FATF

15TH FOLLOW-UP REPORT

Mutual Evaluation of Turkey

October 2014

FINANCIAL ACTION TASK FORCE

The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standard.

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ACRONYMS

AML/CFT	Anti-money laundering / Countering the financing of terrorism
CDD	Customer due diligence
DNFBP	Designated non-financial business or profession
FIU	Financial intelligence unit
LC	Largely compliant
MASAK	Financial Crimes Investigations Board (*Mali suçları araştırma kurulu*)
MER	Mutual evaluation report
ML	Money laundering
MLA	Mutual legal assistance
NC	Non-compliant
PC	Partially compliant
PEP	Politically exposed person
R	Recommendation
RoC	Regulation on Programme of Compliance with Obligations of AML/CFT
RoM	Regulation on Measures regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism
SR	Special Recommendation
STR	Suspicious transaction report
TF	Terrorist financing
UN	United Nations
UNSCR	United Nations Security Council Resolutions

MUTUAL EVALUATION OF TURKEY 15TH FOLLOW-UP REPORT

Application to exit the targeted follow-up process

Note by the Secretariat

I. INTRODUCTION

The relevant dates for the mutual evaluation report and subsequent follow-up reports of Turkey are as follows:

- Date of the Mutual Evaluation Report: 23 February 2007.
- Since the adoption of its MER, Turkey reported to the Plenary for the first time in February 2009. Then it reported in February 2010, June 2010 and to each Plenary meeting in 2011, 2012, 2013 and 2014.

Turkey submitted its fifteenth follow-up report and application to exit the regular follow-up process along with a table summarising the action taken with regard to the Recommendations rated partially compliant (PC) or non-compliant (NC) to the Secretariat on 11 September 2014.

FINDINGS OF THE MER

As the following table indicates, Turkey was rated NC/PC on 33 Recommendations[1]. Among the core Recommendations, one was rated NC (R.5) and 4 were PC (R.1, R.13, SR.II and SR.IV). Five key Recommendations were rated PC (R.23, R.35, SR.I, SR.III and SR.V), and none of the key Recommendations was rated NC. For the other Recommendations, 13 were rated PC and 10 were rated NC.

Core Recommendations[2] rated NC or PC
R.1 (PC), SR.II (PC), R.5 (NC), R.13 (PC), SR.IV (PC)
Key Recommendations[3] rated NC or PC
R.23 (PC), R.35 (PC), SR.I (PC), SR.III (PC), SR.V (PC)
Other Recommendations rated PC
R.8, R.15, R.17, R.18, R.25, R.27, R.29, R.30, R.32, R.33, R.38, SR.VI, SR.VIII
Other Recommendations rated NC
R.6, R.7, R.9, R.11, R.12, R.16, R.21, R.22, R.24, SR.VII

As prescribed by the Mutual Evaluation procedures, Turkey provided the Secretariat with a full report on its progress. The Secretariat has drafted a detailed analysis of the progress made for Core Recommendations 1, 5, 13, II and IV and Key Recommendations 23, 35, I, III and V (see ratings

1 This report refers to the 40 Recommendations and IX Special Recommendations as adopted in 2004.

2 The core Recommendations as defined in the FATF procedures are R.1, SR.II, R.5, R.10, R.13 and SR.IV.

3 The key Recommendations are R.3, R.4, R.23, R.26, R.35, R.36, R.40, SR.I, SR.III, and SR.V.

above), as well as a description of all the other Recommendations rated PC or NC. A draft analysis was provided to Turkey for its review and comments. The final report was drafted taking into account of the comments submitted by Turkey. During the process, Turkey provided the Secretariat with all information requested.

As a general note on all applications for removal from regular follow-up: the procedure is a *paper-based desk review* and by its nature is therefore less detailed and thorough than a mutual evaluation report. The analysis focuses on the Recommendations that were rated PC/NC, which means that only a part of the AML/CFT system is reviewed. Such analysis essentially consists of looking at the main laws, regulations and other material to verify the technical compliance of domestic legislation with the FATF standards. In assessing whether sufficient progress had been made, effectiveness is taken into account to the extent possible in a paper-based desk review and primarily through a consideration of data provided by the country. It is also important to note that these conclusions do not prejudge the results of future assessments, as they are based on information which was not verified through an on-site process and was not, in every case, as comprehensive as would exist during a mutual evaluation.

II. MAIN CONCLUSIONS AND RECOMMENDATIONS TO THE PLENARY

CORE RECOMMENDATIONS

Recommendation 1 – Since its Mutual Evaluation, Turkey has amended the money laundering offence in the Criminal Code. These amendments addressed the threshold issue and some elements of the offence. As a result, while the money laundering offence still contains minor shortcomings, overall Turkey's compliance with Recommendation 1 has improved and now reaches a level essentially equivalent to at least a largely compliant (hereinafter LC) rating.

Recommendation 5 – Turkey was rated NC on Recommendation 5 in its MER. Since then, it has significantly amended the preventive obligations applicable by the financial and non-financial sectors through the adoption of amendment to the Regulation on Measures regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism (hereinafter RoM) and the adoption of the Regulation on Programme of Compliance with Obligations of AML/CFT (hereinafter RoC), which deal with a number of deficiencies dealing with Customer Due Diligence, beneficial ownership, risk and simplified/enhanced due diligence, etc. As a result, Turkey now reaches a level of compliance with Recommendation 5 essentially equivalent to at least equivalent an LC rating.

Recommendation 13 and Special Recommendation IV – It is now explicit in the amended RoM that transactions suspected to be used for terrorist purposes, by an individual terrorist or a terrorist organisation or to finance terrorism are required to be filed with the FIU. STRs are to be filed regardless of the amount of the suspicious transaction. Turkey now reaches a level of compliance with Recommendation 13 and Special Recommendation IV essentially equivalent to at least an LC rating.

Special Recommendation II –Law no. 6415 on the Prevention of the Financing of Terrorism, which entered into force on 16 February 2013, was a major step in Turkey's effort to combat the financing of terrorism. There remain shortcomings in Turkey's CFT regime; however, Turkey now reaches a level of compliance with Special Recommendation II essentially equivalent to at least an LC rating.

KEY RECOMMENDATIONS

Recommendation 23 – Since its MER, Turkey has strengthened the requirements preventing criminals and their associates from being beneficial owners or hold controlling interest in financial institutions. Ongoing offsite AML/CFT controls were also established under the RoC. As a result, Turkey now reaches a level of compliance with Recommendation 23 essentially equivalent to at least an LC rating.

Recommendation 35 – Progress made under Recommendations 1 and 5 and Special Recommendation II increased Turkey's the level of compliance with this Recommendation to a rating at least equivalent to an LC.

Special Recommendation I – Likewise, progress made under Special Recommendations II and III increased Turkey's level of compliance with Special Recommendation I to a rating at least equivalent to an LC.

Special Recommendation III – As mentioned above under SR.II, Turkey has significantly improved its CTF regime, including the terrorist asset freezing regime through the adoption of the CFT Law and implementing regulation. However, the assets of terrorists designated on the basis of UNSCR 1267 and its successor resolutions are not frozen without delay –though the delay is slowly reducing- and the domestic designation of terrorists for assets freezing does not meet the requirements set forth by the international standards. It is mainly for these two reasons that despite the progress made by Turkey in the area of terrorist assets freezing, Turkey cannot be seen as reaching the expected level of compliance of an LC rating on Special Recommendation III.

*Special Recommendation V –T*he progress made under Special Recommendation II also increases Turkey's compliance with Special Recommendation V to a level at least equivalent to an LC.

OTHER RECOMMENDATIONS

Turkey has made significant progress in relation to the other 23 Recommendations that were rated PC or NC. Turkey has achieved a sufficient level of compliance with Recommendations 7, 8, 9, 11, 12, 15, 16, 17, 18, 25, 27, 29, 30, 32, 33, 38 and Special Recommendations VI and VIII. Turkey has also made progress to improve its compliance with Recommendations 6, 21, 22, 24 and Special Recommendation VII although deficiencies remain. So implementation of these Recommendations has not yet reached a level equivalent to an LC rating.

CONCLUSIONS

Overall, Turkey has reached a satisfactory level of compliance with all core Recommendations and four of the five key Recommendations. It has not yet reached a satisfactory level of compliance with SR.III although it has taken concrete actions and made significant progress, including through legislation, with the aim to address the deficiencies identified in its 2007 MER.

The mutual evaluation follow-up procedures indicate that, for a country to have taken sufficient action to be considered for removal from the process, it must have an effective AML/CFT system in force, under which it has implemented all core and key Recommendations at a level essentially equivalent to C or LC, taking into account that there would be no re-rating. The Plenary does,

however, retain some limited flexibility with regard to the key Recommendations if substantial progress has also been made on the overall set of Recommendations that have been rated PC or NC.

Since the adoption of its MER, Turkey has made significant progress overall. In 2007, 33 Recommendations were assessed as PC or NC. To the extent that this can be judged in a paper-based review, which does not examine effectiveness, Turkey has taken sufficient action to bring its compliance to a level essentially equivalent to LC for 27 of these 33 Recommendations (9 of the 10 core and key Recommendations, and 18 of the 23 other Recommendations). While Turkey has made considerable efforts to strengthen its AML/CFT regime since 2007 across all areas of activity, it is not yet sufficiently compliant with Recommendations 6, 21, 22, 24, and Special Recommendation VII. Their current level of compliance is equivalent to PC.

Given the above, it is recommended that this would be an appropriate circumstance for the Plenary to exercise its flexibility and remove Turkey from the regular follow-up process.

