AML/CFT. It can enter into arrangements with any domestic competent authority useful for the performance of its functions.

Criterion 29.8— The Italian UIF became a member of the Egmont Group since the outset of this body in 1996. Over the years, while the Group progressively expanded its activities and grew in membership, the Italian UIF has consolidated and intensified its participation in Egmont activities, making systematic and intensive use of the ESW for the operational exchange of information and participation in working groups for developing and sharing common policies, particularly on issues concerning UIFs' cooperation. Currently, UIF is actively involved in a number of Egmont activities and plays a key role in important policy areas.

Weighting and Conclusion

Italy meets all the criteria except criteria 29.1 which is largely met and 29.3 which is partially met. The UIF does not have explicit powers to deal with suspicious reports related to predicate offenses. It also does not have the power to access law enforcement information that it requires to properly undertake its functions. **Italy is largely compliant with R.29.**

Recommendation 30—Responsibilities of Law Enforcement and Investigative Authorities

In its third MER, Italy was rated compliant with former R.27. The only comment raised is related to effectiveness, which is not assessed as part of this technical compliance under the 2013 Methodology.

Criterion 30.1— Italy has a broad institutional framework of police forces and prosecutors with responsibility for ensuring that ML, predicate offenses, and TF are properly investigated. The Prosecutor (which acts as an independent body; article 108 Constitution) has full responsibility for the investigation of any case, including ML, associated predicate offenses, and TF (article 51, 358–378 of the CPC). Prosecutors may initiate the investigations on their own and decide the way in which it has to be conducted. Police forces assist prosecutors during the investigation and follow their guidelines (article 109 Constitution). At the initial stages of the investigation (which includes verifying the crime, preserving evidences, finding suspects and witnesses, etc.), the police is partially independent of the prosecutor. After that, police forces must inform the prosecutor, who leads the investigation, of the activities performed (article 55–59 of the CPC).

The main police forces with responsibility for ensuring that ML, predicate offenses, and TF are properly investigated in Italy are the following (Law 121/1981, Decree on the "Review of Police Forces' Specialist Functions," issued by the Minister for the Interior on April 28, 2006):

- The *Guardia di Finanza* (GdF): The GdF is a body with military status placed under the direct authority of the Minister for the Economy and Finance. It is responsible for dealing with financial crime, tax evasion and avoidance, as well as smuggling (LD No. 68 of March 19, 2001).
- The *Arma dei Carabinieri* (the Corps of Carabineers): It is a military corps with police duties which also serves as the Italian military police. The *Carabinieri* are organised on a territorial basis for law enforcement missions. The *Carabinieri*'s Specialised Operational Group (R.O.S.) was created to coordinate investigations into organised crime, and it is the main investigative arm of the *Carabinieri*, which deals with organised crime and terrorism both at national and international levels (Law Decree 324 of November 13, 1990, article 12 of Law 203/1991).
- The *Polizia di Stato* (the State Police): The State Police is the main civil Italian police force, responsible for the maintenance of public security and order. It carries out both preventive activities (patrolling, territory control) and repressive activities with regard to any type of crime all over the national territory. It has a centralised structure consisting of several Central Directorates with specific sectors (common and organised crime, anti-terrorism, immigration and border security, security of means of transportation and telecommunications).
- The *Direzione Investigativa Antimafia* (DIA, the Anti-Mafia investigative Directorate). The DIA, is entrusted in particular with fighting specific Mafia-type organisations (Law No. 10 of December 30, 1991). It is a special inter-force investigative body that is staffed with personnel from the State Police, *Carabinieri,* and GdF with experience in financial investigations and organised crime investigations. The DIA has special investigative powers in order to fight against organised crime (see Rec. 31).
- All police forces are competent to conduct ML/TF investigations autonomously. The Public Prosecutor, who leads and coordinates the investigation, may also decide to involve different police forces, taking into consideration their respective strengths (for example, generally speaking, the GdF has more experience in ML investigations, whereas the *Carabinieri* and the *Polizia di Stato* deal more frequently with the predicates and have in-depth knowledge of territorial specificities). In addition, the DIA and GdF (Special Foreign Exchange Unit) have been explicitly designated as the special investigative police units in charge of investigating the facts indicated in the reports transmitted by the UIF (article 8 para. 3 of the AML Law). Both the DIA and the GdF are able to conduct ML/TF investigations alongside the *Polizia di Stato* and the *Carabinieri* (see first paragraph criterion 30.1).

Criterion 30.2— All judicial police forces (*polizia giudiziaria*)[114] are authorised to perform investigations into TF and both ML (as standalone offense) and predicate offenses. Financial investigations are carried out for proceeds-generating offenses. In these contexts, they are authorised to identify and trace proceeds and assets of any crime related to their investigations (article 55 of the CPC). In case of offenses perpetrated in different places, the principle of territoriality will establish the competent authority in charge of the investigation (article 8 of the CPC). Coordination at the operational and informative level is ensured through the data processing centre *Sistema d´Indagine* (SDI), administered by the MoI. In SDI, all the information related to suspects included in a law enforcement investigation is stored in order to obtain information of former or current investigations and also of the developing police units.

[114] *Polizia Giudiziaria* (articles 55–59 CPC, translated as judicial police and as criminal police, too).

Investigations on TF, ML, and predicate offenses can be developed jointly with different police forces, with the authorisation and coordination of the Prosecutor in charge of the criminal proceeding. While conducting investigation related to organised crime or other associated predicate ML offenses, LEAs are not precluded from extending their investigative activity to TF.

Criterion 30.3— The Judge, assisted by the police, is the competent authority to order the seizure of the property that is, or may become subject to, confiscation or is suspected of being proceeds of crime (article 321 of the CPC). However, in case of urgency, law enforcement officials can seize property without a court order. In this case, the minutes of the seizure (the so-called "*verbale di sequestro*") must be immediately transmitted to the Public Prosecutor, who, in turn, must submit them to the competent Judge for confirmation within 48 hours of the seizure if the seizure has been ordered by the same prosecutor, or as of the receipt of the minutes of seizure, if the seizure has been already carried out on the initiative of the police (article 321 3 *bis* of the CPC).

At the international level, Italy, through its MoI, is a member of the Camden Assets Recovery Interagency Network (CARIN), informal network of experts-practitioners in the field of asset tracing, freezing and confiscation, with the aim to increase the effectiveness of its members' efforts, on a multi-agency basis, to deprive criminals of their illicit profits.

Criterion 30.4— As mentioned above, law enforcement authorities are in charge of conducting financial investigations in Italy. Other relevant bodies (such as administrative agencies and professional associations) must collaborate in the fight against ML and TF by exchanging information with law enforcement agencies. The exchange of information for the purposes of combating and preventing ML and TF between the UIF, supervisory authorities, and judicial authorities and police forces is established in article 9 of the AML Law of 2007.

The Customs Agency is responsible for controlling the transportation of cash and other instruments within the customs area. It has the power to request information and to restrain suspected evidence of illegal cross-border transportation or a false declaration. Travellers entering and leaving Italy must declare to the Customs Agency whether they are carrying cash/bearer-negotiable instruments (LD 195 of November 19, 2008; see Criteria 29.2 and 32.6). A copy of the official notifications issued by the GdF for violations to the Decree of cash declaration movements must be transmitted to Italy's Customs Agency (article 4.5. of LD n. 195 of November 19, 2008).

Criterion 30.5— There are no separate authorities designated to investigate and prosecute ML/TF offenses arising from, or related to, corruption offenses. All the police forces mentioned above have powers to investigate these offenses. The same applies for prosecutors and, in some Public Prosecutors Offices (e.g., Milan), specialised pools of Prosecutors are dedicated to different crimes, including corruption. ANAC was established in [2009] to prevent corruption and strengthen transparency and integrity, but has no law enforcement powers. It must nevertheless cooperate with the GdF for the purpose of investigation and inspection relating to value added tax and income tax. (Circular No. 113339/14 of 17/04/2014 of the GdF; article 34 *bis* of LD 179/2012; article 2 (4) of LD n. 68/2001. If evidence of corruption is discovered in this context, the GdF will proceed with all investigative powers provided by the CPC. When a judicial authority prosecutes certain crimes against the public administration and detect anomalous situations or illicit activities attributable to a company awarded a contract for construction of public works, services or supplies, after receiving the notice, the President of ANAC is able to propose to the competent Prefect certain measures related to such company (such as ordering the renewal of corporate bodies, and providing for extraordinary and temporary management) article 32 of Decree-Law N. 90/2014.

Weighting and Conclusion

Italy meets all the criteria. It has a comprehensive institutional framework of judicial police, prosecutors, and judges designated to ensure that ML, TF, and predicate offenses are properly investigated and prosecuted. **Italy is compliant with R.30.**

Recommendation 31—Powers of Law Enforcement and Investigative Authorities

In its third MER, Italy was rated compliant with former R.28. The comment raised related to effectiveness, which is not assessed in the context of this technical compliance annex.

Criterion 31.1— The competent authorities conducting investigations of ML/TF and associated predicate offenses are able to obtain access to all necessary documents and information for use in those investigations, prosecutions, and related actions:

- The judicial authorities may order the seizure of all things necessary to establish and assess the facts of a specific case (article 253 of the CPC). They can order the search of persons and premises (article 247, 249, and 250 CPC) and seizure of correspondence (article 254 CPC), IT and IT data (article 254 *bis* CPC), bank documents, titles, values, and amounts deposited (article 255 CPC). Natural or legal persons must deliver all deeds and documents, as well as data, information and IT programs requested by the Judicial Authority (articles 253 and 256 CPC). Witness statements can be obtained by the criminal police (articles 63, 350, and 351 CPC).
- In cases related to mafia-type organised crime,[115] additional powers could be implemented by the DNA Prosecutors, and by other non-judicial authorities, such as the Head of the DIA. These authorities may request, within the framework of the so called "assets investigations,"[116] either directly or through the Judicial Police, any Public Administration offices, credit institutions, DNFBPs, enterprises, companies and organisations, for all necessary CDD information and copies of documents considered useful for their investigations in order to identify the sources of income. The investigations are also carried out against the spouse and children of the subject of the main investigation, those who have lived with that same subject for at least five years, and natural or legal persons, companies, consortia, or associations that are owned, in whole or in part, directly or indirectly, by that subject (article 19 of the Anti-Mafia Code).

Criterion 31.2— The competent authorities have a wide range of investigative techniques at their disposal for the investigation of ML and associated predicate offenses and TF. They may, in particular:

- Conduct undercover operations (article 9.1, 9.1 *bis* of Law 146/2006) ;

[115] Criminal penalties apply to members of a criminal organisation of three or more persons. Harsher penalties are applied under article 416 *bis* CC in the case of a Mafia-type unlawful association, i.e., when participants use the power of intimidation of their association and of the resulting conditions of submission and silence to commit criminal offenses, or to manage or control, directly or indirectly, economic activities and concessions. In those cases, the Anti-Mafia Code applies; it notably contains special preventive measures for this special type of organised crime, as described under R.4 above.

