



FINANCIAL ACTION TASK FORCE ON
MONEY LAUNDERING IN SOUTH
AMERICA



FINANCIAL ACTION TASK FORCE

Mutual Evaluation Report Executive Summary

Anti-Money Laundering and Combating the
Financing of Terrorism

Argentina

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Argentina is a member of the Financial Action Task Force (FATF) and the Financial Task Force on Money Laundering in South America (GAFISUD). The joint GAFISUD-FATF evaluation of Argentina was adopted by the FATF Plenary on 22 October 2010.

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MUTUAL EVALUATION REPORT OF ARGENTINA

EXECUTIVE SUMMARY

1. This report summarises the anti-money laundering (AML)/combating the financing of terrorism (CFT) measures in place in Argentina as of the time of the on-site visit (16—27 November 2009), and shortly thereafter. The report describes and analyses those measures and provides recommendations on how certain aspects of the system could be strengthened. It also sets out Argentina's levels of compliance with the Financial Action Task Force (FATF) 40+9 Recommendations (see the attached table on the Ratings of Compliance with the FATF Recommendations).

1. Key Findings

2. This is the FATF's third mutual evaluation of Argentina (and second joint FATF/GAFISUD evaluation of Argentina). Since the last evaluation, finalised in June 2004, Argentina has not made adequate progress in addressing a number of deficiencies identified at that time, and the legal and preventive AML/CFT measures that are in place lack effectiveness. This is complicated by a lack of adequate coordination, overlapping jurisdictions of a number of domestic agencies, and varied and inconsistent requirements vertically through the levels of applicable regulatory texts for each financial sector and horizontally across the various financial sectors.

3. Argentinean authorities identify tax evasion as generating the largest amount of criminal proceeds. Drug trafficking also generates significant proceeds. It is believed that the major part of money laundering operations taking place in Argentina is carried out through financial transactions involving specific offshore centres. The most common money laundering operations in the non-financial sector involve transactions made through attorneys, accountants, and corporate structures. The widespread use of cash may also leave Argentina vulnerable to money laundering. There is also a risk of terrorist financing; Argentina was subject to two terrorist attacks in the early 1990's. Despite these ML/FT risks, there were only four ongoing prosecutions and no convictions for ML.

4. The basis of Argentina's AML/CFT system is Law 25 246 which amended the Criminal Code in the year 2000 to criminalise money laundering. There are a number of technical deficiencies, however, that have persisted since the last FATF mutual evaluation of Argentina in 2004. The ML offence is not being effectively implemented—there has still been no conviction under the provisions of this law, and proceeds of crime are not pursued. The Financial Information Unit (FIU) is also still legally limited to processing cases involving a limited number of predicate offences, and in relation to only certain money laundering activities.

5. Amendments to the Criminal Code in 2007 criminalise the financing of certain terrorist organisations; however, these provisions are not fully in line with Special Recommendation II, and there has not yet been a formal investigation or prosecution. Measures to freeze terrorist-related funds rely mainly on ordinary criminal procedures, which are not effective in freezing without delay such funds, and should therefore be enhanced.

6. The legal financial preventive measures in Argentina are basic and limited to general provisions relating to customer identification, record keeping and unusual transaction reporting requirements. They are complemented by measures issued by the three financial supervisors and the FIU. The measures for these sectors vary; the BCRA measures, which apply to banks and foreign exchange institutions, are more detailed and cover more aspects of the FATF Recommendations. Nevertheless, there are still a number of important deficiencies that apply to all sectors, such as the lack of adequate requirements for beneficial ownership, PEPs, correspondent banking, and reliance on third parties. Secrecy provisions also inhibit the effective compliance with FATF standards.

7. The financial supervisory regime in Argentina poses concerns, in particular in relation to the securities and insurance sectors. Neither the supervisors nor the FIU have specific power to supervise the compliance of financial institutions with their reporting obligations. The legal powers of these supervisors have not recently been updated and are limited for the CNV and SSN to prudential controls; their supervisory and sanction powers are unclear, or missing in the case of securities brokers, and/or not effective. Moreover, securities and insurance supervisors lack resources to effectively conduct their tasks.

8. Argentina's reporting regime, based on unusual transaction reporting, presents concerns both in terms of the legal provisions and lack of effectiveness: the reporting obligations only cover a small range of predicate offences, the TF-related transaction reporting obligation is only implicit, and the low quality of STRs does not allow the FIU to conduct adequate analyses to generate successful prosecutions.

9. Casinos, public notaries, and accountants are reporting parties under AML Law 25 246, and therefore required to conduct the limited CDD measures contained in the law. However, the lack of supervision and sanction for failure to comply with these obligations renders these measures ineffective.

10. Argentina has adequate authority to provide most types of mutual legal assistance; however, dual criminality provisions may inhibit assistance related to certain types of ML and FT activities, and the mechanisms to process such requests imply delays. The financial sector supervisors also face limitations in their ability to cooperate internationally with regard to AML/CFT.

11. Key recommendations made to Argentina include: address the technical shortcomings in the ML and FT offences and more proactively target ML and proceeds of crime investigations; enhance the framework for freezing FT-related assets; enhance the FIU's authority to process cases regarding all predicate offences and all money laundering activities; update financial sector laws to specifically provide for AML/CFT supervision and sanction and enhance the ability to cooperate internationally; more effectively supervise financial institutions; harmonise and update CDD requirements for financial institutions; extend AML/CFT requirements to financial institutions and DNFBPs that are not covered and create an effective monitoring framework for the latter; provide adequate resources for the all relevant AML/CFT agencies, and provide more authority to Argentina's National Coordination Representation office to more effectively coordinate AML/CFT policies.

2. Legal systems and Related Institutional Measures

12. Anti Money Laundering (AML) system of Argentina was established in the year 2000 by Law 25 246 that modified the Criminal Code (CC) to add sections 277 and 278 to cover various money laundering offences and most elements of the *1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (the Vienna Convention) and the *2000 UN Convention against Transnational Organised Crime* (the Palermo Convention). Section 277 criminalises acts of acquiring, concealing and disguising proceeds of crime. However, the scope of these provisions is limited by exemptions of criminal liability for apply to family and friends of the perpetrator of the predicate offence when committing these acts. Section 278 criminalises conversion, transfer, and use of proceeds of crime. Possession of criminal proceeds is not specifically covered. The definition of “property” is broad, money laundering applies to predicate offences committed abroad, and all “designated categories of offences” as required by FATF are covered except for insider trading and market manipulation. These provisions do not yet cover money laundering acts committed by the perpetrator of the predicate offence (*i.e.* “self-laundering), nor is conspiracy to commit these acts adequately covered. Criminal liability for ML does not extend to legal persons.

13. The money laundering offences are not effectively implemented. Jurisdictional issues hamper effective prosecutions, as prosecution by either the federal or provincial authorities is determined by the type of predicate offence and subject to change if the predicate offence is determined to be different during the course of the investigation. Prosecution of acquiring, concealing, and disguising criminal proceeds is further inhibited by lower available criminal penalties (6 months to three years imprisonment), and the lack of specific authority for the FIU to develop and disseminate cases concerning these offences to the prosecution authorities. There are a low number of prosecutions (four—all at the federal level) and so far no conviction for money laundering.

14. Law 26 268 of July 2007 created a section 213 *quarter* of the Criminal Code which criminalises collecting or providing property or money, in the knowledge that they are to be used, in full or in a part, to finance a terrorist criminal organisation as described under the new section 213 *ter*. The definitions of “property or money” adequately cover all types of funds as required by the Terrorist Financing Convention. The law does not require that funds are actually used to carry out a terrorist act or that they be linked to a specific terrorist act. Ancillary offences except for conspiracy are adequately covered, and terrorist financing is a predicate offence for money laundering. Sanctions for FT are adequately proportionate, with imprisonment of 5 to 15 years. However, there are a number of limitations: a terrorist organisation is narrowly defined and must have an action plan aimed at spreading ethnic, religious or political hatred, be organised in international operative networks, and have the availability of war weapons; the provisions do not cover collection or provision of funds to be used (for any purpose) by an individual terrorist or a terrorist act (outside of the context of the terrorist organisation as defined); or collection or provisions of funds for terrorist organisations that exist solely within Argentina. The effectiveness of the terrorist financing offences in Argentina has not yet demonstrated; there have been no investigations or prosecutions. As with money laundering, there is no criminal liability for legal persons.

