

Mutual Evaluation Interim Follow-up Report

Anti-Money Laundering and Combating the
Financing of Terrorism

GREECE

19 February 2010

Following the adoption of its third Mutual Evaluation (MER) in June 2007, in accordance with the normal FATF follow-up procedures, Greece has provided the FATF Plenary with progress reports on a regular basis. At the February 2010 Plenary meeting, Greece requested the publication of this progress report.

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MUTUAL EVALUATION OF GREECE

7TH FOLLOW-UP REPORT

Note by the Secretariat

Introduction

1. This 7th follow-up report follows-up on the 6th follow-up of Greece, as it was tabled at the meeting of the Working Group on Evaluations and Implementation (WGEI) on 12 October 2009, and on the discussion of the Co-Chair report of the WGEI at the Plenary meeting of the FATF on 15 October 2009. At this meeting, Greece was placed on enhanced follow-up. Additionally, the Plenary decided that:

- The President would write letters to the appropriate Ministers in Greece regarding the actions needed to remedy deficiencies on R.35 and SR.I-III. Copies of these letters are attached. See below for an analysis of the action taken regarding these recommendations.
- Greece should provide a report to the February Plenary on the issues remaining for R.17, 23 and 29. Greece has provided a report (attached) and this paper contains an analysis of the situation regarding these recommendations.
- Plenary agreed the Secretariat should work with Greece to provide a further report in February on the deficiencies, the recommendations for action and the progress that Greece has made in relation to the FIU (R.26). Greece has provided a report (attached) and this paper contains an analysis of the situation for R.26.

2. This follow-up report provides an update on the progress that Greece made since the adoption of the 3rd Mutual Evaluation Report, with an emphasis on the issues raised in the Plenary in October 2009 in the section related to the “summary of the progress made by Greece and the recommendation to the Plenary”. The information used for this 7th progress report is based on information provided by Greece in relation to this enhanced follow-up process, but also on material submitted by Greece in relation to the International Co-operation Review Group (ICRG) targeted review.

Background of the evaluation and follow-up process since June 2007

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

- *Date of the Mutual Evaluation Report:* 29 June 2007. Due to the unusual number of recommendations rated PC or NC, Greece was subject to an expedited follow-up starting from October 2007.
- *Date of previous follow-up reports:* October 2007 (first follow-up report), February 2008 (second follow-up report), June 2008 (third follow-up report), October 2008 (fourth follow-up report) and June 2009 (fifth follow-up report on the FIU only). In addition, Greece was placed in enhanced follow up in February 2008, with a letter being written from the FATF President to the Greek Minister of Economy and Finance in March 2008, and a high level mission led by the President visiting Greece in September 2008. In October 2008, the FATF Plenary noted the results of the high level mission and asked Greece to report back in June 2009 on the FIU and the actions it has

taken to remedy the weaknesses and to enhance effectiveness (given the importance and seriousness of the FIU issue). Greece was asked to provide a full report back in October 2009 (including a further update on the FIU). In October 2009 (sixth follow-up report) Greece was placed in enhanced follow up and asked to report back in February 2010.

4. Greece has provided information in relation to the actions taken to improve its compliance with the core and key recommendations as well as all the other recommendations rated partially compliant or non compliant. This report provides a detailed analysis of the progress made by Greece with regard to all of these recommendations with a particular focus on the core and key recommendations. As the following table indicates, Greece was rated partially compliant (PC) and non compliant (NC) with regard to the following recommendations:

Core Recommendations ¹ rated NC or PC
R.1 (PC), SR.II (PC), R.5 (PC), R.13 (PC), SR.IV(PC)
Key Recommendations ² rated NC or PC
R.3 (PC), R.4 (PC), R.23 (PC), R.26 (NC), R.35 (PC), R.40 (PC), SR.I (PC), SR.III (PC)
Other Recommendations rated PC
R.2, R. 8, R.9, R.11, R.15, R.17, R.22, R.29, R.31, SR.VI, SR.VII
Other Recommendations rated NC
R.6, R.12, R.16, R.19, R.21, R.24, R.25, R.30, R.32, R.33, SR.VIII, SR.IX

5. Since the FATF high level visit in September 2008, Greece has adopted the following legislative measures (please note that the new AML Law (2008) was adopted on 5 August 2008 and aimed at transposing the 3rd EU AML Directive):

- Bank of Greece (BOG) Decision 281/5/17.03.2009 of the Banking and Credit Committee (adopted in March 2009).
- BOG Decision 285/6/9.7.2009 of the Banking and Credit Committee regarding the new financial sector typology of unusual or suspicious transactions (adopted in July 2009).
- BOG Decision 290/12/11.11.2009 of the Banking and Credit Committee on the framework governing the imposition of administrative sanctions (adopted in November 2009).
- Hellenic Capital Market Commission (HCMC) Decision of the Board of Directors 1/506/8.4.2009 on “Prevention of the use of the financial system for the purpose of money laundering and financing of terrorism” (adopted in April 2009).
- Hellenic Capital Market Commission Circular 41 on “Indicative typology of suspicious transactions/money laundering or terrorist financing” adopted in April 2009.
- Private Insurance Supervisory Committee (PISC) Rule 154/5A/31-8-2009 on the “Prevention of the use of the financial system for money laundering and the financing of terrorism” adopted in August 2009.

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

² The key Recommendations are R.3, R.4, R.23, R.26, R.35, R.36, R.40, SR.I, SR.III, and SR.V.

6. See the introduction section above for the developments since October 2009.

Summary of progress made by Greece and recommendation to the FATF Plenary

Main findings as at October 2009

7. In general terms, the adoption of the new AML Law (2008) has resulted in significant progress with regard to Greece's compliance with the FATF standards. All supervisory authorities of the financial sector have also developed comprehensive regulations that aim at implementing detailed sector-oriented AML/CFT provisions. All financial institutions as defined by the FATF are now subject to AML/CFT requirements. There are now supervisory authorities for the DNFBPs and they are subject to the obligations set out in the AML Law (2008).

8. Greece has reached a good level of compliance with most of the core recommendations (with the exception of SR.II where technical issues still need to be fixed). Most notably, Greece has strengthened its CDD requirements so as to achieve a satisfactory level of compliance with Recommendation 5. In relation to Recommendation 1, the AML Law (2008) has also introduced new provisions that successfully address the deficiencies identified in the MER and strengthen the ML offence. Deficiencies in relation to suspicious transactions reporting have also been generally addressed and Greece has improved its compliance with Recommendation 13 and Special Recommendation IV to a satisfactory level.

9. Progress in compliance with the key recommendations is more heterogeneous. Real progress has been made with regard to Greece's compliance with Recommendation 4. In relation to Recommendations 3 and 40, the remaining issues relate to the lack of proof of effectiveness, but, in general terms, Greece seems to have improved its compliance with these recommendations to a satisfactory level. Measures have also been taken to improve compliance with Recommendation 35 and Special Recommendations I and III, though technical deficiencies and implementation issues remain. Greece has been able to show positive developments in the AML/CFT supervision area, though the effectiveness of the AML/CFT supervision has not been fully demonstrated, and further progress is still needed (especially as far the HCMC and the PISC are concerned). Most importantly, though, serious issues of compliance remain regarding Recommendation 26. The functioning of the FIU still presents major weaknesses and little progress has been made in this area since October 2008.

10. With regard to the other recommendations rated PC or NC in the MER, the progress made varies from one recommendation to another. Very positive steps have been taken vis-à-vis certain requirements, in particular in the preventive area (especially in relation to R.8, R.9, R.11, R.12, R.15, R.16, R.22, R.31, SR.VII and SR.IX). However, Greece's compliance with other recommendations is still not satisfactory (especially in relation to R.2, R.17, R.19, R.21, R.24, R.29, R.33 and SR.VIII).

Actions taken since October 2009

11. Since October 2009, Greece has commenced action in several areas to enhance its system. It is important that this commitment be maintained, and that an adequate level of compliance is achieved with the core and key recommendations in the near future. The actions taken since October 2009 regarding the core and key recommendations, as well as Greece's commitment to for further enhancements by June 2010 are summarised below:

- *Special Recommendation II*: The deficiencies identified in October 2009 remain, with the exception of the issue of auxiliary offences which has been proven to be covered. The remaining deficiencies relate to *i*) the scope of the offence, *ii*) the lack criminal liability for legal persons and the related subsidiary issue administrative liability which is too restrictive; and *iii*) the

defence in Article 187A(8) of the Penal Code which is too broad. Greece is currently in the process of drafting legislative amendments regarding the scope of the offence and administrative liability and studying the issue of corporate criminal liability. The defence issue in article 187A(8) is under consideration, as is the issue of criminal legal liability for legal persons (legal opinions have been obtained on these issues).

- *Recommendations 17, 23 and 29:* To address the issue of AML/CFT supervision in the financial sector, Greece has provided reports aimed at showing the effectiveness of the supervision carried out by the BOG, the HCMC and the PISC. Two of these reports (HCMC and PISC) are not as comprehensive as the 6th follow-up report requested, however; overall they provide an insight into the effectiveness of the Greek supervisory system. For all three sectors, the structural changes that have been implemented seem to be a good basis for an effective supervisory framework. In relation to BOG, the improvements are satisfactory. However, AML/CFT staff levels at HCMC and PISC remain low and are likely to be an impediment to achieve sufficient effectiveness.
- *Recommendation 26:* Since October 2009, the authorities have provided an update on FIU developments. These include the setting up of a new database to manage STRs (register, file, provide feedback). In addition, the FIU has made reporting forms available on its website. The Greek FIU has visited the Spanish FIU and is visiting the Belgian FIU shortly. Greek has made some real progress since the adoption of the mutual evaluation report, however, it should also be noted that much needed to be improved considering the rating for R.26 (the lowest among FATF members). So far, Greece has not improved its compliance with Recommendation 26 to a satisfactory level.
- *Special Recommendation III:* Greece has provided a copy of draft legislation that should rectify most outstanding issues related to Special Recommendation III (as far as the issues can be solved by Greece alone).
- *Recommendation 35:* no progress was reported on the ratification of the Palermo Convention (the main shortcoming related to this Recommendation that is outstanding).