III. OVERVIEW OF TURKEY'S PROGRESS

OVERVIEW OF THE MAIN CHANGES SINCE THE ADOPTION OF THE MER

Since its Mutual Evaluation, Turkey has introduced a series of amendments to its AML/CFT regime. Most importantly:

- Turkish Criminal Law, in particular the money laundering offence, was amended by Law no. 5918 of 2009;
- Law no. 6415 on the Prevention of the Financing of Terrorism (hereinafter the TF Law) was adopted and entered into force on 16 February 2013. It is complemented by the Regulation on the Proceeds and Principles Regarding the Implementation of Law in the Prevention of the Financing of Terrorism (hereinafter the Regulation on TF);
- MASAK issued a number of General Communiqués, in particular Communiqué nos. 5, 12, and 13. The General Communiqué on STR for Terrorist Financing was amended in June 2014;
- Various sectoral regulations were amended to address the deficiencies identified under Recommendation 23 and relating to the fit and proper criteria and market entry;
- MASAK also issued a number of guidance documents, brochures, books, etc. dealing with various aspects of Turkey's AML/CFT regime. Most of them are available on MASAK public website (www.masak.gov.tr/en/default).

THE LEGAL AND REGULATORY FRAMEWORK

Turkey's AML/CFT regime mainly relies on the laws mentioned above.

IV. DETAILED ANALYSIS OF COMPLIANCE WITH THE CORE AND KEY RECOMMENDATIONS

CORE RECOMMENDATION

RECOMMENDATION 1 – RATING PC

R.1 (Deficiency 1) - The threshold for predicate offences is too high as it only captures offences penalised by minimum imprisonment of 1 year or more.

The money laundering offence, set forth in Article 282 of the Turkish Criminal Law (hereinafter TCL) was amended by Law no. 5918 of 2009. The revised Article 282 now criminalises money laundering as follows:

> *(1) A person who transfers abroad the proceeds obtained from an offence requiring a minimum penalty of six months or more imprisonment, or processes such proceeds in various ways in order to conceal the illicit source of such proceeds or to give the impression that they have been legitimately acquired shall be sentenced to imprisonment from three years up to seven years and a judicial fine up to twenty thousand days*
>
> *(2) A person who, without participating in the commitment of the offence mentioned in paragraph (1), purchases, acquires, possesses or uses the proceeds which is the subject of that offence knowing the nature of the proceeds shall be sentenced to imprisonment from two years up to five years.*

According to the revised provision of Article 282, the ML offence applies to all offences punishable by a minimum penalty of six months.

The deficiency has been fully addressed.

R.1 (Deficiency 2) - Not all elements required by the relevant UN conventions appear to be covered, in particular; possession and possibly also use.

Conversion or transfer / concealment or disguise - the revised Article 282.1 of the TCL provides for the transfer and concealment of the illegitimate source of the criminal proceeds. Transfer is however limited to transfer abroad.

Acquisition, possession and use - the revised provisions of Article 282.2 of the TCL now explicitly criminalise 'acquisition, possession and use' of criminal proceeds by a third party. As a result, the mere possession or use of the criminal proceeds by the author of the predicate offence is not covered.

It follows from all the above that the criminalisation of money laundering still does not appear to be fully in line with the requirements of the UN Conventions and Recommendation 1. Moreover, the articulation between the ML offence (Article 282) and the provisions of Article 165 of the TCL entitled 'Purchasing and acquiring illicit property' on which Turkey also relies for the prosecution of money laundering remains unclear.

The deficiency has been largely addressed.

R.1 (Deficiency 3) - There are doubts about the effectiveness of Turkey's criminalisation of ML; prosecutions under the old ML offence (in effect up to June 2005) have produced a disproportionately high number of acquittals, and there have not been any final convictions for ML under this offence.

This deficiency relates to the offence that was in effect until June 2005. It is no longer relevant.

R.1 (Deficiency 4) - Effectiveness of the new ML offence cannot be assessed as it was introduced relatively recently (June 2005).

Turkey reported the data below on the number of cases opened and convictions for money laundering made by first instance courts (Article 282 of the TCL). Regarding the convictions, Turkey specified that if not appealed, the decisions taken by the court of first instance are considered to be final. Since 2007, the Court of Cassation has confirmed the convictions of 8 persons. However, the number of appeals against convictions made by first instance courts was not communicated.

Table 1. **Number of cases by first instance courts**

	Cases opened		Conviction decisions given by courts of first instance	
Years	No. of cases	No of suspects	No. of cases	No. of convicted persons
2007	61	208	6	14
2008	53	402	2	4
2009	63	201	7	23
2010	90	625	8	20
2011	89	542	11	32
2012	87	489	9	17
2013	67	341	9	17

CONCLUSION ON RECOMMENDATION 1

Some shortcomings remain in the money laundering offence (*i.e.*, the transfer of property is limited to the transfer abroad and the mere possession and use by the author of the predicate offence is covered by the ML offence). But Turkey has significantly improved its compliance with Recommendation 1, and the number of prosecutions and convictions has increased since 2007. Overall, Turkey now reaches a level of compliance at least equivalent to an LC on Recommendation 1.

RECOMMENDATION 5 – RATING NC

Preventative measures, in particular the AML/CFT obligations applicable to financial and non-financial institutions, are set forth in Law no. 5549 on Prevention of Laundering Proceeds of Crime of October 2006. This law has not been amended since the Mutual Evaluation but its implementing regulations and other measures have been repealed. Two new regulations were adopted: the Regulation on Measures regarding Prevention of Laundering Proceeds of Crime and Financing of

Terrorism (hereinafter RoM) and the Regulation on Program of Compliance (hereinafter RoC) that entered into force on 1 April 2008 and 1 March 2009, respectively.

R.5 (Deficiencies 1, 2, 3, 5 and 9) - The only explicit CDD requirement is customer identification. It is not specified whether identification must be conducted for linked transactions below the TRY 12,000 threshold; Customer verification of natural persons only partially complies with international standards. There are no verification requirements for legal persons, associations, and foundations; Documents authorising a natural person to conduct transactions on behalf of a legal person are required as particle of customer identification in accordance with primary or secondary law for legal persons registered in Trade Registry, but not for foundations or associations; Measures for collection of information on the purpose and nature of the relationship for legal persons are only contained in unenforceable guidelines. There is no provision applicable for insurance; There are no clear requirements to conduct ongoing CDD.

When CDD is required:

The RoM, which came into force on 1 April 2008, contains numerous provisions on CDD. Article 5 provides when customers should be identified, in particular:

- when a business relationship is established;
- when a single transaction of more than TRY 20,000 (about EUR 7,130 and USD 9,800) is carried out, or several linked transactions equal or above that threshold are carried out;
- for wire transfers equivalent to or above the TRY 2,000 (about EUR 713 and USD 980) threshold, carried in one or several linked transactions;
- in case of STR; and
- where there is suspicion about the adequacy and the accuracy of previously acquired identification information.

Required CDD measures:

Articles 6 to 12 of the RoM specify the modalities for the identification of the different types of customers:

- natural persons, both Turkish and non-Turkish citizens (Article 6);
- legal persons recorded by the trade registry (Article 7);
- associations and foundations (Article 8);
- trade unions and confederations (Article 9);
- political parties (Article 10);
- non-resident legal persons (Article 11); and
- unincorporated organisations (Article 12).

In all instances, verification of the identification requires the presentation of identification data, such as identity card, passport, copy of the articles/proof of incorporation, copy of the relevant register, tax identity number, etc.

Article 7.3 of the RoM provides that the identity of the persons authorised to act on behalf of a legal person must be verified pursuant to the provisions of Article 6 on the identification of natural persons and that their authority to represent the legal person must be verified through registration documents. There are similar provisions in Articles 8 to 12, with the exception of Article 11 on the identification of non-resident legal persons.

Article 13 of the RoM also requires that persons acting on behalf of public institutions be identified according to the provisions of Article 6 and their powers verified; however, there is no obligation to identify the customer itself. Turkey advised, without providing any supporting element, that the 'certificate of authority' required under Article 13 for the identification of the persons acting on behalf of public institutions also contains identification information on the customer.

The obligations to identify the natural person acting on behalf of a legal person and to verify his/her powers are repeated in Article 14.1 of the RoM. Article 14.2 provides for the case of persons acting on behalf of natural persons. The obligation for financial institutions to determine whether the customer is acting on behalf of another natural person is in Article 17 of the RoM.

Beneficial owner is defined in Article 3.1.h of the RoM as the "natural person(s) who ultimately control(s) or own(s) natural person who carry out a transaction within an obliged party, or the natural persons, legal persons or unincorporated organizations on whose behalf a transaction is being conducted within an obliged party". Article 17/A on the 'Identification of Beneficial Owner' was introduced in the revised RoM. It sets out the measures financial institutions are required to take *vis-à vis* the different types of legal persons. If the drafting of both articles can raise criticisms (*e.g.*, financial institutions are required detect the beneficial owner rather than to identify and take reasonable measures to verify the identity of the beneficial owner; the different steps to be taken for the identification of the beneficial owner are not fully in line with those required under the new Recommendation 10; the 25% threshold may be too rigid for the identification of the beneficial owner; etc.), there seems to be no major shortcomings.

Article 5.3 of the RoM requires financial institutions to obtain information on the purpose and intended nature of the business relationship.

Article 19 of the RoM requires financial institutions to monitor customers' transactions against their profile and to maintain up-to-date information on the customer. Articles 15 and 16 of the RoC provide further details on these two obligations.

The RoM issued in 2008 has significantly improved the CDD obligations for financial institutions. Only one deficiency remains with respect to customer identification: the absence of obligation to identify customers when they are public institutions.

Risk:

Simplified or reduced due diligence are dealt with under Article 26 of the RoM. According to this Article, simplified due diligence may be applied, if allowed by the Minister of Finance, when the customer is a financial institution, a public administration or a quasi-public professional

organisation subject to the Public Financial Management and Control Law. The provisions also apply to public companies listed on a stock exchange, when the transaction is a batch transfer for the payment of salary, or when the transaction relates to pension schemes that provide retirement benefits to employees by way of deduction from their salaries and of pension agreements. This list of cases where simplified due diligence may be allowed by the Minister of Finance may be expanded by the same Minister. The extent of the measures to be applied is also to be determined by the Minister. In case of suspicion of money laundering or terrorist financing, Article 26.2 of the RoM provides that simplified due diligence may not be applied. Turkey advised that 'may not' should be read as prohibiting the application of simplified due diligence. It should however be noted that in the text provided, prohibitions are usually expressed with 'shall not' (see for example Articles 22, 23 and 29 of the RoM).