15. In general, criminal judges have enough powers to take provisional measures to freeze and definitive measures to confiscate assets arising from money laundering and predicate offences. The ability to freeze/confiscate property relating to FT is limited due to the limitations of the FT. The Argentinean authorities are not effectively implementing the confiscation regime, as the provisions are rarely used and there were no statistics for freezing or confiscation available. The laws should be amended to allow for

seizing and confiscation for property of corresponding value as well as the indirect proceeds of crime, including income, profits or other benefits from the proceeds of crime. Also, authorities should be provided increased resources to identify and trace assets.

16. Argentina relies mainly on reporting measures and ordinary criminal and mutual legal assistance procedures to implement S/RES/1267(1999) and S/RES/1373(2001). This system does not allow for effective freezing action to be taken without delay, and are inconsistent with the obligation to freeze property of persons designated by the UN Security Council, regardless of the outcome of domestic proceedings. There is no specific mechanism to examine and give effect to actions initiated under the freezing mechanisms of other jurisdictions pursuant to S/RES/1373(2001) and there are no measures for monitoring or sanctioning for non-compliance with the obligations of SR.III.

17. The Argentinean FIU was established in 2000 with the AML Law 25 246, which was amended by Law 26 268 of 5 July 2007. The FIU is charged with analysing, handling and disclosing information with the purpose of preventing and deterring terrorist financing (as defined in Argentina) as well as certain predicate offences relating to Section 278 of the Criminal Code (conversion or transfer of criminal proceeds). The FIU is not specifically authorised to deal with suspected acquisition, concealing or disguising offences (Section 277 of the Criminal Code), or 14 of the 20 designated categories of offences. The Argentinean FIU has been member of the Egmont Group since year 2003. It is operationally independent within the Ministry of Justice and Human Rights and can obtain a large amount of additional information from reporting parties relating to an STR. However, as of the time of the on-site visit, the FIU was not operating effectively. There was insufficient analysis of STRs received, there are still limitations on the access to additional information required to conduct analysis, and the quality of the cases forwarded to the prosecution office has not been sufficient to allow for effective prosecution of money laundering. It should be noted that a large turnover of staff occurred in mid-January 2010; however, the effectiveness of the resulting changes could not yet be assessed.

18. Although all the crimes in Argentina's Criminal Code apply throughout the country, the jurisdiction (*i.e.* Federal or Provincial) for investigating and prosecuting crimes will depend on the specific offence. All terrorism and terrorist financing offences, as well as all offences committed involving the City of Buenos Aires fall under Federal jurisdiction. The jurisdiction of predicate offences for money laundering depends on the seriousness of the offence—serious crimes fall under Federal jurisdiction whereas common crimes would be pursued by the Provincial authorities. The main prosecution entity for money laundering crimes at the federal level is the Fiscal Unit for the Investigation of the crimes of Money Laundering (*Unidad Fiscal de Lucha contra el Lavado de Dinero—UFILAVDIN*) within the Attorney General's Office. UFILAVDIN receives case files from the FIU on possible money laundering (although specifically this is limited to conversion, transfer, and use of criminal proceeds) and conducts a preliminary investigation to determine, as according to the procedure described above, if a public criminal action should be filed with a judge and criminal proceedings commenced. As this is the key body within the Attorney General's office focusing in ML, human resources for this unit should be increased. The various police forces do not independently investigate money laundering or terrorist financing, as preliminary investigations must be led and coordinated by the Attorney General's office, and criminal proceedings are led and coordinated by the Attorney General's office and the investigating judge.

19. There are no specific legislative or other measures in place that permit the competent authorities to postpone or waive the arrest of suspected persons, nor the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering, in the money laundering

investigations. To carry out the investigation and prosecution, the Federal and 23 Provincial authorities each use their own Code of Criminal Procedure, which contain the relevant powers to compel production of, search persons and premises for, and seize and obtain transaction records, identification data obtained through the CDD process, account files and business correspondence, and other records, documents or information, held or maintained by financial institutions and other businesses or persons. While these authorities are comprehensive overall, they are not effectively used, and there is a concern that competent authorities cannot obtain information from lawyers, even when they are not acting in defence of a client.

20. The low number of money laundering investigations, prosecutions, and lack of a conviction in Argentina is a serious concern. Overall, there is very limited data on investigations involving money laundering conducted by the various law enforcement authorities. At the time of the on-site visit, UFILAVDIN was conducting 79 investigations and 2 prosecutions based on referrals from the FIU (both were in the oral phase) and 2 other prosecutions for ML which did not originate from FIU referrals. No criminal proceedings had yet been initiated in any of the 23 jurisdictions outside of the Federal jurisdiction. Nor had UFILAVDIN or any Provincial authority initiated any preliminary investigation for the specific terrorist financing provisions. Argentinean authorities should more proactively pursue ML offences and the proceeds of crime in addition to predicate offences. Police do not have independent powers to begin investigations without a special court order, and judges cannot initiate independent investigations without initiating criminal proceedings.

21. The Federal Administration of Public Revenue (*Administración Federal de Ingresos Públicos*—AFIP) also deals with customs controls and has issued several instruments creating a declaration system for incoming and outgoing cash and negotiable instruments. These instruments were updated and enhanced with General Resolutions AFIP No. 2704/2009 and 2705/2009, addressing incoming and outgoing currency and negotiable instruments, respectively. However, there are a number of technical deficiencies. For outgoing currency/BNI, the requirements do not include foreign negotiable instruments (other than travellers' checks), or Argentinean negotiable instruments, bearer or otherwise. There is no authority to seize or restrain currency/BNI when there is a suspicion of ML/FT, that the amount of currency/negotiable instruments or the identification of the bearer be recorded when there is a suspicion of ML/FT, or ability to apply sanctions if a person makes a truthful declaration but the authorities suspect that the currency could be related to terrorist financing or money laundering. Finally, with regard to mail and containerised cargo, there are no provisions relating to incoming cash or BNI and no provisions relating to the export of Argentinean currency and BNI.

3. Preventative measures – Financial institutions

22. The AML Law 25 246, which contains certain preventive measures, applies to a broad range of financial institutions (FIs), except to: *mutuales* (mutual associations) and *cooperativas* (cooperatives) that perform banking activities and represent an important part of the financial sector in Argentina; and the stock exchange market and stock exchange without market; Though covered by AML Law, companies issuing traveler's cheques and credit, and purchase card operators are not subject to other complementary AML/CFT requirements nor supervised. Postal services carrying out foreign currency transfers are also not supervised and, in addition, the coverage of money remitters is unclear. Preventive measures in this law are basic and limited to general provisions relating to customers' identification, record keeping and unusual transaction reporting requirements. These provisions are complemented by a series of secondary texts for each sector. The Communications issued by the BCRA for the banking and foreign exchange sectors are other enforceable means. On the other hand, the FIU's Resolutions, which regulate reporting entities

including those regulated by the three financial supervisors, the CNV Communications for the securities sector, and the SSN Communications for the insurance sector do not meet the FATF criteria of “other enforceable means”. Moreover, many of the FATF basic obligations which should be set out by law or regulation are contained in these other lower-level texts.

23. Banking institutions regulated by the BCRA (*i.e.* banking and foreign exchange institutions) are not allowed to keep anonymous accounts. The AML Law provides that financial institutions shall obtain from both regular and occasional customers documents evidencing their identity when carrying out any type of activity. The requirements applicable to financial institutions in relation to beneficial ownership are not sufficient: the law addresses the case where a customer is acting on someone else’s behalf, but does not require identifying and verifying the natural persons who owns or controls a customer that is a legal person or arrangement. Other CDD measures are contained in lower-level texts that, except for the banking and foreign exchange sectors, do not meet the status of other enforceable means. The BCRA measures for banks and foreign exchange institutions require for additional measures to identify the ultimate client/holder of trusts and vehicle companies where they may be used to ML; however, the extent of this requirement is inadequate. In addition, it requires obtaining the purpose and intended nature of the business relationships, and to conduct ongoing monitoring of the relationships, and to conduct enhanced CDD measures for some types of higher ML/TF risk. The lack of clarity of the AML/CFT requirements, the multiplication of texts applicable, the overlapping of regulating agencies, and the lack of effective enforcement undermine the effectiveness of the regime, in particular outside of the banking sector.