12. Greece made significant progress with the adoption of the AML Law in 2008 and has since continued to improve its system. The measures taken since October 2009 have also had a positive effect on the overall compliance. Nevertheless, in some areas further progress is needed. It is proposed that the Plenary considers asking Greece to take the following measures:

- In relation to Recommendation 35, Special Recommendation II and Special Recommendation III, Greece should address the remaining shortcomings in time before the June 2010 FATF Plenary. Legislative amendments to address some of the shortcomings have already been drafted and are considered within the Greek administration. In relation to Special Recommendation III, Greece could in addition be required to implement the new provisions in relation to funds outside the EU listing system.
- In relation to the effectiveness of the HCMC and PISC, the only remaining issue related to R.17, R.23 and R.29, Greece should increase the number of AML/CFT staff to a sufficient level, and should provide a sufficiently detailed progress report to establish that HCMC and PISC have resolved this issue.
- The effectiveness of the FIU will be enhanced only in the long term. The Plenary could consider establishing an expert group of a few interested delegations to guide and monitor the progress. As

a first task, Greece should draft a final and comprehensive implementation plan for the FIU. It would undoubtedly assist if delegations with well established FIUs (Greece as already approached two jurisdictions) could provide input and advice, so that an effective and practical solution is agreed upon.

13. Should Greece resolve the remaining issues related to R.35, SR.II and SR.III and the effectiveness of supervision by June 2010, the FATF Plenary meeting could discuss making Greece again subject to regular follow-up, while at the same time setting a clear deadline for solving the issues related to Recommendation 26.

Detailed analysis of compliance with the core recommendations

Recommendation 1 (rated PC)

14. *Predicate offences.* Greece has opted for a combination of a list of predicate offences and a threshold approach. Certain categories of offences that were designated by the FATF to be covered as predicate offences are still not specifically included in the AML law (e.g. illicit arms trafficking, environmental crime not involving radiation, fraud, etc.) but are intended to be covered by the catch-all provision of Article 3.r) (“any other offence punishable by deprivation of liberty for a minimum of more than six months and having generated any type of economic benefit”). As recommended in the MER, the threshold of EUR 15,000 applicable to the predicate offences for ML has been repealed in the AML Law (2008).

15. *Terrorist financing as a predicate offence.* See conclusions in relation to SR.II.

16. *The offence of ML effectively requires the prosecution to prove all the elements of the predicate offence.* Article 45.2 of the AML Law (2008) reads as follows: “criminal prosecution and conviction of the perpetrator of the predicate offence shall not be a precondition for prosecuting and convicting someone for money laundering”.

17. *Self-laundering is not clearly criminalised.* Article 45.1(e) of the AML law (2008) states that “criminal responsibility for the predicate offence shall not exclude the punishment of offenders (the principal and his accomplices) for the offences referred to in items (a) (b) and (c) of this paragraph, if the circumstances of the ML acts are different from those of the predicate offence”. The Greek authorities explain the offence as follows: the criminal conduct in Article 2 for the ML offence refers either to the perpetrator of the offence or any third person knowing at the time of the commitment that the property emanated from criminal activity. Pursuant to the spirit of the law the criminal conduct refers to 'whoever' a) converts or transfers, b) conceals or disguises, possesses or uses etc (art 2), thus including the perpetrator itself or third persons. In addition, Greece indicates that the Supreme Court already applied the offence of money laundering to persons who committed the predicate offence (case-laws no 1231/2004, no 2458/2005(fraud) and no 570/2006(bribery)). There would be some merit to clarify in the AML Law the provisions in relation to self-laundering.

18. *Implementation/effectiveness.* The MER stated that from 2001 to 2005, 210 cases have been prosecuted and ten convictions for ML have been obtained. In its 6th follow-up report, Greece has provided the following statistics for 2008 and the first half of 2009 (figures provided by the Hellenic Supreme Court of Civil and Penal Law):

2008	247 ML cases under investigation (most cases are still pending in prosecution's offices and courts and have been brought to prosecution before the year 2008)	42 prosecutions	34 convictions
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2009 (first half)	219 ML cases under investigation (most cases are still pending in prosecution's offices and courts and have been brought to prosecution before the 1st half of 2009)	-	20 convictions
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19. The figures indicate that 34 convictions took place in 2008 (as compared to 10 convictions in 5 years from 2001 to 2005). Taken at face value, these statistics show a very significant increase in the number of convictions.

20. *Conclusion.* The AML Law (2008) has introduced new provisions that successfully address the deficiencies indentified in the MER and strengthen the ML offence. In addition, the fact that TF is inadequately criminalised negatively impacts Greece's compliance with Recommendation 1. However, in general terms, Greece has significantly improved its compliance with Recommendation 1 and has achieved a satisfactory level of compliance.

Special Recommendation II (rated PC)

21. *Scope of the offence.* Article 53.1 of the AML law (2008) (which replaces para. 6 of Article 187A of the Penal Code) states the following: "whoever provides information or materials or receives, collects, provides or manages in any way funds within the meaning of paragraph 1 of Article 1 of Law 3034/2002 (Government Gazette 168A) with the aim of facilitating or supporting the execution of terrorist activities according to paragraphs 1, 3 and 4 either by a criminal organisation or group or an individual terrorist shall be punished with a sentence of up to ten years". The law as amended makes it a crime to collect or provide funds or material support to terrorist individuals and for specific terrorist acts. Greece reports that TF is both a predicate and a stand-alone offence. However art. 187 A of the Penal Code seems to link the offence to the support of terrorist activities, not being explicit about the financing of individual terrorists and terrorist groups without terrorist act activities. It should be noted that draft amendments to article 187A Penal Code are currently being considered within the Greek administration. The amendments would unlink the financing from the question of whether a terrorist act was committed.

22. *Ancillary offences.* At the time of the mutual evaluation, there was no provision in the Penal Code that is equivalent to Article 2.5 of the Terrorist Financing Convention (participation as an accomplice, contribution, etc.) although it was noted that the Convention has become part of the Greek law. No further provision has been adopted, however, the Greek authorities established that these were already contained in detailed provisions in the Penal Code (chapter 3, articles 12, 42-49). A translation of these articles was provided (see annex). The provisions are in line with the FATF Standard, which means that this recommendation is covered.

23. *Administrative liability.* Article 51 of the AML Law (2008) sets out the applicable administrative penalties for legal persons that have committed a ML of TF offence (including administrative fines and temporary or permanent exclusion of the operating licence of the business). This provision is insufficient since the legal person has to derive a benefit from collecting or providing funds to a terrorist or terrorist organisation to be subject to administrative sanctions. However, the issue is currently being addressed in draft amendments to article 51 of the AML Act. If approved, the legal person would no longer have to benefit from the collection or provision of funds to be administratively liable. If approved, this would address weakness identified in the MER.

24. *Criminal liability of legal persons.* Criminal liability for financing of terrorism still only extends to natural persons, as is in the case of ML. The Greek authorities indicate that criminal liability of legal persons is a concept contrary to their fundamental principles of criminal law. As set out in the MER, it seems that the current situation is the result of a legal tradition and policy in Greece, and that there are no

fundamental or constitutional principles of domestic law prohibiting holding corporations criminally liable. Greece has indicated that an independent legal committee is studying this issue.

25. *Other issues.* Article 187A of the Penal Code contains an extremely broad legal defence that may undermine the entire article. Paragraph 8 permits the defendant accused of perpetrating a terrorist attack to claim that he was doing so to “establish a democratic regime or safeguard and reinstate such a regime or as action for freedom, in the meaning of Article 5 paragraph 2 of the Constitution, or aims at the exercise of a fundamental individual, political or union freedom or any other right prescribed by the Constitution or the European Convention for the Protection of Human Rights and Fundamental Freedoms.” Greek authorities say that the provision has a historical background (Greece had a dictatorial regime from 1967 to 1974) and believe that both under the law and in legal theory terrorism is not a political offence and consequently the constitutional safeguards do not apply. However, in the absence of any further legal interpretation of this article since the mutual evaluation, the weakness highlighted in the MER remains. Greece reports that an independent legal committee is about to study the issue.

26. *Conclusion.* Greece has adopted a new TF offence. However, concerns remain with regard to the following issues: (1) the scope of the TF offence; (2) there is no criminal liability for legal persons and no fundamental principles of domestic law; (3) administrative liability with regard to TF is too restrictive until draft amendments are adopted; and (4) the defence in Article 187A(8) of the Penal Code is too broad and appears to undermine and negate the intentions of the provision. Greece has only marginally improved its compliance with Special Recommendation II, although it is noted that Greece is currently in the process of drafting legislative amendments to improve compliance with the first, second and fourth issue.

Recommendation 5 (rated PC)

27. *Enforceability of the provisions issued by competent authorities.* The AML Law (2008) defines “competent authorities” as follows (Article 6): the Bank of Greece, the Hellenic Capital Market Commission, the Private Insurance Supervisory Committee, the Accounting and Auditing Supervisory Commission, The Ministry of Economy and Finance (General Directorate for Tax Audits), the Gambling Control Commission of law 3229/2004 (O.G.G. A 38), the Ministry of Justice and the Ministry of Development.

28. The authorities referred to above are given by the AML Law (2008) (Article 6.3) a series of tasks and powers, including to (1) supervise the compliance of the obligated persons with the requirements imposed by this Law; (2) specify implementation details regarding the specific obligations of supervised persons (...); (3) issue appropriate instructions and circulars, providing guidance to the obligated persons (...) on how to treat specific problems or on practices of conduct with respect to customers (...); (4) issue regulatory decisions specifying the necessary documents and information for the identification and identity verification carried out by the obligated persons during the application of standard, simplified or enhanced customer due diligence measures, or third party customer due diligence under Article 23 of the AML Law 2008 (*i.e.* performance of CDD by third parties) and (5) impose disciplinary and administrative sanctions on the obligated persons and their employees for any breach of the obligations arising from the Law, pursuant to Articles 51 and 52.

29. Sanctions under Article 51 apply where any of the offences referred to Articles 2 and 3 is committed with the purpose of providing a financial benefit to a legal entity and at least one or more persons who manage or administer its business, knew or ought to have known that the benefit derived from such an offence (*i.e.* the reporting entity commits a ML/TF offence) or were negligently unaware of the origin of the illegal assets of benefit. In these circumstances, competent authorities (as defined in Article 6 of the AML Law (2008)), may impose sanctions (fines, prohibition to carry out business, exclusion from public benefits).

30. Article 52.1 states that “the competent authorities that supervise obligated legal persons impose on them, when they fail to comply with their obligations under this law, Regulation 1781/2006/EC and *the regulatory decisions*, cumulatively or alternatively, either the obligation to take concrete corrective measures within a specific time period, or one or more of the following sanctions (fines, removal of directors, temporary or permanent prohibition to carry out certain activities)”. It seems that the sanctions as set out in the AML Law are only applicable to some of the provisions issued by the competent authorities (*i.e.* only the CDD related obligations spelt out in the regulatory decisions).

