Following the adoption of its third Mutual Evaluation (MER) in February 2006, in accordance with the normal FATF follow-up procedures, Sweden was required to provide information on the measures it has taken to address the deficiencies identified in the MER. Since February 2006, Sweden has been taking action to enhance its AML/CFT regime in line with the recommendations in the MER. The FATF recognizes that Sweden has made significant progress and that Sweden should henceforward report on a biennial basis on the actions it will take in the AML/CFT area.
THIRD MUTUAL EVALUATION OF SWEDEN: FOURTH FOLLOW-UP REPORT

Application to move from regular follow-up to biennial updates

Note by the Secretariat

I. Introduction

1. The third mutual evaluation report (MER) of Sweden was adopted on 17 February 2006. At the same time, Sweden was placed in a regular follow-up process. Sweden reported back to the FATF in February 2008 (first follow-up report), February 2009 (second follow-up report) and June 2009 (third follow-up report). Sweden indicated that it would report to the Plenary again in October 2010 concerning the additional steps taken to address the deficiencies identified in the report, and apply to move from regular follow-up to biennial updates.

2. This paper is based on the procedure for removal from the regular follow-up, as agreed by the FATF plenary in October 2008. The paper contains a detailed description and analysis of the actions taken by Sweden in respect of the core and key Recommendations rated PC or NC in the mutual evaluation, as well as a description and analysis of the other Recommendations rated PC or NC, and for information a set of laws and other materials (Annex 1). The procedure requires that a country “has taken sufficient action to be considered for removal from the process – to have taken sufficient action in the opinion of the Plenary, it is necessary that the country has an effective AML/CFT system in force, under which the country has implemented the core and key Recommendations at a level essentially equivalent to a C or LC, taking into consideration that there would be no re-rating”. Sweden was rated partially compliant (PC) or non-compliant (NC) on the following Recommendations:

<table>
<thead>
<tr>
<th>Core Recommendations rated NC or PC</th>
</tr>
</thead>
<tbody>
<tr>
<td>R5 and R13 (both PC)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Key Recommendations rated NC or PC</th>
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</thead>
<tbody>
<tr>
<td>R23 and SRIII (both PC)</td>
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<table>
<thead>
<tr>
<th>Other Recommendations rated PC</th>
</tr>
</thead>
<tbody>
<tr>
<td>R12, R16, R18, R19, R21, R22, R30, R32, R33, SRVI, SRVIII</td>
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</table>

<table>
<thead>
<tr>
<th>Other Recommendations rated NC</th>
</tr>
</thead>
<tbody>
<tr>
<td>R6, R7, R24, SRVII, SRIX</td>
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</tbody>
</table>

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1. For details regarding the follow-up process, please refer to the FATF mutual evaluation procedures dealing with the follow-up process (§35 and following).
3. The core Recommendations as defined in the FATF procedures are R1, SRII, R5, R10, R13 and SRIV.
4. The key Recommendations are R3, R4, R26, R23, R35, R36, R40, SRI, SRIII, and SRV. Such recommendations are carefully reviewed when considering removal from the follow-up process.
3. As prescribed by the Mutual Evaluation procedures, Sweden provided the Secretariat with a full report on its progress. The Secretariat has drafted a detailed analysis of the progress made for R5, R13, R23 and SRIII (see rating above), as well as an analysis of all the other Recommendations rated PC or NC. A draft analysis was provided to Sweden (with a list of additional questions) for its review, and comments received; comments from Sweden have been taken into account in the final draft. During the process, Sweden has provided the Secretariat with all information requested.

4. As a general note on all applications for removal from regular follow-up: the procedure is described as a *paper based desk review*, and by its nature is 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 into 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 conclusion and recommendations to the Plenary

**Core Recommendations**

5. For R5 (CDD), the AML Act and the FSA Regulations have considerably raised Sweden’s compliance and the deficiencies relating to R5 have been resolved at a sufficient level. There remains a gap with respect to the CDD-exemptions (which includes the automatic equivalence status for EU/EEA countries), as was identified in other FATF mutual evaluation and follow-up reports.

6. On R13 (STR), Sweden has managed to resolve all scope issues, and all FIs are now required to report STRs on ML and TF. The overall effectiveness of the system, although difficult to measure through a paper-based desk review, seems to be enhanced, in particular regarding the increase of the number of STRs from banks and the percentage of banks that report STRs. The only minor shortcoming that remains in this area is the possibility that the shortcomings in the criminalisation of TF (SRII) could have a negative effect on R13. However, it is also recognized that STR reporting in Sweden is not dependent on the scope of the TF offence, and it should also be noted that Sweden was rated largely compliant for SRII.

7. Overall, Sweden has brought the level of compliance with both core Recommendations up to a level equivalent to a LC.

**Key Recommendations**

8. For R23 (supervision) Sweden has addressed all scope issues, and all FIs are now covered. The FSA has also shifted its focus on larger FIs to an approach were FIs are targeted based on a risk assessment. The overall staff numbers of the FSA was expanded, which should have enhanced the overall effectiveness of the FSA’s work. There remains a deficiency regarding fit and proper testing. The quality and quantity of supervision of money exchange businesses and money transfer businesses is nascent, but steps have been taken and more steps are taken to enhance the effectiveness of the supervision in this area, especially with the recent implementation in Sweden of the EU Payment Services Directive (PSD).

9. On SRIII (freezing of terrorist assets), Sweden has put sufficient measures in place to ensure that FIs are aware of the legal obligation to freeze terrorist assets. However, Sweden has issued insufficient guidance to FIs on how to deal with funds of targeted assets/persons. Most other shortcomings remain as well: i) Sweden has no national mechanism to consider requests for freezing from other countries (outside
the EU mechanism) or to freeze the funds of EU internals (citizens/residents); ii) no measures have been taken to correct the shortcoming in the criminalisation of TF to enable the freeze of all funds (if the authorities would rely on criminal measures to freeze funds); and iii) the definition of funds in the EU Regulation has not been fully expanded. Additionally, there have been new developments at EU level regarding the implementation of UNSCR 1267 since the adoption of the MER which appear to not fully comply with some requirements of SRIII (although at this time it is not totally clear how they impact on this assessment).

10. Overall, Sweden has brought the level of compliance with R23 up to a level equivalent to a LC; however, it is too early to conclude that the shortcomings for SRIII are also sufficiently addressed.

Other Recommendations

11. As for the overall set of other Recommendations that were rated PC/NC, Sweden has improved its compliance on R6, R7, R12, R16, R18, R19, R21, R22, R24, R30, R32, SRVI, SRVII, SRVIII and SRIX to a level at a minimum equivalent to a level of LC. For R33, while one of the two shortcomings was addressed, the remaining shortcoming would probably keep the rating at its original level (PC).

Conclusion

12. 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.

13. Sweden has made significant overall progress since the MER. 20 Recommendations were assessed as PC or NC in 2006. Sweden has taken sufficient action to bring its compliance to at least a level essentially equivalent to LC in relation to 18 of those (three of the four core and key Recommendations rated PC/NC, and 14 of the 15 other Recommendations). Of the other two Recommendations remaining, Sweden has also made efforts to improve its compliance, and Sweden remains only just below the threshold for these two Recommendations. Consequently, it is recommended that this would be an appropriate circumstance for the Plenary to exercise its flexibility and remove Sweden from the regular follow-up process, with a view to having it present its first biennial update in October 2012.

III. Overview of the Sweden’s progress

Overview of the main changes since the adoption of the MER

14. Since the adoption of the MER for Sweden, Sweden has focussed mostly on the implementation of the 3rd EU ML Directive and the enactment and implementation of the AML Act. The updated legal framework addresses most of the legal shortcomings described in this report. Other legal (regulatory) shortcomings were addressed through the subsequent adoption of supervisory regulations. Other laws have also been amended, and Annex 1 provides a detailed overview of all amendments to the legal system that have been made by Sweden in order to address the identified shortcomings. In the course of the drafting of this follow-up report, Sweden provided a copy of all of these new laws and regulations.

The legal and regulatory framework

15. Sweden’s legal system for AML/CFT is based on the AML Act of 2009, last changed in August 2010. The AML Act is annexed to this follow-up report. Based on the AML Act, the supervisory entities
have issued enforceable regulations. For the financial sector, the Financial Supervisory Authority (FSA) is in charge of all supervisory regulation. The FSA issued the FSA Regulations on AML/CFT (also annexed). Supervisory entities for DNFBPs have all issued regulations (or binding rules) for the sectors under their supervision (DNFBP Regulations). The FSA and DNFBP Regulations are all very similar, although there are some specific differences in some cases (as described in Sections IV - VI of this follow-up report).

16. As a member state of the European Union, Sweden is bound by EU law. The AML Act is based on the 3rd EU ML Directive. As with all EU Directives, the 3rd ML Directive required to be implemented in national law. To do so, the Swedish government submitted an implementation Bill to Parliament, jointly with a lengthy explanation. This explanation (explanatory memorandum) is an important piece of rules for the interpretation of the Act that is ultimately approved by Parliament.

17. Apart from EU Directives, Sweden also relies on EU Regulations. EU Regulations normally do not require legal implementation measures at the national level, as the Regulations become directly part of the national legal system of each member state. For the implementation of the FATF Recommendations, the EU Regulations regarding SRIII (freezing of terrorist assets), SRVII (wire transfers) and SRIX (cash couriers) are particularly important.

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

Recommendation 5 – rating PC

R5 (Deficiency 1): Although Sweden has implemented customer identification obligations, it has not implemented full customer due diligence (CDD) requirements.

18. The AML/CFT Act and the FSA Regulations require financial institutions to undertake CDD measures. See for an overview of specific measures below (under each relevant deficiency).

19. In addition, for a description of the measures taken to ensure that financial institutions become familiar with the new requirements see under R23.

R5 (Deficiency 2): The CFT Act does not cover within its scope investment companies, and the AML/CFT Act does not cover certain credit card companies.

20. Investment companies: The AML Act and the FSA Regulations apply to all FIs (as defined in the FATF Methodology), including investment fund companies (see Chapter 1 Section 2 item 7 of the AML Act).

21. Credit card companies: There are a number of credit card companies operating in Sweden, of which all but one are part of a larger financial institution or financial group that is subject to the AML/CFT regulations and therefore also the credit card business is covered (Banking and Financing Act, Chapter 2, Section 1 & Chapter 15, Sections 18 and 20). One credit card company acts as an independent credit card company. The FSA has reviewed whether independent credit card companies are required by law to register with the authority. The review concluded that independent credit card companies are obliged to register with the FSA according to the Obligation to Notify Certain Financial Operations Act (OCFOA,1996:1006). All entities that fall under this act are also designated under the AML Act (AML Act, Chapter 1, Section 2, item 4). With respect to the one credit card company that falls under this definition, the authorities indicate that the company was registered under the OCFOA in October 2008. Non-compliance with the OCFOA is subject to fines and orders to cease activities (OCFOA, Sections 8 and 11, also in ML/TF cases (OCFOA Sections 4, 7 and 10).
R5 (Deficiency 3): As the existing regulations were implemented in July 2005, there is little evidence of their effectiveness.

22. The Regulations from July 2005 have been replaced by the AML Act and the FSA Regulations. See below on R23 for a description of the measures taken to enhance implementation of the legal framework by FIs.

R5 (Deficiency 4): Guidance relating to Know Your Customer is only indirectly enforceable for financial institutions.

23. The guidance relating to KYC provisions was replaced by enforceable ongoing due diligence provision in the AML Act (Chapter 2, Section 10) and the FSA Regulations (Chapter 4, Sections 18 and 19).

R5 (Deficiency 5): There are numerous exemptions to the requirements related to customer identification, which appear overly broad.

24. Sweden still has exemptions from CDD requirements. The AML Act and the FSA Regulations indicate that in the following cases, the basic customer due diligence and ongoing due diligence requirements do not apply:

- The AML Act exempts the following entities and products from CDD requirements: i) Swedish Authorities; ii) FIs with a place of residence in an EEA or a third country with equivalent status; iii) certain undertakings with transferrable securities; iv) certain insurance, pension and e-money products; and v) the beneficial owner of certain accounts administered by lawyers or independent legal professionals (Chapter 2, Section 5).

- The FSA Regulation lists additional exemptions, if all of the following criteria are fulfilled: i) product that is sold on a written contractual base; ii) product is paid through the account that the customer has with a credit institution in Sweden or a EEA country; iii) product is recorded and the customer or transaction is not anonymous; iv) the value of the product is limited to EUR 15,000; and v) the beneficiary cannot be a third party. The FSA Regulations also exempt EU institutions and bodies (such as agencies) (Chapter 4, Sections 12 and 13).

25. Sweden bases these exemptions on the provisions of the 3rd EU AML Directive. It should be noted that the authorities indicate that the explanatory memorandum to Government Bill 2008/09:70 on pages 91 indicated that: "However it is clear that institutions as well as natural and legal persons that perform activities covered by the AML Act shall obtain sufficient information in order to be able to establish whether the customer is entitled to an exemption as well as sufficient information to be able to fulfil the other provisions pursuant to the AML Act. Accordingly, parties engaged in activities - even though they are exempted from provisions regarding customer due diligence-, are not completely exempted from the obligations to take measures in order to achieve knowledge about the customer". In addition, the authorities point at the fact that if there is a high risk of ML/TF, the FIs must conduct enhanced due diligence despite of the fact that the customer may initially have benefitted from the CDD-exemptions (AML Act, Chapter 2, Section 6, paragraph 1).