24. Banking and foreign exchange institutions must apply certain enhanced CDD measures with regard to foreign PEPs, while FIU resolutions issued for the range of reporting parties focuses on domestic PEPs.

25. Argentina has not yet regulated cross-border correspondent banking relationships, nor does it require financial institutions to take any measures to prevent the misuse of technological developments in ML/TF schemes. In addition, there are contradictory provisions concerning the possibility to establish non-face-to-face business relationships. Despite being recognised as a higher risk by the FIU, there is no guidance on which enhanced CDD measures are to be undertaken. Finally, while in practice financial institutions do rely on third parties to perform some CDD measures, there is no requirement regulating the conditions of such reliance.

26. Financial institutions secrecy limits the FIU investigative powers, in particular in the securities sector. Tax secrecy laws are also overly broad.

27. Record keeping requirements in the AML law focus on identification data, while secondary texts as well as provisions in the Commercial Code complement this system. Overall financial institutions, in particular banking and foreign exchange institutions, effectively keep records of transactions.

28. Obligations with regard to Special Recommendation VII are limited to banking and foreign exchange houses. However, these requirements are not comprehensive, and in particular do not cover occasional domestic wire transfers for banks. Money remittance companies and postal services rendering transfer of funds, while representing a large part of the sector, are not specifically regulated.

29. Financial institutions are required to pay special attention and examine unusual transactions, which have no economic or legal justification or are unusually or unjustifiably complex; however, there are

no specific sanctions for non-compliance. In addition, financial institutions are not required to maintain in writing the results of their analysis and make them available to competent authorities. There are no measures in Argentina in relation to countries which do not or insufficiently apply the FATF Recommendations.

30. The suspicious transaction reporting requirements are limited. The obligation to report unusual (attempted) transactions covers only six categories of predicate offences. Moreover, the reporting regime focuses on unusual transactions, rather than the proceeds of criminal activity, which do not meet the FATF concept of suspicious transactions. There is no explicit requirement in law or regulation to report TF-related transactions, while there are inconsistencies between the secondary texts issued by the BCRA and FIU in this regard. Apart from important technical deficiencies, the Argentinean reporting system lacks effectiveness: the reporting obligations are unclear, and the FIU has never received any TF-related STR. The total number of STRs remains low, in particular for a system based on unusual transactions. There are also concerns regarding the quality and usefulness of STRs; the FIU does not provide financial institutions with adequate and appropriate feedback and information on ML/TF methods and trends. There is a lack of supervision on the compliance of financial institutions with their reporting obligations, while financial supervisors report a substantive number of unusual transactions instead of financial institutions. Finally, provisions related to safe harbor and tipping-off prohibition are not sufficient.

31. Institutions from the banking and foreign exchange sectors are required to establish and maintain internal procedures, policies and controls, as well as compliance functions to prevent ML and TF. Similar provisions for securities and insurance sectors are not set out by other enforceable means. Financial institutions are not required to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirement and the FATF Recommendations.

32. There is not yet a sufficient prohibition on operating a shell bank in Argentina, and the licensing process and conditions should be clarified. Despite these deficiencies, the assessment team was not aware of any shell bank operating in Argentina. Financial institutions are not prohibited from entering into or continuing correspondent relationships with shell banks, or required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.

33. There are three supervisory authorities in the financial sector: the Central Bank of Argentina (BCRA) for banks and foreign exchange institutions, the National Securities Commission (CNV) for the securities sector, and the Superintendence of Insurance (SSN) for the insurance sector. However, the BCRA is the only financial supervisor with specific AML/CFT competence. The powers of the two other supervisors are legally limited strictly to prudential supervision, although they have issued AML/CFT rules and have engaged in some level of supervision. Financial institutions such as credit and purchase card operators, issuers of traveler's checks, and money remitters are not regulated or supervised, *mutuales* and *cooperatives* are not subject to AML Law 25 246, and life insurance intermediaries are not supervised in practice.

34. The three financial supervisors are also the licensing authorities in relation to financial institutions they supervise. However, fit and proper tests conducted by these supervisors contain deficiencies, in particular in relation to the securities and insurance sectors.

35. Overall, the supervisory powers of the financial supervisors are not explicitly detailed by the financial sectoral laws. The BCRA appears to be the most efficient supervisor, although the number of

inspections it conducts is low, which is also due to the fact that there is no clear information on the importance of the AML/CFT components. Moreover, although the BCRA has a broad range of sanctions at its disposal, the maximum amount of fine is kept confidential and appears to be low. The CNV lacks clear AML/CFT supervisory powers. In addition, it does not have sanction power over agents and brokers, which constitutes the largest part of the securities sector. No sanction has yet been applied. The SSN also lacks clear supervisory powers; the range of sanctions at its disposal is not dissuasive and its sanction regime is not effective. None of these supervisors has powers to supervise and sanction compliance of financial institution with AML/CFT reporting obligations.

4. Preventative measures – Designated Non-Financial Businesses and Professions

36. Casinos, public notaries, and accountants are subject to AML Law 25 246. However, this law only contains general requirements in relation to customer identification, record keeping and unusual transaction reporting. While these are completed by FIU's Resolutions, these are not considered enforceable means due to the lack of supervisory/monitoring and sanction power for non-compliance.

37. There is no regulatory and supervisory regime in Argentina to ensure that casinos are effectively implementing their AML/CFT obligations. Other categories of DNFBPs are not subject to any systems for monitoring and ensuring their compliance with AML/CFT requirements.

38. It should also be noted that Argentina has not taken any measures to encourage the development and use of modern and secure techniques for conducting financial transactions. On the contrary, Argentina's economy relies heavily on cash.

5. Legal Persons and Arrangements & Non-Profit Organisations

39. Legal persons in Argentina are defined by its National Civil Code. Although the national law with requirements for all commercial companies applies throughout the country, registering and oversight of legal persons is set out by each of the 24 jurisdictions. Competent authorities do not have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control of legal persons. There is not yet a functioning national registry of legal persons; the provincial registries do not contain updated beneficial ownership/control information, and the provincial controlling authorities have limited ability to obtain it; nominee shareholders are allowed by Argentina companies law, although jurisprudence indicates otherwise, and it is unclear whether the competent authorities have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control information with regard to previously issued bearer shares. Trusts can be registered in Argentina, and competent authorities do not have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control of these legal arrangements.

40. Argentina has not reviewed the adequacy of its laws and regulations that relate to NPOs or undertaken an assessment of the terrorist financing risk in this sector. There has been no outreach to the NPO sector with a view to protecting the sector from terrorist financing abuse. Argentinean authorities do not have the capacity to obtain timely information on the activities, size and other relevant features of its non-profit sector for the purpose of identifying the features and types of non-profit organisations (NPOs). Finally, the extent of oversight and sanction powers for entities outside of the City of Buenos Aires is unclear.

6. National and International Co-operation

41. There are a number of formal and informal mechanisms for inter-agency cooperation at the operational level. The main mechanism for national policy coordination is through the National Coordination Representation for the Financial Action Task Force (FATF-GAFI), Financial Action Task Force of South America (GAFISUD) and the Organization of American States Inter-American Drug Abuse Control Commission (CICAD-OAS). However, the current mechanisms are aimed mainly at the federal level, and domestic cooperation and coordination, at the policy and operational level, are not working effectively. The Argentinean authorities should review the effectiveness of AML/CFT measures in Argentina, and the National Coordination Representation should be provided more authority and resources in order to coordinate more effectively with the Federal and provincial authorities.

42. Argentina has signed and ratified the *Vienna Convention*, the *Palermo Convention*, and the *United Nations International Convention for the Suppression of the Financing of Terrorism* (the Terrorist Financing Convention). However, certain relevant provisions are not yet being fully implemented (*e.g.*, the limitations on the ML and FT offences).

43. The main basis for mutual legal assistance Where there is no treaty, Argentina uses its Law on International Cooperation in Criminal Matter, Law 24 767 of 1997, which provides a wide range of measures in matter of production, search and seizure of evidence, as well as the ability to identify, freeze, seize, and confiscate assets. There are no undue restrictions, and requests for assistance are not refused if they may also involve tax matters. Nevertheless, the effectiveness of the system for responding to MLA requests in a timely and constructive manner has not been demonstrated; the many steps and authorities in the assistance procedures, especially when there is no treaty, implies delays in the ability to respond to requests without undue delays, and there are only limited statistics available. While as a rule dual criminality does not limit the kinds of assistance that could be provided, deficiencies in the domestic ML and FT offence create similar limitations when providing assistance.