[116] The so-called "asset investigations" are regulated in article 19 of the Anti-Mafia Code. These investigations are referenced in Criterion 4.2 and are conducted on the people for whom a preventive measure is proposed, providing the mentioned additional powers to LEAs, compared to ordinary investigations.

- Intercept communications, under different conditions depending on whether the case is related to organised crime or not: (i) During investigations concerning organised crime, if sufficient evidence (i.e., "*gravi indizi di reato*" or serious suspicion of an offense) is available, all law enforcement authorities may carry out wiretapping (article 13 of Law Decree n. 152/1991, ratified by Law n. 203/1991 and articles 267, 266 *bis* CPC); (ii) in all other cases, wiretapping may be conducted provided that "serious suspicion" exists and that the measure is absolutely necessary to continue the investigation (articles 266, 266 *bis*, 267 CPC). Preventive interceptions of telecommunications may be carried out by prior Public Prosecutor's authorisation upon request of the Minister of Interior, the *Questore*, and the provincial commanders of *Carabinieri* or GdF (article 5 Decree-Law 438/2001). In the context of anti-mafia investigations, preventive interceptions can also be made prior to Public Prosecutor's authorisation (article 78 of Anti-Mafia Code);
- Access computer systems and intercept computer or telecommunication data transmissions (article 266 *bis* CPC) and seize information stored in hard drives (article 354 CPC); and
- Control delivery in cases of trafficking in drugs, weapons, human beings (article 9 para. 6 and 7 of law No. 146/2006)

Criterion 31.3— There are different mechanisms through which competent authorities identify assets controlled by natural or legal persons that are under investigation:

- The Bank Current Accounts Database (*Archivio dei rapporti finanziari*) is an official database held at the *Agenzia delle Entrate*, Italy's IRA, where updated information (including financial transactions, the customer's personal data, and tax code) regarding bank accounts and financial relationships held or controlled by natural or legal person in the country is uploaded and stored (article 37.4 Decree Law 223/2006). The database also includes information about occasional transactions carried out outside of an ongoing business relationship. All the operations performed during a specific month must be inserted into the database before the last day of the following month. As per article 7.11 of the D.P.R. 29-9-1973 n. 605, the information contained in the database can be used for investigative purposes, in the course of criminal proceedings, and for the application of preventive measure. Access to the database varies: (i) The DIA and GdF have direct access to the database when performing the necessary investigations into suspicious transactions reports (article 8.4. a, LD 231/2007; (ii) during a judicial police investigation, all police forces have access to the mentioned database upon authorisation by the Judicial Authority, and (iii) the UIF and the Judiciary have direct access to the database.
- Both the DIA and GdF may request further information from the persons subject to the AML Law for the purposes of their analysis or investigations of STRs, (article 45.3 of the AML Law). The requested information is supplied in a timely manner.

Pursuant to article 329 of the CPC, all investigations carried out by the prosecutor and the judicial police must be kept confidential.

As a supervisory authority (article 8.5 of the AML Law related to persons subject to AML obligations), GdF, developing operational task related to economic-financial crimes, has powers to carry out inspections of companies, non-profit bodies and FIs, and to require them the exhibition of accounting books, records and documents for verification (articles 51–52 of Presidential Decree 633 of October 26, 1972 and 32–33 of Presidential Decree 600 of September 29, 1973 for income taxes).

Criterion 31.4— All the competent authorities investigating ML, associated predicate offenses, and TF are able to ask for all relevant information held by the UIF. The GdF and DIA receive information directly from UIF (articles 8, 9, and 47 of the AML Law), and all other police forces may obtain information from the UIF with a court order (article 256 of the CPC). Information is also regularly provided by UIF upon request by prosecutors (articles 9.1, 9.7 and 9.8 of AML Law) 9, paras 1 and 7). Direct electronic channels to exchange information and data confidentially have been set up between the UIF and those prosecutors who most frequently request information.

Weighting and Conclusion

Italy meets all the criteria. The competent authorities conducting investigations of ML, TF, and associated predicate offenses have comprehensive powers to obtain or access all available documents and information for use in those investigations, prosecutions, and related actions. These authorities are also able to obtain financial, tax, and banking information linked to natural and legal persons. **Italy is compliant with R.31.**

Recommendation 32—Cash Couriers

In its third MER, Italy was rated compliant. Since then, Italy has implemented EU Regulation 1889/2005 through LD 195/2008. As a member of the EU, EU Regulation 1889/2005 is directly applicable and enforceable in Italy. Italy's relevant national authorities are the Customs Agency (*Agenzia della Dogane*), GdF, and the UIF. The immigration authorities, *Polizia di Stato* (*Polizia di Frontiera*) does not have a specific role based on LD 195/2008. However, *Polizia di Stato* would, in the event of discovery of undeclared cross-border transportation of currency, report such events in writing or orally to Customs Authorities (per articles 324 and 325 TULD—Presidential Decree no. 43/1973).

Criterion 32.1— Italy has a declaration system for incoming/outgoing cross-border transportation of currency and bearer negotiable instruments. Natural persons entering and leaving Italy are obligated to declare to Italian customs whether they are carrying cash/bearer negotiable instruments. There are also declaration requirements for mail and cargo. Provisions allow for different modalities of declaring cross-border currency, in writing or electronically.

Criterion 32.2— Italy has established a written declaration system for all persons carrying cash or bearer-negotiable instruments equal or above a pre-set threshold of EUR 10 000. The Italian declaration form includes data on the bearer, owner, recipient, origin of funds, itinerary of transfer, destination of funds, means of transfer, and party on whose behalf the transfer is made.

Criterion 32.3— This criterion is not applicable since Italy has a declaration system.

Criterion 32.4— According to article 4 of Decree 195/2008, Customs and GdF are authorised to investigate violations of this decree.

Criterion 32.5— Italy has administrative sanctions in case of failure to produce the declaration or in case of incorrect, incomplete or false information. According to article 9 (1) of LD 195/2008, persons who make a false declaration are subject to a minimum administrative sanction of EUR 300; or a fine of 10–30% of undeclared amount where the value does not exceed EUR 10 000; or 30–50% of amount where the value exceeds EUR 10 000. According to article 6 of LD 195/2008, the cash can also be subject to seizure (see criterion 32.11). According to the statistics provided, it does not

appear that these sanctions are in fact dissuasive, as the data presented demonstrates a constant increase in sanctions issued and amounts collected.

Criterion 32.6— Article 4(7) of Decree 195/2008 requires Customs to notify the UIF, when in the course of investigations prescribed by article 4 of Decree 195/2008, facts and situations emerge related to ML and TF, also for amounts of cash lower than the threshold established by article 3 of Decree 195/2008. Customs shall provide to the UIF data on the individual's identification and the means of transport. In practice, the UIF and Customs have concluded an MOU permitting the UIF to have access to the Customs database.

Criterion 32.7— Domestic coordination related to cross-border currency controls is the one-way transfer of reports from Customs to investigating agencies and UIF. Article 9(2) of Law 97/2013 and article 5 of LD 195/2008 requires that Customs transfer reports of undeclared currency or BNI to GdF and the IRA. However, the Customs does not provide GdF with all declaration forms, but upon request, GdF receives data on single declarations of cross-border transportation of currency from the Customs Agency.

Criterion 32.8— Italy has established procedures for seizure of cash or bearer-negotiable instruments where there is a suspicion of ML/TF or predicate offense; or where there is a false declaration of false disclosure. In the case of false declarations, both Customs and GdF can seize cash/BNI on the basis of article 6 LD 195/2008. With respect to when the cash/BNI is suspected to be linked to ML/TF or any predicate offence, authorities can seize the total amount pursuant to article 321 of the CPC.

Criterion 32.9— Per article 5(1) of Decree 195/2008, Italian authorities can collect and exchange information related to ML and TF with other EU Member States. While article 5(3) also provides for the exchange of information with third countries through mutual administrative assistance. Per article 4 of Decree 195/2008, declaration forms are maintained for 10 years.

Criterion 32.10— As a member of the EU, Italy respects the EU's principle of free movement of capital, and as such, there are no requirements that seem to encumber legitimate trade. Furthermore, the Preamble of Regulation 1889/2005 reiterates that the European Community endeavours to create a space without internal borders in which the free movement of goods, persons, services, and capital is ensured. According to the declaration form, the information collected through the customs declaration is protected by article 13 of LD 196/2003 regarding personal data privacy.

Criterion 32.11— With respect to individuals who are carrying out a physical cross-border transportation of currency or BNI that are related to ML/TF or a predicate offense, they are subject to criminal sanctions, and, as such, a seizure can be initiated pursuant to article 321 of the CPC.

Weighting and Conclusion

Italy meets all the criteria except criterion 32.5 which is largely met. Italy has established a declaration system for incoming/outgoing cross-border transportation of currency and bearer negotiable instruments. Though the law establishes administrative sanctions for violations of this law, these do not appear to be dissuasive. Italian authorities can cooperate internationally with other EU Member States, and there are limited national mechanisms to facilitate adequate domestic coordination. **Italy is largely compliant with R.32.**

Recommendation 33—Statistics

Italy was rated LC with the previous R.33. The MER identified that the UIF did not effectively review the reporting mechanism, the supervisory authorities did not record the requests for assistance and how requests were dealt with, and the law enforcement and prosecution authorities did not review periodically the effectiveness of the AML/CFT systems. While the language of R.33 has not changed, this Recommendation has taken on more relevance in the context of assessing effectiveness.

Criterion 33.1— Overall, Italy has provided the assessors with comprehensive statistics on matters relevant to the effectiveness and efficiency of its AML/CFT system. Statistics regarding the following areas are maintained:

- Suspicious transaction reports (STRs) and other information received, analysed, and disseminated: the UIF maintains a wide range of statistics including detailed breakdowns, many of which are published in its annual report.
- ML/TF investigations, prosecutions and convictions: data on prosecutions and convictions are maintained by the MoJ and processed by ISTAT. The DIA, GdF, and customs maintain statistics about their investigations. The statistics related to ML/TF investigations, prosecutions and convictions, while of good quality, are not sufficiently detailed.
- Property frozen, seized, and confiscated: statistics on frozen, seized, and confiscated property, while of good quality, are not sufficiently detailed comprehensive, and are difficult to aggregate. The statistics were provided by different authorities and contained some double counting when they were consolidated; these elements made difficult the process of consolidation, but not prevented it. Property frozen in respect of individuals and entities designated by EU regulations or by the relevant decrees issued by Italy's MEF are held by the FSC.
- Mutual legal assistance (MLA) or other international requests for cooperation made and received: the MoJ does not maintain statistics on AML/CFT-related mutual legal assistance and extradition. The DNA provided statistics on MLA relating to organised crime cases, and the UIF maintains comprehensive statistics on AML/CFT related administrative cooperation requests.

Weighting and Conclusion

Italy maintains comprehensive statistics on key issues. Statistics should be improved in relation to MLA and extradition and further developed in relation to ML/TF investigations, prosecutions, and convictions. **Italy is largely compliant with R.33.**

Recommendation 34—Guidance and Feedback

In its third-round MER, Italy was rated partially compliant (PC) with the former R.25. The report expressed concern over the lack of (i) systematic feedback using statistics and typologies, (ii) guidance to DNFBPs, (iii) adequate guidance to assist reporting persons in identifying suspicious transactions possibly linked to TF, and (iv) positive feedback to financial institutions.