26. In addition, the FSA Regulations determine that if these exemptions relate to natural persons, that the FI nevertheless needs to obtain the customer’s name, registration number and address. This information

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5 Member States participating in the EU Committee on the Prevention of ML and TF have agreed on a list of equivalent third countries, for the purposes of the relevant parts of the 3rd AML Directive. The list is a voluntary, non-binding measure that nevertheless represents the common understanding of Member States.
also needs to be verified against external sources. The same information needs to be obtained in the case a legal entity is represented (FSA Regulations, Chapter 4, Sections 4 and 6).

27. As was indicated in earlier FATF mutual evaluation reports and other FATF follow-up reports, these examples of CDD-exemptions for FIs are considered to be too broad. The difference is that regular simplified due diligence is based on the explicit requirement to apply direct mandatory basic CDD-requirements, after which simplified due diligence may be applied. In this case, FIs in practice would need to apply some basic CDD-requirements to apply the CDD-exemptions; however, this is only an indirect or implicit requirement, not a legal obligation. This remains a shortcoming in relation to this Recommendation.

R5 (Deficiency 6): There is no specific requirement to check customer identity when there are doubts as to the veracity or adequacy of previously obtained customer identification data nor when the preconditions of SR VII are met.

28. FIs are required to undertake CDD measures when there are doubts about the veracity or adequacy of previously obtained customer identification data (AML Act, Chapter 2, Section 2, item 4).

29. In relation to SRVII, all shortcomings in relation to SRVII have been addressed. See below on SRVII for an overview.

R5 (Deficiency 7): There are similarly insufficient requirements to ascertain the beneficial owner, including; no general requirement to identify and verify the identity of the beneficial owner; no direct requirement for financial institutions to determine whether the customer is acting on behalf of another person (only when doubts arise as to whether the customer is acting on his/her own behalf), and if so, identify that other person; no requirements to take reasonable measures to determine the natural person with ownership or control over a legal person.

30. The AML Act requires FIs to check and verify the identity of the beneficial owner, both when the customer is a natural and a legal person (Chapter 2, Section 3, item 2). This is supplemented by the explanatory memorandum to the Government Bill 2008/09:70, page 75. The provision is further complemented by the FSA Regulation, which states that a FI has to obtain reliable and sufficient information on a beneficial owner’s identity by means of public registers, relevant information from the customer or other information that the institution has received (see Chapter 4, Section 9, first paragraph).

In addition, for customers that are a legal person, the FI has to investigate the ownership and control structure of the customer for the purpose of verifying the beneficial owner (AML Act Chapter 2, Section 3, second paragraph). This specific requirement is complemented by the FSA Regulations, which states that FIs have to verify direct and indirect natural owners if the holding in the customer amounts to more than 25 per cent, and any natural persons that exercise a determining influence over the customer (AML Act, Chapter 4, Section 9, second paragraph).

31. It is worth noting that the definition of beneficial ownership in the AML Act is slightly different from the standard wording used by the FATF and the 3rd EU AML Directive. While the memorandum refers to those that “ultimately own or control”, the definition of the AML Act refers to those that “exercise a decisive influence”. However, the explanatory memorandum explains that the Swedish definition should

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6 Although the Swedish original only uses one word to indicate the requirement (“kontroll av den verkliga huvudmannens identitet”), the Swedish word “kontroll” covers the concepts of the English words “control”, “check” and “verify”.

7 The full text of the provision in the AML Act is: “Beneficial owner means a natural person on whose behalf any other person acting, or if the customer is a legal person, who exercises a decisive influence over the customer (…)”. Or in Swedish: “Verklig huvudman: en fysisk person för vars räkning någon annan person handlar, eller om kunden är en juridisk person, den som utövar ett bestämmande inflytande över kunden (…)"
be understood to be the same as the FATF definition, and also give some practical examples that are in compliance with the FATF Standard. Overall, the issue of beneficial ownership is adequately addressed by Sweden (AML Act, Chapter 1, Section 5, item 8).

**R5 (Deficiency 8): There are only to a limited extent and in indirectly enforceable guidance or recommendations regarding the purpose and nature of the business relationship, ongoing CDD, enhanced CDD or conducting CDD on existing customers.**

32. All CDD requirements are in the AML Act and in the FSA Regulations: FIs need to obtain information about the purpose and nature of the business relationship (AML Act, Chapter 2, Section 3, item 3); FIs have to continuously monitor ongoing business relationships by checking and documenting that the transactions carried out correspond with the knowledge that the FI engaged in activities has concerning customers, their business and risk profiles and, if necessary, where the customer's financial resources come from. The documents, data and information related to these checks have to be kept up-to-date (AML Act, Chapter 2, Section 10). This is complemented by the requirement for all FIs to maintain an electronic system or a manual procedure in order to continuously monitor business relationships (AML Act Chapter 2, Section 10; and FSA Regulations, Chapter 4, Section 18).

33. FIs need to update the customer’s CDD / business profile in case a customer enters an agreement for additional products or services that changes what was previously known about the customer and his or her business and risk profile (FSA Regulations, Chapter 4, Section 19). In case of a high risk of ML or TF, FIs always have to take enhanced CDD measures, with special attention to ML/TF risk that may arise from products or transactions that might favour anonymity (AML Act, Chapter 2, Section 6).

34. With respect to existing customers, FIs have to take CDD measures as regards all business relationships that were established prior to entry into force of the AML Act, at the time considered appropriate on the basis of an assessment of the risk of ML and TF (AML Act, transitional provisions).

**R5 (Deficiency 9): There are no regulations that clearly address the timing of verification, even if the Swedish practice may reflect the FATF recommendations in this area.**

35. The law has also been updated in this area. As a general rule, the identity of the customer and the beneficial owner must now be checked prior to establishing a business relationship or carrying out an individual transaction (AML Act, Chapter 2, Section 9, first paragraph). There are two exemptions to this:

- The identity of a beneficiary to a life insurance contract does not have to be checked until and in conjunction with the first payment of insurance indemnity or when another right under the insurance agreement is exercised for the first time (AML Act, Chapter 2, Section 9, first paragraph).

- If it is necessary to not interrupt the normal course of the activity and there is a low ML/TF risk, the verification or the new business relationship may be conducted later, but should nevertheless

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8 Explanatory Memorandum to Government Bill 2008/09:70, page 75: “The term ‘beneficial owner’ means ‘the natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted’. Or in Swedish “Med verklig huvudman avses den fysiska person som ytterst äger eller kontrollerar kunden och/eller den fysiska person för vars räkning en transaktion eller en verksamhet utförs”.

9 Explanatory Memorandum to Government Bill 2008/09:70, page 184: “A natural person is considered to exercise a decisive influence over a customer, who is a legal person, if the natural person at most, directly or indirectly, owns at least 25 percent plus one share or voting rights share in the assets of a legal person, or in another way has control over the administration of the legal person. The last-mentioned refers to the cases where for instance a natural person possess the right to appoint or dismiss more than half of the board members in the legal person’s board or similar administrative body, through for instance a shareholder agreement.”
always be completed in close conjunction with the relationship having been established (AML Act, Chapter 2, Section 9, second paragraph).

36. Regarding failure to satisfactory complete CDD, FIs may not establish a business relationship or perform an individual transaction if CDD has not been satisfactorily completed. In case one of these exemptions mentioned above is used, but if satisfactory CDD cannot be completed, then the business relationship has to be terminated. In case of a suspicion of ML/TF, the FIs needs to provide the necessary information to the FIU without delay (AML Act, Chapter 2, Section 11, first and second paragraph). The above is in line with R5.

**R5 (Deficiency 10): Financial institutions have indicated that they face significant obstacles both not to open accounts when satisfactory CDD cannot be completed and to terminate a business relationship with a customer.**

37. The Deposit Guarantee Act (1995:1571) indicates that a deposit taking institution (i.e. bank) has to accept such deposits unless there are special reasons not to do so. However, as indicated regarding deficiency 9 above, it is stated in the AML Act that FIs may not establish a business relationship or perform an individual transaction if CDD has not been satisfactorily completed (Chapter 2 Section 11 in the AML Act). The specific provisions of the AML Act in this case overrule the general provisions of the Deposit Guarantee Act (lex specialis derogat legi generali). Further, it is explained in the explanatory memorandum to Government Bill 2008/09:70 on page 80 and 81 that there are special reasons to exempt from the principal rule of acceptance of deposits. This may be motivated if a customer previously has acted fraudulent against the bank or another institution, or if there is a risk that an institution by accepting deposits may promote crime. The authorities indicate that the FSA has been informed of actions by banks to deny deposits and actions of closure of deposit accounts.

**Recommendation 5, overall conclusion**

38. The AML Act and the FSA Regulations have considerably raised Sweden’s compliance with R5 and the deficiencies relating to R5 have been resolved at a sufficient level. There remains a gap with respect to the CDD-exemptions (which includes the automatic equivalence status for EU/EEA countries), as was identified in other FATF mutual evaluation and follow-up reports. The overall level of compliance with R5 is assessed to be essentially equivalent to largely compliant.

**Recommendation 13 – rating PC**

**R13 (Deficiency 1): The obligation to report suspicious transactions related to terrorist financing does not extend to investment funds and the AML/CFT obligation does not cover certain credit card companies.**

39. The scope of the AML Act now covers all FIs (see R5 above), and it relates to ML and TF (AML Act, Chapter 3, and Section 1).

**R13 (Deficiency 2): The scope of the terrorist financing offence (which does not specifically include funds to be used by a terrorist organisation or an individual terrorist for any purpose) could limit the scope of the reporting requirement for terrorist financing STRs.**

40. The Mutual Evaluation Report indicated concerns that the scope of the Swedish criminalisation of TF could limit the scope of the reporting requirement for TF STRs. The Swedish authorities note that the reporting obligation is not understood to be linked to the criminalisation of TF, and that the shortcomings related to the criminalisation of TF were minor (Sweden was rated LC for SRII).
Nevertheless, as the criminalisation of TF was not changed from the time of the assessment, this minor shortcoming also remains.

R13 (Deficiency 3): The large majority of STRs have been filed by a small number of financial institutions; only approximately half of the banks reported suspicious transactions in 2004.

41. Sweden has increased the numbers of reported STRs (see fourth deficiency), as well as the numbers of banks that report STRs. The following table shows the growing number of banks that are reporting.

<table>
<thead>
<tr>
<th></th>
<th>Banks</th>
<th>Credit institutions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>Reporting</td>
</tr>
<tr>
<td>2004</td>
<td>46</td>
<td>14</td>
</tr>
<tr>
<td>2007</td>
<td>46</td>
<td>18</td>
</tr>
<tr>
<td>2008</td>
<td>36</td>
<td>21</td>
</tr>
<tr>
<td>2009</td>
<td>36</td>
<td>29</td>
</tr>
</tbody>
</table>

42. The number of STRs from banks in general has also increased. In 2007, banks submitted 1 310 STRs, out of a total of 6 040 STRs, representing about 21% of the STRs. In 2008, banks submitted 7 232 STRs, out of a total of 13 048 STRs. This increase was mainly due to the reporting from one larger bank. This bank received a warning and a penal charge of SEK 50 million by the FSA due to structural AML/CFT failures. To address this shortcoming, the bank changed its internal routines and STRs that should have been reported in previous years. The statistics for 2008 therefore, also include STRs that should have been reported previously. The number of STRs from banks in 2009 was 3 213, out of a total of 9 014 STRs. Finally for 2010 (Q1 only), banks reported 1 304 STRs out of a total of 4 311 STRs.

43. Sweden also reports back on the types of banks that did not report any STR in 2009. One of these entities provides mainly asset management and private banking services, another bank is managed by a car manufacturer (car loan/leasing). This bank is currently merging with another bank that reported STRs in 2009. The other six entities that did not report STRs are very small banks. The 28 banks that did report present more than 95% of the balance sheet total for all Swedish banks.

44. It is difficult to ascertain through a paper-based off-site review that effectiveness was enhanced, but the statistics that are provided indicate that more banks report more STRs. Overall, the issues relating to this deficiency have been addressed sufficiently.

R13 (Deficiency 4): The assessors had several concerns regarding the lack of effective implementation of this Recommendation.

45. The authorities report having taken several measures to improve implementation of R13, such as raising awareness, enhanced guidance to reporting parties and implementation of technical tools and IT systems (including web-based reporting). The authorities also report a more active role of the FIU and of

10 The MER stated 29 banks, however, this should have been 46 according to the Swedish authorities.
11 As is shown in table 6 and 7 in Annex 2c to this report, the way statistics are kept has changed. Therefore, it is no longer possible to show the growing number of reporting entities based on the old classifications.
12 At the time of the drafting of this report, the following exchange rate applied: SEK 1= EUR 0,11/USD 0,15
the supervisory authorities. It is the stated aim of the authorities to improve the quality of STRs and reduce the number of threshold reports. The FIU indicates to be in continuous dialogue with the banks to identify areas of concern, and has run a project to enhance the dialogue with the money remitting businesses. The FIU also gives information through the annual report to reach and widen the group of reporting parties. The implementation of the web-based reporting tool in November 2009 has further increased the effectiveness of the reporting system according to the authorities.

46. The authorities also indicate that the FIU has noted an increased ability of banks to detect, inspect and report STRs. The FIU also registered a clear increase of reports from banks concerning transactions where there is no physical contact between customer and bank employees; for instance transactions that take place through Internet banks and cash deposit machines.

47. The statistics show an overall increase in effectiveness. The overall number of STRs received by the FIU is stable over time, with a peak in 2008 due to the catching up in reporting STRs by a large bank (see third deficiency). The numbers are 9930 (2004), 9211 (2005), 6359 (2006), 6040 (2007), 13048 (2008) and 9014 (2009). Until 18 August 2010 the total number for 2010 is 7275. There is an increase in numbers of STRs from banks, but the number of reports from insurance and securities remains low. Sweden explains; however, that most insurance and securities businesses are part of bigger financial groups and that all STRs from these groups were until recently registered as banking STRs. The recent introduction of new database analysing tools will make it possible to also generate statistics on the basis of product lines. More detailed figures can be found in the Annexes, below is a comparison of the number of STRs over time.