44. Money laundering and terrorist financing are extraditable offences in Argentina, and Argentina uses the same instruments (bi-lateral agreements and Law 24 767) to process extradition requests. Argentinean nationals can be extradited in some cases, especially when the relevant extradition treaty includes this. The effectiveness of Argentina's extradition system has not been demonstrated; Argentina should consider reducing the steps (linked with the administrative, judicial and political or executive procedures) and authorities involved in executing extradition requests, to improve timeliness and effectiveness.

45. The FIU can provide the foreign counterpart with any information already in its power, and seek additional information from reporting parties when there is a domestic STR. As of November 2009, the FIU had entered into MOUs with 23 counterparts, with a number of others in process. However, secrecy provisions still inhibit access to certain information, the law does not provide for spontaneous sharing of information, and there is a legal limitation on its ability to disseminate information. For the cases received and responded to, it seems that the FIU is able to provide assistance in a rapid manner; however, given the lack of other data it was not possible to conclude whether the assistance provided has been constructive and effective. The gateways, mechanisms and channels for law enforcement authorities to cooperate with their foreign counterparts seem to allow the various law customs authority to provide assistance in a rapid, constructive and effective manner. However, in practical terms, no statistics on the exchange of information were provided, and it is therefore not possible to evaluate the effectiveness of this activity.

46. There are no clear and effective gateways, mechanisms of channels in Argentina to ensure that the three financial supervisors provide the widest range of international cooperation with their foreign counterparts. On the contrary, the confidentiality legal provisions have not been lifted to allow the supervisors to exchange information with foreign counterparts, and in practice, they have been unable to demonstrate effectiveness in international cooperation.

7. Resources and Statistics

47. In general, human and financial resources for the various law enforcement and prosecution and other operational bodies are not sufficient and should be increased. AML/CFT training should be increased for all agencies. At the time of the on-site visit, the FIU had insufficient staff, and in particular for the analysis of STRs. UFILAVDIN should also be provided additional personnel resources and through permanent contracts. With regard to the Federal Police, staff numbers, both overall as well as for its personal assets investigations unit are not sufficient.

48. Although, there is no information available regarding the funding of the three financial supervisors, in particular in respect with their AML/CFT activities, CNV and SSN stressed their needs for additional staff to perform their AML/CFT tasks, in particular for trained staff.

49. Argentinean authorities maintain some statistics, particularly with regard to STRs received, analysed, and disseminated, as well as cash seizures and inbound declarations of cash and negotiable instruments, and on-site inspections carried out, but there are a number of other areas where Argentina does not maintain comprehensive statistics. These include: money laundering investigations and prosecutions, the number of cases and the amounts of property frozen, seized, and confiscated relating to ML, FT, and criminal proceeds; declarations of outgoing Argentinean currency; statistics relating to 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 FT, including the nature of the request, whether it was granted or refused, and the time required to respond; AML/CFT on-site examinations conducted by the SSN; there are no statistics available on the formal requests for assistance made or received by supervisors, or whether the requests were granted or refused.

Table: Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the *FATF Recommendations* has been made according to the four levels of compliance mentioned in the 2004 Methodology¹ (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or, in exceptional cases, Not Applicable (N/A).

Compliant	The Recommendation is fully observed with respect to all essential criteria.
Largely Compliant	There are only minor shortcomings, with a large majority of the essential criteria being fully met.
Partially Compliant	The country has taken some substantive action and complies with some of the essential criteria.
Non Compliant	There are major shortcomings, with a large majority of the essential criteria not being met.
Not Applicable	A requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country e.g. a particular type of financial institution does not exist in that country.

Forty Recommendations	Rating	Summary of factors underlying rating
Legal system		
1. ML offence	PC	<ul style="list-style-type: none"> • The lack of any conviction since the money laundering legislation has been in force in (approximately 10 years) evidences the variety of reasons that the Argentina AML provisions are deficient and not being effectively applied. • Jurisdictional difficulties and a close link with the predicate offence impede effective money laundering investigation/prosecution. • Exemption for criminal responsibility to relatives or friends for some money laundering offences (e.g. acquisition, concealing and disguising under section 277). • Self-laundering is not criminalised. • The ancillary offence of conspiracy is not covered. • Insider trading and manipulation market are not predicate offences and the range of offences within the terrorism and terrorist financing definitions are not sufficient. • Possession of proceeds of crime is not specifically covered. • The acquisition, concealment, and disguising elements of the money laundering offence do not cover property that is indirectly the proceeds of crime.
2. ML offence – mental element and corporate liability	PC	<ul style="list-style-type: none"> • The sanctions for ML are not dissuasive and have never been applied. • The penalties for acquiring, receiving and concealing, as well as converting or transferring proceeds of crime below the ARS 50 000 threshold, are low. • No criminal liability for legal persons, and there is no fundamental principle of domestic law that prohibits this. • Lack of effectiveness of the system of administrative liability of legal persons.
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> • The confiscation regime is not effectively applied. Neither statistics for ML/FT nor for predicate offences (such as drug trafficking, corruption, etc), were provided. • There is no specific provision allowing for seizure/confiscation of property of corresponding value; nor does the law specifically cover indirect proceeds of crime, including income, profits or other benefits from the proceeds of crime. • Ability to freeze/confiscate property relating to FT is limited due to the limitations of the FT offence. • Insider trading/market manipulations are not criminalised, so it is possible to freeze/confiscate in such cases.

¹ *Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations*, 27 February 2004 (Updated as of February 2009).

Forty Recommendations	Rating	Summary of factors underlying rating
		<ul style="list-style-type: none"> • There are practical difficulties in identification and tracing of assets, especially because there are no unified databases under federal system. • No clear powers for judges to void illicit acts and contracts.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> • Securities secrecy seriously limits the FIU investigative powers. <i>Caja de Valores</i>, the depository and registry institution can invoke secrecy against the FIU's request for information. • The CNV cannot disclose information gathered from third parties at the FIU's request without a judicial approval. This further limits, or at least delays, access by the FIU to necessary information to analyse the STRs. • Financial or professional secrecy can only be lifted when requests are made in the framework of an STR originated in Argentina. This limits the capacity of the FIU, BCRA and CNV to effectively co-operate with foreign counterparts, since a judicial authorisation is needed to provide the requested information. • Judicial authorisation is needed to lift tax secrecy when the STR has not been submitted by the AFIP or it affects people indirectly related with the reported subject, which also causes delays for the FIU's access to valuable information to analyse STRs.
5. Customer due diligence	NC	<ul style="list-style-type: none"> • Cooperatives, mutual associations, stock exchange market, and stock exchange without market are not subject to the AML Law 25 246, and therefore to any AML/CFT requirements. The coverage of the remittance companies by the AML Law is unclear. Companies issuing traveller's cheques and credit and purchase card operators are not subject to any AML/CFT measures other than the very basic ones provided by the law. • CDD requirements in AML Law 25 246 are very general and do not include some basic obligations. The banking and foreign exchange institutions are the only financial institutions for which further detailed AML/CFT measures are defined in OEM (the BCRA Compilation of AML measures). The AML/CFT measures for the securities and insurance sectors are set out by FIU's resolutions and Supervisors' rules, which are not OEM. Requirements concerning money remitters (where they are covered), postal services that perform activities of transfers of funds, and capitalisation and saving companies are only established by the FIU's resolutions, which are not other enforceable means. • There is no requirement in law or regulation for financial institutions to conduct CDD measures when there is suspicion of ML/TF regardless of any exemption or threshold (which did not exist at the time of the onsite visit), and when financial institutions have doubt about the veracity or adequacy of previously obtained customer identification data. • For the securities and insurance sector, there is no requirement in law, regulation or OEM to verify the identity of the person acting on behalf of another. For all financial sectors, there is no requirement to verify that the person is so authorised. • There is no requirement in law or regulation applicable to all financial institutions to identify and verify the identity of beneficial owners. • There is no requirement for banking and foreign exchange institutions to understand the ownership and control structure of all customers that are legal persons. • The BCRA Compilation of AML measures only requires to identify beneficial owner(s) of the higher risks legal persons called "vehicle companies". This definition of beneficial owner is not in line with the FATF definition and there is no explicit requirement to verify the identity of beneficial owners. • The BCRA Compilation of AML measures does not require the identification and verification of the identity of the ultimate beneficial owner(s). • The BCRA Compilation of AML measures only requires to identify the settlers, trustees and beneficiaries of trusts or other legal arrangements when they are used to avoid the process of identifying clients. • There is no provision in law or regulation (except for the banking and foreign exchange sector) to conduct ongoing due diligence on the business relationship.