Criterion 34.1— In August 2010, the BoI, in collaboration ISVAP and CONSOB, issued indicators to assist reporting entities in identifying suspicious transactions. The authorities indicate that these indicators are comprehensive enough to be applicable to all financial institutions and cover TF issues. In May 2009, the BoI, in collaboration with the UIF, issued Operational Guidelines, including a

number of indicators, with respect to the financing of proliferation. The BoI also issues warnings and notices to reporting entities which identify specific ML/TF risks identified during the course of its supervisory activity and provides the details of various sanctions lists to reporting institutions. The BoI's website includes a section which provides responses to FAQs about the legal and regulatory framework.

UIF provides information to reporting entities on new ML/TF typologies through its annual report and typologies which are published on its website. The authorities indicate that the indicators are relevant to FIs and DNFBPs. The authorities also report that in August 2014, the National Council of Notaries issued the Operational Guideline on CDD. In accordance with the requirements of the article 8 (1) of AML Law, professional associations have undertaken a number of initiatives to sensitize their membership about ML/TF risk and their responsibilities arising from the AML Law. CONSOB has undertaken a number of initiatives to raise the AML/CFT awareness of PIE auditors. There is however scope for the UIF to coordinate with the GdF to provide better guidance to DNFNPs, with the exception of PIE auditors and notaries, with the objective of increasing the quality and quantity of STRs.

The authorities indicate that MD of 16-4-2010 which is applicable to professionals and DM Interior of 17-2-2011, which is applicable to non-financial entities, were issued following a proposal by UIF. There is no indication that, apart from the guidance issued by the National Council of Notaries, guidance has been issued to other DNFBPs by the *Direzione Generale dell'Amministrazione Civile–Divisione Enti Locali*, the Special Foreign Exchange Unit of the GdF, or other supervisors of DNFBPs. The absence of effective guidance on ML/TF risks for DNFBPs, with the exception of PIE auditors and notaries, is a weakness that contributes to the less robust application of preventive measures by reporting persons in this sector and generally lower levels of an understanding of risk based approaches to the management of these risks.

Weighting and Conclusion

While comprehensive guidance has been provided to FIs there is need, with the exception of PIE auditors and notaries, to strengthen the guidance provided to DNFBPs, especially with respect to ML/TF risks and the reporting of suspicious transactions. **Italy is largely compliant with R.34.**

Recommendation 35—Sanctions

Italy was rated PC with the former R.17. The main deficiencies were that the sanctions regime was not fully effective, proportionate or dissuasive, and the inability to sanction FIs.

Criterion 35.1— Title V of the AML Law set up a system of penalties and sanctions for failure to comply with the AML/CFT requirements. It establishes criminal sanctions under Chapter I, and administrative and civil sanctions under Chapter II:

Table 35. **Criminal Sanctions**

Customer Identification obligations	**Title II, Chapter I**	**Article 55** **EUR 2 600–EUR 13 000**
Failure to provide identification details	Article 55.2.	Imprisonment 6–12 months an fine EUR 500 to EUR 5 000
Failure to provide information on the purpose and the nature of the business relationship	Article 55.3	Imprisonment 6 months to 3 years and fine EUR 5 000 to EUR 50,000
Record Keeping	Articles 55.4 and 36	Fine EUR 2 600 to EUR 13 000
Obligations to notify breaches to the MEF and supervisory agencies	Articles 55.5 and 52.2	Imprisonment of up to one year and EUR 100 to 1 000

Furthermore:

a. Failure to comply with the reporting obligations is punished—unless it constitutes a more serious crime—with a pecuniary administrative sanction expressed as a percentage which goes from 1 to 40% of the global amount of the transaction not reported (article 57.4).

b. Failure to create the central electronic archive is punishable with a fine ranging from EUR 50 000 to EUR 500 000. Serious violations (taking into account the circumstances as well as the amount of the transactions not reported) the abstract of the sanctioning decree is published in at least two national newspapers.

c. In addition, violations on cash limits (article 49) are punished (article 58) with a percentage of the amount (minimum of EUR 3000 up to 40% of the amount of the transaction(s) and opening an account anonymously or in a fictitious name is punishable on the basis of articles 50 and 58.

Pursuant to article 60 (5) of AML Law:

- Records relating to persons in whose regard a definitive sanction is issued, on the basis of this article, are kept in the UIF information system, for a period of ten years (article 60.5). Administrative monetary sanctions are imposed in case of noncompliance with the provisions mentioned or adopted in accordance with articles 7.2, 54, and 61 of the same law).
- For all other administrative violations (articles 57 and 58), sanctions are imposed by the MEF, and by the supervisory authorities in the cases envisaged by article 56 of the AML Law.

As far as violations under the CFT regime are concerned, in accordance with article 13 of LD 109/2007, unless accounting for offense, violations of article 5 (1, 2, 4, and 5) of the same LD, are punished via a pecuniary sanction not below half the value of the action itself and not above double the action value. Violations of article 7 (Notification Obligations) are punished via pecuniary sanctions of EUR 500–EUR 25 000. Further, verification of violations pursuant to paragraphs 1 and 2 and establishment of related sanctions are regulated by Title II, Chapters I and II, of the Consolidated Law in the currency area (*Testo Unico in materia valutaria*), pursuant to DPR N 148 of March 31, 1988 and subsequent amendments, with exception of article 30. Provisions for establishing sanctions issued are transmitted to the FSC.

Article 56 (1) of the AML Law provides for pecuniary administrative sanctions ranging from EUR 10 000 to EUR 200 000 to be applied to supervised institutions. These sanctions cover deficiencies related to CDD, internal organisation, record keeping, procedures and controls, training of staff, and wire transfers. These sanctions can be imposed by: (i) the BoI with respect to the institutions it supervises; (ii) IVASS with respect to insurance undertakings and insurance brokers; (iii) CONSOB with regard to the audit firms; (iv) the MEF with respect to bureaux de change; and (v) the Ministry of Economic Development with respect to trust companies. Article 56 (2) provides that in the case of serious violations of the law, the relevant oversight bodies of loan brokers, financial agents, small loan guarantee consortia, and micro-lending providers should revoke the licenses of these persons.

Under the provisions of article 57 of the AML Law, pecuniary sanctions ranging from EUR 5 000 to EUR 500 0000 can be imposed with respect to (i) deficiencies related to establishing or maintaining correspondent banking relationships with shell banks; (ii) establishing a relationship with a trust, company, a company controlled by bearer of shares, or any company having a branch in a country included on the list issued by the MEF of countries with ML/TF risks; (iii) a failure to report a suspicious transaction; and (iv) violations of information obligation with respect to the UIF. Article 60 (2) of the AML Law provides that sanctions set out under articles 57 and 58 can be applied by the MEF. With regard to banking groups, prior to the launch of the SSM, in case of AML infringements which could put at risk the integrity and/or the stability of the bank, the BoI could decide to: (i) restrict the current activities of the bank, prohibit the bank from engaging in new business or order the closure of branches; (ii) impose more stringent prudential limits and requirements; (iii) withhold approval of new activities or acquisitions; (iv) restrict or suspend payments to shareholders or share repurchases; and (v) restrict asset transfers. Such measures could be adopted by the BoI in case of management irregularities, including failure to implement corrective actions as indicated by the BoI. These are "extraordinary measures" tools (Title IV of the CLB), which the BoI could adopt in case of urgency outside formal crisis procedures and, therefore, without the need of an MEF decree. Following the launch of the Single Supervisory Mechanism, the entire set of prudential supervisory powers is assigned to the ECB and the BoI (as National Competent Authority). It is, however, under discussion whether this toolbox can be used also to counter AML violations committed by banks supervised by the ECB, while such tools are still available with regard to banks supervised by the BoI. The CLB grants the BoI powers similar to those described above also with regard to PIs and EMIs pursuant to articles 114 *quinquies*.2, para. 3 and 114 *quaterdecies*, para. 3.

As for investment firms, asset management companies, and SICAVs, the BoI, or CONSOB, to the extent of their duties, may intimate the intermediary to put an end to the breach and may also, after consulting with the other authority, prohibit the companies from engaging in new transactions, as well as place any other limitation on transactions involving single services or activities, on single branches or establishments of the intermediary where, among others, the violations, even of the AML rules, are likely to prejudice interests of a general nature.

Article 70 (1) of the CLB provides that MEF, acting on the proposal of the BoI, can dissolve the management and control bodies of a bank in instances where there have been serious irregularities in management or violations of laws, regulations or the bank's by-laws. Pursuant to article 56 of the CLF, the MEF, acting on a proposal from the BoI or CONSOB, may issue a decree dissolving administrative and control bodies of an investment firm or management company where there have been serious violations of laws or regulations. Article 113 *bis* gives BoI the power to arrange for an administrator to take over the administrative function of a non-bank financial intermediary where

there have been serious administrative irregularities or serious violations of legislative, administrative, or statutory provisions. Such arrangements are limited to a period not exceeding six months. The BoI can use powers set out in article 113 *ter* of the CLB to revoke a financial intermediary's authorisation where there have been serious administrative irregularities or exceptionally serious violations of laws, regulations, or by-laws governing the intermediary's activity. The measures set out in article 113 *bis* and *ter* of the CLB are applicable to financial intermediaries and to e-money institutions and institutions which provide payment services.

Where there have been serious violations of the law and related regulations. Article 229 Code of Private Insurance gives IVASS the power to appoint a commissioner to ensure the insurance entity is managed in accordance with the provisions of the law. In addition, under article 231, the Minister of Production Activities, acting on advice from IVASS, may dissolve an entity's management. Under these circumstances, IVASS is empowered to appoint one or more commissioners to be responsible for the management of the entity. Article 42 provides that an entity's license can be withdrawn or it can be subject to compulsory winding-up by the Minister of Production Activities acting on IVASS's advice.

The sanctions regime available to financial sector supervisors is not comprehensive enough to meet the test of being proportionate and dissuasive. There are no pecuniary administrative sanctions that can be applied to natural persons with respect to AML/CFT violations, and the monetary sanctions which can be applied to FIs are relatively low and, therefore, unlikely to be dissuasive. In addition, supervisors are not able to impose pecuniary administrative sanctions in excess of EUR 200 000. For other offenses, as set out in articles 57 and 58 of the AML Law, the MEF can apply sanctions in excess of this amount. The powers to dissolve the management and control bodies rest formally with the MEF which acts on a proposal from the sector supervisor.[117]

Criterion 35.2— In accordance with article 56 of the AML Law, in case of breaching of the BoI AML regulations, namely, on CDD, organisation, and internal controls and the Single Electronic Archive, the BoI can impose administrative sanctions ranging from a minimum of EUR 10 000 to a maximum of EUR 200 000 on FIs, affecting only the legal person and not its board members or its managers. Nevertheless, when BoI conducts on-site inspections, infringements of AML rules are very often detected together with other broader violations of the organisational or procedural rules applicable to FIs pursuant to CLB (or CLF). In such cases, the AML deficiencies are likely to be assessed and punished in the framework of these broader breaches and people at the FIs who are deemed responsible (e.g., persons performing administrative or managerial functions and employees) are sanctioned according to the procedure foreseen by articles 144–145 of CLB and article 190 and 196 of the CLF. Moreover, criminal sanctions, envisaged by AML Law, article 55, are applicable to natural persons.