<table>
<thead>
<tr>
<th>Number of STRs 2002 – 2004 (MER) and 2008 – Q1 2010 (FUR)</th>
<th>From MER</th>
<th>New statistics</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2002</td>
<td>2003</td>
</tr>
<tr>
<td>Credit institutions (banks and savings banks)</td>
<td>614</td>
<td>765</td>
</tr>
<tr>
<td>Money exchange</td>
<td>7346</td>
<td>8820</td>
</tr>
<tr>
<td>Money transfer</td>
<td>92</td>
<td>221</td>
</tr>
<tr>
<td>Life insurance (incl agents)</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Securities</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Investment firms</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Mutual funds</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

48. The STR statistics show that the number of reports is now more balanced for banks, money exchange and money transfer business. Life insurance and securities still seem not to report a sufficient number of reports, although it could be possible that these STRs are filed as banking STRs. Nevertheless, the new database analysis software should be used to analyse the real number of STRs from the insurance and securities sector. Should the number of reports prove to be too low, then the authorities are urged to take immediate remedial action.

49. In addition, one of the issues that impeded the effectiveness of the reporting system was the requirement that reported STRs needed to be deleted after 6 months if the FIU could not confirm that requirements in the Police Data Act were met (i.e., the STR was obviously unsuspicious). Thereafter, if the STR was maintained, the STR would be deleted after 3 years (if no supplemental information or STR was received on the same person); otherwise a new 3 year term would apply. A new Police Data Act has
recently been approved by the Swedish Parliament, addressing the criticism from FATF from 2006. There are two main changes in this regard. First, the three year deadline was replaced by a five year deadline, after the last registration on the concerned person was entered. Second, there are no requirements in the law that data should be deleted when the data is necessary for the prevention, taking of preventative measures or detection of criminal conduct. The rules on deletion in the new Police Data Act, and making the deletion less mandatory is a positive development, but STRs can still be deleted from the FIU database and there is no information that the FIU keeps all information in its database after five years. However, the new five year deadline is in line with FATF record keeping requirements for FIs and DNFBPs in Recommendations 10 and 12 and should, therefore, not be an impediment for Sweden to be reassessed as largely compliant for R13.

50. Overall, it seems that the authorities have improved the overall effectiveness of the reporting system. Some sectors still do not or only marginally report, however, this is to some extent explained by the fact that bigger financial groups previously have not been required to specify from which business area a specific STR stems. Furthermore, the STR deletion requirements have been addressed in a new Police Data Act which will have a positive impact on the effectiveness of the system.

Recommendation 13, overall conclusion

51. Sweden has managed to resolve all scope issues, and all FIs are now required to report STRs on ML and TF. The overall effectiveness of the system, although difficult to measure through a paper-based desk review, seems to be enhanced, in particular regarding the increase of the number of STRs from banks and the percentage of banks that report STRs. Enhanced effectiveness in the reporting of STRs from securities and insurance sectors cannot be confirmed; however, this could be explained by the fact that STRs from larger financial groups until recently were registered as banking STRs. The new data deletion requirements are also an improvement. The only minor shortcoming that remains in this area is the possibility that the shortcomings in the criminalisation of TF (SRII) could have a negative effect on R13. However, it is also recognized that STR reporting in Sweden is not depended on the criminalisation of a crime, and it should also be noted that Sweden was rated largely compliant for SRII. Overall, Sweden has brought the level of compliance with R13 up to a level equivalent to a LC.

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

Recommendation 23 – rated PC

R23 (Deficiency 1): It is currently not possible to apply the provisions of the CFT Act to investment companies, and certain credit card companies are not subject to the legislation or supervised.

52. The scope of the AML Act covers all FIs (see on R5 above) and it relates to ML and TF (AML Act, Chapter 3, and Section 1).

R23 (Deficiency 2): There is no fit and proper test for the senior management (other than the board of directors and managing director) of licensed financial institutions or for to registered financial institutions in order to prevent criminals from gaining control or significant influence.

53. No new provisions on fit and proper testing have been implemented since the time of the evaluation.
R23 (Deficiency 3): The limited resources and the focus Finansinspektionen has on larger financial groups with regard to AML/CFT issues may be negatively influencing the effectiveness of the overall AML/CFT supervision.

Limited resources

54. The FSA is a central administrative authority that supervises and monitors companies operating in the Swedish financial markets. The FSA identifies and analyses trends in the financial market and assess the financial position of individual companies and the financial market as a whole. This is done on the basis of periodic reporting by companies. These reports provide the basis for the FSA’s analysis and supervision. The FSA is divided in four operational departments: i) Legal Department, ii) Markets, iii) Insurances and Investment Funds iv) and Banking and Securities. Each department is divided in several units.

55. FSA’s overall staff levels increased from 211 in 2006 to 260 in 2009. AML dedicated staff at the special unit have increased from two to seven experts. Four experts are conducting thematic and specialised AML/CFT inspections, two experts are co-ordinating the national AML/CFT supervision and one expert is head of the unit. The AML/CFT unit also supports other departments on AML/CFT issues and conducts thematic and specialised AML/CFT inspections.

56. The Legal Department handles permits/licences and notifications. This will always include evaluation of a company’s internal AML/CFT procedures and policies before giving a company authorization or registration to conduct financial operations. In 2006, the Mutual Evaluation report indicated that the resources dedicated to AML/CFT issues amount to 0.5 man years, this has now increased to 0.85 man years.

Focus on larger financial groups

57. The FSA has shifted its focus on larger financial groups to a more risk based targeted approach. In 2006, the FSA conducted a survey of 126 financial companies. Each FI had to respond to approximately 80 questions concerning their AML/CFT regime. Through this exercise, FSA assessed levels of compliance and the possible risk of ML/TF. Based on the FSA’s assessment, the following supervisory activities were undertaken:

58. For 2006

- 828 off site inspections of insurance intermediaries (all). Many insurance intermediaries had to make corrections to their internal procedures for AML/CFT. Two reports were published by the FSA.

- 13 on-site inspections of credit institutions. Many credit institutions had to make corrections to their internal procedures for AML/CFT. One credit institution was sanctioned with a fine of SEK 500 000 (EUR 50 000) for AML/CFT non-compliance. A report was published by the FSA.

- 5 on-site inspections to financial advisory firms. Some had to make corrections to their internal procedures for AML/CFT.

59. For 2007

- 3 on-site inspections to major life insurance companies. All had to make some corrections to their internal procedures for AML/CFT.
6 on-site inspections of smaller banks. Several had to make corrections to their internal procedures for AML/CFT.

8 on-site inspections to securities firms. Some had to make corrections to their internal procedures for AML/CFT. A report was published by the FSA.

10 off-site inspections of banks. A report was published by the FSA.

1 on-site inspection to a smaller bank. The bank was sanctioned with a warning and a fine of SEK 1 million (EUR 100 000) for non-compliance with the AML/CFT regime.

For 2008

106 on-site inspections of securities firms. Several had to make corrections to their internal procedures for AML/CFT. A report was published by the FSA. One securities firm was sanctioned with a warning and a fine of SEK 1 million (later adjusted to SEK 800 000 / EUR 80 000) for non-compliance with securities regulations and with the AML/CFT regime.

6 on-site inspections to smaller registered money transfer businesses in 2008. All had to make corrections to their internal procedures for AML/CFT.

1 on-site inspection to a smaller bank. The bank was sanctioned with a warning and a fine of SEK 50 million (EUR 5 million) for major non-compliance with the AML/CFT regime.

1 on-site inspection of a larger investment bank. The bank was sanctioned with a warning and a fine of SEK 50 million (EUR 5 million) for major non-compliance with banking and investment regulations as well as AML/CFT deficiencies.

4 off site inspections of mobile phone credit companies. All had to make corrections to their internal procedures for AML/CFT. A report was published by the FSA.

For 2009, the FSA has been focusing on the implementation of the AML Act (enacted 02/2009) and FSA Regulations (issued 04/2009). As part of the drafting during the first half of 2009, FSA held meetings with the external drafting group, consisting of all relevant FIs trade associations. Also four seminars were held for approximately 400 persons from the industry, in addition to a workshop on KYC. During the second half of 2009, FSA had several meetings with trade associations and contacts with several credit and financial institutions regarding their implementation of the AML Act and FSA Regulations. The FSA paid particular attention to one major bank and a few credit institutions with regard to their implementation of the new AML/CFT regime.

Several seminars for licensed and registered companies have been held, also jointly with the FIU. Training of the authority’s employees in the new AML/CFT regime has been carried out and internal material for assessing the new internal procedures for AML/CFT has been produced. Information on AML/CFT is available on the website of the FSA (www.fi.se) which is regularly updated with information from FATF, the FIU, decisions by the FSA etc.

Overall, it seems as if the supervision by the FSA was enhanced and no longer only focuses on larger financial groups. Also the number of staff, including the number of dedicated AML/CFT staff, was improved.
R23 (Deficiency 4): Natural and legal persons providing money exchange or money remittance services are not subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements. On-site inspections to verify compliance are not allowed. In addition, it is unclear if all informal money value transfer systems are currently within the scope of the Swedish legislation and supervision.

and

R23 (Deficiency 5): The quality of supervision of MVTS providers and money or currency exchange services is not sufficient due to limited on-going monitoring powers for these entities.

64. Since 1 April 2008, a money transfer is defined as a professional transfer of money or the monetary value on behalf of another party. The definition includes all transfer of money, regardless of whether the remittance business constitutes a large part of the business or not, and it fully covers the scope of the informal remittance sector. This is based on the Obligation to notify Certain Financial Operations Act (1996:1006) (OCFOA).

65. Any business (natural or legal person) that intends to engage in currency exchange on a considerable scale\textsuperscript{13} or in money transfer shall give notice of its activities to the FSA. The FSA keeps a register of all notices (OCFOA, Section 2, first and second paragraph). If a business does not give a notice to the FSA, the FSA can order the person to cease the business (OCFOA, Section 8, first paragraph). No ceasing orders have been issued.

66. As a recent move, the FSA reviewed its procedures and requirements regarding agents in the MVTS sector and concluded that all agents must register individually with the FSA in order to be fully compliant with the legislation in this field. This new requirement was communicated in writing to all MVTS businesses that operate through agents.

67. The AML Act and the FSA Regulations apply to natural and legal persons who run operations that require a notification to the FSA under the OCFOA. This means that all businesses now fall under the scope of the new AML/CFT provisions (AML Act, Chapter 1, Section 2, item 4, and FSA Regulations Chapter 1, Section 2, first paragraph, item 1).

68. Supervision is exercised by the FSA. The natural or legal person has to upon request provide the FSA with the information about the operations that is needed for the authority to be able to verify compliance with the AML Act, with certain provisions of the Act on Penalties for Financing Particularly Serious Criminality (SFS 2002:444) and with Regulation (EC) no 1781/2006 on information on the payer accompanying transfers of funds (EC SRVII Regulation). The FSA evaluates the company’s internal AML/CFT procedures and policies before giving a company authorization or registration to conduct financial operations. The companies often have to rectify their internal AML/CFT routines within this process. So far, 172 MVTS providers and money or currency exchange services have been registered with the FSA.

69. Since 1 April 2008, the FSA can conduct on-site inspections. Such inspections may only comprise the operation that is subject to a notification obligation (OCFOA, Section 7 a). Due to the recent change in the interpretation of the law, on-site inspections with agents are only recently put into practice.

70. If a business fails to provide the FSA with the requested information, or if the business fails to comply with the AML Act, the OCFOA or the EC SRVII Regulation, the FSA may order the business to provide information or correct the situation. Non-compliance with this order may lead to a cease and desist

\textsuperscript{13} The term considerable scale is not further defined, and was not yet tested in court.
In 2008, the FSA conducted on-site inspections on 6 smaller registered money transfer businesses. Due to failure to comply with the AML/CFT regulation the inspections lead to administrative sanctions. The FSA ordered the companies to effect a rectification and all had to make corrections to their internal procedures for AML/CFT. No further on-site inspections have been conducted, in 2009 and so far in 2010 because the FSA has focused on information on and implementation of the AML Act (approved in February 2009). It should also be noted that in 2008 a smaller bank was sanctioned with a warning and a fine of SEK 50 million (approximately EUR 5 million) for major non-compliance with the AML/CFT regime. The bank also has a substantial share of the currency exchange business. The FSA conducted an ongoing five month follow-up supervision after the sanction had been issued. In the follow-up supervision the FSA included the banks foreign exchange subsidiary company.

Overall, the authorities have addressed the scope issues that were identified in the Mutual Evaluation Report. However, the supervisory tools that are available to the authorities (notice, order to correct shortcomings, cease and desist order) are limited, and can only be applied to agents recently. In addition, while there were 42 money transfer businesses and 43 money exchange offices in 2008 (not counting agents), the FSA only conducted 6 inspections of smaller firms. Despite the fact that all businesses showed shortcomings, the authorities did not continue their inspections of this sector in 2009, although with many shortcoming in this sector the focus on information and implementation is defensible.