MASAK General Communiqué no. 5, most recently amended in June 2014, further details the simplified due diligence referred to in Article 26 of the RoM. The Communiqué states that in a number of instances, simplified due diligence may apply. However, it seems that rather than simplified due diligence, the Communiqué exempts financial institutions from some of the CDD measures. For example, the Communiqué provides that verification measures 'are not compulsory' or that 'it is not mandatory' to identify the beneficial owner. Moreover, it is not clear that Turkey has undertaken any risk assessment prior to the issuance of the Communiqué confirming that the situations envisaged present low ML/FT risks.

Enhanced due diligence provisions are dealt with under deficiency 6, below.

Timing of verification:

Article 5.2 of the RoM provides that "customer identification shall be completed before the business relationship is established or the transaction is conducted". It is not clear whether this provision encompasses the identification of the beneficial owner.

Failure to satisfactorily complete CDD:

Article 22 of the RoM prohibits financial institutions from establishing a business relationship or conducting a transaction if the customer cannot be identified or if information on the purpose and intended nature of the business relationship cannot be obtained. Again, it is not certain whether this prohibition also applies where the beneficial owner is not satisfactorily identified. Financial institutions are required to consider submitting an STR to the FIU, Article 22.3 of the RoM.

Existing customers:

Provisional Article 2 of the RoM required financial institutions to adjust the information on their existing customers as of the date of entry into force of this regulation, that is, by the end of year 2008. (This period was extended until 1 June and then 1 September 2009.) It further provides that "with respect to implementation of this Article, the Ministry of Finance determines the scope of the procedures regarding the obliged parties, re-determination of time periods, and the other principles and procedures on implementation". No further information was provided on this matter; it seems that the new requirements are to be applied to existing customers in a systematic way.

The deficiencies have therefore been largely addressed.

R.5 (Deficiency 4) – There is only a very limited provision, which is not yet implemented in supporting regulation, requiring the identification of the beneficial owner. Financial institutions are not required to take reasonable steps to understand the layers of ownership and control of legal persons which are their customers.

The definition of beneficial owner in Article 3 was amended in the revised RoM and now targets the natural person who ultimately owns or controls the customer be it a natural person, a legal person, or an unincorporated organisation. A new Article 17/A on the 'Identification of Beneficial Owner' was introduced. It sets out the measures financial institutions are required to take *vis-à vis* the different types of customers. The drafting of the article raises some concerns (*e.g.*, it is required to detect not to identify the beneficial owner; senior managing officials are limited to those registered in the trade registry, etc.); however, the deficiency has been largely addressed.

R.5 (Deficiency 6) – Measures for enhanced CDD for sensitive countries, sensitive business and higher risk customers, are only contained in non-mandatory and unenforceable guidelines and this is largely undefined.

Turkey reported that a number of provisions of the RoM and the RoC deal with high-risk customers, transactions and countries. However, most of them relate to non-face to face situations, correspondent banking, or other situations as required by FATF Recommendations other than Recommendation 5.

The RoC was issued on the basis of the Law on Prevention of Laundering Proceeds of Crime and entered into force on 1 March 2009. However, the RoC only applies to banks (with the exception of the Central Bank and development and investments banks), capital markets brokerage houses, insurance and pension companies and the Post (Article 4). Therefore, not all financial institutions are covered.

Article 13 of the RoC provides for the additional measures to be taken vis-à-vis 'high risk groups'. This notion is not defined in the law or regulations. Turkey advised that it refers to customers and transactions identified as presenting risks by financial institutions. The revised RoM also provides for enhanced due diligence in the new Article 26/A. This Article lists the measures financial institutions are required to take in case of high-risk situations (*i.e.*, no face-to-face transactions; transactions with 'risky countries' or high-risk situations identified by the financial institutions themselves).

Applying enhanced due diligence therefore depends on the risk assessment made by individual financial institutions. With the exception of correspondent banking relationships provided for in Article 23 of the RoM, there are no instances requiring mandatory enhanced due diligence, such as those required by Recommendations 5, 6 and 8. The measures listed in Article 26/A of the RoM are similar to those listed in the Interpretive Note to Recommendation 10[4].

[4] Recommendation 10 of the 2012 Recommendation replaces Recommendation 5 of the 2003 Recommendations.

Concerning the enhanced measures to apply, pursuant to the provisions of Article 13 of the RoC, financial institutions are required to apply additional measures, such as obtaining a higher level approval for the establishment of a business relationship or conducting a transaction, gathering as much information as possible on the purpose of the transaction and origin of the assets, etc. Among the measures listed, "developing procedures for ongoing monitoring of transactions and customers" does not seem adequate to manage high-risk situations.

The deficiency has not been addressed.

R.5 (Deficiency 7) – There are no clear CDD requirements for the financial sector other than those for banks.

The RoM applies to all natural and legal persons subject to Law no. 5549 on the Prevention of Laundering Proceeds of Crime. The law applies to:

> *"banking, insurance, individual pension, capital markets, money lending and other financial services, and postal service and transportation, lotteries and bets; those who deal with exchange, real estate, precious stones and metals, jewellery, all kinds of transportation vehicles, construction machines, historical artefacts, art works, antiques or intermediaries in these operations; notaries, sports clubs and those operating in other fields determined by the Council of Ministers."*

The RoC however only applies to banks (with the exception of the Central Bank and development and investment banks), capital markets brokerage houses, insurance and pension companies and the Post.

The deficiency has therefore been largely addressed.

R.5 (Deficiency 8) – The exemption of requirements for identification for transactions carried out with central and local public administrations, state economic enterprises, quasi-public institutions, banks and participation banks are overly broad.

The Regulation Regarding Implementation of the Law No. 4208 on Prevention of Money Laundering (former ML Act), which provided for the exemption, was repealed pursuant the provision of Article 50 of the RoM.

Article 13 of the RoM specifies the identification obligation when the customer is a public institution. As mentioned under Deficiency 2 above, the identification is limited to that of the natural person acting on behalf of the public institution, and their powers are required to be verified. Section 2.2.3 of General Communiqué no. 5 further provides that in that case financial institutions are required to obtain and record identification data of the natural persons acting on behalf of the public administration or quasi-public professional organisation and to verify their powers to do so. This identification is simplified, as there is no obligation to verify the address and "contact information" of these persons. Moreover, it is not mandatory to identify the beneficial owner or to monitor the transactions and keep up-to-date customer information. This appears to be a complete exemption from some CDD measures.

The deficiency has not been addressed.

CONCLUSION ON RECOMMENDATION 5

The level of compliance with Recommendation 5 has significantly improved with the adoption of the revised RoM and of the RoC and various General Communiqué issued by MASAK. Some deficiencies remain (most important with respect to enhanced due diligence) but overall, Recommendation 5 is now at least equivalent to an LC rating.

RECOMMENDATION 13 – RATING PC

R.13 (Deficiency 1) - There is no express obligation to report STRs on terrorist financing and the limited definition of terrorism means the full range of terrorist financing activities is not covered by the definition of what matters STRs may relate to.

The STR obligation provided for in the Law no. 5549 on the Prevention of Laundering Proceeds of Crime remains unchanged. Article 27 of the RoM further provides that STR should be filed with MASAK, the FIU, where:

> *"there is any information, suspicion or reasonable grounds to suspect that the asset, which is subject to the transactions carried out or attempted to be carried out within or through the obliged parties, has been acquired through illegal ways or used for illegal purposes and is used, in this scope, for terrorist activities or by terrorist organizations, terrorists or those who finance terrorism."*

With respect to the TF offence, please refer to SR.II, below.

The deficiency has been addressed.

R.13 (Deficiency 2) – Many of the STR types relate to high value transactions.

Article 27.2 of the RoM specifies that transactions should be reported regardless of the amount. Examples of suspicious transactions are available on MASK's website among the information related to STRs. Among the numerous types listed only about fifteen deal with high value transactions.

The deficiency has been addressed.

R.13 (Deficiency 3) - The level of STR reporting is low when the size and nature of the Turkish financial sector is considered.

Turkey has provided the updated figures below on the number of suspicious transactions reported to the FIU.

Table 2. **Number of transactions reported to the FIU**

Years	**2009**	**2010**	**2011**	**2012**	**2013**	**2014** (31 July 2014)
Number of STRs	9.823	10.251	8.739	15.318	25.592	21.576

CONCLUSION ON RECOMMENDATION 13

Turkey has addressed the material deficiencies identified under the Recommendation and now reaches a satisfactory level of compliance. Moreover, the number of STRs filed to the FIU has significantly increased.

SPECIAL RECOMMENDATION II - RATING PC

SR.II (Deficiencies 1, 2, 3 and 4) - The TF offence is incomplete as it applies to terrorist groups only in the financing of the commission or attempted commission of specific acts; The TF offence does not apply to support to the individual terrorist, other than support to the individual terrorist for the commission of a limited set of criminal offences; The offence only applies in relation to terrorism against Turkey and its citizens; It does not cover all of the offences required by Article 2 of the UN Convention on the Suppression of the Financing of Terrorism (including offences in the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons).

Article 4 of the TF Law criminalises the financing of terrorism as the provision or collection of "for a terrorist or terrorist organisation with the intention that they are used or knowing and willing that they are to be used, even without being linked to a specific act, in full or in part, in perpetration of the acts that are set forth as crime within the scope of Article 3". The Court of Cassation of Turkey confirmed the interpretation made by several criminal courts of the provisions of Article 4 of the TF Law, in particular the mental element of the terrorist financing offence which does not require the intention that a terrorist act be committed. As a result the mere support to a terrorist or a terrorist organisation is also covered by Article 4.