Weighting and Conclusion

Italy partially meets criterion 35.1, and largely meets criterion 35.2. The monetary sanctions which can be applied by BoI are relatively low, especially for large FIs and are, therefore, unlikely to be dissuasive. In addition, financial sector supervisors cannot impose pecuniary administrative

[117] Following the coming into force of LD 72/2015 in February 2015, the BoI is able to remove corporate officers when the performance of their functions prejudices sound and prudent management of banks, investment firms, and asset management companies.

sanctions in excess of USD 200 000. Sanctions in excess of this amount are applied by the MEF subject to notice by supervisors. BoI's administrative sanctions can be applied to legal persons but not to an institution's Board of Directors or senior management, and it does not have the direct power to remove these persons from office. There is uncertainty on whether sanctions available under the CLB can be applied to banks supervised by the ECB. **Italy is partially compliant with R.35.**

Recommendation 36—International Instruments

In its 2005 report, Italy was rated LC with former R.35 and SR.I. Assessors found that Italy had ratified most, but not all, of the relevant conventions (ratification of the Palermo Convention was still pending at the time), and that it had not fully implemented the ICSFT, more specifically, the TF offense. Since then, the standard was strengthened with the addition of the Merida Convention and the Italian framework was enhanced through various laws.

Criterion 36.1— Italy is party to all four conventions listed in the standard. In addition to those already ratified at the time of the previous assessment, it ratified the Palermo Convention by Law No. 146 of March 16, 2006 and the Merida Convention by Law No. 116 of August 3, 2009. Italy also ratified the 1999 Strasbourg Convention by Law No. 110 of June 28, 2012.

Criterion 36.2— Italy took legislative measures to implement the relevant provisions of the conventions, including the Merida convention, notably by:

- Extending the scope of application of article 322 *bis* of Italy's CC to include: embezzlement, bribery, corruption, and incitement to bribery of members of the European Communities bodies and of officials of the European Communities and of foreign states;
- Extending the legal responsibility of entities to include the incitement aimed at not making statements or making false statements to relevant Court (article 25 *novies* of LD n. 231/2001);
- Introducing new rules for the allocation to a foreign state of items seized (article 740 *bis* and 740 *ter* of the CPC); and
- Identifying the National Anti-Corruption Authority (*Autorià Nazionale Anti Corruzione*—ANAC) as the authority responsible at the national level for monitoring, preventing, and countering corruption and illegality in the Public Administration (law No. 190 of 2012, in implementation of articles 6 of the Merida Convention as well as 20 and 21 of the 1999 Strasbourg Convention).

Weighting and Conclusion

Italy meets both criteria. It has ratified all the relevant Conventions and implemented their relevant articles. **Italy is compliant with R.36.**

Recommendation 37—Mutual Legal Assistance

In its 2005 report, Italy was rated compliant with the former R.36 and SR.V. Since then, Italy has adopted legislative measures to implement the Merida Convention. The rest of the legal framework for mutual legal assistance remains unchanged, but the requirements of (new) R.37 are more detailed.

Criterion 37.1— Italy has the legal basis that allows its authorities to rapidly provide a wide range of mutual legal assistance in relation to ML, associated predicate offenses and TF investigations, prosecutions and related proceedings. Articles 10 of the Constitution, and 696 and following of the CPC set the main legal framework, which is supplemented by a number of laws[118] and multilateral as well as bilateral treaties[119] concluded with a range of countries.[120]

[118] Relevant laws include: Law n. 388 of September 30, 1993 ratifies and implements the Schengen agreement of June 14, 1985 which, inter alia, aims to supplement the 1956 European Convention; Law 69/2005

Criterion 37.2— Italy's MoJ is the central authority for receiving, executing, and transmitting requests for mutual legal assistance, except for cooperation with other member states of the Schengen agreements,[121] with whom written requests may be transmitted directly to the competent judicial authority. There is no case management system in place to monitor progress on requests.

Criterion 37.3— The CPC sets out the general framework applicable in the absence of a convention or bilateral treaty. Mutual legal assistance does not appear to be prohibited or made subject to unreasonable or unduly restrictive conditions.

Criterion 37.4— Articles 723 and 724 of the CPC set the grounds for refusal of a request for MLA in the absence of bilateral or multilateral agreement, and do not include references to tax offenses or FIs and DNFBPs secrecy or confidentiality requirements: MLA may, therefore, be granted despite the fact that an offense is also considered to involve fiscal matters, and confidentiality requirements do not constitute an obstacle to MLA. According to the authorities, all the agreements concluded by Italy are similarly broad and do not limit the scope of cooperation on the grounds of fiscal or confidentiality matters.

Criterion 37.5— Professional secrecy (*segreto d'ufficio*) applies to all public functions. MLA requests are, therefore, covered by the professionals' secrecy, the violation of which is punishable by imprisonment (article 326 of the CC).

Criterion 37.6— Dual criminality is not required in instances covered by conventions or other agreements that Italy is party to. In light of the large number of agreements concluded, this is the most frequent scenario. In other instances, dual criminality is required regardless of the type of assistance requested (article 724 of the CPC), unless the accused has freely expressed his consent to the request.

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transposes the European Arrest Warrant; Law n. 367/2001 ratified and implements the Italy-Switzerland agreement which completes the 1959 European Convention and facilitates its implementation. Law n. 146/2006 on the ratification and implementation of the UN Convention and Protocols against transnational organised Crime, which establishes the principle that MLA shall be granted as widely as possible (article 18).

[119] All the relevant bilateral and multilateral treaties involving Italy (regarding MLA) are available at:

http://www.giustizia.it/giustizia/it/mg_1_3.wp?aip=AIP32585&tabait=y&tab=a&ait=AIT32552&aia=#TopAi

Relevant treaties and agreements notably include: The Agreement between the European Union and the United States of America signed in Washington DC on June 25, 2003; the Treaty between the Italian republic and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters, signed in Rome on November 9, 1982; the Cooperation Agreement between the European Community and its members States, and the Swiss Confederation which aims at combating fraud and any other illegal activity detrimental to the related financial interests, dated October 26, 2004 and ratified by Law n. 187/2009.

[120] Italy has concluded at least one agreement concerning "Criminal Legal Assistance" with: Albania, Algeria, Andorra, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Bolivia, Bosnia, Herzegovina, Brazil, Bulgaria, Canada, Chile, Croatia, Cyprus, Denmark, El Salvador, Estonia, Russia, Finland, France, Georgia, Germany, Japan, Greece, Hong Kong, Iceland, Ireland, Israel, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Morocco, Mexico, Montenegro, Norway, Netherlands, Paraguay, Peru, Poland, Portugal , United Kingdom, Czech Republic, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, United States, Sweden, Switzerland, Tunisia, Turkey, Ukraine, Hungary, Venezuela. The MoJ's website also includes the list of "Extradition Agreements" concluded.

[121] The agreements in question include: (i) the Schengen Agreement, signed on June 14, 1985; and (ii) the Convention implementing the Schengen Agreement, signed on June 19, 1990, which set out how the abolition of internal border control, as well as a series of necessary accompanying measures, and which established a Schengen Information System. The implementation of the Schengen Agreements started on March 16, 1995.

Criterion 37.7— According to jurisprudence, in order to satisfy the dual criminality condition, it is not necessary that the categories of offenses or the legal terminologies used be the same in both countries—it is sufficient that the activities that gave rise to the request are punishable as an offense (which, in Italian law, covers both crimes and misdemeanours; article 39 of the CC) in both countries (Court of Cassation, Sentence n. 19406/2012). This provides for a broad framework of cooperation (and, according to the authorities, requests are rarely rejected on the grounds of lack of dual criminality).

Criterion 37.8— The powers granted by the CPC and other laws may be used in response to an MLA request. Specific procedures may also be requested by the foreign judicial authority and executed by Italian authorities provided that they do not conflict with the principles of the Italian legal system (article 725 of the CPC).

Weighting and Conclusion

Italy meets all the criteria, except 37.2 (due to the lack of case management in place). **Italy is largely compliant with R.37.**

Recommendation 38—Mutual Legal Assistance: Freezing and Confiscation

In its 2005 report, Italy was rated compliant with the former R.38 and SR.V.

Criterion 38.1— The measures provided for in the relevant legislation and described under R.4 above are equally available upon request from a foreign state. In addition, in the case of transnational crimes, article 12 of law No. 146/2006 explicitly provides that the prosecutor may carry out any necessary investigative act related to the assets, money, and other benefits subject to confiscation and seizure (including all assets, property and instrumentalities listed in criterion 38.1 and property of corresponding value).

Criterion 38.2— Italy may provide assistance to requests for cooperation made on the basis of non-conviction-based confiscation proceedings and related provisional measures in the instances described under R.4, namely, the "preventive" confiscation and the "confiscation per equivalent" (articles 24 and 25 of the Anti-Mafia Code). These apply in cases of alleged participation in organised crime groups, TF, and cases of alleged ML committed habitually. Assistance may not be granted in instances that are not within the scope of the Anti-Mafia Code.

Criterion 38.3— The bilateral agreements and treaties concluded by Italy do not include arrangements for the coordination of seizure or confiscation actions; such arrangements are concluded on a case-by-case basis according to the needs of a specific investigation or prosecution. Italy has strong mechanisms in place to manage and, where necessary, dispose of property frozen, seized, or confiscated as described under R.4.

Criterion 38.4— The laws do not specifically address the sharing of confiscated property, but article 740 *bis* of the CPC allows for the devolution of all confiscated property to another country in instances covered by international agreements that Italy is party to and if the foreign state explicitly requests the devolution of the property. Article 740 *bis* is mainly based on the UN Convention against Corruption, which entered into force on December 14, 2005.

Weighting and Conclusion

Italy meets all the criteria, except 38.3 because it does not have arrangements for coordinating seizure and confiscation actions with other countries. This is a minor shortcoming considering that bilateral agreements may be concluded on a case-by-case basis. **Italy is largely compliant with R.38.**

Recommendation 39—Extradition

In its 2005 report, Italy was rated compliant with former R.39 and SR.V.

Criterion 39.1—:

- Both ML and TF are extraditable offenses. Extradition is governed by the Constitution and the Criminal Code, as well as by the conventions and agreement that Italy is party to.
- There are no case management systems in place. No information was provided with respect to the length of time required to extradition requests.
- The Constitution and the CPC set limits to extradition that do not appear to be unreasonable or unduly restrictive. Extradition may not be granted (i) political offenses (article 26). The notion of political crime is not defined in the text of the law but the scope of the prohibition was clarified in jurisprudence (Court of Cassation, Sentence No. 23727/2008: the prohibition applies only to those offenses committed for the defence of values acknowledged in the Italian Constitution; (ii) in instances where the death penalty may be pronounced in the foreign State for the offense that gave rise to the extradition request, extradition may be granted only if the foreign State provides the Italian MoJ and the competent judicial authority with "absolute guarantee" that it will not carry out the death penalty.[122] (iii) In addition, Italian citizens may only be extradited if extradition is specifically provided for in international conventions that Italy is party to, which include the conventions listed in the standard.