A recent positive development is the implementation of Sweden of EU Directive 2007/64/EC on the payment systems in the internal market (PSD). The PSD is implemented in Sweden as of 1 August 2010 by the Act on Payment Services (2010:751) and the FSA Regulation on payment institutions and registered payment service providers (FFFS 2010:3). It is too early for this follow-up report to assess the full effect on the Swedish system. Nevertheless, it should be mentioned that one of the main features of this act is the requirement for all money transfer businesses to apply for a license as Payment Institution (PI) or apply for an exemption under certain circumstances. Those businesses that have an annual turnover of less than EUR 36 million will be able to benefit from a waiver and apply for an exemption and thus be registered payments service providers. This means that money transfer businesses fall into two new categories of institutions licensed PIs and registered payment service providers. Licensed PIs are now subject to full prudential supervision and the FSA may impose the same sanctions regime as for other financial institutions (Act on Payment Services Chapter 8 Section 8-17). If a registered payment service provider fails to provide the FSA with requested information, or if the business fails to comply with the AML Act, the FSA may order the business to provide information or correct the situation. Non-compliance with this order may lead to a cease and desist order (Act on Payment Services Chapter 8 section 23). Since the act went into force there have been 4 applications for PI licensing and 56 applications for exemptions from PI licensing. Measures have been taken to inform all relevant businesses of these changes and their obligations, and the authorities are planning to take measures against businesses that fail to apply for license/registration.

Overall, these two deficiencies are sufficiently addressed.

Recommendation 23, Overall conclusion

Sweden has addressed the scope issues, and all FIs are now covered. The FSA has also shifted its focus on larger FIs to an approach were FIs are targeted based on a risk assessment. The overall staff of the
FSA was also expanded, which should have enhanced the overall effectiveness of the FSA’s work. There remains a deficiency regarding fit and proper testing. The quality and quantity of supervision of money exchange businesses and money transfer businesses is nascent, but steps have been taken and more steps are taken to enhance the effectiveness of the supervision in this area, especially with the recent implementation of the PSD. Overall, taking into account the difficulty of assessing effectiveness issues through a paper based desk review, it seems that Sweden has taken sufficient measures to correct the deficiencies related to R23, and has brought the level of compliance with this Recommendation up to a level equivalent to LC.

**Special Recommendation III – rated PC**

76. As a general note on SRIII, there have been new developments at EU level in relation to UNSCR 1267 since the adoption of the MER. Following legal challenges in 2008 – 2009, the Council of the European Union adopted Council Regulation No. 1286/2009 on 22 December 2009, amending Regulation (EC) No.881/2002. Regulation 1286/2009 sets out revised listing and review procedures at EU level. These new procedures appear to not fully comply with some requirements of Special Recommendation III, notably the requirement to freeze without delay. At this time it is not totally clear how the new EU Regulation impacts on assessment of SRIII. It should be noted that this potential deficiency was not raised in Sweden’s MER, and affects the EU common freezing mechanism. The Secretariat will continue to discuss the issue with the European Commission. In the light of this, it is not possible to reach a definite conclusion if Sweden is sufficiently compliant with SRIII on the implementation of UNSCR 1267. This is unrelated to the other shortcomings identified in the MER (mainly related to the implementation of UNSCR 1373 as required by SRIII), which are discussed below.

SRIII (Deficiency 1): Within the context of S/RES/1373, Sweden does not have a national mechanism to consider requests for freezing from other countries (outside the EU mechanism) or to freeze the funds of EU internals (citizens/residents).

77. Sweden has chosen to only rely on common EU action to adopt restrictive measures, including the freezing of funds of terrorism suspects, although it has explored possibilities to take national measures. Under the previous EU treaty framework, the possibility to implement UNSCR 1373 on the EU level did not exist for EU-internals, only for EU-externals. No measures have yet been finalized to correct that EU shortcoming at the national level. The authorities indicate that they have explored avenues to correct the situation at the national level, but put those efforts on hold in the new situation arising from the entry into force on 1 December 2009 of the Lisbon Treaty. The new EU treaty framework provides a hitherto not existing legal ground to adopt legislation at the EU level which would create the possibility to adopt freezing measures also against EU internals. According to the new treaty, the initiative to adopt such legislation belongs to the EU Commission, and Sweden trusts that it will be adopted in due course.

78. Nevertheless, under the old or new Treaty framework, as other EU member states have done, Sweden should and could have taken domestic measures to implement requirements not covered on the EU level. This shortcoming remains.

SRIII (Deficiency 2): At the time of the on-site visit, very little guidance had been issued to financial institutions and other persons/entities that may be holding targeted funds/assets.

79. The FSA has a dedicated section on the authority’s website to inform on AML/CFT matters (www.fi.se) and this website also contains information from FATF, the FIU and on EC sanctions. However, it is unclear to what extend this website contains guidance, beyond a listing of the legal requirements. The authorities indicate that seminars on the freezing regime have been held in relation to assets that should be frozen under EU Regulation EC/423/2007 (to implement UNSCR 1737), however,
this concerns a specific freezing requirement that falls outside the scope of SRIII (UNSCR 1737 imposes sanctions on Iran). The FSA has, however, not provided any specific guidance to FIs that may be holding targeted funds/assets under SRIII (UNSCR 1267 and successor resolutions and UNSCR1373).

80. In general, FSA requires FIs to inform the FSA of any freezing action. The FSA will forward the information to the European Commission. This is a standard procedure for all EU sanctions, and it has been applied for targeted assets under UN 1267 as well as for target assets under other freezing regimes such as UNSCR 1737 and UNSCR 1844. The government maintains a website on sanctions (www.ud.se/sanctions) and it contains a section devoted to international sanctions against terrorism. Relevant legal acts can be downloaded from that website and the site provides historic background information. However, also this website does not provide the necessary detailed guidance to FIs on how to handle targeted funds.

81. The authorities note that the EU Best Practices for the effective implementation of restrictive measures (Council of the EU, 21 April 2008, document number 8666/08) is also available to FIs on the website of the FSA. However, it is unclear if the EU Best Practices provide an answer to the specific questions that Swedish FIs may have. The FATF Best Practice Paper “Freezing of terrorist assets” is available on the FSA website.

82. Overall, the authorities have made all necessary legal information and freezing lists available on the website of government websites. However, except for the FATF Best Practice Paper - which is a paper that mainly focuses on giving advice to jurisdictions and not to FIs – and the EU Best Practice Paper, no specific information is available to guide FIs on how to handle frozen assets.

SRIII (Deficiency 3): Due to some concerns about the scope of the terrorist financing offence, it is unclear how Sweden would be able to freeze funds or other assets where the suspect is an individual terrorist or belongs to a terrorist organisation (where that person or organisation is not already a designated person by the UN or the EU).

83. Sweden had indicated that the lacunas in the freezing regime could be addressed by using the criminalisation of TF. As a result of that choice, the MER concluded that the imperfect criminalisation of TF would, therefore, also have a negative effect on SRIII. As soon as a comprehensive Swedish, European, or mixed freezing regime will be in place, this shortcoming will not be relevant anymore (provided that the regime would not rely on the criminalisation of TF). However, in the meantime, as the shortcomings related to SRII have not been addressed, this shortcoming also remains.

SRIII (Deficiency 4): At the time of the on-site visit, the definition of funds in the EU Regulations did not fully cover the terms in SRIII. (It does not explicitly cover funds owned, directly or indirectly, by designated persons, or those controlled (but not owned) directly or indirectly, by designated persons), although in practice this did not present a problem and any potential loophole has been clarified.

84. This issue was partially resolved by Article 2 of EU Regulation 1286/2009 (“no funds or economic resources shall be made available, directly or indirectly, to, or for the benefit of, natural and legal persons, entities, bodies or groups listed in Annex I”). The issue of “owned or controlled” seems not to have been solved.

Special Recommendation III, overall conclusion

85. Sweden has put sufficient measures in place to ensure that FIs are aware of the legal obligation to freeze terrorist assets. However, Sweden has issued insufficient guidance to FIs on how to deal with funds of targeted assets/persons. Most other shortcomings remain as well: i) Sweden has no national mechanism to consider requests for freezing from other countries (outside the EU mechanism) or to freeze the funds of
EU internals (citizens/residents); ii) no measure have been taken to correct the shortcoming in the criminalisation of TF to enable the freeze of all funds (if the authorities would rely on criminal measures to freeze funds); and iii) the definition of funds in the EU Regulation has not been fully expanded.

86. Overall, this means that Sweden has not yet brought the level of compliance with this Special Recommendation up to a level equivalent to LC.

VI. Review of the measures taken in relation to other Recommendations rated NC or PC

Recommendation 6 (NC): Sweden has not implemented any AML/CFT measures concerning the establishment of customer relationships with politically exposed persons (PEPs).

87. According to the AML Act, politically exposed persons (PEPs) are persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons (Chapter 1, Section 5, item 7).

88. When a business relationship is established or an individual transaction is carried out with a PEP who is resident abroad, a high risk of ML or TF is deemed to exist, unless the circumstances in the individual case indicate the contrary. To determine if a customer is a PEP, a FI may ask the customer for relevant information or use information from electronic databases on PEPs (AML Act, Chapter 2, Section 6, third paragraph, item 2 & page 192 in Government Bill 2008/09:70).

89. FIs have to apply enhanced CDD measures if there is a high ML/TF risk. Enhanced measures regarding PEPs includes: i) appropriate measures to establish where assets that are being dealt with within the framework of a business relationship or an individual transaction have come from; ii) enhanced follow up of the business relationship; iii) and obtaining approval from authorised decision-makers (AML Act, Chapter 2, Section 6, first paragraph & Section 7).

90. “Persons who hold or have previously been entrusted with prominent public functions” refers to persons who hold or have previously held the following positions, or equivalent positions: i) heads of state or government, ministers and deputy or assistant ministers; ii) parliament members; iii) judges of the Supreme Court, judges of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances; iv) higher officials at auditing authorities and members of governing bodies of central banks; v) ambassadors, chargés d’affaires and high-ranking officers in the armed forces; vi) members of the administrative, management or supervisory bodies of State-owned enterprises. This includes persons who hold or have previously held positions, at Community level and international level, corresponding to those listed above. In addition, immediate family members (spouse and equivalent, children and spouses, parents) are also included. Finally, known employees includes: i) natural persons who are generally known or where there is reason to assume joint beneficial ownership of legal persons or legal arrangements, or any other close business relationships, with a PEP; and ii) natural persons who have sole beneficial ownership of legal persons or legal arrangements which are generally known or where there is reason to assume that they have actually been set up for the benefit of a PEP (FSA Regulations Chapter 4, Section 14, including second paragraph & Section 16).

91. There is no direct obligation to obtain senior management approval to continue the business relationship if a customer or beneficial owner subsequently is found to be, or subsequently becomes a PEP. However, an FI has to maintain an electronic system or a manual procedure in order to continuously monitor business relationships by checking and documenting that the transactions carried out correspond with the knowledge that the FI has concerning customers, their business and risk profiles and, if necessary, where the customer's financial resources come from. Documents, data and information concerning checks shall be kept up-to-date. From this follows that an FI shall react and respond to deviation, e.g. if a customer...
becomes a PEP during the business relationship (AML Act, Chapter 2, Section 10 and FSA Regulation, Chapter 4, Section 18).

92. FI s are required to take appropriate measures to establish where assets that are being dealt with within the framework of a business relationship or an individual transaction have come from (AML Act, Chapter 2, Section 7 item 1).

93. Sweden has taken sufficient action to have reached a level of compliance with R6 that is essentially equivalent to at least an LC.

Recommendation 7 (NC): Sweden has not implemented any AML/CFT measures concerning establishment of cross-border correspondent banking relationships.

94. The AML Act contains provisions on cross border correspondent banking relationships. A Swedish financial institution has to, in addition to normal due diligence, also undertake the following measures before starting a correspondent banking relationship with an institution outside the European Economic Area (EEA): i) obtaining sufficient information about the other party in order to be able to understand the activities as well as assess the other party’s reputation and the quality of supervision; ii) assessing the other party’s controls to prevent ML and TF; iii) documenting the respective institution’s responsibility for taking control measures and the measures that they take; iv) obtaining approval from authorised decision-makers, and v) ensuring that the other party has checked the identity of customers that have direct access to accounts at credit institutions and monitor these customers on an ongoing basis and are able to provide relevant customer identification data on request (AML Act, Chapter 2, Section 6 and 8).

95. There is a requirement to assess the respondent’s AML/CFT controls, where Chapter 2, Section 8, paragraph 2 of the AML Act requires that those controls are adequate and effective before proceeding with the correspondent relationship. This is required in conjunction with Section 6, paragraph 3, item 3, which required an ongoing assessment of the other party’s controls.

96. While The AML Act imposes requirements for correspondent banking relationships outside the EEA, there are no corresponding requirements for correspondent relationships in other EEA countries. This is the only gap that remains for R7, which is, overall considered to be brought back to a level equivalent at least to an LC.

Recommendation 12 (PC)

R12 (Deficiency 1) The scope of the DNFBPs that are subject to the AML Act is not adequate: it does not apply to company service providers and some accountants.

97. The AML Act applies to all DNFBPs, including company service providers and all accountants, (Chapter 1, Section 2, item 8-16).

R12 (Deficiency 2) As the DNFBPs are not subject to Finansinspektionen’s regulations or the CFT Act, many of the requirements that Swedish financial institutions are subject to that correspond to criteria under Recommendation 5 do not correspond to this sector.

98. The AML Act does not differentiate between FI s and DNFBPs; all are subject to the same requirements regarding R5 (see above). The provisions are further complemented by secondary regulations from designated authorities for real estate agents, dealers in precious metals and stones, TCSPs and independent professionals, accountants and casinos. Legally binding rules are issued for lawyers. Sweden provided copies of all relevant supporting material (See Annex 1).
Specifically in relation to R5 (as referenced by the deficiency), the regulations for real estate agents, dealers in precious metals and stones, TCSPs and independent professionals, accountants and casinos mirror the regulations of the FSA Regulations for FIs. Lawyers already had legally binding rules in place.