Article 3 lists the acts for which the TF offence applies. It covers: (i) the "acts intended to cause death or serious bodily injury for the purpose of intimidating or suppressing a population or compelling a government or an international organisation to do or to abstain from doing any act", (ii) the acts set forth in the Anti-Terror Law No. 3713 and (iii) the acts referred to in the treaties annexed to the TF Convention.

Despite the broad definition of "funds", Article 4 does not cover provision of non-financial support to terrorists or terrorist organisations[5]. In the case of providing non-financial support, the already existing Article 220.7 of the Penal Code applies. The article stipulates that "any person who provides assistance to an organisation knowingly and willingly, although he does not belong to the hierarchic structure within that organisation, shall be sentenced for being a member of such organisation". Being a member of such an organisation is punished by one to three years of imprisonment (Article 220.2 of the Penal Code). Article 220.7 therefore covers the provision of assistance to a terrorist organisation as a subset of criminal organisations; however, the penalties are rather low (maximum of three years; in comparison the acts covered under Article 4 of the TF Law incur a penalty of five to ten years imprisonment). Not covered by Article 220.7 would be the provision of non-financial assistance to an individual terrorist.

[5] The distinction between financial and non-financial support was introduced by consistent court decisions when applying Article 8 of the ATL, the former provision on the TF offence. The definition of funds under Article 8 of ATL was not as broad as it is under the TF Law, but still provided for financial and to a certain extent non-financial support, *i.e.*, goods, rights, claims, etc.

According to the jurisprudence, Article 4 of the TF Law applies to any financial support regardless of whether the funds are to be used to carry out a terrorist act; by a terrorist organisation; or by an individual terrorist. Article 4 of the TF Law also applies to non-financial support (tangible support). Providing services to a terrorist organisation constitute the offence of assisting a terrorist organisation, as provided for in Article 220.7 of the Criminal Code. Providing services to an individual terrorist is not criminalised. The table below indicates the provisions applicable to the various situations envisaged by the standard.

Table 3. **Provisions applicable to the various situations envisaged by the standard**

	Financial support	**Non-financial support**	
		Tangible assets	Intangible assets
Funds to be used to carry out a terrorist act Crit. II.1.a.i	**Article 4 of the TF Law** ***Sanction:*** *5 to 10 years of imprisonment*	**Article 4 of the TF Law** ***Sanction:*** *5 to 10 years of imprisonment*	**Article 220.7 of the Criminal Code** ***Sanction****: 1 to 3 years or 10 to 15 years if the act committed is one of those criminalised as offences against national security or constitutional order.* Covered only when support is provided to an organisation**.**
Funds to be used by a terrorist organisation Crit. II.1.a.ii	**Article 4 of the TF Law** ***Sanction****: as above*	**Article 4 of the TF Law** ***Sanction****: as above*	**Article 220.7 of the Criminal Code** ***Sanction****: 1 to 3 years or 10 to 15 years if the act committed is one of those criminalised as offences against national security or constitutional order.*
Funds to be used by an individual terrorist Crit. II.1.a.iii	**Article 4 of the TF Law** ***Sanction****: as above*	**Article 4 of the TF Law** ***Sanction****: as above*	**Not covered**

The deficiencies have been largely addressed.

SR.II (Deficiency 5) - The intentional element of the offence cannot be inferred from factual circumstances.

Article 4 of the TF Law specifies that funds must be provided or collected "knowing and willing" that they are to be used to commit a terrorist act, as did Article 8 of the Anti-Terror Law of 1991. This provision seems to be unchanged from the one applicable at the time of the mutual evaluation report. The MER criticised Turkey at that time because it was not clear whether knowledge or willingness could be inferred from factual circumstances, and Turkey provided no further information at that time to support this view. Turkish authorities have since advised that the general provisions of Article 21 of the Penal Code are applicable. In particular paragraph 2 of Article 21 states that "there is possible intent when the individual conducts the act foreseeing the elements in the legal description of crime may occur".

The deficiency has been addressed.

SR.II (Deficiency 6) - The range of sanctions which can be applied to legal persons is limited.

The mutual evaluation report criticised the range of sanctions applicable when the TF offence was committed in connection with a legal person (*i.e.*, loss of license and confiscation)[6]. Article 4.4 of the TF Law provides that the same sanctions or "*security measures*" are applicable. Moreover, an administrative fine from TRY 10 000 to 2 million (USD 5 600 – EUR 4 200 / USD 1 129 000 – EUR 847 000) can apply.

The deficiency has been addressed.

SR.II (Deficiency 7) - Due to the recent enactment of the autonomous TF offence, its effectiveness cannot be assessed.

The deficiency relates to the TF offence provided for under the Anti-Terror Law. Law no. 6415 on the Prevention of the Financing of Terrorism entered into force on 16 February 2013. Since then, on the basis of Article 4 of the TF law, 41 investigations were conducted and 18 cases were prosecuted.

CONCLUSION ON SPECIAL RECOMMENDATION II

The adoption of the TF law was major step in Turkey's efforts to combat the financing of terrorism. A thorough analysis of the law raises some issues, including on the dissuasiveness of sanctions under Article 220.7 of the Criminal Code. However, Turkey now reaches a level of compliance at least equivalent to an LC rating on SR.II.

6 Mutual Evaluation Report of Turkey, paragraph 128.

SPECIAL RECOMMENDATION IV - RATING PC

SR.IV (Deficiency 1) – There is no explicit requirement in law or regulation for obliged parties to submit STRs relating to terrorism or TF, other than that conduct that involves assets "acquired through illegal ways or used for illegal purposes" and the limited definition of terrorism means the full range of terrorist financing activities is not covered by the definition of what matters STRs may relate to.

See Recommendation 13 – Deficiency 1, above.

SR.IV (Deficiency 2) - Only 5 STRs were received as at 1 January 2006 based on a suspicion of terrorism, which seems to call into question the effectiveness of the existing requirement viewed against the potential size of the terrorism problem in Turkey.

Turkey has provided the updated figures below on the number of TF-related suspicious transactions reported to the FIU.

Table 4. **TF-related suspicious transactions reported to the FIU**

Years	**2009**	**2010**	**2011**	**2012**	**2013** (13 Nov. 13)
Number of STRs	49	186	219	288	822

CONCLUSION ON SPECIAL RECOMMENDATION IV

Turkey has addressed the material deficiencies identified under the Recommendation and now reaches a satisfactory level of compliance. Moreover, the number of TF-related STRs filed to the FIU has significantly increased.

KEY RECOMMENDATION

RECOMMENDATION 23 – RATING PC

R.23 (Deficiency 1) - There is no ongoing offsite AML/CFT control other than limited reporting by obliged parties of a limited set of statistics.

Article 10 of the RoC requires financial institutions subject to the regulation to submit their institutional policies to MASAK. Pursuant to the provisions of Articles 24 and 28 of the RoC financial institutions are required to report information on training and to submit figures such as the business volume, number of staff, branches, etc. and information on the internal control (*e.g.*, number of units and transactions controlled, etc.) to MASAK. Turkey advised that internal policies have been reviewed and that financial institutions have been asked to remedy deficiencies. When financial institutions did not remedy the deficiencies, administrative fines were imposed. Deficiencies in the policies are a criterion considered while determining on-site inspection programmes.

The deficiency has been addressed.

R.23 (Deficiency 2) – AML/CFT obligations do not extend to all CDD measures and matters in the FATF Standards.

See Recommendation 5, above.

R.23 (Deficiencies 3 and 4) - No provisions exist which would prevent criminals or their associates from being beneficial owners of significant or controlling interests in financial institutions; The fit and proper criteria for founders and persons operating in senior roles in the financial sector are broad.

Since the adoption of the third mutual evaluation report, a number of laws applicable to specific sectors have been abolished, and new laws have been adopted. Most importantly, this is the case for financing and factoring companies and financial leasing companies (Law no. 6361), insurance and reinsurance companies (Law no. 5684), capital market brokerage houses, security investment companies and portfolio management companies (Law no. 6362), etc. These laws are built on the model of the Banking Law no. 5411, which sets out requirements regarding founders, shareholders, directors, and senior management. There are detailed rules for founders and shareholders, which are intended to prevent criminals and their associates from gaining control of financial institutions. The absence of a conviction for money laundering is explicitly mentioned. Terrorist financing as criminalised under the new TF Law is also covered (it should however be noted that support to terrorist organisations and individual terrorists under Article 220.7 of the Penal Code does not fall in the scope of the offences for which founders must not have been convicted). There are also provisions dealing with directors and senior management's professional background and experience; as founders, they should not have been convicted for any of the specified offences.

Measures regarding bureaux de change remain unchanged.

The deficiency has been largely addressed.

R.23 (Deficiency 5) - The Core Principles are not applied for AML/CFT purposes, in particular in the insurance and securities sectors.

Core Principles apply for AML/CFT purposes, including the licensing and the supervision of institutions from the banking, insurance, and securities through the Law no. 5549 on Prevention of Laundering Proceeds of Crime and the implementing RoM and RoC.

The deficiency has been addressed.

CONCLUSION ON RECOMMENDATION 23

Turkey has taken measures to improve compliance with Recommendation 23, which now reaches a level of compliance of an LC rating.

RECOMMENDATION 35 – RATING PC

R.35 (Deficiency 1) – Some shortcomings exist in relation to implementation of Article 3(1)(c)(1) of the Vienna Convention and Article 6(1)(b)(i) of the Palermo Convention, namely the lack of full coverage of one of the elements of the ML offence: "possession".

Turkey referred to the progress made under Recommendation 1 - Deficiency 2, above.

R.35 (Deficiency 2) - Turkey has not fully implemented the Terrorist Financing Convention as the TF offence only applies to acts of terrorism against Turkey and where the funds are used to carry out or attempt a terrorist act; also the offence does not include all of the offences as foreseen by relevant UN Conventions as stated in Article 2 of the TF Convention. Turkey's implementation of Recommendation 5 does not include adequate measures to identify the beneficial owners (in accordance with Article 18(1)(b) of the TF Convention).