Forty Recommendations	Rating	Summary of factors underlying rating
		<ul style="list-style-type: none"> • Except for the banking and foreign exchange sectors, there is no requirement in law, regulation or OEM to apply enhanced CDD measures for higher ML/TF risks categories of customers, business relationships or transactions. • The BCRA Compilation of AML measures, as well as the FIU resolutions, exempt financial institutions to conduct CDD measures for customers who are public or financial institutions or their representatives. • There is no requirement to apply CDD measures for those customers concerned by the above exemption when there is ML/TF suspicion. • There is no explicit requirement to verify the identity of customers and beneficial owners before or during the course of establishing a business relationship or conducting transaction for occasional customers. • There is no provision in law, regulation or OEM to prohibit reporting parties from opening an account, commencing a business relationship or performing transactions when they are unable to carry out CDD requirements. • There is no requirement to terminate the business relationship and to consider making an STR if CDD measures cannot be adequately conducted on existing customers or if financial institution has doubt about the veracity or adequacy of previously obtained information. • There is no requirement in law, regulation or OEM for the securities and insurance sectors to apply CDD measures to existing customers in the basis of materiality and risk. • The effective implementation of the requirements that exist is undermined by factors such as: <ul style="list-style-type: none"> ○ The lack of a common understood definition of who the beneficial owners of legal persons are (all shareowners or only those exerting a real control over the legal persons) ○ The lack of effective supervision of financial institutions of the securities and insurance sectors and the lack of supervision for other sectors like the remittance companies or postal services with perform activities of transfers of funds. <p>The very frequent modifications of the rules issued by the BCRA.</p>
6. Politically exposed persons	PC	<ul style="list-style-type: none"> • There is no requirement in law, regulation or other enforceable means for financial institutions of the securities and insurance sector to identify and apply enhanced CDD for foreign PEPs. • The approval by the Head of the branch office (local branch) to establish a business relationship with a PEP does not constitute approval by senior management level. In addition, there is no requirement to require such approval when an existing customer becomes a PEP. • Banking and foreign exchange institutions are not required to take reasonable measures to establish the source of wealth of customers or beneficial owners identified as PEPs. <p>The absence of STRs related to foreign PEPs and the low number of STRs submitted on domestic PEPs suggest a lack of effectiveness of the system in place.</p>
7. Correspondent banking	NC	<ul style="list-style-type: none"> • There are no AML/CFT requirements vis-à-vis cross-border correspondent banking.
8. New technologies & non face-to-face business	PC	<ul style="list-style-type: none"> • There is no requirement for financial institutions to take any measures to prevent the misuse of technological developments in ML/TF schemes. • There are contradictory provisions concerning the possibility to establish non-face-to-face business relationships between, the FIU and BCRA rules, and there is no guidance on the enhanced CDD measures to be undertaken (except in the insurance sector). However, the impact of this deficiency seems to be limited given the practice of the private sector to always require the physical presence of the customer to establish a business relationship. <p>Requirements for the insurance and sector are not in OEM, but they constitute guidance.</p>
9. Third parties and introducers	NC	<ul style="list-style-type: none"> • Whilst in practice financial institutions do rely on third parties to perform some CDD measures, there is no requirement in law, regulation or OEM to regulate the

Forty Recommendations	Rating	Summary of factors underlying rating
		conditions of this reliance.
10. Record keeping	PC	<ul style="list-style-type: none"> • The AML Law does not require keeping records of transactions, though other laws contain some related provisions. • The 5 year period for keeping customer identification information and documents is not set out in law or regulation, but in lower status rules, which except for the banking sector, are not OEM. • Except for banking and foreign exchange institutions, there is no requirement in law, regulation or OEM to maintain records in a sufficient way to allow for the reconstruction of transactions. • There is no requirement to keep record of business correspondence for 5 years.
11. Unusual transactions	PC	<ul style="list-style-type: none"> • There is no requirement for financial institutions to examine as far as possible the background and purpose of unusual transactions and to establish their findings in writing. • There is no requirement for financial institutions to keep such findings available for competent authorities and auditors for at least five years. • The lack of effective supervision undermines the effectiveness.
12. DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> • Real estate agents, lawyers and TCSPs are not subject to any AML/CFT requirements. • Dealers in precious stones and metals are not captured satisfactorily by AML Law 25 246. • Only very limited identification and record keeping requirements apply to public notaries, accountants and casinos. However, none of these substantially meet Recommendations 5 and 10. • None of the DNFBP sectors is subject to obligations that relate to Recommendations 6, 8, 9 and 11.
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • Mutual associations and cooperatives, stock exchange market and stock exchange without market are not subject to reporting obligations. • The definition of suspicious transactions (unusual or complex) is not in line with the FATF. • Since suspicious transactions are defined as unusual transactions (and unusual transactions are not explicitly linked to any type of crime, including ML) and since the FIU has a limited competency to investigate predicate offences, it appears that the current requirements cover 6 categories of the predicate offences. • There is no explicit requirement in law or regulation to report transaction where there are reasonable grounds to suspect or where reporting entities suspect them to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. The provisions of the FIU Resolutions 125/2009 and the BCRA Communication A 4273 are inconsistent and negatively impact effective reporting. • Effectiveness: <ul style="list-style-type: none"> ○ The lack or insufficient supervision by financial supervisors of the implementation of reporting obligations and the lack of application of the sanction regime by the FIU for 10 years undermine the financial institutions' perception of the enforceability of the reporting obligations. ○ The 6-month period given to financial institutions to analyse if a transaction should be reported impacts on the traceability of transactions and on the effectiveness of the reporting regime. ○ There is a low number of STRs, which are mostly sent by a very small number of banks and foreign exchange institutions. ○ There are concerns on the quality of the STRs received by the FIU: the available statistics (until 2006) do not demonstrate satisfactory results and the percentage of cases disclosed to the Public Ministry is low. ○ The FIU has not issued any resolution for issuers of traveller's cheques and credit and purchase card operators. ○ The high proportion of suspicious transactions done by the 3 financial supervisors in place of the financial institutions indicates the lack of effectiveness of the reporting system.
14. Protection & no tipping-off	PC	<ul style="list-style-type: none"> • The scope of the persons benefiting from the safe harbor provision is not clearly defined.