In the European context, extradition amongst EU members is facilitated by the European Arrest Warrant (EAW) Framework decision, which Italy implemented in April 2005. EAWs may only be issued for offenses that carry a maximum penalty of 12 months or more imprisonment, or where the prison sentence to be enforced is at least four months long. Once issued, EAWs become automatically applicable in all EU member states. There is no exception for political, military, or revenue offenses, and no exception clause allowing a state to refuse to surrender one of its nationals. The general

[122] The text of article 698 para 2 of the CPC sets a lower threshold, namely, that the foreign State must provide "the same guarantee as deemed sufficient both by the judicial authority and by the Ministry of Justice" that the death penalty will not be applied. This provision was considered as unconstitutional by the Constitutional Court (Sentence No. 223/1996). The Court of Cassation subsequently established that extradition may only be granted if an "absolute guarantee" was given (Sentence No. 210836/1998).

698 CPP 1. Extradition shall not be granted either for a political offense or if there are well-founded reasons to believe that the accused or convicted person will be subject to either persecution or discrimination on grounds of race, religion, sex, nationality, language, political opinions, or social or personal conditions, or cruel, inhuman, degrading penalties or treatments, or in any case to actions which violate one of the fundamental rights of a person.

2. If the case for which extradition is requested is provided for the death penalty under the law of the foreign state, extradition may be granted only if the state gives the same insurance, is considered sufficient both by the court and by the Ministry of Justice, that the death penalty will not be imposed or, if already imposed, will not be executed. Unconstitutional) *Unofficial translation*

requirement for dual criminality is removed for a range of offenses, including money laundering, and the categories of predicate offenses listed in the standard and terrorism. The mandatory grounds for refusal under the EAW Framework decision do not appear to be unreasonable or unduly restrictive. The law that implemented the framework decision into Italy's domestic legal framework only provides for these mandatory grounds for refusal (i.e., it does not include optional grounds for refusal which could potentially have narrowed the scope of extradition).

Criterion 39.2—:

- Italian nationals may only be extradited to a country that is not an EU member in instances where this is explicitly provided for in the international conventions or other agreements that Italy is party to, except in the case of political offense, in which case the extradition will be denied (articles 26 of the Constitution and 13 of the CC). Within the EU, extradition may occur amongst Member States under the EAW, regardless of nationality.
- In instances where extradition is not possible, article 9 of the CC provides that the accused should be prosecuted by the competent Italian authorities. Pursuant to article 13 of law No. 69/2005, the arrest of an individual must be referred to the court within 48 hours.

Criterion 39.3— For the dual criminality requirement to be fulfilled, it is not necessary that the foreign denomination of a crime find its exact counterpart in the Italian legislation; it is sufficient that the facts upon which the request is based be punishable as an offense in both countries (Court of Cassation, Sentence No. 19406/2012). This is a general principle which applies with both EU and non-EU states.

Pursuant to article 7 of the EAW law, the EAW may be executed without testing for dual criminality in a number of cases including ML, its predicate offenses, and TF. For non-EU states, the dual criminality requirement is fulfilled when the two offenses have fundamental elements in common (Court of cassation, Sentence No. 40169/2010).

Criterion 39.4— Simplified extradition mechanisms are in place amongst all EU member states in the context of the EAW as described above.

Weighting and Conclusion

Italy meets all the criteria. **Italy is compliant with R.39**.

Recommendation 40—Other Forms of International Cooperation

In its third MER, Italy was rated compliant with these requirements.

General Principles

Criterion 40.1— On the basis of article 9.3 of the AML Law, the UIF has the power to exchange information and cooperate with foreign counterparts based on reciprocity in relation to suspicious transactions. The AML Law does not explicitly authorize the UIF to exchange information related to the predicate offenses. It does not explicitly exclude it either, and the UIF exchanges information on ML-related predicate offenses in practice. It is also required to safeguard the confidentiality of information. The UIF can exchange the information related to STRs and make use of specifically requested information in the possession of DIA and the Special Foreign Exchange Unit of the GdF.

The EU legislation, namely Council Decision n. 2000/642/JHA of October 17, 2000 (Concerning arrangements for cooperation between FIUs of the Member States in respect of exchanging information"), is also directly applicable. The UIF's capacity to cooperate includes both spontaneous and upon-request exchanges.

The UIF could consent to its information being further used or disseminated by foreign counterparts to which it is forwarded (Council Decision 2000/642/JHA). While no particular restriction to consent is envisaged in national law, article 4(3) of Council Decision establishes that the UIF may refuse to divulge information which could lead to impairment of a criminal investigation being conducted in the requested Member State or, in exceptional circumstances, where divulgation of the information would be clearly disproportionate to the legitimate interests of a natural or legal person or the Member State concerned, or would otherwise not be in accordance with fundamental principles of national law. The Council Decision also maintains that any refusal to grant consent should be appropriately explained. The UIF can grant consent to its foreign counterparts to further use and share the information provided for law enforcement and prosecutorial purposes. It can also consider passing information to foreign authorities which are not UIFs ("diagonal" cooperation). In such cases, the diagonal exchange is performed indirectly, namely, the foreign UIF is always appraised and information is channelled through it.

Criterion 40.2— The UIF is empowered to respond to foreign requests by providing all information available and obtainable through its domestic powers. This includes information gathered from external databases and from any obliged entity. As regards the kind of financial and administrative information, all such information may be provided based on the same scope as applicable for domestic analysis.

Article 9.4 of the AML Law empowers LEAs to cooperate and exchange information with their counterparts in other countries in relation to investigations concerning ML and TF cases as resulting from STRs and UIF analysis, based on an MOU with the UIF.

Articles 6, 7, and 69 of the CLB provide BoI with a legal basis to cooperate with other supervisory authorities from EU and non-EU members states with respect to institutions subject to that law. Article 4 of the CLF provides a legal basis for BoI and CONSOB to cooperate with authorities in EU and non-EU member states with respect to the supervision of capital market licensees. Article 10 of the LD N. 209/2005 provides IVASS with a legal basis to cooperate with EIOPA and the other European supervisory authorities, the Joint Committee, the ESRB, the institutions of European Union and the supervisory authorities of individual member states. BoI, IVASS, and CONSOB do not need an MOU to cooperate with an EU supervisor and can, therefore, cooperate spontaneously upon request. The supervisors can also cooperate with supervisors of non-EU states provided that the supervisors are subject to confidentiality requirements equivalent to those set out in EU law and relevant Italian implementing provisions. On occasion, the supervisors do, however, develop bilateral MOUs as a basis for cooperation with non-EU authorities. Under EU law, receiving supervisory authorities are subject to strict confidentiality requirements. Information is shared with non-EU supervisors on the condition that equivalent confidentiality requirements are in place. The supervisors inform foreign authorities in instances in which a third party is seeking the onward transmission of information received from the foreign authority and seeks to obtain approval for such onward transmission.

Criterion 40.3— UIF can cooperate with foreign counterparts, without any need for bilateral or multilateral agreements. The UIF can negotiate and sign directly (with no need for third parties' authorisations) MOU with any foreign counterparts that need them to be able to cooperate. Article

9.3 explicitly empowers the UIF to "conclude memoranda of understanding" with foreign counterparts. MOUs are also envisaged by Council Decision 2000/642/JHA (although currently this is not common practice within the EU due to the particularly high level of integration and cooperation among EU FIUs). The UIF has so far entered into 24 MOUs with a broad range of foreign counterparts. While MOUs that are not needed for provision of cooperation are prioritised accordingly, it is UIF's policy to maintain and foster agreements with the widest range of foreign FIUs, regardless of their nature.

Article 7 (6) of the CLB does not require the BoI to have a formal agreement in place to facilitate the sharing of information with supervisors in member states. However, article 7 (7) provides that cooperation with competent authorities from non-member states must take place within the framework of a cooperation agreement and subject to the existence of confidentiality requirements equivalent to those established in EU law and Italian implementing regulations. According to a well-established interpretation, article 7 (7) does not require the formalisation of a written cooperation agreement. Therefore, cooperation and information exchange may occur with non-EU supervisors, even in the absence of a formal written cooperation agreement, provided that the conditions for an effective mutual cooperation are met. Formal written cooperation agreements tend to be concluded in cases of particular interests; for instance, where there are in Italy significant interests of the non-EU country FIs and/or significant interest of Italian FIs in that country. Furthermore, formal written arrangements are agreed when the non-EU country legislation so requires as a condition to exchange confidential information. The negotiation and conclusion of formal written agreements requires a certain time (on average, not less than nine months). This is because the negotiation involves the necessity to agree on punctual aspects of cooperation. However, also pending the conclusion of a formal written agreement the BoI is allowed to exchange information with its foreign counterparty, since the opening of a negotiation is conditional upon the positive assessment of the conditions for an effective cooperation.

The procedures followed to stipulate operational law enforcement MOU, at a bilateral or multilateral level, are intended to be as quick as possible and to involve the widest array of interested parties.

Criterion 40.4— Based on the same legal basis that allows UIF to share information internationally, the UIF provides feedback to foreign counterparts on the use and usefulness of the information received. This is particularly the case where such information is forwarded to law enforcement agencies and prosecutors (based, of course, on the prior consent) and then used either in the context of ongoing investigations or as a means to target, prepare, and file international rogatory letters.

As a general rule, the BoI commits itself to give feedback on the request by the foreign authority which provided assistance/information. In addition, usually the BoI on its own initiative informs foreign authorities of any matter that could be relevant for the exercise of their supervisory functions. In order to provide feedback or other relevant information to non-EU countries authorities, the BoI must be satisfied that: (i) such feedback/information is used only for lawful supervisory purposes within the authority mandate, and (ii) the underlying information is kept confidential.

The BoI provides feedback to foreign authorities which have provided information. It takes steps to ensure that the foreign authority's use of such feedback is limited to supervisory purposes and that equivalent confidentiality protocols are observed.

Criterion 40.5— The AML Law does not envisage conditions for the UIF to decline or anyhow limit the provision of cooperation to its foreign counterparts. In no case have requests for information

been refused or declined. The UIF is only entitled to decline requests when divulging information that "could lead to impairment of a criminal investigation (…) or, in exceptional circumstances, where divulgation of the information would be clearly disproportionate to the legitimate interests of a natural or legal person or the Member State concerned or would otherwise not be in accordance with fundamental principles of national law" (article 4(3) of the Council Decision). This waiver has not been applied so far.

There do not appear to be any unreasonable or unduly restrictive conditions with respect to the exchange of information. Article 7 (6) of the CLB provides that the BoI must fully cooperate by sharing information and otherwise with the authorities and committees of the EFSF for the purpose of carrying out their respective functions. Article 7 (7) provides that the BoI can, within the framework of cooperation agreements and equivalent confidentiality obligations, exchange information related to its supervisory function with competent authorities in non-member states. Article 4 of the CLF does not place undue restrictions on the sharing of information. Article 4 (5 *bis*) does, however, provide for the sharing of information with non-EU authorities, provided that requisite provisions regarding professional secrecy are in place.