31. Article 6.4 sets out that “*decisions of the competent authorities may expand the obligations laid down in this Law for the obligated persons, taking account in particular their financial strength, the nature of their business activities, the degree of risk of committing or attempting to commit the offences of Articles 2 and 3 entailed by such activities and transactions, the legal framework governing the business activities of such persons and any objective inability of certain categories of obligated persons to apply some specific measures. The Bank of Greece, after evaluating the risks of money laundering and terrorist financing entailed by its own operations shall establish appropriate measures by a specific decision*”. Article 6.5 adds the following: “*decisions of the competent authorities may specify additional or stricter requirements further to those of the present Law, with a view to addressing risks of committing or attempting to commit the offences laid down in Articles 2 and 3*”.

32. The BOG Decision of March 2009 essentially sets out requirements with regard to customer identification and verification, record keeping and suspicious transactions reporting having regard to “the need to supplement the current regulatory framework according to the provisions of the AML Law (2008)”. A new BOG Decision issued in November 2009 addresses the issue of sanctions and other corrective measures applicable for breaching the obligations as set out in its Decision. The HCMC Rule of April 2009 provides detailed requirements in relation to customer due diligence, suspicious transactions reporting, internal controls and sanctions (criteria for imposing sanctions established in the AML Law (2008)). The PISC Rule of February 2008 deals with customer identification/verification, suspicious transactions reporting, internal controls and sanctions (criteria for imposing sanctions stipulated by Article 52 of the AML Law (2008)).

33. The BOG Decisions and the HCMC Rules have been considered in the MER as legally binding instruments. With regard to sanctions applicable for non-compliance with these implementation regulations, the AML Law (2008) expressively limits the application of the administrative sanctions under Article 52 to failures to implement the AML Law (2008), the EU Regulation 1781/2006/EC and *the regulatory decisions adopted by competent authorities*. The range of sanctions available for breaching the requirements under these legal instruments seems proportionate and adequate although some uncertainty remains with regard to the effectiveness of such sanctions as applied by the BOG, the HCMC and the PISC (see the conclusions of the report in relation to Recommendation 23).

34. The AML Law (2008) clearly draws a distinction between the *regulatory decisions* adopted by the HCMC, the BOG and the PISC on one hand and the other instructions or circulars on the other hand (see Article 6.3 above), giving to the notion of “regulatory decisions” a specific meaning (*regulatory decisions specify the necessary documents and information for the identification and identity verification carried out by the obligated persons during the application of standard, simplified or enhanced customer due diligence measures, or third party customer due diligence under Article 23 of the AML Law 2008 (i.e. performance of CDD by third parties)*). Legally speaking, this means that the BOG or HCMC or PISC provisions that deal with non CDD related requirements (such as suspicious transaction reporting for instance) do not fall under this category of “regulatory decisions” and that Article 52 is not applicable for failing to implement them where such requirements differ from the ones set out in the law. It seems important that Greece clarifies the scope of Article 52 in order to ensure a more universal application (as it seems to be the intention). This issue should also be re-examined as a matter of priority.

35. *Risk-based approach.* The AML Law (2008) authorises competent authorities to perform AML/CFT inspections in accordance with the risk-based principle (Article 6.7). It also allows financial institutions to take a risk-based approach when carrying out certain CDD requirements (e.g. obligated persons can apply risk-based due diligence measures to new and existing customers and shall take risk-based and adequate measures to understand the ownership and control structure of the customer and risk-based measures to verify the identity of the beneficial owner). Risk is essentially defined as the strong possibility of customer involvement in committing or attempting to commit the offences referred to in Articles 2 and 3 [of the AML Law (2008)]. The Law itself identifies certain higher risk situations and customers. The HCMC, PISC and BOG provisions allow financial institutions to develop a risk-based approach in certain circumstances.

36. *Scope.* Since the adoption of the AML Law (2008), insurance intermediaries fall under the scope of the AML/CFT regime (cf. article 4.n).

37. *Implementation issues.* The BOG and HCMC rules have been adopted very recently so it is difficult to judge (especially in the context of the follow-up exercise) whether their respective provisions have been effectively implemented.

38. *Basic CDD requirements in law or regulations:* the following requirements are set out in law or regulation:

- anonymous accounts or accounts in fictitious names (C.5.1): explicit provision in article 15 of the AML law (2008). The BOG Decision with respect to CDD sets out requirements in that regard;
- situations where CDD must be conducted (C.5.2): see Article 12 AML law (2008);
- obligation to identify the customer and verify the customer' identity (C.5.3): see Article 13.1a AML law (2008);
- identification and verification of beneficial ownership (C.5.5): see Article 13.1b AML law (2008);
- determination of whether the customer is acting on behalf of another person (C.5.5.1): see Article 13.1b) AML law (2008);
- determination who are the natural persons that ultimately own or control the customer (C.5.5.2b): see Article 13.1b in combination with the definition of beneficial owner in Article 4.16) AML law (2008);
- obligation to conduct ongoing due diligence (C.5.7): see Article 13.1f) AML law (2008).

39. *CDD requirements for the insurance sector.* The AML law (2008) applies to insurance companies and intermediaries. In addition, the PISC has issued rules (applicable to both insurance companies and intermediaries) on the “Prevention of the use of the financial system for money laundering and the financing of terrorism” in August 2009 that deal with CDD obligations (see Articles 3 and 4).

40. *Situations where CDD must be conducted.* The BOG Decision 281/5/17.03.2009 sets out CDD requirements in relation to wire transfers (Article 11) in line with the EC Regulation 1781/2006. The other requirements (in relation to C.5.2) are set out in the AML Law (2008) (see Article 12 c) in cases of suspicion of ML/TF and Article 12 d) when there are doubts about the veracity, completeness or adequacy of previously obtained customer identification data.

41. *Simplified due diligence.* The AML Law (2008) (see Article 17) provides for exemption from CDD requirements (including customer and beneficial owner identification and verification) where the customer is a credit or financial institution situated in the European Union or a third country which imposes requirements equivalent to those laid down in Directive 2005/60/EC and is supervised for compliance with those requirements (in line with the 3rd EU Directive). The obligated persons are not subject to the verification requirements in respect of certain customers (e.g. listed companies or Greek public companies). In the cases referred to above, obligated persons should gather sufficient information to establish if the customer qualifies for an exemption and shall decide on the basis of risk management procedures (for instance, the HCMC rule provides details on the type of information that must be collected in that respect). However, this is not fully in line with Recommendation 5 (that allows simplified due diligence but no exemption from CDD requirements, especially a unilateral exemption of the verification component). The BOG Decision amends the previous provisions on simplified CDD and establishes rules in line with the provisions of the AML law (2008). The BOG has adopted specific CDD measures for accounts of companies with bearer shares (Article 5.15.3).

42. *Identification of legal persons.* Article 13.1 of the AML Law (2008) imposes the following requirements: “Standard customer due diligence measures applied by obligated persons shall comprise: (a) identifying the customer (natural or legal person) and verifying the customer’s identity on the basis of documents, data or information obtained from a reliable and independent source; (b) identifying, where applicable, the beneficial owner(s) of the corporate customer, updating the information and taking risk-based and adequate measures to verify his identity so that the obligated person is satisfied that it knows who the beneficial owner(s) is (are), including other natural or legal persons on behalf of whom the customer is acting”. Article 13 adds the following: “when the customer is acting on behalf of other persons, he should state so and, in addition to proving his own identity, shall prove the identity of the third party, natural or legal person, on whose behalf he is acting. In any event, obligated persons shall verify the accuracy of this information when the customer does not make the said statement, but there are serious doubts about whether he is acting on his own behalf or it is certain that he is acting on behalf of others”. The BOG and the HCMC rules set out specific requirements with regard to the identification of legal persons, especially for companies with bearer shares, offshore companies and non profit organisations. These requirements seem to be in line with the FATF standard.

43. *Obligation to identify beneficial owner.* The AML Law (2008) requires financial institutions to “identify the beneficial owner of the corporate customer and take risk-based and adequate measures to verify his identity” (Article 13.1b). The definition of “beneficial owner” is the one set out in the third EU Directive. The requirement to identify the beneficial seems to be in line with the FATF standard. With regards to trusts and legal arrangements, it seems that the AML Law (2008) focuses on measures to understand the ownership and control structure of the customer using a risk based approach, but not in determining who are the natural persons ultimately exercising effective control.

44. *Enhanced CDD measures for high risk customers in the securities and insurance sectors.* The AML Law (2008) establishes requirements for high risk situations that apply to all obligated entities, including the securities and insurance sector (see Articles 20, 21, 22, PEPs, cross-border banking relationships, new products and technologies). The HCMC and the PISC have defined high risk situations or customers. However, it is not clear what specific measures securities firms and insurance companies/intermediaries have to take to address these higher risk scenarios (the HCMC indicates that this issue will be addressed in guidelines).

45. *Ongoing due diligence.* Article 13 par. 1(f) of the AML/CFT Law (2008) require obligated persons to “conduct ongoing monitoring of the business relationship, including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the obligated persons’ knowledge of the customer and of the beneficial owner, the business

and risk profile, including, where necessary, the source of funds, according to criteria determined by the relevant authorities. The obligated persons ensure that the documents, data or information held are kept up-to-date”. This is in line with the FATF requirement. Ongoing due diligence is also provided for by article 3 of the HCMC Rule on existing customers. Article 4.1 of the PISC Rule specifies the ongoing monitoring of the business relationships and transactions.

46. *Timing to complete verification of the identity.* The provision (Article 14) of the AML Law (2008) is in line with the FATF standards (C.5.13 and C.5.14). Par. 5.14 of the BOG Decision also brings BOG provisions in line with the FATF standards (the older provision that allowed financial institutions a period of up to 30 days to complete verification of the identity of particular categories of customers was repealed by virtue of Decision 257/4/22.02.2008 of the Banking and Credit Committee). The Greek authorities indicate that since new HCMC Rule (1/506/8.4.2009) came into force, HCMC Rule 23/404/22-11-2006 (with article 5 par. 2, which allowed a maximum period of 30 days for specific cases to complete verification of the customer’s identity), was repealed.