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		<ul style="list-style-type: none"> • The prohibition from tipping-off does not cover directors, officers and employees of reporting parties. • There is no sanction available where a reporting entity does not comply with the prohibition of tipping-off.
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> • There is no measure in law, regulation or other enforceable means to require financial institutions of the securities and insurance sector and other financial institutions not supervised to adopt policies and controls to prevent ML and TF, to set up compliance management arrangements and to train and screen employees. • Banking and foreign exchanges institutions are not required to communicate the policies and procedures against ML/TF in place to their staff. • For banking and foreign exchanges institutions, there is no requirement to give to the compliance officer and other appropriate staff timely access to customer identification data and other CDD information, transaction records and other relevant information.
16. DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> • Real estate agents, lawyers, TCSPs and dealers in precious metals and stones are not subject to suspicious transaction reporting requirements. • The deficiencies identified under R.13 and SR.IV for financial institutions also apply to DNFBPs • The safe harbor and prohibition from tipping off provisions suffer from the same deficiencies than for financial institutions. • Most DNFBPs are not required to have AML/CFT policies and controls in place, nor compliance officer functions. • None of the DNFBP sectors is required to pay special attention to business relationships and transactions involving persons from or in countries that do not (or insufficiently) apply the FATF Recommendations. • There are serious concerns about the effectiveness of the reporting system as most DNFBPs rarely submit reports.
17. Sanctions	NC	<ul style="list-style-type: none"> • BCRA: <ul style="list-style-type: none"> ○ The maximum amount of fine as well as the sanctions already imposed being kept secret by the BCRA, this undermines the dissuasiveness of the sanction regime. ○ The legal basis of the sanction regime is not explicit. • CNV: <ul style="list-style-type: none"> ○ The CNV does not have any sanction power over agents and brokers. ○ The sanction regime of the CNV is not effective; no sanctions have been imposed, despite the low level of compliance of the sector with AML/CFT provisions. • SSN: <ul style="list-style-type: none"> ○ The legal basis of the sanction regime is unclear. ○ There is no sanction available for directors and senior management. ○ The range of sanctions is not dissuasive and the sanction regime is not effective.
18. Shell banks	PC	<ul style="list-style-type: none"> • There are not sufficient statutory provisions preventing shell banks in domestic law. • The legal framework preventing foreign shell banks operate in Argentina is not sufficient. • There is no prohibition on financial institutions from entering into or continuing correspondent banking relationships with shell banks. • Financial institutions are not required to satisfy themselves that respondent institutions in a foreign country do not permit their accounts to be used by shell banks.
19. Other forms of reporting	C	<ul style="list-style-type: none"> • The Recommendation is fully met.
20. Other NFBP & secure transaction techniques	PC	<ul style="list-style-type: none"> • Argentina has not taken any measures to encourage the development and use of modern and secure techniques for conducting financial transactions. • The Argentinean economy relies heavily on cash, and this trend has increased since the last years.
21. Special	NC	<ul style="list-style-type: none"> • Financial institutions are not required to give special attention to business

Forty Recommendations	Rating	Summary of factors underlying rating
attention for higher risk countries		<p>relationships and transaction with persons from or in countries which do not or insufficiently apply the FATF requirements.</p> <ul style="list-style-type: none"> • Although financial institutions are informed by the BCRA and the FIU of the statements issued by the FATF, they are not required to apply enhanced CDD measures in such cases. • There is no explicit requirement to set out in writing the results of the analysis conducted by financial institutions on transactions from or to these countries that have no apparent economic or visible lawful purpose and to keep this results available to competent authorities and auditors. • There is no measure in place to allow the Argentinean authorities to apply appropriate counter-measures when countries continue not to apply or insufficiently apply the FATF Recommendations.
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> • There is no requirement for financial institutions of the securities and insurance sector to ensure that their branches and subsidiaries abroad observe AML/CFT measures consistent with Argentinean or FATF requirements. • No financial institution is required to pay particular attention that this principle is observed with respect to their branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations. • Where the minimum AML/CFT requirements of Argentinean and host countries differ, branches and subsidiaries in host countries are not required to apply the higher standard. • Financial institutions are not required to inform their supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local rules.
23. Regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> • Financial institutions such as credit card issuers, traveller checks operators, or remitters are neither regulated nor supervised and in practice SSN does not supervise life insurance intermediaries. • The FIU, which can sanction the non-compliance of financial institutions with their suspicious transaction reporting obligations, has no supervisory powers. • Market Entry requirements of the BCRA for banking institutions: <ul style="list-style-type: none"> ○ No verification of the validity of information and data provided by the applicants. ○ No power to refuse to grant a license on the sole ground that directors, senior management or beneficial owners would be criminals or associated with criminals. ○ The number of persons upon which BCRA shall conduct fit and proper test is too high and not effective. • There are no legal or regulatory measures available in Argentina to prevent criminals and their associates from holding, being the beneficial owner of a significant or controlling interest or holding a management function in entities of the securities sector. • There are no legal or regulatory measures to check the expertise and integrity of directors and senior management of the entities of the securities sector. • SSN: there are no measures to prevent criminals and their associates from holding, being the beneficial owner of a significant or controlling interest or holding a management function in an insurance company. • There is not sufficient information available regarding the funding of the various financial supervisors. • The AML/CFT Units of the SSN and CNV face resource constraints and their staff is not adequately trained.
24. DNFBP - regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • There is no regulatory and supervisory regime in Argentina that ensures that casinos are effectively implementing their AML/CFT obligations. In particular, there is no competent authority designated to supervise casinos. • Internet casinos are not regulated nor supervised for AML/CFT purpose in Argentina. • Other categories of DNFBPs are not subject to any systems for monitoring and ensuring their compliance with AML/CFT requirements.
25. Guidelines & Feedback	PC	<ul style="list-style-type: none"> • The FIU does not inform reporting entities on the current techniques, methods and trends by providing them typologies which would be tailored for the

Forty Recommendations	Rating	Summary of factors underlying rating
		<p>Argentinean context.</p> <ul style="list-style-type: none"> • The FIU does not provide reporting entities with specific feedback. • There are no guidelines provided to financial institutions by financial supervisors. • The Guidelines issued by the FIU mostly focus on suspicious transactions reporting obligations and the other AML/CFT measures, such as CDD measures, are often not compliant with the FATF Standards. • There is no guideline issued by other competent authority in the AML/CFT field.
Institutional and other measures		
26. The FIU	PC	<ul style="list-style-type: none"> • The FIU only has the authority to receive, analyse, and disseminate (to the Attorney General or other parties) information relating to six out of the 20 designated categories of offences. • The FIU does not have adequate access to additional information to assist in its analysis functions. This is partly due to secrecy provisions. • The FIU has not published reports on ML/FT trends or typologies in Argentina. • <i>Effectiveness:</i> At the time of the on-site visit, the FIU was not effective. The quality of the cases produced by the FIU to the Attorney General's office for prosecution (a key structural function of the FIU) has not been sufficient; few cases (only 10% of the 738 cases sent by FIU) have been converted into a criminal complaint by the Attorney General's Office. This is also impacted by: <ul style="list-style-type: none"> • The number of staff dedicated to the analysis of potential ML/FT cases is low especially in comparison with: <ul style="list-style-type: none"> ○ The very heavy delay of STR analysis (2 003 STR are still pending) and increase in STRs pending. ○ The low number of cases with determination (1 064 of 5 272 STRs received). • Lack of feedback to reporting parties on the poor quality of STRs has a negative impact on the FIU's ability to improve the reporting process and thus its analysis. • Inadequate training for FIU staff. • An increase in technical capabilities is needed.
27. Law enforcement authorities	PC	<ul style="list-style-type: none"> • ML offences are not effectively investigated and prosecuted. • There is a low number of ML investigations and prosecutions, and no investigations or prosecutions for FT. • Lack of specific authority to waive or postpone arrest or seizure of criminal proceeds for evidence gather purposes; these actions are not taken in practice.
28. Powers of competent authorities	LC	<ul style="list-style-type: none"> • Prosecutors and investigators have comprehensive powers to obtain evidence; however, they are not effectively used. • Lawyers and notaries cannot provide information relating to acts that came to their knowledge through their office or profession. • There are practical difficulties in identification and tracing of assets.
29. Supervisors	NC	<ul style="list-style-type: none"> • The FIU has no power to conduct off-site or on-site inspections. • Financial supervisors do not have adequate powers to establish that financial institutions require their foreign branches and subsidiaries to apply R.22 effectively. • SSN: lack of clarity of its power to compel production of documents and to conduct on-site inspections. • CNV: lack of clarity of its power to compel production of documents and to conduct on-site inspections. The CNV has not yet conducted a full on-site inspection. • No supervisory powers over life insurance intermediaries. • Inspection manual are lacking sufficient depth. • The number of specific AML/CFT inspections conducted by BCRA is low regarding the size of the financial sector, and there is no clear information on the importance of AML/CFT component of general inspections conducted by BCRA. CNV has only conducted on-site inspections on brokers against which it does not have sanction powers, and SSN has not conducted any inspections over life insurance intermediaries. The inspections conducted by SSN on life insurance