See SR.II above.

R.35 (Deficiency 3) - There are no procedures for identifying the beneficial owner of accounts and transactions as required by the TF Convention.

Turkey referred to the progress made under Recommendation 5 - Deficiency 4, above.

CONCLUSION ON RECOMMENDATION 35

In addressing related Recommendations, Turkey has increased the level of compliance of Recommendation 35 to an LC rating.

SPECIAL RECOMMENDATION I – RATING PC

SR.I (deficiencies 1 and 2) - There is no specific arrangement for the implementation of the S/RES/1373(2001) other than through judicial means; There are no formal procedures in place for, or guidance relating to, gaining access to frozen funds for necessary expenses, unfreezing or on sanctions for failure to observe a freezing order.

See SR.III below.

SR.I (deficiency 3) - Turkey has not fully implemented the Terrorist Financing Convention, as the TF offence only applies to acts of terrorism against Turkey and where the funds are used to carry out or attempt a terrorist act; also the offence does not include all of the offences as foreseen by relevant UN Conventions as stated in Article 2 of the TF Convention.

Turkey referred to the progress made under Recommendation 35 - Deficiency 2. See also SR.II above.

CONCLUSION ON SPECIAL RECOMMENDATION I

In addressing related Recommendations, Turkey has increased the level of compliance of Special Recommendation I to an LC rating.

SPECIAL RECOMMENDATION III – RATING PC

SR.III (deficiency 1) - There are deficiencies in many areas relating to the freezing of funds in accordance with the UNSC Resolutions.

UNSCR 1267 and its successor resolutions:

Article 5 of the TF Law provides that the "freezing of asset under the possession of persons, institutions and organisations designated [by the UNSCR 1267 and its successor resolutions] shall be executed without delay through the decision of the Council of Ministers published in the Official Gazette". On this basis, a first decision was taken by the Council of Ministers on 30 September 2013 and published in the Official Gazette on 10 October 2013. Subsequent decisions implementing UNSCR 1267 came into force after a long delay, up to 63 days after the UN designation while in the context of UNSCR 1267, 'without delay' means 'ideally, within a matter of hours'. Over time, this delay was reduced, see the table below. While the freezing of the assets of natural and legal persons designated by the UN pursuant to UNSCR 1267 and its successor resolutions does not yet take place without delay, the Turkish regime for the freezing of these assets has significantly improved.

Table 5. **Decisions taken by the Council of Ministers**

Date of UNSC Designation	Date of Publication in the Official Gazette	Difference
Cumulated Decisions	10.10.2013-28791	---
21.10.2013	11.12.2013-28848	51
09.10.2013	11.12.2013-28848	63
24.10.2013	11.12.2013-28848	48
26.11.2013	11.12.2013-28848	16
19.12.2013	16.01.2014-28884	28
31.12.2013	21.01.2014-28889	22
02.01.2014	21.01.2014-28889	19
04.12.2013	24.01.2014-28892	51
11.02.2014	27.02.2014-28926	16
06.01.2014	04.03.2014-28931	59
14.03.2014	11.04.2014-28969	28
14.03.2014	11.04.2014-28969	28
18.03.2014	11.04.2014-28969	24
31.03.2014	11.04.2014-28969	12
31.03.2014	11.04.2014-28969	12
03.04.2014	26.04.2014-28983	23
15.04.2014	26.04.2014-28983	11
16.05.2014	28.05.2014-29013	12
22.05.2014	10.06.2014-29026	19
02.06.2014	18.06.2014-29034	16
02.06.2014	18.06.2014-29034	16
02.06.2014	18.06.2014-29034	16

26.06.2014	28.06.2014-29044	2
31.07.2014	05.08.2014-29079	5
04.08.2014	08.08.2014-29082	4
15.08.2014	24.08.2014-29098	9
21.08.2014	26.08.2014-29100	5
26.08.2014	29.08.2014-29103	3

UNSCR 1373:

See deficiency no. 4 below.

The deficiency has been largely addressed in relation to implementation of UNSCR 1267.

SR.III (deficiency 2) - There are no formal procedures in place for, or guidance relating to, gaining access to frozen funds for necessary expenses, delisting, unfreezing or sanctions for failure to observe a freezing order.

UNSCR 1452:

Articles 13.2 and 3 of the TF Law provide for the access to frozen funds or other assets; it is complemented by the provisions of Article 15.3 of the Regulation. These provisions raised some concerns, such as the application of UNSCR 1452 to the assets frozen on the basis of UNSCR 1373, the respect of the procedure sets in UNSCR 1452 with respect to basic expenses, the free access under certain conditions to safe-deposit boxes, etc. However, these concerns seem to have all been addressed by MASAK Communiqué no. 12 issued on 21 June 2014.

Delisting and unfreezing:

Article 5.3 of the TF Law provides that "applications against the United Nations Security Council Resolutions shall be conveyed to the United Nations Security Council by MASAK through the Ministry of Foreign Affairs". This article provides a legal basis for future procedures on the delisting process under UNSCR 1267. It is complemented by the provisions of Article 4.2 to 4.4 of the Regulation.

The TF Law is silent about the delisting of persons and entities whose funds or other assets are frozen pursuant to the mechanism implementing UNSCR 1373, the unfreezing of funds or other assets of delisted persons or entities and the unfreezing of funds, or other assets inadvertently affected by a freezing measure. In that regard, Turkey advised that freezing decisions made by the Council of Ministers are administrative measures, subject to the provisions of the Administrative Procedure Code, in particular those relating to the appeal against such decisions. Moreover, Article 5.7 of the Regulation provides for the delisting procedures under UNSCR 1373.

Article 14.6 of the Regulation set forth the procedure for the unfreezing of assets inadvertently frozen, which is further detailed in the Communiqué no. 12.

There are no procedures for the unfreezing of assets of delisted persons and entities.

Sanctions:

Article 14 of the TF Law stipulates that MASAK will monitor the compliance of institutions and persons holding assets with the freezing measures and will issue guidance in that respect according to Article 16.1.k of the regulation. Article 15 of the TF Law sets out the penal sanctions applicable for failure to comply with freezing decisions: natural persons are liable for a term of six months to two years of imprisonment or a fine between TRY 3 600 and TRY 73 000 (EUR 1,530 – USD 2,000 and EUR 31,040 – USD 40,300). Legal persons are liable for an administrative fine from TRY 10 000 (USD 5 600 – EUR 4 200) to TRY 100 000 (USD 56,000 – EUR 42,000). The sanctions available for legal persons cannot be seen as being dissuasive.

The deficiency has been largely addressed.

SR.III (deficiency 3) - There is no system in place for communicating the decrees to DNFBPs and no deadlines are set for action by financial institutions in accordance with the decrees.

The TF Law is silent about specific information and guidance to financial institutions and other persons or entities that may be holding funds or other assets subject to a freezing measure. Various provisions of the Regulation provide a legal basis for future action to be implemented by MASAK. Article 14 of the regulation provides that freezing decisions shall be immediately notified by fax, email and web services to: "the General Directorate of Land Registry with the request of taking a note in the land register in order to enable freezing of immovables; the relevant units of the Ministry of Transport, Maritime Affairs and Communications and the Ministry of Interior and General Directorate of Civil Aviation with the request of taking a note in the registers of means of land, sea and airspace transportation in order to enable their freezing; the relevant banks or other financial institutions in order to enable freezing of any kinds of accounts, rights and claims; the relevant company and Trade Registry Directorate in which the company is registered and the Ministry of Customs and Trade in order to enable freezing of partnership shares in the company; and natural and legal persons, and public institutions and organisations to whom notification is deemed necessary by MASAK". Article 14.5 of the regulation also requires MASAK to maintain a list of the persons and entities subject to a freezing measure available on its website. Article 14.10 provides for the establishment of a secure electronic system to enable MASAK to notify freezing decisions to relevant persons, institutions and organisations, and receive feedback from them.

With respect to specific information and guidance, Article 16.1.l of the regulation provides that MASAK can "publish guidance and implementation manuals, organise trainings, workshops, panels and seminars in order to ensure that natural and legal persons and public organisations and institutions who hold asset records implement asset freezing decisions effectively and thoroughly".

The deficiency has been largely addressed.

SR.III (deficiency 4) - There is no provision for giving effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions (as related to S/RES/1373(2001)) other than through judicial or mutual legal assistance mechanisms.

Article 7 of the TF Law deals with the "procedure for [freezing] asset[s] in Turkey". Pursuant to this article, the "Assessment Commission, based on reasonable grounds that the person, institution or

organisations have committed the acts within the scope of Article 3 and 4, may decide to make denunciation with a request for initiating an investigation on those related to the asset in Turkey in accordance with the Criminal Procedure Code No.5271 dated 04/12/2004". Pursuant to the provisions of Article 128 of the Penal Procedure Code, seizure can be decided if "there are strong grounds of suspicion tending to show that the crime under investigation or prosecution has been committed or that [items subject to seizure] have been obtained from this crime". However, it is not clear whether the list of items subject to seizure is fully consistent with the FATF definition of funds or other assets, in particular assets directly or indirectly possessed or controlled. Seizure can be imposed for a limited range of offences; notable among those offences that do not appear is terrorist financing. However, Article 17 of the Turkish AML law states that Article 128 of the Penal Code applies where there is strong suspicion that the offences of money laundering and financing terror are committed. Moreover, if the list of items subject to seizure seems to be broad, paragraph 1 specifies that (1) they belong to the accused or suspected person and (2) derive from the suspected offence. Regardless of the outcome of an investigation, this measure cannot be seen as a freezing decision taken without delay (*i.e.*, upon having reasonable grounds, or a reasonable basis, to suspect or believe that a person or entity is a terrorist, one who finances terrorism or a terrorist organisation) and as adequately implementing UNSCR 1373 and the FATF standard.