47. *CDD applicable to existing client.* According to article 13, par. 5 of the AML Law (2008), “obligated persons shall apply, at the appropriate time, risk-based due diligence measures not only to new, but also to existing customers. Decisions of the competent authorities may determine the criteria and the method of application of due diligence to existing customers.” PISC Rule (Article 5.4) states that: “Companies shall also apply the due diligence procedures to existing customers, on a risk-sensitive customer basis, periodically as well as extraordinarily at appropriate times. Appropriate times shall mean, inter alia, the following: (1) when the customer is carrying out an important, with regard to his status, transaction; (2) when an important change in the customer’s data occurs; (3) when there are changes in the way the customer’s account operates; (4) when the Company acknowledges that information about an existing customer is insufficient”. Article 5.8 of the BOG Decision 2 reads: “Supervised institutions (SIs) shall apply, at appropriate times and on a risk-sensitive basis, CDD procedures not only to new, but also to existing customers, and shall ensure that their customers’ identity particulars are continuously updated throughout the business relationship. Specifically, they shall review, on a regular basis or whenever there are doubts about their validity, the data in their possession and, at least on an annual basis, the data on high-risk customers. The results of such examination shall be recorded and kept in the customer's file. If the updating of the customer’s identity particulars is not achieved, the SI shall terminate the business relationship and consider submitting a report to the AML/CFT Commission”. Finally, in article 3 of the HCMC Rule, the criteria and the method of application of due diligence to existing customers is determined as follows: “companies shall also apply the due diligence procedures to existing customers, on a risk-sensitive customer basis, from time to time as well as exceptionally at appropriate times. Appropriate times shall mean, inter alia, the following: (1) when the customer is carrying out an important, with regard to his status, transaction; (2) when an important change in the customer’s data occurs; (3) when there are changes in the way the customer’s account operates; (4) when the Company realises that certain information about an existing customer is missing. It seems that the weakness identified in the MER has been properly addressed.

48. *Requirement to ascertain the nature and purpose of the business relationship.* The new AML/CFT Law imposes this requirement, as, according to par. 1c of article 13, CDD measures comprise, inter alia: “obtaining information on the purpose and intended nature of the business relationship or important transactions or activities of the customer or the beneficial owner”. Similar rules are set out in the BOG, HCMC and PISC Rules.

49. *Conclusion.* The new AML Law considerably strengthens the Greek regime with regard to customer identification and addresses most of the weaknesses identified in the MER (especially with regard to the situations where CDD must be conducted; identification and verification of beneficial owner; ongoing due diligence; timing to complete identity verification; CDD requirements applicable to existing

clients; the requirement to ascertain the nature and purpose of the business relationship). CDD requirements have also been extended to insurance intermediaries. Only one important issue seems to remain with regard to the reduced CDD measures (the current provisions are still not in line with the FATF requirements that allow simplified due diligence but no exemption from CDD requirements, especially a unilateral exemption of the verification component). However, Greece has improved its compliance with Recommendation 5 to a satisfactory level.

Recommendation 13 (rated PC) and Special Recommendation IV (rated PC)

50. *Reporting obligation under the AML Law (2008)*. The obligated persons and their staff, including managers, must: “a) promptly inform the Commission, on their own initiative, where they know, suspect or have reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted; and b) promptly furnish the Commission or other anti-money laundering and anti-terrorist financing authorities, when requested, with all necessary information, in accordance with the procedures established by the applicable legislation”. The language used in a) is intended to cover ML and the predicate offences (the ML offence in Article 2.2 refers to criminal activities *i.e.* the commission of one or more of the predicate offences listed in Article 3 of the AML Law (2008)).

51. *Scope*. Insurance agents and brokers are covered by the obligation to report (see Article 4.n) and Article 26 of the AML Law (2008)).

52. *Inclusion of all predicate offences*. See comments under Recommendation 1. Greece has opted for a combination of a list of predicate offences and a threshold approach. Certain categories of offences that were designated by the FATF to be covered as predicate offences are not specifically included in the AML Law (2008) but are covered by the catch-all provision of Article 3.r) (“*any other offence punishable by deprivation of 6 months and having generated any type of economic benefit*”).

53. *Not all required aspects of TF are included in the scope of the reporting requirement*. This remains the case. See conclusions in relation to SR.II above.

54. *Reporting of attempted transactions*. The reporting of attempted transactions is required under the AML Law (2008) (see Article 26).

55. *Implementation of the reporting obligation*. The number of STR’s per year is as follows:

2007	1432
2008	2899
2009	2304

56. The number of STRs is increasing over the longer term. The Greek authorities indicate that this increase is due to an increase of tax offences reporting. Greece provided statistics on the number of STRs per reporting entities. Although the banking sector in average reports about half of the STRs (2009: 46%), the number of STRs in the securities (2009: 5%) and bureaux de change / money remittance sectors (2009: 25%) is increasing. Other reporting entities for 2009 were government agencies (16%), other FIUs (7%), private individuals/companies (2%) and insurance companies (< 1%). There are indicators that the effectiveness of the reporting system is improving although this is not the case for all reporting entities (especially the insurance sector). The Greek authorities indicate that the FIU finalised in June 2009 a new

reporting form for the banking and financial sector. The forms that are currently available³ are the reporting forms for banks, investments firms, insurance companies, money transfers, bureau de change and DNFBPs.

57. *Conclusion.* Greece has strengthened its suspicious reporting obligation (essentially all predicate offences are covered, the obligation applies to insurance intermediaries and attempted transactions are covered). Only one technical issue remains (not all required aspects of TF are included in the scope of the reporting requirement). There is some evidence that the implementation reporting obligation is more effective, at least in some parts of the financial sector (and especially in the securities area). In general terms, Greece has improved its compliance with Recommendation 13 and Special Recommendation IV to a satisfactory level.

Detailed analysis of compliance with the key recommendations

Recommendation 3 (rated PC)

58. *Confiscation of indirect proceeds.* Article 46 of the AML Law (2008) provides measures for confiscation of assets derived directly or indirectly from proceeds of crime.

59. *Seizure does not extend to all property that is the proceeds of crime.* Article 4 of AML Law (2008) stipulates the meaning of “property”: “assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and documents or instruments in any form, including printed, electronic or digital, evidencing title to or interests in such assets. For the purpose of this law, property shall include “proceeds”. Article 46.1 of the AML Law (2008) sets out the following provisions: “assets derived from a predicate offence or the offences referred to in Article 2 or acquired directly or indirectly out of the proceeds of such offences, or the means that were used or were going to be used for committing these offences shall be seized and, if there is no legal reason for returning them to the owner according to Article 310(2) and the last sentence of Article 373 of the Code of Criminal Procedure, shall be compulsorily confiscated by virtue of the court’s sentence”.

60. *Courts cannot void or prevent transactions from the time the crime has been committed.* Greece has provided the following information. By the time a case is brought before the judiciary, during the preliminary investigation proceedings, both the investigative judge and the courts have the power to void every transaction linked to the crime. Judicial authorities can issue orders for seizure in addition to any freezing orders that might have been issued of the Greek FIU, thus making sure that both the transactions have been void and the proceeds of crime have been seized and then confiscated.

61. *There is insufficient evidence to indicate the current provisions have been effectively implemented and used.* No data was provided.

62. *Generally, there is a lack of uniformity when applying the confiscation provisions which raises issues of effective implementation.* The confiscation regime is spelt out in the AML Law (2008) as well as the Code of Criminal Procedure. Article 46 intends to provide additional provisions to meet the requirements under Recommendation 3. Not enough time has passed since the adoption of the AML Law (2008) to judge the implementation of the new confiscation measures (especially in the context of a pure desk review) and the subsequent possible effectiveness.

63. *Conclusion.* Provisions in the AML Law (2006) aim at strengthening the confiscation regime in Greece. The technical issues seem to have been resolved although no evidence has been brought to

³ Source: Website FIU (www.hellenic-fiu.gr)

conclude that the confiscation regime is more effectively implemented and used. However, in general terms, it seems that Greece has improved its compliance with Recommendation 3 to a satisfactory level.

Recommendation 4 (rated PC)

64. The AML Law (2008) removes bank secrecy during the FIU's investigations and audits, *i.e.* no provision requiring banking, capital market, taxation or professional secrecy is valid *vis-à-vis* the Commission (the FIU). The AML Law (2008) also states (Article 32) that the disclosure of information to the FIU or the public prosecutor by the obligated entities and their directors and employees shall not constitute a violation of the disclosure prohibition and shall not involve liability of any kind, unless they have not acted in good faith. The provision that raised some concern at the time of the evaluation has been repealed and the AML Law has been clarified in line with the recommendations of the MER. Greece has improved its compliance with Recommendation 4 to a satisfactory level.

Recommendation 23 (rated PC)

65. *Market entry rules - absence of a licensing requirement for insurance agents.* A Presidential Decree of 14 September 2006 (Article 3) requires insurance intermediaries (including agents) to obtain a licence and be registered.

66. *Market entry rules - fit and proper tests are not conducted for all directors of credit institutions.* With regard to credit institutions, the Greek authorities indicate that the Banking Law (Law 3601/1.8.2007) brought a number of significant changes that go beyond the fit and proper tests enshrined in the EU banking legislation (Directive 2006/48/EC), since, according to Article 5, apart from the members of the Board of Directors, the heads of the Internal Audit Unit, Compliance Unit (responsible for AML/CFT issues) as well as of the Risk Management Unit have to be approved by the BOG. This seems in line with the recommendations made in the MER.

67. *Supervisory programme and procedures – BOG.* The Greek authorities indicate that the BOG has been implementing a risk based approach on AML/CFT supervision. The Supervision Department was restructured in February 2008, *i.e.* a new AML/CFT Division was set up comprising a Regulations section and an Inspections section. The Regulations section follows European and international developments and institutional issues and elaborates AML/CFT guidelines addressed to the supervised institutions. Furthermore, it develops audit tools and assesses the adequacy of the procedures of the supervised institutions on an off-site basis. The Inspections Section carries out inspections of supervised institutions, including credit institutions, money remitters, bureaux de change, financial leasing and factoring companies. The new AML/CFT division works in close co-operation and carries out inspections along with the IT auditing Section that examines the AML/CFT IT systems infrastructure of each institution.

68. Greece has provided the following information. The BOG has completed, on the basis of the detailed annual AML/CFT reports filed by supervised institutions and the inspections carried out during 2008, a 1- 5 scale rating process of institutions (the ratings have been updated in 2009). In particular, the rating of a bank is the average of the assessment of four areas of importance for AML/CFT, namely of AML/CFT systems and procedures, suspicious transactions reporting records, staff training and AML/CFT IT systems sections. The overall rating is used to prioritise inspections in a focused, risk based manner or may trigger other enforcement actions. On-site examinations' and special off-site audits' findings are then used to update existing ratings. A significant part of the Inspections program is the examination of Greek banks' branches and subsidiaries in the Balkans and Eastern Europe.