Conclusion: The AML Act and the secondary regulations from the designated authorities have considerably raised DNFBP’s compliance with R12, similar to the improvements for FIs with R5. (see previous sections).

**R12 (Deficiency 3) There is no direct obligation to monitor all unusual, large transactions or transactions with no visible economic purpose, and make out findings in writing. Records of reported suspicious transactions must be deleted after one year.**

The requirement to pay special attention to unusual, large transactions or transactions with no visible economic purpose, and to make out findings in writing, is regulated in the secondary regulation from the designated authorities (for casinos only the requirement to make out findings in writing). Legally binding rules are issued for lawyers. All DNFBPs have been provided with a list of indicators for unusual transactions in the secondary regulations, and with rules on how to deal with such transactions. The rules and explanations are clear, sufficiently broad and cover a range of possible unusual and suspicious activity.

The provisions relating to the deletion of records related to STRs kept by DNFBPs were changed from one year (old law) to three years (AML Act Chapter 4, Section 6). It should be noted that the FATF requires records to be kept for at least 5 years. This is the only deficiency that remains.

**R12 (Deficiency 4) For these sectors, the effectiveness of the implementation of Sweden’s current laws can be improved. The effectiveness is further reduced by the fact that there is no designated authority to monitor or impose sanctions for non-compliance.**

The effectiveness of the AML/CFT legislation as regards the non-financial sector has been enhanced considerably through: i) a clearer inclusion of all DNFBPs in the scope of the AML Act; ii) a clear designation of responsibility for supervision over the different parts of the DNFBP sector; and iii) the setting up of a co-ordinating body that aims at enhancing effectiveness and consistency of the supervision of the non-financial and the financial sectors.

See the description of R24 below for more information on how monitoring compliance and supervision was improved.

As is indicated above regarding deficiency 2, the AML Act covers all FIs and DNFBPs equally. In addition, the FSA Regulations for FIs was mirrored for each DNFBP. For this follow-up report, Sweden provided an extensive overview of how the DNFBP-Regulations cover the implementation of R6, R8 and R10. This legal framework covers all aspects of these FATF Recommendations for all DNFBPs. It should also be noted that the DNFBP Regulations do not copy the FSA Regulations, but are designed to fit the different needs of each DNFBP. This should have a positive effect on the effectiveness of the legal system.

Even though difficult to assess the effectiveness of a system through a paper based desk review, especially when assessing the effectiveness of the implementation of a new legal framework, it seems that Sweden has taken all necessary measures.

**Recommendation 12, overall conclusion**

R12 covers the implementation of six Recommendations (R5, R6, R8, R9, R10 and R11), in Sweden for six different DNFBP-sectors. Sweden provided a full overview of the legal requirements that
apply since the introduction of the AML Act and the different DNFBP Regulations. With the exception of the record keeping requirement for information related to STRs filed by DNFBPs (which are too short), Sweden’s legal system seems to meet the requirements. With the new legal framework in place, Sweden should also be able to improve the effectiveness of its system, something which was also required by the MER. Overall, Sweden has taken sufficient measures to correct the deficiencies related to R12, and to the extent that this can be judged in a follow-up report, has brought the level of compliance with this Recommendation up to a level equivalent to LC.

**Recommendation 16 (PC)**

**R16 (Deficiency 1)** There are concerns about the scope of application of AML obligations: measures do not apply to company service providers, and the non-regulated sector of accountants.

108. The AML Act applies to all DNFBPs, including company service providers and all accountants, (Chapter 1, Section 2, item 8-16).

**R16 (Deficiency 2)** CFT obligations (including an obligation to report an STR related to FT) do not apply to any DNFBP.

109. According to the AML Act, DNFBPs in general are subject to the same AML/CFT obligations as FIs, including the reporting obligation (AML Act, Chapter 3, Section 1, second paragraph). See the annexes for statistics on STRs from DNFBPs.

110. Information about all circumstances that may indicate ML or TF has to be provided to the National Police Board (FIU) without delay. This includes attempted transactions, regardless of the amount of the transaction. There is no exception regarding transactions involving tax matters.

111. For lawyers and other independent legal professionals, approved and authorised public accountants and tax advisors: these are not required to provide information about matters entrusted to those persons when they defend or represent a client in or as regards matters concerning judicial proceedings, including advice on instituting or avoiding judicial proceedings. This applies regardless of whether they received the information before, during or after such proceedings (AML Act, Chapter 3 Section 2).

**R16 (Deficiency 3)** It is not required that STRs must be filed to the FIU “promptly”.

112. The AML Act requires all STRs to be sent without delay\(^\text{14}\) to the FIU (AML Act, Chapter 3 Section 1, second paragraph).

**R16 (Deficiency 4)** The possibility for advocates, associate lawyers at law firms and auditors to disclose any information 24 hours after the moment an investigation has been started, information has been handed over to the police or the police has started a formal preliminary investigation does not comply with the requirements of Recommendation 14.

113. The exception for lawyers, associate lawyers at law firms and auditors no longer exist, the AML Act contains prohibitions of disclosure of information to the customer or any third party that a review has been carried out or that information has been provided to the competent authority in question. This prohibition applies to all those within the scope of the AML Act, without exceptions (AML Act, Chapter 3, Section 4).

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\(^{14}\) Without delay in English, in Swedish utan dröjsmål.
R16 (Deficiency 5) There are also some concerns with regard to the compliance with Recommendation 15 and 21, since there is no requirement to designate a person responsible for implementing the AML/CFT obligations and there are no rules with regard to NCCTs or other countries which have not implemented an effective AML/CFT system.

Regarding R15

114. According to the AML Act, DNFBPs have to apply risk-based procedures to prevent the business from being misused for ML/TF (Chapter 5 Section 1). DNFBPs are responsible for ongoing employee training and for maintaining internal procedures. If a natural person runs its operation as an employee of a legal person, the obligations apply to the legal person (Chapter 5 section 1).

115. More detailed requirements regarding procedures are set out in the DNFBP Regulations issued by the designated authorities and in legally binding rules for lawyers. These regulations also contain requirements regarding AML/CFT compliance officer, training and protection of employees, internal control and internal information. Regarding the internal management procedures, as only natural persons can become real estate agents, there are some minor limitations internal control mechanisms (which would be impossible to apply). Sweden has provided copies of all DNFBP Regulations (see Annex 1), which all cover the relevant requirements for R15.

Regarding R21

116. As with other Recommendations, the AML Act does not differentiate between FIs and DNFBPs; all are subject to the same requirements regarding R21. DNFBPs are required to take enhanced measures to achieve customer due diligence if there is a high risk of ML/TF. (AML Act, Chapter 2 Section 6 first paragraph). The provisions are further complemented by the various DNFBP Regulations from designated authorities for real estate agents, dealers in precious metals and stones, TCSPs, independent professionals, accountants and casinos. Legally binding rules are issued for lawyers.

117. The DNFBP Regulations from the designated authorities contain provisions on the obligation for institutions to apply a risk-based approach, which among others must include performing risk assessments and undertaking risk-based measures (rules are issued for lawyers). In order to meet the requirements all DNFBPs are obliged to, on an ongoing basis, take into account information on trends, methods and patterns within ML/TF, as well as information from international organisations (e.g. the UN, the EU or the FATF) and government bodies (e.g. the supervisory authorities, the FIU or the Swedish Inspectorate of Strategic Products) on these subjects.

118. The DNFBP Regulations use broad language, covering all kind of risks without specifically mentioning countries that do not, or insufficiently, apply the FATF Recommendation. However, although not very detailed, it is clear from the language of the regulations that jurisdictional risks are included in the AML Act and DNFBP Regulations.

Recommendation 16, overall conclusion

119. R16 covers the implementation of four Recommendations (R13, R14, R15 and R21), in Sweden for six different DNFBP-sectors. Sweden provided a full overview of the legal requirements that apply since the introduction of the AML Act and the different DNFBP Regulations for R15 and R21, but also for R13 and R14 which were not directly criticised in relation to R16. All shortcomings were sufficiently addressed by the authorities, bringing the level of compliance with this Recommendation up to a level equivalent to at least an LC.
Recommendation 18 (PC): There is no legally binding prohibition on financial institutions to enter or continue correspondent banking relationship with shell banks nor is there any obligation on financial institutions to satisfy themselves that a respondent financial institution in a foreign country is not permitting its accounts to be used by shell banks.

120. The AML Act prohibits credit institutions to enter into or maintain correspondent banking relationships with shell banks. Credit institutions also need to ensure that no correspondent banking relationships are entered into or maintained with credit institutions that allow their accounts to be used by shell banks (AML Act, Chapter 5, Section 3).

121. This deficiency is addressed and compliance with R18 has at a minimum been brought to a level equivalent to an LC.

Recommendation 19 (PC): Sweden has not adequately considered the feasibility and utility of implementing a system whereby financial institutions report all transactions in currency above a fixed threshold to a centralised agency with a computerised database.

122. The Swedish Government has analysed and considered the possibility of a national central agency that keeps a computerised database for transactions above a certain level. The issue was discussed in the report of the Government appointed Implementation of the 3rd ML Directive Inquiry Commission (SOU 2007:23) and in the explanatory memorandum to Government Bill 2008/07:70. The conclusion is that because of issues related to privacy, doubts about the efficiency and cost related aspects, the Government does, for the moment, not recommend the setting up of such a database.

123. This deficiency is addressed and R19 can be considered compliant.

Recommendation 21 (PC)

R21 (Deficiency 1) There are currently no measures to ensure that institutions are advised about concerns about weaknesses in the AML/CFT systems of other countries.

124. In order to make sure that FIs are advised about concerns about weaknesses in the AML/CFT systems of other countries, the FSA informs of updates on sanctioned regimes, FATF reports and statements in a special section for AML/CFT issues on its web site and through special circulars to sector associations and through seminars.

R21 (Deficiency 2) Sweden issues advisories regarding countries against which appropriate countermeasures would apply due to the countries continuing not to apply or insufficiently applying the FATF Recommendations. These advisories do not constitute a legally binding requirement.

125. Sweden applies counter measures against countries that continue to insufficiently apply the FATF Recommendations by warning the FIs of the risk of ML/TF that transactions with certain jurisdictions may carry. Sweden provided an example of an FSA circular from May 2009 which reminds FIs that the lack of applying enhanced due diligence measures in business relations with Iran, may lead to sanctions (FSA Regulations, Chapter 2, Section 2, second paragraph). Sweden does not take any other counter measures (such as enhanced reporting and targeting subsidiaries and branches from particular jurisdictions).

Recommendation 21, overall conclusion

126. Sweden may want to consider expanding its range of counter measures, nevertheless, overall Sweden has sufficiently addressed the shortcomings related to R21 and compliance with R21 has at a minimum been brought to a level equivalent to an LC.
Recommnedation 22 (PC)

R22 (Deficiency 1) There is no direct obligation for foreign branches and subsidiaries to observe AML/CFT measures consistent with Swedish requirements and the FATF recommendations to the extent that host country’s laws and regulations permit; there is an indirectly enforceable obligation to “endeavour” to establish common group policies.

127. Swedish FIs have to apply the provisions on CDD and record keeping, also for its branches and majority-owned subsidiaries with a place of residence outside the EEA, unless the laws of the country of residence prevent this (AML Act, Chapter 2, Section 12, first paragraph).

128. If the Swedish FI is the parent company in a group of companies, the board of directors of the parent company has to establish common internal AML/CFT rules for the institutions within the group covered by the AML Act. This includes informing branches and majority-owned subsidiaries outside the EEA of its procedures (FSA Regulations, Chapter 3 Section 3 and 4).

R22 (Deficiency 2) There is no requirement that particular attention be paid to branches and subsidiaries in countries which do not or insufficiently apply the FATF recommendations and that the higher standard be applied in the event that the AML/CFT requirements of the home and host countries differ.

129. Swedish financial institutions have to take measures to effectively handle the ML/TF risks its branches and majority-owned subsidiaries with a place of residence outside the EEA cannot apply AML/CFT provisions, such as on CDD and record keeping (AML Act, Chapter 2, Section 12, Paragraph 2).

R22 (Deficiency 3) It is only indirectly binding that Finansinspektionen be informed if the financial institution’s internal regulation regarding AML/CFT cannot be applied because of deficiencies in the host country’s laws and regulations.

130. If the AML/CFT provisions referred to in Chapter 2 of the AML/CFT Act cannot be applied by branches and subsidiaries, the FI has to notify the FSA of this in writing (AML Act, Chapter 2, Section 12, second paragraph).

Recommendation 22, overall conclusion

131. The deficiencies relating to R22 are sufficiently addressed, despite the exemption for EEA countries (which are, however, likely but not necessarily, to apply similar rules to those applicable in Sweden). Therefore, overall, Sweden has sufficiently addressed the shortcomings related to R22 and compliance with R22 has at a minimum been brought to a level equivalent to an LC.
Recommendation 24 (NC)

R24 (Deficiency 1) Overall, the supervisory bodies of the different sectors are not designated as authorities, which have any responsibility for the AML/CFT regulatory and supervisory regime.

and

R24 (Deficiency 2) There are no administrative sanctions available specifically dealing with DNFBPs for breaches of AML/CFT obligations.

and

R24 (Deficiency 3) Dealers in precious metals and stones are not monitored by any authority; trust and company service providers are not subject to AML/CFT Acts nor monitored by any authority.

and

R24 (Deficiency 4) Legal professionals who are not members of the Bar Association, and accountants who are not registered by the Supervisory Board of Public Auditors are not monitored or supervised for compliance with AML/CFT obligations and are not subject to administrative sanctions. There is no indication that Sweden has considered this issue following a risk-based approach.

and

R24 (Deficiency 5) The supervisory powers of the Gaming Board (Casinos) are too limited.

and

R24 (Deficiency 6) The supervisory authorities of the DNFBPs should initiate a more proactive and consequent supervision with regard to compliance with AML obligations.