The freezing of terrorist assets made on the basis of foreign countries' requests also raises some issues, such as the consideration of the reciprocity principle and of an assurance taken by the requesting country to cover Turkey's potential financial losses or damages caused by the freezing, the degree to which the lifting of a freezing decision is automatic after one year if certain circumstances are not met, etc. Turkey however provided a case illustrating its ability to freeze assets on the basis of foreign request.

Despite this progress, the mechanism for the freezing of domestic terrorists still raises concerns. The deficiency has not been adequately addressed.

CONCLUSION ON SPECIAL RECOMMENDATION III

The TF Law and the Regulation significantly improved Turkey's legal framework for the freezing of terrorist assets. The implementation of UNSCR 1267 is improving, though it is not yet without delay, and in at least one case, Turkey is freezing assets on the basis of a foreign request. However, the domestic freezing mechanism presents a number of issues and is therefore not in line with the standard. For this reason, and despite the progress made in other areas, Turkey cannot yet be seen as reaching the expected level of compliance with SR.III.

SPECIAL RECOMMENDATION V – RATING PC

SR.V (deficiency 1) - The limited scope of the TF offence could present grounds to refuse an extradition request or mutual legal assistance requests for search, seizure or confiscation if the request relates to terrorism not involving Turkey or its interests.

Turkey referred to the progress made under Recommendation 35 - Deficiency 2. See also SR.II above.

CONCLUSION ON SPECIAL RECOMMENDATION V

In addressing related Recommendations, Turkey has increased the level of compliance of Special Recommendation V to an LC rating.

V. OVERVIEW OF MEASURES TAKEN ON IN RELATION TO OTHER RECOMMENDATIONS RATED NC OR PC

RECOMMENDATION 6 – RATING NC

R.6 (Deficiency 1): Turkey has not implemented AML/CFT measures concerning establishment of customer relationships with PEPs.

No specific obligation concerning PEPs has been introduced since the MER but Turkey advised that it relies on other obligations such as the obligation to pay special attention to certain transactions, the obligations concerning new technologies or 'risky countries'. This is however not adequate to consider that the necessary additional measures are applied all PEPs.

The deficiency therefore remains so that the overall level of compliance of Turkey with Recommendation 6 cannot yet be seen as achieving an LC rating.

RECOMMENDATION 7 – RATING NC

R.7 (Deficiency 1): Turkey has not implemented AML/CFT measures concerning establishment of cross-border correspondent banking relationships.

Article 23 of the RoM provides for correspondent banking and payable-through accounts. The obligations under Article 23 are similar to those that required by Recommendation 7 although there is no obligation for financial institutions to gather information on the potential regulatory actions imposed (only ML/TF investigations and sanctions are mentioned).

Turkey achieves a level of compliance at least equivalent to an LC rating on Recommendation 7.

RECOMMENDATION 8 – RATING PC

R.8 (Deficiency 1): Turkey has not implemented adequate AML/CFT measures concerning risks in technology or the establishment of non-face-to-face business transactions (in the latter category, other than for banks and brokers).

Article 20 of the RoM requires financial institutions to pay attention to the ML/TF risk associated with new and developing technologies and to adopt appropriate and effective measures in case of non-face-to-face transactions.

Turkey therefore achieves a level of compliance at least equivalent to an LC rating on Recommendation 8.

RECOMMENDATION 9 – RATING NC

R.9 (Deficiency 1): There is no law, regulation, or enforceable guidance, outside of the securities' sector, on the use of third parties to perform CDD under Turkish law.

Article 21 of the RoM authorises financial institutions to rely on the customer due diligence conducted by a third party under certain conditions. In particular, the third party located abroad must apply equivalent CDD measures and records keeping obligations, be supervised for ML/TF purposes and be able to provide copies of the identification data upon request of the financial institution. It is explicitly required that the ultimate responsibility remains on the institution relying on a third party.

Turkey therefore achieves a level of compliance at least equivalent to an LC rating on Recommendation 9.

RECOMMENDATION 11 – RATING NC

R.11 (Deficiency 1): Recommendation 11 has not been implemented.

Article 18 of the RoM requires financial institutions to pay special attention to complex and unusual large transactions and to transactions that have no apparent reasonable legitimate and economic purpose. In this case, financial institutions must take measures to obtain adequate information on the purpose of the transaction; this information must be recorded and must be available for authorities upon request.

Turkey therefore achieves a level of compliance at least equivalent to an LC rating on Recommendation 11.

RECOMMENDATION 12 – RATING NC

R.12 (Deficiencies 1 and 2): Lawyers, accountants and other legal professionals are not obliged parties. Turkey's general shortcomings in implementation of Recommendations 5, 6 and 8-11 also apply to DNFBPs.

Lawyers and accountants are now subject without distinction to the all provisions of the RoM. See also Recommendations 5, 6 and 8 to 11 above.

R.12 (Deficiency 3): There are questions about the effectiveness of implementation of customer identification and record keeping requirements in obliged DNFBPs.

Turkey advised that brochures on CDD for DNFBPs were issued and published on MASAK's website and AML/CFT training programmes were organised.

Considering the progress made with respect to Recommendations 5, 8, 9 and 11, Turkey achieves a level of compliance at least equivalent to an LC rating on Recommendation 12.

RECOMMENDATION 15 – RATING PC

R.15 (Deficiencies 1, 3 and 4): Financial institutions are not required to establish adequate internal audit procedures and policies in relation to TF; While brokerage houses are required to adopt internal audit policies and procedures, this does not specifically relate to AML/CFT; Insurance companies and other obliged parties are not required to have internal controls or compliance officers.

Article 5 of the RoC requires compliance programme aimed at preventing ML and TF. This includes the adoption of policies and procedures, the establishment of monitoring and controls, appointing a compliance officer, etc. It should be noted however that the RoC only applies to banks (with the exception of the Central Bank and development and investments banks), capital markets brokerage houses, insurance and pension companies and the Post (Article 4). Therefore, not all financial institutions are covered.

The deficiencies have therefore been largely addressed.

R.15 (Deficiency 2): The access to information by compliance officers in banks and participation banks is only inferred from their position in the organisation structure.

Article 19 of the RoC provides for the duties, powers, and responsibilities of the compliance officer. Paragraph 4 now explicitly stipulates that the executive board must ensure the independence of the compliance officer, who can access any information and document in performing his duties.

The deficiency has been addressed.

R.15 (Deficiency 5): In-house training and screening requirements only apply to the banking and securities industries. Training requirements for banks do not exist in relation to the full breadth of AML/CFT issues and obligation.

Chapter 6 of the RoC covers various aspects of the staff training on ML/TF matters. No information was provided as to the screening requirements when hiring new staff.

The deficiency has been partially addressed.

R.15 (Deficiency 6): Effectiveness issue: Of the 20 banks inspected by the BRSA in 2005 (13 Turkish banks and 7 foreign banks), 6 did not fulfil their obligation on the appointment of compliance officer.

Turkey advised that financial institutions subject to the RoC are in compliance with their obligation to appoint a compliance officer.

Turkey achieves a level of compliance at least equivalent to an LC rating on Recommendation 15.

RECOMMENDATION 16 – RATING NC

R.16 (Deficiency 1) - Accountants, lawyers and other legal professionals are not required to submit STRs and are not subject to other measures covered by Recommendations 14, 15 and 21.

Accountants and lawyers are not subject to the Law on Prevention of Laundering of the Proceeds of Crime, including Article 4 which sets the principles of the reporting of suspicious transactions. But they are subject to the RoM, including Chapter Four on the Procedures of STRs and which also requires obliged parties to report STRs. DNFBPs are not subject to the RoC which provides for internal control. See also Recommendation 14[7] and Recommendations 15 and 21 above.

The deficiency has been largely addressed.

R.16 (Deficiencies 2, 3 and 4) - DNFBPs are not obliged to have compliance officers or internal control programmes; DNFBPs are not required to conduct in-house training or screen potential employees. Limited training has been provided to DNFBPs; DNFBPs are not required to pay special attention to transactions with countries which do not or do not adequately implement the FATF Recommendations.

Please refer to Recommendation 15, above and Recommendations 21 and 22, below.

The deficiencies have been partially addressed.

R.16 (Deficiency 5) - No STRs have been submitted by DNFBPs, which calls into question the effectiveness of implementation of Recommendation 13 in this sector.

The table below indicates the number of STRs filed by DNFBPs.

Table 6. **Number of STRs filed by DNFBPs**

	2008	2009	2010	2011	2012	2013	2014*
Notaries	1	6	1	4	1	1	-
Accountants	-	-	-	1	-	-	1
Lawyers	-	-	-	-	-	-	1
Dealers of precious metals, stones and jewelleries	-	-	-	-	-	2	-

* 31 August 2014

The deficiency has been largely addressed.

Turkey achieves a level of compliance at least equivalent to an LC rating on Recommendation 16.

[7] See Recommendation 14 in Turkey's MER, as Turkey rated LC on this Recommendation.

RECOMMENDATION 17 – RATING PC

R.17 (Deficiencies 1, 3, 4 and 5): The range of available sanctions, although expanded under the new AML law, is still limited; The level of fines which may be issued is very low; No sanctions are available for senior staff in institutions where violations occur; Sanctions are now available for legal persons which do not fulfil their AML obligations but it is too early to assess their effectiveness.

Administrative fines for failure to comply with the CDD, STR and training and internal control and risk management systems and judicial fines for tipping-off are the same as those available at the time of the MER. Pursuant to Article 39.2 of the RoM, administrative fines applicable for failure to comply with the CDD and STR obligations now extend to employees and their managers. The table below indicates the total amount of fines applied pursuant to the AML/CFT law to financial institutions and their employees. No information was provided as to the judicial fines applied to legal persons.