69. The BOG has provided the following statistics:

Year	Number of BOG examinations of credit and financial institutions
2004	58 (source: MER)
2005	90 (source: MER)
2008	35
01 – 11/2009	31

70. Although the measures described above indicate positive developments, the effectiveness of the supervision carried out by the BOG was difficult to establish. The BOG explained the reduced number of on-site inspections in the recent years (2008 and 2009) as follows: inspections are now carried out primarily at the central compliance functions (Central AML/CFT Units) of supervised institutions. Local branch/outlet audits are much fewer than in the past, are risk based and carried out for the purpose of establishing the effective application of group policies and procedures at key outlets at home and abroad. Prioritising of audits is based on the extensive off site review (see comments above). These central inspections take more resources than in the past and last longer as they intend to cover all areas and requirements of the BOG Decision 381/2009.

71. In January and February 2010, Greece provided additional information on the BOG work on AML/CFT. Most of the information relates to issues initiated before October 2009, nevertheless, the overview is detailed and informative. The report by the BOG is attached. The main new developments since October 2009 are: BOG has imposed fines on 4 more credit institutions (for a total sum of EUR 310 000), most money remittance and bureau de change companies have now been inspected (12 inspections), covering 85% of the market, and BOG has issued a third Regulation to implement the AML Act. New statistics were also provided. The number of dedicated AML examiners in BOG is currently 13, compared to the total number of supervisory staff of 35. Training is still a priority, although the number of AML related training and seminar was only 4 for all 2009. Overall however, while taking into account that a paper based desk review can never fully confirm (the lack of) effectiveness, BOG seems to have taken sufficient measures to put an effective supervisory system in place.

72. *HCMC AML/CFT supervision of securities firms is very recent and effectiveness has not been demonstrated.* The HCMC Special Unit for the prevention and suppression of money laundering and terrorist financing was formed in February 2006 but Greece affirms that the AML supervision of securities firms was effective before that date. The Greek authorities indicate that since February 2006 on-site inspections were carried out for almost all of the investment firms (the MER states that at the time of the on-site visit, the HCMC had conducted 14 AML inspections). Article 6 of the HCMC Rule obliges company's external auditors to submit a report every three years that assesses the adequacy and efficiency of the procedures on prevention of money laundering and terrorist financing. This report is submitted to the HCMC (such reports were provided in June 2009). On the basis of this work, either recommendations are made to the financial institutions to correct the deficiencies noted or some financial institutions are selected for on-site inspections depending on the seriousness of the deficiencies noted. As a result of these supervision activities, AML/CFT penalties have been imposed on securities firms for very low amounts: EUR 27 000 in 2007 and EUR 50 500 in 2008. The information provided is difficult to analyse: there were almost 100 investment firms in Greece at the time of evaluation. By that time, 14 AML inspections had taken place. If most of these firms have been inspected since then, this means that the HCMC has conducted almost 90 AML inspections in 3 years (having only 3 specialised auditors in its AML Unit), which would appear to be a very resource intensive. In addition, the very low level of penalties imposed

and the lack of other information makes it difficult to determine if the supervisory and sanction system is working effectively (very few sanctions and only one type of sanctions imposed).

73. In January and February 2010, Greece provided additional information on HCMC AML/CFT Unit. In comparison to the information provided at an earlier stage (see the preceding paragraph), no new structural developments could be reported. However, the HCMC provided detailed information about onsite inspections since 2006, including the number of violations (high) and the level of fines (low). A copy of the full update from HCMC is attached. The number of inspections currently amounts to 52 (of which 38 took place since the on-site visit in 2006), which represents about 75% of the market (68 investment firms). Considering that an on-site inspection takes five days in average, the figures seem somewhat low, since on this basis an inspection cycle would take about 6 years. According to HCMC, the inspections take so much time because these are the first AML/CFT inspections ever. Once all firms have been inspected, an average inspection cycle should take 2 years. Although the AML/CFT Unit has one more staff (a lawyer), despite the fact that all staff have been trained and are well experienced (see annex with update from HCMC), and despite the fact that the AML/CFT unit can rely on staff of other departments if necessary, the total number of staff (four) is still likely to be insufficient. It is difficult to imagine that the overall effectiveness of the HCMC's supervision in this area could become effective with the current staff levels. This is supported by the fact that 4 years after the on-site, 25% of the market has still never been inspected for AML/CFT purposes.

74. *PISC (MOD/ID): there is no AML/CFT supervision of insurance companies.* Since 01-01-2008, the PISC is fully operational, succeeding the Ministry of Development as the regulatory authority of the private insurance sector. PISC is, since then, the enforcement authority for the AML/CFT legislation in the private insurance sector. Since June 2007 the Private Insurance Supervisory Committee has employed 43 staff and 5 lawyers in order to be able to fulfil its supervisory role. In 2008 AML/CFT supervision responsibilities have been granted to 3 members of the staff, including 2 specialised financial analysts and one lawyer, within a special department. In March and April 2009, Greece indicates that PISC carried out on-site inspections of insurance companies that represent a share of over 80% of the insurance market. When failures to implement the AML/CFT obligations were identified, the insurance company was asked to take corrective measures. No sanctions were imposed.

75. In January and February 2010, Greece provided addition information on the AML Supervision Unit within PISC. The unit is responsible for supervision of insurance intermediaries (18 000) (usually off site inspections) and life insurance companies (one or two days on site inspections). In 2009, 14 insurance companies were inspected, all received written instructions to amend procedures and take corrective measures. Audit reports are pending for 3 insurance companies that were re-inspected in 2009. A follow up audit is scheduled for all 14 companies. 10 STRs were made on the basis of PISC inspections by insurers, 4 STRs were made by PISC to the Prosecution. Other PISC staff may be involved in the inspections, or inspections may be triggered by other PISC divisions. PISC can also determine fit and proper criteria for management positions, oblige the external auditor to report every two years, oblige the AML officer to report annually a request information form the insurer. Overall, PISC currently has a staff of 55. Staff have at least five years experience in the insurance business, a bachelor or masters decree, and are bound by confidentiality provisions. PISC has the possibility to sanction non-compliance (warning, fines and cancelling of the license). A copy of the full update from PISC is attached. While PISC has made some significant progress, the current staff levels are likely to be lower than an effective system would require.

76. *Conclusion.* Greece has been able to show positive developments in the AML/CFT supervision area. The BOG has enhanced its supervisory programme vis-à-vis credit institutions although the actual figures for on-site inspections show a quantitative diminution of such examinations. Based on a desk review, the effectiveness of the supervision carried out by the BOG is difficult to fully confirm, but it is clear that progress has been made. The HCMC has reorganised and rationalised its supervision work in the

AML/CFT area. PISC has set up its AML supervision infrastructure and started inspections. The level of dedicated AML/CFT supervisory staff seems too limited for HCMC and PISC. Insurance companies are now subject to AML/CFT supervision, which considerably strengthens the AML/CFT controls of financial institutions in Greece. Overall, the effectiveness of FIs supervision has been enhanced since the mutual evaluation report was approved. In relation to BOG, the improvements are satisfactory. In relation to HCMC and PISC, the structural improvements that have been made could be satisfactory if dedicated AML/CFT staff levels would be enhanced.

Recommendation 26 (rated NC)

77. *Structure of the FIU.* The FIU (hereafter the “Commission”) has been restructured and reorganised in March and then in August 2009 (the Ministerial Decision of 26 March 2009 has been repealed and replaced by a new Decision adopted in August 2009). The AML regime still allocates extra powers and responsibilities to the FIU in addition to its core functions (the new Commission has been given law enforcement powers and has also the power to freeze assets for extended periods of time and carry out audits in situations that it considers to be serious, in any public administration or enterprise). It is unclear how these powers tie in with the other functions of the FIU (see conclusion of the MER, §214). It should be noted that the FIU informed the FATF ICRG Co-Chairs that the FIU has not, since the beginnings of its operations in September 2008, exercised these powers and does not intend to do so in the future. Nevertheless, considering that powers could still be used in the future, this means for the follow-up process that the recommendation has not been fully addressed. Greece indicates that draft amendments to the AML Law would abolish these powers.

78. *Composition and functions of the Commission.* In response to the MER’s concern on the lack of operational independence and autonomy of the FIU, the private sector is not represented anymore on the Council that is the governing body of the Commission (since March 2009). The members of the Council who are appointed by a joint decision of the Minister of Economy and Finance and the Minister of Justice are as follows (see Article 7.4 of the AML Law (2008)): (a) two members, one from the General Directorate of Economic Policy and the other from the Special Control Service are proposed by the Minister of Economy and Finance; (b) one Member is proposed by the Minister of Justice; (c) one Member from the Hellenic Police Headquarters is proposed by the Minister for the Interior; (d) one Member is proposed by the Governor of the Bank of Greece; (e) one Member is proposed by the Board of Directors of the Hellenic Capital Market Commission; (f) one Member is proposed by the Board of Directors of the Private Insurance Supervisory Committee; and (g) one Member is proposed by the Board of Directors of the Accounting and Auditing Supervisory Board.

79. The President of the FIU and his alternate are appointed by the judiciary, specifically the Supreme Judicial Court. The Greek authorities indicate that this judiciary board is wholly independent (whereas the head of the former FIU was appointed by the decision of the Ministerial Council). The FIU Board has been given an oversight role as recommended in the MER. Under the new arrangements set out in the Decision of August 2009, the members of the FIU Board do not carry out the analysis of STRs anymore (in line with a continuous recommendation from the FATF). The analysis is done by full time members of staff within the STR Analysis and Tax Controls Unit under the guidance of FIU Board members.

80. *Human resources.* Article 11 of the Decision provides that the Commission, once its personnel’s recruitment will be finished, will be staffed as follows:

- Directorate: one Director;

- The Administrative and Financial Affairs Unit (in charge of staff management and budget matters): one Head and 10 employees;
- The IT Support Unit (in charge of the planning, development, maintenance of computer systems, including the Commission website): one Head and 4 employees;
- The STR Analysis and Tax Controls Unit (in charge of the STRs analysis): one Head and 14 analysts;
- The Investigations Unit (responsible for conducting investigations in relation to STRs and cases examined by the Commission): one Head and 10 investigators;
- The International Relations and Research Unit (responsible for developing typologies and contact with foreign counterparts): one Head and 6 experts.