132. With the enactment of the AML Act and the DNFBP Regulations, all DNFBPs are supervised (casinos) or monitored (all other). The following is a summary of the detailed information provided by the Swedish authorities for this follow-up report. It includes an overview of supervisors, powers, inspection visits and sanctions.

Casinos

133. Supervision is exercised by the Gaming Board, a government authority under the Ministry of Finance. Ensuring compliance with the AML Act is one of the explicit tasks of the Gaming Board. The Gaming Board has the power to issue any orders or prohibitions it considers necessary to ensure compliance with the Casinos Act as well as the AML Act. Such orders and prohibitions can be made subject to default fines. The Gaming Board is also entitled to obtain information and have access to documents and premises. Permits to arrange casino gaming and conditions and regulations issued pursuant to the Act may be revoked or amended, if the conditions or regulations are not complied with or there are other grounds for doing so. Matters relating to revocation or amendment are considered by the government, or if the matter relates to conditions or regulations issued by the Gaming Board, by that authority. The Casinos Act and the AML Act link, to ensure consistency and to ensure that the Gaming Board can exercise full supervision in AML/CFT related matters (Section 14 of the Casinos Act).

134. The Gaming Board undertook 11 on-site inspections in 2009, and 10 on-site inspections in 2010. In both years, several meetings with senior managements of casinos held and in 2010, a one day awareness
raising seminar was organised jointly with FIU and FSA for casino management. No order or fines have yet been issued.

**Real estate agents**

135. The supervisory responsibilities of the Board of Supervision of Estate Agents explicitly cover the AML/CFT regime. The administrative sanctions available for AML/CFT compliance are the same as for general compliance matters. Consequently, the Board may issue warnings and revoke registrations. The AML Act and the Estate Agents Act are legally linked to ensure supervision, compliance and provide the authority to issue regulations. The Swedish Board of Supervision of Estate Agents is empowered to examine files, accounts and other documents belonging to the activity and also to provide the information requested for the supervision (Estate Agents Act Sections 4a, 5, 7 and 8).

136. In 2007, the Board undertook 12 off-site AML/CFT inspections, of which 8 led to a warning, in 2008, the Board undertook 27 off-site AML/CFT inspections, of which 19 led to a warning, in 2009, the Board undertook 9 off-site AML/CFT inspections, of which 7 led to a warning and 1 led to a revoking of the registration, in 2010, the Board undertook 4 off-site AML/CFT inspections, of which 3 led to a warning. In addition, the Board held 16 seminars for approximately 1000 estate agents, some of them jointly with the FIU.

**Dealers in precious metals and stones**

137. Dealers in precious metals and stones – and any other professional traders in goods – are covered by the AML Act and are subject to regulation and supervision by three of the County Administrative Boards to the extent that they accept cash payments to the equivalent of 15,000 EUR or more (Chapter 1, Section 2, Paragraph 16 and Chapter 6 of the New Act; Sections 16-18 of the AML/CFT Ordinance).

138. Sweden comprises of 21 counties, which are in turn divided into municipal areas. The County Administrative Board is a government authority that exists in each county and the work in each county is led by the County Governor. The County Administrative Board is a multifaceted authority charged with a range of tasks, including: implementing national objectives, co-ordinating the different interests of the county, promoting the development of the county, establishing regional objectives and safeguarding the rule of law in every instance. The boards in three larger city regions, Stockholm, Västra Götaland and Skåne, have been assigned AML/CFT supervisory responsibility for various parts of Sweden, in total covering the whole country.

139. Dealers in precious metals and stones (and other professional traders in goods), providers of other bookkeeping or auditing services than those subject to supervision by the Supervisory Board of Public Accountants and other independent legal professionals and trust and company service providers are subject to supervision of the County Administrative Boards. Anyone intending to conduct activities of this kind must notify the Swedish Companies Registration Office (Bolagsverket) that keeps a register for companies that are subject to supervision. These companies are subject to certain fit and proper requirements and a company that fails to meet the requirements, may be ordered by the Board to implement rectification (e.g. by replacing senior management etc.) or, if this is not possible, to cease the activity. Boards can also order these companies to notify at the Registration office, order the company to cease its activities and provide any documents (AML Act, Chapter 6, Sections 4 – 5 and 7).

140. In practice, considering the large number of businesses to be covered by the 3 Boards, the Boards have started with an information campaign covering all these businesses, before starting full supervision. This is also the case for dealers in precious metals and stones.
The following inspections have been conducted in 2009 and 2010: i) County Administrative Board of Stockholms län 33 off site inspections; ii) County Administrative Board of Skåne län 2 off-site inspections; and ii) County Administrative Board of Västra Götalands län 11 off-site inspections. In addition, 35 meetings and seminars for companies, the public and other authorities have been held jointly with the FIU and an information brochure was created.

The following sanctions have been issued: i) County Administrative Board of Västra Götalands län: 7 orders to provide information; ii) County Administrative Board of Skåne län: 2 orders to provide information and one default fine.

**Lawyers**

The Swedish Bar Association is empowered to supervise members of the Bar and apply administrative sanctions to advocates. The Bar Association is also the competent authority with regard to compliance with AML/CFT requirements according to the AML Act with identical dispensatory and other powers as other supervisors.

The Swedish Bar Association has issued a legally binding AML/CFT guidance. The term “legally binding guidance” may confuse; however, the authorities indicate that the Code of Judicial Procedure (Chapter 8, Section 4, paragraph 1) and the Charter of the Bar Association (Section 34) ensure that guidance issued by the Bar Association is legally binding. The guidance is referred to in this follow-up report, as legally binding rules. The guidance describes and interprets the AML Act and serves both as an introduction to the legislation and as an aid in relation to certain practical and administrative matters. The guidance also adopts certain views on a number of difficulties which arise from an interpretation of the legislation.

If the AML Act and its obligations are not met properly by a lawyer, the Bar Association may instigate disciplinary actions, according to Chapter 8, Section 7 of the Swedish Code of Judicial Procedure. The range of sanctions is disbarment, warning in combination with a fine, warning and reprimand. In relation to the AML Act the Bar can also order correction.

The Swedish Bar exercises supervision and can inspect lawyers at a random basis or based on a concrete case. The primary mode of action is a written procedure gathering information, which would include investigating the lawyers’ knowledge and control, reporting, restrictions on disclosure, training and internal controls. Lawyers are required, on a regular basis, to provide information to the Bar Association. The Bar Association so far exercises consolidated supervision, it has not yet singled out AML/CFT issues.

Independent legal professionals, who are not members of the Bar Association, are subject to regulation and supervision by the County Administrative Boards. See above under dealers of precious metals and stones.

The authorities report that no AML/CFT inspections have so far taken place and that no sanctions regarding AML/CFT have yet been issued. The Bar Association organised training for lawyers, jointly with the FIU.

**Accountants**

As regards approved or authorised public accountants and registered public accounting firms, the Supervisory Board of Public Accountants’ supervisory responsibilities have been extended to cover the AML/CFT regime. The administrative sanctions available for AML/CFT compliance are the same as for general compliance matters. Consequently, the Board may issue disciplinary notices, warnings and revoke registrations. The Board is a governmental authority under the Swedish Ministry of Justice and its
activities are governed by the Auditors Act. Based on this law, the Board can supervise the performance of auditing services, public accountants and registered public accounting firms, and investigate and decide on disciplinary and other measures against public accountants and registered public accounting firms. The Board also is tasked to ensure that professional ethics for accountants and generally accepted auditing standards are developed in an appropriate way (See section 3, paragraph 1 (2-4) and section 2 (8) of the Auditors Act). AML issues are covered under professional ethics, in addition to the AML Act.

150. The Board issues, in addition to decisions in disciplinary cases, regulations and statements. If the Board becomes aware that a public accountant or a registered public accounting firm is likely not to have maintained the professional ethics for accountants and/or generally accepted auditing standards, the Board has the authority to open a disciplinary case against the accountant or the firm in question and to make an investigation. If the Board finds that the public accountant or the registered public accounting firm has not complied with its obligations in these respects, the Board can issue a disciplinary measure against the public accountant or the registered public accounting firm. The Board may in these cases issue a warning. If sufficient, the Board may instead issue a disciplinary notice. Where the circumstances are particularly aggravating, the approval or authorization may be revoked, (see section 32 of the Auditors Act).

151. The Board has issued a provision which states that public accountants and registered public accounting firms must, to the extent dictated by professional ethics, perform measures to prevent that their own businesses or their client’s businesses are used for ML or TF (See section 5 b of the Boards regulation regarding conditions for auditors and registered accounting firms (RNFS 2001:2); this section entered into force on 1 May 2010).

152. Providers of other bookkeeping or auditing services than those subject to supervision by the Supervisory Board of Public Accountants are regulated and supervised by the County Administrative Boards (see above under dealers in precious metals and stones).

153. When conducting quality controls of public accountants and registered public accounting firms, the Board controls if the public accountants and registered public accounting firms have a system in place that is well designed to detect ML/TF. These controls have been conducted since March 2010, and up to now the Board has not detected any major flaws in the existing systems.

Trust and company service providers

154. Natural and legal persons who assist in planning or execution of transactions for their clients concerning TCSP activities are subject to regulation and supervision by the County Administrative Boards. The regulations, as well as the AML Act and the supervisory regimes do not differ between dealers of precious metals and stones, other independent legal professionals and TCSPs (see above under dealers in precious metals and stones).

155. See above on dealers in precious metals and stones for the number of inspections for all sectors supervised by the County Administrative Boards; no sanctions regarding AML/CFT have yet been issued for TCSPs.

Recommendation 24, overall conclusion

156. Overall, the framework for supervision (casinos) and monitoring (other DNFBPs) was strengthened after the enactment of the AML Act and the DNFBP Regulations and the legal framework is at a minimum largely complaint. So far, there are relatively few inspections, especially on-site. However, it is understandable that at the time of the drafting of this follow-up report the authorities were also still focussing on educating DNFBPs with the requirements of the relatively new AML Act. Taking into account the difficulty of assessing the effectiveness of a system through a paper based desk review, and
noting that a more pro-active supervisory approach would be expected for the next mutual evaluation, the overall the compliance with R24 has been brought to a level equivalent to an LC.

**Recommendation 30 (PC)**

**R30 (Deficiency 1) (FIU only) There is a need for more staff in general, and in particular, analysts within the FIU.**

157. The following extra resources are available: *i)* the FIU has recruited five new analysts; *ii)* specialised analysts at the National Criminal Police (NCP) are available for assistance if needed; *iii)* the Swedish Economic Crime Authority has established an Asset Recovery Office comprising four specialists; and *iv)* the Swedish Prosecution Authority has appointed and educated two specialised expert prosecutors.

158. The overall number of staff in the Swedish FIU has increased and in February 2010 the total number of staff was 21. There are now four asset tracers and asset investigators with the task to conduct asset tracing and investigations and to initiate asset-freezing activities. One of the investigators at the FIU also has the responsibility to implement new tools for financial analyses, as his competence is equal to a database analyst. The head of the FIU now shares his responsibilities with a deputy head. Further, the ML group has a designated group leader that holds the responsibility for the operations and follow up of the intelligence cases.

159. If needed, expert analysts from the National Criminal Police (NCP) are now available for more complicated analyses and analyses of large amounts of transactions. There are three analysts available at the national intelligence unit specially trained in financial analysis.

160. Following from the NCP’s mission to combat proceeds of crime and criminal assets, NCP has established an Asset Tracing group at the FIU. The group conducts asset-tracing investigations within the NCP criminal investigations and will also assist the County Police Authorities in cases with special demands. The asset-tracing group has increased its number of staff to four experts in 2009.

161. The Swedish Economic Crime Authority (EBM) and the Swedish Prosecution Authority have focused on issues concerning AML/CFT during 2007 – 2009 and several measures have been taken. The fact that the EBM has established a special Asset Recovery Office and the Swedish Prosecution Authority now has specialised prosecutors in the area of confiscation of proceeds of crime implies that the number of staff working with AML/CFT issues has increased. The Asset Recovery Office comprises one expert prosecutor, two accountants and one analyst, with the mandate to work strategically and operationally to increase the ability to trace, seize and confiscate, or otherwise deprive the perpetrator the proceeds of his or her crime.

162. The Swedish Prosecution Authority has, located at the International Public Prosecution offices in Stockholm, Göteborg and Malmö, prosecutors specialised in the area of confiscation of proceeds of crime. These prosecutors provide support in issues concerning proceeds of crime.

163. The Swedish Prosecution Authority is about to take a decision on a specific strategy against serious organised crime and in anticipation of this decision, the Swedish Prosecution Authority has already recruited additional experts on proceeds of crime. In September 2010 seminars will take place to train these new experts and to train several prosecutors that have been appointed to work as developers of issues regarding proceeds of crime. The International Public Prosecution office in Stockholm is also going to develop specific resources to assist prosecutors with asset investigations and other supporting documents in the preliminary investigation in order to increase the ability to seize and confiscate proceeds of crime.
R30 (Deficiency 2) (FIU only) Improved tools and resources to enhance analysis are needed.