Forty Recommendations	Rating	Summary of factors underlying rating
30. Resources, integrity and training	NC	<p>companies are very succinct and done in the framework of general inspections.</p> <p>FIU:</p> <ul style="list-style-type: none"> • The number of staff dedicated to the analysis of potential ML/FT cases is low especially in comparison with: <ul style="list-style-type: none"> ○ The very heavy delay of STRs analysis (2 003 STR are still pending) and increase in STRs pending. ○ The low number of cases with determination (1 064 of 5 272 STRs received). • Lack of adequate human resources overall (49 out of 74 positions filled), and lack of adequate resources for the analysis division. • Inadequate training for FIU staff. • An increase in technical capabilities is needed. <p>Law enforcement/ prosecutors:</p> <ul style="list-style-type: none"> • Insufficient AML/CFT training for all agencies. • UFILAVDIN: staff numbers should be increased and more stability should be provided through permanent contracts. • PFA (Federal Police): Staff numbers, both overall as well as for the personal assets investigations unit are not sufficient; no evidence to assess the adequacy of PFA's budget. • GNA: human resources and budget are not sufficient. <p>Supervisors:</p> <ul style="list-style-type: none"> • There is no information available regarding the funding of the various financial supervisors. • The AML/CFT Units of the CNV and SSN face resource constraints. • CNV and SSN staff are not adequately trained to effectively perform their functions. <p>Policy makers (National Coordination Representation):</p> <ul style="list-style-type: none"> • The National Coordination representation should be provided greater authority to perform coordination functions, with a corresponding increase in necessary resources.
31. National co-operation	PC	<ul style="list-style-type: none"> • Domestic cooperation and coordination, at the policy and operational level, are not working effectively. • There are no cooperation and coordination mechanisms between the Federal authorities and the provinces. • Argentina does not periodically review the effectiveness of AML/CFT measures.
32. Statistics	NC	<ul style="list-style-type: none"> • Argentina does not review the effectiveness of its systems for combating ML/FT. • No reliable or comprehensive statistics on money laundering prosecutions (or investigations). • No statistics regarding the number of cases and the amounts of property frozen, seized, and confiscated relating to (i) ML, (ii) FT, and (iii) criminal proceeds. • No statistics yet on declarations of outgoing Argentinean currency. • No statistics relating to 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 FT, including the nature of the request, whether it was granted or refused, and the time required to respond. • There are no statistics available on AML/CFT on-site examinations conducted by the SSN. • There are no statistics available on the formal requests for assistance made or received by supervisors, whether the requests were granted or refused.
33. Legal persons – beneficial owners	NC	<ul style="list-style-type: none"> • Competent authorities do not have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control of legal persons because: <ul style="list-style-type: none"> ○ There is not yet a functioning national registry of legal persons; registries are maintained separately by the City of Buenos Aires and the 23 provinces. ○ The provincial registries do not contain updated beneficial ownership/control

Forty Recommendations	Rating	Summary of factors underlying rating
		<p>information, and the provincial controlling authorities have limited ability to obtain it.</p> <ul style="list-style-type: none"> ○ Company service providers are not required to collect such information. ○ Nominee shareholders/members are allowed by Argentina companies law, although jurisprudence indicates otherwise. ○ It is unclear whether the competent authorities have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control information with regard to previously issued bearer shares.
34. Legal arrangements – beneficial owners	NC	<ul style="list-style-type: none"> • Competent authorities do not have access in a timely fashion to adequate, accurate and current information on the beneficial ownership and control of legal arrangements because: <ul style="list-style-type: none"> ○ The law does not require the trust contract to identify the settlor. ○ There is no central registry and trust contracts are not disclosed to the authorities. ○ While law enforcement agencies have powers to obtain information from financial institutions on legal arrangements, there is minimal information disclosed to financial institutions concerning the beneficial owners (see Recommendation 5) of legal arrangements. ○ Providers of trust services do not have AML/CFT obligations.
International Co-operation		
35. Conventions	PC	<ul style="list-style-type: none"> • <i>Vienna and Palermo Conventions</i>: Deficiencies in the ML offence relating to possession of proceeds of crime and exemptions from criminal liability for acquiring, concealing, and disguising proceeds of crime. • <i>Palermo Convention</i>: Lack of ML criminal liability for person who committed the predicate offence (“self-laundering”) and lack of adequate special investigative techniques. • <i>CFT Convention</i>: Limited scope of the terrorist financing offence: limited definition of terrorist organisation; the law does not cover: <ul style="list-style-type: none"> ○ Terrorist organisations that exist solely within Argentina. ○ Collection or provision of funds to be used for a terrorist act outside of the context of the terrorist organisation as defined in Argentina. ○ All the provisions of Article 2(1)(b) of the Convention, nor all the acts in all the treaties listed in the Annex of the CFT Convention as required by Article 2(1)(a).
36. Mutual legal assistance (MLA)	PC	<ul style="list-style-type: none"> • The effectiveness of the system for responding to MLA requests in a timely and constructive manner has not been demonstrated. • Many steps and authorities in the assistance procedures imply delays in the process, especially when there is no treaty. • The inability to respond to requests involving assets or property of corresponding value. • Dual criminality and the limitations on the ML offence and especially the scope of the FT offence limit the scope of mutual legal assistance that could be provided. • MLA cannot be provided in relation to insider trading/market manipulation since these offences are not criminalised. • Lawyers and notaries cannot provide information relating to acts that came to their knowledge through their office or profession.
37. Dual criminality	C	
38. MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> • The effectiveness of the system for responding to MLA requests in a timely and constructive manner has not been demonstrated. • Many steps and authorities in the assistance procedures imply delays in the process, especially when there is no treaty. • Dual criminality and the limitations on the ML offence and especially the scope of the FT offence limit the scope of mutual legal assistance that could be provided. • Inability to respond to requests involving assets or property of corresponding value.

Forty Recommendations	Rating	Summary of factors underlying rating
39. Extradition	PC	<ul style="list-style-type: none"> • The effectiveness of the system for responding to extradition requests for ML in a timely and constructive manner has not been demonstrated. • Many steps and authorities in the assistance procedures imply delays in the process, especially when there is no treaty. • Dual criminality and the limitations on some ML acts limit the possibility of granting some extraditions. • The absence of simplified and direct procedures for extradition.
40. Other forms of co-operation	NC	<p>Law enforcement:</p> <ul style="list-style-type: none"> • The lack of statistics or of any other related data or information means that effectiveness of exchange of information between law enforcement authorities cannot be assessed. • The deficiencies identified in relation to R.27 also impact effective implementation of mechanisms to exchange information between law enforcement agencies. <p>FIU:</p> <ul style="list-style-type: none"> • Secrecy provisions inhibit information exchange with foreign FIUs. • The FIU cannot spontaneously provide information to its foreign counterparts. • The FIU has a legal limitation on its ability to disseminate information on some ML activities and many predicate offences. • Due to the lack of important statistics (quality; timeline; typologies), the evaluation team was not able to determine that the mechanisms for international cooperation are fully effective. <p>Financial supervisors:</p> <ul style="list-style-type: none"> • The confidentiality legal provision, which the 3 supervisors are subject to, has not been lifted, or has been lifted by a lower legal instrument (resolution). Some of the deficiencies identified in R.23 impact the possibility to exchange information (e.g.: the SSN does not supervise life insurance brokers). • There are not clear and effective gateways, mechanisms or channels to facilitate exchange of information with foreign counterparts. Some MOUs agreed by the BCRA do not provide for information exchange related to ML or FT, bank secrecy limits information that can be provided, and cooperation is limited to where a foreign supervisor requests information relating to Argentinean branch or subsidiary of an institution from the requesting country. • In the absence of information provided by Argentina, the assessment team was unable to assess the other criteria of R.40 vis-à-vis the 3 financial supervisors.