Criterion 40.6— The UIF requests and uses foreign information for intelligence purposes related to analysis of suspicions only. Prior consent is always sought from the concerned counterpart when the need arises to share the information received with a third party (typically LEAs or prosecutors), or to use it for further purposes. (Article 9.3. of the AML Law). Appropriate safeguards are applied to ensure that the use of the information received is restricted, based on the purpose-limitation clause, and that such information is not inadvertently divulged.

EU supervisors that receive information from the BoI are subject to strict confidentiality requirements. EU law obligates the receiving authority to seek the consent of the BoI before it can pass the information to a third party. With respect to the sharing of information with non-EU competent authorities, article 7 (7) of the CLB provides that the BoI do so within the framework of cooperation agreements and equivalent confidentiality obligations. The BoI employs measures to determine if equivalency test is met before it shares information with such competent authorities. Before executing a request, the BoI examines the justification for the request and ascertains the purposes for which the requested information will be used. Information is not exchanged with non-EU authorities whose legal frameworks do not provide the safeguards that are equivalent to those provided for by EU and Italian law. Article 10, paragraphs 7 and 8, Decree-Law n. 209/2005 provide that information received by IVASS from other EU/non-EU Authorities may not be forwarded to other Italian authorities and third parties without prior consent of the Authority which provided it.

Criterion 40.7— The necessary confidentiality status of the STR-related information exchanged is explicitly recalled in article 9.3 of the AML Law. The exchanged information is protected in exactly the same manner as the information obtained domestically, either through STRs or by accessing other domestic sources for intelligence purposes. International information is, therefore, protected under the same regime envisaged for STR-related data.

With respect to information exchanged with EU supervisors, see response to 40.6. With respect to information provided to non-member states, article 7(7) of the CLB provides that the BoI must receive the permission of the requested authority before it can share information provided. The BoI can refuse to provide information to an authority in a non-member state, unless EU equivalent confidentiality arrangements are in place.

Criterion 40.8— In relation to requests from foreign counterparts, the UIF has the capacity to obtain the same information that it would be able to obtain had the same case been reported domestically. Similarly to the confidentiality regime, therefore, international requests are equated to domestic STRs also when it comes to exercising UIF's powers to gather the information requested. The UIF can get information from a wide variety of sources; relevant suspicions can equally be triggered by domestic STRs as well as by international exchanges. (Article 6.6. of the AML Law).

On the basis of the provisions of article 7 (2 *bis*), (6) and (7), the BoI can conduct enquiries on behalf of foreign counterparts and provide them with resultant information on the condition that the information requested is related to BoI's institutional mandate, relates to the counterpart's supervisory function, and the understanding that foreign counterpart will treat the information received confidentially and will not disclose it to third parties, unless it receives BoI's permission. Article 4 (7) of the CLF gives BoI and CONSOB the power to undertake investigations in Italy on behalf of foreign counterparts with respect to capital market licensees. The article also provides that representatives of foreign authorities can join the BoI and CONSOB inspection teams.

Under article 205 Decree-Law No. 209/2005, IVASS can directly or through persons appointed for such purpose, make on-site inspections on the premises of the branches of insurance or reinsurance undertakings carrying on business by way of establishment in another Member State. Before making any inspection, ISVAP informs the home supervisory. The supervisory authority of the home Member State of an insurance or reinsurance undertaking carrying on business in Italy may also inspect the entities' operations in Italy.

Exchange of Information between FIUs

Criterion 40.9— The UIF provides cooperation on ML and TF to foreign counterparts in the framework of article 9.3 of the AML Law and based on the provisions under Council Decision 2000/642/JHA. The AML Law does not have an explicit reference to the power of the UIF to exchange information related to the predicate offenses.

Criterion 40.10— Upon request, UIF provides feedback to foreign counterparts on the information obtained. Initial feedback is always provided in response to spontaneous disclosures, indicating possible information available on the same case. As regards information received in response to requests, the counterpart is ordinarily informed ex ante of the nature and characteristics of the case for which assistance is sought, as the request is normally replete with details to allow the counterpart to properly understand the context.

Criterion 40.11— The UIF has the power to exchange all information held in its database. It could also share information gathered from GdF and DIA.

Exchange of information between financial supervisors

Criterion 40.12— Please refer to text under criterion 40.2.

Criterion 40.13— The provisions of articles 7 of the CLB, 4 of the CLF, and 10 (7) of the Private Insurance Code are broad and allow the BoI, CONSOB, and IVASS to share any information with EU and non-EU authorities for the purpose of facilitating the performance of their functions.

Criterion 40.14— The provisions of the articles mentioned under 40.13 are broad and allow the BoI, CONSOB, and IVASS to share any information with EU and non-EU authorities and committees of the ESFS for the purpose of facilitating the performance of their functions.

Criterion 40.15— Please refer to text under Criterion 40.8.

Criterion 40.16— Subject to the requirements of EU and Italian law, the BoI must seek the consent of the requested supervisor before sharing information other than with EU supervisors or authorities. Article 7 (6) provides that the BoI can share information obtained from authorities and committees comprising the ESFS with competent Italian authorities unless the requested authority denies permission to do so. Article 7 (7) provides that the BoI can only share information received from an authority in a non EU member state if it has received the authorities' explicit permission to do so. IVASS is also prohibited from sharing information received from a foreign supervisor unless it has its express permission.

Where information is being shared with an Italian competent authority, the law (article 7 (6)) does not, therefore, require the BoI to obtain the prior authorisation from an EU member state. The general principle pursuant to article 7, paragraph 5 of the CLB establishes that the BoI cannot oppose professional secrecy obligations to other Italian financial supervisors (IVASS, CONSOB, and COVIP).

Finally, the CLB (article 7) does not provide rules specifically addressing disclosure to third parties of information originated by a non-EU country supervisor. Therefore, such information is expected to be treated as any other information possessed by the BoI by virtue of its supervisory activity, in accordance with the provisions on professional secrecy laid down in article 7of the CLB.

However, as a matter of practice or in accordance with the terms of cooperation agreements (where in place), the BoI always seeks the consent to onward disclosure from the non-EU country authority that originated the information. If such consent is denied, the BoI either: (i) refrains from the onward disclosure, or (ii) where professional secrecy cannot be invoked, undertakes any legally permissible action to resist the request, including to inform the requesting authority that the onward disclosure may affect the cooperation and mutual trust established with the supervisor that provided the requested information.

Exchange of information between law enforcement authorities

Criterion 40.17— LEAs can exchange domestically available information between the LEAs of EU Member States, including information relating to the identification and tracing of assets (Council Framework Decision 2006/960/JHA). Italian police forces exchange information and carry out investigations on behalf of foreign requesting counterparts—on the basis of a request of judicial assistance—in the same manner as they would carry out investigations at a domestic level. The International Police Co-operation Service within the Criminal Police Central Directorate in the MoI is the principal actor in investigative Assistance. This Service ensures information exchanges through Interpol, Europol and SIRENE channels and acts also as Assets Recovery Office (ARO) in Italy. LEAs can exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to money laundering, associated predicate offenses, or terrorist financing. (article 9.4. of the AML Law).

Criterion 40.18— LEAs can use their powers, including investigative techniques available in accordance with their domestic law, to conduct inquiries and obtain information on behalf of foreign

counterparts. The information exchanged through police cooperation channels (Interpol or Europol) can be used to start investigations, exercise police powers, and obtain information on behalf of foreign counterparts.

Criterion 40.19— On the basis of bilateral or multilateral agreements and memoranda of understanding on ML and TF investigations, LEAs can form joint investigative teams upon a judicial authority's request. A legislative proposal has been tabled in Parliament to allow for the creation of joint investigative teams, and, when necessary, the establishment of bilateral or multilateral arrangements to enable such joint investigations. Italy is part of the common framework for the exchange of information, creation of Rapid Border Intervention Teams, and for the cooperation between Member States and the Frontex Agency (Council Regulation (EC) 2007/2004 (26.10.2004, OJ L 349/25.11.2004); Regulation (EC) No 863/2007 of the European Parliament and of the Council of July 11, 2007; Regulation (EU) No 1168/2011 of the European Parliament and of the Council of October 25, 2011 amending Council Regulation (EC) No 2007/2004 Regulation (EU) No 1052/2013 of October 22, 2013).

Exchange of information between non-counterparts

Criterion 40.20— The UIF, LEAs, and supervisors are authorised to exchange information indirectly with non-counterparts.

Weighting and conclusion

Italy meets all the criteria, except 40.1 and 40.9 which are largely met. Competent authorities are generally able to provide a wide range of direct and indirect international assistance, with only minor deficiencies. The UIF does not have explicit powers to share information related to predicate offenses. Italy is largely compliant with R.40.

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
1. Assessing risks & applying a risk-based approach	LC	• Exemptions regarding the application of CDD measures not based on an assessment of low risk. • GdF has had less success in ensuring that the persons/entities it supervises understand, assess and mitigate ML/TF risks. • Other than for PIE auditors, and notaries (for whom there is a guideline enforced by the profession), there is no secondary legislation for other DNFBPs regarding the application of RBA.
2. National cooperation and coordination	LC	• A national strategy and prioritised action plan that is informed by the recently completed NRA has not yet been formulated. • No explicit powers to the FSC to deal with PF issues.
3. Money laundering offence	LC	• The amounts of the fines for ML and self-laundering for natural persons are not sufficiently dissuasive.
4. Confiscation and provisional measures	C	• The recommendation is fully met.
5. Terrorist financing offence	C	• The recommendation is fully met
6. Targeted financial sanctions related to terrorism & TF	LC	• There is no system for active notification to financial institutions and DNFBPs of newly listed persons
7. Targeted financial sanctions related to proliferation	PC	• The legislation does not guarantee implementation without delay. • There is no system for active notification to financial institutions and DNFBPs of newly listed persons.
8. Non-profit organisations	LC	• Fragmented monitoring system that is not focused on TF risks. • Policies to promote transparency and integrity of the sector could be improved. • No specific point of contact and procedure to respond to international requests of information related to NPOs
9. Financial institution secrecy laws	C	• The recommendation is fully met.
10. Customer due diligence	LC	• No requirement to identify the settlor of a trust. • No requirement for insurers to identify the beneficial owner of higher risk beneficiaries that are legal persons or arrangements. • No requirement to implement specific risk management procedures in relation to transactions taking place before the verification of customer identity is completed. • Statutory exemptions from full CDD measures for a specified range of customers.
11. Record keeping	C	• The recommendation is fully met.
12. Politically exposed persons	LC	• Obligations with respect to domestic PEPs not extended to DNFBPs. • No requirements in relation to persons holding prominent positions in international organisations. • No requirement to determine whether the beneficial owner of a beneficiary of a life insurance policy is a PEP.