164. The authorities report that several newly developed technical tools and databases for improved analysis of information connected to ML and TF are in operation since November 2009. Extensive and time-consuming manual work at the FIU has been abolished. The developments include: i) web-reporting of suspicious transactions connected to ML and financing of terrorism; ii) digital attachments of financial information e.g. statements of accounts to the web-reported STRs; iii) analysis of information from STRs through police intelligence and open sources in common databases (in tools such as iBase and Analyst Notebook). The new tool is now connected to the FIU-database and every twenty-four hour the database automatically exports information for the analysis tool; iv) Sweden is now connected to the FIU.NET; v) improved screening processes of STRs. The first screening of natural or legal persons reported through the STR is done with the help of a digital tool, which collects information from crime, police intelligence and open sources. Based on the collected information a decision is made if a ML/TF intelligence investigation is to be conducted by the FIU or not; vi) the Customs Authority has a newly developed channel for reporting the declarations electronically directly to the FIU, which has a special database for electronic cross-checking of the declared information with police intelligence and crime databases as well as open source information, and vii) the Swedish Prosecution Authority and the EBM have together developed a handbook on confiscation of proceeds of crime. The handbook is used by prosecutors, police officers and investigators.

R30 (Deficiency 3) (police / prosecution only) More education and training of law enforcement authorities in ML/FT offences is needed.

165. The authorities report several measures being taken and that training and education of police / prosecution staff at the FIU, EBM, Swedish Prosecution Authority and other authorities involved in law enforcement is a priority. More specifically, Sweden reports the following positive developments: i) training at the Swedish FIU, which is composed of mainly police officers, focuses on theory and tools for intelligence analysis at a tactical and operational level; ii) all the heads of the 21 county criminal investigation units have taken part in training activities on the improved possibilities and tools; iii) several nation-wide seminars have been conducted for different investigators, police officers and prosecutors etc. covering confiscation of proceeds of crime, new legislation in this field and new tools for countering ML/TF offences. These seminars have been conducted in cooperation with various relevant authorities; and iv) Training in ML and the seizure and confiscation of proceeds of crime is included in the basic training of prosecutors.

166. The Swedish authorities indicate that training is also enhanced at the FIU. While the MER did not note any shortcomings relating to the training at the FIU, due to the fact that the Swedish FIU is a law enforcement FIU that is closely integrated into the police, the training at the FIU is beneficial to meet the training requirements for law enforcement staff in general. Additionally, the FIU also provides training to law enforcement staff.

167. Training activities are being conducted for all intelligence, surveillance and investigating officers at the National Criminal Police. The FIU has conducted training activities with some of the serious crime investigation units of the County Police Authorities.

168. Since July 2008 there are improved possibilities to trace, seize and confiscate proceeds of crime and criminal assets in Sweden. In order to further inform and train as many officers as possible on the new legislation on increased confiscation of proceeds of crime, several seminars has been arranged by the Swedish Prosecution Authority and the EBM together with the Ministry of Justice. These seminars have also included methods on how to map criminal’s assets and methods for co-operation between crime fighting agencies. The seminars have been aimed at prosecutors, police staff, accountants and specialists at
EBM as well as at prosecutors at the Swedish Prosecution Authority. There have also been similar seminars for staff at the National Police Board, the Swedish tax agency, the Swedish Enforcement Authority and the Swedish Customs.

169. Moreover, the EBM, in co-operation with the National Police Board, has initiated nation-wide training seminars on AML/CFT related topics. Most of these seminars took place during the first half of 2009. The FIU in co-operation with other authorities has trained 10 Special Task Forces from Sweden in financial investigations, especially in asset tracing during the beginning of 2010.

170. Education and training for prosecutors are continuing, and the training for prosecutors regarding ML and the seizure and confiscation of proceeds of crime, has developed. Not only is it a part of the basic training scheme, there are also courses on advanced level. Furthermore a number of prosecutors have participated in various training courses on seizure and confiscation of proceeds of crime.

171. To improve knowledge, the strategic analysts at the National Criminal Police have received directions from the FIU to produce a strategic report on money-laundering methods and trends in Sweden. The report will be based on material from preliminary investigations and information from the FIU. The report has been produced in late spring 2010.

172. The Swedish Courts Administration has in 2009, as part of a specialisation project within economic crimes, organised education for judges in the area of ML. Within the Court Academy, which is responsible for the training of newly appointed judges, specialised courses in the area of economic crimes, including education in the area of ML, are planned.

**R30 (Deficiency 4) (police / prosecution only) The total resources for ML/FT investigation need to be reviewed.**

173. The authorities report that the government has increased the overall resources for the Swedish Police, and additional resources are said to have been allocated to combat organized crime and to target the proceeds of crime. Extra staff was allocated mostly to the FIU (see deficiency 1), and although the FIU is a law enforcement entity, there is no similar improvement in number of AML/CFT staff at the police and prosecution in general. Sweden reports that the police ML Group has a designated group leader that holds the responsibility for the operations and follow up of intelligence cases. No other information was available. Overall, the deficiency is insufficiently addressed.

**R30 (Deficiency 5) (supervisors only) Finansinspektionen does not seem to have sufficient resources to supervise compliance with AML/CFT obligations.**

174. Since the time of the mutual evaluation the FSA has sufficiently increased its resources attributed to AML/CFT supervision. See on R23.

**Recommendation 30, overall conclusion**

175. The deficiencies relating to R30 seem to be sufficiently addressed, with the exception that there is insufficient information to determine if the number of dedicated AML/CFT staff at the police and prosecution was increased. Nevertheless, the number of staff at the FIU (which is a police unit) and the FSA, and the training and non-staff resources for police, prosecution and FIU were sufficiently enhanced. This means that, to the extent that this can be judged in a follow-up report; the compliance with R30 has been brought to a level equivalent to an LC.
Recommendation 32 (PC)

R32 (Deficiency 1) Sweden does not review the effectiveness of its systems for combating money laundering and terrorist financing on a regular basis.

176. The Swedish Economic Crime Authority is obliged to report to the government every three years. Reports contain a review of the system for combating economic crime, including ML and TF, i.e. an explanation of how economic and financial crime has changed over the last three years and what measures the authorities have taken during that time to co-ordinate their efforts against crime. The review also includes suggestions on how economic crime should be targeted over the next three years. It is prepared by the Swedish Economic Crime Authority in collaboration with the Swedish Companies Registration Office (Bolagsverket), the Swedish National Council for Crime Prevention (Brottsförebyggande rådet), the Swedish Financial Supervisory Authority (Finansinspektionen), the Swedish Enforcement Authority (Kronofogdemyndigheten), Gaming Board for Sweden (Lotteriinspektionen), the National Police Board (Rikspolisstyrelsen), Swedish Tax Agency (Skatteverket), Swedish Customs (Tullverket) and Swedish Prosecution Authority (Åklagarmyndigheten).

177. The FSA has since 2005 had an obligation to make a yearly review of the system for combating ML/TF and the FIs compliance with the AML/TF regime. These reviews have partly focused on effectiveness. To date 5 such reports have been submitted to Government.

178. In general Sweden is developing the scope of and the quality of statistics in the field of ML/TF. A number of measures have been taken during the last few years in order to facilitate enhanced statistics in this field. As statistics in some fields, for example regarding the number of investigations and prosecutions, are published with regular intervals, the authorities can use statistics to review the effectiveness of the system for combating ML/TF on a regular basis.

R32 (Deficiency 2) No statistical information is available concerning the ML/TF investigations and prosecutions.

179. In 2007 the National Council for Crime Prevention (NCCP) created new codes for the statistical crime database on money receiving and petty money receiving, in addition to existing code for TF. As a result it is now possible to obtain statistics regarding investigations and prosecutions concerning ML as well as TF. Overall, the crime codes make it possible to obtain statistics concerning reported offences, cleared-up offences cases (which include information on prosecutions), persons prosecuted and found guilty of ML/TF, and initiated or completed investigations. However, when it comes to this type of crimes there are a limited number of cases reported in Sweden, particularly concerning TF. Sweden has provided the relevant statistics (see annex 2).

R32 (Deficiency 3) No statistics available for the number or amount of property frozen or seized. Although there is a total amount indicated of the value of property confiscated, there is no indication of the underlying predicate offences. Data is generally limited.

180. In order to better manage and produce statistics on seized and confiscated property the police service has during 2007 – 2008 developed a database management system called Tvång. The system significantly improves the ability to provide statistics such as on value of property confiscated, number of decisions, including number of requests for assistance made to or received from foreign counterparts. Parallel to installation of the system the police received training, including on new legislation concerning confiscation of property. There is also a link between Tvång and the prosecutors system called Cäbra.

181. In the recently developed database management system Cäbra, which is used by both the Swedish Prosecution Authority and the Swedish Economic Crime Authority, it is now also possible to
identify money receiving and petty money receiving offences as well as the financing of terrorism. The Câbra system makes it possible to produce statistics regarding, among other things, the use of coercive measures and confiscated amounts related to cases of ML and TF.

182. Sweden provided the relevant statistics (see annex 2).

**R32 (Deficiency 4) Sweden should be able to breakdown ML/TF suspicions and offences. In addition, there should be separate statistics for FI and DNFBP.**

183. Since November 2009 the FIU has at its disposal improved tools for statistics on and analysis of ML and TF cases. Information from the FIU ML register is made available to an analysis database via a special software tool. The tool does not differentiate TF from ML on incoming STRs, since it is only in very rare cases that a reporting entity can specify whether an STR regards ML or TF. This analysis is made by the FIU, and STRs are divided by the FIU into ML and TF STRs.

184. A newly developed electronic web-reporting tool for STRs is now in operation. When the reporting entity sends an STR using the web form, a receipt is automatically sent back with a unique number for the report. This number can be used in contacts between the FIU and the reporting entity. The number also reveals the type and name of the entity that reports to the FIU. The reporting entity has the possibility to answer requests from the FIU through the web form by using another part of the tool. Furthermore, it is now possible to attach digital financial information. This makes ML and TF reporting from all reporting entities more effective. The web solution improves the possibilities to produce statistics as it makes it easier for the FIU to break down the STRs and to separate the entities in the statistics from financial institutions and designated non-financial businesses and professions (DNFBPs). The statistics can present a geographical overview on reporting as well as the type of transaction/suspicion that is reported. The statistical instrument can also show historical statistics for a specified period, even if the case has another status on the day of request. It has given the FIU the possibility to produce statistics by choosing a period and different reports of statistics from the system. The improved system for statistical information can produce better feedback to supervisory authorities and the individual reporting entities, including the number of reported STRs and how many of them those have resulted in intelligence reports from the FIU.

185. Moreover, the FIU has received funds for development of an additional tool for the large STR reporting entities in Sweden to more effectively report STRs directly from their data systems without using the web form.

186. To improve the screening of the STRs received, the FIU has developed a tool called FIPO control that makes it easy to send one query to many different databases. The FIU has also created different intelligence databases in iBase for the analytical work on ML and TF cases. These enhanced technical tools contribute to the ability to provide different statistical information.

**R32 (Deficiency 5) There were no statistics available on mutual legal assistance and extradition requests (including requests relating to freezing, seizing and confiscation) that are made or received, relating to ML, the predicate offences and TF, including the nature of the request, whether the request was granted or refused, and the time that was required to respond.**

187. In June 2009 a new routine on how to register actions in Câbra related to ML offences was initiated. It is now possible to produce statistics on mutual legal assistance and extradition requests, including requests relating to freezing, seizing and confiscation that are made or received, relating to ML, the predicate offences and TF.

188. All cases recorded in Câbra concerning ML, the predicate offences and TF receive a special code. Questions about whether the request was granted or refused, and the time that was required to respond can
be produced automatically from the register. Statistics concerning the nature of the request can be produced manually by a follow-up from the Swedish Prosecution Authority. This is possible due to the fact that there are only a few cases.

189. Sweden provided the relevant statistics (see annex 2).

R32 (Deficiency 6) Sweden does not maintain adequate statistics concerning the number of formal requests for assistance made to or received by the FIU from foreign counterparts; only the FIU has statistics on so called support cases. No statistics are maintained on spontaneous referrals made by the FIU to foreign authorities. There are no statistics available on law enforcement requests relating to AML/CFT.

190. The FIU has substantially improved statistical information concerning the number of national and international incoming and outgoing requests. All requests that pass through Egmont and other channels are filed in an FIU database. The FIU.NET has a separate statistical function for incoming and outgoing requests. The FIU is connected to the FIU.NET and the whole unit has received training in cooperation with the FIU.NET bureau in 2009. Sweden has received 272 number of formal requests for assistance made to or received by the FIU from foreign counterparts. Other than replies to those 272 cases, no spontaneous referrals have been made by the FIU to foreign authorities. Finally, the Swedish FIU has received 24 law enforcement requests relating to AML/CFT.

Recommendation 32, overall conclusion

191. The deficiencies relating to R32 are sufficiently addressed, and Sweden provided the relevant statistics. The compliance with R32 has, to the extent that this can be judged in a follow-up report, at a minimum been brought to a level equivalent to an LC.

Recommendation 33 (PC)

R.33 (Deficiency 1) The law does not require that information on beneficial ownership be collected or made available; the system does not provide adequate access to up-to-date information on beneficial ownership in a timely manner.

192. Sweden does not have legal requirements in place to keep information on ultimate ownership directly accessible. This deficiency is not addressed.

R.33 (Deficiency 2) The majority of foundations do not need to be registered, and therefore relevant information is not collected on those entities.

193. Sweden reports that new rules in the Swedish Foundations Act entered into force on 1 January 2010, according to which all foundations must be registered with the County Administrative Board. The purpose of the new rules is to facilitate public supervision of all foundations and to prevent the misuse of foundations for criminal activities. The information to be provided upon registration includes, among other things, the name, personal identity number, address and phone number of the representative or administrator of the foundation.