81. The FIU staff now consists of 27 employees (1 director, 11 financial analysts, 4 investigators (responsible for criminal intelligence analysis), 5 IT experts, 3 administrative staff and 3 support staff). It seems that two analysts have been hired since June 2009. This is a positive move since the STRs are now analysed by some permanent staff of the Commission (and not the members of the Council who are only part-time employees). However, the total number of employees still appears insufficient to carry out the wide range of functions the FIU has been given. Finally, the presence of representatives from the Ministry of Economy and Finance still raises question about the ability of the FIU to exercise full operational independence.

82. *Adequate and timely access to all the financial, administrative and law enforcement information.* In June 2009, Greece indicated that the FIU has direct access to: (a) credit register type information on borrowers' overall indebtedness; (b) taxation and customs data bases; (c) company information from company registers; (d) private sources of information on non- EU/UN sanctions lists and PEPs and (e) criminal records and other information from law enforcement authority. On request, the FIU has also indirect access to all public records such as land registry, passport and social security data and may seek whatever information is deemed relevant in the course of its investigations. This information has not been verified. It is still not clear to what extent the FIU has improved its technical resources to support its analytical work.

83. *Insufficient physical and electronic security systems to securely protect the information held by the FIU.* In June 2009, the Greek authorities indicated that the issue of electronic security system should be addressed once the integrated database is operational. However, that system is not fully operational yet (e.g. i the STRs are still received in paper format) and the Greek authorities do not anticipate such process to be running before 2011. The issue of physical security and the security of electronic information systems, is being progressively addressed in conjunction with the development of the database. Steps seems to have been taken to enhance the conditions of access to data held by the FIU (access to sensitive data is now achieved through username/password authentication and the database is now backed up). Although the type of database that is used remains very basic (Access program type), it seems that the FIU is able to gather basic information from its database (such as the breakdown of the disclosures and the cases for a specific period of time, the breakdown of the disclosures and the cases for a specific period of time per reporting entity, the breakdown of the cases per type of suspected the predicate offence, etc.).

84. The Greek authorities have, however, updated the FATF on the actions planned to introduce an integrated workflow case management system for the FIU. A copy of this update is attached. The plan is to have automated systems and processes in place to receive and register STRs electronically, provide initial feedback to the reporting entity whether the STR was forwarded or filed, and manage STRs internally. The

software will, however, not be an analytical tool. The authorities foresee that most of these systems will be in place by the end of the second quarter of 2010.

85. *Reports and typologies and trends.* The MER noted that Commission reports do not produce adequate information on statistics, typologies and trends. No change has occurred in this area since this deficiency will only be fully addressed once the integrated database is operational. The Greek authorities indicate that at present statistics and trends are issues on a quarterly basis. However, this information was not made available to the Secretariat and is not published on the Commission website. The website page on typologies is also under construction. Reporting forms are available on the FIU website for most reporting entities.

86. *Number of STRs.* The following figures have been provided:

	2007	2008	2009
Number of disclosures received	1432	2 899	2304
Number of cases opened	1 293 (90%)	2 077 (71.5%)	1739 (75%)
Number of cases for investigation	714 (50%)	1 102 (38%)	1514 (66%)
Number of cases closed within the FIU	588 (41%)	872 (30%)	790 (34%)
Number of cases sent to prosecutors	126 (8.5%)	103 (3.5%)	166 (7%)
Number of cases resulting in seizure of assets	3 (0.2%)	10 (0.3%)	14 (0.6%)
Requests to FIUs	10	42	80

87. The number of STRs has increased although the issue of human and technical resources available to deal with these cases remains. In addition, the Greek authorities indicate that this increase is due to an increase in tax offences reporting. The number of cases closed and filed is diminishing (it was about 45% of the disclosures received in 2005 and 2006) which could be an indicator of a better quality of the STRs (although no information was provided that corroborates this). Finally, it seems that the number of FIU cases resulting in prosecutions is increasing, which is positive.

88. Some issues still raise concerns when considering the effectiveness of the reporting system (considering both Recommendations 26 and 13). There are indicators that the effectiveness of the reporting system is improving although this is not the case with regard to all reporting entities (especially in the insurance sector and the DNFBPs sector). It is important to note that the DNFBPs outreach is also in its very early stage (see comments below on Recommendation 12), which could explain a continuous low level of reporting from their end. The FIU is not still publishing its annual reports on its website (and has not provided copy of such reports to the Secretariat). The FIU still does not provide feedback to the reporting entities or to law enforcement agencies, such as sanitised cases or ML/TF typologies.

89. *Co-operation with counterparts.* Some advances have been made regarding international co-operation, with the FIU being linked to the Egmont Secure Web and to FIUNet. It seems that the Commission has signed MOUs with some of its counterparts. However, the capacity of the FIU to co-operate and provide assistance in a rapid, constructive and effective manner is uncertain in the absence of a database that is operational. It seems that the Commission sent 80 requests for information to counterparts in 2009 and received 150 requests from other FIUs (of which 65 are pending).

90. *Conclusion.* Overall, as regards the FIU, insufficient progress has been made since October 2008, despite the new body being established and the limited increase in human resources. Moreover, some of the features of the preceding FIU (that were severely criticised in the MER) have been maintained (extensive powers given to the FIU that go beyond its core functions with limited human resources, a dysfunctional IT system that seriously impacts STR processing), which raises serious concerns. Since June 2009, only one issue has been resolved (part-time Council members are not carrying out STR analysis

and investigation anymore). Globally, the functioning of the FIU still presents major weaknesses and there have been significant delays (for instance, the database is planned to be fully operational by 2011). Nevertheless, Greece has initiated some efforts to improve the effectiveness of the FIU. A STR management database should be installed in 2010. In addition, the Greek FIU has visited the Spanish FIU, and is planning to visit the Belgian FIU, for technical assistance and training. Overall, however, Greece has not improved its compliance with Recommendation 26 to a satisfactory level.

Recommendation 35 (rated PC)

91. *Ratification of the Palermo Convention.* The Palermo Convention is still not ratified. The Greek authorities indicate that a draft law is currently before the Central Legislative Drafting Committee within the Ministry of Justice for further consideration before submission to Parliament for ratification.

92. *Implementation of the Palermo Convention- scope of the ML offence.* This issue has been addressed, see comment under Recommendation 1.

93. *Implementation of the Palermo Convention - self-laundering.* Self-laundering is criminalised in Greece, see comment under Recommendation 1.

94. *Implementation of the Palermo Convention - penalties.* For natural persons, the AML Law (2008) still attaches various terms of imprisonment to ML, depending on the type of the offence and the circumstances (see Article 45). The sentence for ML still cannot exceed the sentence for the predicate offence (Article 45.1.g). However, this principle does not apply in certain circumstances *i.e.* for the commission of certain predicate offences (bribery) and where the perpetrator exercises such activities professionally or he is a recidivist or is part of a criminal or terrorist organisation (Article 45.1.h). However, it is not certain that this addresses the weakness identified in the MER since the issue remains with regard to misdemeanours. As a general principle, the sentence for ML should stand alone and should not be dependent upon the sentence of the predicate offence.

95. *Implementation of the Vienna Convention - confiscation of indirect proceeds.* Article 46 of the AML Law (2008) provides measures for confiscation of assets derived directly or indirectly from proceeds of crime.

96. *Implementation of the TF Convention – penalties.* Article 51 of the AML Law (2008) sets out the applicable administrative penalties for legal persons that have committed a ML or TF offence (including administrative fines and temporary or permanent exclusion of the operating licence of the business). However, this provision is insufficient since the legal person has to derive a benefit from collecting or providing funds to a terrorist or terrorist organisation to be subject to administrative sanctions. The weakness identified in the MER has not been addressed. Criminal liability for financing of terrorism still only extends to natural persons although there are no fundamental principles of domestic law to prevent this.

97. *Implementation of the TF Convention – CDD requirements and suspicious transaction reporting.* Greece has improved its compliance with the CDD and suspicious transaction reporting requirements to a satisfactory level (see the analysis in relation to R.5, R.13 and SR.IV).

98. *Conclusion.* The Palermo Convention has not been ratified by Greece and a few technical issues remain with regard its compliance with Recommendation 35. Greece has not improved its compliance with Recommendation 35 to a satisfactory level.

Recommendation 40 (rated PC)

99. *FIU co-operation with its counterparts.* Although the FIU is now connected to FIU.Net and the Egmont Secure Web, its capacity to co-operate and provide assistance in a rapid, constructive and effective manner is uncertain in the absence of an operational database and easy access to in-house information. Effectiveness in this area remains a concern.

100. *Co-operation with foreign supervisors.* A multilateral MOU was signed, on high-level principles of co-operation and co-ordination, by banking supervisors of South Eastern Europe in July 2007 (the signing parties were the Bank of Albania, the Bank of Greece, The National Bank of the Republic of FYROM, The National Bank of Romania, The Bulgarian National Bank, The National Bank of Serbia and the Central Bank of Cyprus). Also, an MOU was signed with Bosnia and Herzegovina and Montenegro in February 2008. The Greek authorities indicate that, as a part of the effort to foster home-host AML/CFT supervision and co-operation, two on-site inspections were realised in common with the Central Bank of Cyprus, in 2008. Greece provided statistics on the number of formal requests for assistance received by the BOG relating to or including AML/CFT and the number of requests that were granted (from April 2007 to July 2009, 24 requests were received and granted, essentially in relation to on-site examinations of Greek banks subsidiaries or branches in third countries). No statistics were provided on the number of requests made by the BOG for the same period.

101. *Conclusion.* Doubts remain with regard to the FIU capacity to provide effective and timely co-operation to foreign counterparts. As far the BOG is concerned, some enhancements have been made and there are indicators that the BOG is more actively co-operating with its counterparts. In conclusion, it seems that Greece has improved its compliance with Recommendation 40 to a satisfactory level.

Special Recommendation I (rated PC)

102. *Implementation of the TF Convention – CDD requirements and suspicious transaction reporting.* Greece has improved its compliance with the CDD and suspicious transaction reporting requirements to a satisfactory level (see the analysis in relation to R.5, R.13 and SR.IV).

103. *Implementation of S/RES/1267(1999) and S/RES/1373(2001).* See the analysis and the conclusion in relation to SR.III.

104. *Conclusion.* Considering the remaining issues with regard to compliance with SR.II and SR.III, Greece has not improved its compliance with Special Recommendation I to a satisfactory level.

Special Recommendation III (rated PC)

105. The definition of funds in the EC Regulations does not fully cover the terms in SR III and assets that are wholly owned or controlled by a listed entity are not covered. No measure has been taken to address this issue.