Table 7. **Total amount of fines applied**

	Amounts of administrative fines imposed on		TOTAL (TRY)
	Obliged Parties (Legal Persons) (TRY)	Employees (TRY)	
2009	284.040	56.964	341.004
2010	1.341.589	110.852	1.452.441
2011	1.032.550	259.734	1.292.284
2012	13.240.527	1.129.360	14.369.887
2013	9.822.470	1.150.737	10.973.207
2014*	7.161.890	458.229	7.620.119

*as 22 August 2014

The deficiencies have been largely addressed.

R.17 (Deficiency 2): The requirement under the old AML law that mandatory criminal penalties applied to obliged parties which did not comply with AML/CFT requirements was a factor in the low number of sanctions issued.

As noted above under deficiency one, administrative fines are available for the violations of some of the AML/CFT obligations. The deficiency is now void.

Turkey achieves a level of compliance at least equivalent to an LC rating on Recommendation 17.

RECOMMENDATION 18 – RATING PC

R.18 (Deficiencies 1 and 2) - There is no explicit prohibition on establishment of shell banks; There is no provision that prohibits Turkish banks from entering into, or requiring them cease, operations with shell banks.

No explicit prohibition from establishing shell banks or a prohibition from entering into or an obligation to terminate a business relationship with a shell bank was introduced. For the licensing of financial institutions, please refer to Recommendation 23, above.

The deficiencies have therefore been partially addressed.

R.18 (Deficiency 3) - There are no provisions requiring Turkish financial institutions to verify that their respondent institutions do not have accounts used by shell banks.

Article 23 of the RoM prohibits financial institutions from establishing a correspondent banking relationship with a shell bank. Financial institutions are also required to ensure that their correspondent banks do not permit shell banks to use their accounts.

The deficiency has been addressed.

Turkey achieves a level of compliance at least equivalent to an LC rating on Recommendation 18.

RECOMMENDATION 21 – RATING NC

R.21 (Deficiency 1) - Recommendation 21 has not been implemented.

Pursuant to new Article 25 of the RoM, financial institutions are required to pay special attention to and record information related to the transactions with natural and legal persons located in risky countries. Risky countries are defined as those listed by the Ministry of Finance out of those which do not have sufficient laws and regulations on the prevention of ML/TF. Turkey did not specify whether the Ministry of Finance determined a list of risky countries. Moreover, Article 25 does not extend to persons from a risky country.

There are no available counter-measures that can be applied to countries that do not apply or insufficiently the FATF Recommendations.

Overall, some progress was made but important deficiencies remain so that the overall level of compliance of Turkey with Recommendation 21 cannot yet be seen as achieving an LC rating.

RECOMMENDATION 22 – RATING NC

R.22 (Deficiency 1): Article 4 of the RRIL providing for application of customer identification requirements to overseas branches and subsidiaries has not been implemented.

The Regulation regarding the Implementation of the Law on ML/TF was abrogated when the RoM came into force. Article 4.3 of the RoM provides that branches and subsidiaries of Turkish financial institutions located abroad are required to comply with the obligations set out in the RoM to the extent permitted by the legislation of the host country.

The deficiency has been addressed.

R.22 (Deficiency 2): Internal control provisions for overseas branches and subsidiaries only exist for banks, not for any other obliged parties.

Likewise, Article 4.2 of the RoC provides that compliance programme apply to branches and subsidiaries of Turkish financial institutions located abroad to the extent permitted by the legislation of the host country.

The deficiency has been addressed.

R.22 (Deficiencies 3, 4 and 5): There is no requirement to pay particular attention where branches and subsidiaries are in countries which do not or insufficiently apply the FATF Recommendations; There is no requirement to apply the higher of the two countries' standards; There is no requirement to inform supervisors when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures due to host country restrictions.

The deficiencies have not been addressed.

Some progress was made, but important deficiencies remain so that the overall level of compliance of Turkey with Recommendation 22 cannot yet be seen as achieving an LC rating.

RECOMMENDATION 24 – RATING NC

R.24 (Deficiency 1): No systems exist for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements.

MASAK is ultimately in charge of the supervision of obliged parties' compliance to their AML/CFT obligations set in the Law and the RoM. Supervision is however not carried out directly by MASAK, but by examiners listed under Article 3.1.d of the RoM (*i.e.*, tax inspectors, customs and trade inspectors, sworn-in bank auditors, Treasury comptrollers, Insurance Supervisory Experts and Actuaries, Banking Regulation and Supervision Agency Experts, and Capital Market Board Experts). It is not clear from the list of examiners, which examiner is responsible of each category of DNFBPs, in particular lawyers and notaries. The figures provided by Turkey on supervision indicate that some categories of DNFBPs have been subject to an inspection.

Table 8. **Supervision**

Obliged Parties Inspected	Years							
	2006	2007	2008	2009	2010	2011	2012	2013
Precious Metals Exchange intermediaries	-	-	-	-	-	11	8	5
Istanbul Gold Exchange	-	-	-	-	1	-	-	-
Operators of Lottery and Bet Games	-	-	-	-	-	6	1	-
Real Estate Agents	-	-	-	-	-	-	2	5
Dealers and auctioneers of historical artefacts, antiques and works of art	-	-	-	-	-	-	-	5
TOTAL					1	17	11	15

Some progress was made, but deficiencies seem to remain so that Turkey's overall level of compliance with Recommendation 24 cannot yet be seen as achieving an LC rating.

RECOMMENDATION 25 – RATING PC

R.25 (Deficiencies 1 and 4): MASAK does not provide specific feedback to obliged parties on STRs submitted, nor does it provide information on the trends and methods observed in the

STRs received; Neither feedback on STRs received nor information on typologies and trends is provided to obliged parties.

Article 30 of the RoM requires MASAK to inform the author of an STR that the report has been recorded. This obligation is formal and does not entail any feedback from the FIU on the quality and opportunity of the STR. Article 30.2 also requires MASAK to assess the 'effectiveness of suspicious transaction reports received' and to publish statistical data, information on the methods and trends of ML/TF in its annual activity reports, guidelines, etc.

The deficiencies have been largely addressed.

R.25 (Deficiency 2): The number of STRs received is low when the size and nature of the Turkish financial sector is considered.

See Recommendations 13, above.

R.25 (Deficiencies 3 and 5): Only 3 pieces of AML/CFT guidance have been issued by Turkish government authorities and these do not cover all AML/CFT matters; The only guidance issued (for DNFBPs) is a recent MASAK guideline which provides DNFBPs with indicators of ML and TF.

In 2008 and 2009, 17 brochures were issued for all types of financial institutions and DNFBPs on their AML/CFT obligations from the law and secondary legislation. All brochures were published on MASAK website. With the adoption of new regulation (*i.e.*, the RoM and the RoC), these brochures are not up-to-date anymore. A number of guidance was also prepared, including very recently the *Guidance on STR for banks and for non-bank obliged parties*.

The deficiencies have been largely addressed.

Turkey achieves a level of compliance at least equivalent to an LC rating on Recommendation 25.

RECOMMENDATION 27 – RATING PC

R.27 (Deficiency 1): There is a very low level of convictions in ML cases. Almost all cases result in acquittals and of the small number where convictions have been recorded, all were on appeal at the time of the visit.

See Recommendation 1, above.

R.27 (Deficiency 2): The awareness of the public prosecutors and judges on ML matters seems to be poor.

Between 2008 and 2012, MASAK organised trainings on AML/CFT for more than 600 judges and prosecutors. In 2013, seminars on the international exchange of information and on the new TF regime were also organised with/for the Minister of Justice.

The deficiency has been largely addressed.

R.27 (Deficiency 1): The new TF offence has not yet been tested therefore its effectiveness could not be judged.

See Special Recommendation II, above.

Turkey achieves a level of compliance at least equivalent to an LC rating on Recommendation27.

RECOMMENDATION 29 – RATING PC

R.29 (Deficiency 1): The number of AML/CFT inspections conducted and the number of violations detected are very low considering the size of the sector, suggesting limited effectiveness of the supervision system.

Turkey provided the table below showing the number of AML/CFT inspections conducted in each category of financial institution.

Table 9. **Number of AML/CFT inspections in each category of financial institution**

Obliged Parties Inspected	Years							
	2006	2007	2008	2009	2010	2011	2012	2013
Banks	30	36	47	57	-	-	2	52
Exchange Office	257	53	232	-	-	4	3	11
Insurance and Pension Companies	11	-	-	53	-	-	-	6
Capital Markets Brokerage House	104	-	-	21	23	43	11	14
Factoring Companies	-	-	-	-	16	20	8	20
Financing Companies	-	-	-	-	10		1	1
Financial Leasing Companies	-	-	-	-	3	18	10	2
Portfolio Management Companies	-	-	-	-	7	5	4	-
Money Lenders	-	-	-	-	10	10	1	2
Assets management companies	-	-	-	-	-	6	2	-
General Directorate of Post	-	-	-	-	-	-	-	1
Cargo Companies	-	-	-	-	-	-	-	5
Directorate General of Turkish Mint	-	-	-	-	-	-	-	1
TOTAL	**402**	**89**	**279**	**131**	**69**	**106**	**42**	**115**

The deficiency has been largely addressed.

R.29 (Deficiency 2): There is no explicit provision for control of compliance with AML/CFT requirements for insurance companies.

Insurance companies are subject to the AML/CFT law and the RoM. The table above indicate the number of insurance companies inspected for ML/TF purposes since 2006.

The deficiency has been addressed.

R.29 (Deficiency 3): There is limited ongoing offsite AML/CFT control.

See deficiency no.1 under Recommendation 23, above.

Turkey achieves a level of compliance at least equivalent to an LC rating on Recommendation 29.

RECOMMENDATION 30 – RATING PC

R.30 (Deficiencies 1 and 6): CFT training of all supervisors (in banking and especially securities and insurance sectors) is insufficient; There is a need for CFT training to all authorities.

Turkey advised that a number of training sessions were organised by MASAK for most categories of supervisors (*i.e.*, examiners) and a number of other competent authorities, in particular law enforcement authorities. It is however unclear that these programmes dealt with CFT in particular.

The deficiencies seem to have been addressed.