194. The new rules apply to all foundations, with the exception of certain family foundations, and the deadline for registration is 2015. The following information has to be registered: i) the foundation’s address and telephone number; ii) the board members’ names, personal identification numbers, home addresses, postal addresses and telephone numbers or the administrator’s name or company name, organization number, postal address and telephone number; and iii) the auditor’s name, personal identification number and postal address. A copy of the foundation’s deed has to be included with the
submission for registration. The register is centralised to the three largest County Administrative Boards. Before a foundation is registered, the Board examines if the foundation has been created according to law. Whenever a change in the register which concerns a representative is made, the Board sends a notification of the change to the address of the representative registered in the Swedish Population Register or Trade Register. If someone who is not registered in the Population register is submitted to registration as a representative, a copy of the representative’s passport or registration certificate has to be attached. The Board may demand further documents if it is needed in order to secure a representative’s identity (Chapter 10, paragraph 2 Foundations Act and Paragraphs 7, 7a and 10a Foundations Ordinance).

**Recommendation 33, overall conclusion**

195. Sweden is to be commended for upgrading the registration requirements for foundations. For beneficial ownership for legal entities in general; however, the expectation remains that the authorities amend the law to require that information on beneficial ownership be collected or made available; as the current system does not provide adequate access to up-to-date information on beneficial ownership in a timely manner. Compliance with R33 is not on a level equal to an LC.

**Special Recommendation VI (PC)**

**SRVI (Deficiency 1)** There is no requirement for MVT service operators to maintain a current list of their agents and to make this available to the designated competent authority.

196. See on R5, deficiency 2 and R23, deficiencies 4 and 5. All MVT agents must register individually with the FSA in order to be fully compliant with the legislation in this field. The new requirements have been communicated in writing to all MVTS businesses that operate through agents (AML Act and OCFOA). The register is kept by the FSA. MVTs must also inform the FSA of the use of any agents, and the FSA will make this information publicly available and share the information with foreign supervisors. A recent positive development is the implementation of Sweden of EU Directive 2007/64/EC on the payment systems in the internal market (PSD). The PSD is implemented in Sweden as of 1 August 2010 by the Act on Payment Services (2010:751) and the FSA Regulation on payment institutions and registered payment service providers (FFFS 2010:3).

**SRVI (Deficiency 2)** In general, Sweden should take immediate steps to properly implement Recommendations 5-7, SR VII, and other relevant FATF recommendations, and to apply them also to MVTS providers.

197. See above on R5, R6, R7 and below on SRVII. The AML Act, the FSA Regulation and the EU SRVII Regulation all apply.

**SRVI (Deficiency 3)** There are also specific problems in the MVTS sector relating to the effectiveness of supervision and sanctions. There is no authority to conduct on-site inspections, and the range of sanctions is too limited.

198. See on R23 above (deficiencies 4 and 5).

**Special Recommendation VI, overall conclusion**

199. With the measures Sweden has taken to address the shortcomings related to R5, R6, R7, R23 and SRVIII, the shortcomings related to SRVI have also sufficiently been addressed. Overall, the compliance has been brought to a level at a minimum of an LC.
Special Recommendation VII (NC): Sweden has not implemented SR VII.

200. The EU Regulation (EC) No 1781/2006 on information on the payer accompanying transfers of funds (EU SRVII Regulation) has been in force since 1 January 2007. The regulation implements SRVII on an EU-wide basis and is directly applicable in Sweden in accordance with the EU Treaty. The EU SRVII Regulation was assessed in other FATF mutual evaluation reports (e.g. Austria, Germany) and considered sufficiently compliant with SRVII.\(^{15}\)

201. Through additional legislation, complementing the EU Regulation, more exactly The Act on the application of the Regulation (EC) No 1781/2006 of the European Parliament and of the Council on information on the payer accompanying transfers of funds (the Swedish SRVII implementation Act), which entered into force on the 1 April 2008, the FSA has the authority to conduct on-site inspections at registered companies, including money remittance companies and NPOs that are in the business of money remittance.\(^{16}\)

202. With the measures Sweden has taken on the domestic and EU level, compliance with SRVII has been brought to a level at a minimum of an LC.

Special Recommendation VIII (PC)

SRVIII (Deficiency 1) Sweden has not yet finished a review of the laws and regulations that relate to non-profit organisations (NPOs) that may be abused for the financing of terrorism.

203. Sweden has undertaken a review of laws and regulations that relate to NPOs that may be abused for the financing of terrorism. This review focused on analysing whether the Swedish legislation concerning NPOs adequately protects them from being abused for the financing of terrorism. The review contains a description of the legal framework and the authorities and institutions with responsibilities with regard to NPOs and their activities. The authorities provided a copy of this 188 page review. In short, the following conclusions have been reached regarding weaknesses and possible measures to address these weaknesses.

204. Conclusion 1 of the review relates to outreach to the NPO sector concerning TF issues. More information needs to be disseminated to the NPO sector in order to raise awareness about the vulnerabilities of NPOs to terrorist abuse and TF, as well as on measures that can be undertaken by NPOs to protect themselves against such abuse. Best practices in this area also need to be developed in cooperation with the NPO sector. It is being considered which authority or organisation could be assigned with these two tasks.

205. Conclusion 2 of the review relates to supervision and monitoring of the NPO sector. FATF recommended that Sweden should broaden the system to require information on beneficial ownership/control to be supplied to the Company Registration Office and/or recorded by the legal entity itself to ensure that it is made readily available on a more timely basis, and to require the information to be kept up to date. The review demonstrates that for small NPOs, such information is not always supplied to national authorities and kept up to date. However, for NPOs which account for a significant portion of the financial resources under control of the sector and a substantial share of the sector’s international activities the information is considerable.

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\(^{15}\) Sweden provided an overview of cross references between the FATF Methodology criteria for SRVII and the EU SRVII Regulation: criterion SRVII.1 – Article 4 and 5; criterion SRVII.2 – Article 7; criterion SRVII.3 – Article 6; criterion SRVII.4 – Articles 11 – 13; criterion SRVII.5 – Article 8 – 10; criterion SRVII.6 – Article 15; and criterion SRVII.7 – Article 15.

\(^{16}\) The Swedish SRVII implementation Act covers criterion SRVII.5 through its Section 3; and criterion SRVII.6 through Section 4.
206. In relation to non-governmental/ non-profit associations, which account for a significant portion of the financial resources under control of the sector and a substantial share of the sector’s international activities, these are under several requirements to supply detailed information on ownership, control (board, leading staff etc.), accounts, use of grants etc. These larger NPOs regularly supply information to the National Tax Board (Skatteverket), the Legal, Financial and Administrative Services Agency (Kammarkollegiet) and to several different national authorities that distribute grants (e.g. the Swedish International Development Cooperation Agency, SIDA). In addition, NPOs which undertake commercial activities are under an obligation to register with the Company Registration Office (Bolagsverket). In sum, this information covers the sector very well and is also fully available to the public through the different national authorities that receive the documents and information.

207. In relation to foundations, FATF recommended that Sweden should consider broadening the registration and/or recordkeeping requirements for foundations. As a consequence of new legislation which came into force as of 1 January 2010, registration is now required for all foundations with the exception of family foundations and foundations for the benefit of specific persons. Information on activities, purpose, persons in leading positions etc. for the vast majority of foundations are being registered, and the supervision of foundations can thus become more effective. Further, it has been suggested by FATF that the Swedish system for registering foundations would be improved if the information collected were centralised. In this regard, it can be mentioned that as a consequence of the legislative reform described above, the supervision of foundations has been concentrated to a few County Administrative Boards (Länsstyrelser).

208. Conclusion 3 of the review relates to effective information gathering and sharing. The review undertaken within the Swedish Government Offices has demonstrated that there is limited co-operation, co-ordination and information sharing among the appropriate authorities and organisations before the stage of preliminary investigation of a suspected crime. It can be considered whether this weakness could be remedied through the establishment of a network, working group or similar body involving the relevant authorities and organisations.

SRVIII (Deficiency 2) Sweden has not implemented measures to ensure that terrorist organisations cannot pose as legitimate NPOs, or comprehensive measures (outside of the voluntary membership in SFI) to ensure that funds/assets collected by or transferred through NPOs are not diverted to support the activities of terrorists or terrorist organisations.

209. Sweden reports having undertaken outreach (a newsletter) to the NPO sector with information on ML/TF risks for NPOs. The newsletter is published on the Government website since 10 September 2010.

210. As for measures to ensure that terrorist organisations cannot pose as legitimate NPOs, and that funds/assets collected by or transferred through NPOs are not diverted to support the activities of terrorists or terrorist organisations, Sweden is opting for a risk based approach. The above mentioned review of laws and regulations that relate to NPOs concludes that for those NPOs that account for a significant portion of the financial resources under control of the sector and a substantial share of the sector’s international activities (as referred to in the interpretive note) the control information. This applies to non-governmental non-profit associations, and to foundations.

211. For the non-governmental non-profit associations, these are under several requirements to supply detailed information on ownership, control (board, leading staff etc.), accounts, use of grants etc. These larger NPOs regularly supply information to the National Tax Board (Skatteverket), the Legal, Financial and Administrative Services Agency (Kammarkollegiet) and to several different national authorities that distribute grants (e.g. the Swedish International Development Cooperation Agency, SIDA). In addition,
NPOs which undertake commercial activities are under an obligation to register with the Company Registration Office (Bolagsverket). All this information is indirectly publicly available.

212. For foundations, see the description an analysis on R33 above.

213. As regards to smaller NPOs, Sweden indicates that it would in practice be difficult to raise larger sums of money for an NPO not belonging to the Swedish Fundraising Council, even though membership is voluntary. In addition, the authorities emphasise that the Fundraising Council also has some possibilities to sanction NPOs not complying with the Council’s AML/CFT requirements.

SRVIII (Deficiency 3) The system is further weakened by the fact that Recommendation 5 has not been implemented with regards to beneficial ownership.

214. See on R5 above.

Special Recommendation VIII, overall conclusion

215. Sweden has undertaken a comprehensive review of the NPO sector, and implemented its recommendations. This also addressed the other shortcomings. Overall, Sweden has improved compliance with SRVIII to a level at a minimum of an LC.

Special Recommendation IX (NC): Currently, there is no obligation to declare or disclose cash or bearer negotiable instruments while entering or leaving Swedish territory.

216. The EU Regulation (EC) No 1889/2005 on controls of cash entering or leaving the community (the EC Regulation) entered into force on 15 July 2007. According to the regulation, there is an obligation to declare cash (including bearer negotiable instruments) for any natural person entering or leaving the European Community and carrying cash of a value of EUR 10 000 or more. This regulation is directly applicable in Sweden.

217. The EU Regulation is implemented in Chapter 7a in the Customs Law (2000:1281). The rules regarding cash control are listed in the same chapter and the sanctions are listed in chapter 10. Section 1 of Chapter 10 states that a person who violates the reporting duty in article 3 of the EU Regulation (EC) No 1889/2005, compared to Chapter 7a, Section 2, shall be adjudged a fine for custom failure.

218. During 2007 Swedish Customs received 196 declarations and 1 control was carried out compared to 633 declarations and 4 controls during 2008. Information from declarations and controls is retained by Customs and copied to the FIU on an ongoing basis (in case of a ML/TF suspicion) or quarterly. During 2009 Swedish Customs received 93 declarations made at entering the country and 235 on departing from the country. Further nine controls were carried out. Regarding declarations, a majority pertain to travel between Sweden and Norway and concerns commercial trade.

219. The total number of physical controls on individuals and controls on means of transportations such as cars, buses and railway during 2009 were 56 600. If non declared cash, amounting to more than EUR 10 000, is found during such controls the person will be adjudged a fine.

220. A false declaration of currency or bearer negotiable instruments or a failure to declare is a breach of the requirements set out in Chapter 7a Section 1 of the Customs Act and Article 3 of the EC Regulation and punishable according to the Customs Act Chapter 10 Section 1. Travellers can be detained for further inquiry and hearing. At this hearing customs officials may ask questions about the ownership of the money and the travel route. Further questions can be asked regarding the origin and the recipient of the currency or bearer negotiable instruments, the reason for a false (non-)declaration etcetera.
221. The inquiry may lead to a suspicion of another crime such as ML or TF. If so, customs officials contact the police or prosecutor. In cases of suspected TF or ML, the prosecutor may decide to seize the currency or bearer negotiable instruments, and, if there is a clear risk that the person evades prosecution, will not disclose evidence or continues with criminal activity, directly arrest the person (Chapter 27 Section 1 & Chapter 24 Section 1 of the Code of Judicial Procedure). These powers may be delegated by the prosecutor to customs officials while waiting for the arrival of police. These powers also apply in case of a false declaration (Chapter 7a, Section 1 in the Customs Act).

222. Information exchange is undertaken on the domestic and international level. Domestically, Customs co-ordinates with the FIU, EBM, police and prosecution authority. In the EU, member states exchange information on cash controls using different channels. This includes the OLAF Anti-Fraud Information System (AFIS), established by Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of member states. Member states also exchange risk information through the electronic Risk Information System (RIF) established under the Community Customs Risk Management System under Council Regulation (EEC) No 2913/92 of 12 October 1992. Further there are several channels for direct contacts via the central contact points for cash control, between operational customs offices, via intelligence departments, law enforcement contact points or the fiscal crime liaison officer network, and the use of specific Europol IT applications. In the context of the EU Council Customs Cooperation Working Party, member states regularly organise joint targeting actions. A joint customs operation concerning cash controls (cash couriers) called "Athena" was organised during the French EU presidency in 2008.

223. Non-declaration and false declaration are sanctioned in the Customs Act. Anyone who intentionally or negligently violates the declaration requirement can be convicted of customs violation and fined. The fines range from SEK 1,500 to SEK 150,000 depending on the circumstances regarding the crime and the income of the convicted person. This in addition to regular sanctions for smuggling, fraud, ML et cetera.

224. The above provides a summary of the efforts undertaken by Sweden to implement SRIX. Sweden has improved compliance with SRIX to a level at a minimum of an LC.