106. Greece has a limited ability to freeze funds in accordance with S/RES/1373(2001) of designated terrorists outside the EU listing system. Greece has no procedure to freeze funds in accordance with S/RES/1373(2001) of designated terrorists outside the EU listing system (Article 49 of the new AML law sets out enforcement mechanisms with regard to the United Nations Security Council Resolutions and the EU decisions/regulations only). It should be noted that draft measures are currently being considered within the Greek administration. Greece has provided a copy of these draft measures. As they are not in force, they cannot yet be taken into account for the follow-up process. A copy of the draft amendment to the penal code (article 49a) is annexed and from a first reading it seems possible that these provisions could be satisfactory.

107. The current process for notifying ministries and the financial sector of entities on UN lists takes too long and therefore these entities would not be able to comply with freezing terrorist assets without delay. Article 49 of the AML Law (2008) sets out new procedures for notifying the reporting entities of updated lists of persons and entities targeted under S/RES/1267(1999) and S/RES/1373(2001) (EU lists). The process is more expedited and centralised i.e. the FIU is responsible for forwarding the updated lists to the credit and financial institutions. However, the communication of this information to the other reporting entities is only optional, although the FIU advises that it forwards the lists to all obligated persons. The BOG has indicated that in addition to the immediate FIU notification mechanism, the Central Bank directly and individually notifies the supervised entities' compliance officers of new UN Security Council Resolutions and EU Regulations.

108. Greece does not provide guidance to financial institutions as well as DNFBPs on freezing assets of listed entities without delay and does not monitor FIs and DNFBPs for compliance with measures taken under the Resolutions. No measure has been taken to address these issues, with the exception of notifications of the FIU to all obliged parties, informing them of their duty to freeze, listing the relevant EU Council Regulations and EU Council Decisions and reminding obliged parties of their duty to inform the FIU of any match with any of the lists. A copy of such a notification (for credit institutions) is annexed (the authorities provided similar copies for all obliged parties).

109. There are no sanctions for failure to follow freezing requests. Although Greece indicates that sanctions provided in the AML Law (2008) (under Articles 51 and 52) are available, it is not clear how such sanctions apply for failure to follow freezing requests. However, the notification to obliged parties referred to in the paragraph above; reconfirm the view of the authorities that sanctions could be taken on the basis of articles 45, 51 and 52 AML Law in case of non-compliance. It should be noted that article 51 of the AML Act is currently revised (see in relation to SR.II). This revision, if approved and implemented, could have a positive effect on this recommendation.

110. Processes for de-listing and unfreezing funds are not publicly known and it is impossible to determine their effectiveness, if they exist at all. Article 49 (f) & (g) empowers the Minister of Economy and Finance to unfreeze funds according to the procedure mentioned in UN Resolutions or EU Regulations. No equivalent rule seems to exist for de-listing purposes, although draft measures are currently considered within the Greek administration. The unfreezing procedure has never been used and its effectiveness cannot be judged.

111. *Greece has no procedure in place for allowing payment of basic living expenses and fees in line with UNSCR 1452.* No specific measure is in place, although draft measures are currently considered within the Greek administration.

112. Greece does not have appropriate procedures through which a person or entity whose funds have been frozen can challenge that measure before a court. A right to appeal is foreseen in article 48(f) of the AML Law (2008), i.e. the natural person or legal entity may challenge the relevant decision before the administrative courts within 30 days of its issuance.

113. *Greek authorities should be able to freeze terrorist assets without first having to open a criminal investigation.* The Minister of Economy and Finance pursuant to art. 49 of the new law can freeze terrorist assets without first having to open a criminal investigation.

114. Greece does not have any measures in place to protect the rights of *bona fide* third party owners of property that may be involved in terrorist financing. It is not clear that Greece has any measures to protect the rights of bona fide third parties' interests in the property, although draft measures are currently considered within the Greek administration.

115. *Conclusion.* Although some of the shortcomings have been addressed, the general compliance of Greece with SRIII remains low. Greece has not improved its compliance with Special Recommendation III to a satisfactory level. The draft provisions that are currently considered could however, if implemented, have a positive effect on the compliance with SR.III.

Analysis of compliance with the other recommendations rated partially compliant or non compliant

Recommendation 2 (rated PC)

116. *Criminal liability of legal persons.* See the conclusion in relation to SR.II.

117. *Sentence for ML.* For natural persons, the AML Law (2008) still attaches various terms of imprisonment to ML, depending on the type of the offence and the circumstances (see Article 45). The sentence for ML still cannot exceed the sentence for the predicate offence (Article 45.1.g). However, this principle does not apply in certain circumstances *i.e.* for the commission of certain predicate offences (bribery) and where the perpetrator exercises such activities professionally or he is a recidivist or is part of a criminal or terrorist organisation (Article 45.1.h). However, it is not certain that this addresses the weakness identified in the MER since the issue remains with regard to misdemeanours. As a general principal, the sentence for ML should stand alone and should not be dependent upon the sentence of the predicate offence.

118. *Administrative liability.* See the conclusion in relation to SR.II.

119. *Effectiveness of the administrative sanctions regime.* See the conclusion in relation to SR.II on administrative liability.

120. *Implementation/effectiveness of the ML offence.* See the conclusion in relation to Recommendation 1.

121. *Conclusion.* The technical compliance of Greece with Recommendation 2 is not fully satisfactory.

Recommendation 6 (rated NC)

122. Article 22 of the AML Law (2008) sets out new requirements vis-à-vis PEPs. This provision improves Greece's compliance with Recommendation 6. However, the following issues remain: (1) the definition applies to Community and international PEPs although persons in these categories resident in Greece are not included in the definition; (2) the law provides for a definition of "immediate family members" and "persons known to be close associates" but these persons are not included in the definition of PEP set out in Article 22.1; and (3) it is not certain that the requirement to obtain senior management approval applies in the case a customer subsequently becomes a PEP (C.6.2.1).

123. *Conclusion.* Greece has improved its compliance with Recommendation 6 although there are doubts about the scope of the obligation (persons resident in Greece are not subject to the obligation). The implementation of the new requirements has not been assessed.

Recommendation 8 (rated PC)

124. Article 20 of the AML Law (2008) sets out new requirements to prevent the misuse of technological developments and obligations on non-face to face business relationships. These requirements seem to be line with Recommendation 8 although it is not certain that they apply in the context of ongoing

due diligence (they seem to focus very much on measures to be taken when establishing the business relationship, see C8.2).

125. *Conclusion.* Greece has improved to a large extent its compliance with Recommendation 8. However, the implementation of the new requirements has not been assessed.

Recommendation 9 (rated PC)

126. Articles 23 and 25 of the AML Law (2008) aim to address the requirements under Recommendation 9. The following issues have been noted: (1) the scope of the reliance is limited to identification and verification of the identity of the customer and the beneficial owner (no reliance for gathering information on the purpose and intended nature of the business relationship); (2) only credit or financial institutions can be relied upon ; (3) there is a doubt on what the following sentence means “*when obligated persons rely on a third party, they must always identify the customer, any third person on behalf of whom the customer may be acting and the beneficial owner*” in the sense that this could completely undermine the purpose of the reliance mechanism (indeed Recommendation 9 only requires the relying financial institution to obtain that information); (4) only credit or financial institutions based in the EU or in an FATF country can be relied upon.

127. *Conclusion.* Greece has improved its compliance with Recommendation 9 although there is uncertainty in the exact scope of the requirement. The implementation of the new requirements has not been assessed.

Recommendation 11 (rated PC)

128. The AML Law (2008) imposes new requirements with regard to Recommendation 11 (see Articles 13.1d) and Article 27.1. The requirements seem to be broadly in line with the standards although there is no direct obligation that addresses the obligation under C.11.3.

129. *Conclusion.* Greece has improved to a large extent its compliance with Recommendation 11. However, the implementation of the new requirements has not been assessed.

Recommendation 12 (rated NC)

130. The application of the AML Law (2008) has been expanded to the DNFBPs as defined by the FATF, including casinos operating on ships flying the Greek flag and TCSPs. However, the law does not apply to internet casinos anymore since it seems that the establishment of internet casinos is now illegal in Greece. The lawyers seem to fall under the category of “notaries and other independent legal professionals” in Article 5 of the law although they are not mentioned in the definition as a separate category of reporting entity. The technical deficiencies identified in the AML Law (2008) that apply to financial institutions also apply to DNFBPs (in relation to R.5, R.6 and R.8 to R.11).

131. Greece seems to have taken actions to make the DNFBPs aware of their AML/CFT obligations (for instance the Ministry of Justice has already issued a circular containing instructions for lawyers and notaries regarding implementation details of their obligations laid down by the provisions of the AML Law (2008) and the other supervisory authorities (the General Directorate for Tax Audits, the Accounting and Auditing Supervisory Commission and the Gambling Control Commission are in the process of developing similar tailored guidance).

132. *Conclusion.* Greece seems to have improved its compliance with Recommendation 12 although the deficiencies identified in relation to R.5, R.6 and R.8 to R.11 must be taken into account. In addition, the implementation of the new requirements by the DNFBPs has not been assessed.

Recommendation 15 (rated PC)

133. Article 41 of the new AML/CFT Law (2008) requires reporting entities to implement adequate and appropriate internal policies and procedures with respect to customer due diligence, reporting of suspicious transactions, record-keeping, internal control, risk assessment, continuous assessment of the degree of compliance and internal communication. Article 42 introduces rules on staff's education and training. Article 44 sets out the obligation to appoint a compliance officer at the management level.

134. It seems that the BOG still relies on general requirements as far as the screening procedures are concerned. The HCMC Rule sets out principles and procedures on internal controls, including on the audit function. Equivalent procedures are not finalized yet in the insurance sector (the PISC is drafting a new Rule on internal controls).

135. *Conclusion.* Greece seems to have generally improved its compliance with Recommendation 15. However, internal control measures are still missing in the insurance sector. In addition, the implementation of the existing requirements by the DNFBPs has not been assessed.

Recommendation 16 (rated NC)

136. On the scope issue, see comments in relation to Recommendation 12 (the circumstances under which the DNFBPs must carry out CDD and report suspicious transactions are the same). The technical deficiencies identified in the AML Law (2008) that apply to financial institutions also apply to DNFBPs (in relation to R.13, R.14, R.15 and R.21).

137. *Conclusion.* Greece has taken steps to improve its compliance with Recommendation 16 although the deficiencies identified in relation to R.13, R.14, R.15 and R.21 must be taken into account. In addition, the implementation of the new requirements by the DNFBPs has not been assessed.