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
13. Correspondent banking	PC	• Requirements do not apply with respect to EU-based correspondent institutions.
14. Money or value transfer services	C	• The recommendation is fully met.
15. New technologies	LC	• Although financial institutions covered by the BoI's March 2011 internal controls regulation are required to verify on an ongoing basis that their procedures are consistent with laws, regulations and the entity's own regulations, the AML law does not require institutions to identify the risk in new products and practices.
16. Wire transfers	PC	• No requirement to obtain, verify or record information on the beneficiary of a wire transfer. • Very limited requirements for intermediary institutions.
17. Reliance on third parties	LC	• No proper assessment of country risk when determining in which countries a third party may be based.
18. Internal controls and foreign branches and subsidiaries	LC	• There is no requirement for the screening of employees at hiring. • Requirements for measures that should be in place at foreign branches and subsidiaries are limited to issues related to CDD and record keeping.
19. Higher-risk countries	C	• The recommendation is fully met.
20. Reporting of suspicious transaction	LC	• Reporting of suspicious transactions does not extend to predicate offenses to ML.
21. Tipping-off and confidentiality	LC	• Requirements of tipping-off and confidentiality do not extend to reporting related to predicate offenses to ML
22. DNFBPs: Customer due diligence	LC	• There is no requirement for the identification of domestic PEPs. • There are no specific regulations or guidance for DNFBPs on new technologies.
23. DNFBPs: Other measures	LC	• DNFBPs are not explicitly required to report suspicions related to predicate offenses associated to ML. • The tipping off and confidentiality requirements do not explicitly extend to the reporting of suspicions related to the predicate offenses.
24. Transparency and beneficial ownership of legal persons	LC	• No mechanism for monitoring the quality of assistance received from other countries. • Minor deficiencies: No requirement to maintain relevant information in Italy, except for SRLs; no mechanism to ensure that transfers of shares conducted by banks and stockbrokers (even though there are no stockbrokers currently operating in Italy) are reflected in a timely manner; beneficial ownership of legal persons with foreign ownership cannot always be determined on a timely basis; possible delay in the filing of changes in the ownership of joint stock companies that are not listed; No obligation to maintain corporate books of associations, and foundations after dissolution; sanctions available for failure to comply with some but not all relevant obligations; possible delays in international cooperation.

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
25. Transparency and beneficial ownership of legal arrangements	LC	• Insufficient sanctions for failing to grant competent authorities timely access to information.
26. Regulation and supervision of financial institutions	LC	• Supervisory tools currently in use do not provide comprehensive data on the inherent risk faced by institutions and the risk mitigants used.
27. Powers of supervisors	LC	• The inability to impose administrative sanctions on natural persons and to remove directors and managers and the relatively low level of sanctions that can be applied to legal persons are weaknesses in the sanctions regime.
28. Regulation and supervision of DNFBPs	LC	• The absence of administrative sanctions for DNFBPs in general and for casinos with respect to the failure to meet record keeping requirements are weaknesses. • The lack of a supervisory methodology that provides GdF with good quality and comprehensive information on persons' inherent ML/TF risk and risk mitigants used is also of concern.
29. Financial intelligence units	LC	• No power to access LEA information. • Narrow dissemination to a limited number of LEAs.
30. Responsibilities of law enforcement and investigative authorities	C	• This recommendation is fully met.
31. Powers of law enforcement and investigative authorities	C	• This recommendation is fully met.
32. Cash couriers	LC	• The administrative sanctions do not appear to be dissuasive.
33. Statistics	LC	• No statistics related to MLTF MLA and extradition • Not sufficiently comprehensive statistics related to ML investigations, prosecutions and convictions.
34. Guidance and feedback	LC	• There is need for more guidance to DNFBPs from the UIF on STRs and from the BoI on ML/TF risk
35. Sanctions	PC	• The monetary sanctions which can be applied by BoI are relatively low and unlikely to be dissuasive. • Financial sector supervisors cannot impose pecuniary administrative sanctions in excess of USD 200 000. (Sanctions in excess of this amount can be applied by the MEF subject to notice by supervisors.) • The BoI's administrative sanctions can only be applied to legal persons but not to an institution's Board of Directors or senior management, and it does not have the direct power to remove these persons from office. • There is uncertainty on whether sanctions available under the CLB can be applied to banks supervised by the ECB.
36. International instruments	C	• This recommendation is fully met.
37. Mutual legal assistance	LC	• There is no case management system in place to monitor progress on requests.

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
38. Mutual legal assistance: freezing and confiscation	LC	• There are no arrangements for coordinating seizure and confiscation actions with other countries.
39. Extradition	C	• This recommendation is fully met.
40. Other forms of international cooperation	LC	• UIF does not have explicit powers to share information related to the predicate offenses.

ANNEX II. OVERVIEW OF ITALY'S ANTICORRUPTION MEASURES

Italy has made significant efforts to bolster the mechanisms to prevent and punish corruption by both establishing the National Anti-Corruption Authority (ANAC), and introducing new offenses in the penal code and by significantly increasing the penalties (and ancillary penalties) for corruption cases.

Regarding preventive measures, ANAC plays a central role in:

- Preventing corruption amongst public administrations and state-owned/controlled companies by ensuring the transparency of their management.
- Supervising and monitoring public procurement contracts/agreements. In particular, ANAC has the authority to monitor procurement procedures, and to sanction violations of regulation in the area of public contracts.
- Monitoring the expenditure process in accordance with Legislative Decree n. 229 of 2011 which is aimed at making expenditure for public works efficient, by improving decision-making and financial resource management. This implies that all financial transactions related to public work, services and supplies are to be recorded on dedicated bank accounts and must be made through (bank/post) wire transfers. In addition, as to ensure the traceability of such financial flows, payment instruments must include, in respect of each transaction, the *Codice Unico di Progetto* (CUP) and the *Codice Identificativo della Gara* (CIG) (i.e. tender identification code) issued by ANAC.

The repressive system has also significantly changed with the addition of new offences (e.g. trading in influence) and increases in the sanctions available for certain crimes of public corruption (with the consequent lengthening of the statute of limitations) on the basis of the following two laws.

Law n. 190 dated 6 November 2012 (*Legge "Severino"*).

- The new definition of the offence of "*concussion,*" criminalizes exclusively the conduct of the public official who forces a person to pay a sum of money or other benefit which are not due. The minimum term of imprisonment has been increased to six years.
- The conduct of "undue inducement" to pay is described in a *new* offence called "*undue inducement to give or promise money or other benefit*." The public official or the person in charge of a public service is punished by imprisonment from three to eight years. The private person who has been induced to pay the public official (or to pay the person in charge of a public service) is now also punished by up to three years of imprisonment.
- Article 318 of the Penal Code is replaced by the new offence of *corruption of a public official in the exercise of the performance of the duties of his/her office*, so covering whatever act pertaining to the exercise of the performance of the duties of his/her office and increasing the sanctions (previously from six months to three years of imprisonment and now from one to five years of imprisonment).
- Increased sanctions are also provided for in relation to offences of *corruption in the performance of acts in breach of official duties* ("*corruzione propria*") previously from 2 to 5 years of imprisonment and now from 4 to 8 years; of corruption in judicial proceedings, previously from 3 to 8 years of imprisonment and now from 4 to 10 years; of abuse of office, previously from 6 months to 3 years of imprisonment and now from 1 to 4 years, and of misappropriation of public property or public

funds ("*Peculato*"), previously with a minimum term of imprisonment of 3 years and then of 4 years.

- A new offence of "*trading in influence*" has been introduced, punished with imprisonment from one to three years.

Law n. 69 dated 29 May 2015 (Official Gazette 30 May 2015, entry into force 14 June 2015)

This law lays down provisions regarding crimes against Public Administration, mafia-type associations and false accounting.

- It increases penalties for the crimes of embezzlement, corruption, judicial corruption, and inducement to provide/promise gains. For such crimes, ancillary punishment (to be issued upon a case-by-case basis) is introduced consisting in the payment of a sum equal to the amount improperly received by a public official or by the person in charge of a public service in favour of the administration. In cases of prosecution for the mentioned crimes (and also: for trading in influence, disruption in auction and disruption in contractor selection), the relevant Public Prosecutor must inform the ANAC President of the indictment charges.
- The "*false corporate accounting*" crime is reformulated, and it is confirmed as a crime punishable by one to five years' imprisonment. At the same time, in cases of false corporate accounting in listed companies, imprisonment is from three to eight years. Amendments are being introduced to the provisions on administrative liability of entities in order to also cover the new criminal offences related to false corporate accounting.

ANNEX III. ITALIAN COMPANIES CLASSIFIED BY SIZE OF CAPITAL

	Capital	Registered
Limited liability companies (SRL)	**10–15 k E.**	**715 237**
	15–20 k E.	38 729
	20–25 k E.	58 922
	25–50 k E.	108 346
	50–75 k E.	82 206
	75–100 k E.	44 471
	100–150 k E.	77 776
	150–200 k E.	1 979
	200–250 k E.	2 146
	250–500 k E.	5 506
	500 k–1 ml E.	6 125
	1–1.5 ml E.	3 209
	1.5–2 ml E.	1 314
	2–2.5 ml E.	995
	2.5–5 ml E.	1 774
	more than 5 ml E.	8 534
Grand Total		**1 157 269**
Joint stock companies (SPA)	Capital	Registered
	100–150 k E.	4 471
	150–200 k E.	1 066
	200–250 k E.	1 357
	250–500 k E.	3 817
	500 k–1 ml E.	5 819
	1–1.5 ml E.	4 625
	1.5–2 ml E.	2 054
	2–2.5 ml E.	1 875
	2.5–5 ml E.	4 055
	more than 5 ml E.	**6 298**
Grand Total		**35 437**

ANNEX IV. ANTI-MAFIA MEASURES, SEIZURE, AND CONFISCATION

The following charts show the seizure and confiscation related to anti-mafia measures (*Direzione Nazionale* Anti-mafia data):

Table 36. **Assets seized over 1 January - 30 November 2013)** (by region, in EUR)