R.30 (Deficiency 2): Competent authorities do not have an adequate structure and sufficient technical, staff and other resources for AML and CFT supervision of the insurance sector, particularly if full CDD and internal control requirements are implemented in this sector.

Since 2011, the insurance sector is supervised for ML/TF not only by the Treasury Comptrollers, but also by the Insurance Supervisory Experts and Actuaries.

The deficiency seems to have been addressed.

R.30 (Deficiency 3): The FIU is not adequately resourced with staff with a law enforcement background.

No progress was reported in this area. Therefore, the deficiency remains.

R.30 (Deficiency 4): The customs service does not seem to have sufficient funding and staff for its functions and this may lead to inadequate attention to AML/CFT issues.

Turkey advised that between 2007 and 2013, 114 inspectors have been assigned to ML investigations. Over the same period 88 ML files were opened.

The deficiency seems to have been addressed.

R.30 (Deficiency 5): There seems to be a serious lack of knowledge of AML/CFT issues among prosecutors and judges.

See deficiency no.2 under Recommendation 27, above.

Turkey seems to achieve a level of compliance at least equivalent to an LC rating on Recommendation 30.

RECOMMENDATION 32 – RATING PC

R.32 (Deficiency 1): There are no statistics on spontaneous international disseminations involving the FIU.

Turkey provided the data below.

Table 10. **Spontaneous referrals**

Years	Requested from MASAK	Requested by MASAK	Spontaneous Referrals	
			Received	Sent
2009	169	162	9	-
2010	188	63	1	-
2011	202	38	2	-
2012	221	60	10	2
2013	292	33	10	3
As of 31 July 2014	150	35	4	3

The deficiency has been addressed.

R.32 (Deficiency 2): The limited information on cross border transportation of currency does not reflect the amount of cross border transportation of currency.

Turkey provided the data below on the amount of cash disclosed since 2010 and the amounts retained by the Customs administration.

Table 11. **Cash disclosed since 2010**

Currency	2010	2011	2012	2013
USD	71.563.865	403.811.462	1.547.375.654	2.827.360.638
EUR	19.975.726	44.523.506	208.656.158	7.271.882
CAD	0	0	0	4.400
TRY	2.150.000	1.101.000	23.729.000	23.740.308
GBP	26.650	8.324.063	3.470.980	200.000
CHF	13.000	9.700	130.000	0
SEK	300.000	0	5.000.000	120.500
NOK	0	0	1.390.000	517.000
SAR	70.305	0	1.433.600	35.165.309
BGN	1.200	211.000	0	0
SYP	57.000.000	120.858.000	3.306.000	161.342.200
IRR	0	110.000.000	0	0
Number of Persons	1.331	1.367	2.012	367

Table 12. **Cash retained by the Customs administration since 2010**

Currency	2010	2011	2012	2013	2014*
USD	351.225	102.000	5.722.619	150.000	240.000
AUD		42.000			
CAD		7.050			
EUR	275.000	691.775	341.500	400.000	134.000
TRY	1.000.000	190.000			
CHF	50.500				
NOK	99.150	50.500			
SEK		121.820			
SAR		6.300.000			
JPY		603.000			
SYP				999.000	

The deficiency has been addressed.

R.32 (Deficiency 3): Since 2002 the statistics on cases in courts as kept by the General Directorate of Judicial Records and Statistics show the number of persons convicted/acquitted but authorities are unable to say how many cases this information relates to.

See deficiency no. 3 under Recommendation 1, above.

R.32 (Deficiency 4): Statistics on inspections dedicated to AML/CFT and the sanctions applied should be shared amongst the supervisors.

Statistics on AML/CFT inspections and sanctions are available in MASAK annual activity report, which is published on MASAK's public website.

The deficiency has been addressed.

R.32 (Deficiency 5): Statistics are not jointly examined by agencies to evaluate trends and issues.

Turkey advised that ML/TF trends and issues are discussed at least twice every year at the meeting of the Coordination Board, established by Article 20 of the Law.

The deficiency seems to have been addressed.

Turkey achieves a level of compliance at least equivalent to an LC rating on Recommendation 32.

RECOMMENDATION 33 – RATING PC

R.33 (Deficiency 1): Because the current Trade Registry is paper-based, there are some limitations on accessing the information in real-time; it is unclear how often the information is updated.

Turkey reported that the Ministry of Customs and Trade is implementing a Central Legal Person Information System Project called MERSIS since 2014, which is a computerised register for legal persons. As of this report, the records of around 3 million legal persons are now available in an

electronic way via MERSIS. This system also allows update and modification of the records, such as the amendments of the articles of incorporation or the in capital of a company. The information held in MERSIS is available to the public.

The deficiency has been addressed.

R.33 (Deficiency 2): There is no obligation to declare the real beneficial owner or the natural persons who ultimately control legal persons to the Trade Registry or to other government authorities.

Under the Turkish system, the owner of a company is regarded as the beneficial owner.

The deficiency remains.

R.33 (Deficiency 3): Bearer shares, even if de facto limited to companies not traded in the stock market, remain a matter of concern, albeit one which is being addressed by Turkey's dematerialisation programme.

Since the MER, Turkey has continued to implement a dematerialisation programme, and new companies can only issue dematerialised bearer shares. Such shares are recorded by the Central Registration Agency established under the Capital Market Law.

The deficiency seems to have been addressed.

Turkey achieves a level of compliance at least equivalent to an LC rating on Recommendation 33.

RECOMMENDATION 38 – RATING PC

R.38 (Deficiency 1): In cases where no convention or bilateral agreement exists, there is no specific provision for applying provisional measures to answer mutual legal assistance requests for search, seizure and confiscation except for reciprocity.

Circular no. 69/2 of 16 November 2011 on *Issues to be taken into account by judicial authorities in international cooperation regarding criminal matters* provides that in the absence of an agreement, the Turkish legislation applies to the foreign request.

The deficiency has been addressed.

R.38 (Deficiency 2): Dual criminality may impede search, seizure, and confiscation where the request is related to TF in cases which do not involve Turkey or its interests.

Turkey advised that the dual criminality requirement is not strictly interpreted by the Turkish authorities. Moreover, the new TF law covers all acts mentioned in the international instruments referred to by the TF Convention as a result the dual criminality requirement does not impede mutual legal assistance in relation to TF.

The deficiency seems to have been addressed.

R.38 (Deficiency 3): No consideration has been given to establishing an asset forfeiture fund or to sharing confiscated assets with a foreign country after coordinated international action.

In 2009, a technical committee was created by the Ministry of Justice in order to establish an assets recovery office in Turkey. In December 2012, an action plan was adopted. No further progress has been reported since then.

The deficiency remains.

R.38 (Deficiency 4): There are no arrangements for coordinating seizure or confiscation actions with other countries.

Turkey advised that the coordination of seizure and confiscation actions is of the responsibility of the Ministry of Justice as it is the central authority for mutual legal assistance. However, this does not de facto imply the existence of arrangements or mechanisms for international coordination in case of seizure or confiscation of criminal proceeds.

The deficiency therefore remains.

Turkey achieves a level of compliance at least equivalent to an LC rating on Recommendation 38.

SPECIAL RECOMMENDATION VI – RATING PC

SR.VI (Deficiency 1): Limitations identified under R. 5-11, 13-15 and 21-23 generally apply to this sector; SR.VI has not been fully implemented.

See progress on respective Recommendations, above.

SPECIAL RECOMMENDATION VII – RATING NC

SR.VII (Deficiency 1): Turkey has not implemented SR.VII.

The RoM has introduced some basic though limited obligations on wire transfers. Article 24 of the RoM requires that information on the originator (name, account number, or reference number of the transaction, and address or date of birth, etc.) be included in any wire transfer of TRY 2,000 or more. If a financial institution receives a wire transfer for which information on the originator is missing, it can return the wire transfer or complete the missing information. In case of repeated reception of incomplete wire transfers and when the information cannot be completed by the financial institution, the wire transfer may be refused or transactions with the originator's financial institution may be restricted or terminated. However, there is no obligation on intermediary financial institutions to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer. No provision addresses the case of technical limitations. Beneficiary financial institutions are not required to adopt procedures for identifying and handling wire transfers that are not accompanied by complete originator information. There is no specific measure in place for the supervision of financial institutions with their obligations on wire transfers. Administrative sanctions are applicable to the violation of the provisions of Article 24, which are unchanged since the MER and therefore remain very low.

Overall, some progress was made, but deficiencies remain so that the overall level of compliance of Turkey with Special Recommendation VII cannot yet be seen as achieving an LC rating.

SPECIAL RECOMMENDATION VIII – RATING PC

SR.VIII (Deficiency 1): Turkey does not periodically review the NPO sector for TF vulnerabilities and does not provide outreach and guidance on TF to the NPO sector.

MASAK issued *Guidance for the Prevention of Non-Profit Organisation from being abused for Terrorist Financing* which is available on MASAK's website. On 27 February 2008, the General Directorate of Foundations became the Presidency of Guidance and Inspection; it is responsible for providing guidance and inspecting foundations.

The deficiency seems to have been addressed.

SR.VIII (Deficiency 2): There is no requirement for foundations to keep detailed records or to keep them for a period of five years.

Article 52.1 of the Regulation on Foundation requires foundations to keep records of the donation receipts and documents of expenditures for a period of ten years.

The deficiency seems to have been addressed.

SR.VIII (Deficiency 3): The number of associations inspected in recent years is quite low, suggesting insufficient control of the sector.

Turkey provided the figures below on the number of inspections conducted in associations.

Table 13. **Number of inspections conducted**

Year	2009	2010	2011	2012	2013
Number of associations inspected	7.630	9.896	5.404	6.628	4.751

The deficiency seems to have been addressed.

SR.VIII (Deficiency 4): Domestic and international cooperation in this area is not strong.

No amendment to the legal framework or figures demonstrating a good cooperation on NPOs was reported.

Turkey seems to achieve a level of compliance at least equivalent to an LC rating on Special Recommendation VIII.