Recommendation 17 (rated PC)

138. On the applicability of the sanctions set out in Articles 51 and 52 to the full spectrum of the requirements in the BOG, HCMC and PISC rules, see discussion below in relation to Recommendation 5. See also the analysis in relation to Recommendation 23. As far the BOG is concerned, it is worth noting that the non-interest bearing deposits with the BOG have been abolished as a form of sanction for breaching AML/CFT obligations and that rules have been introduced to publicise BOG sanctions. The range of sanctions may be broader; however, doubts remain with regard to the effectiveness of the sanctions imposed by the BOG (this assumption is based on examples of sanctions provided by the BOG that do not prove the proportionality, effectiveness and dissuasiveness of the sanctions that are actually imposed). Nevertheless, the new BOG decision on sanctions (November 2009) could be the basis for a more effective sanction regime. In addition, Greece has issued four more sanctions for breach of the AML Law for a total of EUR 310 000 (all sanctions are published) (attached, as part of the BOG report).

139. *Conclusion.* It remains unclear whether Greece has fully improved its compliance with Recommendation 17 and some indicators show that it is not the case. The new BOG decision on sanctions could have a positive effect.

Recommendation 19 (rated NC)

140. Greece has not yet considered implementing a system for reporting currency transactions across all regulated sectors. The task will be given to the AML/CFT Strategic Committee created under Article 9 of the AML Law (2008).

141. *Conclusion.* The level of Greece’s compliance with Recommendation 19 remains unchanged.

Recommendation 21 (rated NC)

142. Articles 24 and 33 introduce new general requirements in the AML Law (2008). The HCMC, the PISC and the BOG have also introduced new requirements in relation to Recommendation 21.

143. *Conclusion.* The level of Greece’s compliance with Recommendation 21 has improved, though it is not certain that all criteria of the Methodology are met (especially in the insurance sector). No assessment has been made of effectiveness.

Recommendation 22 (rated PC)

144. According to article 41 of the AML Law 2008, credit and financial institutions must ensure that the provisions of the law are also implemented by their subsidiaries as well as by their branches and representative offices abroad, unless this is wholly or partly forbidden by the relevant foreign legislation. In that case they must inform the Commission, the competent authority supervising them and the Central Coordinating Authority. In any case, they should apply the stricter law between the Greek law and the law of the host country, to the extent allowed by the law of the host country.

145. *Conclusion.* The level of Greece’s compliance with Recommendation 22 has improved, though there is no obligation in the AML Law (2008) for financial institutions to pay particular attention that the principle set out in Recommendation 22 is observed with respect to branches and subsidiaries in countries which do not or insufficiently apply the FATF recommendations (C.22.1.1). Article 5.15.10 of BOG Decision 281/5/17.03.2009 classifies “countries that do not comply adequately with the FATF recommendations” as high risk categories and supervised institutions are required to examine with particular attention transactions and conduct additional ongoing monitoring of business relationships and transactions with natural persons or legal entities in these countries. This requirement does not seem sufficient to address the specific requirement under C.22.1.1. No assessment has been made of effectiveness.

Recommendation 24 (rated NC)

146. On the scope issue, see comments in relation to Recommendation 12. It seems that the supervisory activities are still in their early stages vis-à-vis the DNFbps. The following supervisory authorities have been designated (see Article 5 of the AML law (2008)):

- the Accounting and Auditing Supervisory Commission for chartered accountants and audit firms;
- the Ministry of Economy and Finance (General Directorate for Tax Audits) for tax consultants, tax experts and related firms; independent accountants and private auditors; real estate agents and related firms; dealers in high value goods;
- the Gambling Control Commission of law 3229/2004 (O.G.G. A 38) for casino enterprises; casinos operating on ships flying the Greek flag; companies, organisations and other entities engaged in gambling activities;
- the Ministry of Justice for notaries and lawyers;
- the Ministry of Development for the TCSPs.

147. None of these authorities seems to have started their supervisory work (see also comments in relation to Recommendation 12).

148. *Conclusion.* The level of Greece's compliance with Recommendation 24 still remains very low in the absence of effective AML/CFT supervision applicable to DNFBPs.

Recommendation 25 (rated NC)

149. *Feedback to reporting entities.* In the absence of an annual report, of typologies cases and comprehensive statistics related to the reporting requirement, it is not possible to conclude that feedback to the reporting entities has improved. The Greek authorities indicate that the Commission has been providing informal feedback on a quarterly basis to all reporting entities since January 2009 and that case by case feedback is also provided upon demand.

150. *Guidelines.* The BOG has issued a set of guidelines, not only for banking institutions but also for bureaux de change, money remittance businesses and leasing and factoring companies. The HCMC also adopted a set of guidelines in April 2009. The PISC provides indicators of ML risk in its rule dated February 2008. Equivalent guidelines have not been adopted yet for the DNFBPs.

151. *Conclusion.* The level of Greece's compliance with Recommendation 25 has improved although the lack of general feedback from the FIU remains very problematic and there is a lack of guidelines for DNFBPs.

Recommendation 29 (rated PC)

152. See analysis and comments in relation to Recommendations 17 and 23.

153. *Conclusion.* It remains very unclear whether Greece has improved its compliance with Recommendation 29 and some indicators show that it is not the case.

Recommendation 30 (rated NC)

154. The Greek authorities indicate that staff have been hired in the police and in the customs and that training sessions on AML/CFT matters have taken place. No additional resources have been allocated to the Ministry of Justice. The BOG indicates that it hired three AML/CFT examiners in August 2007. The specialised AML Unit of the HCMC has now 3 specialised auditors and 1 lawyer. The PISC has 3 supervisors and 1 lawyer to carry out its supervisory function.

155. *Conclusion.* The level of Greece's compliance with Recommendation 30 appears to have improved somewhat. However, serious concerns remain with regard to the resources available in the Ministry of Justice to deal with ML or TF related cases. In addition, it is not certain that the PISC and the HCMC have enough staff at their disposal to carry out effective AML/CFT supervision.

Recommendation 31 (rated PC)

156. Greece has set up a Central Coordinating Authority (Article 8 of the AML Law (2008)) in charge of monitoring all aspects the Greek AML/CFT policy and enhancing domestic co-operation and coordination in AML/CFT matters. A high level "Strategic Committee" (Article 9 of the AML Law (2008)) has also been set up (by Ministerial Decision no 37341/B/1908/23-7-2009) and operates regularly, with the participation of high level officials of the competent public authorities responsible for regulation, supervision and monitoring on the one hand and the Greek FIU and Law Enforcement Agencies on the other hand, under the presidency of the General Secretary of MOEF. The aim of this Committee is to bring

together the supervisory bodies, fostering a constructive dialogue among them and further shaping the policy on ML/FT issues over the country taking into account risk assessment studies. The Committees will be in charge of conducting regular review of the effectiveness of the Greek AML/CFT regime.

157. The AML Law (2008) has also created an “AML/CFT Consultation Forum” with the participation of high level representatives of the professional associations mandated by the reporting entities. This Forum will in particular ensure the co-operation and consultation between reporting entities, facilitate the exchange of expertise and knowledge of international developments, the study of specific problems and identification of sectors, activities and circumstances that are vulnerable to committing or attempting to commit the offences of Article 2 of the AML Law (2008) and give guidance to the various categories of obligated persons related to implementation issues in relation to the AML/CFT requirements.

158. *Conclusion.* The level of Greece’s compliance with Recommendation 31 has noticeably improved. However, the domestic coordination processes are new and their effectiveness cannot be judged yet.

Recommendation 32 (rated NC)

159. For the review of the Greek AML/CFT regime, see comments under Recommendation 31.

160. Article 38 of the AML law (2008) obliges public authorities to collect, keep and process statistical data in line with the requirements under Recommendation 32. Article 39 imposes similar requirements to the Ministry of Justice.

161. *Conclusion.* The level of Greece’s compliance with Recommendation 32 may have improved. However, the new requirement needs to be implemented and it is too early to judge the progress made by Greece in this area.

Recommendation 33 (rated NC)

162. No specific measures have been taken. A centralised registration system for Public Limited Companies (Societes Anonymes) and for Private Limited Companies is in the process of being developed. The Greek authorities indicate that this system will include information on beneficial ownership, but no details are available.

163. *Conclusion.* The level of Greece’s compliance with Recommendation 33 remains unchanged.

Special Recommendation VI (rated PC)

164. The reorganisation of the BOG AML/CFT supervision (Decision of the General Council of the BOG on the 1st of February of 2008) aim to ensure that MVT services are supervised by the specialised AML/CFT examiners in the same way banks are supervised. Greece also relies on the new AML Law and the new provisions of the BOG that apply to money remittance companies to foster the effective implementation of relevant FATF Recommendations in the remittance sector.

165. *Conclusion.* The level of Greece’s compliance with Special Recommendation VI may have improved. However, it is difficult to assess the progress made by the BOG in supervising this sector and to evaluate the level of compliance of the sector with the requirements contained in the AML Law (2008). The BOG indicates that both off and on site assessments of MVT have been carried out or have been carried out, covering 85% of the market.

Special Recommendation VII (rated PC)

166. According to Article 52 of the new AML Law (2008), sanctions may be imposed on financial and credit institutions for non compliance with the 1781/2006/EC Regulation on wire transfers.

167. *Conclusion.* The level of Greece's compliance with Special Recommendation VII has improved. However, it is difficult to assess the progress made by Greece in ensuring an effective implementation of the SR.VII related obligations in the banking and remittance sectors.

Special Recommendation VIII (rated NC)

168. Greece has made no progress in implementing SRVIII. The Greek authorities indicate that the review of the NPO's sector in Greece will last 3 to 4 years and that the findings are expected not before early 2010. They believe that the fact that every non profit organisation is obliged to have a tax identification number is very positive since it further means that this information kept in Tax Services is accessible by the intelligence agencies and the FIU.

169. *Conclusion.* The level of Greece's compliance with Special Recommendation VIII remains unchanged.

Special Recommendation IX (rated NC)

170. Regulation 1889/2005 is directly applicable in Greece. Additional legislation and measures have been taken by Greece to implement the Regulation. Greek Customs make use of the mandatory declaration system as it is provided for in article 3 of Reg.1889/2005.

171. *Conclusion.* The level of Greece's compliance with Special Recommendation IX has improved. However, it is difficult to assess the progress made by Greece in ensuring an effective implementation of the provisions set out in the EU Regulation and judge the appropriateness of the additional measures adopted to put in place the declaration system.

FATF Secretariat
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