REGION	IMMOVABLE ASSETS (flats, villas, lands)		REGISTERED MOVABLE ASSETS (cars, motorbikes, boats)		MOVABLE ASSETS (firms, securities, shareholding assets, money amounts, banking deposits)		TOTAL ASSETS	TOTAL VALUE
	NUM.	VALUE	NUM.	VALUE	NUM.	VALUE	NUM.	VALUE
ABRUZZO	34	7 595 144.00	7	74 500.00	62	1 146 000.00	103	8 815 644.00
BASILICATA	8	2 290 000.00	6	100 000.00	6	2 609 000.00	20	4 999 000.00
CALABRIA	622	206 461 502	147	2 877 500.00	420	324 692 869.00	1 189	534 031 871.00
CAMPANIA	964	535 997 504	356	5 584 905.00	957	285 177 465.00	2 277	826 759 874.00
EMILIA - ROMAGNA	195	52 565 000.00	48	804 684.00	95	53 369 337.00	338	106 739 021.00
FRIULI VENEZIA G.	4	185 657.00	1	2 500.00	6	160 441.00	11	348 598.00
LAZIO	252	140 671 599	120	3 203 438.00	695	79 321 744.00	1 067	223 196 781.00
LIGURIA	31	2 227 800.00	5	39 950.00	7	2 222 804.00	43	4 490 554.00
LOMBARDY	88	22 089 706.00	47	1 293 575.00	362	61 332 735.84	497	84 716 016.84
MARCHE	14	2 516 254.00	1	250 000.00	1	1 400 000.00	16	4 166 254.00
MOLISE	2	170,000.00	0	0.00	2	1 900 000.00	4	2 070 000.00
PIEDMONT	91	32 128 245.00	8	108 042.00	32	13 716 640.00	131	45 952 927.00
APULIA	431	54 148 138.00	244	4 015 550.00	184	65 115 224.00	859	123 278 912.00
SARDINIA	12	3 049 039.00	2	53 500.00	6	313 043.00	20	3 415 582.00
SICILY	1.219	344 380 555	340	6 990 958.00	579	454 927 024.00	2 138	806 298 537.00
TUSCANY	63	11 642 611.00	20	456 604.00	74	27 800 647.00	157	39 899 862.00
TRENTINO ALTO A.	0	0.00	0	0.00	0	0.00	0	0.00
UMBRIA	11	4 700 000.00	10	132 016.00	7	441 650.00	28	5 273 666.00
VALLE D'AOSTA	0	0.00	0	0,00	0	0.00	0	0.00
VENETO	102	17 160 820.00	30	1 262 500.00	229	10 956 140.00	361	29 379 460.00
ABROAD	5	7 806 000.00	5	20 000.00	9	8 054 825.00	19	15 880 825.00
TOTAL	**4 148**	**1 447 785 574**	**1 397**	**27 270 222**	**3 733**	**1 394 657 588.84**	**9 278**	**2 869 713 384.84**

Table 37. **Assets confiscated between 1 January - 30 November 2013** (by region, in EUR)

REGION	IMMOVABLE ASSETS (flats, villas, lands)		REGISTERED MOVABLE ASSETS (cars, motorbikes, boats)		MOVABLE ASSETS (firms, securities, shareholding assets, money amounts, banking deposits)		TOTAL ASSETS	TOTAL VALUE
	NUM.	VALUE	NUM.	VALUE	NUM.	VALUE	NUM.	VALUE
ABRUZZO	10	3 237 600.00	28	592 500.00	7	15 658 624.00	45	19 488 724.00
BASILICATA	0	0.00	0	0.00	0	0.00	0	0.00
CALABRIA	300	70 500 372.00	64	1 915 090.00	95	53 494 164.00	459	125 909 626.00
CAMPANIA	358	108 202 169.00	67	1 996 454.00	72	33 496 955.00	497	143 695 578.00
EMILIA - ROMAGNA	0	0.00	3	97 000.00	1	104 089.00	4	201 089.00
FRIULI VENEZIA G.	2	250 000.00	0	0.00	1	7 571.00	3	257 571.00
LAZIO	119	67 621 517.00	119	2 818 500.00	216	103 265 899.54	454	173 705 916.54
LIGURIA	108	14 426 159.00	85	6 018 950.00	19	1 456 426.00	212	21 901 535.00
LOMBARDY	74	17 687 223.00	31	1 600 522.00	1 082	449 487 744.00	1 187	468 775 489.00
MARCHE	0	0.00	0	0.00	1	10 328.00	1	10,328.00
MOLISE	0	0.00	0	0.00	0	0.00	0	0.00
PIEDMONT	35	11 304 332.00	11	152 360.00	10	322 818.,00	56	11 779 510.00
APULIA	343	98 084 250.00	21	407 451.40	71	35 564 445.00	435	134 056 146.40
SARDINIA	2	860 000.00	5	104 749.00	5	753 131.00	12	1 717 880.00
SICILY	361	109 976 114.00	150	4 104 338.00	509	1 708 536 138.00	1 020	1 822 616 590.00
TUSCANY	20	4 437 332.00	13	1 261 358.00	44	6 322 880.00	77	12 021 570.00
TRENTINO ALTO A.	4	1 200 000.00	2	12 000.00	0	0.00	6	1 212 000.00
UMBRIA	1	8 940.00	0	0.00	0	0.00	1	8 940.00
VALLE D'AOSTA	3	181 513.00	0	0.00	0	0.00	3	181 513.00
VENETO	0	0.00	7	653 000.00	11	109 000.00	18	762 000.00
ABROAD	0	0.00	7	2 880 000.00	2	27 500.00	9	2 907 500.00
TOTAL	**1 740**	**507 977 521.00**	**613**	**24 614 272.40**	**2,146**	**2 408 617 712.54**	**4 499**	**2 941 209 505.94**

ANNEX V. DIA SEIZURES AND CONFISCATIONS

Table 38. **DIA seizures and confiscations (in EUR millions)**

	2010	2011	2012	2013
Seizure				
Anti-Mafia Measures	3266.8	568.8	984.3	1146.6
Activity of judicial police	179.3	196.3	292.1	105.4
…of which ML offense[123]	*27*	*196.3*	*120*	*2.7*
Total	**3446.1**	**765.1**	**1276.4**	**1252**
Confiscation				
Anti-Mafia Measures	130.2	484.3	1772.7	2716.3
Activity of judicial police	99.7	539.4	26.6	47.4
…of which ML offense[124]	*6*	*1.8*	*0.6*	*4.1*
Total	**229.9**	**1023.7**	**1799.3**	**2763.7**

Source: DIA

[123] This table is a consolidation of statistics maintained by DIA over different time periods. Some seized assets may be double counted because they may be carried over from previous years.

[124] Seizures related to ML are part of the anti-mafia measures and judicial activities, and therefore were not added under the total.

Table 39. **Seizing related to GdF investigations**[125]

(EUR millions)

		Year	Seizing based on the criminal proceeding (including per equivalent)	Seizing per disproportion (article 12 *sexies* Law Decree 306/92)	Anti-mafia measures (Legislative decree 159/11	Total amount
MONEY LAUNDERING	**article 648 *bis CC***	**2013**	46.00	38.85	-	**84.85**
		2014	456.10	17.21	71.05	**544.36**
	article 648 *ter CC*	**2013**	3.00	69.46	-	**72.46**
		2014	6.10	115.77	8.89	**130.76**
article 416 *bis CC*		**2013**	388.30	136.96	1 678.42	**2,203.68**
		2014	6.20	91.98	3 111.07	**3 209.25**
Corruption		**2013**	66.00	12.34	13.17	**91.51**
		2014	115.90	11.57	222.87	**350.34**
Tax crimes		**2013**	116.60	Not applicable	-	**116.60**
		2014	233.40	Not applicable	196.81	**430.21**

Source: GdF

[125] The table shows the seizures and confiscations measures proposed by the GdF in 2013 and 2014 for ML (article 648 *bis* CC) and for use of money, assets or property of illegal provenance (article 648 *ter* CC) as well as for corruption and tax crimes—all amounts are in euros.

ANNEX VI. NUMBER OF ALLEGED CROSS-BORDER TRANSPORTATION VIOLATIONS AND THE AMOUNTS SEIZED (2013)

Agency	Number of violations	Amounts seized
Customs Agency	5 143	45 773 162
Guardia di Finanza	250	923 403
Total	**5 393**	**46 696 565**
the number of violations defined with the payment and the amounts paid:		
Agency	Number of violations	Amounts seized
Customs Agency	4 943	2 808 165
Guardia di Finanza	229	285 940
Total	**5 172**	**3 094 105**

ANNEX VII. ITALY-SWITZERLAND CROSS-BORDER MOVEMENTS OF CASH

		Total Declarations	Value of Declaration	Total Interventions	Total Violations
2010	Inbound	1 433	477 540 070		372
	outbound	1 001	886 127 762		79
	Total	2 434	1 363 667 832		451
2011	Inbound	1 266	617 199 125		514
	outbound	747	511 184 211		114
	Total	2 013	1 128 383 336		628
2012	Inbound	1 367	740 431 803		677
	outbound	779	456 327 265		159
	Total	2 146	1 196 759 068		836
2013	Inbound	1 172	661 275 054		1 019
	outbound	587	541 503 125		147
	Total	1 759	1 202 778 179		1 166
2014	Inbound	1 060	698 260 225		1 166
	outbound	532	690 499 060		151
	Total	1 592	1 388 759 285		1 317

Source: Customs Agency and Monopoly

GLOSSARY

AML/CFT	Anti-money laundering and combating the financing of terrorism
ANAC	National Anti-Corruption Agency (*Autorità Nazionale Anti-Corruzione*)
ANBSC	National Agency for the Management and Allocation of Seized and Confiscated Assets to Organised Crime
AUI	*Archivio Unico Informatico*
BoI	Bank of Italy
CASA	Strategic Counter-Terrorism Analysis Committee
CC	Criminal Code
CLB	Consolidated Law on Banking
CLF	Consolidated Law on Finance
CONSOB	National Commission for Companies and the Stock Exchange (*Commissione Nazionale per le Società e la Borsa*)
CPC	Criminal Procedure Code
DIA	Anti-mafia Investigative Directorate (*Direzione Investigativa Anti-Mafia*)
DNA	National Anti-mafia Directorate (*Direzione Nazionale Antimafia*)
DNFBP	Designated NonFinancial Businesses and Professions
EMI	Electronic Money Institution
EU	European Union
FATF	Financial Action Task Force
FI	Financial institution
FIU	Financial Intelligence Unit
FSC	Financial Security Committee
FUG	*Fondo Unico Giustizia*
GdF	*Guardia di Finanza*
IRA	Inland Revenue Agency (*Agenzia delle Entrate*)
ISTAT	National Institute for Statistics (*Istituto Nazionale di Statistica*)
IVASS	Institute for Insurance Supervision (*Istituto per la Vigilanza sulle Assicurazioni*)
LD	Legislative decree
LEA	Law enforcement agency
MD	Ministerial decree
MEF	Ministry of Economy and Finance
MFA	Ministry of Foreign Affairs and International Cooperation

MoI	Ministry of Interior
MoJ	Ministry of Justice
MISE	Ministry of Economic Development
ML	Money Laundering
MLSP	Ministry of Labor and Social Policies
NPO	Non-Profit Organisation
NRA	National Risk Assessment
NSPV	Special Currency Unit (*Nucleo Speciale di Polizia Valutaria—Guardia di Finanza*)
OAM	*Organismo Agenti e Mediatori*
PEP	Politically-Exposed Persons
PI	Payment institution
PIE auditors	External auditors having engagement with public interest enterprises
SICAV	Open-ended collective investment scheme (*Società di Investimento a Capitale Variabile*)
SIVA	Sistema d'Intelligenza Valutaria
STR	Suspicious Transaction Report
TF	Terrorist Financing
TFS	Targeted Financial Sanctions
UIF	Financial Intelligence Unit (*Unità di Informazione Finanziaria*)
UNSCR	United Nations Security Council Resolution

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Anti-money laundering and counter-terrorist financing measures - Italy
Fourth Round Mutual Evaluation Report

In this report: a summary of the anti-money laundering (AML) / counter-terrorist financing (CFT) measures in place in Italy as at the date of the on-site visit (14-30 January 2015). The report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Italy's AML/CFT system, and provides recommendations on how the system could be strengthened.