Nine Special Recommendations	Rating	
SR.I Implement UN instruments	PC	<ul style="list-style-type: none"> • CFT Convention: limited scope of the terrorist financing offence (see R.35). • UN Security Council Resolutions: existing measures to implement S/RES/1267(1999) and S/RES/1373(2001) are ineffective (see SR.III).
SR.II Criminalise terrorist financing	PC	<p>The criminalisation of FT is limited and therefore insufficient:</p> <ul style="list-style-type: none"> • It does not cover collection or provision of funds to be used (for any purpose) by an individual terrorist or a terrorist act outside the context of the terrorist organisation as defined in Argentina. • The definition of terrorist organisation is very limited (it must, <i>inter alia</i>, have international connections); it would not cover terrorist organisations that exist solely within Argentina, and it would not include the acts included in Article 2(1)(a) and (b) of the UN Convention on the Suppression of the Financing of Terrorism (“CFT Convention”) when committed outside of this type of terrorist organisation. • They do not fully cover all the provisions of Article 2(1)(b), nor the acts in all the treaties listed in the Annex of the CFT Convention as required by Article 2(1)(a). (See examples in Recommendation 35). • No criminal liability for legal persons, and there is no fundamental principle of domestic law that prohibits this. • The effectiveness of the provisions has not yet been demonstrated.
SR.III Freeze and confiscate	NC	<ul style="list-style-type: none"> • Laws and procedures for implementing S/RES/1267(1999) rely on a reporting mechanism (which is not based on regulation or “other enforceable means”) and

Nine Special Recommendations	Rating	
terrorist assets		<p>ordinary criminal procedures which do not allow for effective freezing action to be taken without delay, and are inconsistent with the obligation to freeze property of persons designated by the UN Security Council, regardless of the outcome of domestic proceedings.</p> <ul style="list-style-type: none"> • The effectiveness of Argentina's existing measures to implement S/RES/1267(1999) and S/RES/1373(2001) has not been demonstrated. • Laws and procedures for implementing S/RES/1373(2001) rely on ordinary criminal procedures which do not ensure that an effective freezing action can be taken without delay. • There is no specific mechanism to examine and give effect to actions initiated under the freezing mechanisms of other jurisdictions pursuant to S/RES/1373(2001), and no mechanism that would allow Argentina to designate persons at the national level. • No measures for monitoring or sanctioning for non-compliance with the obligations of SR.III. • The definition of funds does not extend to all of the funds or other assets that are owned or controlled by designated persons and terrorists. • Lack of adequate guidance to the financial and DNFBP sectors. • No procedures for considering de-listing requests and unfreezing the funds/assets of de-listed persons/entities in cases other than S/RES/1267(1999). • The effectiveness of Argentina's measures for unfreezing the funds/assets of someone inadvertently affected by a freezing mechanism cannot be assessed. • No specific provisions for authorising access to funds/assets in accordance with S/RES/1452(2002). • Lack of power to freeze property of corresponding value. • Limited role of the FIU in freezing due to its dealing with the limited definition of terrorist financing.
SR.IV Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • There is no explicit requirement in law or regulation to report transaction where there are reasonable grounds to suspect or where reporting entities suspect them to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. • The characteristics of suspicious transactions (unusual, complex, no economic justification) are not broad enough to satisfactorily capture TF cases. • The scope issues of R.13 also apply to SR.IV. • Lack or insufficient supervision and of imposed sanctions and lack of awareness of TF threats negatively affect the effectiveness of the system. • The provisions of the FIU Resolutions 125/2009 and the BCRA Communication A 4273 are inconsistent and negatively impact effective reporting. • The FIU has never received any STR related to terrorist financing, which demonstrates the lack of effectiveness of the regime.
SR.V International co-operation	PC	<p><u>Applying R.36-39:</u></p> <ul style="list-style-type: none"> • The effectiveness of the system for responding to MLA and extradition requests in a timely and constructive manner has not been demonstrated. • Many steps and authorities in the assistance procedures imply delays in the process, especially when there is no treaty. • Inability to respond to requests involving assets or property of corresponding value. • Dual criminality and the limitations on the scope of the FT offence limit the scope of mutual legal assistance that could be provided. • Dual criminality and the limitations on the scope of the FT offence limit the possibilities to extradite for FT. • Lawyers and notaries cannot provide information relating to acts that came to their knowledge through their office or profession. • The absence of simplified and direct procedures for extradition. <p><u>Applying R.40:</u></p> <p>Law enforcement:</p> <ul style="list-style-type: none"> • The lack of statistics or of any other related data or information means that effectiveness of exchange of information between law enforcement authorities

Nine Special Recommendations	Rating	
		<p>cannot be assessed.</p> <ul style="list-style-type: none"> The deficiencies identified in relation to R.27 also impact effective implementation of mechanisms to exchange information between law enforcement agencies. <p>FIU:</p> <ul style="list-style-type: none"> Secrecy provisions inhibit information exchange with foreign FIUs. The FIU cannot spontaneously provide information to its foreign counterparts. Due to the lack of important statistics (quality; timeline; typologies), the evaluation team was not able to determine that the mechanisms for international cooperation are fully effective. <p>Financial supervisors:</p> <ul style="list-style-type: none"> The confidentiality legal provision, which the 3 supervisors are subject to, has not been lifted, or has been lifted by a lower legal instrument (resolution). Some of the deficiencies identified in R.23 impact the possibility to exchange information (e.g.: the SSN do not supervise life insurance brokers). There are not clear and effective gateways, mechanisms or channels to facilitate exchange of information with foreign counterparts. Some MOUs agreed by the BCRA do not provide for information exchange related to FT, bank secrecy limits information that can be provided, and cooperation is limited to where a foreign supervisor requests information relating to Argentinean branch or subsidiary of an institution from the requesting country. In absence of information provided by Argentina, the assessment team was unable to assess the other criteria of R.40 vis-à-vis the 3 financial supervisors.
SR.VI AML requirements for money/value transfer services	NC	<ul style="list-style-type: none"> While exchange houses are licensed by the BCRA and subject to some AML/CFT requirements, all the other money or value transfer companies, which represent a large part of the market, are not required to be licensed or registered, and are not regulated or supervised in Argentina. Regarding exchange houses, the requirements and their implementation for Recommendations 5, 6, 7, 8, 9, 10, 13, 15, 21, 22 and SRV.II suffer from the same deficiencies than those that apply to banking institutions and which are described in section 3 of this report. The requirements and their implementation for Recommendations 23 and 17 suffer from the same deficiencies than those that apply to banking institutions and which are described in section 3.10 of this report.
SR.VII Wire transfer rules	PC	<ul style="list-style-type: none"> There are no requirements for money remittance companies and postal services rendering transfer of funds. There are no requirements applicable for occasional wire transfers made by the banking sector. There is no requirement for banks and foreign exchange institutions to adopt a risk-based approach to handle wire transfer without the full information on the originator, which might encourage the use of non-regulated systems. Financial institutions are not required to restrict or terminate business relationship with financial institutions not complying with SR.VII requirements. Lack of proven effectiveness of the measures related to cross-border wire transfers due to the very recent introduction of the requirements on cross-border wire transfers performed by banks and exchange institutions.
SR.VIII Non-profit organisations	NC	<ul style="list-style-type: none"> Argentina has not reviewed the adequacy of its domestic laws and regulations that relate to non-profit organisations; no periodic reassessments. Argentinean authorities do not have the capacity to obtain timely information on the activities, size and other relevant features of its non-profit sector for the purpose of identifying the features and types of non-profit organisations (NPOs) that are at risk of being misused for terrorist financing by virtue of their activities or characteristics. No requirements for mutual associations for the requirements of SR.VIII. The Argentinean authorities have not undertaken general outreach to the NPO sector with a view to protecting the sector from terrorist financing abuse. There is not adequate information regarding the founders for associations, or information on those who control or direct the activities of foundations and associations, including senior officers, board members, and trustees. There are not adequate measures in place to sanction violations of oversight

Nine Special Recommendations	Rating	
		<p>measures or rules by NPOs or persons acting on behalf of NPOs.</p> <ul style="list-style-type: none"> • There is not sufficient information gathering and investigative powers; domestic cooperation, coordination, and information sharing, or full access to information on the administration and management of a particular NPO. • No specific points of contact or procedures for responding to international requests regarding NPOs.
SR.IX Cross Border Declaration & Disclosure	PC	<ul style="list-style-type: none"> • Mail and containerised cargo: no provisions relating to incoming cash or BNI; no provisions relating to the export of Argentinean currency and BNI. • For outgoing currency/BNI, the requirements do not include foreign negotiable instruments (other than travellers' checks), or Argentinean negotiable instruments, bearer or otherwise. • There is no authority to seize or restrain currency/BNI when there is a suspicion of ML/FT. • There is no requirement that the amount of currency/negotiable instruments or the identification of the bearer be recorded when there is a suspicion of ML/FT. • There would be no ability to apply sanctions if a person makes a truthful declaration but the authorities suspect that the currency could be related to terrorist financing or money laundering. • Inability to seize and confiscate property of corresponding value, and the ability to confiscate property related to terrorist financing is limited to the limitations of the FT offence. • For a cross-border transportation that is related to persons/entities designated pursuant to S/RES/1267(1999) and S/RES/1373(2001), these measures are very limited, and suffer from the deficiencies noted above in section 2.4 of this report.